

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-206196.2**DATE:** October 20, 1983**MATTER OF:** D-K Associates, Inc. -- Request for
Reconsideration**DIGEST:**

Original decision is affirmed where request for reconsideration presents some arguments and facts which were previously considered and rejected or information which was known to protester and could have been presented in connection with its initial protest and other arguments which do not show that our original decision was incorrect.

D-K Associates, Inc. requests reconsideration of our decision, D-K Associates, Inc., 62 Comp. Gen. 129 (1983), 83-1 CPD 55, denying its protest with respect to the Army's cancellation of invitation for bids No. DAKF27-80-B-0206 for the operation of the Training and Audiovisual Center at Ft. Meade, Maryland. The solicitation was issued as part of a cost comparison under Office of Management and Budget Circular A-76. We concluded that the Army's cancellation of the solicitation was proper because (1) the solicitation's statement of work overstated the Government's actual minimum needs, and (2) there were significant changes--both deletions and additions--in the Government Furnished Equipment (GFE) identified in the solicitation. We affirm our prior decision.

In its request for reconsideration, D-K contends that despite the changes in GFE it could perform the required services at its bid price. In this regard, the protester argues that the Government's minimum needs did not change and thus the changes in the GFE did not constitute a proper basis for cancellation. It supports this position by contending that the GFE which was missing at the time of inventory probably had been missing for some time prior to inventory, and arguing that since the Army had been able to meet its needs without this equipment, a contractor could also have done so. It further contends that the addition of the newly-acquired GFE would not impact on the ability of a contractor to meet the

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Government's minimum needs. D-K adds that bidders could have visited the work site and assured themselves that the available equipment was adequate. D-K also contends that the Army overstated the value of the missing GFE and therefore the missing equipment is not as significant as the Army contends.

We will not consider D-K's contentions concerning the relationship of the GFE list to the performance of the services specified in the solicitation and the value of the GFE. D-K's arguments concerning the GFE list and the solicitation requirements are more elaborate than those set forth in its original protest, but the basic point was raised and considered in our original decision. As far as D-K's contentions regarding the value of the GFE are concerned, the protester was aware that the changes in the GFE list were one of the reasons for the cancellation; thus it knew or should have known that it would be necessary for our Office to consider the value of these changes in determining the propriety of the cancellation. D-K, however, failed to raise this matter in its original protest. Thus, these contentions do not include any information or arguments which were not, or could not, have been presented in connection with D-K's initial protest. To consider such contentions would enable the protester to remedy the defects in its original protest, to present its position piecemeal, and to avoid the consequences of failing to meet the burden of affirmatively proving its position in a timely fashion. Space Age Engineering, Inc.--Reconsideration, B-205594.3, September 24, 1982, 82-2 CPD 269; Habitation Technology, Inc.--Reconsideration, B-205011.2, February 9, 1982, 82-1 CPD 117.

D-K also complains that our decision did not address the propriety of the Army's consideration of a civilian employee's appeal of the agency's cost comparison analysis. D-K asserts that such appeals should not be allowed because they delay decisions on the awarding of contracts and result in losses to the Government.

In our decision, we held that it was not necessary for our Office to consider the propriety of the Army's consideration of the appeal here because regardless of whether the appeal should have been considered, the ultimate issue was the propriety of the cancellation. D-K has not shown that this conclusion was incorrect.

Finally, D-K states that while the management study, which was conducted as a result of the employee's appeal,

established that the Army could operate the Center with a reduced work staff, the Center's staff has not been reduced. D-K asserts that this indicates that the Army acted arbitrarily by canceling the solicitation. We found that the cancellation was appropriate based in part on the fact that the management study revealed that the solicitation overstated the Army's actual needs and that there was a less expensive approach to satisfying those needs. Our decision was not based on how, when, or whether the Army chose to implement these findings of the management study, but rather on the findings themselves. Moreover, the decision recognized that the GFE disparity alone provided a basis for cancellation. Therefore, the fact that the Army may not have yet reduced its staff at the Center does not invalidate the propriety of the cancellation.

Our decision is affirmed.

for *Milton J. Dorolan*
Comptroller General
of the United States