

DECISION



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

FILE: B-222365.2

DATE: April 1, 1986

MATTER OF: Riverport Industries, Inc.--Reconsideration

DIGEST:

Protest filed by Western Union "Easylink" message more than 10 days after protester receives notice of initial adverse action on protest first filed with agency is untimely even though protester forwarded its protest message to Western Union several days prior to Western Union's transmission of the message.

Riverport Industries, Inc. requests reconsideration of our dismissal of its March 24, 1986 protest. It asserts that it filed a timely protest with us on March 12.

As evidence of its position on the March 12 filing, Riverport Industries, Inc. has furnished copies of the telex letter it sent to Western Union and a response it received from Western Union. These documents show that Riverport did indeed send a protest message to Western Union on March 12. However, the only message we received from Western Union appears not to have been transmitted to us until the afternoon of March 21; we time-date stamped it as received on March 24.

Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(3) (1985), provide that when a protest is initially filed with the procuring agency any subsequent protest to our Office must be filed within 10 working days of initial adverse agency action on that protest. The original protest message indicated that Riverport first protested with the agency and received notice on March 3 of the agency's denial of the protest. Therefore, to be considered timely, the protest filed here should have been filed not later than March 17. Since we did not receive the protest by that time, despite Riverport's March 12 communication with Western Union, the protest was untimely filed.

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The prior dismissal is affirmed.

for Seymour Elias
Harry R. Van Cleve
General Counsel