



Comptroller General  
of the United States  
Washington, D.C. 20548

Curcio  
413488

## Decision

**Matter of:** Consolidated Bell, Inc.

**File:** B-220425.4

**Date:** March 25, 1991

Charles Belle for the protester.  
Michelle Harrell, Esq., General Services Administration, for  
the agency.  
Mary G. Curcio, Esq., and Christine S. Melody, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

Claimant may not recover costs of filing and pursuing General Accounting Office protest which are not sufficiently documented or are unreasonable.

### DECISION

Consolidated Bell, Inc. requests that our Office determine the amount it is entitled to recover from the General Services Administration (GSA) for proposal preparation costs in connection with the offer it submitted under solicitation No. KECS-85-025, and for the cost of filing and pursuing its protest in Consolidated Bell, Inc., B-220425, Mar. 11, 1986, 86-1 CPD ¶ 238. As discussed below, we find that Bell is entitled to recover \$490 in protest costs.

In our decision Consolidated Bell, Inc., B-220425, supra, we sustained the firm's protest that GSA improperly determined that Bell's proposal was unacceptable. We initially recommended that GSA either terminate the awarded contract and award one to Bell or enter into discussions to include Bell. GSA subsequently informed our Office that while it had terminated the awarded contract, due to a lack of funds it could no longer award a contract under the protested solicitation. As a result, and because no other remedy was available, we amended our decision to permit Bell to recover the costs it incurred in filing and pursuing its protest and its proposal preparation costs. Consolidated Bell, Inc. B-220425.2, Aug. 18, 1986, 86-2 CPD ¶ 192. We directed Bell to submit its claim directly to GSA.

Bell submitted its claim to GSA between August and September 1986. The claim totaled \$376,110, consisting of \$124,810 for protest and proposal preparation costs; \$250,000 in lost profits; and \$1,300 for additional attorneys' fees. GSA responded to this claim on October 15, 1986, offering Bell \$850, but finding generally that the claim lacked supporting documentation. Bell took no further action toward resolving the dispute or settling the claim until August 8, 1990, when it resubmitted the claim to GSA, now requesting reimbursement in the amount of \$124,810. GSA again offered Bell \$850, and also informed Bell that overall its claim was excessive and undocumented. On November 6, 1990, Bell submitted its claim to our Office.

#### PROTEST COSTS

Bell claims reimbursement for \$113,310 in protest costs, comprised of \$400 for gasoline and other travel expenses, \$150 for copy and mail costs, \$300 for a retainer fee paid to an attorney, and \$112,460 for various telephone calls, conferences and legal research performed by Bell or its legal researcher.

As a preliminary matter, we disallow \$8,330 of the claimed amount, representing costs which Bell incurred before filing its protest with our Office. These costs, which were incurred by Bell in the pursuit of an agency-level protest before GSA, are not recoverable. See Princeton Gamma-Tech, Inc.--Claim for Costs, 68 Comp. Gen. 400 (1989), 89-1 CPD ¶ 401. We also disallow \$47,410, the amount Bell claims was incurred after our decision sustaining Bell's protest was reached, since these costs were not incurred in pursuit of the protest. Id.

Concerning the remaining costs, "a protester seeking to recover the costs of pursuing its protest must submit sufficient evidence to support its monetary claim. The amount claimed may be recovered to the extent that the claim is adequately documented and is shown to be reasonable; a claim is reasonable, if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the pursuit of the protest. Data Based Decisions, Inc.--Claim for Costs, 69 Comp. Gen. 122 (1989), 89-2 CPD ¶ 538.

Here, Bell initially submitted a list of the time it allegedly spent performing tasks in pursuit of the protest and requested reimbursement for these tasks at a rate of \$100 per hour. Bell requested \$20,000 for time spent reviewing federal regulations and submitting its protest to our Office; \$5,000 for time spent by Bell in reviewing GSA's protest report and various federal regulations; \$10,000 for a legal researcher to review the GSA report and federal regulations; \$20,000 for time Bell spent at conferences with its legal researcher

during which it discussed other conferences it had attended with two attorneys;<sup>1/</sup> \$1,230 for time spent at conferences with the two attorneys and for one telephone call to one of those attorneys; \$300 to pick up and deliver to our Office the comments the attorney prepared in response to the agency report; and \$190 for time spent on the telephone with various General Accounting Office (GAO) employees during the pendency of the protest.

In its response to Bell's current claim, GSA challenges the \$100 per hour charge to perform each task. GSA also argues in general that the amount of time and money Bell spent pursuing the protest is excessive and the claimed expenses are not adequately documented.

Our Office requested Bell to document the claimed expenses. In response, Bell submitted a statement by an attorney, Cara J. Luther Belle, certifying that she performed legal work as indicated in the claim. Ms. Belle apparently is the person identified as the "legal researcher" in Bell's claim. In addition, Bell submitted 12 pages of copies of canceled checks. The checks totaled \$61,218.12, and were for, among other things: \$569.24 to Giant (a local grocery store); \$7,400 to cash for repayment of a personal loan; \$910 to cash; and \$658.46 for a deposit on a car. Based on the claim as submitted and this documentation, we dispose of Bell's claim as follows.

Bell may not recover the \$20,000 claimed as the company's cost of reviewing federal regulations and submitting its protest to GAO. Bell has not submitted any documentation to show what regulations were reviewed and how this research related to the protest. Nor has Bell submitted documentation to show who performed the review and that this person is compensated at \$100 per hour. Id. Also, based on the protest submission, which consisted of four pages and referenced only two Federal Acquisition Regulation sections, the amount of time claimed in preparing the protest, 200 hours, is excessive.

Bell may not recover \$10,000 for its legal researcher to review GSA's report; \$5,000 for a conference with its legal researcher to discuss what happened at an earlier conference with its attorney at which GSA's report was discussed; \$5,000 for Bell to review GSA's report and unspecified federal

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<sup>1/</sup> The \$20,000 claimed for conferences with its legal researcher consists of \$5,000 to discuss an earlier conference Bell had with its attorney to discuss GSA's report; \$10,000 to discuss the attorney's comments on GSA's report and to review federal regulations; and \$5,000 to discuss a conference with a second attorney after the protest record was closed.

regulations; or \$10,000 for a conference with the legal researcher to discuss the attorney's comments on GSA's report and to review federal regulations. Bell has submitted a certification from Cara J. Belle that she performed legal research as indicated in the claim; however, Bell has not submitted a bill or any other documentation to show that it paid her \$10,000 to review GSA's report, or that this amount is reasonable. Id. Nor was it reasonable for Bell to spend 50 hours and incur \$5,000 in costs to discuss with its legal researcher an earlier conference with its attorney, especially given that the attorney prepared the comments on the report. In addition, Bell has not submitted any documentation to show that any other Bell employee spent 50 hours reviewing GSA's report or that this employee is compensated at a rate of \$100 per hour. In any case, we think the cost and amount of time claimed is excessive, given that an attorney prepared Bell's comments on the agency report. Finally, it was not reasonable for Bell to spend 100 hours, at a claimed cost of \$10,000, to discuss the attorney's comments on the report with its legal researcher and to further review federal regulations after the comments on the report were filed with GAO.

Bell may not recover \$630 claimed for company time spent on various telephone calls and conferences with its attorney. Again, Bell has not submitted documentation demonstrating that the employee involved in these calls and conferences is compensated at \$100 per hour. In addition, Bell has not submitted any documentation to show what was discussed during these calls and conferences and how the discussions related to the protest. Id.

Bell may not recover \$100 for a telephone call with its attorney to discuss our decision after it was reached since this call was not in pursuit of the protest. Similarly, Bell may not recover \$5,600 for a telephone call and a conference with a second attorney (\$600) and a conference with its legal researcher concerning these communications (\$5,000). These calls and conferences allegedly concern a possible new approach to the protest. They took place after the comments on the protest were filed and the protest record was closed. Thus, they were not costs incurred in pursuit of the protest.

Bell may not recover \$300 to hand carry its comments to our Office. Bell has not shown that the employee who delivered the comments was compensated at the rate of \$100 per hour, nor that it took the employee 3 hours to deliver the comments.

Bell may not recover \$150 for copy and mail expenses or \$400 for gasoline and other travel expenses since Bell has not provided any documentation to show that these costs were incurred or that they relate to the protest.

Bell may recover \$190 for telephone calls it made to GAO during the pendency of the protest. Bell has not provided any documentation to show the employee involved is compensated at \$100 per hour, or to show what was discussed during these calls. The GAO attorney involved in the case, however, remembers that the calls took place, and we believe Bell is entitled to recover some amount of money for the time spent pursuing its protest.

Bell may recover the \$300 retainer fee it paid to its attorney. While Bell did not submit any documentation for this amount, an attorney was involved in preparing the comments on GSA's report and GSA has agreed to pay this amount.

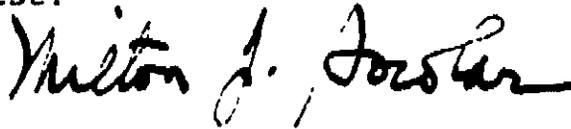
#### PROPOSAL PREPARATION COSTS

Bell requests reimbursement of \$11,500 in proposal preparation costs. According to Bell these costs, incurred over a period of 1.5 months, include: rent-\$3,000 (\$2,000 per month); utilities-\$127.50 (\$85 per month); office supplies-\$300 (\$200 per month); and postage-\$60 (\$10 per week for 6 weeks). In addition, Bell claims \$9 in travel expenses billed at \$.30 per mile for 30 miles, and \$8,000 for 80 hours of employee time charged at a rate of \$100 per hour.

Bell has not provided any documentation to support its claim for these costs. Bell has not shown what employees worked on the proposal, the tasks they performed or evidence of the amounts they were paid. Nor has Bell provided a lease or bills for the other alleged costs. Finally, Bell has not shown what amounts of any of these costs were attributable to the preparation of the proposal in issue. Consequently, Bell may not recover any of its proposal preparation costs. See Patio Pools of Sierra Vista, Inc.--Claim for Costs, 68 Comp. Gen. 383 (1989), 89-1 CPD ¶ 374.

#### CONCLUSION

Bell is entitled to recover \$490 for filing and pursuing its protest.



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