



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: VIP Limousine Service, Inc.

File: B-225639

Date: January 29, 1987

DIGEST

Where a solicitation does not impose a specific licensing requirement, the contracting agency properly may make award without regard to whether the bidder holds the appropriate state or local operating authority. The state or locality generally is free to impose its laws against the contractor who then may be faced with a termination for default if such enforcement prevents it from performing the contract.

DECISION

VIP Limousine Service, Inc. protests the award of a contract for patient transportation services to E.M.A.S., Inc. under solicitation No. 583-76-87, issued by the Veterans Administration (VA). VIP complains that the award is improper because E.M.A.S. does not possess the requisite state operating authority in contravention of an express solicitation requirement.

The solicitation provided at section M that:

"Successful bidder shall meet all requirements of the Federal, State, or City codes regarding operations of this type of service."

Our cases recognize a distinction between a general solicitation requirement that a contractor comply with all applicable state and local licensing requirements and a more specific solicitation requirement that the bidder have a particular state or local license. When the solicitation imposes a specific licensing requirement, compliance with the requirement or at least the ability to comply by the start of performance must be shown as a prerequisite to award. When the solicitation contains only a general requirement, however, contracting officers are not expected to determine just what those non-federal requirements may be and therefore are not

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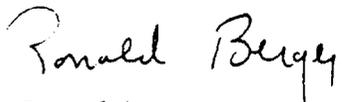
charged with considering those requirements in awarding a contract, although, when the contracting officer is aware of local licensing requirements and has reason to believe a bidder's failure to obtain a required license may result on the inability to perform, the matter may be considered in determining the bidder's responsibility. See What-Mac Contractors, Inc., 58 Comp. Gen. 767 (1979), 79-2 CPD ¶ 179.

Here, the solicitation provision clearly is a general, rather than a specific, licensing requirement since there is no reference to the Public Service Commission of Indiana operating authority, which E.M.A.S. allegedly does not possess, or to any other specific license. Also, there is no indication that the contracting officer had special familiarity with Public Service Commission of Indiana requirements, and we point out that by awarding E.M.A.S. the contract, the contracting officer, by regulation, has determined the firm to be responsible with respect to this procurement. Federal Acquisition Regulation, 48 C.F.R. § 9.105-2(a)(1) (1986); Ameriko Maintenance Co., B-216247, Sept. 12, 1984, 84-2 CPD ¶ 287. We do not review such affirmative determinations of responsibility unless there is a showing of possible fraud or bad faith. 4 C.F.R. § 21.3(f)(5) (1986). Therefore, there is no basis presented which would warrant objection to the award.

If, as VIP urges, the Public Service Commission of Indiana regulations require E.M.A.S. to hold an operating authority to provide the services in question, with concomitant higher levels of vehicle insurance (and these regulations do not conflict with federal law), the Public Service Commission is free to enforce the requirement against E.M.A.S. In the event such enforcement prevents the firm from performing the contract, the agency may terminate the contract for default. Cadillac Ambulance Service, Inc., B-220857, Nov. 1, 1985, 85-2 CPD ¶ 509 at 2.

VIP has requested that a bid protest conference be convened in this matter. See 4 C.F.R. § 21.5. We decline to grant the request since the protest is without legal merit, and a conference clearly would serve no useful purpose.

The protest is dismissed.



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