

**DECISION**



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

**FILE:** B-216702.2      **DATE:** January 22, 1985  
**MATTER OF:** Oklahoma City University

**DIGEST:**

A nonresponsive bidder is not an interested party under GAO Bid Protest Procedures when the protest is against only the responsiveness of one bid and there is another bid that could be accepted.

Oklahoma City University (OCU) protests the award of a contract to A.I.D. Systems, Inc. by the Department of Transportation (DOT) under invitation for bids (IFB) No. DTFA-02-84-B-00032, the second step of a two-step formal advertisement for air traffic controller training. OCU contends that DOT officials were biased in favor of A.I.D. and that A.I.D.'s bid was fatally unbalanced. We will not consider the protest.

The three technically acceptable step-one proposers submitted bids under the step-two IFB for an initial term of 1 year and four 1-year options. Bids were evaluated by adding prices for all years. A.I.D. submitted the low bid, OCU, the second low bid, and the University of Oklahoma, the third low bid. OCU's bid schedule contained footnotes which stated "Prices based on 1984 dollar value."

We do not view OCU as an interested party under our Bid Protest Procedures (4 C.F.R. § 21.1(a) (1984)). Where a bidder qualifies its bid for a firm-fixed price contract by allowing an opportunity to claim price adjustments if certain circumstances occur, the bid must be rejected as nonresponsive because something other than a firm-fixed price is being offered. Computer Terminal Sales, B-200366, Jan. 22, 1981, 81-1 CPD ¶ 37. OCU qualified its bid in this manner by the language in the footnotes. Consequently, even if OCU's protest were sustained, OCU would not be in line for award. Moreover, sustaining the protest apparently would not result in a resolicitation since the file contains nothing to indicate that the third low bidder

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would not have received the award. See Public Entity Underwriters, Ltd., B-213745, Sept. 20, 1984, 84-2 CPD ¶ 326; Alchemy, Inc., B-208982.2, July 25, 1983, 83-2 CPD ¶ 120. Under these circumstances, OCU is not an interested party.

The protest is dismissed.

*Harry R. Van Cleve*

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General Counsel