

CLIENT ALERT

GAO Bites Agency On Corrective Action Discussions

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In *American K-9 Detection Services, Inc. (May 5, 2009)*, GAO held that, in implementing corrective action in response to a protest, the agency improperly limited discussions primarily to allowing the awardee to fix its otherwise unacceptable proposal and that the limitation resulted in "unequal, not meaningful, discussions" because the agency failed to provide the protester with the opportunity to become more competitive by allowing it to address its own significant weaknesses or deficiencies through meaningful discussions. GAO also distinguished its untimeliness holding in *Domain Name Alliance Registry, 2008 CPD ¶ 168*, finding that there the agency informed offerors that the corrective action would not include discussions, while here "the agency did not clearly announce the ground rules of the corrective action."

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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