

Portland City Auditor

Ombudsman



May 20, 2024

Dear Director Mike Myers,

In July 2023, my Office released a report that highlighted evidence of misconduct by the City's emergency board-up contractor and pointed to gaps in the City's oversight of the contractor that led to the wrongful charging of business and property owners who had experienced a break in or vandalism.

The report made eight recommendations to the Community Safety Division that focused on addressing concerning contractor invoicing practices, reviewing and addressing past harm, and preventing similar issues from occurring in the future. In response to the report, you and other City officials expressed agreement with the recommendations and committed to resolving the issues in a timely manner.

Since the report was issued, I have communicated with the Community Safety Division, Police Bureau, and City Attorney's Office about the status of implementation of the report's recommendations. While I appreciate the open communication, I am disappointed to conclude that most of the recommendations have not been implemented.

For instance, to address concerning contractor invoicing practices, we recommended that the City notify the contractor that it was in breach of contract. The City's failure to do so is hard to understand when both the contract and the Police Directive specify the required billing process, which mandates that the contractor invoice the City, and our investigation uncovered undisputed instances when the process was not followed.

To review and address potential past harm, we recommended that the City arrange an independent audit of the contractor, take appropriate action based on its findings, and pursue financial restitution for business and property owners who were overcharged. No

1221 SW Fourth Ave, Room 310
Portland, OR 97204
ombudsman@portlandoregon.gov
portland.gov/ombudsman
503-823-0144

independent audit has been undertaken. As a result, neither the City nor contractor have accounted for past harm done to community members who were wrongfully charged.

Finally, while some measures have been taken to prevent the problems we identified from recurring, these are insufficient to prevent ongoing harm to business and property owners. Importantly, no process has been put in place to verify whether each City-initiated emergency board-up is being properly billed to the City and not directly to the business/property owner.

Looking forward, with the current contract set to expire in September and the procurement process underway, it is critical that the Community Safety Division ensure that the next City contract for emergency board-up services has appropriate safeguards built into the contract. In the event the City continues to maintain the position that it is not in its interest to formally allege that the contractor is in breach of contract, the future contract should contain an express prohibition on billing business/property owners. The contract should also include a provision that the City can fine the contractor for violating provisions of the contract, and a provision prohibiting the contractor from negotiating with property owners or soliciting work while performing City services.



The status of each recommendation is further described in the following table. Thank you for your attention to these issues.




Sincerely,




A handwritten signature in blue ink, appearing to read 'Jennifer Croft', with a long horizontal flourish extending to the right.

Jennifer Croft
City Ombudsman

Five out of eight recommendations from the July 2023 Ombudsman report, “Emergency Board-ups,” were not implemented as of May 20, 2024

Recommendation	Status
<p>1. Provide immediate notice to the Contractor that it was found in breach of contract; that it must cease the practice of directly billing business/property owners for City-ordered board-up services; and that it must follow the procedure, as specified in the contract, of sending all invoices associated with the contract to the City for payment and at the price levels specified in the contract.</p>	<p>Not implemented</p>  <p>According to the Police Bureau, based on a review of the contracts the vendor holds with the City, the Community Safety Division and the Police Bureau, in consultation with the City Attorney’s Office, have determined that it is not in the City’s best interest to assert that the vendor is in breach of contract at this time. The City’s review of records related to the contract is ongoing.</p> <p>It remains unclear why the City cannot inform the Contractor to cease billing business/property owners directly and to follow the invoicing procedure specified in the contract.</p>
<p>2. Provide immediate guidance to all relevant City staff (including Police officers, Police accounting employees, and colleagues in the Fire Bureau who utilize the emergency board-up contract) that all business for emergency board-up services initiated by the City must be handled between the City and the Contractor.</p>	<p>In progress</p>  <p>The Police Bureau shared an email sent to all Bureau staff in March 2023, referencing the forthcoming Ombudsman’s report and reminding to follow the Police Directive on emergency board-ups. According to a Community Safety Division manager, a review of board up services ordered since then has confirmed that Police Bureau employees are following the procedures outlined in the Police Directive. The Community Safety Division plans to work with the Fire Bureau to ensure that similar messaging is shared about the billing process.</p> <p>A media report in April 2024 about a business that received board-up services but did not receive information from the Police Bureau about the procedure highlights the continued need to make sure the correct process is followed.</p>

<p>3. Hire a third-party, independent entity to conduct an audit of the Contractor, as per the contract.</p> <p>a. The audit should include, but not be limited to, identifying business and property owners invoiced directly by the Contractor for Police-initiated board-ups, for as many years as possible, but at least the past three years. This should include assessing how services were invoiced for the City-ordered emergency board-up requests we identified as not being invoiced to the City.</p> <p>b. The audit should include, but not be limited to, an examination of the Contractor’s invoices to the City and whether they complied with the terms of the contract, for as many years as possible, but at least the past three years.</p>	<p>Not implemented</p> <p>According to a Community Safety Division manager, the Police Bureau has not identified the financial or staffing resources necessary to conduct the recommended audit and is focusing on ensuring that the Contractor and Police Bureau employees follow established procedures during the remainder of the contract.</p> 
<p>4. Take appropriate action based on the findings of the audit. Such action might entail fining the Contractor or terminating the contract.</p>	<p>Not implemented</p> <p>No action has been taken on this recommendation, which requires implementation of the previous recommendation to conduct an audit.</p> 
<p>5. Pursue financial restitution for business and property owners overcharged by the Contractor, including but not limited to those identified by the audit.</p>	<p>Not implemented</p> <p>No action has been taken on this recommendation, which requires implementation of the recommendation to conduct an audit.</p> 

<p>6. Develop and implement policies and procedures to provide adequate oversight of the contract, including: a system to guarantee that all requests for emergency board-up services initiated by the City are invoiced to the City; procedures to ensure that business/property owners who receive board-up services are consistently informed of the correct billing process; and a system of keeping accurate and easily tracked records of all City-initiated emergency board-up requests, to ensure that the contract can be sufficiently audited in the future.</p>	<p>Partly implemented</p> <p>The Police Lieutenant with responsibilities over the emergency board-up contract said that they have instituted processes to verify that officers are requesting board-ups through BOEC dispatch, that Police have signed the form indicating that they waited for the Contractor to arrive, and that the Contractor is not charging the City more than allowed under the contract. The Bureau is also reviewing previous invoices to verify that prices were in line with the contract.</p> <p>However, what is still needed is a process to make sure that the Contractor is invoicing the City rather than the business or property owner for every Police-initiated emergency board-up. In the absence of such a process, the concerning practices we identified may be continuing.</p> 
<p>7. Initiate a new, competitive procurement for emergency board-up services.</p>	<p>In progress</p> <p>The Community Safety Division manager confirmed that they are working on the new procurement.</p> 
<p>8. Consult with the Police and City Attorney to ensure that, if the city continues to initiate emergency board-up services at the expense of business/property owners, the authority is clearly described in City Code. This authority should include a requirement for the City to provide written notice of emergency board-ups to business and property owners, and an appeal process for business and property owners impacted by City-initiated emergency board-ups.</p>	<p>Not implemented</p> <p>According to the Police Bureau, some changes will be made when the entire Police section of Code is revised as part of the revision process connected with the transition to a new form of government. According to the City Attorney's Office, changes may also be needed to the Revenue Code.</p> 

Source: Ombudsman's assessment based on information received from the Community Safety Division, Police Bureau, and City Attorney's Office.