

GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-253329.3

June 24, 1994

Mr.
Jack Faucett Associates
Suite 300 North
4550 Montgomery Avenue
Bethesda, MD 20814

Dear Mr. ::

We are in receipt of your letter dated June 6, 1994, concerning our handling of your recent protest and request for reconsideration involving Department of Transportation request for proposals No. DTRS-57-92-R-00026. Essentially, you question our failure to investigate the facts and assert that we simply assumed that the agency's statement of the facts was correct.

Your letter suggests a misunderstanding of the protest process at our Office. We do not conduct "investigations" to establish the validity of the assertions made in a protest proceeding. Rather, it is the responsibility of the parties to establish their positions through the submission of appropriate documents and statements with respect to those documents. In this regard, our Bid Protest Regulations contain detailed provisions concerning the furnishing of relevant documents by both the protester and the agency and the access rights of protesters to documents furnished by the agency. When disputed questions of fact cannot be resolved on the written record created by the submission of such documents, a hearing may be held so that relevant oral testimony may be elicited. It is this written record, augmented by the results of a hearing in cases where a hearing is deemed necessary, and not any collateral "investigation," that provides the basis for our decision.

In this case, we reached our decision after careful consideration of the entire record, including all of your submissions and arguments. We thoroughly reviewed your position a second time in response to your request for reconsideration. We also explained, in our decision

responding to your reconsideration request, why a hearing was not needed in light of the evidence that had been presented. In short, we did not assume the correctness of the agency's position--we arrived at our decision only after a full consideration of the substantial evidence in the record that bore directly on your allegations.

You also refer to the last paragraph in our decision denying your request for reconsideration, which stated that one contention you were raising was untimely. You assert that this "illustrate[s our] carelessness, and apparent lack of attention to detail" because your reconsideration request was not untimely. We did not hold your reconsideration request to be untimely--we held only that one point you were raising on reconsideration was a new basis for protest and that this new basis was untimely.

We are enclosing a copy of our Bid Protest Regulations for your information.

Sincerely yours,



Robert H. Hunter
Acting Associate General Counsel

Enclosure