

# Third District Court of Appeal

State of Florida

Opinion filed February 16, 2022.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D21-0770  
Lower Tribunal No. 20-4844BID

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**Marsh USA, Inc.,**  
Appellant,

vs.

**Arthur J. Gallagher Risk Management Services, Inc., etc., and  
The School Board of Miami-Dade County, Florida,**  
Appellees.

An appeal from the School Board of Miami-Dade County, Florida.

Greenberg & Traurig, P.A., and David C. Ashburn (Tallahassee), for appellant.

Panza, Maurer & Maynard, P.A., and Elizabeth L. Pedersen, and Virginia C. Dailey (Fort Lauderdale), Walter J. Harvey, School Board Attorney, and Jeff James, Assistant School Board Attorney, Weiss Serota Helfman Cole & Bierman, P.L., and Edward G. Guedes, and Richard Rosengarten, for appellees.

Before LOGUE, MILLER, and BOKOR, JJ.

PER CURIAM.

UPON MOTION TO DISMISS

Appellant, Marsh USA, Inc., challenges a final administrative order by appellee, the School Board of Miami-Dade County, adopting exceptions to a recommended order by an administrative law judge and rejecting an award of a contract pursuant to a request for proposals. After it issued the challenged order, the School Board reopened the bidding process. Because Marsh failed to subsequently file a notice of protest in writing within seventy-two hours of the bid reopening and further failed to file a formal written protest, it has waived its right to pursue this appeal. See § 120.57(3)(b), Fla. Stat. (2021) (“[T]he notice of protest shall be filed in writing within [seventy-two] hours after the posting of the solicitation. The formal written protest shall be filed within [ten] days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter.”); see also Lund v. Dep’t of Health, 708 So. 2d 645, 647 (Fla. 1st DCA 1998) (“[T]he possibility of an attorney’s fee award under section 120.595(5) is not a collateral legal consequence which would preclude dismissal when the death of a party renders the appeal moot.”); Ruck v. State, Bd. of Pro. Eng’rs, 956 So. 2d 469, 469 (Fla. 1st DCA 2006) (“[W]e reject appellant’s argument that we

should decide the case on the merits for the sole purpose of determining his right to attorney's fees pursuant to section 120.595(5), Florida Statutes.”).

Hence, we dismiss the appeal.

Dismissed.