DECISION

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

FILE: B-198587　　　　　　DATE: June 3, 1980

MATTER OF: T M Systems, Inc.

DIGEST:

> Protest against alleged impropriety in
> solicitation apparent prior to bid
> opening, but filed after bid opening,
> is untimely and not for consideration
> on merits.

T M Systems, Inc. (T M), by telegram of April 25,
1979, protests the award of a contract by the Navy
under solicitation No. N68335-80-B-1092.

T M asserts that the solicitation, for certain
Wave Off Cut Systems and associated spare parts,
contained deficient specifications. T M states that
during its performance of a prior contract for the
identical items, various drawing discrepancies were
noted which resulted in changes to 16 of the drawings
which are part of the solicitation. When T M received
the current solicitation on March 17, 1980, it prepared
its bid to reflect these changes which it "knew the
Navy required."

Bid opening occurred on April 16, 1980, and T M
was advised that its unit price was $1,000 higher
than that submitted by the other bidder. T M then
reviewed its bid preparation and "for the first time
* * * carefully checked the drawings furnished with
the referenced bid set." It ascertained that only
three of the 16 drawings allegedly requiring changes,
which were supplied with the solicitation, were ac-
tually changed. T M contends that: "We had a right
to assume that the drawing package furnished under the
referenced solicitation reflected [all 16] changes,
since all this information was previously communicated
to the Navy." T M believes that the other bidder's
lower price was possible only because of this deficiency
in the specifications.

T M's protest was filed (received) in our Office on April 25, 1980. Our Bid Protest Procedures require that protests based on alleged improprieties in a solicitation which are apparent prior to bid opening be filed prior to bid opening. 4 C.F.R. § 20.2(b)(1) (1980).

The protest is dismissed as untimely.

Harry R. Van Cleve

for   Milton J. Socolar
      General Counsel