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**Comptroller General  
of the United States**

Washington, D.C. 20548

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# Decision

**Matter of:** Command Enterprises, Inc.

**File:** B-277042

**Date:** August 21, 1997

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Leslie C. Hall for the protester.

Mark H. Alexander, Esq., Defense Commissary Agency, for the agency.

Jeanne W. Isrin, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protest that proposal was improperly rejected as technically unacceptable for proposing insufficient staff-hours to perform the requirement is denied where: (1) proposed staff-hours in two out of three major service categories were substantially below the government estimate range; (2) the agency has provided a methodology for calculating its estimate which appears reasonable on its face; and (3) proposal failed to include required narrative explaining work performance methodology or any other justification for reduced proposed staff-hours.

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## DECISION

Command Enterprises, Inc. (CEI) protests the rejection of its proposal as technically unacceptable, and the award of a contract to ServCor, Inc., under request for proposals (RFP) No. DECA01-97-R-0015, issued by the Defense Commissary Agency (DCA) for shelf-stocking, custodial, and inventory-preparation services at the Fort Knox Commissary in Radcliff, Kentucky.

We deny the protest.

The RFP contemplated award of a fixed-price contract for 1 base year, with four 1-year options. Award was to be made on a best value basis, with technical proposals to be evaluated based on the following equally weighted factors: (1) past performance; (2) adequate shelf-stocking staffing and man-hours; (3) adequate custodial staffing and man-hours; and (4) adequate project manager/supervisory man-hours for each function.<sup>1</sup> Nineteen offers were received by the closing date. After the evaluation was completed, CEI was notified that its proposal had been

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<sup>1</sup>The RFP also indicated that award would be made based on the lowest-cost technically acceptable proposal. However, the record indicates that the procurement was conducted under a best value approach. This solicitation discrepancy is not in issue.

found technically unacceptable as a result of insufficient staffing and staff-hours proposed for custodial services and supervision. Award was made to ServCor based on initial proposals.

CEI asserts that its proposed staff-hours for custodial services and supervision exceeded industry standards and were adequate to perform the contract, and that its offer therefore should not have been deemed unacceptable on this basis.

Our Office does not make an independent determination of the merits of technical proposals; rather, we examine the agency's evaluation to ensure that it is reasonable and consistent with stated evaluation criteria and applicable statutes and regulations. Mark Dunning Indus., Inc., B-230058, Apr. 13, 1988, 88-1 CPD ¶ 364 at 3-4.

DCA had a reasonable basis for rejecting CEI's proposal. For the custodial function, CEI's proposed staff-hours were about 30 percent below the lower end of the government estimate range. This gross disparity led the agency--reasonably, we think--to find CEI's proposal unacceptable under the custodial staff-hour evaluation factor, which was worth 25 percent of the evaluation. As for the supervisory function, the RFP required a full-time project manager for a total of 2,080 hours. CEI proposed less than one-half of those staff-hours; as a result, the agency also rated the proposal unacceptable under the supervisory staff-hour factor, which also was worth 25 percent of the evaluation. Further, CEI's proposal was downgraded for failing to provide a narrative explanation of its methodology for performing the requirements, as required by section L.17 of the RFP, and the proposal did not otherwise explain how CEI intended to perform with the number of staff-hours proposed. Given CEI's substantially understated proposed staff-hours and its failure to explain how it would perform the contract, the agency reasonably found CEI's proposal technically unacceptable. See Intelcom Support Servs., Inc., B-257037, Aug. 23, 1994, 94-2 CPD ¶ 77 at 5.

CEI's assertion that its proposed staff-hours are consistent with industry standards does not establish that the agency's evaluation was unreasonable. Agencies properly may develop their staff-hour requirements based on a determination of their minimum needs, irrespective of inconsistency with industry standards. See generally T&S Prods., Inc., B-261852, Oct. 4, 1995, 95-2 CPD ¶ 161 at 2-4. DCA has provided the methodology behind its estimate, which appears reasonable, and CEI has not attempted to show that the estimate is flawed. Moreover, CEI has not provided any specific information substantiating its general assertion that its proposed staff-hours are consistent with industry standards. We will not disturb an agency's determination of its needs based solely on a protester's disagreement with that determination. See Mark Dunning Indus., Inc., *supra*, at 4.

CEI asserts that the solicitation form on which offerors were to set forth proposed staff-hours was defective in various respects. However, as these alleged defects

were apparent on the face of the RFP, CEI was required to file any protest challenging them prior to the time set for receipt of initial proposals. Because it did not do so, this aspect of the protest is untimely and will not be considered. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1997).

CEI maintains that, since its offered price was lower than the award price, its offer should have been within the competitive range. However, a technically unacceptable offer can be excluded irrespective of its low price. Federal Servs., Inc., B-235661, Aug. 28, 1989, 89-2 CPD ¶ 182 at 4.

The protest is denied.

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