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

OFFICE OF GENERAL COUNSEL

B-204114

August 10, 1981

Paul W. Ahrens, President
Miracle Recreation Equipment Company
P.O. Box 275
Grinnell, Iowa 50112

Dear Mr. Ahrens:

We refer to your letter of July 10, 1981 regarding the late submission of your proposal on the General Services Administration's (GSA) request for proposals (RFP) No. 10 PN-HRS-0039 for the procurement of recreational equipment.

As we understand it, the RFP specified that May 8, 1981 at 3:30 p.m. was the time of closing. Due to an oversight in your office, your proposal was not mailed until May 14, 1981 and was not received by GSA until May 18, 1981 at 10:25 a.m., or 10 days after the specified closing date.

Although your company has held a contract with GSA for many years, and even though you assumed that the bid closing was later in the summer, as it had been in 1980, GSA was correct in rejecting your proposal. The result may appear harsh in your particular case; however, the integrity of the competitive procurement system requires that the established rules be observed.

The Federal Procurement Regulations (FPR) mandate that a proposal received after the exact time specified in the RFP not be considered unless it falls under one of the several exceptions. FPR § 1-3.802-1 (b) (1964 ed.). Thus, by regulation, a late proposal may be considered only where the proposal is received prior to award and it was sent by registered or certified mail 5 days before the date of closing, or the late receipt was due solely to the mishandling of the proposal by the Government after its receipt or it was the only proposal received. FPR § 1-3.802-1 (a) (1964 ed.).

The general rule followed by our Office is that the offeror is charged with the responsibility of assuring that its proposal arrives at the proper place at the proper time. See Chambers Consultants and Planners, B-192465, August 18, 1978, 78-2 CPD 134. Because your proposal admittedly did

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not reach GSA by closing and it did not fall within any of the exceptions under which it may be considered, it was properly rejected as late.

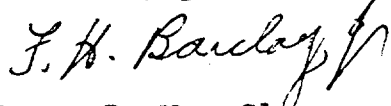
We believe that the manner in which the Government conducts its procurement must be subject to standards so that all will be treated equally and impartially. Clearly then, there must be a time after which offers may not be received and to permit one offeror to deliver its proposal after the closing date would tend to subvert the competitive system. Data Pathing, Inc., B-188234, May 7, 1977, 77-1 CPD 311.

By the application of its late proposal rules, the Government may lose the benefit of a proposal that offers terms more advantageous than those timely received. This may have been the case with your proposal. However, the paramount consideration is the maintenance of confidence in the integrity of the Government procurement system rather than the possible advantage to be gained in a particular procurement. See Federal Sales Service, Inc., B-193933, July 17, 1979, 79-2 CPD 36.

We also believe that acceptance of a late proposal could be considered unfair to those offerors who successfully endeavored to submit their offers on time. It could give an advantage to the late offerors over those who had less time to prepare their proposals, even when the lateness was due to unanticipated and innocent causes. 3M Business Products Sales, Inc., B-194454, June 29, 1979, 79-1 CPD 474.

We hope this explanation is helpful.

Sincerely yours,



For Harry R. Van Cleve
Acting General Counsel