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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-220754.2      **DATE:** January 6, 1986  
**MATTER OF:** Trans World Communications, Inc.--  
Reconsideration

**DIGEST:**

GAO will not reopen a protest that it dismissed because the protester failed to comment within 7 days after receipt of the agency report, as required by the Bid Protest Regulations, when the protester failed to advise GAO that it had not received the report on the due date and when, even allowing the protester a full 7 days after it actually received the report, its comments were 1 day late.

Trans World Communications, Inc., requests that we reopen the file on its protest concerning request for proposals (RFP) No. DAKF71-85-R-0162, issued by the Department of the Army.

We will not reopen the file.

Our Office dismissed Trans World's protest because we received the contracting agency's report on the scheduled due date, November 19, 1985, but did not receive any communication from Trans World regarding the protest within 7 working days thereafter. Our Bid Protest Regulations, 4 C.F.R. § 21.3(e) (1985), allow 7 days after receipt of a report for protesters to file comments, and our standard form acknowledgment both advises protesters of the due date for the report and states that unless we hear otherwise, we will assume that the protester received it at the same time that we did.

Trans World now informs us that it received the agency report on Friday, November 22 and that it sent its reply by express mail on Tuesday, December 3. According to Trans World, it therefore filed a timely response to the agency report that should be considered on the merits.

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We do not agree. Aside from the protester's failure to notify us that it did not receive the agency report by the stated due date, the comments also were not filed within the required 7-day period. Since Trans World received the agency report on November 22, excluding Thanksgiving, its comment period ended at close of business on December 4. However, we did not receive the firm's comments until December 5, when they were time-date stamped at 12:17 p.m. Thus, even allowing the protester a full 7 working days after its receipt of the report, its comments were 1 day late. Trans World's reliance on express mail service for delivery the day after transmittal was at its own risk, and the fact that the delivery to our Office was not accomplished within that time frame does not change the result. Cf. Olympic Mills Corp., B-218218, Mar. 4, 1985, 85-1 CPD ¶ 273 (fact that the Postal Service guarantees overnight delivery of express mail does not relieve a protester of its obligation to ensure timely arrival of its bid).

Trans World's failure either to report the non-receipt of the report or to request an extension of the due date for its comments precludes our consideration of its protest on the merits. See Rail Co., B-218623, Aug 7, 1985, 85-2 CPD ¶ 141.

Our prior dismissal is affirmed.

*Harry R. Van Cleve*

Harry R. Van Cleve  
General Counsel