



THE SCHOOL DISTRICT OF
PALM BEACH COUNTY, FLORIDA

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MEMORANDUM

TO: Honorable Chair and Members of the School Board
Dr. Donald E. Fennoy, Superintendent
Chair and Members of the Audit Committee

FROM: Lung Chiu, Inspector General ^{KLC}

DATE: 10/28/2019

SUBJECT: OIG Final Investigative Report- *Bid Rigging*
Report Case #19-0012

Attached, please find a copy of the Palm Beach County School District Office of Inspector General (OIG) Final Report of Investigation of Bid Rigging. On May 31, 2019, the Office of Inspector General (OIG) received a complaint from Richard Guercio regarding the Adult and Community Education Department. The complaint alleged that School District employee Jane Kim unduly influenced the award decision for Bid No. 19C-47B to publish and distribute the Palm Beach Adult and Community Educator (the *Educator*).

The OIG investigation concluded that the allegation is **unsubstantiated**.

In accordance with *School Board Policy 1.092 (8)(b)(iv)*, on 9/23/2019, the draft of this investigation was provided to Jane Kim and Ava Davis for their responses. Written responses were not received.

The report is finalized and will be posted on the Inspector General's website; https://www.palmbeachschools.org/about_us/reports_and_publications/inspector_general_report s.

**SCHOOL DISTRICT OF PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL
OIG REPORT OF INVESTIGATION**

District employee unduly influencing the outcome of a bid proposal

INTRODUCTION & SYNOPSIS

On May 31, 2019, the Office of Inspector General (OIG) received a complaint from Richard Guercio regarding the Adult and Community Education Department. Specifically, Mr. Guercio alleged the following:

School District employee Jane Kim unduly influenced the award decision for Bid No. 19C-47B to publish and distribute the Palm Beach Adult and Community Educator (the *Educator*). Bid Solicitation number 19C-47B was opened April 4, 2019 and awarded to C.A. Florida Holdings, LLC (DBA the *Palm Beach Post* (the *Post*) June 19, 2019.

The OIG conducted an investigation and determined that the allegation was unsubstantiated. The investigative conclusions to the allegation will be discussed in detail later in this report.

OIG JURISDICTIONAL AUTHORITY

School Board Policy 1.092 provides for the Inspector General to receive and consider complaints, and conduct, supervise, or coordinate such inquiries, investigations, or reviews, as the Inspector General deems appropriate.

BACKGROUND: INDIVIDUALS & ENTITIES COVERED IN THIS REPORT

Adult and Community Education

“Adult and Community Education offers General Education Development (GED) prep classes, English Speakers of Other Languages (ESOL) for adults, Career Certificate Programs and Fun & Leisure classes such as Zumba, Piano and Pottery. Classes are offered at 35 sites throughout Palm Beach County and run throughout the year.”¹

Scope: The School District of Palm Beach County Bid Solicitation Number 19C-47B

“The purpose and intent of the invitation to bid is to secure prices and establish a term contract to publish and distribute district-wide Adult and Community Education Program Schedules, as specified.”

Richard Guercio, Education Publishing, LLC

Mr. Guercio is the owner of Education Publishing, LLC located in Lake Worth, FL.² Prior to April 4, 2019, Mr. Guercio worked as a sub-contractor for the *Palm Beach Post*. Mr. Guercio was the lead person in handling the District’s mailer³, the *Palm Beach Adult and Community Educator*, (aka the *Educator*) while at the *Post*.

¹ www.palmbeachschools.org

² www.sunbiz.org

³ An advertising leaflet for mailing out

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Jane Kim, Adult and Community Education Compliance Manager

Ms. Kim has been with the School District since 2008 and has been serving as the Adult and Community Education Compliance Manager since 2012. Ms. Kim supervises the work of Marketing Manager Ava Davis.

Ava Davis, Adult and Community Education Marketing Manager

Ms. Davis has been with the District since 2015, and works in the capacity of a marketing manager with the Department of Adult and Community Education. She is in charge of the marketing for the District's publication, the *Educator*.

Andrew (Andy) Blizzard, Vice President Revenue, the Palm Beach Post

Andy Blizzard is the Vice President of Revenue for Palm Beach Newspapers, a Cox Media Group property, where he was responsible for advertising sales for the *Palm Beach Post*, *PalmBeachPost.com*, the *Palm Beach Daily News*, *PalmBeachDailyNews.com*, and Ideabar. Mr. Blizzard left the Post in June 2019.

RELEVANT GOVERNING AUTHORITIES

- School Board Policy 3.02-Code of Ethics
- School Board Policy 6.14-Purchasing
- District Purchasing Manual (Chapter 16)

DOCUMENTS REVIEWED

- June 19, 2019 Board Consent Agenda to Approve Bid No. 19C-47B
- The Palm Beach Adult and Community Educator (*The Educator*)
- Invitation to Bid No. 19C-47B; Publish & Distribute District-Wide Adult and Community Education Program Schedules
- Google Calendar
- Sunbiz.org

CASE INITIATION & INVESTIGATIVE METHODOLOGY

The investigation was initiated after the OIG received a complaint from Richard Guercio, owner of Education Publishing, LLC, and a former consultant for the *Palm Beach Post*⁴.

During the course of the investigation, the OIG interviewed Richard Guercio, Education Publishing, LLC, Jane Kim, Compliance Manager for the Palm Beach County School District and Ava Davis, Education Marketing Manager for the Palm Beach County School District. In addition, Fred Barch, Director, Adult and Community Education was interviewed along with other District employees that were integral to this investigation. The OIG reviewed relevant District policies, purchasing guidelines and procedures, Bid No. 19C-47B, the Adult and Community Education mailer and other pertinent documentation.

⁴ C.A. Florida Holdings, LLC DBA The Palm Beach Post (The Post)

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This investigation was conducted in compliance with the *Quality Standards for Investigations, Principles and Standards for Offices of Inspector General*, promulgated by the Association of Inspectors General.

INVESTIGATIVE FINDINGS⁵

1. Jane Kim participated in a meeting held at the *Palm Beach Post*, and unduly influenced the outcome in awarding of Bid No. 19C-47B. Allegation Unsubstantiated.

Richard Guercio, Education Publishing, LLC: Mr. Guercio is a former sub-contractor for the *Palm Beach Post*, and is the owner of Education Publishing, LLC. Mr. Guercio alleged that during a telephone conversation he had with Vice President of Revenue for the *Palm Beach Post* Andy Blizzard, Mr. Blizzard informed Mr. Guercio that Ms. Kim made it clear during a meeting on March 13, 2019, that Mr. Guercio was not to be included in the recent bid proposal. According to Mr. Guercio, Mr. Blizzard was adamant that the bid would not be considered for approval by the District's Purchasing Department if Mr. Guercio was included in the bid proposal. Mr. Guercio asserts the adverse reaction by Mr. Blizzard was due to Ms. Kim's comments during the March 13, 2019 meeting.

Jane Kim, Compliance Manager: Ms. Kim verified that she and Ava Davis attended a meeting held at the *Post* on March 13, 2019 to discuss the appearance of the *Educator*, but neither Bid No. 19C-47B nor Mr. Guercio were discussed. Ms. Kim further explained that there was never any discussion about getting rid of Mr. Guercio for the purposes of the *Educator*. However, Ms. Kim did acknowledge that there were issues with Mr. Guercio due to his interactions with Marketing Manager Ava Davis. Mr. Guercio did not want Ms. Davis to make any changes as to the publication of the *Educator*. This was a constant issue, and Ms. Kim would have to intervene by calling Mr. Blizzard. For example, the department wanted to attract teachers to the Adult and Community Education Department; therefore, Ms. Davis created an ad campaign. Mr. Guercio took it upon himself to remove the ad campaign from the *Educator* without the department's knowledge. In addition, Mr. Guercio did not want Ms. Davis to proofread the *Educator* and would tell Ms. Davis that proofreading was not a part of her job. When questioned as to whether or not she knew that Mr. Guercio had his own company, Ms. Kim replied she did not know, and was under the impression that Mr. Guercio was employed by the *Post*.

Ava Davis, Marketing Manager: Ms. Davis confirmed that she attended the meeting held on March 13, 2019. Ms. Davis stated Mr. Guercio's name did not come up during the meeting, and the only discussion points involved changing the appearance of the *Educator*. Bid No. 19C-47B was not discussed. Ms. Davis denied making any disparaging comments about Mr. Guercio. Another key point during the interview: Ms. Davis corroborated the statement made by Ms. Kim that Mr. Guercio was challenging to work with due to him not wanting her to make any changes to the *Educator* even after she informed him that other individuals in the District must review the publication for approval.

⁵ The OIG findings were determined using the standards that appear on the last page of this report.

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Andrew Blizzard, Palm Beach Post: Mr. Blizzard confirmed the testimony of Ms. Kim and Ms. Davis in regards to Mr. Guercio. Mr. Blizzard explained that he was frustrated with the work of Mr. Guercio and the decision to fire him was his, not that of the School District. Mr. Guercio was not completing the work as instructed and his customer service skills were not ideal; therefore, Mr. Blizzard made the decision that once the contract with the District was set to expire, it would allow the contract with Mr. Guercio to terminate. Mr. Blizzard confirmed Ms. Kim's and Ms. Davis' statements that they did not negatively speak about Mr. Guercio nor did they discuss Bid Solicitation #19C-47B during the March 13, 2019 meeting that he also attended.

Fred Barch, Director, Adult and Community Education: Mr. Barch clarified that Bid No. 19C-47B was a re-bid. The *Palm Beach Post* was initially awarded the bid approximately 15 years ago. Mr. Barch verified that he was not at the meeting on March 13, 2019, but is aware that it occurred. Mr. Barch was not aware that Mr. Guercio had his own business. Mr. Barch responded that he has never had any outside discussions with the *Post* regarding Mr. Guercio, nor was he ever trying to prevent Mr. Guercio from being included in the bid proposal (Bid No. 19C-47B).

Additional relevant interviews conducted by the OIG:

Karen Brazier, Purchasing Agent: Ms. Brazier's testimony was that Bid Solicitation #19C-47B was published on BidSync⁶ on March 18, 2019, with a due date of April 4, 2019, at 2 PM. The bid award recommendation was posted to BidSync and posted in the Purchasing Department on April 15, 2019. The bid award recommendation was presented by Purchasing to the School Board on June 19, 2019. The contract period began on June 20, 2019, and will conclude on June 19, 2022. The bid was awarded to C.A. Florida Holdings, LLC DBA the *Palm Beach Post*. **See Table 1 for time line.**

Table 1

Chronology of Events	Date
Meeting at the <i>Palm Beach Post</i> as stated by Mr. Guercio and verified by District staff	March 13, 2019
Bid Solicitation No. 19C-47B posted to BidSync	March 18, 2019
Mr. Guercio's <i>Palm Beach Post</i> Contract Terminated by Andy Blizzard	April 2, 2019
Mr. Guercio submitted a Bid Proposal	April 4, 2019
Bid Solicitation No. 19C-47B Due Date	April 4, @ 2 PM
Award Recommendation for Bid Solicitation No. 19C-47B Posted to BidSync	April 15, 2019
Mr. Guercio contacted Ms. Brazier, Purchasing	April 15, 2019
Complaint filed with the Office of Inspector General	May 31, 2019
Expiration of Current Contract with the <i>Palm Beach Post</i>	June 19, 2019
New Bid Contract Period	June 20, 2019- June 19, 2022

⁶ BidSync is the government bid notification service that relies on machine learning technology to find bids that should be added to your sales pipeline.

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During Ms. Brazier's interview, she acknowledged that Mr. Guercio contacted her regarding a concern he had about a meeting that District employee Jane Kim had with staff of the *Palm Beach Post*. Ms. Brazier confirmed District staff is told not to speak with potential bidders when there is a bid in process. Ms. Brazier also verified that it would have been acceptable for District staff to meet with and talk to the *Palm Beach Post* about matters relating to their current contract with the District, but not regarding the new bid. Additionally, regarding the bid proposals that were submitted, C.A. Holdings, LLC bid \$84,500, and Educator Publishing bid \$99,125. Based on the lower bid submitted by C.A. Holdings, LLC, they were awarded the contract. Bidders have the option of filing a protest within 72 hours of the bid recommendation being posted to BidSync. Mr. Guercio did not file a bid protest.

The OIG reviewed the calendar documentation emailed by Ms. Kim that illustrated two meetings were held at the *Post*, March 13, 2019 and May 20, 2019 (after the bid award was announced) in which, she accepted the invitations from Mr. Blizzard.

CONCLUSION

Bid solicitation No. 19C-47B received two bidders, the *Palm Beach Post* and Educator Publishing, LLC. Both are qualified bidders. The *Palm Beach Post* had a lower bid than Educator Publishing; therefore, the *Palm Beach Post* won the bid.

Mr. Guercio stated during his testimony that the meeting that was held on March 13 at the *Palm Beach Post* included Ms. Kim and Ms. Davis, prior to the opening of the bid. During Ms. Brazier's interview, she stated it would not have been inappropriate, or a purchasing policy violation, for Ms. Kim and Ms. Davis to discuss current business with Mr. Blizzard and/or other *Palm Beach Post* staff.

Mr. Guercio disclosed that his wife, Mrs. Bernzweig (Palm Beach Post Revenue Manager) was present at her job on March 13, 2019, and informed him that Jane Kim and Ava Davis were at the meeting on March 13, 2019. However, Mr. Guercio insisted that Mrs. Bernzweig did not disclose to him any source of the information that he received, and that she only attended the last five-minutes of the meeting.

The OIG determined the evidence did not substantiate the allegation that Ms. Kim or Ms. Davis violated School Board Policy 3.02 or 6.14 by meeting at the *Palm Beach Post* on March 13, 2019. The information obtained demonstrated that the meeting was related to the current services being provided by the *Palm Beach Post* for the District, and not Bid No. 19C-47B. Ms. Kim and Ms. Davis denied having inappropriate contact or communication with the bidders for the solicitation. Ms. Kim and Ms. Davis stressed that they do not get involved with the bid process, and are aware not to have discussions with potential bidders particularly during the cone of silence⁷. Moreover, the meeting that was held at the *Palm Beach Post's* office on March 13, 2019, was prior to the

⁷ Refers to the period of time between the posting of the contents of a competitive solicitation and the posting of a Decision or Intended Decision with regard to that competitive solicitation. District Policy 6.14 Purchasing.

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announcement of the bid on Bid Sync on March 18, 2019. Mr. Blizzard confirmed the testimony of Ms. Kim and Ms. Davis

Based on Ms. Brazier's testimony, Mr. Guercio made the allegation regarding Ms. Kim after the bid award recommendation was posted to BidSync on April 15, 2019. Mr. Guercio did not file a bid protest.

The OIG investigation concluded that the allegation that Ms. Kim participated in a meeting that unduly influenced the outcome in awarding Bid No. 19C-47B was **Unsubstantiated**.

ADDITIONAL INFORMATION

Mr. Guercio disclosed that his wife, Michelle Bernzweig, is the Revenue Manager at the *Palm Beach Post*, and supervises him on his projects. Mr. Guercio also stated that Mrs. Bernzweig informed him of the meeting that was being held at the office of the *Palm Beach Post* on March 13, 2019. However, Ms. Brazier's testimony was that Mr. Guercio told her the meeting between Ms. Kim, Ms. Davis and Mr. Blizzard occurred after the bid was opened, and prior to the bid award recommendation being posted to BidSync. Based on documents received by the OIG, the meeting of main importance was held on March 13, 2019, which, was prior to the bid being published (announced) on BidSync. The second meeting held at the *Palm Beach Post's* office was May 20, 2019, which was after the announcement of the recommendation of the bid award.

AFFECTED PARTY NOTICE

In accordance with *School Board Policy 1.092 (8)(b)(iv)*, on 9/13/2019, Jane Kim and Ava Davis were notified of the investigative findings and provided with an opportunity to submit a written response to these findings. No responses were received.

DISTRIBUTION

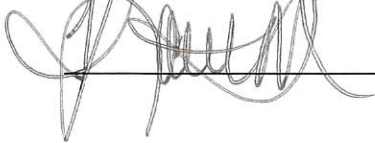
Palm Beach County School Board Members
Donald E. Fennoy II, Superintendent
Audit Committee Members
OIG File

SCHOOL DISTRICT OF PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL
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Investigation Conducted by:

Tanya Lawson, CIGI



10/28/19

Date

Investigation Supervised by:

Oscar Restrepo, CIGI, Director of Investigations



10-28-19

Date

Investigation Approved by:

K. Lung Chiu, CIG, Inspector General



Date

The evidentiary standard used by the School District of Palm Beach County OIG in determining whether the facts and claims asserted in the complaint were proven or disproven is based upon the preponderance of the evidence. Preponderance of the evidence is contrasted with "beyond a reasonable doubt," which is the more severe test required to convict a criminal and "clear and convincing evidence," a standard describing proof of a matter established to be substantially more likely than not to be true. OIG investigative findings classified as "substantiated" means there was sufficient evidence to justify a reasonable conclusion that the actions occurred and there was a violation of law, policy, rule, or contract to support the allegation. Investigative findings classified as "unfounded" means sufficient evidence to justify a reasonable conclusion that the actions did not occur and there was no violation of law, policy, rule, or contract to substantiate the allegation. Investigative findings classified as "unsubstantiated" means there was insufficient evidence to justify a reasonable conclusion that the actions did or did not occur and a violation of law, policy, rule, or contract to support the allegation could not be proven or disproven.