



DIANA DIZOGLIO
AUDITOR

The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

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May 31, 2024

VIA E-MAIL and US MAIL

The Honorable David Lowy, General Counsel
University of Massachusetts
Office of the General Counsel
One Beacon St, 31st Floor
Boston, MA 02108

Dear Justice Lowy:

The Office of the State Auditor (“OSA”) has determined that the University of Massachusetts Amherst (“UMass Amherst”) violated the provisions of Massachusetts General Law Chapter 7, Sections 52-55 (the Taxpayer Protection Act, or “TPA”) in outsourcing fundraising operations from UMass Amherst to the University of Massachusetts Amherst Foundation (“UMass Amherst Foundation”). This violation relates to the UMass Amherst’s failure to engage with the OSA in the analysis of the proposed outsourcing prior to its execution.¹

Post execution of the contract between UMass Amherst and the UMass Amherst Foundation, the OSA sought to analyze whether the privatization produced high-quality public services with a cost savings to the Commonwealth. We have worked with your staff to conduct a review of the outsourcing to determine whether the outsourcing was conducted correctly, excepting for the failure to meet the notification requirements of the TPA as already noted. Your staff has been cooperative in all respects and has provided significant documentation to assist in this determination.

¹ M.G.L. c. 7, § 53 requires, among other things, that, **prior to the making a privatization contract,** agencies transmit to the Office of State Auditor a written statement of the services proposed to be the subject of the privatization contract, including the specific quantity and standard of quality of the subject services, and solicit competitive sealed bids for the privatization contracts based upon this statement.

We have previously determined that the UMass Amherst should have sought a determination prior to the execution of its contract with UMass Amherst Foundation²; our current analysis sought to determine if UMass Amherst followed the law “in spirit” and whether the privatization of its fundraising operations was in the best interest of Massachusetts taxpayers. After reviewing this matter and the provided documentation in detail, we are unable to determine that this outsourcing produced financial savings at a higher quality of public service. We are informed that a time tracking system was not and is not currently in place to track employee time allocation, making it impossible for us to determine financial impacts. Thus, we are unable to determine the time allocation for staff assigned to fundraising positions. This has prevented our office from completing the analysis that would help us make a determination regarding the cost savings.

Given the above, we recommend that the UMass Amherst implement at the earliest possibility a time tracking system to help track employee time allocation to inform future analysis.

This letter is written to notify you of our final determination that UMass Amherst failed to comply with the requirements of the TPA prior to the execution of its contract with the UMass Amherst Foundation. Although the TPA does not provide the OSA with enforcement powers, we caution in the strongest terms that UMass Amherst and all campuses within the University of Massachusetts system comply with the TPA in the future and in all respects.

Sincerely,

/s/ Michael Leung-Tat
Michael Leung-Tat
Deputy Auditor & General Counsel

cc: Stephen Lisauskas, Executive Deputy Director (OSA)

² OSA Letter to UMass Amherst, dated July 11, 2023.