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November 7, 2019

AUDITOR’S LETTER

In keeping with generally accepted government auditing standards and Auditor’s Office policy, as authorized by city ordinance, the Audit Services Division has a responsibility to monitor and follow up on audit recommendations to ensure audit findings are addressed through appropriate corrective action and to aid us in planning future audits.

In our follow-up effort for the Pahaska Tepee Concessions, LLC audit issued August 2018, we determined Pahaska and the Department of Parks and Recreation have not implemented most of the recommendations made in the audit report. Despite some actions taken by both Pahaska and the Department of Parks and Recreation, auditors determined the risks associated with the audit team’s initial findings have not been mitigated. As a result, the Audit Services Division may revisit these risk areas in future audits to ensure appropriate corrective action is taken.

The Highlights page in this report provides background and summary information about the original audit and the completed follow-up effort. Following the Highlights page is a detailed implementation status update for each recommendation. We did update the status of one recommendation that the Department of Parks and Recreation disagreed with, as we found during our audit work that the agency did take action toward implementing the recommendation. However, for the other recommendation Parks and Recreation disagreed with, we did not review any documents related to it because the agency did not agree to implement it.

I would like to express our sincere appreciation to both Pahaska and Denver Parks and Recreation personnel who assisted us throughout the audit and the follow-up process. For any questions, please feel free to contact me at 720-913-5000.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
Follow-Up Status
Pahaska has not implemented any of the five recommendations made in the August 2018 audit report. The Department of Parks and Recreation has implemented one and partially implemented another of the five recommendations made in the August 2018 audit report.

Objective
The original audit examined compliance with key terms of the contract between the City and Pahaska Tepee Concessions, LLC. The audit team evaluated the revenue reported by Pahaska to determine whether it was paying the correct percentage to the City under the contract. Next, they examined whether Pahaska was applying the correct sales tax to transactions.

Background
The Department of Parks and Recreation manages the contract between Pahaska and the City. The audit focused on the contract with Pahaska, which operates a gift shop and cafe at the Buffalo Bill Museum and Grave located at Lookout Mountain Park in Golden. The City initially awarded Pahaska the contract at the end of 2006.

REPORT HIGHLIGHTS

Highlights from Original Audit
The original audit of the contract between the City and Pahaska Tepee Concessions, LLC, revealed the following deficiencies:

FINDING 1: Pahaska’s Recordkeeping Was Inadequate, and Its Revenue Reporting Did Not Comply with Contract Terms, Making Revenue Unverifiable

- Pahaska’s cash registers were low-end, and all the company’s sales transactions records were printed on paper rolls from the registers. These records were unreliable, inaccurate, and, in some cases, missing.
- Pahaska deducted discounts in its calculations of gross revenues when contract language and other authoritative governance documents defining gross revenues were unclear on whether this was acceptable.
- The company had a lack of basic controls over cash handling and inventory, with registers left unlocked overnight even though some employees spent the night at the mountaintop facility.
- Pahaska had not complied with terms of the contract requiring payments to increase when it is operating on a month-to-month basis while awaiting contract renewal and did not address concerns regarding the schedule of payments to the City.
- The company did not correct similar concerns from a 2007 audit.

FINDING 2: The Department of Parks and Recreation Did Not Provide Adequate Oversight of Pahaska’s Contract

- Parks and Recreation had not reviewed Pahaska’s revenue documentation and had not specified what requirements the company’s point-of-sale system needed to have in order to properly record transactions.
- Parks and Recreation did not enforce contract requirements governing payments on a month-to-month contract basis, calculation of gross revenues, or the schedule of payments to the City.

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RECOMMENDATION — STATUS OF IMPLEMENTATION

FINDING 1 – Pahaska’s Recordkeeping Is Inadequate, and Its Revenue Reporting Does Not Comply with Contract Terms, Making Revenue Unverifiable.

Recommendation

1.1 Revenue Reporting – Pahaska Tepee Concessions, LLC, should adjust reporting practices to ensure compliance with the revenue reporting terms established in the contract.

Status: Not Implemented (Original target date for completion: 90 days after receipt of signed contract)

Agency Action

Pahaska installed new registers with a new point-of-sale system in mid-May of 2019. Pahaska originally said that the business would have a new point-of-sale system installed and connected to retail management software (see Recommendation 1.3 below) 90 days after receiving a signed contract. As the contract was signed on Nov. 27, 2018, the new system should have been in place by Feb. 25, 2019. Pahaska installed the system in mid-May and was not connected to retail management software.

The new system, set up by a Pahaska employee, has not been set up appropriately, and users are not sure how to run appropriate reports that ensure all transactions within the month are recorded. Users are trying to delete the data when the reports are run monthly, not understanding that this information is important for revenue reporting and audit purposes. Reported amounts from the system do not reconcile to the monthly revenue statement, monthly tax return, and documentation for Pahaska’s percentage payment to the city. Pahaska’s accountant did not include vending machine revenue, other than that from the optical telescope machines for the month of June 2019, for the calculation of percentage payment to the city as required by the contract.

The contract between Pahaska and the city requires that by May 1 every year the concessionaire provide a statement of total gross revenues during the preceding calendar year. The statement must itemize the authorized deductions and include a breakdown of gross revenues on a month-by-month basis. The statement is required to be prepared and certified by an independent certified public accountant who has audited the gross revenues. The report provided for calendar year 2018 was not audited; it was a compilation. This means the CPA did no audit work and simply ensured there were no mathematical errors in the statement prepared by Pahaska’s accountant. Additionally, the statement did not include any itemized deductions or exclusions. This is another example of Pahaska not being in compliance with the revenue reporting terms established in the contract.
Recommendation

1.2 Improve Vending Revenue Controls – Pahaska Tepee Concessions, LLC, should design and implement a form for monthly vending machine revenue reporting, collect all vending revenue monthly, begin to document machines with zero balances during the month, and require a witness signature on all cash counts.

Status: Not Implemented (Original target date for completion: Oct. 31, 2018)

Agency Action

Pahaska developed a vending machine form. However, it appeared to be missing some machines and did not have a witness signature line.

Recommendation

1.3 Correct Errors Through Registers – Pahaska Tepee Concessions, LLC, should ensure managerial corrections of register errors are made through the register and occur at the time of the error, or at least by the end of the business day. Corrections should be well-documented separately from the cash register tapes and be thorough enough to identify all discrepancies.

Status: Not Implemented (Original target date for completion: 90-120 days after receipt of signed contract)

Agency Action

The contract with Pahaska was signed on Nov. 27, 2018. This would have made the implementation date March 27, 2019. Pahaska’s registers showed that every register, almost every day, had differences between cash on hand and cash that should be in the register. Additionally, the accountant for Pahaska states that bank deposits frequently do not match the detail she is sent.

Recommendation

1.4 Acquire Retail Management Software – Pahaska Tepee Concessions, LLC, should acquire retail management software to enable entity-wide reporting, to minimize manual data entry of revenue figures, and to provide more accurate information to calculate percentage payments to the City. The system must be able to provide daily, monthly, and annual revenue reports. New system capabilities should completely remove any estimation out of the percentage payment calculation.

Status: Not Implemented (Original target date for completion: 90 days after receipt of signed contract)
Agency Action
The new point-of-sale machines are not connected to retail management software.

Recommendation

1.5 Settlement Process – Pahaska Tepee Concessions, LLC, should work with the Department of Parks and Recreation’s Director of Finance and Administration to determine whether a settlement payment is necessary to make up for past inaccuracies. If so, both parties must agree on a mutually satisfactory dollar amount to adjust for inexact payments based on misreported gross revenues. The settlement agreement should consider misreported gross revenues and neglecting to pay 2018 payments according to the “holding over” clause in the contract.

Status: Disagreed

Agency Action

No action was taken to implement this recommendation, because the agency disagreed with the recommendation made in our original report. This was the agency’s response to the recommendation when the original report was issued in August 2018:

Disagree. All payments were made on accurate gross receipts.

Target date to implement: in our opinion moot.
RECOMMENDATION — STATUS OF IMPLEMENTATION

FINDING 2 – The Department of Parks and Recreation Does Not Provide Adequate Oversight of Pahaska’s Contract.

Recommendation

2.1 Point-of-Sale System’s Functionality – The Department of Parks and Recreation’s Director of Finance and Administration should obtain an understanding of the Pahaska Tepee Concessions, LLC, point-of-sale system’s functionality so Parks and Recreation can properly monitor compliance of gross revenues reported.

Status: Not Implemented (Original target date for completion: Dec. 31, 2018)

Agency Action

The Department of Parks and Recreation met with Pahaska on Aug. 30, 2019, eight full months after the original implementation date. Parks and Recreation developed a detailed requirements list for the point-of-sale system for Pahaska and reviewed the system with the business’s staff in person. However, Parks and Recreation officials did not develop an understanding of the point-of-sale system sufficient to allow them to properly monitor compliance of gross revenue reporting.

The department requires the point-of-sale system to maintain an audit trail for all transactions. The new system has this capability but is not set up correctly. Additionally, employees are trying to clear the data from each register at the end of the month, which defeats the purpose of having this functionality. Parks and Recreation officials were unaware of this and claimed they did not care as long as they received the monthly report from Pahaska. However, Pahaska’s contract with the city requires that:

“Concessionaire shall keep and preserve for at least three years, or until sooner audited by City, all sales slips, cash register tapes, sales books, bank books or duplicate deposit slips, and all other evidence of Gross Revenues and business transacted for such period” (emphasis added).

Parks and Recreation officials were unfamiliar with this clause in the contract and said they would have to review it — but reiterated they did not care as long as they were sent the monthly report. This conflicts directly with the agency’s own point-of-sale system requirements relayed to Pahaska at this same meeting that require the system:

- Maintains an audit trail for all transactions including, but not limited to, the ability to trace all aspects of any transaction back to the original source and forward to a final total.
- Has the ability to trace any transaction back to the original source or forward to a final total.
- Has the ability to generate regular and recurring sales reports for selectable products, product categories, and all other transaction types (i.e., sales, refunds, discounts, etc.) by user selectable time periods.

Having the data deleted monthly, besides being completely unnecessary, is not in compliance with
the contract, does not establish a system of bookkeeping acceptable to the auditor (also required by the contract), and does not comply with the Department of Parks and Recreation’s own point-of-sale requirements discussed with the concessionaire.

Additionally, during this meeting, Parks and Recreation officials reviewed one of the cash registers to obtain an understanding of the new point-of-sale system. Agency officials only reviewed one system and neglected to review the others. As a result, the agency was unaware one register uses a different system and that the other three are not programmed identically.

Lastly, Parks and Recreation exempted Pahaska from the requirement to have retail management software installed on its new cash register machines. The reasons given were spotty Wi-Fi coverage and that the age of the building made it difficult to run new wiring.

Based on the Department of Parks and Recreation’s lack of understanding of the new point-of-sale system, we consider this finding not implemented.

Recommendation

2.2 **Point-of-Sale System’s Requirements** – The Department of Parks and Recreation’s Director of Finance and Administration should discuss detailed requirements of the Pahaska Teepee Concessions, LLC, point-of-sale system to ensure accurate reporting of gross revenues.

**Status: Partially Implemented (Original target date for completion: Dec. 31, 2018)**

**Agency Action**

The Department of Parks and Recreation met with Pahaska on Aug. 30, 2019 to discuss the requirements of the new point-of-sale system. The department did not have a sufficient discussion to ensure accurate reporting of gross revenues. For example, the department was unaware after this meeting that one register was a completely different system, the other three registers were not programmed identically and produced varying reports, and that employees of Pahaska were attempting to delete the data monthly when running the reports. The department did not ensure that the systems were set up for accurate reporting. As a result, we consider this finding only partially implemented.

Recommendation

2.3 **Communicate Payment Schedule** – The Department of Parks and Recreation’s Director of Finance and Administration should communicate the proper payment schedule to the accountant for Pahaska Tepee Concessions, LLC, and offer an opportunity to discuss the appropriate payment schedule.

**Status: Implemented (Original target date for completion: Dec. 31, 2018)**
Agency Action

The Department of Parks and Recreation communicated the payment schedule and offered an opportunity to discuss with Pahaska’s accountant.

Recommendation

2.4 **Amend the Current Contract Definition of Gross Revenues** – The Department of Parks and Recreation’s Director of Finance and Administration should amend the definition of gross revenues in the Pahaska Tepee Concessions, LLC, contract to address how discount items should be reported.

Status: Disagreed

Agency Action

In the course of our review of other recommendations, we found that the Department of Parks and Recreation took action to implement this recommendation. In November 2018, a new contract with Pahaska was signed, which clarified the calculation of gross revenues as it relates to discounts.

This was the agency’s response to the recommendation when the original report was issued in August 2018:

*The Department disagrees with this recommendation. This Concession License, and all other Parks and Recreation revenue agreements, comply with the definition of Gross Sales as set forth in D.R.M.C Sections 53-23 (14) and 53-23 (21). Both the City Treasurer and the City Attorneys who deal with tax, accounting and treasury issues agree that this definition is clear. As a result, our practice is consistent with how the City defines Gross Revenues. In addition, the City Attorney’s Office reviewed the definition of Gross Revenues in the Concession License and determined that the current language in the agreement is sufficient to reflect the City’s current accounting and calculation practices, including the contractual requirement for the Concessionaire to adhere to all applicable law including the Denver Revised Municipal Code. As a result, the Department believes it is unnecessary to amend these agreements to reiterate the definition provided in D.R.M.C.*

Our original report had the following auditor’s addendum in response to the agency’s response:

*Although the Department of Parks and Recreation indicates that their concession revenue agreements follow the definition of Gross Sales in the Denver Revised Municipal Code (D.R.M.C.), the Sections mentioned specifically relate to gross sales for sales tax purposes and not gross revenues for revenue contracts. In our follow-up with the City Treasurer for clarification, he indicated that the definition of Gross Sales provided in Chapter 53 in the D.R.M.C. is clear and is consistent with how most jurisdictions define Gross Sales for taxation purposes. However, his opinion had not been offered regarding treatment of discounts in relation to gross revenues, and he had not reviewed the language in the contracts. Therefore, we maintain our original stance that the definition of gross revenues as it relates to discounts is not defined in the contract, nor is it defined in other authoritative City governance documents. It therefore requires clarification.*
Recommendation

2.5 Settlement Process – The Department of Parks and Recreation’s Director of Finance and Administration should work with Pahaska Tepee Concessions, LLC, to determine whether a settlement payment is necessary to make up for past inaccuracies. If so, both parties must agree to a mutually satisfactory dollar amount to adjust for inexact payments based on misreported gross revenues. The settlement agreement should consider misreported gross revenues and neglecting to pay 2018 payments according to the “holding over” clause in the contract.

Status: Disagreed

Agency Action

No action was taken to implement this recommendation, because the agency disagreed with the recommendation made in our original report. This was the agency’s response to the recommendation when the original report was issued in August 2018:

The Department disagrees with this recommendation. The Department does not have adequate resources to perform revenue audits. The Department relies on the Concessionaire’s contractual obligation in each Concession License Agreement to annually submit a report of Gross Revenues prepared and certified by an independent certified public accountant to provide assurances that reporting and payments to the City is accurate and complete. Upon receipt of the annual audit, Department staff analyze the information contained in the audit compared to the periodic reports and payments submitted to the City by the Concessionaire. Adjustments to monies owed are made either by invoicing the Concessionaire, issuing a refund to the Concessionaire, or issuing a credit to the Concessionaire’s account. In addition, provisions are in each agreement that enables the Auditor’s Office to audit concessionaire records. The Department will, however, take two actions to address these audit findings. First, the Department will begin requiring the Concessionaire to provide POS reports and verify that percentage payments are based upon the Gross Sales amounts indicated on these reports. Second, the Department will require the Concessionaire to engage a new CPA to perform the annual audits.

Regarding the “holding over” clause, the Department of Parks and Recreation was advised by the City Attorney’s Office that the Holding Over clause should be utilized as a legal remedy in the case of dispute. In this case, this concessionaire was selected again through a competitive process to operate the lodge for the new contract, and we agreed that they should remain on the premises until the new contract was executed. Unfortunately, the Department of Parks and Recreation incurred some delays in timely completing the contract and we did not find it fair to require additional payments under the Holding Over provisions where we agreed that this concessionaire would remain at Pahaska.
CONCLUSION

Pahaska Tepee Concessions, LLC, has not implemented any of the recommendations made in the Department of Parks and Recreation Pahaska Tepee Concessions, LLC audit report. Auditors determined the risks associated with the audit team’s initial findings have not been mitigated. The lack of sufficient internal controls and poor revenue reporting practices, in addition to the minimal and haphazard attempts to comply with the audit recommendations in response to this audit and a previous audit in 2007, increase the risk that revenue reported to the city is inaccurate.

The revenue reported for June of 2019 was, in fact, incorrect. The risk remains that payments to the city will continue to be inaccurate and not in the best interest of taxpayers and the city. As a result, the Audit Services Division may revisit these risk areas in future audits to ensure appropriate corrective action is taken.

While the Department of Parks and Recreation has implemented one and partially implemented another of the recommendations made in our audit, the others have yet to be acted upon or fully implemented. In regard to Recommendation 2.4, at the time of the original audit, the contract’s definition of how to calculate gross revenue did not specify that discounted amounts can be deducted at the point of sale. We recommended amending the contract to address how discounted items should be reported, but the agency disagreed. Typically, when an agency disagrees with a recommendation, auditors do not conduct work to follow up on the recommendation because the agency did not agree to implement it. However, in this case, in the course of our review, we found that the Department of Parks and Recreation took action to implement this recommendation. In November 2018, a new contract with Pahaska was signed. The new contract clarified the calculation of gross revenues, which now permits Pahaska to deduct discounts at the point of sale, matching Pahaska’s practices.

Despite the agency’s efforts, auditors determined the risks associated with the audit team’s initial findings have not been mitigated. Parks and Recreation has not attempted to gain an understanding of the new point-of-sale system, does not review the concessionaire’s revenue reporting practices, and needlessly exempts the concessionaire from the department’s own point-of-sale system requirements. This increases the risk revenue reported to the city is inaccurate. As previously stated, we found that revenue reported for a month in 2019 was incorrect. The risk remains that payments to the city will continue to be inaccurate and not in the best interest of taxpayers and the city. As a result, the Audit Services Division may revisit these risk areas in future audits to ensure appropriate corrective action is taken.

On behalf of the citizens of the City and County of Denver, we thank staff and leadership from the Department of Parks and Recreation and Pahaska for their cooperation during our follow-up effort and for their dedicated public service.
Office of the Auditor

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