

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**24804  
24983

FILE: B-210851

DATE: April 26, 1983

MATTER OF: Nicolet Analytical Instruments

**DIGEST:**

Where third low bidder protests that low bid should be rejected, but does not protest against second low bid, third low bidder is not an "interested party" under Bid Protest Procedures because it would not be in line for award if protest is sustained.

Nicolet Analytical Instruments (Nicolet) protests the award of a contract to IBM Instruments, Inc. (IBM), under invitation for bids No. F05611-83-B-0050 issued by the United States Air Force Academy.

Nicolet protests that IBM's bid is nonresponsive because of statements in the descriptive literature accompanying IBM's bid. Although we received a report from the contracting agency on the merits of the protest and we sent the report to Nicolet for comment, we will not resolve the protest.

The contracting agency report indicates that IBM is the low bidder, Perkin-Elmer Corp. (Perkin) is the second low bidder and Nicolet is the third low bidder. Nicolet does not protest against Perkin's bid.

We dismiss the protest because Nicolet is not an "interested party" as required by our Bid Protest Procedures, 4 C.F.R. § 21.1(a) (1983). Determining whether a party is sufficiently interested involves consideration of the party's status in relation to the procurement and the nature of the issues raised. N.D. Lea & Associates, Inc., B-208445, February 1, 1983, 83-1 CPD 110.

Even assuming that IBM's low bid should have been rejected, Nicolet has not indicated that an award could not have been made to the second low bidder. Thus, the third low bid of Nicolet would not be in line for award if its protest is upheld and, since no apparent need will arise

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to resolicit the procurement, Nicolet does not have the requisite direct and substantial interest with regard to the procurement. Tektronix, Inc., B-209573, January 24, 1983, 83-1 CPD 82; International Business Investments, B-202164.2, June 8, 1981, 81-1 CPD 459.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel