

BEFORE THE  
MARYLAND STATE BOARD OF CONTRACT APPEALS

Appeal of INNOVATIVE INTEGRATION )  
INC. )  
) Docket No. MSBCA 1730  
Under Salisbury State University )  
RFQ Request for Fiber Optic )  
Wiring Project )

August 23, 1993

Bid Protest Timeliness - A protest must be filed no later than seven (7) calendar days after the basis for the protest is known or should have been known.

APPEARANCE FOR APPELLANT: R. Mark Nesteff, Esq.  
Robert A. Eaton, P.A.  
Attorney At Law  
Salisbury, MD 21803-0041

APPEARANCE FOR RESPONDENT: Richard Weitzner  
Assistant Attorney General  
Baltimore, MD

APPEARANCE FOR INTERESTED PARTY: H. P. Electronics  
Baltimore, MD 21227

OPINION BY MR. MALONE

This is an appeal from a final decision of the University of Salisbury (US) Procurement Officer denying Appellant's protest as untimely as well as on the merits. The parties did not request a hearing.

Findings of Fact

1. Bid opening on this Request for Quotations (RFQ) was held May 18, 1993.
2. Appellant protested on the basis that the bid of H. P. Electronics (HP) did not contain sufficient specification data upon which US could determine if the FDF<sup>1</sup> bid was a functional equivalent to the FDF requested.
3. At bid opening a reasonably diligent bidder knew or should have known of the deficiencies alleged in the HP bid which formed the basis of the protest filed by Appellant.
4. Appellant did not file its bid protest until May 27, 1993,

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<sup>1</sup> FDF or fiber distribution frame is a rack or frame designed with fiber optic wiring (cable) management features.

being more than seven (7) calendar days after the date of bid opening.

Decision

A protest must be filed no later than seven (7) calendar days after the basis for the protest is known or should have been known. COMAR 21.10.02.03B.

Appellant knew or should have known that the HP bid document did not provide specifications for its FDF beyond listing a part number and consequently US could not determine from the bid that the HP FDF in the bid was in fact a functional equivalent of the FDF requested.


The time limit is strictly construed and mandatory. See Kennedy Temporaries v Comptroller, 57 Md. App. 22, 468A.2d 1026 (1984).

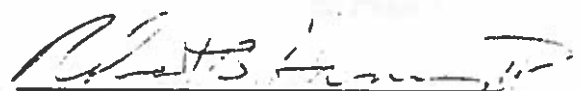
Therefore, it is this 23<sup>rd</sup> day of August, 1993 Ordered that this appeal be dismissed as the protest is untimely.

Dated: 8/23/93

  
Neal E. Malone  
Board Member

I concur:

  
Sheldon H. Press  
Board Member

  
Robert B. Harrison III  
Chairman

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 B4 Time for Filing

a. Within Thirty Days

An order for appeal shall be filed within thirty days from the date of the action appealed from, except that where the agency is by law required to send notice of its action to any person, such order for appeal shall be filed within thirty days from the date such notice is sent, or where by law notice of the action of such agency is required to be received by any person, such order for appeal shall be filed within thirty days from the date of the receipt of such notice.

\* \* \*

I certify that the foregoing is a true copy of the Maryland State Board of Contract Appeals decision in MSBCA 1730, appeal of Innovative Integration Inc. under Salisbury State University RFQ Request for Fiber Optic Wiring Project.

Dated:

  
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Mary P. Priscilla  
Recorder

The order for... should be...  
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*[Handwritten signature]*  
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Date