



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** General Services Administration--Reconsideration;  
Satilla Rural Electric Membership Corporation

**File:** B-238187.2; B-238187.3

**Date:** December 12, 1990

John P. Carey, Esq., Paul, Hastings, Janofsky & Walker, for the protester.  
Robert P. Edwards, Jr., Esq., Troutman, Sanders, Lockerman & Ashmore and James H. Roberts, III, Esq., Winston & Strawn for Georgia Power Company, interested parties.  
Gordon S. Creed, Esq. and Richard R. Butterworth, Jr., Esq., General Services Administration, for the agency.  
James Vickers, Esq. and John G. Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Protest against agency's evaluation of proposals for electric services for newly constructed facility is denied where protester's proposed rate required that certain assumptions be made because of the lack of historical data and while protester disagrees with assumptions used by agency, they reflected agency's reasonable technical judgment.
2. Reconsideration request from agency that award of protest costs be rescinded because original protester did not receive award under reevaluation is denied because award of costs of pursuing protest is appropriate where a protest is sustained and the fact that protester's proposal is reevaluated and found not to be in line for award following the decision does not preclude entitlement to such costs.

### DECISION

Satilla Rural Electric Membership Corporation protests the reevaluation of its proposal submitted in response to request for proposals (RFP) No. GS-00P-AC87-91, issued by the General Services Administration (GSA) for electric services for the Federal Correctional Institution at Jessup, Georgia. This reevaluation was conducted in response to our recommendation in Satilla Rural Elec. Membership Corp., B-238187, May 7, 1990, 90-1 CPD ¶ 456, where we concluded that GSA's evaluation of the probable cost of electric services as proposed by

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Georgia Power Company was improper and sustained Satilla's protest against the award of a contract to that firm. In addition, GSA has requested that we reconsider our award of protest costs to Satilla under our prior decision.

We deny the protest and the request for reconsideration.

The RFP requested proposals for firm electric services for a 10-year period. The solicitation indicated that a yearly requirement of 10,930,000 kilowatt hours with demands up to 2,862 kilowatts per month could be expected. Award was to be made based on the lowest cost for 10 years. GSA evaluated the probable costs represented by both proposals and concluded that under the Satilla offer the cost would be \$6,247,250 for 10 years and Georgia Power's cost would be \$5,887,100. Award was made to Georgia Power based on this evaluation.

In sustaining the earlier protest, we agreed with Satilla that GSA had improperly applied the "billing ratchet provisions" contained in Georgia Power's PL-8 rate and based its calculation on a start-up month of January instead of August, the month which the RFP indicated that service would begin. In addition, we noted that GSA, in response to the protest, stated that its calculation of Satilla's cost was flawed because it was based on a peak demand of 2,061 kilowatts rather than the 2,862 kilowatt peak demand listed in the RFP. Therefore, we recommended that GSA reevaluate both offers in light of the concerns expressed in the decision and stated that if Satilla was evaluated as representing the lowest cost to the government, that Georgia Power's contract be terminated and award made to Satilla. If Georgia Power remained low, no corrective action was necessary. We also awarded Satilla its costs of pursuing the protest, including attorneys' fees.

By letter of July 16, 1990, GSA advised our Office that it had reevaluated the offers and Georgia Power remained the low offeror. Georgia Power's reevaluated cost was \$6,691,926. Further, the reevaluation resulted in GSA's conclusion that Satilla's cost was now at least \$6,983,110. Finally, GSA requested that our Office reconsider the award of protest costs because Satilla had been given an opportunity to compete for the award and following the reevaluation, it was found not to be the low offeror.

Satilla's proposal was based on its GLP-1 rate which requires that total power capacity requirement be calculated using the customer's average demand coincident with the 44 highest

Georgia Territorial Demands.<sup>1/</sup> These 44 highest demands are the hours of the past year in which the highest demand was placed on the entire power supply system. For example, the highest demand was August 19, 1988, at 4 p.m. The remainder of the highest demand (the other 43 hours where the system had its highest demand) were all afternoon or early evening hours in June, July, or August. The RFP listed the highest peak capacity demands as occurring in July and August, but did not indicate what day or hour in which the peak would occur.

Satilla contends that GSA has now misevaluated its proposal primarily because the agency failed to create a realistic analysis of customer demand data for the Jessup facility which in turn resulted in its failure to make reasonable estimates of the coincidence of the Jessup facility's demand with the 44 Georgia Territorial Peak Demands. According to the protester these interrelated errors which concern critical factors needed to calculate costs under Satilla's GLP-1 tariff caused GSA to conclude that the cost of its proposal was higher than Georgia Power's. In this regard, Satilla has submitted a series of rather complex calculations, some of which are said to be based on customer demand figures from similar facilities and at least some of which are alleged to show that, properly calculated, Satilla's costs are lowest.

The difficulty with the evaluation of Satilla's proposal is that its GLP-1 rate uses historical customer electrical demand data to compute the amount to be charged for power. Here, there is no actual historical data because the Jessup facility is newly constructed and therefore, GSA evaluated the proposal based on the yearly and monthly requirements stated in the RFP. In order to apply this to Satilla's GLP-1 rate, other factors had to be assumed (such as the coincident factor) to complete the calculation. It is Satilla's disagreement with these assumptions by GSA that forms the basis of the protest.

In calculating the coincidence factor, GSA considered the fact that the highest demands listed in the RFP occurred in July and August, the same months in which the highest demands occurred in the power system. The agency also concluded that since the facility has a 24-hour population and its systems such as air conditioning, security, and food services would all be operating during the afternoon or early evening hours in July and August, that it was realistic to assume that its peak demands, like those on the power system as a whole, would

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<sup>1/</sup> Coincident means the customer's demand occurs in the same period (hour) as one of the 44 highest hourly demands occurring in the Georgia Territorial System in a 12-month period.

occur in the afternoon and early evening hours. Based on these assumptions, GSA calculated a coincidence factor of .975, which means that the agency decided that Jessup's facility's highest demands would coincide with the 44 highest territorial demands almost 98 percent of the time. This factor was then used by the agency to arrive at its cost estimate for Satilla.

Satilla disagrees that the coincidence factor should be so high and argues that in order to properly calculate the coincidence factor GSA had to consider actual use data from a current comparable customer whose operation and electricity consumption characteristics are similar to those expected from the facility or, in the alternative, use a generic customer analysis based on the utility's general customer population or industry sources. Satilla states that it used the first method employing actual demand profiles and relationships for medium-security federal and state prisons in Georgia and Florida and that method resulted in a much lower coincidence factor and consequently a lower cost estimate.<sup>2/</sup> The protester argues that GSA's evaluation was based on the unreasonable assumptions that the demands of the facility would mirror those imposed upon the system as a whole.

In conducting an analysis of the probable cost of services, the agency must adhere to the guidelines set forth in the solicitation and perform the analysis in a manner so that it has a reasonable relationship to the actual cost of the service and which results in a reasonably accurate prediction as to which firm's proposal will in fact result in the lowest cost to the agency. Satilla Rural Elec. Membership Corp., B-238187, supra. An agency must use its technical judgment in selecting the most appropriate evaluation approach and we will interfere with that choice only if we find it unreasonable. See Litton Sys., Inc., B-237596.3, Aug. 8, 1990, 90-2 CPD ¶ 115.

Here, there is no clear-cut answer as to what coincidence factor should be used in evaluating Satilla's proposal and GLP-1 rate. As noted earlier, there is no historical data on which to rely because this is a new facility. While Satilla states that its demand profile was based upon power use by other prison facilities in Florida and Georgia, the record does not show that the facilities used by Satilla had power requirements which were comparable to that estimated for the Jessup facility either in terms of overall need or in terms of the timing of peak demands. For example, we have no

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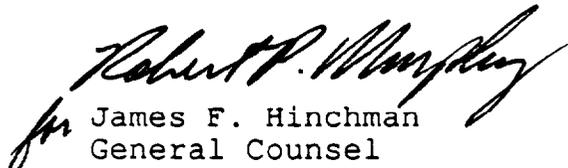
<sup>2/</sup> It appears that the 2061 kilowatt peak demand figure used in the original calculation of Satilla's cost resulted from the use of this data.

information concerning the type of industrial activity if any carried out in these facilities and their hours of operation. While it is clear that the protester strongly disagrees with the assumptions used in GSA's analysis, we find GSA had a reasonable basis for using the coincidence factor that it did. Since the RFP contained only monthly demand figures, not broken down by daily or hourly peaks, GSA had to make some assumptions to compute Satilla's proposal cost. We find GSA's assumptions about the day-to-day operations of the facility to have been realistic.

It is significant in our view that the flaws which the protester argues exist in the agency's evaluation to a large extent stem directly from the nature of the rate which the protester itself created. It established a rate to be used for a newly constructed facility which by its terms is difficult to calculate without the existence of historical data. Given the demand information supplied in the RFP, the protester should have known that all of the elements needed to determine the probable cost of the service under its rate were not present and therefore had to be developed and that that process could be subject to varying interpretations. Satilla should not be heard to complain when the agency makes assumptions required by the protesters' own rate structure that do not work to its advantage. We therefore deny the protest.

Finally, GSA requests that we change our recommendation in the prior decision concerning the award of protest costs incurred in pursuing the initial protest because Satilla was given the opportunity of a new proposal evaluation and was determined not to be eligible for award. The fact that a protester can compete or has the opportunity to have its proposal reevaluated following a decision on its protest by our Office may be a consideration in the award of proposal preparation costs, but it is not a factor in determining whether to award protest costs. Microlog Corp., B-237486, Feb. 26, 1990, 90-1 CPD ¶ 227. Here, since the initial protest was sustained the award of protest costs remains appropriate.

The protest and request for reconsideration are denied.

  
for James F. Hinchman  
General Counsel