

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

60033

FILE: B-184471

DATE: October 9, 1975

97843

MATTER OF: City Ambulance Company, Inc.

DIGEST:

Solicitation provision that successful bidder obtain all required local permits prior to bidding does not preclude acceptance of low bid for failure--either at time of bidding or award--of bidder to have required city license since need for such license under general requirement is matter between city and contractor. However, agency is advised to eliminate such mandatory language where it is not necessary to Government's needs.

City Ambulance Company, Inc. (City Ambulance), has protested the award of a contract under solicitation No. 619-5-76, issued by the Veterans Administration Hospital (VAH), Montgomery, Alabama, for the procurement of ambulance services for fiscal year 1976. Under item 20, Qualifications, of the supplement to standard form 33-A, the solicitation included a requirement that the "Successful bidder shall obtain all required local permits prior to bidding and be fully licensed to perform the contract." City Ambulance submitted the highest of the three bids received and issued on June 11, 1975, and was the only bidder licensed by the city of Montgomery; the other two bidders were from Wetumpka, Alabama, a nearby community. An unannounced inspection of the low and second low bidders resulted in rejection of the lowest bid as non-responsive and the contract was awarded to the second low bidder, Haynes Ambulance Service (Haynes), on July 10, 1975, after Haynes was granted a license by the city of Montgomery. City Ambulance protests the award because Haynes was not licensed by the city of Montgomery prior to bidding as the quoted portion of the solicitation suggests was required.

We have had occasion in previous cases to consider the question of the impact of a requirement in a solicitation for compliance with state and local licensing laws. See, e.g., discussions in 51 Comp. Gen. 377 (1971) and 53 *id.* 51 (1973). In the latter case, we held that where the contracting officer is aware of and familiar with state and local licensing requirements, he may require in the solicitation

that the bidder be in possession of a particular license and that compliance with such requirement by the time of award is a prerequisite to an affirmative determination of responsibility. However, as noted in that case, there is a distinction where, as here, by the use of general language in the solicitation there is an attempt to insure compliance with state or local licensing requirements. In the latter case, we have held that the failure of a bidder to possess a required license at the time of bid opening or even by the time of award does not bar the bid from consideration for award since the need for a license under a general requirement is a matter between the local authority and the contractor. Veterans Administration - Request for Advance Decision, B-184384, July 29, 1975, 75-2 CPD 63. Therefore, Haynes failure to have the license required by the city of Montgomery at the time of bidding did not preclude acceptance of its bid.

Accordingly, the protest is denied. However, we are advising the Veterans Administration that the use of such mandatory language should be eliminated where it is not necessary to the Government's needs.

Thomas D. Moring
acting Comptroller General
of the United States