



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: International Technology Corporation  
File: B-228898  
Date: December 2, 1987

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### DIGEST

Protest that agency improperly waived requirement for preaward operational capability demonstration (OCD) is denied where the record provides no reason to object to the agency's decision that the offer itself was technically acceptable, the offered equipment passed a mandated post-award OCD, and the protester has not demonstrated that it was prejudiced by the agency's actions.

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### DECISION

International Technology Corporation (ITC) protests the award of a contract to C-3 Incorporated under request for proposals (RFP) No. N66032-86-R-0014, issued by the Department of the Navy to procure computer equipment, software, and maintenance and training services for the Marine Corps' Fleet Marine Force. We deny the protest.

The solicitation notified prospective offerors that the apparent low offeror and the contractor would be required to perform preaward and post-award operational capabilities demonstrations (OCD), respectively, of the proposed system's hardware and software to demonstrate that the system meets the functional requirements as stated in the RFP. If the low offeror failed the preaward OCD, it would be eliminated from the competition and the government would proceed to test the equipment of the next low offeror. The contract was to be awarded to the responsible and technically acceptable offeror whose proposal was the most advantageous to the government.

After receiving and evaluating proposals, conducting discussions, and receiving and evaluating best and final offers, the Navy awarded the contract to C-3, the low, technically acceptable offeror, without requiring C-3 to perform a preaward OCD. ITC, the second low, technically acceptable offeror, protests that the preaward OCD requirement was mandatory and, thus, properly could not be

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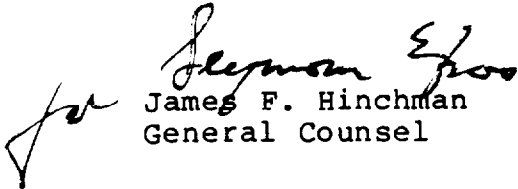
waived. ITC asserts that without conducting a preaward OCD on the proposed C-3 equipment the Navy could not determine if the equipment complied with the requirements of the RFP. ITC further argues that it was prejudiced by the Navy's action because it lost the opportunity to have its equipment tested if the C-3 equipment failed the OCD, and that this prejudice was not obviated by the possibility of conducting an OCD of its equipment if C-3 failed the post-award OCD because the Navy would not necessarily be obligated to consider ITC's equipment at that time.

The Navy argues that it determined, based on its evaluation of C-3's proposal and a certification from the original equipment manufacturer of the equipment C-3 offered, that the system offered by C-3 would meet the requirements of the agency as indicated in the RFP. The Navy determined that a preaward OCD was unnecessary based on its evaluation of C-3's equipment, a review of technical literature concerning the equipment, and the fact that the RFP also called for a post-award OCD and preacceptance testing. C-3's offered equipment did, in fact, pass the post-award OCD.

Where an agency has awarded a contract but has failed to conduct a preaward OCD called for by the solicitation, our main concerns have been whether the agency is obligating itself to purchase equipment that meets its needs, as indicated in the solicitation, and whether the protester has been prejudiced by the agency's actions. See Le Don Computer Services, Inc., B-225451.2, et al., Apr. 28, 1987, 87-1 C.P.D. ¶ 441. Here, we have no reason to question the Navy's decision, based on its review of the technical literature provided by C-3 and the original equipment manufacturer certification, that the equipment offered by C-3 was technically acceptable under the terms of the RFP. Nor does the fact that the Navy did not subject the C-3 equipment to a preaward OCD change C-3's obligation to supply equipment that meets the requirements of the RFP. Moreover, following the contract award, C-3's offered equipment was subjected to, and passed, the post-award OCD. Finally, ITC has not demonstrated that it was prejudiced by the Navy's actions; that is, ITC has not shown that if the Navy had not waived the preaward OCD for C-3, ITC would have supplanted C-3 as the awardee. We note in this regard that, as the Navy points out, since C-3 did not know that the test

would be waived, C-3 was still obligated to prepare for the test and, thus, did not gain a cost advantage over any other offeror.

The protest is denied.

James F. Hinchman  
General Counsel