

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-222799 **DATE:** April 25, 1986
MATTER OF: R. K. Burner Sheet Metal, Inc.

DIGEST:

In the absence of a solicitation provision requiring that bidders possess a specific license or permit, the contracting officer need not consider whether bidders intend to comply with licensing requirements imposed by state or local authorities in determining bidders' eligibility for award.

R. K. Burner Sheet Metal, Inc. (Burner), protests the possible award of a contract by the United States Marine Corps (Corps) to either of the two low bidders under solicitation No. M00681-86-B-0030 for contract work to Corps property in California. R. K. Burner claims that both bidders are out-of-state contractors having no valid contractor's license as required by California law and that, without a California contractor's license, neither firm can bid or accept contracts to perform the work called for by the solicitation.

We dismiss the protest under section 21.3(f) of our Bid Protest Regulations, without requiring submission of an agency report, because the protest fails to state a valid basis for protest.

Concerning Burner's position that California law requires that contractors be licensed, we point out that contracting officers may, by appropriate solicitation language, require bidders to comply with a specific known state or local licensing requirement as a prerequisite to award. 53 Comp. Gen. 51 (1973). However, contracting officers are not required to impose such requirements and, when they do not, they generally need not concern themselves with whether the bidder intends to comply with state or local licensing requirements. Olson and Associates Engineering, Inc., B-215742, July 30, 1984, 84-2 C.P.D. ¶ 129; Northwest Forest Workers Association, B-213132, Oct. 11, 1983, 83-2 C.P.D. ¶ 443. This is so because contracting officers generally are not competent to pass

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upon the question of whether a particular state or local license or permit is legally required for the performance of federal work; therefore, compliance with such requirements is the responsibility of the contractor. E.I.L. Instruments, Inc., 54 Comp. Gen. 480 (1974), 74-2 C.P.D. ¶ 339.

If particular licenses or permits are required by the state and they do not conflict with federal laws or interfere with federal powers, the state is free to enforce its laws against the contractor. E.I.L. Instruments, Inc., supra. If such action prevents the contractor from performing the contract, the contracting officer may terminate the contract for default. Here, since the solicitation did not impose a specific requirement regarding a California contractor's license, the contracting officer is free to make award without regard to whether the bidder is licensed under local law.

We dismiss the protest.



Robert M. Strong
Deputy Associate
General Counsel