



THE CITY OF BOSTON FINANCE COMMISSION
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Boston Public Schools Contract Investigation

The City of Boston Finance Commission reviews proposed M.G.L. 30B, City of Boston Contracts exempted under the Uniform Procurement Act as part of the Finance Commission's day-to-day business. In fiscal year 2016, the Boston Finance Commission reviewed 321 contracts, with a total value of \$511,370,492. The Commission's responsibilities include researching previous vendor contracts, for the scope of services, the length of the contract, and analyzing the pay rate. This review enables the Finance Commission to detect variations in contract terms for similar services and conduct additional research, to assure that proper business practices are being utilized to maximize city dollars, and to protect the taxpayers of the City of Boston.

Contract Irregularities

The Finance Commission received Boston Public School Department contract ID 43240-17, in late December 2016. The contract stated that it would retain the services of a vendor, to provide "Professional Development for district and school leaders as well as for teachers of English Language Learners (ELLs) around instruction of the Massachusetts Frameworks for English Language Arts and Literacy (Common Core Standards)." The contract also stated that the vendor would "provide support in developing district-wide professional development in reading complex text, including a readiness and needs assessments, training of teachers and district leaders, post training review, and follow-up professional development." The proposed start date for the contract was November 17, 2016; however, the award letter was dated November 30, 2016, fourteen days after the services were to begin. The contract also requested a daily compensation rate of \$2,100, which far exceeds the BPS daily rate of \$250 that would require BPS Superintendent Approval.

While conducting research, the Finance Commission found that the vendor had completed a previous three year contract for similar services (contract ID 38399-14). The previous contract expired on August 31, 2016 and the vendor was paid at a significantly lower compensation rate of \$40 per hour. It is standard practice for the Finance Commission to place a contract on “Hold” when further investigation is required. The Commission had further questions regarding this contract; however it was learned that the Auditing Department had rejected the contract. The significant difference in payment terms prompted the Finance Commission to conduct additional research, the outcome of which is outlined in this report.

Office of English Language Learners Contract Investigation

The Finance Commission contacted Boston Public Schools on December 20, 2016, to request additional information pertaining to contract ID 43240-17. The information received included solicitation emails from a Boston Public School Department employee to three companies, requesting quotes for “PD (Professional Development) in 3Ls (Learning, Language and Literacy) for the BPS in 39 schools with Lab sites in each”, which is similar to the work description outlined in contract 43240-17. The Finance Commission observed these three requests for quotes as a concern, due to the fact that they were dated December 6 – 8 of 2016, while, the contract award letter was dated November 30, 2016, a week earlier.

Two of the vendors that were solicited declined to submit bids, while the third declined to respond. It is unlikely that another agency could create a Professional Development program within the parameters of the stated framework, without considerable time to prepare, especially given that the solicitation email mandated a requirement of training for 300 teacher leaders on January 10, 2017, about a month after the bid requests.

The Finance Commission reviewed the previous contract (ID 38399-14) for this service and found additional irregularities. A review of the contract documentation found that the original contract stated that the vendor would be paid \$2,000 per day. This rate was crossed out by hand and written in was “\$40.00 an hour AB” (see attached documentation). It is important to note that it has been a long-standing policy of Boston Public Schools that any rate of pay in excess of \$40 per hour, or \$250 per day, requires approval from the Superintendent. The paperwork does not indicate that this approval was sought or given.

A review of the documentation indicates that the vendor submitted invoices with a daily rate of \$2,000 for nine dates in 2014, totaling \$18,000, twenty dates in 2015, totaling \$40,000, and thirteen dates in 2016, totaling \$26,000. Since these invoices do not match the authorized contract term of \$40 per hour, they should not be payable under the contract, however, it appears that the payments were made.

The financial system that Boston Public Schools utilizes requires several steps in the process:

1. Once a contract is created and approved, the terms of the contract are entered into the financial system and the total amount of the contract is encumbered or reserved for that contract.
2. Purchase orders are created in the amount indicated in the contract. Vendors cannot be paid without a fully executed contract in place, and requested payments must match an executed purchase order number to be processed.
3. After vendors provide the goods or services under the contract, (which can occur as one time or multiple times over a contract term), a City of Boston employee then creates a receipt(s), which is verification that the vendor has provided the service outlined in the contract and should then anticipate an invoice to follow.
4. When the vendor provides an invoice, it should be verified and matched to a receipt, then scanned and emailed to audit.invoices@boston.gov, for payment.

The Finance Commission reviewed 15 invoices submitted by the vendor that outlined 714 hours of work and 30 training classes, over the course of the three year contract outlined below:

<u>PO ID</u>	<u>Date</u>	<u>Amount Total</u>
9000020907	01/16/2014	\$42,000.00
9000033719	11/21/2014	\$42,000.00
9000044901	09/25/2015	\$22,000.00
9000054936	05/11/2016	\$20,000.00

Early vendor invoices, which represent preparation for the training, were billed at \$40 per hour, however, training classes were invoiced at the rate of \$2,000 per day. This is a violation of the approved contract terms.

The Finance Commission compared the vendor invoices to the Office of English Language Learners receipts for services. The Commission found that an employee from the department received an invoice for two training classes at a \$2,000 daily rate but instead of rejecting the invoice, inputted data for 100 hours at \$40 per hour (see attached documentation). This is an important discrepancy to note because the vendor invoice states that they completed the work over two days. The manipulation of the payment rate cannot match the work completed because it would mean that the vendor completed 100 hours of work in a 48 hour period.

Recommendations

The need for goods and/or services requires advanced planning and contract management from City of Boston staff, to guarantee that vendors have enough time to research, respond, and plan, and to assure that contract terms are being met. Once a contract is executed, there should be City of Boston personnel accountable for assuring that vendors are providing services

in keeping with the contract and reporting progress at regular intervals. It appears to be standard practice to create contracts and pay vendors without verifying hours. This practice must be remedied. The Finance Commission offers the following recommendations to safeguard the taxpayers:

Training:

- All Boston Public Schools employees who play a role in contract creation and/or contract management should immediately undergo training or (re)training. It is highly recommended that the Massachusetts Office of the Inspector General be contracted to assist in this process.
- Training should include process, ethics and legal modules. It is important that the Boston Public School's Legal Department take part in this training, to assure that employees understand that they have legal accountability.

Process:

- BPS should meet regularly to identify and plan for future needs. This will allow employees to create stronger contracts. Advertising for goods and services well in advance of the need will also allow potential vendors the time to submit detailed bids and action plans.
- If a vendor is to be paid at a flat day rate, a definition of what a "day" consists of must be spelled out in the contract. (I.e.: Minimum hours to be worked, is travel and/or prep part of the rate).

Contract Management:

- Purchase orders should not be inputted in bulk. Instead, they should be input after the vendor hours are approved and signed by the BPS contract manager.
- Vendors should be required to sign in and out of any meeting or training for which they expect payment under the contract. This information should match invoices submitted by the vendor.
- Contract deliverables should be spelled out in clear and precise contract terms and a BPS manager should be responsible for requiring periodic, written updates from the vendor on contract progress.
- All invoices submitted by vendors for payment should be reviewed by the BPS contract manager, to evaluate deliverables and rate of pay.
- Invoices should require a BPS contract manager signature before being submitted for payment.

- Vendor invoices should be reviewed to specify dates, and work created (referencing deliverables). They must be submitted at the same rate that appears in the original contract.

Conclusion

It appears from the handwritten amendments to the original contract that the intent to pay the vendor \$2,000 per day was changed to \$40 per hour. Boston Public Schools proceeded to pay the vendor at the \$2,000 rate per day for training, which can only be interpreted as a deliberate attempt to circumvent additional authorizations. Paying a vendor for services utilizing an executed contract at a rate that differs from the original contract terms is an unacceptable breach of contracting practice and requires that Boston Public Schools immediately contact the employee(s) who violated this trust. It is evident from the invoices submitted by the vendor, that the vendor was of the belief that they could charge the \$2,000 daily rate for training. The Boston Public Schools' solicitation of vendor bids in December of 2016 does not justify the 0increased rate outlined in the vendor contract which had been created and submitted weeks earlier.

Contracts are created to protect the City of Boston and vendors, avoiding potential conflicts and corruption. Contracts require oversight to assure that goods and services are being delivered on time, within the scope of the contract language and at an agreed upon price.

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