

BEFORE THE MARYLAND STATE BOARD OF CONTRACT APPEALS

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

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

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Docket No. MSBCA 3352

Appearance for Appellant

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

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Appearance for Respondent

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**Diane E. Wessel, Esq.
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**OPINION AND ORDER DENYING APPELLANT’S REQUEST/MOTION FOR
RECONSIDERATION BY MEMBER STEWART**

Appellant Maryland Special Police Department, Inc. (“MSPD”) filed a Request for Reconsideration of the Board’s July 14, 2026 Opinion and Order granting Respondent Maryland Department of Human Services’ (“DHS”) Motion to Dismiss/Motion for Summary Decision. The Board treats MSPD’s Request as a motion for reconsideration under COMAR 21.10.05.06F. After considering MSPD’s Request/Motion for Reconsideration and DHS’ opposition, the Board declines, per COMAR 21.10.05.06B(5), to schedule a hearing, decides the matter on the record and denies the Request/Motion for the reasons set forth below.

PROCEDURAL AND FACTUAL HISTORY

DHS filed a Motion to Dismiss this Appeal on June 15, 2026, asserting that MSPD’s May 11, 2026 Protest was untimely. Under COMAR 21.10.05.06(B)(2), MSPD had 15 working days of the State government to respond, making its response due by July 8, 2026. Because MSPD filed no opposition by that date, the Board treated DHS’ Motion to Dismiss as a motion for summary

decision under COMAR 21.10.05.06C(2), declined to schedule a hearing under COMAR 21.10.05.06B(5), and decided the matter on the record. After resolving all reasonable inferences in Appellant's favor, the Board found no genuine dispute of material fact and concluded that DHS was entitled to judgment as a matter of law because MSPD's protest was untimely. The Board's Opinion and Order was issued on July 14, 2026. Later that day counsel for MSPD filed a Response to Opinion and Order and Request for Reconsideration.

In his Request/Motion for Reconsideration counsel for MSPD asserts that he filed an opposition to DHS' Motion to Dismiss on June 30, 2026, and further asserts that "Counsel can only speculate that due to an inadvertent error the document was not electronically sent to the Maryland State Board of Contract Appeals and was thus not received by the [Board]. Such filing was not an intentional omission, and Appellant has no explanation of why the pleading was not received by the Board." Attached to MSPD's Request/Motion for Reconsideration was "Appellant's Opposition to Respondent's Motion to Dismiss and Request for Hearing."

Counsel for MSPD, however, provided no proof that he emailed his Opposition to the Board at its electronic filing address: efile.msbca@maryland.gov.¹

GROUND FOR GRANTING A MOTION FOR RECONSIDERATION

COMAR 21.10.05.06F states that "[a] motion for reconsideration may only be filed on the grounds that the decision of the Appeals Board was in error as a result of fraud, surprise, mistake or inadvertence..."

DECISION

MSPD counsel's failure to timely file an opposition to DHS' Motion to Dismiss/Motion for Summary Decision, due to *his* inadvertence, was not inadvertence by the Board as

¹ The Board emails a date-stamped copy via email to the filing party after receipt.

contemplated by COMAR 21.10.05.06F and does not provide grounds for reconsideration of the Board's July 14th decision. COMAR 21.10.05.01B clearly states that "[d]ocuments may be filed electronically by sending them to efile.msbca@maryland.gov. The filing party is responsible for confirming receipt." Counsel for MSPD provided no proof of electronic filing along with his Request/Motion for Reconsideration.

Even if the Board had considered MSPD's Opposition, it would not have changed the Board's decision, as explained more fully below, that MSPD's protest filed May 11, 2026 was untimely.

First, MSPD's Opposition misapprehends and misstates the time for filing a protest, stating "Md. Code Regs. 21.10.02.03B provides a 10-day filing period for protests other than solicitation improprieties apparent before the closing date." At all times relevant to this Appeal, COMAR 21.10.02.03B mandated that protests not based on alleged improprieties in a solicitation that are apparent before bid opening or the closing date for receipt of initial proposals be filed not later than seven (7) days after the basis for the protest is known, or should have been known, whichever is earlier. The 7-day period to protest begins to run when the protestor has either actual knowledge, or implied knowledge based on inquiry notice, of the basis for the protest. *Milani Constr., LLC*, MSBCA 3074 & 3088 at 27 (2019), reversed on other grounds by *Maryland State Highway Admin. v. Milani Constr., LLC*, No. 1334, Sept. Term 2019, 2020 WL 5797870, at *9 (Md. Ct. Spec. App. Sept. 29, 2020) (unreported).

Second, MSPD's Opposition does not dispute that its oral presentation occurred on April 17, 2026. The Board's conclusion that MSPD had seven days—until April 24, 2026—to file a protest challenging the PO's conduct during MSPD's oral presentation rests on that undisputed fact.

Third, MSPD's Opposition does not dispute the fact that it received DHS' May 1, 2026 non-award letter that provided the rankings of proposals and summarized the strengths and weaknesses of MSPD's Technical Proposal. It is well-established that an unsuccessful bidder or offeror cannot just sit on its rights and wait when put on inquiry notice. *See Initial Healthcare, Inc.*, MSBCA No. 2267 (2002). MSPD's Opposition asserts that DHS's May 1st non-award letter "did not provide the evaluation file, consensus notes, score sheets, evaluators' comments, responsibility analysis, or other material needed to determine whether the evaluation process was legally defective." Those materials, however, were still ostensibly absent from the May 7th debriefing, the date MSPD would have the Board use to calculate timeliness of this protest ground.

Although MSPD's Opposition contends that through the debriefing it "received additional explanation of the selection decision and the evaluation concerns that support this protest," it fails to proffer facts admissible in evidence sufficient to create a genuine dispute of material fact. MSPD does not proffer what new or different materials were provided at the May 7, 2026 debriefing such that its scope of knowledge of the protest basis changed from the non-award letter date.

Finally, MSPD does not dispute DHS' Debriefing Conference summary, submitted with its Motion to Dismiss/Motion for Summary Decision, which makes no mention of those materials being provided. Based on these undisputed facts, the Board found that MSPD knew or should have known the basis to protest its technical evaluation as of May 1st. The Board, therefore, concluded that from May 1, 2026, the non-award letter date, MSPD's protest of its technical evaluation should have been filed on or before May 8, 2026.

CONCLUSION

For the foregoing reasons, the Board denies MSPD's Request/Motion for Reconsideration.

ORDER

Based on the foregoing, it is this 30th day of July 2026, hereby

ORDERED that Appellant MSPD's Request/Motion for Reconsideration is DENIED.

/s/

Michael J. Stewart Jr., Esq., Member

I concur:

/s/

Senchal Dashiell Barrolle, Esq. Member

/s/

Michael L. Carnahan, Jr., 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.

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

Date: July 30, 2026

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