BEFORE THE MARYLAND STATE BOARD OF CONTRACT APPEALS

In the Appeal of Chesapeake Turf, LLC	
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Under	
Maryland Dept. of General Services	*** MSBCA No. 3051**
ITB No. P-054-140-010	
Protest of Award to A-Del Construction Co., Inc.	*

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OPINION AND ORDER BY CHAIRMAN BEAM

Appellant, Chesapeake Turf, LLC, filed a Motion for Summary Decision with respect to its First Bid Protest, asking this Board to render a decision on its Motion and on the merits without a hearing. As more fully explained herein, the Board concludes as follows: rather than determining that the contractor's bid was nonresponsive, Respondent unlawfully (albeit understandably) applied the 72-hour rule to allow the substitution of a Minority Business Enterprise ("MBE") for a MBE determined to be ineligible at bid opening.

UNDISPUTED MATERIAL FACTS

On June 27, 2017, Respondent issued Invitation to Bid No. P-054-140-010 (the "ITB") for the purpose of awarding a contract to provide labor, materials, supplies, and supervision necessary in connection with camp road relocation and dune repair at Assateague State Park in Berlin, Maryland. The ITB Project Manual, Part I, Detailed Specifications, Section IVB, Qualifications of the Contractor, set forth the following minimum qualifications:

> 4. Contractor or Subcontractor performing the work to the dune shall:
>
> Project Management staff shall have no less than three (3) years' experience in coastal dune planting and sand fence installation. The experience must have been within the past five (5) years.

Bid opening occurred electronically on August 7, 2017. The three lowest bidders and their gross bids are listed as follows:

A-Del Construction Co., Inc. ("A-Del")	$2,574,011.59
Chesapeake Turf, LLC ("Appellant")	$3,123,363.25
Company A	$3,985,199.50

A-Del was the apparent low bidder. Appellant had the second lowest bid.

The ITB contained a 10% Minority Business Enterprise ("MBE") Participation Goal, as shown on the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule ("MBE Form D"). A-Del indicated on its MBE Form D that it acknowledged and intended to meet, in full, the overall certified MBE Participation Goal and that it was not seeking a waiver under COMAR 21.11.03.11. A-Del's MBE Form D also indicated that it would use a single MBE firm, Potomac Services Management, Inc. ("Potomac") to meet the 10% goal for the scope of work "Landscape Plantings & Stabilization."

On August 8, 2017 Appellant submitted an email request to Michael Cavanaugh, Respondent's Procurement Officer ("PO"), seeking "information regarding the apparent low bidder's MBE commitment disclosed on form MBE D1A." Appellant expressed concerns that the MBE contractor proposed by A-Del did not have the requisite experience to perform the specified scope of work. Respondent denied Appellant's request for this information and referred Appellant to the Respondent's Public Information Act ("PIA") Officer instead.[1]

Two days later, on August 10, 2017, the PO sent an email to A-Del seeking additional information regarding A-Del's qualifications, stating as follows:

> After reviewing the attached information it is not clear if A Del Construction meets the minimum qualifications listed in the specification. Please provide

[1] In response to this email, on August 8, 2017, Appellant submitted a PIA request to Michael Swygert, Respondent's PIA Officer, requesting all bid documents for the project, particularly MBE documents reflecting pledged participation and waiver requests. On August 17, 2017, Respondent's PIA Officer's refused to disclose the requested documents on the grounds that the PO had not yet made a recommendation for award and stated that the documents were unavailable pursuant to MD Code Ann., State Finance & Procurement ("SFP"), §13-202(a) and COMAR §21.05.01.05. We make no finding, however, as to whether the PIA's refusal complied with SFP §13-210(b)(1)(iii), which states that "at and after bid opening, the contents of a bid and any document submitted with the bid shall be open to public inspection."

> documentation for part 4 of the qualifications…at your earliest convenience, but not later than 2:00 PM, Tuesday, August 15, 2017.

On August 15, 2017, A-Del responded to the PO via email by stating:

> On bid day, 2 hours before bid time, I received a bid from [Potomac] that was $100,000 lower than Ashton Manor Environmental who was the only other price I had received. Potomac was also an MBE and was a subcontractor that made it possible for me to meet the 10% MBE requirements. I felt at that time I had no choice but to use them. I discussed the qualifications of the Project Manager from Potomac that will be handling this project and was informed that he has been an Agronomist for the past 25 years and has a Masters Degree from the University of MD in erosion control. I believe the Project Manager from Potomac has more than enough experience for this project but I would like to discuss this with you.

A-Del did not submit a written request for permission to amend its MBE Form D.

On August 16, 2017, the PO notified A-Del via email that Potomac did not meet the minimum qualifications for performing work to the sand dunes. The PO then gave A-Del 72 hours to revise and resubmit the MBE Form D. On August 18, 2017, A-Del submitted a revised MBE Form D, which again acknowledged its commitment to meet the 10% MBE Participation Goal. On its revised MBE Form D, A-Del indicated that it would be subcontracting 10% of the total contract amount to Quarry Products, Unlimited, Inc. ("Quarry") for the scope of work designated as "Trucking of Materials." A-Del did not make a commitment to use any other MBE subcontractor.

After consulting with its MBE liaison, Malik Rahman, Respondent's PO determined that A-Del had met the MBE requirements and recommended award to A-Del.

On August 22, 2017, in response to the PO's and the PIA Officer's refusals to disclose the requested documents, Appellant filed its First Bid Protest based on two separate grounds: (1) that upon information and belief, Appellant believed A-Del had included a commitment to Potomac on its MBE Form D and that Potomac did not meet the minimum qualifications for sand dune landscaping as set forth in the ITB, and (2) that upon information and belief, Respondent

had improperly allowed A-Del to revise its MBE Form D to replace an ineligible MBE in violation of the "72-Hour Rule" as set forth in SFP §14-302(a)(10) and COMAR 21.11.03.12.[2]

On September 13, 2017, the PO issued its final decision letter denying Appellant's First Bid Protest. In this letter, the PO stated as follows:

> Lastly, it is alleged that A-Del's bid neither achieved the ITB's MBE participation goal of 10%, nor requested a waiver thereof. Chesapeake further alleges that the MBE Participation Schedule may not be amended because [Potomac] has always been unavailable or ineligible to perform sand dune landscaping work. Potomac was originally listed on A-Del's MBE Participation Schedule, but the Procurement Officer determined that Potomac was ineligible to perform work to the dune. A-Del was given 72 hours to amend the MBE Participation Schedule, in accordance with COMAR 21.11.03.12. The "72 hour rule" allows a contractor whose bid includes an ineligible MBE subcontractor to make a change within 72 hours after the time in which the contractor, for the first time, in good faith believes the MBE subcontractor is not eligible. A-Del amended the MBE Participation Schedule within 72 hours, in accordance with the regulations, and chose Quarry Products Unlimited, Inc. to perform trucking services, which amounts to an MBE participate goal of 10% of the total contract.

Appellant filed its First Notice of Appeal in this matter on September 20, 2017. Appellant initially requested a hearing on its Motion for Summary Decision, but that request was subsequently withdrawn. Neither party requested a hearing on the merits.

SUMMARY DECISION STANDARD

In deciding whether to grant Appellant's Motion for Summary Decision of the appeal of Appellant's First Bid Protest, the Board must follow COMAR 21.10.05.06D(2):

> The Appeals Board may grant a proposed or final summary decision if the Appeals Board finds that (a) [a]fter resolving all inferences in favor or the party against whom the motion is asserted, there is no genuine issue of material fact; and (b) [a] party is entitled to prevail as a matter of law.

[2] On September 18, 2017, Appellant received documents responsive to its PIA request by letter dated September 14, 2017.

The standard of review for granting or denying summary decision is the same as for granting summary judgment under Md. Rule 2-501(a). *See, Beatty v. Trailmaster Prod., Inc.,* 330 Md. 726 (1993). 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. *Id.* at 737-738. While a court must resolve all inferences in favor of the party opposing summary judgment, those inferences must be reasonable ones. *Clea v. City of Baltimore,* 312 Md. 662, 678 (1988).

STANDARD OF REVIEW FOR BID PROTESTS

To prevail on an appeal of the denial of a bid protest, an appellant must show that the agency's action was biased or that the action was arbitrary, capricious, unreasonable, or in violation of law. *Hunt Reporting Co.,* MSBCA No. 2783 at 6 (2012)(citing *Delmarva Comty Servs., Inc.,* MSBCA 2302 at 8, 5 MSBCA ¶ 523 at 5 (2002)).

DECISION

The issue in this case is whether the PO violated the law in determining that the 72-hour rule applied so as to provide A-Del the opportunity to cure its otherwise nonresponsive bid. The parties do not dispute that Potomac was ineligible to satisfy the MBE certification requirements at bid opening, as required pursuant to COMAR 21.11.03.09C(5), which would render A-Del's bid nonresponsive. Likewise, the parties do not dispute that A-Del timely submitted a revised MBE Form D purporting to replace Potomac with Quarry. Rather, the question presented is whether the PO erred as a matter of law in allowing A-Del to substitute Quarry in place of Potomac within 72 hours of being notified by the PO of Potomac's ineligibility.

It is clear from the PO's final decision letter that the PO relied upon COMAR 21.11.03.12 in determining that the 72-hour rule applied. COMAR 21.11.03.12A provides as follows:

> If at any time after submission of a bid or proposal and before execution of a contract, a bidder or offeror determines that a certified MBE listed on the MBE participate schedule required under Regulation .09C(3) of this chapter **has become or will become unavailable or <u>is</u> ineligible** to perform the work required under the contract, then the bidder or offeror shall: (1) [w]ithin 72 hours of making the determination, provide written notice to the procurement officer; and (2) [w]ithin 5 business days of making determination, make a written request to the procurement officer to amend the MBE participation schedule. (emphasis added).

Unfortunately, however, the language of this COMAR provision is inconsistent with the statute upon which it was promulgated. MD CODE ANN., SFP §14-302(a)(10)(i)(2) provides as follows:

> If the bidder or offeror determines that a minority business enterprise identified in the minority business enterprise participation schedule **has become or will become unavailable or ineligible** to perform the work required under the contract, the bidder or offeror shall notify the unit within 72 hours of making the determination. (emphasis added).

Similarly, MD CODE ANN., SFP §14-302(a)(10)(ii)(1) provides as follows:

> If a minority business enterprise identified in the minority business enterprise participation schedule submitted with a bid or offer **has become or will become unavailable or ineligible** to perform the work required under the contract, the bidder or offeror may submit a written request with the unit to amend the minority business enterprise participation schedule.
> (emphasis added).

A comparison of §14-302(a)(10) with COMAR 21.11.03.12A clearly demonstrates that the word "is" is not present in either of the subparagraphs in the statute. Therefore, we must determine the effect of these conflicting provisions, if any, upon the facts as presented in this case.

Appellant contends that A-Del's bid was nonresponsive at bid opening based on COMAR 21.11.03.09C(5)[3] and that "amendment of the MBE Form D *is not available* where a listed MBE 'is ineligible' as of bid opening—rather, an amendment is only available where a listed MBE either 'has become or will become ineligible' **after submission of a bid or proposal** and before execution of a contract…." (emphasis in original). Appellant asserts that "[t]o the extent that any regulation contradicts this revised statutory language, including COMAR 21.11.03.12, such regulation is *ultra vires* and without effect."[4]

Not surprisingly, Respondent disagrees and contends that the PO properly permitted A-Del to amend the MBE Form D and that the 72-hour rule under COMAR is consistent with SFP §14-302(a)(10). Respondent asserts that the legislative history of the statute and the corresponding regulation that was promulgated thereafter reflects the General Assembly's intent that the 72-hour rule be a remedial statute, one that is designed to introduce regulations conducive to the public good and, as such, should be interpreted liberally to advance the remedy. Advocating a broad reading of the statute, Respondent recounts the legislative history of the statute, from the 2011 version in which the word "is" was originally included, to the 2012 revision, when the word "is" was deleted, and argues that the deletion of the word "is" in the 2012 revision did not alter the legislative purpose of permitting agencies to allow replacement MBEs.

Respondent relies on this Board's prior decisions in *Tech Contracting, Co., Inc*., MSBCA 2912 & 2916 (2015) and *Trinity Svcs. Gp., Inc.*, MSBCA 2917, 2931 & 2935 (2015) as

[3] COMAR 21.11.03.09C(5) provides that "[t]he failure of a bidder to accurately complete and submit the MBE utilization affidavit and the MBE participation schedule shall result in a determination that the bid is not responsive."

[4] Appellant also contends, for the first time in this appeal, that A-Del's revised MBE Form D is nonresponsive because Quarry is not certified to perform the specified scope of work in the IFB. Because this issue was not raised in the First Bid Protest or addressed in Respondent's final decision letter, it has not been preserved for appeal. As such, we do not address this argument here.

additional support for its position that the "72-hour rule applies to the post-bid *determination* of ineligibility; once that determination is made, the bidder may request amendment and the agency may permit amendment." (emphasis in original).

Respondent further asserts that the simultaneous addition of subparagraph (iii)(1) in the 2012 revision must be read together with the deletion of the word "is" and that this subparagraph would be rendered superfluous and meaningless if Appellant's "narrow" reading of the statute were adopted.

Since we are being asked to determine the legal effect of the apparent inconsistency between the statute and regulation and its application to the facts of this case, we begin our analysis with a review of the rules of statutory interpretation. With regard to the conflict between the statute and the regulation, the Maryland Court of Appeals has previously settled this question, as it explained in *Dept. of Human Res., Balt. City Dept. of Soc. Servs. v. Hayward*, 426 Md. 638 (2012). In *Hayward*, the Court explained as follows:

> Administrative agencies have broad authority to promulgate regulations, to be sure, but the exercise of that authority, granted by the Legislature, must be consistent, and not in conflict, with the statute the regulations are intended to implement. We have consistently held that the statute must control. (citing *Lussier v. Maryland Racing Com'n,* 343 Md. 681, 688 (1996)(stating that "where the Legislature has delegated such broad authority to a state administrative agency to promulgate regulations in an area, the agency's regulations are valid under the statute if they do not contradict the statutory language or purpose."); *Christ by Christ v. Maryland Dept. of Natural Resources,* 335 Md. 427, 437–38 (1994)(stating that "this Court has upheld [an] agency's rules or regulations as long as they did not contradict the language or purpose of [a] statute.")).

Id. at 658. Based on the foregoing, it is clear that COMAR 21.11.03.12A must yield to SFP §14-302(a)(10).

We look, then, to the statute to determine its meaning. It is a well-settled principle that the primary objective of statutory interpretation is "to ascertain and effectuate the intention of the

legislature." *Id*. at 649-50 (quoting *Oaks v. Connors,* 339 Md. 24, 35 (1995)). The first step in this inquiry is to examine the plain language of the statute, and "[i]f the words of the statute, construed according to their common and everyday meaning, are clear and unambiguous and express a plain meaning, we will give effect to the statute as it is written." *Id*. at 650 (citing *Jones v. State,* 336 Md. 255, 261 (1994)). Thus, "where the statutory language is plain and free from ambiguity, and expresses a definite and simple meaning, courts do not normally look beyond the words of the statute itself to determine legislative intent." *Id*. (citing *Montgomery County Dept. of Social Services v. L.D.,* 349 Md. 239, 264 (1998)). Furthermore, "[w]ords may not be added to, or removed from, an unambiguous statute in order to give it a meaning not reflected by the words the Legislature chose to use...." *Id*. (citing *Smack v. Dept. of Health and Mental Hygiene,* 378 Md. 298, 305 (2003)). *See also*, *Meyer v. State*, 445 Md. 648, 676 (2015)(stating that where a statute is unambiguous, it is erroneous to go beyond the plain meaning to infer legislative intent that was not expressed by the General Assembly).

In examining the plain language of the statute currently in effect, it is clear to us that the absence of the word "is" before the word "ineligible" means that an MBE identified in the MBE Form D must become "unavailable or ineligible" at some point in time after bid submission in order for the 72-hour rule to apply. The plain language of the statute reflects that "has become or will become" refer to both "unavailable or ineligible." If the verbs "has become or will become" apply only to the word "unavailable," then there is no verb applicable to the word "ineligible." Thus, "has become or will become" apply to both "unavailable and ineligible." Stated differently, substitution of an MBE may be permitted only if an MBE "has become or will become unavailable," or if the MBE "has become or will become…ineligible." We cannot simply read into the statute a word that is not there, particularly when the General Assembly

deliberately removed it in two separate subparagraphs. Thus, to be a responsive bid, a bidder must submit a bid with an MBE that is both available and eligible at the time of bid submission. The 72-hour rule applies only if either of these circumstances change after a bid has been submitted.

We need not consider the legislature's intent with regard to the 2012 revision that removed the word "is" from the current version of the statute because the statute as currently enacted is clear and unambiguous on its face.[5] We can only presume that the General Assembly knew what it was doing, and did so with specific intent, when it revised the statute to delete the word "is." *See*, e.g., *Walzer v. Osborne*, 395 Md. 563, 571-73 (2006)(stating that we look first to the language of the statute, giving it its natural and ordinary meaning, on the tacit theory that the Legislature is presumed to have meant what it said and said what it meant.).

Relying on *McCree v. State*, 441 Md. 4, 13 (2014) and *Zorzit v. Comptroller of Md*., 225 Md.App. 158 (2015), Respondent vigorously asserts that the plain meaning of the terms of the statute must be considered in the context of the statutory scheme as a whole, rather than segment the statute and analyze its individual parts. To that end, Respondent contends that subparagraph (iii)(1), which was also added to the 2012 revision of the statute, would be rendered meaningless were we to adopt Appellant's view. MD CODE ANN., SFP §14-302(a)(10)(iii) provides as follows:

> A minority business enterprise participation schedule may not be amended unless:
>
> 1. the bidder or offeror provides a satisfactory explanation of the reason for inclusion of the unavailable or ineligible firm on the minority business enterprise participation schedule; and
>
> 2. the amendment is approved by the unit's procurement officer after consulting with the unit's minority business enterprise liaison.

[5] SFP §14-302(a)(1) was amended by H.B. 1370 in the 2012 Regular Session.

Respondent asserts that a "bidder would have no reason to explain its decision to include an 'ineligible firm' if the firm did not become ineligible until after bid submission." Respondent further asserts that "the explanation for inclusion would always be self-evident: '[t]he MBE was eligible when I submitted the bid.'"

This subparagraph sets forth the two criteria under which a MBE substitution may be permitted. It becomes applicable only after the PO determines that circumstances have changed since a responsive bid was submitted, and only when a bidder or offeror has met the necessary requirements for amendment of its initially responsive bid, namely: (1) the bidder or offeror has notified the PO within 72 hours of discovering the unavailability or ineligibility of the MBE, (2) the bidder or offeror has submitted a written request to amend the MBE Form D, and (3) the written request to substitute an MBE indicates the bidder's or offeror's efforts to substitute another certified MBE to perform the work that the unavailable or ineligible MBE would have performed. If a bidder or offeror has met these requirements, then a PO may exercise its discretion to allow for revision of the MBE Form D, but only under two circumstances: (1) if the bidder or offeror provides a satisfactory explanation of the reason for inclusion of the unavailable or ineligible firm on the MBE Form D, and (2) the amendment is approved by the unit's PO after consulting with the unit's MBE liaison.

We do not read subparagraph (iii)(1) as superfluous or meaningless in light of our interpretation of the plain language of subparagraphs (i)(2) and (ii)(1). We simply view this as a requirement that the bidder or offeror explain to the PO why the MBE that has become or will become unavailable or ineligible was initially included in its bid. A PO may take this information into consideration in exercising its discretion whether to allow for MBE substitution. To simply assert that "the MBE was eligible when I submitted the bid" may not be enough to

satisfy the PO. But again, this subparagraph only becomes applicable when circumstances regarding availability or eligibility have changed after bid submission.

While we agree with Respondent that the overall legislative purpose of the 72-hour rule is remedial in nature and is designed to allow a contractor to substitute an MBE under certain circumstances (i.e., a change in availability or eligibility after bid submission), we do not believe that it negates the requirements to satisfy COMAR 21.05.02.13A and 21.11.03.09C(5) that a bid be accurately completed in order to be responsive at the time it is submitted. Otherwise, there would be no need for a bidder or offeror to affirm the use of certified MBEs on both MBE Form A and Form B for purposes of determining eligibility to receive MBE participation credit. These affirmations go directly to the heart of eligibility, and we cannot agree that the statutory scheme at issue here allows a bidder or offeror to include an ineligible MBE in its bid while simultaneously affirming that they are performing only the work they are certified to perform.

The concern here, of course, is the risk of abuse. Allowing a contractor to include an ineligible MBE in its bid, then "bid-shop" for a more attractive MBE thereafter, would open the floodgates for subcontractor abuse, which is precisely the harmful practice that the general procurement and MBE laws seek to prevent. As we stated in *McDonnell Contracting, Inc.*, MSBCA No. 2084, 5 MSBCA 450, n.2 (1998), "a firm (with the low bid) that waits until after bid opening to line up its MBE participation may well have a competitive bidding advantage because of the additional time to shop for competitive MBE prices after bids have been exposed and the low bidder determined." *Id.*[6] Similarly, were we to accept Respondent's view, a bidder

[6]This decision was written at a time when bidders were given 10 days after bid opening to identify MBE subcontractors sufficient to meet the MBE participation goal. Legislation has since changed to require bidders and offerors to identify specific commitments of certified MBEs at the time of bid submission.

or offeror could include an ineligible MBE in its bid, then bid-shop after bid submission to find an eligible MBE at a lower more competitive price.[7]

Finally, Respondent refers to two previous decisions by this Board as support for its position that the 72-hour rule should apply to allow for MBE substitution where a PO determines that a MBE was ineligible at bid opening: *Tech Contracting, Co., Inc*., MSBCA 2912 & 2916 (2015) and *Trinity Svcs. Gp., Inc.*, MSBCA 2917, 2931 & 2935 (2015). While the exhaustive and comprehensive legislative history of the 72-hour rule contained in the *Tech Contracting, Inc.* is both accurate and instructive, it appears that both decisions were premised on the 2011 statutory language and/or COMAR 21.11.03.12, both of which include the word "is" before "ineligible." Unfortunately, the statute as currently enacted does not include the word "is" in either subparagraph, the deletion of which by the General Assembly significantly changes the plain and ordinary meaning of the statute.

In light of our previous decisions in *Tech Contracting* and *Trinity*, which were based on language that currently exists in COMAR, and our decision in this case, we understand and empathize with the confusion presented by the language in SFP §14-302(A)(10) and the disparate language in COMAR 21.11.03.12, the consequences of which send conflicting messages to agencies and contractors alike as to whether an MBE determined to be ineligible at bid opening may be substituted pursuant to the 72-hour rule, particularly in cases where a contractor reasonably believes its designated MBE is properly certified and eligible at bid submission, but is determined by the PO at bid opening to be ineligible. Until this conflict is resolved, either by the General Assembly or the agency responsible for promulgating the COMAR MBE provisions, we are constrained to conclude that, absent a change in circumstances

[7]We recognize that under these circumstances, the PO would still have the discretion whether to allow for MBE substitution. Thus, it would be incumbent upon the PO to police against the practice of bid-shopping.

after bid submission, a bid that relies upon an MBE determined to be ineligible at bid opening must be deemed a nonresponsive bid; MBE Form D may not be amended, pursuant to the 72-hour rule, to allow for substitution of an eligible MBE. The contractor bears the burden of ensuring that all of its MBEs identified on MBE Form D are certified and otherwise eligible to perform the work they have been identified to perform at the time its bid is submitted.

ORDER

ACCORDINGLY, based on the foregoing, it is this 1st day of November, 2017, hereby:

ORDERED that Appellant's Motion for Summary Decision is GRANTED.

/s/
Bethamy N. Beam, Esq.
Chairman

I concur:

/s/
Ann Marie Doory, Esq.
Board Member

/s/
Michael J. Stewart, Esq.
Board 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 cases.

Annotated Code of 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 decision in MSBCA No. 3051, Appeal of Chesapeake Turf, LLC, under Maryland Department of General Services Invitation to Bid No. P-054-140-010.

Dated:_____

_____
Ruth W. Foy
Deputy Clerk