

S. Riback



Comptroller General  
of the United States

Washington, D.C. 20548

147168

## Decision

**Matter of:** Tucson Mobilephone, Inc.--Request for  
Declaration of Entitlement to Costs

**File:** B-248155.2

**Date:** July 22, 1992

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Theodore M. Bailey, Esq., Law Office of Ronald Shaw, P.C.,  
for the protester.  
James Dever, Esq., Department of the Air Force, for the  
agency.  
John M. Melody, Esq., and David Ashen, Esq., Office of the  
General Counsel, GAO, participated in the preparation of the  
decision.

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### DIGEST

Protester is not entitled to reimbursement of the costs of  
filing and pursuing its protest where agency corrective  
action--cancellation of solicitation--was implemented  
approximately 2 weeks after the protest was filed.

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### DECISION

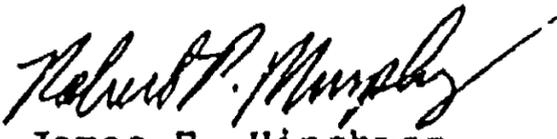
Tucson Mobilephone, Inc. requests that we declare it  
entitled to reimbursement of the reasonable costs of filing  
and pursuing its protest under Department of the Air Force  
request for proposals (RFP) No. F08620-92-R-0006. In its  
protest filed on March 31, 1992, Tucson alleged that the RFP  
was restrictive and that its proposal had been rejected  
based on an improper evaluation. On April 15, the Air Force  
canceled the RFP and advised our Office that it currently  
was considering how to fulfill its minimum needs. Based on  
this apparent corrective action, on April 30 we dismissed  
Tucson's protest as academic.

Under our Bid Protest Regulations, 4 C.F.R. § 21.6(e)  
(1992), we may declare a protester entitled to the costs of  
filing and pursuing its protest, including reasonable  
attorneys' fees, where the agency takes corrective action in  
response to its protest. We will find such an entitlement  
only where, based on the circumstances of the case, we find  
that the agency unduly delayed taking corrective action in

the face of a clearly meritorious protest, Building Servs. Unlimited--Request for Declaration of Entitlement to Costs, B-244135.2, Oct. 7, 1991, 91-2 CPD ¶ 312.

Even if cancellation of the RFP here constituted corrective action in the face of a clearly meritorious protest, it is clear that the agency took this action promptly--it canceled the RFP 15 days after the protest was filed. Under these circumstances, Tucson is not entitled to recover its protest costs. See id.; Dynair Elecs., Inc.--Request for Declaration of Entitlement to Costs, B-244290.2, Sept. 18, 1991, 91-2 CPD ¶ 260 (cancellation of RFP 4 weeks after filing of protest was prompt corrective action).

The request is denied.

  
for James F. Hinchman  
General Counsel