



OFFICE OF THE INSPECTOR GENERAL
COMMONWEALTH OF MASSACHUSETTS

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A Review of the MBTA's
In-Station Customer Service
Contract with Block by Block

JULY 26, 2023



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**Re: A Review of the MBTA's In-Station Customer Service Contract with
Block by Block**

Dear Secretary Fiandaca, General Manager Eng, Senator Crighton and Representative Straus:

Pursuant to Section 196 of Chapter 46 of the Acts of 2015 (Chapter 46), enclosed please find a report that the Office of the Inspector General (OIG) issued today entitled *A Review of the MBTA's In-Station Customer Service Contract with Block by Block*.

Under Chapter 46, the MBTA was exempted from the provisions of the Taxpayer Protection Act when contracting with private companies to perform services "similar to or in lieu of" their own employees for a three-year period. The general goal of such privatization contracts is to provide better services at a lower cost.

Chapter 46 also requires the OIG to review and analyze the competitiveness and fairness of the procurement process, the quality of the services provided by the contract, the expected and actual cost of the contract and the costs/benefits and to issue a report of our findings no later than 90 days upon completion of the contract. This report has been delayed past this deadline due, in part, to the complexity of the work necessary to conduct an in-depth analysis of the MBTA's procurement, contract development and contract administration practices. The OIG deemed it to be in the best interest of the public to take the additional time to complete a thorough analysis and report. The OIG's Internal Special Audit Unit (ISAU) led the review.

The subject of this review is the MBTA's 2017 contract with Mydatt Services, Inc. (d/b/a Block by Block) to provide in-station customer service agents. Under the terms of the contract, Block by Block provided "transit ambassadors" to assist MBTA riders with directions, fare purchases and accessibility needs, to report maintenance and cleaning needs to management, and to aid in ensuring the safety and security of stations.

This report contains a detailed analysis of the Block by Block contract and specific recommendations to the MBTA that, while particular to this contract, can and should be extrapolated and applied across all existing and future contracts by MBTA management. Overall, we found that the contract did result in increased coverage of in-station customer service agents at a lower cost than provided by MBTA employees. However, it was nearly impossible to determine if customer service was improved given the deficiencies of the contract such as the lack of performance metrics and vendor oversight and poor records retention.

The contract exceeded its expected cost by nearly \$5.37 million. Roughly \$3 million of that overage is due to the MBTA's failure to account for special service requests to cover events such as Red Sox games or concerts when determining its service requirements at the beginning of each contract extension. Once it was understood that special service requests resulted in increased costs, the MBTA should have planned for this in subsequent contract periods. Only once in five years did the MBTA factor in special event coverage when determining the "not-to-exceed" cost, even though professional sporting events and concerts are planned well in advance and publicly announced.

Additionally, the MBTA paid higher hourly rates than specified in the contract and used to calculate the annual "not-to-exceed" cost. These higher rates were apparently agreed on by the MBTA and Block by Block. We were surprised to learn that an entity of the MBTA's size and scope would renegotiate rate changes outside of the contract and not memorialize those changes in a written contract amendment. This is a significant issue for the MBTA, one that its senior leadership should address.

In general, contracts should include specific performance metrics to make clear the level of service the vendor is expected to provide. Additionally, independent audits, periodic reviews and "secret shoppers" are standard methods used to evaluate service. The MBTA employed none of these common tools, so it was difficult to assess if the contract met the goal of improving service. For example, the MBTA did not even attempt to ascertain how Block by Block transit ambassadors were conducting and reporting elevator checks. This simple and seemingly small detail has a potentially huge impact on MBTA riders, particularly those with disabilities.

We understand that the current Block by Block contract contains performance metrics, and that the MBTA's Vendor Management team actively reviews Block by Block's performance. In addition, we understand that beginning next month, the MBTA is taking specific steps to improve their contract administration by assigning and documenting a contract manager for contracts over \$250,000. We applaud these efforts.

This is the third Chapter 46 report issued by the OIG in nine months. Our prior reviews of absence management services and police dispatch services were issued in October and December 2022, respectively. Taken together, these reports illustrate a troubling pattern that demands attention and correction. Across these three reviews, the MBTA had consistent issues with record retention, contract development and management, and vendor oversight, which are essential to ensuring that the government receives the goods and services it needs for the agreed upon price and quality.

While these contract issues may pale in comparison to the operational and safety challenges that the MBTA faces, they must not be excused or minimized. These are basic, fundamental and routine business functions and they are essential to the effective operation of any entity. The fact that they were so poorly managed by the MBTA is troubling to say the least.

Along with the specific recommendations in this and the two prior reviews, we strongly encourage the MBTA to explore why it ended up paying Block by Block \$356,375 over the expected contract costs in the Amendment II period, and why it paid \$117,200 to hire a consultant to aid in the transition of services, an expense that Block by Block was contractually obligated to pay.

In closing, I respectfully request that the recommendations contained in this review, as well as those in the two previous reviews issued last year, be closely reviewed by MBTA senior management. Without some concrete action on the part of senior management at the MBTA, we can expect more of the same in the reviews of the four remaining Chapter 46 contracts. Given that these are open contracts, the MBTA has an opportunity to correct and address some of these issues. Indeed, without substantive change, future reviews will amount to an exercise in futility. The Office of the Inspector General team and I are available to answer any questions that you may have.

Sincerely,



Jeffrey S. Shapiro
Inspector General

Enclosure

cc (with enclosure, via email):

The Hon. Michael J. Rodrigues, Chair, Senate Ways & Means Committee
The Hon. Aaron M. Michlewitz, Chair, House Ways & Means Committee
Douglas McGarrah, General Counsel, Department of Transportation
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EXECUTIVE SUMMARY

Historically, the Massachusetts Bay Transportation Authority (MBTA or authority) employed in-station customer service agents (CSAs) to provide MBTA riders with assistance on matters such as direction requests, fare purchases and accessibility needs, to report maintenance and cleaning needs to management, and to aid in ensuring the safety and security of stations.

In an effort to lower costs and improve customer service, the MBTA decided to transition its in-station customer service functions to an outside company. In 2017, the MBTA issued a request for proposals (RFP) for those services. Following its selection process, the MBTA contracted with Mydatt Services, Inc. (d/b/a Block by Block) in July 2017 to provide “transit ambassadors” to cover in-station customer service responsibilities. The MBTA’s privatization of in-station customer service and its contract with Block by Block are the subjects of this report.

The Massachusetts Office of the Inspector General’s (Office) responsibility to analyze the Block by Block contract stems from state legislation – Section 196 of Chapter 46 of the Acts of 2015 (Chapter 46) – that exempted the MBTA from the requirements of the Taxpayer Protection Act (TPA) for a three-year period. The TPA, enacted in 1993, established a process that state agencies must follow in hiring a private company to perform services previously provided by employees of that agency.

The Block by Block in-station customer service contract ended in September 2022, triggering Chapter 46’s dictate that the Office conduct a review of privatization contracts awarded during the exemption period. As the statute specifies, the Office’s Internal Special Audit Unit (ISAU) evaluated four aspects of the MBTA’s privatization of in-station customer service:

1. The competitiveness and fairness of the procurement process resulting in the contract;
2. The quality of the services provided under the contract;
3. The expected and actual cost of the contract; and
4. Whether the costs of the contract exceeded the benefits derived from the contract.

This report analyzes the Block by Block contract through these four criteria and also makes recommendations for improvement in the MBTA’s administration of vendor contracts.

The competitiveness and fairness of the procurement: While the MBTA’s procurement was generally fair and competitive, the ISAU found room for improvement. The ISAU concluded that the MBTA needs to comply with all of the processes outlined in its own procurement manual. While the MBTA developed accurate and complete RFP specifications that did not restrict competition and did not impose unnecessary bonding requirements, the authority did not follow the manual’s requirement to complete an independent cost estimate to inform the reasonableness and competitiveness of responses. In addition, the MBTA did not follow the exact RFP criteria in scoring technical responses and could not produce relevant documents related to the evaluation of price proposals. The MBTA accepted proposals

for only three weeks, which may have been insufficient time for prospective companies to prepare and submit proposals on a contract of this complexity and scope.

The quality of Block by Block's services: The ISAU was unable to fully evaluate the quality of Block by Block's services because the MBTA did not develop metrics, or other means, to measure performance. Block by Block expanded the MBTA's in-station customer service to more stations, but the MBTA did not include performance metrics in the contract to gauge the quality of Block by Block's performance. Further, the MBTA failed to use data from Block by Block's SMART system to evaluate the quality of Block by Block's services. Nor did the MBTA hold Block by Block to its obligation under the contract to produce daily, weekly, monthly and annual reports. The MBTA also missed an opportunity to gain valuable quality-of-services information by not engaging a third-party "secret shopper" as specified in the contract. In the absence of other evaluative measures, the ISAU reviewed rider complaints and commendations concerning transit ambassadors. While that information is not sufficient to adequately measure the quality of services that Block by Block provided, approximately 80% of rider feedback was negative. The ISAU's examination of sample data revealed that transit ambassadors completed 50% of expected elevator checks.

The expected and actual cost of the contract: The ISAU found that actual costs exceeded expected costs by nearly \$5.37 million, or 11.45%, during the life of the contract. The ISAU analyzed the expected and actual cost of the Block by Block contract by analyzing the contract's hourly rates and amounts actually invoiced over the life of the contract, as well as reviewing total costs. An examination of the rates charged by Block by Block revealed that the MBTA paid \$898,080 in excess of the rates expressly stated in the 62-month contract. Furthermore, based on the parties' agreed-upon yearly "not-to-exceed" amounts, the actual cost to the MBTA exceeded the expected costs by nearly \$5.37 million, or by an 11.45% margin. The ISAU determined that the MBTA's payment of higher hourly rates than those set forth in the contract was one factor leading to higher-than-expected costs. Moreover, the almost \$3 million cost of the MBTA's special service requests had a significant impact. The ISAU further found that the MBTA paid \$117,200 to a consultant to aid in transitioning services to Block by Block, an expense that Block by Block was obligated to cover under the contract.

The cost-benefit analysis: The ISAU found that the MBTA realized costs savings over the life of the contract when comparing Block by Block's invoiced costs to average CSA rates that the MBTA would have paid for the same level of in-station coverage, but the ISAU could not determine whether the MBTA realized the benefits anticipated under the contract. The ISAU also found that through privatization, the authority met its goals of providing in-station customer service to riders in more stations and increasing weekend coverage. However, the authority did not develop performance metrics to assess service quality and could not demonstrate that it used data from Block by Block's SMART system to improve rider experiences or help the MBTA achieve compliance with a 2006 class-action settlement agreement on station accessibility for riders with disabilities.

Areas for improvement and recommendations. In reviewing the MBTA's in-station customer service contract with Block by Block, the ISAU found areas for needed improvements in the authority's

procurement, contract development, contract administration, vendor oversight and records retention practices. The ISAU accordingly makes recommendations herein to assist the MBTA in addressing these issues.

BACKGROUND

I. The Office of the Inspector General

The Office of the Inspector General for the Commonwealth of Massachusetts (Office) is an independent state agency charged with preventing and detecting fraud, waste and abuse in the use of public funds and public property. The Legislature established the Office as the first state-level inspector general's office in the country in 1980 at the recommendation of the Special Commission on State and County Buildings, a legislative commission that spent two years probing corruption in the construction of public buildings in Massachusetts. In keeping with its broad statutory mandate, the Office reviews programs and practices in state and local agencies to identify systemic vulnerabilities and opportunities for improvement, and assists both the public and private sectors in preventing fraud, waste and abuse in government spending.

The Office's Internal Special Audit Unit (ISAU), created by the Legislature in 2009, monitors the quality, efficiency and integrity of the Massachusetts Department of Transportation's (MassDOT) and the Massachusetts Bay Transportation Authority's (MBTA or authority) operating and capital programs. The ISAU investigates claims of waste or misuse of transportation funds and works to identify potential cost savings. The Inspector General is statutorily required to appoint a director of the ISAU for a fixed term of six years. Emily Pedersen, who was named to the position in 2019, leads the seven-member ISAU team. With a Fiscal Year 2023 budget of \$577,604, the ISAU oversees roughly \$6 billion in spending by MassDOT and the MBTA, which together have approximately 10,500 employees.

II. The Massachusetts Bay Transportation Authority

The Legislature created the MBTA in 1964 to operate the Commonwealth's public transit system. It provides light rail, heavy rail, regional commuter rail, subway, trolley, bus, ferry and paratransit services throughout eastern Massachusetts and parts of Rhode Island.¹ The MBTA is the nation's fourth largest transit agency based on ridership.² Its annual budget for Fiscal Year 2023 was \$2.55 billion.³

The MBTA currently serves 176 cities and towns in the greater Boston metropolitan area. It operates 24 hours a day, 7 days a week and employs a workforce of approximately 6,300.

¹ M.G.L. c. 161A. Light rail, such as the MBTA's Green Line trains, can operate in mixed roadway traffic. Heavy rail, commonly referred to as the subway, is comprised of the Orange, Red and Blue lines. The MBTA's paratransit service provides door-to-door shared ride public transportation to individuals who can't use the subway, bus or trolley all or some of the time due to temporary or permanent disabilities.

² The MBTA's 2022 ridership of 213,118,213 places it fourth in the nation behind New York's Metropolitan Transportation Authority (760,000,000), the Los Angeles County Metropolitan Transit Authority (255,253,370) and the Chicago Transit Authority (243,538,803).

³ The Commonwealth's fiscal year runs from July 1 through June 30.

III. The Taxpayer Protection Act and MBTA Waiver

In 1993, the Massachusetts Legislature passed the Act Providing for the Delivery of State Services in a Fiscally Responsible Manner (Taxpayer Protection Act or TPA).⁴ The Taxpayer Protection Act establishes a process that state agencies and applicable authorities, such as the MBTA, must follow before hiring a private company to perform services valued at \$500,000 or more that “are substantially similar to and in lieu of” services that employees of an agency provide.⁵ Hiring a company to provide services that public employees had performed is commonly referred to as privatization.

In July 2015, as part of the Fiscal Year 2016 budget, Governor Baker signed language into law that eased the provisions of the Taxpayer Protection Act for the MBTA (the privatization waiver).⁶ This privatization waiver exempted the MBTA from the provisions of the TPA for three years, from July 1, 2015, through July 1, 2018.⁷

The privatization waiver also requires the Office to review all contracts that the MBTA executed pursuant to this exemption and issue a report within 90 days after the complete performance of such a contract.⁸ The analysis is to include, but need not be limited to, a review of:

1. The competitiveness and fairness of the procurement process resulting in the contract;
2. The quality of the services provided by the contract;
3. The expected and actual cost of the contract; and
4. Whether the cost of the contract exceeded the benefits derived from the contract.

This report details the Office’s review of the MBTA’s privatization of in-station customer service in accordance with the requirements of the privatization waiver.

IV. Request for Proposals: In-Station Customer Service

The MBTA introduced customer service agents (CSAs) in late 2006 when the authority transitioned from using fare tokens to an automated fare collection system that accepted CharlieCards and

⁴ M.G.L. c. 7, §§ 52-55.

⁵ One part of this process, for example, requires the State Auditor to review all agency requests to privatize services.

⁶ Section 196 of Chapter 46 of the Acts of 2015 (Chapter 46).

⁷ Between 2015 and 2018, the MBTA outsourced seven services pursuant to the privatization waiver.

⁸ The Office defines “complete performance of such a contract” as the date of final payment.

CharlieTickets.⁹ To assist with the transition, the MBTA retrained the employees who previously collected tokens, as well as former train attendants, to become CSAs.¹⁰

CSAs provided customer service in stations throughout the MBTA system. CSAs helped riders with directions and requests for accessibility assistance. They also reported maintenance and cleaning needs to the MBTA and helped maintain the safety and security of stations. CSAs became the primary employees dedicated to assisting riders in MBTA stations. CSAs did not cover all MBTA stations; at the time of the privatization in 2017, CSAs provided coverage in 58 of 128 stations, or 45% of the stations that existed at that time.¹¹

The MBTA eventually determined that the CSAs' competing responsibilities – such as maintenance and operational support to other MBTA departments – detracted from their focus on responding to customers' needs in stations, such as answering questions, providing directions, assisting with fares or deploying bridgeplates.¹² Under Chapter 46's privatization waiver, the MBTA decided to transition most CSAs to positions in transit operations, including bus or subway operators, and hire an outside company to "improve the overall customer experience" and potentially expand such coverage to more stations.¹³ The MBTA accordingly issued the request for proposals (RFP) for these services on April 3, 2017.¹⁴

Two companies submitted proposals to provide in-station customer service.¹⁵ Following the MBTA's selection process, the authority entered into a contract on July 18, 2017, with Mydatt Services, Inc. (d/b/a Block by Block).

⁹ CharlieCards are plastic, reusable smart cards used to pay for MBTA fares. CharlieTickets are the paper-ticket alternative for fare payment.

¹⁰ Train attendants provided operational support, including fare collection and opening and closing train doors. The MBTA eliminated this position in the early 2000s.

¹¹ With the expansion of the Green Line, the number of stations has increased, and including Silver Line stops there are now 153 stations systemwide.

¹² MASS. BAY TRANSP. AUTH., *Request For Proposals 41-17: In-Station Customer Service*, at 10, 11 (2017). A bridgeplate is a mobile ramp placed over the gap between the platform and a train car to allow access for wheeled mobility devices, such as wheelchairs.

¹³ *Id.* at 10.

¹⁴ An RFP is a solicitation method used to source goods or services.

¹⁵ "In-station customer service" refers to the work of employees in MBTA stations who provide customer support to riders. These employees also help maintain the safety and security of stations and provide operational support to other MBTA departments, such as relaying information to and from the MBTA Operations Control Center, assisting with crowd control and interacting with emergency services.

V. The Contract with Block by Block

The contract with Block by Block consisted of a memorandum of agreement and the following documents:

1. “[A]ny change orders or amendments;”
2. A pricing exhibit, dated June 16, 2017;
3. The MBTA’s RFP and all documents attached therein; and
4. Block by Block’s response to the RFP.¹⁶

Under the contract, Block by Block employees (known as “transit ambassadors”) would provide in-station customer service to the MBTA ridership as the authority continued to phase out CSAs.¹⁷ The original contract ran from July 31, 2017, through July 30, 2018. The MBTA extended the end date by exercising three one-year options. Following those option years, the MBTA extended the term for an additional one year and two months through two amendments to the contract. Thus, Block by Block ultimately provided in-station MBTA customer service under the reviewed contract for five years and two months, ending on September 30, 2022. The MBTA issued the final payment to Block by Block on December 19, 2022.¹⁸

VI. Block by Block’s Scope of Work

As set forth in the RFP and incorporated into the contract, Block by Block’s key responsibilities were to:

1. Staff stations with trained and qualified individuals capable of providing directions, assisting customers with the MBTA’s automated fare collection system (such as providing riders with CharlieCards), responding to accessibility requests and helping maintain the safety and security of stations and riders;
2. Record data – such as interactions with riders, maintenance issues and accessibility requests – in Block by Block’s online reporting system, referred to as its SMART system;¹⁹

¹⁶ As part of its response to the RFP, Block by Block also signed the Commonwealth Standard Terms and Conditions Form in April 2017; however, the ISAU did not locate a form signed by both parties.

¹⁷ The MBTA reported that MBTA CSAs and Block by Block employees did not work at the same time in any stations.

¹⁸ This report has been delayed past Chapter 46’s 90-day deadline due, in part, to the complexity of the work necessary to conduct an in-depth analysis of the MBTA’s procurement, contract development and contract administration practices. The Office deemed it to be in the best interest of the public to take the additional time to complete a thorough analysis and report.

¹⁹ Block by Block’s SMART system is an online software system that enables users to enter information and observations during in-station shifts. The data entered can then be examined in real time or used to produce various reports.

3. Properly route timely, on-site information to the correct departments at the MBTA and coordinate with the Operations Control Center;²⁰
4. Provide additional employees for special service requests;
5. Develop and maintain a comprehensive and continuous training program to provide employees with the appropriate knowledge to perform services required; and
6. Hold regular management review meetings with the MBTA and provide reports on in-station service operations.

VII. Contract Rates

The initial one-year contract did not expressly state that the MBTA's payments to Block by Block would be determined on an hourly basis. However, the MBTA and Block by Block agreed during contract negotiations to six different hourly rates based on the number of stations Block by Block covered. The initial contract included these six hourly rates in a pricing exhibit. The negotiated hourly rates varied for each subsequent contract extension. Moreover, the MBTA and Block by Block agreed on a total "not-to-exceed" amount for each of those contract periods.

Each month, Block by Block used an hourly rate to bill the MBTA for in-station service at the number of hours transit ambassadors worked during regular station hours or for special service requests, such as coverage for Red Sox games.

VIII. 2002 Accessibility Lawsuit and 2006 Settlement

In the early 2000s, MBTA studies found that riders with disabilities often did not have safe or reliable access to vital MBTA services.²¹ For instance, MBTA elevators at busy stations were frequently out of service.²² In 2002, 11 riders and the Boston Center for Independent Living filed a class-action lawsuit against the MBTA, citing the authority's limited customer service and unreliable elevator access in the stations. In April 2006, the MBTA and the plaintiffs entered into a comprehensive settlement agreement that outlined 111 provisions for the MBTA to improve accessibility throughout the MBTA system, including the expansion of customer service at MBTA stations.²³

The settlement agreement led to several changes at the MBTA. In late 2018, the MBTA signed an amended agreement with the plaintiffs, which defined updated goals and outlined a plan for reaching compliance and expanding customer assistance. In 2021, as part of its agreement, the MBTA assigned

²⁰ The Operations Control Center is the MBTA's central hub where dispatchers monitor, advise and re-route buses and trains.

²¹ *History of Accessibility and the Impact of Daniels-Finegold Settlement Agreement*, MASS. BAY TRANSP. AUTH., <https://www.mbta.com/accessibility/history> (last visited April 12, 2023).

²² *Id.*

²³ Settlement Agreement, *Daniels-Finegold v. Mass. Bay Transp. Auth.*, No. 1:02-cv-11504-MEL (D. Mass. Apr. 14, 2006), available at <https://cdn.mbta.com/sites/default/files/Accessibility/mbta-bcil-settlement-agreement-signed.pdf>.

each station a priority level to ensure that the MBTA provided dedicated in-station assistance in the most appropriate locations.²⁴

Although the MBTA did not specifically reference the settlement in the RFP or the resulting contract with Block by Block, because safe and reliable access to MBTA services to all riders is vital, the Office has considered the MBTA's own stated goals of improving the quality of customer service, particularly for riders with disabilities, in assessing this privatization contract.

IX. The ISAU's Scope and Methodology

To conduct its review of the four statutory factors, the ISAU evaluated relevant MBTA and Block by Block documents, including procurement materials, contract documents, financial transactions, presentations, accounts payable data and invoices. The ISAU interviewed MBTA employees, including employees from the Customer Experience, Vendor Management, Procurement, Customer Communications and System-wide Accessibility departments, as well as MassDOT's Office of Performance Management and Innovation. The ISAU also met with Block by Block employees regarding the contract and services the company provided.

The ISAU took a number of steps to assess the quality of Block by Block's services. Because the contract did not include specific performance metrics designed to measure the quality of customer service provided by transit ambassadors, the ISAU sought information from other sources. The ISAU reviewed supervisor observation reports, as well as complaints and commendations regarding transit ambassadors. The ISAU also analyzed data from Block by Block's SMART system and corresponding MBTA reports to determine how often transit ambassadors performed elevator checks. Finally, the ISAU analyzed staffing schedules to determine how often Block by Block provided the required number of transit ambassadors in MBTA stations.

To evaluate the cost of the contract, the ISAU reviewed contract documents, including amendments and sole-source justifications.²⁵ When available, the ISAU reviewed pricing exhibits outlining agreed-upon hourly rates, as well as invoices submitted by Block by Block to the MBTA. The ISAU also analyzed the costs that the MBTA would have incurred had it continued to employ CSAs at the same staffing levels as transit ambassadors.

Lastly, the ISAU assessed whether hiring Block by Block helped the MBTA achieve compliance with the accessibility settlement agreement.

²⁴ MASS. BAY TRANSP. AUTH., *Amended MBTA BCIL Compliance Report IV* (July 2021).

²⁵ Section 1.2.2 of the MBTA's procurement manual provides that sole-source procurements may be used in certain limited circumstances, including instances in which competitive proposals are "infeasible" and "the supplies or services are available from only one responsible source." Section 1.9 of the manual states that the procurement officer must prepare a written determination and findings justifying a sole-source procurement, a document often referred to as a "sole-source justification."

EVALUATION OF THE MBTA'S PROCUREMENT PROCESS

As part of its statutory review, the Office evaluated the competitiveness and fairness of the MBTA's procurement of in-station customer service. Fair, competitive and open bidding procedures not only create equal opportunity for companies seeking to do business with the government, but also produce better value for government agencies.

The MBTA created a [procurement manual](#) that sets out MBTA policies and procedures for obtaining goods and services. The MBTA makes the manual publicly available on its website, providing vendors with information on the MBTA's procurement rules and decision-making principles underlying invitations for bids or requests for proposals (RFP).

In evaluating the competitiveness and fairness of the MBTA's procurement of in-station customer service agents, the ISAU determined that the MBTA needs to follow all of its policies and procedures as set forth in its own procurement manual. While the MBTA's procurement was generally fair and competitive, the ISAU found room for improvement.

In particular, the ISAU found that the MBTA needs to (1) comply with all solicitation and advertising elements for fair and competitive procurements; (2) improve its process for scoring technical responses; and (3) retain all records, including those relevant to the evaluation of the price proposals.

Finding 1: The MBTA needs to comply with all solicitation and advertising elements for fair and competitive procurements.

The MBTA requires that all procurements comply with the policies and procedures set out in its procurement manual.²⁶ For soliciting and advertising requests for proposals, the manual lays out "procurement elements," or procedures that the MBTA must follow. These include developing clear, accurate and complete specifications; ensuring adequate competition; avoiding unreasonable qualifications and excessive bonding requirements; completing an independent cost estimate; advertising and publicizing the solicitation effectively; and soliciting an adequate number of sources.²⁷ In evaluating the MBTA's procurement for in-station customer service, the ISAU considered whether the MBTA adhered to these elements and concluded that the authority did not comply with all of its procurement requirements.

The ISAU found that the RFP contained clear, accurate and complete specifications; included reasonable qualification requirements that did not unnecessarily restrict competition; and did not impose unnecessary bonding requirements for companies that submitted proposals.

The MBTA did not complete an independent cost estimate for the Block by Block procurement. An independent cost estimate is required to provide the "essential information for procurement planning"

²⁶ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual*, Chapter 1, at 6 (2015).

²⁷ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual*, Chapter 1 (2015).

to ensure that the MBTA receives the necessary goods or services at a reasonable price.²⁸ The authority informed the ISAU that it does not always prepare a cost estimate for procurements to be funded entirely with state monies.²⁹ Although the procurement manual requires written approval from the general counsel to proceed without an independent cost estimate, the MBTA did not have a record of a written approval.

The Office is concerned that in the past the MBTA did not always use a cost estimate for state-funded procurements or follow its own procedures to waive this step. According to the MBTA, it follows its procurement manual and processes for both state and federally funded procurements because the federal requirements are more stringent. However, the MBTA's general counsel may waive the standards for state-funded procurements.

In the course of conducting the Chapter 46 review of this and two other privatization contracts entered into between 2015 and 2018, the ISAU has learned that the MBTA did not necessarily follow the stricter federal standards nor did it follow its state exemption practice. The ISAU recommends that the MBTA consider either (1) developing a specific procurement guide for state-funded procurements for which the authority determines the federal requirements are not appropriate, or (2) updating its current procurement manual to clearly delineate which federal rules the MBTA procurement staff does not need to follow for state-funded procurements, and why. The MBTA's current practice, while on the surface appearing to hold the MBTA to the higher federal standard for all procurements, in reality appears to leave state procurements without complete written standards or processes.

An independent cost estimate would have provided the MBTA with information to assess the fairness and competitiveness of the responses. For this particular type of procurement, the MBTA could have obtained independent cost estimates by contacting, for example, other comparable transit agencies for information about similar services and their costs. Without the independent cost estimate, the MBTA was missing a crucial piece of information for sound decision-making.

As for the advertising and publicizing element, the procurement manual notes that procurements should be advertised in a manner that will encourage maximum competition and allow adequate time for the contractor to prepare its proposal prior to submission to the MBTA.³⁰ On April 10, 2017, the MBTA posted the RFP on the COMMBUYS website.³¹ COMMBUYS allows companies interested in doing business with the Commonwealth to register to receive email notifications about procurements. The in-station customer service RFP required interested companies to submit their proposals on or before May 1, 2017, meaning that the MBTA allotted three weeks for interested companies to create and submit proposals.

²⁸ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual*, Chapter 1, at 6, 7 (2015).

²⁹ The Block by Block contract was originally intended to be funded exclusively by the state, but ultimately federal monies were used to fund some Block by Block services for federally funded projects, such as the Green Line Extension.

³⁰ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual*, Chapter 3, at 6 (2015).

³¹ COMMBUYS is the official procurement system for the Commonwealth of Massachusetts.

Given the size and complexity of the procurement – which was valued at \$4 million for the initial contract period and ultimately cost the MBTA more than \$51 million – a longer response period would have allowed additional prospective companies to prepare and submit proposals for the MBTA to consider.

By comparison, the MBTA gave companies four weeks to respond when in-station customer service once again went out to bid in 2022. Although the procurement manual does not specify a minimum posting time, given the size and complexity of the procurement – which was valued at \$4 million for the initial contract period and ultimately cost the MBTA more than \$51 million – a longer response period would have allowed additional prospective companies to prepare and submit proposals for the MBTA to consider.

The MBTA procurement manual further specifies that proposals “shall be solicited from an adequate number of known suppliers.”³² The MBTA sent email notifications to seven companies that it believed could provide the requested services. The MBTA did not advertise the RFP in trade publications or specialty media.

Although the procurement manual states that two or more responses are deemed to be adequate competition,³³ the MBTA may have missed qualified bidders by failing to provide sufficient time for responses and failing to advertise in specialty publications.

Finding 2: The MBTA needs to improve its process for scoring technical responses.

As a general rule, the RFP process allows the MBTA to award a contract to the vendor who submits the most advantageous proposal based on multiple factors, not necessarily the proposal offering the lowest price.³⁴ Therefore, when the MBTA issues an RFP, it requests that vendors submit both a technical proposal and a separate price proposal.³⁵ The technical proposal typically includes non-price information regarding the specific methods by which the vendor will accomplish the goals laid out in the RFP’s scope of work, as well as vendor qualifications, past performance and financial and technical resources. The MBTA evaluates vendors’ technical proposal separately from their price proposals.

According to the MBTA’s procurement manual, the RFP must include a list of all criteria that the agency will use to evaluate the merits of the technical proposals as well as the relative importance of the criteria.³⁶ The manual refers to these as “evaluation criteria” or “evaluation factors.” In a fair and competitive procurement, the RFP contains clear evaluation criteria and the MBTA evaluates the responses consistent with the RFP.³⁷

³² MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual*, Chapter 1, at 14 (2015).

³³ *Id.* at 13 (2015).

³⁴ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual*, Chapter 3, at 24 (2015).

³⁵ *Id.* at 25 (2015).

³⁶ *Id.*

³⁷ The MBTA’s procurement manual lists five categories of evaluation criteria: (1) past performance; (2) technical criteria; (3) key

The MBTA formed a selection committee to evaluate the two proposals received in response to the RFP. Committee members interviewed representatives from the companies that submitted proposals and then completed technical scoring. The MBTA provided the ISAU with a spreadsheet summarizing the committee's evaluations based on the technical scores (summary spreadsheet).³⁸ The MBTA's summary spreadsheet identified 16 areas for evaluation by the committee, all of which were included in the RFP. However, the ISAU found that the criteria in the spreadsheet did not directly correspond to the five technical criteria listed in the RFP. These discrepancies could have impacted the fairness and competitiveness of the evaluation process if similar proposals had been received.

The ISAU found that the technical criteria listed in the scoring spreadsheet did not directly correspond to the technical criteria listed in the RFP.

Finding 3: The MBTA needs to retain records relevant to the evaluation of price proposals.

As previously explained, because the MBTA issued an RFP, it expected vendors to submit a separate price proposal. After the selection committee evaluated the technical proposals, the MBTA's contracting officer or their designee would open the price proposals in the presence of the MBTA's general counsel or their designee. The selection committee would then evaluate the price proposals.

The MBTA could not provide information documenting the committee's price evaluation process. While the MBTA's written staff summary reflected that one member of the committee opened both price proposals on May 24, 2017, the MBTA could not provide any documents supporting this process.³⁹ Further, selection committee members had conflicting recollections of the process.

State and federal law requires public agencies to retain records related to procurement, contract development and contract administration for a specified period of time after the contract is completed. Additionally, under the express provisions of Chapter 46, the MBTA knew at the time the RFP was issued and the responses were received that the Office would be reviewing the procurement at its conclusion.

Because the MBTA failed to retain essential documents and the committee members had conflicting memories of the evaluation process, the ISAU could not confirm whether the committee followed the RFP's directions on how to evaluate price proposals.

personnel; (4) cost or price; and (5) relative importance of price and non-price factors. The MBTA specified these criteria in Sections 8.3 through 8.6 of the RFP. While in some cases the RFP terms lacked clarity, Block by Block was able to effectively respond.

³⁸ The MBTA could not provide supporting documentation, such as notes from individual committee members.

³⁹ The MBTA provided the ISAU with a procurement summary report (internally called a staff summary) of the in-station customer service procurement process. An MBTA Procurement Department employee, who was not a part of the selection committee, developed the staff summary, which stated that both responding companies met the technical criteria. Because the selection committee did not create the staff summary, the ISAU could not confirm the accuracy of the information contained within that document.

Conclusion

The ISAU concluded that the MBTA did not follow all of its own procurement rules for a fair and competitive process.

The MBTA did not complete an independent cost estimate through which it could determine the reasonableness of the prices offered in the RFP responses. Although the procurement manual requires the MBTA to secure the written approval of its general counsel to proceed without an estimate, the authority did not have a record of that approval.

Further, although the MBTA followed the minimal advertising and publicizing requirements and posted the procurement on COMMBUYS, the MBTA accepted proposals for only three weeks. Considering the size and complexity of the procurement, the MBTA may have missed qualified bidders by giving insufficient time for responses and by not advertising in trade publications or specialty media.

While the MBTA completed nearly all solicitation and advertising elements for fair and complete procurements, the authority did not complete an independent cost estimate, scored technical proposals in areas not directly corresponding to the RFP's criteria, and could not provide information documenting the selection committee's price evaluation process.

The ISAU also determined that the MBTA failed to follow the specified criteria in scoring technical proposals, with the MBTA's evaluation criteria not directly corresponding to the five technical criteria listed in the RFP. That inconsistency could have impacted the fairness and competitiveness of the evaluations.

Finally, the MBTA could not provide information documenting the selection committee's price evaluation process. The ISAU therefore could not confirm whether the committee followed the RFP's instructions in scoring the responding companies' price proposals.

QUALITY OF SERVICES ANALYSIS

The MBTA contracted with Block by Block to staff MBTA stations with qualified “transit ambassadors” capable of assisting customers. Transit ambassadors were expected to provide riders with directions or assist them in obtaining CharlieCards, respond to accessibility requests, and monitor the safety and security of stations and riders. Transit ambassadors were also responsible for documenting their interactions with riders and reporting and logging maintenance issues in Block by Block’s SMART system software.

Chapter 46 requires the Office to evaluate the quality of those services. A typical method to assess the quality provided under a service contract is to use performance metrics, which hold companies accountable for the services set forth in a contract and help ensure that purchasing entities receive the benefit of the contract. A purchasing entity may also assess the quality of services by conducting periodic reviews or arranging for independent audits.

In the case of Block by Block, the ISAU found that (1) the MBTA did not develop performance metrics for the contract; (2) the MBTA failed to obtain and use in-station operation reports from Block by Block that would have aided the MBTA in assessing the quality of services; and (3) the MBTA did not engage a third-party “secret shopper” service.⁴⁰

The MBTA’s failure to measure and assess the quality of services using performance metrics is significant and undermines the ability of the ISAU to determine whether the vendor met its obligations under the contract. To meet its statutory obligation to evaluate the quality of services, the ISAU identified several other potential sources of information: evaluation reports from Block by Block supervisors; evaluations by third-party secret shoppers hired by Block by Block; complaints and commendations about transit ambassadors offered by MBTA riders; and SMART system data on elevator checks and staffing coverage. Because these other qualitative methods were not consistent over the period of the contract nor designed to assess the overall quality of services, the ISAU could not use them to definitively speak to the quality of service that Block by Block provided to MBTA riders.

Finding 4: The MBTA did not develop metrics to evaluate Block by Block’s performance under the contract.

Under the contract, the MBTA should have entered “service level agreements” with Block by Block for performance metrics and penalties related to quality of service.⁴¹ Service level agreements define the types and standards of services and set forth metrics and incentives as well as penalties for poor performance.⁴² The MBTA should have used such metrics to assess customer service, safety and data

⁴⁰ According to the RFP, “secret shoppers” would engage in anonymous service requests and interactions with the vendor’s transit ambassadors, making inquiries that are common to MBTA customers. For each interaction, secret shoppers would rate the performance of the in-station service representative based on a predetermined set of criteria developed by the MBTA.

⁴¹ MASS. BAY TRANSP. AUTH., *Request For Proposals 41-17: In-Station Customer Service*, at 54 (2017).

⁴² *Id.*

reporting by Block by Block and should have developed penalties and incentives to encourage Block by Block to meet the metrics.

The MBTA failed to develop performance metrics, penalties or incentives. Further, the MBTA did not create any service level agreements with Block by Block at any time under the contract. Without performance metrics, the MBTA lacked the essential foundation to evaluate the quality of service provided by Block by Block transit ambassadors.

Moreover, without service level agreements, the MBTA could not ensure that Block by Block was meeting the authority's goal to increase the performance of specific tasks, such as elevator checks. For instance, in 2020, the MBTA asked Block by Block to begin tracking elevator checks in its SMART system, yet the authority did not amend the contract to include this responsibility, nor did it hold Block by Block to this request or to any other metrics for completing elevator checks.

Finding 5: The MBTA failed to obtain in-station operation reports and use available data from Block by Block that would have aided in assessing the quality of services.

According to the RFP, by transitioning in-station customer service operations to a third-party provider, the MBTA hoped to leverage enhanced reporting capabilities. Consistent with that goal, the contract required Block by Block to produce daily, weekly, monthly and annual reports to the MBTA regarding its in-station operations and to make those reports available through a real-time information system.⁴³ The MBTA expected Block by Block to report on events involving contact with the Operations Control Center; maintenance calls initiated and completed; cleanliness requests; and safety-related events.

Block by Block failed to produce the required reports to the MBTA, and the MBTA failed to request the reports. While both parties told the ISAU that Block by Block did not produce reports, Block by Block explained that the MBTA had the ability to run reports through its access to the SMART system. The ISAU found that the MBTA accessed data from the SMART system on a limited basis to view the quantity of services provided, but not to evaluate the quality of performance.

The MBTA did not appreciate that the reports were essential to assess whether Block by Block was fulfilling its obligations. Furthermore, the MBTA did not use its access to the SMART system to effectively evaluate the quality of Block by Block's services.

Finding 6: The MBTA did not engage an independent third-party secret shopper to assess the quality of services.

According to the RFP, the MBTA would contract for an independent third-party shopper service to "adequately measure the level of service provided."⁴⁴ The MBTA did not do so. An independent third-

⁴³ MASS. BAY TRANSP. AUTH., *Request For Proposals 41-17: In-Station Customer Service*, at 24 (2017).

⁴⁴ *Id.* at 9.

party shopper service would have provided the MBTA with valuable information on the quality of services. By not exercising this option under the contract, the MBTA failed to take a reasonable step to ensure that Block by Block was meeting a key contractual goal of enhancing customer service.⁴⁵

Finding 7: Inconsistent criteria rendered other available reports insufficient to adequately measure the quality of services.

For a service delivery contract, especially one resulting in the payment of tens of millions of dollars, the criteria for evaluating the quality of services provided should be clear.

As noted in Findings 4 and 5, the MBTA did not establish performance metrics and did not use reports and data related to the Block by Block contract to evaluate performance. During the contract period, the MBTA did track rider complaints and commendations in its general course of business. Later in the contract, the MBTA hired field coordinators to evaluate performance. Block by Block also made its own efforts to evaluate transit ambassadors' performance.

1. Complaints and Commendations

Between September 2017 and September 2022, the MBTA received 892 complaints and 220 commendations about transit ambassadors.⁴⁶ Approximately 80% of that rider feedback was negative and 20% of the feedback was positive. On average, the MBTA received 15 complaints per month about transit ambassadors.

The ISAU analyzed the complaints for common themes and trends regarding riders' experiences. Nearly 50% of the complaints related to transit ambassadors' behavior, with riders frequently characterizing transit ambassadors as "rude." More than 25% of the complaints concerned transit ambassadors' failure to assist customers. These complaints often detailed instances in which a transit ambassador allegedly refused to help a rider or provided a rider with inaccurate or unhelpful information. The number of complaints increased by almost 75% between the first and third years of the contract.⁴⁷ See Appendix A for a detailed breakdown of the complaints by contract period and topic.

The ISAU also analyzed the commendations for common themes and trends. Riders who submitted commendations often commented on transit ambassadors' demeanor and knowledge. For instance, 42% of rider commendations described transit ambassadors as "helpful" and 24% characterized them as "friendly." The ISAU also found that riders offered more commendations toward the end of the contract period, with more than 65% of the commendations occurring during the last 14 months.

⁴⁵ Although the MBTA never enlisted a third-party secret shopper as specified in the RPF, Block by Block ultimately hired a secret shopper service in 2021. The MBTA did not request any reports produced from that initiative.

⁴⁶ Because the MBTA did not maintain complaint and commendation data for MBTA CSAs prior to privatizing in-station customer service, the ISAU could not analyze how the number of complaints and commendations about transit ambassadors compared to complaints and commendations about CSAs.

⁴⁷ The number of stations with transit ambassador coverage also increased by approximately 29% during this time.

2. Evaluation Reports

The MBTA also hired field coordinators to visit stations and evaluate transit ambassadors. The MBTA hired its first field coordinator in February 2021 and a second in August 2022. In total, the MBTA expended \$100,786 for field coordinators over the duration of the contract.

The reports from field coordinators and Block by Block supervisors were of limited value in evaluating service quality because these reports either did not use consistent, relevant criteria to assess the services provided by transit ambassadors or did not make the basis of the assessment clear. For example, Block by Block supervisors rated transit ambassadors' performance using variable criteria (*e.g.*, wearing the correct uniform, masking, safe in-station behavior), which did not always correspond to customer service. Similarly, secret shoppers ultimately hired by Block by Block provided an overall score for all transit ambassadors they observed, but it is not clear which criteria formed the basis of the score. Therefore, the ISAU deemed these reports insufficient to evaluate the quality of transit ambassador customer service.

Finding 8: Based on a random sample of 10 stations, transit ambassadors completed 50% of expected hourly elevator checks.

The MBTA reported that a provision in the 2006 settlement agreement required the authority to maintain and monitor station elevators to improve accessibility. Consequently, the ISAU determined that elevator monitoring comprised an important part of transit ambassadors' work and merited quality review. Although not included in the contract's scope of work, the MBTA reported that it expected Block by Block transit ambassadors to conduct at least one elevator check per elevator during each hour of their shift and enter that information into the SMART system, beginning July 1, 2020.⁴⁸

In order to determine how well Block by Block fulfilled this expectation, the ISAU analyzed whether transit ambassadors performed the requested number of elevator checks at the 10 busiest MBTA stations in a random sample of six months.⁴⁹

First, the ISAU calculated the number of elevator checks that should have been performed each day at each of the 10 stations by determining the number of elevators and the service hours for each station. Next, the ISAU compared the number of elevator checks transit ambassadors recorded in the SMART system to the expected number of checks for that station. The ISAU did not include any days or stations without transit ambassador coverage in its analysis.

⁴⁸ Prior to this date, Block by Block reported that transit ambassadors performed elevator checks as part of their overall routine station checks; however, they did not separately record elevator checks prior to the MBTA's request.

⁴⁹ The ISAU limited its review to the 10 stations with the highest ridership levels as outlined in the RFP: South Station, Downtown Crossing, Harvard, Park Street, Back Bay, State Street, North Station, Central Square, Kendall Square and Haymarket.

The ISAU found that, on average, transit ambassadors completed the expected number of elevator checks at the 10 busiest stations only 50% of the time during the sample period.⁵⁰ The ISAU further found that transit ambassadors did not conduct any elevator checks at all in 11% of the instances in which they performed checks at less-than-expected frequencies.

Finding 9: Block by Block staffed nearly 97% of scheduled shifts during the contract.

Block by Block provided transit ambassador coverage based on a monthly staffing schedule created by the MBTA. Throughout the contract period, the MBTA could also request additional in-station customer service coverage as needed. For purposes of this review, the ISAU refers to the monthly staffing schedule and additional requests for coverage collectively as “scheduled shifts.” During the first full month of coverage, the MBTA scheduled 186 shifts for transit ambassadors. By the last month of the contract, the number of scheduled shifts had increased to 3,925.

The ISAU analyzed whether Block by Block provided transit ambassadors for all scheduled shifts. For each month during the contract period, the ISAU compared the total number of scheduled shifts to the number of shifts for which Block by Block provided coverage. During the 62 months of the contract – August 2017 to September 2022 – Block by Block staffed all scheduled shifts during 36 months. For the other 27 months, Block by Block did not cover 5.34% of the scheduled shifts. Averaged across all contract months, Block by Block staffed 96.98% of scheduled shifts.

Conclusion

The MBTA did not implement a solid contract administration plan, resulting in its inability to meaningfully evaluate Block by Block’s quality of service during the contract. The contract required the MBTA to develop contractual performance metrics, conduct reviews and audit transit ambassador

The MBTA’s poor contract administration and oversight practices, which led to the ISAU’s inability to determine Block by Block’s quality of services, constitute a significant deficiency that cannot be overstated.

services using a secret shopper to assess service quality. The MBTA did not implement those evaluation measures. Furthermore, Block by Block did not provide the periodic reports that the contract required, and the MBTA did not request them.

In an attempt to meet Chapter 46’s directive to review the quality of privatized services, the ISAU crafted its own methodology to evaluate Block by Block’s in-station customer service. The ISAU reviewed evaluation reports from Block by Block supervisors, rider complaints and commendations, and data on Block by Block’s elevator checks and staffing schedules from its SMART system. However, none of these methods were designed to assess overall quality of services and are therefore not determinative.

⁵⁰ Transit ambassadors sometimes performed more elevator checks than necessary, but the ISAU observed significant variation in terms of how often they completed sufficient elevator checks during the six-month sample period.

With limited information available due to the lack of contractually required reports and metrics, the ISAU could not determine whether transit ambassadors provided quality services regularly, consistently, or ever, to the MBTA and its ridership. The MBTA's poor contract administration and oversight practices, which led to the ISAU's inability to determine Block by Block's quality of services, constitute a significant deficiency that cannot be overstated.

The MBTA must evaluate quality to ensure that it receives the services it contracted and paid for and to aid in evaluating whether to contract with the same vendor in the future. The MBTA has, in fact, re-contracted with Block by Block to provide in-station customer service for another five years, notwithstanding the lack of clear data on the quality of Block by Block's previous performance. To prevent similar issues in future contracts, the ISAU has identified improvements and developed recommendations for the MBTA's contract execution and development processes, discussed further in this report's Improvements and Recommendations section. The ISAU hopes that the current MBTA leadership will immediately ensure that proper performance metrics and contract oversight are in place and being utilized for the current Block by Block contract.

EXPECTED AND ACTUAL COST OF THE CONTRACT

Consistent with the dictates of Chapter 46, the Office also reviewed the expected and actual costs of the MBTA's in-station customer service contract with Block by Block.

As previously discussed, the MBTA did not complete an independent cost estimate that might serve as a comparator. To fulfill its statutory obligation, the ISAU analyzed the parties' agreed-upon "not-to-exceed" amounts for each contractual period to determine expected costs; actual costs were calculated by examining Block by Block's hourly rates and invoices over the life of the contract.

From that analysis, the ISAU made four findings with regard to expected and actual costs: (1) the actual cost of the contract exceeded the expected cost by nearly \$5.37 million, or 11.45%; (2) the MBTA used transit ambassadors to fill gaps in service beyond what it anticipated at the start of each contract period; (3) Block by Block charged the MBTA higher rates than those set forth in the contract or properly executed amendments; and (4) the MBTA incurred additional administrative expenses in connection with the contract, some of which should have been borne by Block by Block.

Finding 10: The actual cost of the contract exceeded the expected cost by nearly \$5.37 million, or 11.45%.

At the beginning of each contract period, the MBTA and Block by Block executed a not-to-exceed cost contract or option for that period. To arrive at the not-to-exceed amount, the MBTA would determine how many stations needed coverage. Block by Block would then determine its hourly rate based on its fixed costs, including hourly wages, benefits, uniforms, management, benefits, payroll taxes and workers' compensation insurance. The ISAU used these not-to-exceed amounts to calculate the expected – or maximum allowable – cost of the contract. For purposes of this review, the total expected cost, inclusive of options and amendments, was \$46,875,442.

The contract cost exceeded expected costs by nearly \$5.37 million.

To determine the actual cost of the contract, the ISAU reviewed all invoices that Block by Block submitted to the MBTA. As displayed in Figure 1 below, the actual costs of Block by Block's services under the contract – after the application of prompt payment discounts – exceeded the expected cost by \$5,365,142.

Contract Period	EXPECTED COST	ACTUAL COST	
	Not-to-Exceed Amount	Block by Block Invoices	Amount Over Expected Cost
Initial Term (July 31, 2017 – July 30, 2018)	\$4,108,312	\$5,717,945	\$1,609,633
Option Year One (July 31, 2018 – July 30, 2019)	\$8,200,000	\$9,542,968	\$1,342,968
Option Year Two (July 31, 2019 – July 30, 2020)	\$8,504,934	\$9,529,985	\$1,025,051
Option Year Three (July 31, 2020 – July 30, 2021)	\$11,853,827	\$10,713,062	\$0 ⁵¹
Amendment One (July 31, 2021 – July 30, 2022)	\$12,067,081	\$13,098,196	\$1,031,115
Amendment Two (July 31, 2022 – September 30, 2022)	\$2,141,288 ⁵²	\$2,497,663	\$356,375
TOTAL	\$46,875,442	\$51,099,819	\$5,365,142

Figure 1. Expected and Actual Costs of Block by Block's Services.

As Figure 1 illustrates, Option Year Three was the only contract period in which the actual cost did not exceed the maximum allowable amount. During that year, Block by Block charged the MBTA \$1,140,765 less than the not-to-exceed amount.

The ISAU identified two practices that increased the cost of the contract. First, the MBTA requested transit ambassadors for special events and operations that expanded coverage at stations beyond the coverage that the MBTA used to arrive at the not-to-exceed amount. Second, Block by Block charged, and the MBTA paid, hourly rates that were higher than the rates used to calculate the not-to-exceed amount and that were not included in the contract or properly executed amendments. These findings are discussed in detail below.

Finding 11: The MBTA used transit ambassadors to fill gaps in service beyond what it anticipated at the start of each contract period.

Under the contract with Block by Block, the MBTA could make special service and expanded service requests when the MBTA anticipated a need for additional customer support due to construction,

⁵¹ In Option Year Three, Block by Block charged the MBTA \$1,140,765 less than the not-to-exceed amount. The ISAU did not use this amount to offset overages in other years because the MBTA established a separate not-to-exceed amount each year.

⁵² Amendment Two was structured differently than other contract extensions and included a daily rate of \$34,536.91 for all services rather than hourly rates. Since Amendment Two did not specify a not-to-exceed amount, the ISAU multiplied this daily rate by 62 (the number of days ultimately in Amendment Two) to calculate the maximum expected cost.

train diversion or special events such as Red Sox games. The MBTA generally did not include funds for special service requests in its not-to-exceed amounts, with the exception of Option Year Two.⁵³

These special service requests had a significant impact on the contract cost. Figure 2 below summarizes special service requests and their estimated costs.⁵⁴ Over the life of the contract, special service requests accounted for almost \$3 million of the \$5.37 million spent over expected costs.

Contract Period	Special Service Requests from Operations Department		Special Service Requests from Capital Department	
	Requests	Est. Cost	Requests	Est. Cost
Initial Term (July 31, 2017 – July 30, 2018)	0	\$0	0	\$0
Option Year One (July 31, 2018 – July 30, 2019)	5	\$11,009	3	\$71,475
Option Year Two (July 31, 2019 – July 30, 2020)	78	\$114,361	238	\$1,068,168
Option Year Three (July 31, 2020 – July 30, 2021)	12	\$31,856	34	\$218,487
Amendment One (July 31, 2021 – July 30, 2022)	80	\$142,215	108	\$910,287
Amendment Two (July 31, 2022 – September 30, 2022)	4	\$13,249	58	\$410,825
TOTAL	179	\$312,690	441	\$2,679,242

Figure 2. Estimated Costs of Special Service Requests.

The MBTA should account for anticipated and potential special service requests and include those in the annual not-to-exceed amount. For example, most sporting event schedules are available in advance.

Finding 12: The MBTA paid Block by Block higher hourly rates than those specified in the contract or properly executed amendments.

The second practice that led to higher-than-expected costs was the MBTA's payment of higher hourly rates than set forth in the contract. Both Block by Block and the MBTA told the ISAU that they frequently negotiated rate changes without incorporating those changes into the contract or executing amendments. The ISAU compared the 119 invoices that Block by Block submitted to the MBTA under the

⁵³ In Option Year Two, the MBTA included an additional \$500,000 in the not-to-exceed amount to account for special service requests. Even with these additional funds, however, the actual cost for Option Year Two still exceeded the not-to-exceed amount by over \$1 million.

⁵⁴ Because Block by Block did not bill special service requests separately from base services, the ISAU could not use billing invoices to calculate how much the MBTA paid for special service requests. However, the MBTA maintained a spreadsheet documenting special service requests and their estimated costs. The MBTA based the estimated costs on the requested number of hours and the applicable regular rate. The ISAU used the MBTA's spreadsheet to estimate the costs of special service requests.

contract to determine how much and how often Block by Block charged the MBTA different hourly rates.⁵⁵ For the Amendment Two contract period, the ISAU analyzed invoices in reference to the contractual daily flat rate of \$34,536.91, notwithstanding Block by Block's continued practice of billing by the hour. The ISAU's findings from its invoice analysis for each contract period are presented below.

1. Initial Term (July 31, 2017 – July 30, 2018)

In the first year of the contract, the MBTA agreed to six hourly rates. Block by Block based the rates on the number of stations for which it would provide transit ambassadors (regular rate). Block by Block's hourly rate would decrease as it provided transit ambassador coverage at more stations.

As shown in Figure 3 below, Block by Block did not charge the MBTA consistent with the contract.⁵⁶ Instead, Block by Block charged 10 other rates (non-contract rates), ranging from \$36.25 to \$58.04. Block by Block charged the 10 non-contract rates for 44.59% of the total hours billed, or 70,892 hours, during the initial term.

Basic contract administration practices, such as reviewing the rates the vendor billed on monthly invoices against those rates documented in the contract, should have alerted the invoice reviewer and other MBTA staff that Block by Block used non-contract rates. The MBTA was aware that the vendor billed non-contract rates and it subsequently paid those rates, which the Office highlights throughout this section. Current MBTA management agreed with the Office's assertion that the contract was outdated and should have been amended appropriately to reflect all negotiated rates.

⁵⁵ The ISAU did not include one of the Block by Block invoices in its analysis because it billed \$73,000 in previously unreported overtime, reflecting no associated rates or hours.

⁵⁶ The calculated costs in Figures 3 through 7 differ from the actual costs the MBTA paid as represented in Figure 1 because Figures 3 through 7 do not account for any prompt payment discounts to which the MBTA was entitled.

Contract Rates	Number of Hours Billed	Cost
\$45.94 (3 stations)	0.00	\$0
\$41.03 (10 stations)	0.00	\$0
\$38.70 (17 stations)	0.00	\$0
\$36.07 (24 stations)	0.00	\$0
\$34.90 (31 stations)	88,106.06	\$3,074,901.49
\$30.89 (32+ stations)	0.00	\$0
TOTAL	88,106.06	\$3,074,901.49
Non-Contract Rates	Number of Hours Billed	Cost
\$36.25	35,781.29	\$1,297,071.76
\$39.80	17,012.70	\$677,105.46
\$39.91	2,078.19	\$82,940.56
\$40.44	5,314.00	\$214,898.16
\$41.02	4,647.20	\$190,628.14
\$42.74	2,617.00	\$111,850.58
\$44.33	928.00	\$41,138.24
\$45.22	1,905.25	\$86,155.41
\$53.74	131.27	\$7,054.45
\$58.04	477.25	\$27,699.59
TOTAL	70,892.15	\$2,736,542.35

Figure 3. Rates, Hours Billed and Cost During the Initial Contract Term.

2. Option Year One (July 31, 2018 – July 30, 2019)

The MBTA and Block by Block executed an agreement for Option Year One to continue the contract. “Exhibit A” to the contract purportedly contained the hourly rate and the number of stations covered for this contract period. Neither the MBTA nor Block by Block could provide the ISAU with a copy of Exhibit A.

The ISAU looked solely at the invoices to determine the rates Block by Block charged during Option Year One. The invoices show seven rates, ranging from \$34.00 to \$46.86. In addition, Block by Block submitted one invoice for \$73,000 for unpaid overtime without providing additional information, such as the base hourly rate previously invoiced, the number of hours or stations that were serviced. Figure 4 below lists these rates, the corresponding number of hours billed at each rate, and the associated cost.

Rates	Number of Hours Billed	Cost
\$34.00	48.00	\$1,632.00
\$34.90	116,845.57	\$4,077,910.39
\$34.36	153,373.79	\$5,269,923.42
\$42.36	18.00	\$762.48
\$42.86	1,451.88	\$62,227.58
\$43.40	1,871.50	\$81,223.10
\$46.86	9.00	\$421.74
\$73,000.00		\$73,000.00
TOTAL	273,617.74	\$9,567,100.71

Figure 4. Rates, Hours Billed and Cost During Option Year One.

The not-to-exceed amount for Option Year One was \$8,200,000.00. The actual amount billed was \$9,567,100.71. Without Exhibit A, the ISAU could not determine whether Block by Block charged the correct rate for the 15 invoices it submitted during this contract period. That a document as important and valuable as Exhibit A could not be produced is a significant shortcoming in the administration of this contract and forms the basis for one of the recommendations at the end of this report.

3. Option Year Two (July 31, 2019 – July 30, 2020)

For Option Year Two, the MBTA and Block by Block agreed to two rates: a regular rate of \$34.36 and an overtime rate of \$43.40.⁵⁷

Block by Block charged the regular rate on 26 invoices and the overtime rate on four invoices of the 31 invoices it submitted during Option Year Two. Block by Block charged four other rates not memorialized in the contract, ranging from \$34.16 to \$42.86. Block by Block charged these non-contract rates for 11.73% of the hours billed in Option Year Two. Figure 5 below outlines the rates billed on the 31 invoices and the corresponding number of hours Block by Block billed at each rate.

Contract Rates	Number of Hours Billed	Cost
\$34.36 (regular)	244,055.31	\$8,385,740.45
\$43.40 (overtime)	857.50	\$37,215.50
TOTAL	244,912.81	\$8,422,955.95
Non-Contract Rates	Number of Hours Billed	Cost
\$34.16	28,038.05	\$957,779.79
\$35.36	128.00	\$4,526.08
\$42.36	528.00	\$22,366.08
\$42.86	3,855.00	\$165,225.30
TOTAL	32,549.05	\$1,149,897.25

Figure 5. Rates, Hours Billed and Cost During Option Year Two.

⁵⁷ Option Year Two is the only contract period to include an agreed-upon overtime rate.

Based on its review, the ISAU found that Block by Block charged rates that were higher than the contract regular and overtime rates, which led to higher-than-expected actual costs during Option Year Two.

4. Option Year Three (July 31, 2020 – July 30, 2021)

For Option Year Three, the MBTA and Block by Block agreed to one regular rate: \$34.16. They did not include an overtime rate.

Block by Block charged the contractual regular rate of \$34.16 on four of the 22 invoices it submitted during Option Year Three. As illustrated in Figure 6 below, Block by Block charged five additional rates that were not memorialized in the contract. Block by Block charged these non-contract rates for 72.48% of the total hours billed in the period.

Regular Contract Rate	Number of Hours Billed	Cost
\$34.16	85,959.00	\$2,936,359.44
TOTAL	85,959.00	\$2,936,359.44
Non-Contract Rates	Number of Hours Billed	Cost
\$34.39	220,529.38	\$7,584,005.38
\$34.94	914.49	\$31,952.28
\$42.39	38.00	\$1,610.82
\$42.89	4,909.50	\$210,568.46
\$43.44	32.00	\$1,390.08
TOTAL	226,423.37	\$7,829,527.02

Figure 6. Rates, Hours Billed and Cost During Option Year Three.

Based on its review, the ISAU found that Block by Block charged rates that were higher than the contract rate, which led to higher than expected actual costs during Option Year Three.

5. Amendment One (July 31, 2021 – July 30, 2022)

Following the option years included in the original contract, the MBTA extended the contract with Block by Block for an additional year through an amendment (Amendment One). Amendment One contained one regular rate of \$34.94 and no overtime rate.

Block by Block charged the regular contract rate on four of the 30 invoices it submitted during Amendment One. As illustrated in Figure 7 below, Block by Block also billed the MBTA at five rates that were not memorialized in the contract. Block by Block used the five non-contract rates for 85.65% of the hours billed during the Amendment One contract period.

Regular Contract Rate	Number of Hours Billed	Cost
\$34.94	50,482.49	\$1,763,858.20
TOTAL	50,482.49	\$1,763,858.20
Non-Contract Rates	Number of Hours Billed	Cost
\$37.64	294,173.00	\$11,072,671.72
\$38.64	51.00	\$1,970.64
\$43.44	1,943.00	\$84,403.92
\$45.64	232.00	\$10,588.48
\$46.14	4,908.00	\$226,455.12
TOTAL	301,307.00	\$11,396,089.88

Figure 7. Rates, Hours Billed and Cost During Amendment One.

Based on its review, the ISAU found that Block by Block charged rates that were higher than the contract rates, which led to higher-than-expected actual costs during Amendment One.

6. Amendment Two (July 31, 2022 – September 30, 2022)

The MBTA issued a month-to-month amendment extending service for an additional two months in August and September 2022. Amendment Two did not contain hourly rates; instead, it specified that the MBTA would pay Block by Block \$34,536.91 per day. Despite the contract language on billing, Block by Block invoiced its services at hourly rates, not the daily rate set out in Amendment Two.

The ISAU determined the expected cost of the contract during Amendment Two by multiplying the agreed-upon rate of \$34,536.91 per day by 62 days, the amendment's duration, arriving at an expected cost of \$2,141,288 for this contract period. Block by Block actually billed the MBTA \$2,497,663 for this time. Based on this review, the ISAU found that Block by Block charged rates that were higher than the contract rates.

By the time the MBTA executed Amendment Two it had sufficient data to draw upon to better calculate the expected costs. The MBTA should review its practices for not-to-exceed contracts and use available data for planning and cost projections.

Finding 13: The MBTA contracted separately and incurred additional expenses for transition services that Block by Block was obligated to provide under the contract.

The MBTA contracted separately for transition services that the contract obligated Block by Block to provide. As set forth in the RFP, the vendor awarded the contract would be responsible for any costs associated with transitioning customer service responsibilities. Therefore, Block by Block should have covered any transition costs. But the MBTA hired Accenture, a consulting company, to facilitate the MBTA's transition of in-station customer service operations to Block by Block. According to the scope of services, Accenture was responsible for developing a project plan, designing a training curriculum for transit ambassadors and creating a roadmap for station expansion. The MBTA paid Accenture \$117,200 for its services over an eight-week period from July 10 to September 1, 2017. The Office questions the

need for the MBTA to hire a consulting company to assist with the transition period. The RFP clearly stated that the respondent would cover all costs, including all training costs, involved with the transition of service from the MBTA to the winning vendor.⁵⁸

Conclusion

The ISAU reviewed the expected and actual costs of the MBTA's contract with Block by Block by analyzing the parties' not-to-exceed amounts for each contractual period and the amounts actually invoiced over the life of the contract.

Based on each contract period's not-to-exceed amount, the maximum expected contract cost was nearly \$46.9 million. However, the MBTA ultimately paid Block by Block almost \$51.1 million, or nearly \$5.37 million more than the total not-to-exceed amount.

Special service requests, which cost almost \$3 million, contributed to the contract's overall costs. The MBTA should have managed the contract to ensure it did not pay more than the not-to-exceed amount for each contract period. If the MBTA found that unexpected events often increased costs, it should have planned for that fact in subsequent contract periods, or with properly authorized, documented and retained contract amendments that raised the not-to-exceed contract ceiling.

The ISAU found that the contract did not include all agreed-upon hourly rates for each contract period. For the majority of invoices, Block by Block charged the MBTA using hourly rates – both regular and overtime – that were not in the contract.

The MBTA and Block by Block should have amended in writing with proper approvals the contract to reflect any agreed-upon rate increases during the life of the contract. The MBTA should not have paid invoices that did not charge the agreed-upon rate. Finally, the MBTA should have required detailed invoices from Block by Block clearly identifying whether the company was applying regular or overtime rates.

As reflected in Appendix B, the ISAU calculated that the MBTA paid \$898,080 more than it would have if the parties had abided by the rates established in the contract.

The MBTA and Block by Block should have amended the contract to reflect any agreed-upon rate increases during the life of the contract. Moreover, the MBTA should not have paid invoices that did not charge the agreed-upon rate.

⁵⁸ MASS. BAY TRANSP. AUTH., *Request For Proposals 41-17: In-Station Customer Service*, at 21 (2017).

COST-BENEFIT ANALYSIS

Chapter 46 further directs the Office to determine whether the costs of the contract exceeded the benefits derived from the contract.

According to the RFP and the MBTA, by privatizing in-station customer service the authority sought to (1) save money by privatizing customer service and phasing out its customer service agent (CSA) role; (2) provide service in more MBTA stations by “engag[ing] the support of a specialized hospitality provider which has the scale of operations and experience required to offer more cost-effective customer service”; and (3) provide higher quality service and better assistance to riders with disabilities.⁵⁹

The ISAU determined that the contract resulted in overall cost savings but could not determine if the MBTA fully realized the benefits of the contract. The ISAU made three primary findings from its analysis: (1) the MBTA spent less on its contract for transit ambassadors than it would have spent for CSAs for the same level of in-station coverage; (2) the MBTA expanded in-station coverage by hiring Block by Block, but (3) the MBTA failed to assess whether the quality of services improved or if Block by Block provided better assistance to riders with disabilities.

Finding 14: The MBTA spent less on its contract for transit ambassadors than it would have spent on CSAs at the same level of in-station coverage.

Through privatization, the MBTA sought a cost-efficient means to provide expanded in-station customer service. The authority expected that transitioning customer service from CSAs to a third party would help the MBTA achieve its desired cost savings.⁶⁰ As part of its analysis, the ISAU reviewed in-house CSA costs and Block by Block’s service costs.

The ISAU examined how much it would have cost during each contract period if the MBTA had continued to employ CSAs to provide the same level of service hours that transit ambassadors performed.⁶¹ As described in the Expected and Actual Cost section of this report, Block by Block billed the MBTA monthly for transit ambassador services at an hourly rate. Accordingly, the ISAU compiled the total number of hours per contract period that Block by Block billed to the MBTA. Then the ISAU used MBTA payroll data to determine the average hourly rate for all active CSAs who worked during each contract period.⁶² Finally, the ISAU calculated the difference in cost.

⁵⁹ MASS. BAY TRANSP. AUTH., *RFP 41-17: In-Station Customer Service*, at 13 (2017).

⁶⁰ *Id.*

⁶¹ Amendment Two was excluded from this analysis because it did not specify an hourly rate.

⁶² The regular hourly rate for transit ambassadors included the base hourly wage, as well as additional built-in costs, such as overhead, benefits and local Block by Block supervision. Therefore, for an equal comparison with MBTA CSAs, the ISAU used the average fully loaded CSA hourly rate for each contract period in its analysis. A fully loaded rate is the regular hourly rate plus additional employment-related costs, such as benefits and employer-provided retirement. In 2017, an MBTA consultant

Figure 8 below outlines the total service hours provided by transit ambassadors, the corresponding amount that Block by Block invoiced (minus any applicable prompt payment discounts) and the projected cost had the MBTA employed CSAs to provide the same number of hours during each contract period.⁶³

Contract Period	Service Hours	Block by Block Invoiced Cost	CSA Regular Rate	Cost at CSA Regular Rate	Percentage Increase if MBTA Used CSAs
Initial Term	158,998.21	\$5,717,945	\$51.34	\$8,162,968	42.76%
Option Year One	273,617.74	\$9,542,968	\$52.25	\$14,296,527	49.81%
Option Year Two	277,461.86	\$9,529,985	\$53.07	\$14,724,901	54.51%
Option Year Three	312,382.37	\$10,713,062	\$54.81	\$17,121,678	59.82%
Amendment One	351,789.49	\$13,098,196	\$55.91	\$19,668,550	50.16%

Figure 8. Comparison of Transit Ambassador and Projected CSA Costs.

Figure 8 illustrates that over five years the MBTA would have spent, on average, 51.41% more to have CSAs provide in-station customer service at the same level of coverage (in hours) as transit ambassadors.

Finding 15: By contracting with Block by Block, the MBTA increased in-station coverage.

Through privatizing in-station customer service, the MBTA sought to provide customer service to riders in more stations and to increase weekend coverage over time. As of the issuance of the RFP in April 2017, CSAs provided 6,883 hours of weekly coverage across 58 stations.⁶⁴ The ISAU analyzed in-station coverage data from September 2022 to determine whether the MBTA met its in-station service and coverage goals by the end of the contract.

During September 2022, CSAs provided 1,503 hours of weekly coverage at 10 stations. In the same month, Block by Block's transit ambassadors provided 6,416 hours of coverage per week across 41 stations. CSAs and transit ambassadors jointly provided coverage at 26 MBTA stations. Figure 9 shows that the combined CSA and transit ambassador coverage provided the MBTA with 7,919 hours of weekly in-station customer service across 77 stations. Compared with pre-privatization, the MBTA provided more

calculated that in addition to CSA salaries, the MBTA paid 47.28% over salaried rates in additional employment-related costs. Therefore, to determine the fully loaded rate for CSAs, the ISAU multiplied the average regular hourly CSA rate by 1.4728.

⁶³ As discussed in this report's previous section on expected and actual costs, the MBTA and Block by Block negotiated contract rates that they did not memorialize in written and duly executed amendments to the contract. The ISAU used the actual costs as reflected on invoices for its comparison of the cost of the contract to the cost of CSAs.

⁶⁴ MASS. BAY TRANSP. AUTH., *Request For Proposals 41-17: In-Station Customer Service*, at 11 (2017).

than 1,000 additional hours of in-station customer service in 19 more stations under the contract with Block by Block.

	Pre-Privatization	Post-Privatization			
	CSAs	Stations with only TAs	Stations with only CSAs	Stations with TAs and CSAs	Total
Weekly Hours of Service	6,883 hours	4,556 hours	523 hours	2,840 hours	7,919 hours
Number of Stations	58 stations	41 stations	10 stations	26 stations	77 stations

Figure 9. Weekly Customer Service Coverage Pre- and Post-Privatization (September 2022).

The MBTA also met its goal of expanding in-station customer service on weekends. Before privatization, CSAs generally worked Monday through Friday. Block by Block's transit ambassadors provided coverage on Saturdays and Sundays, as well as weekdays.

Finding 16: Because the MBTA did not leverage available data, the ISAU could not determine whether transit ambassadors delivered improved customer service or better assistance to riders with disabilities.

Through privatizing in-station customer service, the MBTA sought to provide higher quality customer service and better assistance to riders with disabilities. Specifically, the MBTA thought it could leverage a vendor's technological capabilities to enhance service to MBTA riders by tracking and analyzing customer service interactions and requests for assistance.⁶⁵ Further, the MBTA desired to make stations more accessible to riders with disabilities.

Before privatization, the MBTA's technological capabilities for CSAs were limited to handheld radios and landline telephones, and the MBTA did not track customer interactions or most requests for assistance, such as maintenance reports.⁶⁶ Block by Block provided a significant upgrade in the technology capabilities used by its transit ambassadors compared to what the MBTA had provided its CSAs. The company issued iPads for use during service hours at each station and required transit ambassadors to record data in the company's proprietary SMART system. The SMART system included a variety of functions for real-time reporting and communicating with the MBTA. The MBTA reported that transit ambassadors used the SMART system daily to:

1. Report safety or station maintenance issues to the MBTA's Operations Control Center;
2. Document instances in which transit ambassadors provided assistance to MBTA customers;

⁶⁵ MASS. BAY TRANSP. AUTH., *RFP 41-17: In-Station Customer Service*, at 33 (2017).

⁶⁶ *Id.* at 43 (2017).

3. Report scheduled station checks, including elevator checks; and
4. Document any out-of-the-ordinary situations encountered in stations.⁶⁷

The ISAU reviewed data from the SMART system to verify its use and to understand the type of information that transit ambassadors recorded. The ISAU also reviewed how the MBTA used the data to improve riders' experience.

Block by Block transit ambassadors regularly recorded information in the SMART system. They included transit ambassadors' customer interactions, accessibility assistance, elevator checks, fare equipment assistance and reports of fare evasion. Block by Block provided the MBTA with access to the SMART system.

Although Block by Block provided the MBTA with access to the SMART system, the MBTA's Customer Experience Department reported that it did not use the system.

1. Quality of Customer Service

The ISAU was unable to evaluate whether the quality of customer service improved with Block by Block because the MBTA did not assess performance in this manner. Although Block by Block enabled the MBTA to provide customer service in more stations for more hours, as discussed in this report's Quality of Services section, the MBTA did not develop metrics to track and review Block by Block's performance.⁶⁸ Without that information, the ISAU could not determine whether the MBTA fully realized the benefit of the contract for improved quality of services.

Further, the ISAU found that the MBTA could have evaluated available data, recorded in the SMART system, to evaluate whether the quality of customer service improved. However, the MBTA Customer Experience Department reported that it did not use the SMART system.

The MBTA Vendor Management Department reported that it used the SMART system to compile statistical reports about transit ambassadors' customer interactions, accessibility assistance, elevator checks, fare equipment assistance and reported fare evasion. In the early years of the contract, the Vendor Management Department created monthly reports and then transitioned to quarterly reports. These reports outlined the quantity of actions in a statistical manner; however, the reports did not assess or provide information on the quality of the services provided.

The MBTA did not have a process in place to use the available data and information in the SMART system to evaluate the quality of services, improve riders' experiences or improve in-station customer service.

⁶⁷ Transit ambassadors could enter notes and photos to create an incident report if, for example, a rider left an unattended bag in a station. Incident reports could also serve as backup documentation in situations requiring police or emergency medical services.

⁶⁸ See the Quality of Services Analysis section of this report for more information about the challenges the ISAU encountered in evaluating the quality of customer service provided by transit ambassadors.

2. Accessibility for Riders with Disabilities

In 2006, in response to a class-action accessibility lawsuit, the MBTA entered into a comprehensive settlement agreement with the plaintiffs that outlined more than 100 provisions to improve accessibility throughout the MBTA system, including expansion of in-station customer service. The ISAU was unable to determine whether the contract with Block by Block made stations more accessible to riders with disabilities.

The MBTA did not assess available data to determine how well transit ambassadors performed their contractual obligations and thus could not demonstrate improved station accessibility.

The MBTA's director of systemwide accessibility told the ISAU that Block by Block's in-station customer service advanced the authority's efforts to comply with terms of the settlement agreement. However, the MBTA did not assess SMART system data to develop and utilize performance metrics to determine how well transit ambassadors met their contractual obligations. Because of that fact, the MBTA could not demonstrate that transit ambassadors actually improved station accessibility.

The MBTA was obligated to ensure "that appropriate MBTA personnel are available in order to assist all passengers with access."⁶⁹ The MBTA could have met this obligation through its contract with Block by Block. The data existed for the MBTA to evaluate whether Block by Block provided better, or more, accessibility for riders with disabilities.

Specifically, under the contract, transit ambassadors were responsible for access-related services: assisting riders with fare cards, sharing transit information, providing support during service disruptions, conducting routine checks of station cleanliness, and reporting safety concerns, such as slipping hazards and inoperable escalators. The MBTA also expected transit ambassadors to deploy bridgeplates to help riders with disabilities board trains.

During the contract, the MBTA did not analyze SMART system data or use performance metrics to determine how often transit ambassadors actually completed these tasks. The MBTA could have, but did not, collect, track or use SMART system data to assess whether it was complying with the terms of the settlement agreement to ensure the safety and accessibility of its stations to riders with disabilities.

Conclusion

By privatizing in-station customer service, the MBTA sought to save money, expand service to more stations, and provide quality customer service and assistance to riders with disabilities by using enhanced technology and real-time operational data.

⁶⁹ Settlement Agreement at 15, *Daniels-Finegold v. Mass. Bay Transp. Auth.*, No. 1:02-cv-11504-MEL (D. Mass. Apr. 14, 2006), <https://cdn.mbtta.com/sites/default/files/Accessibility/mbta-bcil-settlement-agreement-signed.pdf>.

While the MBTA realized cost savings and increased in-station coverage over the life of the contract, the authority did not develop performance metrics to assess service quality and could not demonstrate that it used data from Block by Block's SMART system to improve rider experiences. Both would have provided data on which to make a determination on whether the MBTA leveraged the contract's anticipated benefits.

Moreover, those shortcomings meant that the MBTA did not ascertain the extent to which transit ambassador services helped the MBTA achieve compliance with the 2006 class-action settlement agreement on station accessibility. If properly administered, the Block by Block contract could have improved accessibility. However, in the absence of robust and thoughtful data collection, data analysis and meaningful performance metrics, the MBTA could not calculate how frequently transit ambassadors assisted riders with disabilities or provided other types of assistance. Thus, as it stands, the ISAU could not determine whether the benefits the MBTA received under the Block by Block contract outweighed the actual costs.

AREAS FOR IMPROVEMENT AND RECOMMENDATIONS

While this review focused on one MBTA privatization contract, the contract extended over five years through multiple extensions and reached a value of approximately \$51 million. In examining the authority's contract with Block by Block, the ISAU identified deficiencies and areas for improvement in the MBTA's procurement practices, contract development, contract administration, vendor oversight and records retention practices that likely reflected standard MBTA procurement practices at the time of procurement. The ISAU also identified issues with the MBTA's federally funded procurement of in-station customer service at two new Green Line stations conducted toward the end of the contract period.

Accordingly, the ISAU takes this opportunity to highlight areas for improvements and makes recommendations for specific actions applicable to all MBTA procurements and contracts.

I. Procurement Practices and Contract Development

The MBTA must improve its procurement and contract development processes, as well as work to incorporate measurable performance metrics to delineate the expectations for deliverables in contracts.

First, the MBTA should strictly adhere to its procurement policies and procedures, including requiring appropriate management-level employees to approve and sign contracts and amendments. Such written approvals are especially important when the authority increases the original contract cost over multiple option years and contract amendments, as was the case with Block by Block. The MBTA should retain duly executed amendments with the original written contract and other relevant documentation.

Additionally, after issuing an RFP, awarding a contract and finalizing terms, the MBTA must memorialize the key terms in one fully integrated written contract to ensure that the authority receives the goods or services it needs for the agreed-upon price. Here, the MBTA and Block by Block used a three-page memorandum of agreement to designate various procurement documents – including the RFP, Block by Block's proposal and a pricing exhibit – as "the contract." The Office of the Inspector General strongly recommends the use of a fully integrated written contract that contains all key terms rather than bundling procurement documents to serve as the contract, especially for a contract that memorializes an agreement with the capacity to have a value of \$51 million. The fully integrated contract should include clear, comprehensive and well-defined scopes of work, deliverables, milestones, pricing and performance metrics.

As the authority stated in its 2016 report to the Legislature regarding the privatization waiver, "[c]ontracting out services does not guarantee effectiveness. Contract terms must be carefully

considered, and services must be monitored and administered effectively.”⁷⁰ The ISAU agrees. The MBTA must effectively manage contract development from beginning to end.

A. Procurement Practices

The MBTA developed a procurement manual to establish uniform procedures for the procurement of goods and services. Properly written and followed, procurement manuals can be a key factor in ensuring fair and competitive procurement processes that provide better value for government agencies.

With respect to following the manual, the MBTA should improve its compliance with its own procedures. The MBTA’s procurement manual requires the authority to complete an independent cost estimate for every procurement. An independent cost estimate provides a basis for determining whether a bid or proposal is reasonable, which is essential when only one or two vendors respond to an RFP. An independent cost estimate can also assist an agency in determining whether the expected benefits of a procurement outweigh the costs of the engagement. The MBTA informed the ISAU that it did not complete an independent cost estimate for its procurement of in-station customer service.

The MBTA told the ISAU that it did not believe that an independent cost estimate was required for this contract. The manual requires the MBTA general counsel to approve a waiver of the independent cost estimate in writing. The MBTA did not follow that process here. The MBTA should complete an independent cost estimate or obtain a written approval to waive the independent cost estimate for every procurement.

The MBTA’s procurement manual states that a procurement should be advertised for a reasonable time. The manual does not provide a minimum period, nor does it provide factors to assist in determining what constitutes a reasonable time for a given procurement. In the Block by Block procurement, the MBTA advertised for three weeks. This short period of time may not have given potential vendors enough time to prepare proposals, given the size and complexity of the contract. The MBTA should provide additional guidance in its procurement manual about what constitutes a reasonable time to advertise, taking into account the scope, cost and complexity of the procurement.

In addition, the manual requires the MBTA to include the criteria that will be used to evaluate technical proposals, including the relative importance of the technical criteria, in an RFP. Notice of the evaluation criteria provides a level playing field to potential respondents. In its review of responses to the in-station customer service RFP, the MBTA did not match its scoring sheet scale to the technical criteria listed in the RFP. Some of the technical criteria were scored on a scale of one to five, even though the RFP indicated that the criteria would be scored as a yes or no. The MBTA should ensure that it scores responses consistent with the criteria and scoring scale set out in its RFPs.

⁷⁰ MASS. BAY TRANSP. AUTH., *Fiscal and Management Control Board Annual Report to the Legislature*, at 4 (2016).

The MBTA can also improve its procurement manual by providing specific guidance about when and how procurements and contracts may be exempt from the standard processes. For example, while the MBTA's manual is based on many of the Federal Transit Administration's rules, the authority has stated that it can make exceptions to those rules. However, the manual does not provide clear and specific criteria or guidance about which rules apply to state-funded procurements and when and why the authority may deviate from standard processes that align with the FTA's rules. Without specifying when exemptions are permitted, staff may deviate from following all standard procurement rules without adequate controls, sign offs and approvals.

Recommendation 1: Comply with all procedures outlined in the MBTA's procurement manual:

- **Complete an independent cost estimate during the planning stage of all procurements.**
- **Consider a contract's size and complexity when determining how long to advertise a solicitation.**
- **When reviewing technical proposals, use the evaluative criteria listed in the RFP to assess the merits of each proposal.**

Recommendation 2: Address exemptions in the MBTA's procurement process:

- **Update the MBTA's procurement manual with specific guidance on when and how the MBTA may depart from the provisions of the procurement manual for procurements that do not involve federal funds, including the specific provisions of the manual to which this discretion applies.**
- **Document all exemptions from the provisions of the MBTA's procurement manual, including the justifications for such exemptions, for procurements that do not involve federal funds.**
- **Consider whether to adopt separate state and federal procurement policies.**

B. Contract Development

1. Approvals

Until 2021, the MBTA's governing board, the Fiscal and Management Control Board (FMCB), had to approve contracts valued at \$15 million or more. The FMCB delegated authority to the MBTA's general manager to approve certain contracts up to \$15 million.⁷¹

The initial term of the MBTA's contract with Block by Block was for one year, with an expected cost of \$4.1 million. Based on the expected cost, the MBTA was required to obtain the general manager's approval before executing the contract. Although the general manager signed the memorandum of

⁷¹ Joint Meeting with the MassDOT Board of Directors and Fiscal Management Control Board, *Meeting Minutes*, at 12 (September 16, 2019).

agreement with Block by Block, the MBTA could not show that he made the required preliminary approval.⁷²

Moreover, the FMCB's delegation of authority to the general manager to approve contracts was not absolute: "[A]ny change orders, extra work orders, and amendments to any such agreements or instruments that increase the initial contract amount above \$15 million" required approval of the FMCB.⁷³ By the end of the second year of the contract, Option Year One, the MBTA had paid Block by Block more than \$15.2 million and the MBTA planned to exercise its option for at least another year. Yet the MBTA did not then, nor at any time during the contract, request FMCB approval. By the contract's conclusion, the MBTA had spent nearly \$51.1 million without FMCB approval.

The MBTA failed at multiple levels to adhere to the FMCB approval process.

Recommendation 3: Obtain necessary approvals for the initial contract and subsequent options and amendments.

2. Contract Documents

After the MBTA selected Block by Block as the vendor, the parties signed a memorandum of agreement stating that the "contract" would consist of several documents, including, in order of precedence: any change orders or amendments; a 2017 pricing amendment; the MBTA's RFP and all documents attached therein; and Block by Block's response to the RFP. The MBTA did not include all key elements of a contract in the memorandum and the referenced documents did not adequately fill the gaps. Nor did the documents contain language about how the MBTA would be invoiced, which would have likely led the MBTA to contemplate overtime shifts and additional costs.

The MBTA did not include all key elements of a contract in the memorandum and the referenced documents did not adequately fill the gaps.

For every procurement – and particularly those that result in a contract with the potential to span multiple option years and cost tens of millions of dollars – the MBTA should develop a robust memorandum of agreement or fully integrated written contract that includes all incorporated contract elements, particularly the scope of work, contract pricing rates and vendor responsibilities. While the MBTA often outlines the scope of work in RFPs, it is possible that a successful bidder will not propose to meet all functions. Considering this, once the MBTA awards the contract, the MBTA should restate the expected scope of work in the memorandum of agreement to ensure that both parties understand the vendor's obligations and deliverables.

The MBTA should also enlist legal or technical staff to ensure that contracts include all key terms or that appropriate specifications (such as hourly, weekly or daily rates) are in place so that a contract

⁷² The ISAU did find that the general manager signed the memorandum of agreement for the initial contract term.

⁷³ Joint Meeting with the MassDOT Board of Directors and Fiscal Management Control Board, *Meeting Minutes*, at 12 (September 16, 2019).

pricing analysis can be completed and that each party understands the deliverables and exposure under the contract.

Recommendation 4: Develop a robust memorandum of agreement or fully integrated written contract that clearly spells out the entirety of the parties' agreement.

3. Performance Metrics

Service contracts should include service level agreements setting forth measurable performance metrics, with both reporting requirements and penalties for nonperformance. Well-drafted performance metrics tell the vendor exactly what the expectations are for deliverables. Required periodic reporting enables the parties to evaluate performance and identify deficiencies. Penalties discourage poor performance or nonperformance.

The MBTA told potential bidders in the RFP that it would create service level agreements with performance metrics.⁷⁴ The MBTA anticipated that the resulting contract would use a combination of metrics in the areas of customer service, safety and data reporting. Despite its clearly stated intent, the MBTA did not establish any performance metrics in the initial or option contracts to measure the quality of Block by Block's services and track deficiencies. While the MBTA could use data to determine the *quantity* of services – such as the number of elevator checks or interactions with riders – the authority did not establish metrics for measuring the *quality* of the services delivered, which was problematic considering that improving quality was a goal underlying the privatization contract.

The MBTA entered into a new contract with Block by Block for in-station customer service in 2022. The new contract contains service level agreements with performance metrics. The MBTA should use the data it collects to ensure that Block by Block is providing a high quality of service and institute penalties for nonperformance.

Recommendation 5: Include measurable and realistic performance metrics and penalties for nonperformance in contracts to ensure adequate vendor oversight.

Recommendation 6: Monitor Block by Block's performance against the metrics in the 2022 contract to evaluate the company's services. Use financial penalties, as appropriate, to promote accountability and higher levels of service.

II. Contract Administration and Oversight

The Federal Transit Administration defines contract administration as the post-award administration of the contract to ensure compliance with the terms of the contract. An agency's responsibility to protect public funds extends beyond the procurement and contract award process. Throughout the contract period, agencies must actively oversee and evaluate the company's performance and ensure that the government receives all goods and services at the agreed-upon price and quality.

⁷⁴ MASS. BAY TRANSP. AUTH., *RFP 41-17: In-Station Customer Service*, at 54 (2017).

In its 2017 report to the Legislature, the MBTA recognized the importance of careful contract oversight. There, the MBTA stated that “[f]ailing to properly manage an outside vendor is as much of a failure as failing to properly manage an internal operation” and that “[i]t is critical that the MBTA continue to carefully monitor these [privatization] contracts for compliance and performance.”^{75,76}

In light of the numerous issues the ISAU has identified in its review of the MBTA’s privatization contracts, the ISAU is encouraged by comments from the current MBTA senior management about its commitment to improving contract administration and appropriately overseeing vendor performance. The ISAU highlights the following areas for improvement arising from its review of the Block by Block contract.

A. Contract Administration

It is essential that the MBTA establish clear internal responsibility for monitoring and enforcing each contract. The ISAU’s review revealed that MBTA employees did not have a clear or consistent understanding of each department’s responsibility for the Block by Block contract administration and oversight. The MBTA’s Procurement Department reported that Customer Experience served as the primary contract administrator and oversaw the contract. But Customer Experience reported to the ISAU that Vendor Management (a group within the MBTA’s Procurement Department) was responsible for evaluating transit ambassadors’ performance. Yet, Vendor Management employees reported that they were not involved in overseeing Block by Block’s performance or service, and they believed that Customer Experience was responsible for all vendor oversight.⁷⁷

Customer Experience relayed to the ISAU that they attended meetings with Block by Block, on a monthly and as-needed basis, to discuss plans, changes and concerns. They also worked with Block by Block managers on a daily basis via phone and email. However, the MBTA did not indicate to the ISAU that they held meetings with Block by Block for the purpose of formally evaluating the company’s performance.

As a result of its failure to clearly assign responsibility for contract administration and oversight, the MBTA did not ensure that it collected all of the data points necessary to evaluate Block by Block’s

⁷⁵ MASS. BAY TRANSP. AUTH., *Annual Report to the Legislature: Waiver from Provisions of Sections 52-55 of Chapter 7 of Massachusetts General Laws*, at 6 (2017).

⁷⁶ *Id.* at 24 (2017).

⁷⁷ In February 2021 – close to four years after the contract began – Customer Experience hired field coordinators to visit stations and assess transit ambassadors’ performance. Field coordinators documented their observations in written reports. The reports were not detailed enough to provide meaningful analysis of transit ambassadors’ performance. In December 2021, Customer Experience started some reviews of service, such as rider complaints and commendations about transit ambassadors and the frequency of elevator checks by transit ambassadors. Customer Experience also began observing Block by Block’s training of transit ambassadors.

performance, it did not use the information that was collected to measure and improve services, and it did not have controls in place to ensure that contract rates were negotiated and properly approved.

Recommendation 7: Establish clear internal responsibility for monitoring and enforcing contracts.

B. Contract Oversight

The MBTA failed to follow through on many of the oversight functions that were contained in the RFP and incorporated into the contract.

1. Third-party audits.

Under the contract, the MBTA was to engage a third-party secret shopper program to audit transit ambassador performance. It did not do so. When Block by Block initiated a third-party secret shopper audit program for its own internal reviews more than four years after the contract began, the MBTA did not request the secret shopper reports. It was also not clear that the Block by Block secret shopper program would have had the same goals as the MBTA secret shopper program.

2. Performance metrics.

As previously discussed, the MBTA failed to create service level agreements under the contract with performance metrics and penalties for nonperformance. Without performance metrics, the MBTA did not have the foundation to measure the quality of Block by Block's performance.

3. Standard reporting.

Block by Block failed to provide, and the MBTA failed to request, standard reports about customer service, safety and security that were contemplated in the contract. The MBTA could have used these reports to assess the company's performance. At no time did the MBTA raise the issue of the missing reports with Block by Block.

Since the ISAU began this review, the MBTA has made efforts to improve its contract administration and oversight by adding performance metrics to new contracts, including its October 2022 contract with Block by Block for in-station customer service. The MBTA also includes financial penalties for noncompliance. The ISAU recommends that the MBTA ensure that it uses the data collected to assess contract performance.

Recommendation 8: Include oversight mechanisms in contracts and leverage those provisions to better assess vendor performance.

C. Contract Rates

The ISAU attempted to verify whether Block by Block charged the correct contract rates for transit ambassador services throughout the life of the contract. As shown in Figure 1, the MBTA's initial contract with Block by Block was extended over five years through three options and two amendments. The ISAU

asked both the MBTA and Block by Block for documents showing the agreed upon hourly rates for each contract period. Neither could provide complete documentation.

The MBTA provided documents showing the regular hourly rates for four of the six contract periods and an overtime hourly rate for one contract period. Block by Block provided documents showing the regular hourly rates for only three of the six periods.

The ISAU compared the rates Block by Block charged on its invoices with the rates memorialized in the initial contract, options and amendments. Throughout the life of the contract, Block by Block charged rates that were different from the memorialized rates. For example, during the initial contract term, the parties agreed that Block by Block would charge six different rates based on the number of stations where it provided transit ambassador coverage. The ISAU found that Block by Block charged only one of these rates during the initial contract term. Block by Block charged 10 other rates not documented in the contract, addendums or other official change records. In addition, throughout the life of the contract Block by Block charged the MBTA overtime rates, although neither the initial contract nor the options or amendments (except for Option Year Two) included overtime hourly rates.

The parties told the ISAU that they negotiated the rate changes throughout the contract. Still, the MBTA did not memorialize these changes in amendments, nor did it document who approved the higher rates. It is a fundamental contract administration practice to memorialize rates in order to properly review and approve invoices. Without a practice of checking the invoiced costs against the contracted rate, the MBTA could not detect negligent or intentional overbilling.

The MBTA should treat renegotiating rates as an exception, as a contract should be designed to reflect the anticipated circumstances during its term. In the rare instance that an amendment is needed, it must be properly and formally executed and it must provide benefit to the MBTA. The risks in failing to do so are two-fold: (1) the MBTA jeopardizes fair and open competition if a vendor can increase rates during the course of a contract without negotiating; and (2) the MBTA lacks control over who approves rate increases, which impacts the budget and leaves open the door to fraud, waste and abuse.

Recommendation 9: Obtain and document internal approval to renegotiate contract rates.

Recommendation 10: Use available data to more accurately estimate costs for not-to-exceed cost contracts.

The ISAU also identified problems with the MBTA's administration of the Commonwealth's prompt payment discounts (PPD). In accordance with the PPD form signed by both parties, if the MBTA paid an invoice within 30 days of the invoice date, it would receive a 0.5% discount on the amount owed to Block by Block.

During the contract period, Block by Block submitted 117 invoices to the MBTA for payment.⁷⁸ The MBTA applied the PPD to 60 of the 117 invoices, resulting in a total discount of \$196,047. But for 13

⁷⁸ Block by Block submitted two additional invoices to the MBTA during the contract period; however, they were for reimbursements and the ISAU did not include them in its analysis.

of the 60 invoices, the MBTA applied the PPD in error since the MBTA paid more than 30 days after the invoice date. Therefore, the MBTA should not have received \$27,478, or 14%, of the discounts it received.

Conversely, the MBTA failed to apply the PPD to 21 invoices that were paid within 30 days. If the MBTA had appropriately applied the PPD to these 21 invoices, the authority would have saved an additional \$29,943 during the life of the contract.

Recommendation 11: Request and receive training from the Comptroller's Office on best practices for applying the prompt pay discount.

III. Records and Information Retention

The MBTA must improve its records management and retention to comply with state laws and regulations. During the ISAU's review of the Block by Block and other contracts under Chapter 46, the MBTA could not locate relevant documents. For example, the MBTA could not produce documents from the price evaluation process during vendor selection. This failure to properly manage and retain records hampered the ISAU's ability to fully determine whether the MBTA's procurement process was fair and competitive. On other occasions, the ISAU had to make multiple requests for items before the MBTA produced responsive documents.

The MBTA's record management and retention practices are troubling (1) because the MBTA is subject to the state record retention schedule and (2) because the MBTA knew in advance that these specific contracts would be reviewed by the Office pursuant to the waiver.⁷⁹

Recommendation 12: Provide training to employees on state record retention schedules and maintain documents in a central procurement or contract file to allow for prompt and complete production.

IV. Federal Procurement

In February 2022, the MBTA requested that Block by Block provide in-station customer service at two new stations on the Green Line extension project from March 1, 2022, through August 1, 2022. The MBTA largely funded the Green Line extension with federal monies and used federal funds to pay for transit ambassadors' services at these stations. Because the MBTA had originally procured in-station customer services in 2017 using state funds, the authority needed to conduct a new procurement to use federal dollars for in-station customer service at the two Green Line stations.

The MBTA reported to the ISAU that it conducted a federal sole-source procurement and used federal funds to expand service to the two stations under the existing Block by Block contract. The MBTA

⁷⁹ Section 196 of Chapter 46 of the Acts of 2015 clearly states that the Office must review four specific areas of all privatization contracts executed by the MBTA pursuant to the 2015 Taxpayer Protection Act waiver. In addition, the contract with Block by Block is the third privatization contract reviewed by the ISAU in the past year. The ISAU expected the MBTA to retain and produce all relevant documents (1) because the MBTA is subject to the state retention schedule, and (2) because this procurement was conducted pursuant to the privatization waiver, an essential piece of which was the post-contract review by the Inspector General.

also provided the ISAU with documents that it claimed fulfilled the MBTA's obligations for a federal sole-source procurement, including a sole-source justification form, cost analysis form and federal terms-and-conditions document signed by Block by Block. The MBTA also shared the relevant purchase order the MBTA issued for the additional services.

The MBTA and Block by Block fully executed the documents only after Block by Block had already provided most, if not all, of the federally funded services at the new stations.⁸⁰ And although Block by Block started providing services at the two new stations in March 2022, the MBTA did not issue the purchase order for those services until June 21, 2022, more than four months after performance began.

The MBTA must ensure that it fully and properly adheres to federal and state procurement laws, regulations and best practices.

Recommendation 13: Ensure that the parties execute all documents prior to commencing performance.

Recommendation 14: Ensure that federal procurement requirements are fully met prior to engagement or execution; provide full, complete information to oversight agencies including the FTA, the OIG and the ISAU.

⁸⁰ According to invoices, Block by Block's federally funded services began in March 2022 and ended in July 2022. Block by Block did not sign the cost analysis form until May 9, 2022, and federal terms and conditions form on August 12, 2022. The MBTA did not sign the federal terms and conditions until August 24, 2022. The MBTA did not fully execute the sole-source justification form necessary for the procurement until August 31, 2022.

CONCLUSION

By privatizing in-station customer service, the MBTA sought to expand coverage in stations, become more cost efficient, leverage technology to provide real-time access to in-station service data, and make stations more accessible to riders with disabilities. During the contract period, the MBTA increased the number of customer service hours and stations covered and expanded weekend service hours. By hiring Block by Block, the MBTA also gained access to real-time reporting and notifications from stations through the company's SMART system.

However, the MBTA's failure to implement performance metrics made it impossible to assess the quality of Block by Block's customer service or determine if the real-time reporting was effective in improving services. The lack of metrics also made it impossible to determine whether the contract aided the MBTA in meeting the terms of its 2006 settlement agreement regarding accessibility.

The MBTA's failure to implement performance metrics made it impossible to assess the quality of Block by Block's customer service, or to determine if the real-time reporting was effective in improving services. The lack of data also made it impossible to determine whether the contract aided the MBTA in meeting the terms of its 2006 settlement agreement regarding accessibility.

Of particular note, in October 2022, the MBTA entered into a second contract with Block by Block for in-station customer service. The MBTA must oversee and manage its oversight and management of this new contract by documenting all negotiated billing rates in the contract, monitoring performance and holding Block by Block accountable if it does not meet requirements in the new contract.

To determine the MBTA's cost savings under the contract, the ISAU evaluated the hourly pay rates for Block by Block's service compared to the MBTA's transit ambassadors. On average, if the MBTA had provided the same level of in-station coverage with its own CSAs, the CSA regular service rate would have been 51.41% higher than Block by Block's hourly rate. Although privatization increased the coverage of customer service and Block by Block provided these services at a lower hourly rate, the ISAU found that the actual cost of the contract exceeded the expected costs by nearly \$5.37 million. Because the contract did not include all agreed-upon hourly rates, the ISAU could not complete an in-depth cost and invoice analysis to determine whether Block by Block appropriately charged the MBTA.

While privatization succeeded in saving money for the MBTA on a same-coverage-level basis, the absence of performance metrics in the MBTA's contract hindered the ISAU's ability to determine the overall success or failure of its other stated goals. The MBTA must strengthen its vendor management with the new 2022 Block by Block contract and with all of its contracts systemwide.

Because the contract did not include all agreed-upon hourly rates, the ISAU could not complete an in-depth cost and invoice analysis to determine whether Block by Block appropriately charged the MBTA.

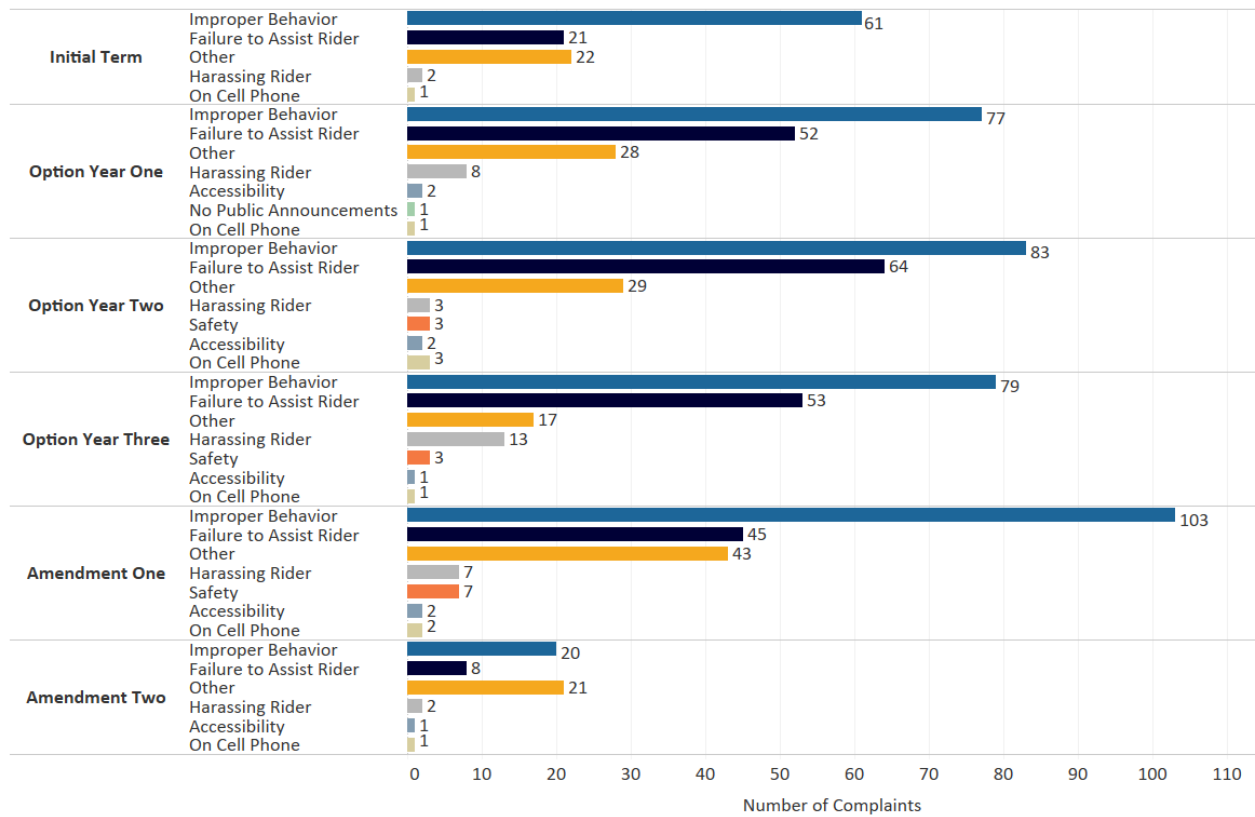
Throughout its review, the ISAU identified opportunities for the MBTA to strengthen its procurement, contract development, contract administration, vendor oversight and records retention practices.

At a minimum, the Office recommends that the MBTA adopt the following practices that were identified as missing or incomplete in the Block by Block procurement and contract:

1. Comply with all procedures outlined in the MBTA's procurement manual, including the provisions on independent cost estimates and technical evaluations.
2. Update the MBTA's procurement manual with specific guidance on when and how the MBTA may depart from the provisions of the procurement manual for procurements that do not involve federal funds, including the specific provisions of the manual to which this discretion applies.
3. Obtain necessary approvals for initial contracts and subsequent options and amendments.
4. Develop a robust memorandum of agreement or fully integrated written contract that clearly spells out the entirety of the parties' agreement.
5. Include measurable and realistic performance metrics and penalties for nonperformance in contracts to ensure adequate vendor oversight.
6. Monitor Block by Block's performance against the metrics in the 2022 contract to evaluate the company's services. Use financial penalties, as appropriate, to promote accountability and higher levels of service.
7. Establish clear internal responsibility for monitoring and enforcing contracts.
8. Include oversight mechanisms in contracts and leverage those provisions to better assess vendor performance.
9. Treat renegotiating contract rates as an exception, understand how the change benefits the MBTA, and obtain and document the necessary approvals.
10. Use available data to more accurately estimate costs for not-to-exceed cost contracts.
11. Request and receive training from the Comptroller's Office on best practices for applying the prompt payment discount.
12. Provide training to employees on state record retention schedules and maintain documents in a central procurement or contract file to allow for prompt and complete production.
13. Ensure that the parties execute all documents prior to commencing performance.

14. Ensure that federal procurement requirements are fully met prior to engagement or execution; provide full, complete information to oversight agencies including the FTA, the OIG and the ISAU.

APPENDIX A: RIDER COMPLAINTS BY CONTRACT PERIOD



APPENDIX B: NET COST DIFFERENTIAL

The ISAU calculated that over the life of the Block by Block contract, the MBTA paid \$898,080 more than it would have paid if the parties had abided by the rates established in the contract.

Contract Period	Number of Hours Billed at Non-Contract Rates	Differential
Initial Term	70,892.15	(\$91,656)
Option Year One	No contract rate	Unknown
Option Year Two	32,549.05	\$31,512
Option Year Three	226,423.37	\$94,905
Amendment One	301,307.00	\$863,319
Amendment Two	N/A (Daily rate)	N/A
Net Differential		\$898,080