

**BEFORE THE MARYLAND STATE BOARD OF CONTRACT APPEALS**

**In the Consolidated Appeals of  
Innosoft Corp.**

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**Under DGS RFP No. BPM043644**

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**Docket Nos. MSBCA 3331 & 3335**

**Appearance for Appellant**

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**Michael A. Miller, Esq.  
Barry L. Gogel, Esq.  
Rifkin, Weiner, Livingston LLC  
Bethesda, Maryland 20814**

**Appearance for Respondent**

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**Todd H. Oppenheim, Esq.  
Assistant Attorney General  
Office of the Attorney General  
Contract Litigation Unit  
Baltimore, Maryland 21202**

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**OPINION AND ORDER BY CHAIRWOMAN CHO**

Pending before the Maryland State Board of Contract Appeals (the “Board”) are Respondent Department of General Services’ (“DGS”) Motion to Dismiss, and Appellant Innosoft Corporation’s (“Innosoft”) Motion for Summary Decision. The Board held a hearing on both motions on December 18, 2025, during which matters outside the pleadings were presented to and considered by the Board in deciding Respondent’s Motion, which we shall now treat as one for summary decision. COMAR 21.10.05.06C(2).

Having considered the written submissions by the parties, oral argument, as well as documents supplemented by Respondent during the hearing at the Board’s request pursuant to COMAR 21.10.07.05, the Board finds that there is no genuine issue of material fact, and Respondent is entitled to prevail as a matter of law. Consequently, we grant Respondent’s Motion and deny Appellant’s Motion.

## **UNDISPUTED MATERIAL FACTS**

DGS issued the Request for Proposals for Statewide Agile Resources and Teams 2024 RFP Number BPM043644 (the “RFP”) on May 10, 2024. The RFP was issued “in order to procure Agile resources, or teams, or a combination of both with the technical skills to support technology modernization activities and staffing service needs” and “Contracts awarded as a result of this solicitation will provide the State with the flexible means of obtaining Agile resources or teams quickly and efficiently through the issuance of Work Orders specific to needs.” RFP § 2.1.1.

The stated purpose of the RFP was “to create a pool of qualified Contractors that will be engaged through a rotational Work Order process to provide services on an on-going, as needed basis.” RFP § 2.1.4. Respondent “anticipate[d] issuing a Work Order(s) immediately upon award according to the Work Order process … and [a]ll resources or teams will be requested through the Work Order process.” *Id.*

Section 3.14 of the RFP set forth the Work Order process, in relevant part, as follows:

### **3.14 Work Orders**

- A. All work being performed under this Contract shall be provided pursuant to a Work Order process. Work shall not begin in advance of a fully executed Work Order. Work Orders shall be issued in accordance with pre-approved Labor Categories with the fully loaded rates proposed in **Attachment B**.
- B. Work Order Requests (see Appendix 6 for sample) for the provision of services or resources that are within the scope of this RFP shall be issued to Contractors on a rotational basis.
- C. Work Order rotation: The Department will attempt to rotate Work Orders for resources equitably among the awarded Contractors, within each of the three functional areas. The basis for assignments for Contractor rotation will be as follows:
  - 1) The Department will issue the initial request for resources or services to the highest overall ranked Contractor with a written scope of objectives inclusive of the known technical requirements and description of the service or resources needed, including all applicable timeframes and schedules, performance objectives and/or

deliverables within timeframes and schedules, as applicable. The Department will issue subsequent Work Order Requests in the order of highest to lowest overall ranked Contractor. This sequence will repeat as necessary through the life of the Contract, for each functional area.

- 2) For Functional Areas 1 and 3, the Contractor in the queue shall have two (2) business days to acknowledge that the Contractor will submit a response to the Work Order request.

...

- 4) For Functional Areas 1 and 3, the Contractor in the queue shall have seven (7) to fourteen (14) calendar days to respond to the State's request to provide acceptable resources satisfying the requirements for the Work Order. The Contract shall be notified in the Work Order of a time frame to respond to the State.

...

- 6) If the Contractor is unable to provide acceptable resources or services satisfying the State's requirements for the Work Order, the State reserves the right to rescind the request for service(s) and reissue it to the next overall ranked Contractor. Acceptability of an offered resource or service is at the State's sole discretion.

- 7) For Functional Areas 1 and 3 only, if the Contractor is able to partly fulfill the State's request for resources, the portion of the unfulfilled request becomes a new Work Order request or a part of a new Work Order request; and the new request shall be sent to the next Contractor in the rotation queue.

- 8) The Department reserves the right to deviate from the planned rotation if:

- a) A Contractor has specialized experience or qualifications that make it in the best interest of the State to give the assignment to the next Contractor in rotation, at the sole discretion of the Contractor Manager; or
- b) Assignment to a specific Contractor would, to an extent, tend to bring balance among all Contractors awarded based on the fees paid or payable or overall amount of work issued for Work Orders previously issued. The equitable redistribution of work or fees is subject to the sole discretion of the Contract Manager.

RFP § 3.14 (pages 39-40 of 157). In Appendix 1, Abbreviations and Definitions, EE, “rotational” is defined as “All Contractors awarded a Contract will receive an equitable amount and opportunity for work on a revolving and on-going basis based on the order of their overall final ranking.”

On May 28, 2024, DGS issued Q&A #1 to the RFP. As relevant here, Question No. 67 asked for clarification of the rotational work order process under RFP Section 3.14, commenting that the process “describes a non-competitive process that significantly reduces opportunities for vendors to find meaningful engagement under this solicitation,” and requested that the RFP “be revised to reflect a more fair, competitive process in which all awardees are provided the opportunity to submit to each [Work Order].” DGS responded: “This contract vehicle is not set up for secondary competition.” Q&A #1 at page 10.

Proposals were due on June 7, 2024. On February 26, 2025, the Board of Public Works approved DGS’s award of fourteen (14) contracts under Functional Area 1. Innosoft was one of the contract awardees for Functional Area 1, having ranked sixth overall.

On August 4, 2025, DGS issued Work Order Request No. BPM043644-07 (FA1-WO-07) to Innosoft. The deadline for response to that Work Order was extended to September 2, 2025.

On August 26, 2025, Appellant submitted a letter entitled “Bid Protest and Notice of Claims,” to the Procurement Officer for the RFP, Emmanuel Smith (“PO”). The purpose of the letter was “(i) to protest the improprieties in the solicitation, and notice of complaints about contract administration (ii) to claim compensation for DGS breaches of contract; and (iii) damages for DGS/MD Benefits tortious interference with contract obligations.”

With respect to the protest portion of the letter, the basis for Appellant’s protest was “that recent Work Orders issued under … DGS Agile Contract violated the purposes and policies of the

General Procurement law.” Appellant requested that DGS eliminate the “rotational Work Orders,” stating:

DGS should immediately reassess its work assignment processes, whether or not labelled “rotational” Work Order or under any other name it appears (such as “Round Robin”). To restore fairness and integrity in the procurement process, Innosoft requests immediate corrective action, including the rescission of all Work Orders designed to implement the “rotational” work order process.

On September 2, 2025, Appellant submitted another letter to the PO entitled “Bid Protest of Improprieties in Secondary Solicitation, Work Order Request No. FA1-WO-07 under Master Contract No. BPM041947<sup>1</sup> ‘Statewide Agile Teams 2024’”. In this second protest, Appellant alleged that Respondent’s issuance of Work Order requests to only one contractor at a time violated the procurement laws because the contract resulting from the RFP was a “master contract” as defined by law and, therefore, each Work Order issued under it was subject to secondary competition requirements. Appellant asserted that DGS “must rescind” all previously issued Work Order requests, and “conduct a legally sufficient secondary competition in accordance with” State Procurement & Finance § 13-113 and COMAR 21.05.13.

On September 30, 2025, the PO issued a final decision denying the first bid protest/contract claim in its entirety. On October 20, 2025, the PO issued his final decision denying the second protest. Appellant noted timely appeals of both final decisions to this Board, and the two appeals were consolidated.

## **STANDARD OF REVIEW**

Upon motion, the Board may dismiss an initial pleading if 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).

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<sup>1</sup> Presumably, this contract number in the letter was a clerical error and should have been BPM043644.

The Board may grant a motion for summary decision if: “(a) [a]fter resolving all inferences in favor of 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.” COMAR 21.10.05.06D(2). This legal standard “is the same as that for granting summary judgment under Maryland Rule 2-501(a).”

*Brawner Builders, Inc. v. State Highway Admin.*, 476 Md. 15, 31 (2021). And while we “must resolve all inferences in favor of the party opposing summary judgment, those inferences must be reasonable ones.” *Crickenberger v. Hyundai Motor Am.*, 404 Md. 37, 45 (2008) (internal quotation marks and citation omitted). To defeat the motion for summary decision, “the non-moving party must produce admissible evidence demonstrating a dispute.” *Brawner Builders*, 476 Md. at 31.

A motion to dismiss may be treated as one for summary decision if, in considering the motion to dismiss, “matters outside the pleading are presented to and not excluded by the Appeals Board.” COMAR 21.10.05.06C(2).

## **DECISION**

The Board’s decision in this matter is limited only to those issues raised and argued by Appellant as relevant to its two protests. In its filing of the first Appeal, MSBCA No. 3331, Appellant expressly abandoned pursuing the matter as a contract claim.

Respondent moves to dismiss both protest Appeals on the basis that they were untimely, because Appellant’s complaints relate to DGS’s implementation of “rotational” Work Orders under the Agile Contract as was set forth in the RFP, and any challenge to the meaning of the “rotational” Work Order process should have been filed as a pre-proposal protest. Appellant did not file any pre-proposal protest to the RFP.

Appellant asserts that its protests were timely filed because they were not challenging any part of the RFP or the Agile Contract. Instead, Innosoft argues that the way that the Work Order

requests are being issued to one contractor at a time violates the law because each Work Order must be bid out for secondary competition to the contract awardees. Appellant urges the Board to find that the contract at issue is a “master contract,” which requires Work Orders to be subject to secondary competition.

Appellant’s argument, while creative, is disingenuous. The Work Order process described in RFP Section 3.14 is crystal clear that each Work Order would be assigned to one contractor in the order of its overall ranking at the time of contract award, and that this rotation would continue through the 10-year term of the Agile Contract. Had there been any ambiguity about whether Work Orders would be subject to additional competition, DGS succinctly cleared it up in its response to Question No. 67 in Q&A #1, published on May 28, 2024: “This contract vehicle is not set up for secondary competition.” If Appellant had concerns regarding the lack of secondary competition, or believed that this violated the Procurement Laws, it should have filed a pre-proposal protest before June 7, 2024, as required by COMAR 21.10.02.03A, but did not.<sup>2</sup> *See, e.g., Aditi, LLC, MSBCA 3300 (2025); Infojini, MSBCA 3304 (2025).*

Furthermore, in this context, the Board’s jurisdiction is limited to hearing and deciding appeals arising from an agency’s final action “on a protest relating to the formation of a procurement contract.” STATE FIN. & PROC. § 15-211(a)(1). The subject matter of Appellant’s complaints here relates to Respondent’s administration of the Agile Contract – specifically, the

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<sup>2</sup> Exhibit 1 to the first protest filed on August 26, 2025, and submitted to the PO for consideration is a letter from Mr. Srinivas Challapalli, Innosoft’s CEO, regarding “Agile Contract Considerations.” In the letter, Mr. Challapalli has many suggestions for DGS on how to improve the administration of the Agile Contract, including a recommendation that “DGS cancel the rotational as well as the ‘Round Robin’ model and explore a more dynamic, performance-sensitive, and value-aware alternatives to meet the contract’s goals.” Nothing in that 5-page letter, however, supports the notion that Appellant either was surprised by the Work Order process under the Agile Contract, or that it ever believed it would have to compete with other awardees for Work Orders. This letter severely undercuts counsel’s representation at the hearing that Appellant believed, at the time of proposal submission, that the RFP was to result in a “master contract.”

process and manner in which Work Orders are being issued – and not in any way to the formation of the Agile Contract. *See Liberty Roofing Co., Inc.*, MSBCA 1184 (1984); *Associated Building Maintenance Co., Inc.*, MSBCA 3130 (2019).

Consequently, the Board lacks jurisdiction to hear and decide the issues as presented by Appellant.

## **ORDER**

Based on the foregoing, it is this 23rd day of December 2025, hereby:

ORDERED that Respondent's Motion for Summary Decision is GRANTED, and Appellant's Motion for Summary Decision is DENIED; and

ORDERED that the Consolidated Appeals are DISMISSED.

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/s/  
Sonia Cho, Esq.  
Chairwoman

I concur:

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

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/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 in Docket Nos. MSBCA 3331 & 3335, The Consolidated Appeals of Innosoft Corp. under Maryland Department of General Services Request for Proposal BPM043644.

Date: 12/23/2025

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