

BEFORE THE MARYLAND STATE BOARD OF CONTRACT APPEALS

**In the Appeal of
Maryland Special Police Department, Inc.**

*

*

**Under Maryland Department of Human Services
RFP No. BCDSS/LGA-26-029**

*

Docket No. MSBCA 3352

Appearance for Appellant

*

**Randall J. Craig, Jr. Esq.
Baltimore, Maryland**

*

Appearance for Respondent

*

**Diane E. Wessel, Esq.
Aretha J. Ector, Esq.
Assistant Attorneys General
Maryland Department of Human
Services
Baltimore, Maryland**

*

*

*

* * * * * * * * * * * *

OPINION AND ORDER BY MEMBER CARNAHAN

Respondent Maryland Department of Human Services (“DHS”) filed a Motion to Dismiss in this Appeal, which the Board treats as a motion for summary decision under COMAR 21.10.05.06C(2). Appellant Maryland Special Police Department, Inc. (“MSPD”) filed no opposition. Per COMAR 21.10.05.06B(5), the Board declined to schedule a hearing on Respondent’s Motion and decides the matter on the record. After resolving all reasonable inferences in Appellant’s favor, the Board finds no genuine dispute of material fact and concludes that Respondent is entitled to judgment as a matter of law because MSPD’s protest was not timely filed.

UNDISPUTED MATERIAL FACTS

DHS Baltimore City Department of Social Services (“BCDSS”) issued Request for Proposals (RFP) for Uniformed Armed and Unarmed Security Guard Services, RFP Number BCDSS/LFA-26-029, Expedited Procurement (the “RFP”) on March 25, 2026, to establish a

contract for armed and unarmed security guard Services for the BCDSS and its locations throughout the City of Baltimore. The closing date for receipt of proposals was April 20, 2026. Two proposals were received – one from the Appellant MSPD and one from Elite Security Services and Solutions, Inc. (“Elite”). As part of the evaluation process, oral presentations were held for both offerors on April 17, 2026. Offerors were given one hour for oral presentations, and there was a thirty-minute question and answer period following each presentation.

The offerors’ Technical Proposals were ranked by the Evaluation Committee (“EC”), which included the Procurement Officer (“PO”), on April 21, 2026, and then Financial Proposals were opened and reviewed. Elite’s Technical Proposal was ranked first and MSPD’s was ranked second. Afterwards, a request for Best and Final Offers (“BAFOs”) was sent to the offerors and were received on April 22, 2026 – Elite’s BAFO was \$15,106,787.15 and MSPD’s was \$22,641,099.45. The RFP’s award determination required technical factors be given greater weight than financial factors. Based on the technical and financial rankings, Elite’s proposal was determined to be the most advantageous to the State.

DHS notified MSPD via email on May 1, 2026, that it was not recommended for award of the contract. The May 1st non-award letter detailed how the offerors’ Technical Proposals were ranked, along with the BAFOs and provided the overall rankings of the offerors’ proposals. The May 1st letter also discussed the strengths and weaknesses of MSPD’s Technical Proposal. MSPD requested a debriefing, which was held on May 7, 2026. The written record of the May 7th debriefing is essentially a rehash of the information provided in DHS’s May 1st non-award letter to MSPD, and no new information was provided.

On May 11, 2026, MSPD filed a protest with the PO. The grounds of MSPD’s May 11th Protest focused on the conduct of the PO during MSPD’s April 17th oral presentation and how

MSPD's Technical Proposal was evaluated. MSPD's Protest alleged that during its oral presentation the PO disabled both his camera and microphone for a substantial portion of the presentation, failed to actively participate, asked no substantive questions, and appeared to be disengaged from the evaluation process entirely. At the conclusion of the presentation, the PO briefly returned only to state "thank you" before ending the session.

MSPD's Protest also generally asserted that DHS failed to conduct a fair and meaningful evaluation because the PO acted in an arbitrary and capricious manner during the evaluation and award process, the PO and EC failed to comply with COMAR 21.05.03 regarding the evaluation of proposals, the PO and EC failed to properly assess responsibility and past performance, and they relied upon unstated evaluation criteria. The Protest further asserted that there were unreasonable technical evaluation findings, the process lacked transparency and procedural integrity, and cited potential unequal treatment of offerors. Notably, MSPD's Protest did not make any reference to the debriefing.

The PO denied MSPD's Protest on May 20, 2026, as untimely and unsupported by facts, evidence, exhibits, or documentation. MSPD filed its appeal of the PO's denial of its Protest on May 29, 2026.

STANDARD OF REVIEW

Upon motion, the Board may dismiss an initial pleading if it appears that the Board cannot grant the relief requested. COMAR 21.10.05.06C. In reviewing a motion to dismiss, we assume the truth of all facts alleged by the appellant. *U.K. Constr. & Mgmt., LLC*, MSBCA 2773 at 2 (2011).

Per COMAR 21.10.05.06C(2), if, on a motion to dismiss for failure of the initial pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and

not excluded by the Board, the motion shall be treated as one for summary decision and disposed of accordingly, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion.

The standard of review for granting or denying summary decision is the same as for granting summary judgment under Maryland Rule 2-501(a). *Associated Building Maintenance Co., Inc.*, MSBCA No. 3130 at 6-7 (2019), citing *Beatty v. Trailmaster Prod., Inc.*, 330 Md. 726 (1993). While a court must resolve all inferences in favor of the party opposing summary judgment, those inferences must be reasonable. *MGT Consulting Group, LLC*, MSBCA No. 3108 at 18-19 (2019); *Crickenberger v. Hyundai Motor America*, 404 Md. 37 (2008). Thus, to defeat a motion for summary judgment, the opposing party must show that there is a genuine dispute of material fact by proffering facts that would be admissible in evidence. *Associated Building Maintenance*, at 6-7, citing *Beatty*, 330 Md. at 737-738.

DECISION

The requirements for filing protests that are set forth in COMAR 21.10.02.03 are substantive and may not be waived. Failure of a bidder to meet the substantive timeliness requirements of COMAR 21.10.02.03 deprives this Board of jurisdiction. *See A.J. Billig & Co., LLC t/a A.J. Billig & Co.*, MSBCA No. 3096 (2018). COMAR 21.10.02.03B requires “protests shall be filed not later than 7 days after the basis for protest is known or should have been known, whichever is earlier.” COMAR 21.10.02.03C states that “[a] protest received by the procurement officer after the time limits prescribed [in COMAR 21.10.02.03B] may not be considered.”

Although grounds for a protest revealed by a debriefing may be considered if a timely protest is filed following a debriefing, *see Wm. M. Schlosser Co., Inc.*, MSBCA No. 2104 (1999), “[a] request for debriefing does not toll the requirements to file a protest within the time allowed

if the basis of the protest is known or should have been known to the protester.” *Communication Management Systems, Inc.*, MSBCA No. 1625 n.2 (1992).

MSPD knew or should have known about the conduct of the PO that it found objectionable on the day the of the briefing, April 17, 2026. To challenge the PO’s conduct during MSPD’s oral presentation, MSPD was required to file a protest within seven days of that presentation, or by April 24, 2026. MSPD knew or should have known how its Technical Proposal was evaluated from the May 1, 2026 non-award letter from DHS. To challenge the evaluation of its Technical Proposal, MSPD was required to file a protest within seven days after receiving DHS’ non-award letter, or by May 8, 2026. The May 7th debriefing provided no information beyond what was included in the May 1st non-award letter. MSPD filed its Protest on May 11, 2026.

CONCLUSION

For the foregoing reasons, the Board finds that the Appellant MSPD’s protest was untimely. Respondent DHS is entitled to summary decision as a matter of law.

ORDER

Based on the foregoing, it is this 14th day of July 2026, hereby:

ORDERED that Respondent DHS’ Motion to Dismiss/Motion for Summary decision is **GRANTED**.

I concur:

/s/
Michael L. Carnahan, Jr., Member

/s/
Senchal Dashiell Barrolle, Esq. Member

/s/
Michael J. Stewart Jr., Esq., Member

Certification

COMAR 21.10.01.02 **Judicial Review.**

A decision of the Appeals Board is subject to judicial review in accordance with the provisions of the Administrative Procedure Act governing contested cases.

MD Rule 7-203 **Time for Filing Action.**

(a) Generally. Except as otherwise provided in this Rule or by statute, a petition for judicial review shall be filed within 30 days after the latest of:

- (1) the date of the order or action of which review is sought;
- (2) the date the administrative agency sent notice of the order or action to the petitioner, if notice was required by law to be sent to the petitioner; or
- (3) the date the petitioner received notice of the agency's order or action, if notice was required by law to be received by the petitioner.

(b) Petition by Other Party. If one party files a timely petition, any other person may file a petition within 10 days after the date the agency mailed notice of the filing of the first petition, or within the period set forth in section (a), whichever is later.

* * *

I certify that the foregoing is a true copy of the Maryland State Board of Contract Appeals Opinion and Order in Docket No. MSBCA 3352, The Appeal of Maryland Special Police Department, Inc., under Maryland Department of Human Services Request for Proposal BCDSS/LGA-26-029

Date: July 14, 2026

_____/s/
Michael A. Dosch, Jr.
Deputy Clerk