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**DECISION**



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

8990

FILE: B-193827

DATE: January 30, 1979

MATTER OF: Biltwell Development Company of  
San Francisco

**DIGEST:**

[Protest filed with ~~GAO~~ more than 10 days  
after notification of initial adverse  
agency action (~~denial of protest to  
agency~~) is untimely] and not for con-  
sideration.

*DLG 00771*

Biltwell Development Company of San Francisco  
(Biltwell) protests the award of a contract by the  
Department of the Army Corps of Engineers (Army) *AGC00305*  
to Arntz Brothers under invitation for bids No.  
DACW07-78-B-0019. The solicitation was for con-  
struction of the Regional Visitor Center at the San  
Francisco Bay Model, Sausalito, California.

*DLG  
00772*

Biltwell contends that pursuant to the  
specifications of the solicitation, the contract  
could not be awarded with the additive items unless  
the money was on hand at bid opening. Biltwell  
further states that the money was not on hand at  
that time and a 30-day extension had been requested  
in order to get the money.

Biltwell initially filed a protest against the  
award with the Army by letter dated November 3, 1978.  
By letter dated November 15, 1978, the Army denied  
the protest. Biltwell filed a subsequent protest with  
our Office on December 27, 1978.

Section 20.2(a) of our Bid Protest Procedures,  
4 C.F.R. part 20 (1978), states in pertinent part:

"Protesters are urged to seek  
resolution of their complaints initially  
with the contracting agency. If a  
protest has been filed initially with  
the contracting agency, any subsequent

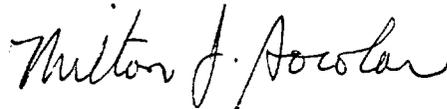
*dec*

*003369*

protest to the General Accounting Office filed within 10 [working] days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered \* \* \*

Since the November 15 letter was the initial adverse agency action (denial of the protest to the agency) and Biltwell did not file its protest with our Office until December 27, 1978, the protest is untimely and not for consideration.

Therefore, the protest is dismissed. *as untimely*



Milton J. Socolar  
General Counsel