

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

FILE: B-220693**DATE:** November 4, 1985**MATTER OF:** NBI, Inc.**DIGEST:**

Protest is academic where the protester, the third-low offeror, argues that the awardee's equipment does not comply with specifications, but the contracting agency has terminated the award on other grounds and proposes to make award to the second-low offeror, whose ability to meet specifications the protester has not challenged.

NBI, Inc., protests an award to Lodde Business Systems, Inc., under request for quotations (RFQ) No. F41800-85-Q-0402, issued by the Department of the Air Force, San Antonio, Texas, Area Contracting Center. The RFQ, issued September 5, 1985, solicited quotes from nine sources on a multiple-award Federal Supply Schedule contract for 11 word processing systems to be furnished to Lackland Air Force Base, Texas. Although Lodde offered the lowest of the three quotes received by the Air Force, NBI argues that the CPT Corporation equipment that Lodde proposes to supply does not meet certain performance specifications, and therefore Lodde should not have been given the award.

We dismiss the protest.

The Air Force informs us that it has terminated the protested contract because it has learned that Lodde quoted an "open market" price, rather than its Federal Supply Schedule contract price, making it impossible for the agency to issue a delivery order under the schedule contract. The agency advises us that it now plans to make an award to the second-low offeror; NBI is third-low.

Although the Air Force has notified NBI of its decision, the protester is not satisfied and believes that we should still determine whether the CPT equipment offered by Lodde met specifications.

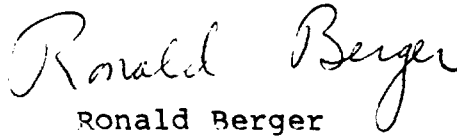
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It is the policy of our Office not to consider academic protests. When, in response to a protest, a contracting agency takes appropriate remedial action such as the termination of a contract, we will not consider the protest further, since it would serve no useful purpose. Southwest Business Publications Co., B-213876, Feb. 10, 1984, 84-1 CPD ¶ 167.

Since the Air Force has unequivocally eliminated Lodde from the competition, it is irrelevant whether the equipment offered meets specifications. If NBI is trying to anticipate some future competition between itself and Lodde, a challenge to Lodde's ability to comply with some unknown specification is clearly premature.

We further point out that a protest is also considered academic where the protester would not be in line for the award even if the protest were sustained. See, for example, M. Pashelinsky & Sons, Inc., B-214973, Aug. 29, 1984, 84-2 CPD ¶ 237. Since NBI, as the third-low offeror, has not challenged the ability of the second-low offeror to meet specifications, that is the situation here.

The protest is dismissed.



Ronald Berger
Deputy Associate
General Counsel