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**DOI AND NYC COMPTROLLER ANNOUNCE FINDINGS AND RECOMMENDATIONS REGARDING
NYC BOARD OF ELECTIONS' PROCUREMENT AND OVERSIGHT OF FOR-HIRE VEHICLE SERVICES
—BOE's car service spending increased by approximately \$3.4 million since 2014—**

Jocelyn E. Strauber, Commissioner of the New York City Department of Investigation ("DOI"), and New York City Comptroller Brad Lander announce the findings of their offices' separate inquiries into the New York City Board of Elections' ("BOE") spending on for-hire vehicle ("FHV") services. BOE uses FHV services to transport personnel, equipment and supplies between BOE sites on election day and early voting days and to transport BOE employees home at certain times. BOE pays for FHV rides with City funds through contracts with several companies. BOE's spending on FHV contracts increased over 210% since 2014, from \$1.6 million in 2014, to \$5 million in 2023. The BOE indicated that this increase is due to reasons including the addition of early voting in 2019 and the increased number of special elections required by state law. DOI and the City Comptroller's Office identified weaknesses in BOE's procurement, contracting, and oversight processes that led to an increased risk of unnecessary spending and more than \$86,000 in charges that were not permitted contractually, but were nevertheless paid by BOE. The Report issued three recommendations to BOE to improve these processes. The Report is attached to this release and can be found on DOI's and the NYC Comptroller's websites.

DOI Commissioner Jocelyn E. Strauber said, "The flaws in the City Board of Elections' procurement, contracting, and oversight practices related to for-hire vehicle service contracts identified in this joint Report pose a risk of waste of public funds through potential unchecked overbilling as well as excess spending. The recommendations we issue today call for changes intended to strengthen BOE's procurement policies and oversight of expenditures by these contractors. I thank Comptroller Lander for his partnership in this effort to protect public funds."

New York City Comptroller Brad Lander said, "The Board of Elections has not judiciously overseen its spending on for-hire vehicle services, as evidenced in the more than \$86,000 in charges that were not permitted contractually and still paid by BOE. My office and DOI successfully identified the BOE's overspending on for-hire vehicles and offered common-sense recommendations to enhance procurement practices and improve oversight. I thank Commissioner Strauber and my office's auditors for diligently digging through BOE's records to uncover this clear-cut case of mismanagement."

BOE is responsible for all local, state and federal elections in the City. In Fiscal Year 2023, BOE managed an annual budget of approximately \$258 million, and was comprised of 10 board members and 860 full-time and full-time equivalent employees. During the administration of elections, BOE also hires thousands of temporary workers to operate over 1,200 election day poll sites across the City. For the nine days of early voting before the November 2023 general election, BOE also operated 140 early voting poll sites. Because poll sites are open to voters from 6 a.m. to 9 p.m. in general and primary elections, poll workers may arrive at sites as early as 5 a.m. and leave well after 9 p.m., depending on the time necessary for polls to close and results to be reported.

BOE contracts with City Taxi and Limousine Commission-licensed FHV providers for election day, early voting and after-hours transportation, offering drivers and vehicles such as taxis, livery cars, limousines, and black cars.

DOI's investigation focused on BOE's dealings with seven FHV providers from 2017 through 2021. Charge and Ride, Inc.; Concord Limousine 1, LLC; Corporate Transportation Group; Elite Limousine Plus; Executive Charge, Inc.; First Class Car & Limo; and VIP Connection, Inc.

DOI referred the investigation to the City Comptroller's Bureau of Audit. The Comptroller identified more than \$86,000 in charges that were not permitted by the terms of the contract, but were nevertheless paid by BOE.

DOI's investigation and the City Comptroller's examination identified weaknesses in BOE's contract oversight and procurement of FHV services, including:

- Inadequate BOE oversight of its FHV contracts, as evidenced by a for-hire vehicle provider that charged BOE more for its services than the terms of its contract with BOE allowed.
- BOE's failure to require FHV vendors to account for key trip costs in their bids, including destination and "drop off" fees, resulting in artificially low contract bids and awards that did not reflect the true costs of the services for which BOE had contracted.

DOI's and the City Comptroller's combined reviews determined that BOE failed to account for anticipatable costs when purchasing FHV services, and then failed to adequately oversee those contracts to ensure the FHV providers submitted invoices consistent with the contract terms. DOI and the City Comptroller issued the following three recommendations. BOE's responses follow each recommendation:

- 1: BOE should review all of its FHV contracts to identify potential overbilling and other disallowed costs. To the extent that it identifies any such costs, BOE should take all necessary steps to recoup or offset their value from the appropriate vendors.**
BOE "agrees to the extent possible."
- 2: BOE should review and amend all existing FHV contracts to account for likely, anticipatable, or otherwise expected costs, including at minimum: (a) City destination-based rates, including a maximum rate for any City destination not specified in the Invitation for Bids; and (b) drop-off fees.**
BOE "agrees, except to the extent that some of these contracts have expired." However, DOI and the Comptroller reiterate that their recommendation relates only to "existing FHV contracts."
- 3: For all future procurements of goods and services, BOE should require bidders to account for likely, anticipatable, or otherwise expected costs as part of their overall bid price, and explicitly inform bidders that costs not in agreement with their bids will be disallowed and subject to reimbursement or offset.**
BOE "agrees to the extent possible."

At the City Comptroller's Office, the review was conducted by Audit Manager Amy Man, Supervisor Charlotte Wong, Lead Auditor Paul Chan, and Staff Auditor Richard Avellino, and was supervised by Deputy Comptroller for Audits Maura Hayes-Chaffe.

At DOI, the investigation was conducted by Investigative Attorney Edward Pruette, Deputy Inspector General Trenton Sweeney, and Deputy Inspector General/Special Counsel Daniel Kacinski, and was supervised by Senior Inspector General Andrew Sein, Deputy Commissioner of Strategic Initiatives Christopher Ryan and Deputy Commissioner/Chief of Investigations Dominick Zarrella.

DOI is one of the oldest law-enforcement agencies in the country and New York City's corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI's strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.

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New York City
Department of Investigation



Office of the
New York City Comptroller



DOI and NYC Comptroller Report Concerning Contracting of For-Hire Vehicle Services by the NYC Board of Elections

Jocelyn E. Strauber
Commissioner of the New York City Department of Investigation

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July 2024

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I. Executive Summary

Each election, the New York City Board of Elections (“BOE”) is responsible for operating as many as 1,200 poll sites across the City of New York (the “City”).ⁱ In a City-wide election, BOE deploys its employees and tens of thousands of temporary poll workers to staff those sites, who may need to arrive as early as 5 A.M. and leave after midnight.ⁱⁱ BOE relies on for-hire vehicles (“FHV”)—such as “black cars” and other hired transportation—to transport employees and poll workers, as well as equipment and supplies, on election day and early voting days. At certain times, BOE employees can also travel from BOE sites to their homes using for-hire vehicles. These for-hire vehicle rides are paid for by BOE with City funds. To provide those services, BOE contracts with several companies. BOE’s spending on FHV contracts has increased in recent years, from approximately \$3 million in 2018 to approximately \$5 million in 2023.

In November 2019, the New York City Department of Investigation (“DOI”) opened an investigation of BOE’s for-hire vehicle usage. DOI’s investigation focused on BOE’s dealings with seven FHV providers from 2017 through 2021: Charge and Ride, Inc., Concord Limousine 1, LLC, Corporate Transportation Group, Elite Limousine Plus, Executive Charge, Inc. (“Executive”), First Class Car & Limo, and VIP Connection, Inc.¹ The Office of the New York City Comptroller (the “Comptroller”) conducted its own examination of FHV spending by BOE in coordination with DOI. The Comptroller examined 2,153 trip vouchers valued at \$216,891, submitted to BOE in connection with four invoices for payment between 2018 and 2021 by one FHV provider, Executive, to determine its compliance with its contract with BOE. Through that review, the Comptroller identified more than \$86,000 in charges that were not permitted by the terms of the contract, but were nevertheless paid by BOE. Among other steps, the Comptroller interviewed Executive officials, reviewed the applicable Executive-BOE contract and rate book, and analyzed costs billed by Executive versus the rates specified in the applicable contract and rate book. DOI’s investigation and the Comptroller’s review both sought to examine BOE’s spending on for-hire vehicles and propose recommendations to minimize the risks of waste, fraud, abuse, or other potential misconduct.

This Report summarizes the findings of DOI’s investigation and the Comptroller’s examination. Both reviews identified weaknesses in BOE’s

¹ This report is the product of a coordinated effort by two agencies that each conducted its own complex review of this program. DOI’s investigation spanned a lengthy period due to difficulties in obtaining complete records relating to the FHV program and DOI’s resource limitations during the period in which this investigation was conducted.

procurement, contracting, and oversight processes that may have led to unnecessary spending. These weaknesses included:

- Inadequate BOE oversight of its for-hire vehicle contracts, as evidenced by a for-hire vehicle provider that charged BOE more for its services than the terms of its contract with BOE allowed.
- BOE's failure to require for-hire vehicle providers to account for key trip costs in their bids, including destination and "drop off" fees, resulting in artificially low contract bids and awards that did not reflect the true costs of the services for which BOE had contracted.

As noted above, the Comptroller's review of \$216,891 in trip vouchers from Executive identified more than \$86,000 in charges that were not permitted by the terms of the contract, but were nevertheless paid by BOE. The Comptroller's sample was not randomized. The Comptroller's review was prompted by a referral from DOI, and the Comptroller reviewed one invoice per calendar year from 2018 through 2021, selecting the invoice with the highest billing amount for each year. Therefore, the results of the Comptroller's review are not an appropriate basis on which to estimate the total amount of overbilling for Executive, or any other for-hire vehicle provider.

However, if similar error rates were found in the \$817,905 in invoices that Executive submitted to BOE, the total overpayment would be significantly higher. Furthermore, the flaws in BOE's oversight of for-hire vehicle provider billing more generally create a risk that, were providers to overbill, BOE would be unaware of that overbilling. Similarly, the flaws in the bidding process for for-hire vehicle providers may result in certain rates and fees that, while consistent with the contracts, are unnecessarily high.

Based on these findings, DOI and the Comptroller issued several recommendations to BOE, including measures designed to improve the contract solicitation and procurement process, and to enhance BOE's contract oversight.

II. Background

A. The Board of Elections and Poll Site Operations

The BOE is responsible for all local, state, and federal elections in the City.ⁱⁱⁱ While BOE was created as a function of New York State Election Law, BOE is funded by the City and its staff are City employees.^{iv} Its responsibilities include voter registration, voter outreach and education, administration of all elections, and certification of the results of those elections.^v

In Fiscal Year 2023, BOE had an annual budget of approximately \$258 million, and was comprised of 10 board members and 860 full-time and full-time equivalent employees.^{vi} For the administration of elections, BOE also hires thousands of temporary election workers to operate over 1,200 election day poll sites across the City.^{vii} For the nine days of early voting before the November 2023 general election, BOE also operated 140 early voting poll sites, staffed by poll workers.^{viii}

Poll sites in the City are open to voters from 6 A.M. to 9 P.M. in general and primary elections.^{ix} To accommodate these times, poll workers may need to arrive at sites by 5 A.M. and leave after 9 P.M., depending on the time necessary for polls to close and results to be reported.

B. BOE Purchases For-Hire Vehicle Services

Since at least 2009, BOE has contracted with different FHV providers for two main types of services.² One, BOE contracts for FHV services on election days and during the early voting period to transport staff, equipment, and supplies between BOE sites across the City as needed. As BOE stated in a 2017 invitation for bids for election day FHV service: “In order to achieve the Board’s mandate, it is imperative that the Board have transportation services expressly for the Board’s sole use.”

Two, BOE also contracts for “after-hours” transportation for staff. According to the Board, its staff members who “work[] beyond certain hours are permitted to utilize the services of [FHVs] for transportation[] from the Board to their homes within the five boroughs of [the] . . . City.” BOE representatives informed DOI that this service is available for the use of BOE employees only, not temporary poll workers. BOE identified Comptroller’s Directive 6 as the authority for providing this after-hours transportation. Directive 6 states, in relevant part, that it “may be appropriate” to provide taxi transportation under certain circumstances, including when “travel is required outside the normal operating hours of Public Mass Transit . . . or when Public Mass Transit is deemed to be inappropriate or is unavailable.”^x

BOE currently has four contracts for FHV services with three providers.

The City’s Procurement Policy Board Rules (“PPB Rules”) require that purchases by City agencies generally be made using competitive sealed bidding, except in specific circumstances not applicable to the FHV contracts.^{xi} In a competitive sealed bidding process, agencies must issue an invitation for bids (“IFB”) setting out, among other things, the goods or services to be purchased, the process for submitting bids, and the agency’s method for bid evaluation.^{xii}

² FHV services refer to vehicles with drivers, such as taxis, livery cars, limousines, black cars, and other similar services, and are so licensed with the City’s Taxi and Limousine Commission.

BOE has issued several IFBs for FHV procurements since 2009. The agency's IFBs indicate that the agency has sought to enter into standing contracts so that it could hire FHVs "as required[, with] no minimum amount of trips" to be ordered. The IFBs further set out all of the contracts' required terms, such as licensing requirements, anticipated response times for vehicles, and billing requirements.

The BOE's IFBs also required that providers bid on designated contract components using mathematical formulas included in bid tables. Barring certain exceptions, the IFBs specified that the contract would be awarded to the lowest "responsible" bidder that met the requirements and criteria of the IFB. Once awarded, the successful bidder's total bid price became the total amount that BOE would pay under the contract without seeking a renewal.

The IFBs set out invoicing requirements. For election day and early voting contracts, FHV drivers filled out signed timesheets certifying hours worked and submitted them to BOE clerks, who then signed the timesheets. Election day and early voting providers then invoiced BOE for the total number of hours worked over a given period, plus tolls. The timesheets allowed BOE to verify that the provider billed for the correct number of hours.

By contrast, after-hours FHV providers, which were contracted to take employees home from BOE sites, billed BOE based on distance traveled. For these contracts, providers first provided BOE with blank vouchers, which BOE then distributed to employees. For each ride, one voucher was used, no matter the number of passengers in the car. Drivers filled out the vouchers with passenger and destination information. Then, after-hours providers compiled the vouchers and added up the charges to generate an invoice for a given period of time. BOE contract managers used the invoices and vouchers to verify that providers billed in accordance with the contracts.

If providers billed incorrectly—*e.g.*, by using incorrect fare rates, or charging for disallowed services, such as trips outside of the City—BOE contract managers were supposed to contact the provider to have the invoice revised in accordance with the contract terms, in order to ensure that BOE pay only what was owed.

C. Origin and Scope of DOI's Investigation and the Comptroller's Review

In November 2019, DOI opened a proactive investigation of BOE's FHV contracting, procurement, and spending. In coordination with DOI's investigation, the Comptroller conducted a review of certain payments to one of BOE's FHV contractors. DOI's investigation and the Comptroller's review both sought to examine BOE's spending on for-hire vehicles and propose recommendations to minimize the risks of waste, fraud, abuse, or other potential misconduct.

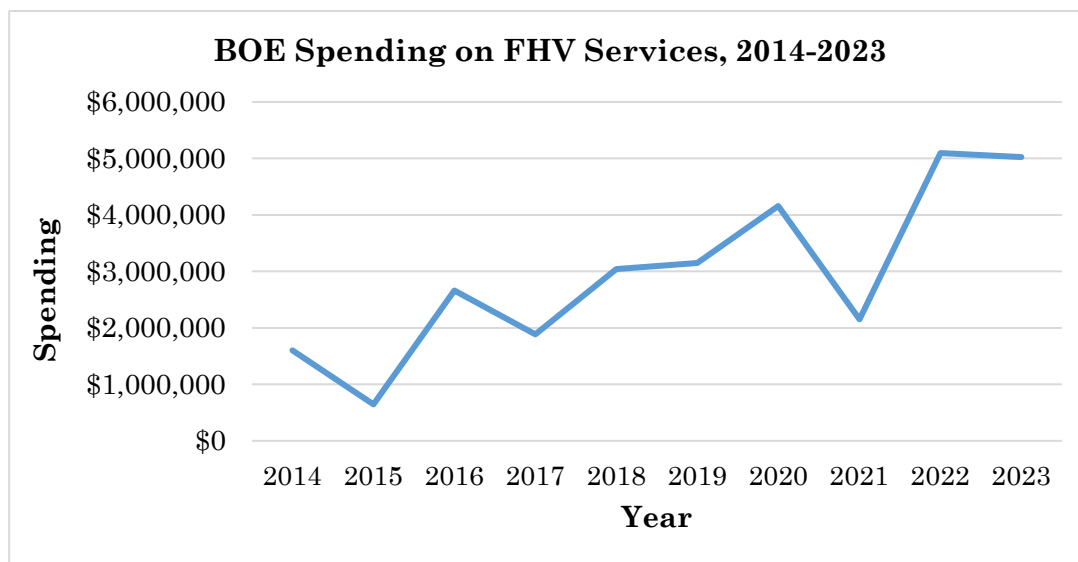
As part of its investigation, DOI took a number of investigative steps, including among others: obtaining and reviewing relevant documents and financial data from BOE, the City Financial Management System (“FMS”), and the City Procurement and Sourcing Solutions Portal (“PASSPort”) for the years 2014 through 2023; conducting interviews of BOE officials; and conducting an examination of FHV vouchers and invoices. As noted, DOI’s investigation focused on BOE’s dealings with seven FHV providers from 2017 through 2021: Charge and Ride, Inc., Concord Limousine 1, LLC, Corporate Transportation Group, Elite Limousine Plus, Executive Charge, Inc. (“Executive”), First Class Car & Limo, and VIP Connection, Inc.

Also as noted, the Comptroller conducted its own examination of FHV spending by BOE. In its review, the Comptroller examined 2,153 trip vouchers valued at \$216,891, submitted by one FHV provider, Executive, between 2018 and 2021, to determine their accuracy. Among other steps taken, the Comptroller interviewed Executive officials, reviewed the applicable Executive-BOE contract and rate book, and analyzed costs billed by Executive versus the rates specified in the applicable contract and rate book.

III. Findings

A. BOE’s Spending on FHV Contracts Increased From 2014 to 2023

DOI determined that BOE’s spending on FHV services increased significantly during the period reviewed. In its investigation, DOI reviewed BOE’s spending on election-related FHV services, as recorded in the City’s online Financial Management System (“FMS”), a database of City spending. DOI found that BOE’s spending on FHV services grew by more than 210%, from approximately \$1.6 million in 2014 to over \$5 million in 2023. The chart below shows BOE’s spending on FHV services by year:



Representatives of BOE explained to DOI that the agency's need for FHV services increased from 2014 to 2023 for reasons including the addition of early voting in 2019 and the increased number of special elections required by state law.

B. Contract Oversight and Procurement Weaknesses at BOE

DOI and the Comptroller identified weaknesses in BOE's oversight of its FHV contracts and providers, as well as its procurement of its FHV contracts. First, DOI and the Comptroller identified excess charges by one FHV provider that were not permitted by the terms of its contract, indicating weaknesses in BOE's oversight. Second, at the procurement stage, BOE did not require providers to account for key trip costs that could, and should, have been included in their initial bids.

i. Contract Oversight: BOE Did Not Effectively Oversee Its FHV Contracts

City-funded agencies, including BOE, have a responsibility to effectively manage their contracts with vendors to protect the City's fisc. PPB Rule 1-03(a)(1)(i) requires all City employees with contracting responsibility to "obtain the best value in the interest of the City and the taxpayers." PPB Rule 4-01 advances the goal of safeguarding City funds by requiring that agencies "monitor the vendor's performance" and evaluate contractors' "quality and timeliness of performance, and fiscal administration and accountability" according to "specific objectives and evaluation criteria" included in contracts. Moreover, Comptroller Directive 6 specifically advises that transportation expenditures, such as BOE's spending on FHV services, are among "targets of abuse" and should therefore be subject to "careful agency scrutiny."^{xiii}

DOI and the Comptroller both found substantial vulnerabilities in how BOE oversaw its FHV contracts, leaving it vulnerable to fraud, waste, and abuse—and leading to quantifiable losses to the City. First, DOI and the Comptroller identified excess charges by one provider that were not permitted by the terms of its contract. After an initial review by DOI, the Comptroller conducted a more extensive review of that FHV contract and found \$86,669.50 in excess charges.³

The FHV contracts all include conditions that require providers to submit regular invoices for their costs, which BOE can then approve or disapprove based on the conditions set forth in the contract.

DOI and the Comptroller found that FHV providers billed BOE for unallowable costs that BOE nonetheless paid. Initially, DOI examined a small, targeted sample

³ The Comptroller also found that the provider undercharged BOE by \$1,147 in connection with 318 vouchers, meaning that the net overcharge to BOE was \$85,522.50.

of thirty trip vouchers submitted by one provider, Executive, in October and November 2018. As part of this review, DOI found instances where it appeared that BOE paid Executive for costs higher than permitted by the contract, or for items prohibited by the contract.

The Comptroller conducted a more detailed examination of BOE's FHV spending. Specifically, the Comptroller examined a sample of 2,153 trip vouchers valued at \$216,891 from the after-hours contract with Executive; the contract was in place from 2018 to 2021.

From its examination, the Comptroller identified 1,452 vouchers where Executive charged more than the contracted-for rates, leading to excess charges of more than \$86,000 that were paid by BOE. Consistent with DOI's initial findings, the Comptroller found multiple types of charges that were not allowed, including:

- Additional Charges for SUV Trips Not Provided for in the Contract: The Comptroller found that the majority of the more than \$86,000 in excess charges consisted of \$144 flat fares that Executive charged for trips where personnel were transported in an SUV, as opposed to a sedan. Although the terms of the contract did not provide for these additional charges, BOE paid numerous invoices clearly listing \$144 flat fares on multiple lines.⁴
- Improper "No-Show" Charges: The FHV contracts permitted the contractors to charge "no-show" fees if a BOE passenger did not appear. In the case of the Executive contract, such fees were capped at \$7.50 per no-show. The Comptroller found, however, that Executive billed BOE \$712.50

⁴ On certain occasions as early as October 2018, BOE specifically requested that Executive transport its employees by SUV, rather than by sedan. Executive charged BOE \$144 flat fares for these SUV trips, no matter the distance traveled or the number of passengers, and BOE paid numerous invoices from Executive which included the \$144 flat fares. Again, the contract did not allow for these charges, and a senior BOE employee sent an email to Executive in October 2021 stating that "the SUVs could be used as long as each of the rides were charged at the rates indicated in the current contract."

Executive, through its counsel, takes the position that "Executive and BOE decided" to address a "shortage of sedan drivers" by "using SUVs instead of sedans, where SUV drivers are paid a flat fee (typically \$144 for two hours minimum)." The above-referenced email suggests otherwise, but this issue, as noted above, was not the focus of DOI's investigation. Executive's counsel also stated that BOE effectively agreed to these higher rates by paying the invoices that included them. However, BOE officials wrote that "BOE was not informed of additional charges and did not agree to same There was no formal agreement/decision to pay a different rate [for SUVs]."

for nine no-shows, when it should have charged a maximum of \$67.50—more than a 10-fold increase from the allowed amount.⁵

- Trips Outside of the City: The Executive contract explicitly prohibited trips to destinations outside of New York City. However, the Comptroller identified three instances where FHV providers charged for out-of-City trips, totaling \$211.
- Other Excess Charges: The Comptroller identified instances where Executive submitted, and BOE paid, excess charges for destination-based fares and passenger drop-offs.⁶

This report does not assess whether Executive acted in bad faith or improperly. DOI and the Comptroller concluded that BOE did not effectively oversee its contract with this provider, as evidenced by BOE’s payment of numerous invoices containing charges in excess of what the contract allowed.

The above review reflects only a subset of charges from one FHV contract with one provider. Therefore, DOI and the Comptroller cannot draw definitive conclusions about all FHV contracts based on this limited sample. Nonetheless, DOI identified anomalous charges in other contracts, leading DOI to conclude that these contract oversight issues were not limited to BOE’s contract with Executive. DOI and the Comptroller strongly recommend that BOE closely examine its FHV contracts to determine whether these issues are widespread, to find whether any improperly paid amounts can be recouped from the vendors, and to ensure that BOE does not pay such overbilled or disallowed costs in the future. As noted below, in response to this recommendation, BOE responded that it “agrees to the extent possible.”

ii. Procurement: BOE Did Not Require Vendors to Account for Significant, Known Costs in Their Overall Bid Prices

DOI found that BOE did not require FHV providers to incorporate significant, known costs into their overall bid prices for after-hours contracts, leaving BOE vulnerable to inflated charges. In particular, DOI found that the BOE procurement process failed to account for two kinds of charges relating to their after-hours FHV

⁵ Executive’s counsel asserted that Executive charged BOE less than \$200 for no-show fees.

⁶ In their letter to DOI, Executive’s counsel recognized that the provider “mistakenly” billed BOE incorrectly for certain drop-offs and “mistakenly priced” 135 trips “according to the rate books of other companies” Executive estimated that these two errors each resulted in overcharges of “at most a couple thousand[d] dollars.”

contracts: one, rides to destinations located in City ZIP codes not listed in the IFB, and two, “drop off” fees for rides with multiple passengers.

1. Destination-Based Charges Not Accounted For

As noted, the after-hours FHV providers were responsible for picking employees up at BOE locations, and then driving them to their homes in other parts of the City. To reflect that trips would need to be made to different parts of the City, BOE required contractors to provide bids for the base cost of trips to destinations in specific City ZIP codes. The bidders would then take the base costs of the anticipated number of trips to a given ZIP code (the “Extended Price”) to develop a total bid for those trips.

An example of a bid is set forth below for illustrative purposes. Although this example does not contain actual bid information, it follows the format of the bids submitted to BOE:

Monthly Bid Price – ABC Company			
A	B	C	D
Zip Code	Estimated Number of Trips Per Month	Rate Per Trip Unit Prices	Extended Price (B X C)
Manhattan Zip Codes			
10002	10	\$20	\$200
10013	10	\$20	\$200
10014	10	\$20	\$200
10016	10	\$28	\$280
Queens Zip Codes			
11354	10	\$40	\$400
11385	5	\$50	\$250
ABC Company - Total Bid Price			\$1,530

In the example shown above, the provider bid \$20 for the base rate of each ride to destinations in the 10002, 10013, and 10014 ZIP codes, and at the estimated 10 trips per month, the Extended Price for those ZIP codes would be \$200 each. Accounting for all 6 ZIP codes in this example, the bidder calculated a total monthly bid price of \$1,530.

However, for each after-hours contract reviewed, BOE requested bids for only a subset of City ZIP codes. For trips to the City's *remaining* ZIP codes, the FHV providers would charge based on their standard "rate book," which set out the contractor's undiscounted prices for a wide range of trips.

By not including all ZIP codes in their IFBs, BOE received artificially low bids for FHV services that did not reflect the actual costs. The following example, which does not include detailed bid information, is illustrative. The vendor bid base rates between approximately \$20 and \$50 for each trip to the ZIP codes listed in the IFB and an average base rate of approximately \$33 per trip. However, once the vendor received the contract, its average base rate cost was over \$80 per trip—over 140% higher than its average bid, indicating significantly higher contract costs than were anticipated by the bid.

Documents show that BOE anticipated trips to other unlisted ZIP codes, but did not require providers to account for those trips in their bids. For example, the 2018 After-Hours IFB repeatedly stated that bidders would be responsible for rides to destinations not listed in the IFB:

- At one point, the IFB stated that bidders "awarded the contract may be required to provide FHV services to Zip codes within the City of New York *that are not indicated on the Bid[] Sheets.*"
- At another point, the IFB also stated that: "Although not all Zip Codes appear on the Bid Summary pages, the Board reserves the right to require FHV services to *any location within the five boroughs of New York City*. The rates to be charged for trips to Zip Codes not listed on the Bid Summary pages shall be those listed in the contractor's standard 'rate book.' Rates for such trips shall be less any discount the Contractor may have offered with its bid."
- The IFB later stated that "Trips shall be charged at the prices bid on the Bid Summary pages for each Zip Code or in the Contractor's 'rate book,' for destinations not specified by Zip Code in the Bid Summary Sheets."

Despite clearly anticipating trips to unlisted destinations, BOE chose not to require bids for all ZIP codes, or include a generic "overall" rate for such trips. DOI asked BOE to explain why it did not obtain these bids; BOE responded that prices for unlisted ZIP codes were incorporated into FHV contracts through vendors' rate books. DOI and the Comptroller recognize that the use of rate books incorporated all City ZIP codes into the FHV contracts; however, the failure to collect prices for all ZIP codes as part of the bid tables meant that these costs were not included in providers' overall bid prices, leading to bids that did not account for all anticipated costs.

2. “Drop Off” Fees Not Accounted For

Similarly, the exclusion of fees for “drop offs” anticipated by the contract further artificially lowered FHV providers’ bids, leading to increased costs to BOE and the City. In the 2018 After-Hours IFB, BOE noted that “[i]n most circumstances” it expected to have each FHV vehicle drop off a total of three passengers. For the first two drop offs, BOE agreed to pay a fixed rate regardless of location, and then pay the base rate discussed above for the final destination. As such, BOE anticipated that most rides would have at least *three* distinct charges—two drop off fees, and one base rate charge. However, BOE did not require bidders to include the drop off fees as part of their overall bid price. Although bidders were required to indicate what the drop off fees would be, and those drop off fees were ultimately incorporated into the final contracts, the drop off fees were not included in vendors’ overall bid price, and thus were not properly factored into the determination of which vendor was the lowest bidder.

As a result, the bids received were substantially skewed. For example, one FHV provider bid an average base rate of \$53.10 per trip, but listed a rate of \$30 per drop off. This means that, for each trip with three passengers, there were \$60 in fees not accounted for in that company’s bid, a 113% increase in the cost per trip.

From the IFB, it is also clear that BOE anticipated costs from “drop offs” but, again, chose not to require providers to account for such costs in their overall bid prices. As noted, the IFB explicitly stated that “[i]n most circumstances, three passengers will be dispatched in one vehicle being dropped off at different locations.” Despite recognizing that multiple drop-offs would be the norm, rather than the exception, again, BOE did not have providers include drop off costs in their overall bid prices. DOI asked BOE to explain why such bids were not sought; BOE responded that drop off fees were “included in each contract.” DOI and the Comptroller recognize that prices for drop offs were included in the reviewed contracts; however, the failure to collect drop off fees as part of the bid tables meant that these fees were not included in providers’ overall bid prices, leading to bids that did not account for all anticipated costs.

DOI highlights this issue because a BOE official noted that, on several occasions, actual costs of FHV contracts exceeded anticipated costs, meaning that funds for FHV contracts depleted before the end of the contract period. BOE’s failure to account for all significant, known costs in the bidding process may have contributed to the problem of actual costs exceeding anticipated costs.

DOI asked BOE to respond to DOI’s findings on this issue. In its response, BOE noted that it “works closely with [the New York City Office of Management and Budget (“OMB”)] to ensure proper planning[,]” and that “[a]ny

overestimate/exaggeration of projected costs would result in an OMB encumbrance of funds[,] thereby limiting available resources.” Further, BOE noted that it anticipates future FHV needs based on historical past usage, and that, based on circumstances outside of BOE’s control, such as changes in the number of elections, “there will be additional costs encountered after contracts are solicited and registered which increase the usage of FHVs and the costs beyond the original historical averages.”

DOI and the Comptroller recognize that numerous factors outside of BOE’s control make FHV service needs difficult to predict precisely. However, DOI and the Comptroller note that incorporating all significant, known costs into the bidding calculations may enhance budgetary planning and mitigate the risk of actual costs exceeding anticipated costs.

IV. Conclusion and Recommendations

This combined review by DOI and the Comptroller both confirmed that BOE’s spending on FHV services increased from 2014 to 2023, and identified several issues that contributed, or likely contributed, to that increase. In sum, BOE failed to account for anticipatable costs when purchasing FHV services, and then failed to oversee those contracts to ensure it paid only for what it agreed.

DOI and the Comptroller made the following three Policy and Procedure Recommendations (“PPRs”), and BOE responded to those PPRs as set forth below:

PPR #1: BOE should review all of its FHV contracts to identify potential overbilling and other disallowed costs. To the extent that it identifies any such costs, BOE should take all necessary steps to recoup or offset their value from the appropriate vendors.

BOE responded to PPR #1 that it “agrees to the extent possible.”

PPR #2: BOE should review and amend all existing FHV contracts to account for likely, anticipatable, or otherwise expected costs, including at minimum: (a) City destination-based rates, including a maximum rate for any City destination not specified in the Invitation for Bids; and (b) drop-off fees.

BOE responded to PPR #2 that it “agrees, except to the extent that some of these contracts have expired.” However, DOI and the Comptroller reiterate that their recommendation relates only to “existing FHV contracts.”

PPR #3: For all future procurements of goods and services, BOE should require bidders to account for likely, anticipatable, or otherwise expected costs as part of their overall bid price, and

explicitly inform bidders that costs not in agreement with their bids will be disallowed and subject to reimbursement or offset.

BOE responded to PPR #3 that it “agrees to the extent possible.”

ⁱ BOE 2023 Annual Report, available at https://vote.nyc/sites/default/files/pdf/annualreports/BOE_Annual_Report_2023_r1g_WEB_Final.pdf (“BOE 2023 Annual Report”) at 29.

ⁱⁱ BOE 2023 Annual Report at 18 (indicating number of BOE poll workers for 2023 general election); Poll Worker Positions, BOE, <https://vote.nyc/page/poll-worker-positions> (accessed Nov. 21, 2023) (showing that BOE poll workers start as early as 5 A.M. and leave after 9 P.M.).

ⁱⁱⁱ See Elec. L. § 3-100 *et seq.*

^{iv} The BOE was created pursuant to the state Election Law, which mandates “a board of elections in each county of the state and in the city of New York.” Elec. L. § 3-200(1). However, BOE is a local rather than a State agency. Because the BOE is funded by the City, and its staff is employed by the City, DOI has jurisdiction to investigate the agency. See Election Law § 4-136; New York City Charter (“City Charter”) § 803(d).

^v *Mission Statement*, Board of Elections in the City of New York, <https://www.vote.nyc/page/mission-statement> (accessed Nov. 2, 2023).

^{vi} Mayor’s Office of the City of New York, Preliminary Mayor’s Management Report for Fiscal Year 2024 (Jan. 2024), https://www.nyc.gov/assets/operations/downloads/pdf/pmmr2024/2024_pmmr.pdf at 393-95.

^{vii} BOE 2023 Annual Report at 18.

^{viii} BOE 2023 Annual Report at 8 (indicating nine days of early voting), 29 (indicating number of early voting poll sites).

^{ix} *How to Vote*, BOE, <https://vote.nyc/page/how-vote> (accessed May 22, 2024).

^x Comptroller Directive 6 § 4.2.

^{xi} PPB Rules § 3-01(b).

^{xii} PPB Rules § 3-02(b)(2), (d)(1).

^{xiii} Comptroller Directive 6, Introduction.