

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

28852

**FILE:** B-215778**DATE:** July 20, 1984**MATTER OF:** GMI Industries, Inc.**DIGEST:**

Protest concerning agency's failure to restrict solicitation to small business and labor surplus area concerns, filed after award of contract, is untimely and will not be considered on the merits.

GMI Industries, Inc. protests the award of contract No. N00600-83-R-5497 by the Department of the Navy. GMI complains that the procurement should have been set aside for small business and labor surplus area concerns.

Our Bid Protest Procedures require that a protest based upon alleged improprieties in a solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals must be filed prior to bid opening or the closing date for receipt of initial proposals. See 4 C.F.R. § 21.2(b)(1) (1984). The objection to the agency's failure to set aside the solicitation should therefore have been lodged prior to bid opening or the closing date for receipt of initial proposals, as applicable. See, e.g., Firebaugh & Reynolds Roofing Co., B-213485, Nov. 10, 1983, 83-2 CPD ¶ 549. Therefore, this protest is untimely.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel

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