

**CITY OF FORT LAUDERDALE
INTERNAL AUDIT OFFICE
AUDIT REPORT**

**Review of
Professional Concessions, Inc. Contract at
Mills Pond Park
for
Food and Beverage Service**



**AUDIT NO. 02/03-XX-09
DATED July 10, 2003**

MEMORANDUM NO. 03-28

DATE: July 10, 2003

TO: Director of Parks and Recreation/Ernest Burkeen
Director of Administrative Services/Bruce Larkin

SUBJECT: *Review of Professional Concessions, Inc. Contract at Mills Pond Park
for Food and Beverage Service*

Enclosed is a copy of the Final Report of Audit on the Review of Professional Concessions, Inc. Contract Mills Pond Park for Food and Beverage Service.

Allyson C. Love
Internal Audit Director

1 Attachment - Final Report of Audit

C: Floyd T. Johnson/City Manager
Bud Bentley/Assistant City Manager
Gregory Kisela/Assistant City Manager
Terry Sharp/Finance Director

ACL/cs

REPORT OF AUDIT No. 02/03-XX-09

DATE: June 16, 2003

TO: Parks & Recreation Director/Ernest W. Burkeen
Administrative Services Director/Bruce Larkin

VIA: Internal Audit Director/Allyson C. Love

FROM: Staff Auditor/Stacey Thomas/5364

SUBJECT: **Review of Professional Concessions, Inc. Contract at Mills Pond Park for Food and Beverage Service**

BACKGROUND

On April 11, 2000, the City of Fort Lauderdale (City) awarded a contract to Professional Concessions, Inc. ("PCI/Contractor") to provide food and beverage concession services in the Mills Pond Park for the Parks and Recreation Department. The contract was for a two-year period with the option for yearly renewals. PCI is currently on the second one-year extension with a contract expiration date of April 10, 2004. PCI is required to pay the City 27.5% of gross revenues (net of sales tax) received from concession operations at the park.

The concession facility currently operates for general league play from 5:30 to 10:30 p.m. Monday through Friday evenings and from 8:00 a.m. to 10:00 p.m. on weekends for tournaments. The City's Parks and Recreation (P&R) Department is responsible for the overall administration and monitoring of the concession contract and the Administrative Services Department tracks and monitors compliance with insurance requirements.

SCOPE

The objective of our review was to determine whether the City receives the appropriate monthly revenues from PCI and to verify compliance with other contract provisions. As part of our review, we analyzed daily cash register "Z" tapes showing gross receipts for concession sales, monthly statements supporting rent payment calculations, accuracy and timing of rent payments, and whether Irrevocable Letter of Credit and insurance requirements were met. The review covered payments made from October 2002 through March 2003 and was conducted in the months of April through May 2003, according to generally accepted government auditing standards.

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OVERALL EVALUATION

In general, PCI provides concession services and submits monthly rental payments in accordance with contract provisions. However, overall contract management and monitoring procedures were not effective to validate contract provisions were complied with and when non-compliance does occur, management is not always aware and corrective action(s) is not always taken.

FINDING 1

The City did not receive monthly rent payments totaling \$315.86 from PCI. Furthermore, internal audit was unable to independently verify if concession sales made by PCI outside their normal operations were accurate. As a result, we were not always able to validate the accuracy of their gross receipts.

Contract Provision 12(1) requires the City to receive a monthly rent equal to 27.5% of the gross receipts net of sales tax and contract provision 12(3) states a statement of gross receipts for the preceding month shall accompany the payments.

Based on our analysis of PCI's sales, we noted the following conditions (**Schedule 1**).

- a. On November 24, 2002, PCI disclosed gross sales of \$240.50. However, based on our review of the actual cash register tapes, the gross sales were actually \$1,458. The City only received rent payment on the \$240.50, not on the additional sales of \$1,217.50. The Contract Administrator did not follow up with PCI when cash register "z" tapes did not match the Concession Sales Report submitted by PCI.
- b. PCI disclosed that a large softball tournament was held on November 29 through 30, 2002. During this event, PCI provided concessions from their regular facility at Mills Pond Park and from a tent located near the concession area. Gross Receipts generated from the tent sales totaling \$5,097.70 were not rung up on a cash register nor was any other system used to account for the items sold.

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Establishment of a system to validate/track all items sold will provide essential evidence of gross receipts, which will provide support for the monthly rent payments.

RECOMMENDATIONS AND MANAGEMENT COMMENTS

The *Recreation Superintendent* should require the *Contract Administrator* to:

Recommendation 1. *Immediately invoice PCI for \$315.86, the December 2002 rent payment owed.*

Management Comment. *Management concurred with the finding and recommendation and stated:* “Treasury has been notified to invoice PCI for \$315.86 for the December 2002 rent payment owed.” **Estimated completion date July 31, 2003.**

Recommendation 2. *Require PCI to establish a system to account for sales made without the use of cash registers. For example, a pre-numbered ticket system could be used to account for items sold.*

Management Comment. *Management concurred with the finding and recommendation and stated:* “In the case where a battery operated cash register is not available, PCI will be required to utilize an inventory control sheet of opening count/closing count per item. These counts will be verified by the Mills Pond staff supervising the tournament before and after the close of the concession.” **This item is closed.**

Recommendation 3. *Establish a written procedure to reconcile PCI’s monthly remittances of rent payments. This would require comparison of the Cash Register “Z” tapes to the Concession Sales Report and any variance should be immediately resolved.*

Management Comment. *Management concurred with the finding and recommendation and stated:* “The Recreation Division has established a written procedure to reconcile monthly remittance of rent payments (**Exhibit A**).” **This item is closed.**

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FINDING 2

The City did not approve a price increase/adjustment on an item sold by PCI and certain items sold and their respective prices were not listed on the menu board.

Contract 702-8247, Provision 10 states prices for new items and adjustments to current prices shall require prior approval of the Parks and Recreation Director or designee.

During the review, we noted the following conditions (**Schedule 2**).

- a. On May 7, 2001, the City approved Cracker Jacks to be sold for \$.75. However, during our review, we noted Cracker Jacks sell for \$1, which represented a price increase. P&R staff was unaware of the price adjustment since PCI did not submit the item for approval prior to a price increase.
- b. Six (6) inventory items with their respective prices were not listed on PCI's menu board. Also, the Contract Administrator does not periodically conduct an on-site review to validate/compare PCI's menu board to items sold in their inventory.

Full disclosure and approval of menu items and prices will help to ensure prices are reasonable and facilitate public awareness of approved prices.

RECOMMENDATIONS AND MANAGEMENT COMMENTS

The Recreation Superintendent should:

Recommendation 4. *Require PCI to immediately submit to the City for approval the "Request for Approval of Item/Price Rate" for items that have changed in price.*

Recommendation 5. *Require PCI to update their menu board to reflect all items and prices offered.*

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Recommendation 6. *Require the Contract Administrator to periodically perform and document comparison of PCI's inventory listing to the approved price list and to prices/items posted on the menu board at the Park.*

Management Comment. *Management concurred with the finding and recommendations 4 – 6 and stated: “PCI will submit a request for approval for any item which has changed from the approved price. These price changes will be reflected on the menu board. The Contract Administrator at Mills Pond Complex will review approved prices and menu board a minimum of once per month.” These items are closed.*

FINDING 3

The City did not assess PCI a late fee penalty plus interest of \$61.97.¹

Contract provision 12(5) states if the Contractor fails to pay any rental payment due within five days of the due date (15th of the month), there shall be added a late charge of \$50.00 and interest at the highest rate allowable by law until the rental payment is brought up to date.

The December monthly rent payment of \$3,468.05 was due January 15, 2003, but was remitted to the City on January 22, 2003; seven days past the due date.

Mills Pond Staff was not aware of the provision to assess late fees when payments were received after the 15th and rent payments are not date stamped upon receipt.

Assessment of late fees when appropriate will encourage timely remittance of monthly rent payments.

RECOMMENDATIONS AND MANAGEMENT COMMENTS

The *Recreation Superintendent* should:

Recommendation 7. *Immediately invoice PCI \$61.97, the late fee penalty plus interest.*

¹ Internal audit calculated the interest at 18% based on the monthly rent payment of \$3,468.05.

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Management Comment. *Management concurred with the finding and recommendation and stated:* “This payment has been received from PCI.” **This item is closed.**

Recommendation 8. *Require Mills Pond Park staff to purchase a date stamp to document the date PCI submits payments to the Softball Office.*

Management Comment. *Management concurred with the finding and recommendation and stated:* “Mills Pond staff will purchase a date stamp to be used beginning July 2003.” **This item is closed.**

Recommendation 9. *Assess a late fee penalty when payments are made after the 20th of the month.*

Management Comment. *Management concurred with the finding and recommendation and stated:* “A late penalty fee will be added to the monthly payment if payment is received after the 20th of the month.” **This item is closed.**

FINDING 4

Internal control procedures were not adequate to assure revenues associated with concession activity were properly accounted for/classified in the City’s Financial Accounting and Management Information System (FAMIS).

Accounting procedures require cost data (revenues/expenditures) be properly classified to record/track the financial information in the City’s accounting system.

The following transactions were posted to FAMIS incorrectly.

Posted to SubObject	Transactions Posted to FAMIS Incorrectly	Correct SubObject
K302	\$ 159.43	K301
K302	360.00	K310
K302	49.05	K301
K302	(200.00)	K310
K310	\$5,185.96	K302

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Factors contributing to the incorrect postings in FAMIS include human error and inadequate follow-up reviews to ensure items are posted to the correct subobject codes in FAMIS.

Proper allocation of program revenues from the onset will provide for accurate reporting in the City's accounting system.

RECOMMENDATION 10

The Recreation Superintendent should require Mills Pond Park staff to periodically verify and document PCI payments are posted correctly in FAMIS to enhance the integrity of the data reported.

MANAGEMENT COMMENT

Management concurred with the finding and recommendation and stated: "The Finance Supervisor will review all collection reports to insure accuracy prior to submission to Treasury. This procedure will insure that the amount posted in FAMIS is correct." **This item is closed.**

FINDING 5

The City did not have a current Irrevocable Letter of Credit in place from PCI.

Contract provision 12(6) states the Contractor is required to execute and deliver to the City an Unconditional Irrevocable Letter of Credit payable to the City, in the face amount equal to 25% of the minimum annual rental as surety for faithful performance under the terms and conditions of the contract. The Letter of Credit must be in a form acceptable to the City, drawn on a bank acceptable to the City and issued in favor of the City.

Our review of Purchasing files on April 11, 2003, revealed the Letter of Credit for Mills Pond Park expired February 28, 2002.

Purchasing and Mills Pond Staff were unaware the letter of credit had expired.

Having a current letter of credit on file will guarantee that the City will be paid in the event the contractor defaults on payment.

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AUDITOR'S NOTE

On April 11, 2003, Purchasing sent a letter to PCI to request the renewal Letter of Credit covering the past year, and the certificate currently in force. The City received an original letter of credit showing an issue date of April 17, 2003 and an expiration date of April 30, 2004.

RECOMMENDATION 11

The Manager of Procurement and Materials Management should consider inclusion of a penalty provision if Contractors do not have current Letters of Credit and Performance Bonds within 30 days of award or contract renewal.

MANAGEMENT COMMENT

Management concurred in principle with the finding and recommendation and stated: “Procurement concurs that the office was unaware of the expired Letter of Credit, and have instituted a monitoring list for Letters of Credit and Bid/Performance Bonds.

Regarding penalty provisions, we currently have, as part of the GENERAL CONDITIONS section of our Invitation to Bid/Request for Proposal procedures and instructions on how to comply with our requirements for Performance Bonds, Irrevocable Letters of Credit, and Insurance. These procedures dictate, among other things, the amount of days allowed for a vendor to comply with our bond/insurance request. However, they do not inform the vendor of the consequences associated with not complying with our request within the specified time frame. It has been our practice to issue reminder/warning letters to vendors who have not submitted their required documentation. The letter includes the following wording: “Failure to immediately comply with this request could be considered just cause for the suspension or annulment of this award”.

Upon review with legal, this wording may be included in our current General Condition paragraph for future submittals.

As such, the penalty is already stated as possible cancellation of said contract. We do not recommend a form of monetary penalty, as this would be punitive, and difficult to collect on most contracts. In addition, in surveying whether other municipalities impose a monetary penalty in these circumstances, we were unable to find an agency which does so.” **This item is closed.**

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EVALUATION OF MANAGEMENT COMMENTS

Management comments provided and actions taken and/or planned are considered responsive to the recommendations.

Professional Concessions, Inc. Contract Review - Mills Pond Park

	PCI Concession Sales Reports		Internal Audit Verification of Cash Register "Z" Tapes	Internal Audit Verification of Net Sales Calculation	Variance over/ (under)	Gross Receipts not Verified
Date	Gross Sales	Net Sales	Gross Sales	Net Sales		
Dec-02						
11/1/2002	\$ 925.75	\$ 873.35	\$ 925.75	\$ 873.35	\$0.00	
11/2/2002	3,419.50	3,225.94	3,419.50	3,225.94	0.00	
11/3/2002	1,248.00	1,177.36	1,248.00	1,177.36	0.00	
11/4/2002	635.50	599.53	635.50	599.53	0.00	
11/5/2002	787.25	742.69	787.25	742.69	0.00	
11/6/2002	713.25	672.88	713.25	672.88	0.00	
11/7/2002	845.75	797.88	845.75	797.88	0.00	
11/8/2002	1,083.00	1,021.70	1,083.00	1,021.70	0.00	
11/9/2002	-	-	-	-	0.00	
11/10/2002	1,130.75	1,066.75	175.75	1,066.75	0.00	\$ (955.00)
11/11/2002	-	-	-	-	0.00	
11/12/2002	175.25	165.33	175.25	165.33	0.00	
11/13/2002	642.50	606.13	642.50	606.13	0.00	
11/14/2002	1,192.50	1,125.00	1,192.50	1,125.00	0.00	
11/15/2002	1,011.00	953.77	1,011.00	953.77	0.00	
11/16/2002	1,501.00	1,416.04	1,501.00	1,416.04	0.00	
11/17/2002	158.50	149.53	158.50	149.53	0.00	
11/18/2002	696.75	657.31	696.75	657.31	0.00	
11/19/2002	751.75	709.20	751.75	709.20	0.00	
11/20/2002	341.00	321.70	341.00	321.70	0.00	
11/21/2002	861.25	812.50	861.25	812.50	0.00	
11/22/2002	1,196.00	1,128.30	1,196.00	1,128.30	0.00	
11/23/2002	1,226.75	1,157.31	1,226.75	1,157.31	0.00	
11/24/2002	240.50	226.89	1,458.00	1,375.47	1,148.58	
11/25/2002	878.00	828.30	878.00	828.30	0.00	
11/26/2002	579.00	546.23	579.00	546.23	0.00	
11/27/2002	-	-	-	-	0.00	
11/28/2002	-	-	-	-	0.00	
11/29/2002	2,275.60	2,146.79	1,224.50	2,146.79	0.00	1,051.10
11/30/2002	5,115.60	4,826.04	1,069.00	4,826.04	0.00	4,046.60
Totals	\$ 29,631.70	\$ 27,954.45	\$ 24,796.50	\$ 29,103.02	\$ 1,148.58	\$ 5,097.70
Rent due - 27.5% of Net Sales		\$ 7,687.47		\$ 8,003.33	\$ 315.86	

Legend:	
	The current month payment is based on the previous month's gross receipts.
	Cash register "z" tape in the amount of \$955 could not be located.
	Additional revenues not reported on the November Concession Sales Report.

Price Comparison
Professional Concessions, Inc. Mills Pond Park

Table with 7 columns: Number of Items, Cash Register Item Number, Item Description, Price Approved, Internal Audit Price Verification, PCI Inventory Pricing, Item/Price Posted. Includes 29 rows of item data and a legend section.

POLICY AND PROCEDURES

DATE: JULY 7, 2003
TO: RECREATION DIVISION STAFF
FROM: STEPHEN C. PERSON
TOPIC: REMITTANCE OF RENT PAYMENT
FILE: FINANCE

GENERAL INFORMATION:

The City of Fort Lauderdale Parks and Recreation Department may establish contracts to provide concessions to participants. These procedures are established for the safeguarding of assets and reliability of financial records.

1. The concession will receipt revenues through a cash register and run a Z report at closing of every operating day.
2. The Z reports for the month will be turned in to the Recreation Finance Clerk with the deposit of the Concession Payment.
3. The Recreation Finance Clerk will reconcile the Z reports with the amount to be deposited.
4. The Recreation Finance Clerk will contact the Program Supervisor of any discrepancy between the Z reports and the deposit for immediate resolution of the variance.

STAFF MEMBERS HAVE THE RESPONSIBILITY TO BE FAMILIAR WITH THE POLICY AND PROCEDURES OUTLINED ABOVE. IT IS IMPORTANT TO RETAIN THIS COPY AS REFERENCE MATERIAL.