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Accountability \* Integrity \* Reliability

United States Government Accountability Office  
Washington, DC 20548

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B-158766

December 22, 2008

The Honorable Nancy Pelosi  
Speaker of the House  
of Representatives

Dear Madam Speaker:

This letter responds to the requirements of the Competition in Contracting Act of 1984, 31 U.S.C. § 3554(e)(2) (2000), that the Comptroller General report to Congress each instance in which a federal agency did not fully implement a recommendation made by our Office in connection with a bid protest decided the prior fiscal year. We are pleased to report that there was no such occurrence during fiscal year 2008.

During the fiscal year, we received 1,563 protests (including 59 cost claims) and 89 requests for reconsideration, for a total of 1,652 cases. We closed 1,581 cases: 1,506 protests (including 52 cost claims), 71 requests for reconsideration and 4 non-statutory decisions. Enclosed for your information is a chart comparing the bid protest activity for fiscal years 2004-2008.

A copy of this report, with the enclosure, is being furnished to the Chairman and Ranking Minority Member of the House Committee on Government Reform. A similar report is being furnished to the President of the Senate.

Sincerely yours,

Gary L. Keplinger  
General Counsel

Enclosure

## Bid Protest Statistics for Fiscal Years 2004-2008

	FY 2008	FY 2007	FY 2006	FY 2005	FY 2004
Cases Filed <sup>1</sup>	1,652 <sup>2</sup> (up 17% <sup>3</sup> )	1,411 (up 6%)	1,327 (down 2%)	1,356 (down 9%)	1,485
Cases Closed	1,581	1,393	1,274	1,341	1,405
Merit (Sustain + Deny) Decisions	291	335	249	306	365
Number of Sustains	60	91	72	71	75
Sustain Rate	21%	27%	29%	23%	21%
Effectiveness Rate (reported) <sup>4</sup>	42%	38%	39%	37%	34%
ADR <sup>5</sup> (cases used)	78	62	91	103	123
ADR Success Rate <sup>6</sup>	78%	85%	96%	91%	91%
Hearings <sup>7</sup>	6% (32 cases)	8% (41 cases)	11% (51 cases)	8% (41 cases)	9% (56 cases)

<sup>1</sup> All entries in this chart are counted in terms of the docket numbers ("B" numbers) assigned by our Office, not the number of procurements challenged. Where a protester files a supplemental protest or multiple parties protest the same procurement action, multiple iterations of the same "B" number are assigned (*i.e.*, .2, .3). Each of these numbers is deemed a separate protest for purposes of this chart.

<sup>2</sup> Of the 1,652 cases filed in FY 2008, 87 are attributable to expanded bid protest jurisdiction over task orders (49 filings), A-76 protests (30 filings), and Transportation Security Administration protests (8 filings). If these expanded jurisdiction protests are subtracted from the FY 2008 total, the result is 1,565 cases filed, which represents a 10.9% increase over FY 2007.

<sup>3</sup> From the prior fiscal year.

<sup>4</sup> Based on a protester obtaining some form of relief from the agency, as reported to GAO.

<sup>5</sup> Alternative Dispute Resolution.

<sup>6</sup> Percentage resolved without a formal GAO decision.

<sup>7</sup> Percentage of fully developed decisions in which GAO conducted a hearing.