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BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Honorable  
Alan B. Mollohan  
House Of Representatives

Surplus Property:  
GSA's Sale Of The Cresap Coal Liquefaction  
Facility

At the request of Congressman Mollohan, GAO reviewed the sale of the Cresap liquefaction facility in Marshall County, West Virginia. An independent appraiser estimated the fair market value at \$1 million if sold as an industrial facility or \$410,000 if the land and buildings and equipment were sold separately. Marshall County wanted the property to operate as an industrial facility and GSA offered the property to the County for \$1.259 million. The County did not accept the offer or make a counter offer and GSA did not pursue the matter with the County.

Subsequently, GSA accepted a bid of \$400,000 for the property at a public auction. Because of the controversy following the sale of the liquefaction facility, GSA issued instructions intended to clarify how future sales of this nature (where two values are placed on a property) should be handled. These instructions provided that if initial attempts to sell surplus property to state and local governments are not successful, GSA officials should continue to negotiate with the public bodies to obtain the highest price possible, consistent with fair market value, which GSA would be willing to accept at a public sale.



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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

GENERAL GOVERNMENT  
DIVISION

B-217356

The Honorable Alan B. Mollohan  
House of Representatives

Dear Mr. Mollohan:

By letter dated August 13, 1984, you asked us to review the process used by the General Services Administration (GSA) to dispose of the Cresap coal liquefaction facility in Marshall County, West Virginia. You expressed concern that GSA (1) did not obtain community input by consulting with Marshall County representatives when estimating the fair market value of the facility; (2) moved quickly to complete the sale of the facility by accepting, on July 16, 1984, the high bid made on July 11, 1984; and (3) estimated two fair market values for the facility, one that assumed continued industrial use of the facility and one that assumed selling the land and buildings and the equipment separately.

We discussed the information we developed on these three matters with your office. Briefly, we advised your office that GSA did not obtain community input when estimating the fair market value of the property because it is GSA's policy to contract for a commercial appraisal to determine fair market value. We also advised your office that GSA accepted the July 11 high bid on July 16 because GSA was satisfied that the \$400,000 bid was close to the property's appraised fair market value and GSA did not believe it had any basis for not accepting the bid.

Regarding the third matter--the two estimated fair market values for the property--we told your office that GSA contracted with an independent appraiser to determine the property's fair market value. The independent appraiser estimated a fair market value of (1) \$1,000,000 if the property could be marketed as an industrial facility and (2) \$410,000 if the land and buildings and the equipment were sold separately. As your office requested, we inquired further into GSA's reasons for offering to negotiate the sale of the property to Marshall County for \$1,259,000 and later selling the property at public auction for \$400,000.

We performed our review at Marshall County, West Virginia, at GSA's central office in Washington and at GSA's Atlanta regional office, which is the office responsible for property disposals in West Virginia. We analyzed the disposal history of the property, examined GSA's files on the disposal, and interviewed both GSA and Marshall County officials. We also reviewed the laws, regulations, and policies that govern GSA's disposal of surplus property. The results of our review of the sale are summarized below and explained in more detail in appendix I.

Under GSA's regulations, it must give state and local governments the opportunity to acquire surplus real property--through negotiated sale at not less than fair market value--before it can offer such property for public sale. In accordance with these regulations, GSA gave Marshall County the opportunity to acquire the liquefaction facility before it offered the property for sale through a public auction.

GSA officials told us that when GSA made its offer to Marshall County in January 1984, County officials had already told GSA that the County wanted the property to operate as an industrial facility. Thus, GSA offered the County the property for \$1,259,000, or about 25 percent more than the independently appraised fair market value of \$1,000,000, should the property be marketed as an industrial facility. After the County did not accept the offer or make a counter offer, GSA did not pursue the matter further with the County and prepared in February 1984 to sell the property at a public auction.

GSA officials told us that at the time of the offer to the County they believed the property could be sold for use as an industrial facility and that public sale would bring at least \$1 million. Subsequent inquiries by potential buyers of the property led GSA to anticipate selling the property for less than \$1 million. Therefore, when the high bid at the public auction was \$400,000, GSA accepted the bid because the amount was within \$10,000 of the independent appraiser's fair market value of \$410,000, if the land and buildings and the equipment were sold separately.

GSA officials told us that because of the controversy following the sale of the liquefaction facility, GSA issued instructions intended to clarify how future sales of this nature (where two values are placed on the property) should be handled. In brief, these instructions require that when initial attempts to sell surplus property to state and local governments are not successful, GSA officials must continue negotiating with the state and local governments for the purpose of obtaining the highest price possible, consistent with fair market value, which GSA would be willing to accept at a public sale.

On June 27, 1985, we provided a draft of this report to GSA for review and comment. GSA's response, signed by the Administrator of General Services, stated that the agency concurred with the findings as presented in the draft and has issued instructions which denote the manner by which negotiated sales, similar in nature to this case, should be handled. This instruction will be incorporated into the GSA Disposal Handbook. (See appendix II.)

As you agreed, we are sending a copy of this report to the Administrator of General Services and will make copies available to others upon request.

Sincerely yours,

*W. J. Anderson*

William J. Anderson  
Director



GSA's Sale Of A  
Coal Liquefaction Facility  
In Marshall County, West Virginia

BACKGROUND

Disposal of real property by the General Services Administration (GSA) is governed by section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 USC 484). Under section 203(a)-(c) of the act (40 USC 484(a)-(c)), the Administrator of General Services is granted supervision and direction over disposition of surplus federal real property and may dispose of such property by sale, exchange, lease, permit, or transfer for cash, credit, or other property and upon such terms and conditions as the Administrator deems proper. The applicable statutory provisions pertaining to disposal of such property to state and local governments are set out in section 203(e)(3)(H) of the act (40 USC 484(e)(3)(H)).

Regulations issued by GSA under this authority concerning disposal of surplus real property are contained in subpart 101-47.3 of the Federal Property Management Regulations, which are codified in title 41 of the Code of Federal Regulations (CFR) at 41 CFR 101-47, subpart 3. GSA's authority to dispose of such property to state and local governments under section 203(e)(3)(H) of the act is specifically implemented at 41 CFR 101-47.304-9(a)(4).

After GSA determines that real property is surplus (that no other federal agency has expressed a need for the property), GSA notifies state and local governments that the property is available and gives them the first opportunity to acquire it. They may acquire it through a negotiated sale at a price that is not less than fair market value. If they express no interest in the property, GSA begins planning for a public sale.

The Administrator of General Services has delegated to the administrators of GSA's regional offices responsibilities for the sale of most properties. The preferred methods of public sale are sealed bid and public auction for an all-cash price.

Before surplus property may be sold, however, GSA must determine its fair market value.<sup>1</sup> Fair market value is defined by GSA as "the price at which a willing seller would sell and a willing buyer would buy, neither being under abnormal pressure, assuming a reasonable time is allowed to find a purchaser, and both seller and buyer are fully informed." Although GSA has

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<sup>1</sup>For the purposes of GSA's disposal program, fair market value, estimated fair market value, and appraised fair market value are considered synonymous.

employees that are qualified to make property appraisals, most appraisals are currently prepared for GSA by commercial real estate appraisers through competitively bid contracts. The resulting estimated fair market value is reviewed and approved by GSA's staff appraisers and becomes the minimum price when the property is publicly offered for sale. If the highest bid is below 90 percent of estimated fair market value, the regional office may reject it. Or, it may accept the bid if the regional office obtains the prior approval of GSA's central office.

#### SCOPE OF REVIEW

In our review of this matter we interviewed GSA officials responsible for real property disposals in GSA's central office and its Atlanta regional office, which administered the liquefaction facility sale. We visited Marshall County, West Virginia, and interviewed County officials. We reviewed the laws, regulations, policies, and procedures which govern GSA's sale of surplus real property and examined central office and Atlanta regional office files and records pertinent to the sale. We developed the disposal history on this sale and compared it to the established policies and procedures for GSA's surplus property sales. We did not attempt to evaluate the validity of the appraisal of the liquefaction facility that was prepared by the independent appraiser and evaluated by GSA's appraisal staff. Our work was performed in accordance with generally accepted government auditing standards.

#### DESCRIPTION OF THE PROPERTY

The Cresap coal liquefaction facility was completed in 1967 after the signing of a contract between the Office for Coal Research of the U.S. Department of the Interior and the Consolidation Coal Company. The contract was for research into the production of gasoline from the liquefaction of coal. Production ceased in 1970 but was resumed in 1977 under a contract between the Liquefied Coal Development Corporation, a subsidiary of the Fluor Corporation, and the U.S. Department of Energy (DOE). Production again ceased in 1979 due to operational difficulties, and the plant was deactivated and preserved pending a DOE decision on possible future use or disposal. On August 12, 1982, DOE reported the property to GSA as excess to its needs.

The property consists of 12 buildings which enclose 27,639 square feet of space. Three buildings are brick, one is cinder block, and the remaining are structural steel. The property also includes over 571 major pieces of equipment configured in an extensive system of pumps, pipes, and containers associated with the coal liquefaction process. The property contains about 28 acres lying adjacent to the Ohio River in Marshall County, West Virginia. The government's original acquisition cost of the plant was \$4,895,590. However, the government spent



approximately \$73 million at the Cresap facility for redesign, procurement, construction, operation, and decommissioning in demonstrating the synthetic fuel process.

#### GSA'S NOTICE TO THE COUNTY

After accepting DOE's report of excess, GSA contacted other federal agencies between September 7 and October 7, 1982, to determine if any wanted the property. No agencies expressed an interest, so on February 14, 1983, GSA declared the property to be surplus.

On the day the property was declared surplus, GSA sent letters to West Virginia state and local officials notifying them of this. The letters described the property and included instructions to be followed if any public agency desired to purchase the property. Included among the recipients of the letter were the Marshall County Commission, the Governor of West Virginia, and other state government organizations which GSA believed might have an interest in the property.

The provision in the law to permit negotiated sale to state and local governments was a result of an amendment to the Federal Property and Administrative Services Act of 1949. The intent of the amendment was to overcome the restrictions on some state and local governments in obtaining surplus federal property. Some state and local governments were precluded from doing so because of provisions in their own laws that prohibited them from participating in open competitive bidding. The amended law provided them an opportunity to obtain surplus federal property at a fixed price arrived at through negotiation, but at not less than estimated fair market value as determined by GSA.

GSA received expressions of interest in obtaining the property from two West Virginia public entities. On March 11, 1983, West Virginia University sent a letter stating it was interested in obtaining the property as a coal and energy research facility. On March 26, 1983, the Marshall County Commission sent a letter expressing its interest in the property. Both parties were informed that GSA would not enter negotiations until it had received an appraisal of the property's value.

#### OBTAINING A PROPERTY APPRAISAL

In May 1983 GSA sent invitations for bids to five real property appraisers that GSA's files indicated were qualified to appraise the property. Accompanying the invitation was a sample contract which detailed the information considered pertinent to

this specific appraisal problem. In the contract, GSA specified that it wanted four things in particular. These were:

1. A description of the highest and best use, which GSA defines as the most profitable use, within the realm of reasonable probability, to which real and related personal property can be put or adapted, and for which there is a current market.
2. The fair market value of the property, defined by GSA as the highest price estimated in terms of money which the property will bring if exposed for sale in the open market by a seller who is willing but not obligated to sell, allowing a reasonable time to find a buyer who is willing but not obligated to buy, both parties having full knowledge of all the uses to which it is adapted and for which it is capable of being used.
3. The insurable value of the property, defined by GSA as the reproduction cost of insurable items (construction above ground) of all buildings and appurtenances, less accrued physical depreciation.
4. The continued use value of the property, defined by GSA as the marketable measure of the value to a prospective purchaser of the property based on the property's continued use as a coal liquefaction pilot plant, energy research facility, or other similar energy-related use. This value-in-use estimate takes into consideration the value, if any, of the existing site and building improvements, process equipment, and other related equipment.

Two of the five appraisers responded to the invitation to provide the appraisal service; one on May 16, the other on May 26. Both respondents indicated that the specialized and complex nature of the Cresap coal liquefaction facility would require them to hire engineering consultants to determine what the highest and best use of the facility might be and whether it had any potential for continued use.

On June 9, 1983, the lower bidding respondent was awarded the contract to appraise the Cresap coal liquefaction facility. He promised to provide an appraisal that would involve an exploration of the demand by any industry for the pilot plant in its current condition. He quoted a fee of \$18,000 and promised to have a study to GSA in 10 weeks.

On September 6, 1983, the Marshall County Commission sent the Atlanta regional office another letter reaffirming its interest in acquiring the Cresap plant. In this second letter the Commission stated that it "would intend to reserve this facility for industrial use." The letter also stated that the Commission had several sources of funds to assist in the acquisition, and the funds could be available following a period of 90 to 120 days.

On September 19, 1983, GSA's Atlanta office sent letters to the Marshall County Commission and West Virginia University informing them that the appraisal was expected ". . . in the next few days . . ." and that as soon as the review of the appraisal was completed, GSA would be prepared to enter negotiations for sale of the property at not less than its fair market value. Further, GSA told the two parties that they were in competition with one another and requested that they attempt to settle this between themselves and let GSA know with which party it should negotiate. On October 3, 1983, West Virginia University asked to have its name withdrawn from consideration for the property in favor of the County.

#### THE APPRAISAL RESULTS

The appraisal report received by GSA was dated September 29, 1983. In his conclusions, the appraiser stated the government had a choice between two courses of action: marketing the property for use as an industrial entity or selling the equipment and real estate separately. The appraiser stated that if the government aggressively marketed the entire property to certain categories of prospective buyers which the appraiser identified in his report, then he felt that it had a fair market value of \$1,000,000, which included the entire plant as it then stood--land and buildings and equipment. For the government's other choice, the appraiser estimated the land and buildings to have a fair market value of \$260,000. He estimated that the equipment had a fair market value of \$150,000, for a total of \$410,000. The appraiser also stated that because of the virtual certainty that the plant would not be used as a coal liquefaction pilot plant in the future, the appraiser did not estimate a continued use value.

This was not the first liquefaction plant sold by GSA. According to the appraisal report, most plants were sold to buyers who demolished them and sold the equipment. Consequently, the report noted, these plants sold for much less than their cost or what they might have sold for if a buyer could have been found who would be interested in operating them for some industrial purpose. However, according to the appraisal report, no strong national marketing effort had been attempted for the previous sales.

The Director of GSA's Atlanta office Disposal Division told us that he believed the Cresap coal liquefaction facility had potential for sale at a value greater than the salvage value of the property. He said he based this opinion on the fact that DOE had done much to preserve the buildings and equipment and thus they were in better condition and possibly more attractive to potential buyers than other properties were when GSA received them for disposal. Therefore, he said, he initiated a sales effort aimed at a price higher than the salvage value of the property.

On November 25, 1983, the Atlanta office staff appraiser concluded that the contractor's appraisal report was acceptable and he recommended that GSA's Atlanta office approve the figure of \$1 million as the fair market value of the property. The appraisal report was passed to GSA's central office for review and approval. On December 20, 1983, a central office appraiser agreed "with the recommendation of the region for approval, with a value of \$1,000,000 as of August 15, 1983, for sale as an industrial entity."

#### GSA'S OFFER TO NEGOTIATE

On January 6, 1984, GSA wrote the Marshall County Commission and stated that it had completed all reviews and approvals and that it was able to quote a purchase price to the County. The price was \$1,259,000. GSA stated that it needed, within 30 days, a firm offer to purchase the property, a resolution from the appropriate County officials authorizing the purchase at the price quoted, a certified check for 10 percent of the purchase price, and a brief statement describing the proposed use of the property. The County was also requested to keep the offered price confidential because, if the County elected not to purchase the Cresap coal liquefaction facility, it would be advertised and offered for public sale.

GSA told us that it is customary to begin discussions at a price above fair market value in order to provide some room for negotiations and because negotiated sales to state and local governments may not be for less than fair market value. GSA officials also said that at the time of the offer to Marshall County, they believed that a public sale of the property would bring at least the fair market value of \$1 million.

County officials told us that it was never their intention to purchase the Cresap plant. Instead, they said, the County was prepared to invest \$250,000 of County funds towards the purchase of the plant to make it attractive to some company to purchase it. County officials hoped to be able to keep the plant open in some capacity to assist the employment of County residents. However, the County had not been successful in finding a prospective purchaser at the time the plant was

offered to it by GSA. Consequently, the County never responded to GSA's offer to sell and GSA did not pursue the matter with the County.

#### GSA'S PUBLIC SALE OF THE PROPERTY

After receiving no offer to purchase from the County, GSA proceeded to prepare for the public sale of the property. On February 15, 1984, an advance sale notice was prepared to be sent to the Commerce Business Daily announcing that an auction of the Cresap coal liquefaction facility would be conducted on July 11, 1984. Advertising notices were included in a number of publications both locally and nationally.

GSA Atlanta regional office officials said they initially were optimistic about being able to sell the liquefaction facility for continued industrial use at the fair market value that the appraiser had identified as possible if it was actively marketed. They said they undertook to advertise the property with that goal in mind, and it was for this reason that they advertised the property in such publications as Chemical Week and other national periodicals.

Atlanta officials explained that they placed sales brochures in the lobby of the Atlanta hotel where a chemical industry convention was held. They also said that they did not direct bid invitations or sales materials to the specific businesses that were identified by the appraiser in his appraisal report as potential buyers of the property. Furthermore, they said they did not attempt any special marketing efforts that GSA's disposal handbook authorizes them to use. These could include visits to specific businesses that might be able to utilize the property and preparation of special sales promotion materials that might improve their opportunities to sell the property. They said that they did not have the staff or time to mount such specialized efforts.

The Atlanta office disposal officials said that as they began to receive inquiries and requests for information about the sale, they noticed that they were not coming from the kinds of businesses that probably would utilize the property as an industrial entity. Consequently, they said they began to anticipate selling the property for less than \$1 million and closer to the value of the land and buildings and equipment sold separately, which they stated was also the appraised fair market value of the property but for a different use. The higher price, they said, was a special use value of the property. They said that this is a value higher than fair market value and applies to a purchaser who wants to make use of the property as an industrial entity and thus should be willing to pay a higher price because the property is in a condition nearly ready for that use.

When the auction was held on July 11, 1984, three bidders registered and participated in the sale. The high bidder offered \$400,000 for the property.

The Atlanta office disposal officials said they accepted the offer of the high bidder in accordance with GSA regulations because the offer was not less than 90 percent of the appraised fair market value of the land and the buildings and the equipment sold separately, determined by the contract appraiser to have been \$410,000.

#### INFORMATION IN GSA'S DISPOSAL RECORDS

According to the Atlanta disposal files, the appraised fair market value of the liquefaction plant was \$1 million because the contract appraiser, the GSA regional office, and the GSA central office believed it was likely that it could be sold for use as an industrial facility. This value was set forth in Atlanta's disposal plan and control record for the property that was approved by the regional office and by GSA's central office.

GSA's disposal procedures do not provide for two appraised fair market values that are contingent on a buyer's stated or indicated use for the property. There is no provision for GSA to ascertain how a proposed buyer plans to use the property, except when GSA is planning to negotiate a sale to a state or local government entity. However, GSA's procedures do provide for a redetermination of appraised fair market value if there is a reason to believe that the previous value is too high. This redetermination can be made without central office approval. We found no evidence in the Atlanta or GSA central office files of a redetermination having been made. The Atlanta office's records showed that at the time of the public auction, the appraised fair market value was still \$1 million. However, GSA officials told us that on the basis of their opinion on the probable use of the property, they had reduced their estimate of the property's fair market value to \$410,000.

Marshall County officials questioned the appropriateness of the property sale for \$400,000 because the County had previously been told by GSA that the price to the County was \$1.259 million. GSA's procedures in effect at that time, as contained in GSA's real property handbook, stated:

"If an offer equal to or greater than the special use value cannot be obtained, the negotiator shall devote his best efforts to securing from the public agency an offer at the highest price obtainable, which in no event shall be less than the appraised fair market value of the property."

The handbook did not explicitly provide whether "the appraised fair market value of the property" could be based on the special use value, as was the case here, or whether the term referred only to the value where no special use was intended. In addition, it is not clear whether GSA, under the above provision, had to recontact the state or local entity to continue negotiations if that entity failed to respond to GSA's offer. As noted earlier, Marshall County did not respond to GSA's offer to sell for \$1.259 million.

Because of the controversy that followed the sale of this property, GSA issued instructions intended to clarify how future sales of this nature should be handled. In September 1984, the Acting Commissioner of GSA's Federal Property Resources Service (FPRS) sent a memorandum concerning negotiated real property disposals to GSA's Regional Administrators. In part, the memorandum said:

"We have received a number of complaints recently that we are charging State and local governmental units more when negotiating the sale of surplus Federal real property than when we sell it to private parties through the competitive bid public sales process. Obviously that is not our intention.

This situation does occur sometimes when we attempt unsuccessfully to negotiate the sale of property to local governmental units on the basis of a higher in-place or special use value because of the known intended use of the property and then successfully sell the property competitively to a private bidder on the basis of fair market value, generally a lower figure.

In order to correct this matter, henceforth please adhere to the following guidelines: When there is a known intended use, continue to negotiate with State and local governmental units on the basis of the in-place or special use value. If unsuccessful, document the file and continue negotiations on the basis of obtaining the highest price possible commensurate with the fair market value. If such an offer is received, under signature of the Regional Administrator refer the sale proposal to Central Office, FPRS, Office of Real Property, for further consideration as to whether to accept the offer or advertise the property for public sale."

On June 27, 1985, we provided a draft of this report to GSA for review and comment. GSA's response, signed by the Administrator of General Services, stated that the agency concurred with the findings as presented in the draft and has issued instructions which denote the manner by which negotiated sales, similar in nature to this case, should be handled. This instruction will be incorporated into the GSA Disposal Handbook.



ADVANCE COMMENTS FROM THE  
GENERAL SERVICES ADMINISTRATIONGeneral  
Services  
Administration

Washington, DC 20405

July 26, 1985

Honorable Charles A. Bowsher  
Comptroller General of the United States  
Washington, DC 20548

Dear Mr. Bowsher:

We have examined draft GAO Audit Report #25-5017-R-4, GSA's sale of the Cresap Coal Liquefaction Facility, Marshall County, West Virginia, dated June 1985, and agree with its findings.

The General Services Administration (GSA) has issued instructions which denote the manner by which negotiated sales, similar in nature to this case, should be handled. The instruction, which is mentioned on page 17 of the draft report, will be incorporated into the GSA Disposal Handbook.

Sincerely,

Terence C. Golden  
Administrator

GAO note: The material referred to is now on page 9 of this report.

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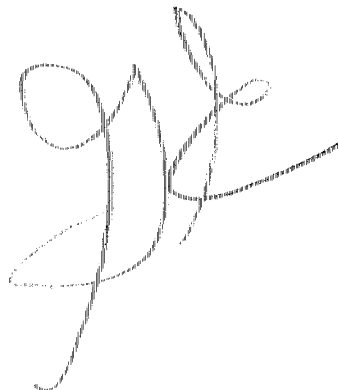
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