

**Performance Audit 12-08:
Civic Facilities Concessions**

March 2013

City Auditor
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OFFICE OF INTERNAL AUDIT

Stan Sewell, City Auditor

March 28, 2013

To: Mayor Ron Littlefield
City Council Members

Subject: Civic Facilities Concessions Contract (Report #12-08)

Dear Mayor Littlefield and City Council Members:

The attached report contains the results of our audit of Civic Facilities Concessions. Our audit found that the concessions contract was properly bid and executed. We found the contractor's records and operations did not ensure accurate reporting of gross receipts to the City. In addition, we found the Education, Arts and Culture department needs to improve its contract monitoring procedures. In order to address the noted areas for improvement, we recommended actions to recoup rental payments due from the contractor and changes to the contract terms which would diminish the need to monitor the contractor's operations.

We thank the management and staff of the Education, Arts and Culture department and Family Concessions, LLC for their cooperation and assistance during this audit.

Sincerely,

Stan Sewell, CPA, CGFM
City Auditor

Attachment

cc: Dan Johnson, Chief of Staff
Audit Committee Members
Missy Crutchfield, Administrator EAC
Artie Prichard, Purchasing Manager

TABLE OF CONTENTS

AUDIT PURPOSE.....	2
BACKGROUND.....	2
Financial Information.....	3
FINDINGS AND RECOMMENDATIONS.....	3
The City has no assurance gross receipts reported by contractor are accurate.....	3
Employees of the contractor did not obtain required health certificates.....	5
Contractor owes the City additional rental payments from unreported buyout and caterings...5	
APPENDIX A: SCOPE, METHODOLOGY AND STANDARDS.7	

AUDIT PURPOSE

This audit was conducted in accordance with the Internal Audit Division's 2012 Audit Agenda. The objectives of this audit were to determine if:

- The concessions contract was executed properly;
- The contractor accurately reported gross receipts, properly calculated the City's portion, and remitted to the City as required by contract; and,
- The EAC department adequately monitored the contractor's performance and enforced the terms of its contract.

BACKGROUND

The Education, Arts and Culture department consists of two major civic facilities (Memorial Auditorium and Tivoli Theatre), three civic centers, and a pottery studio. The civic facilities consist of three theatres, a multi use exhibit hall, as well as meeting and rehearsal rooms. The facilities host a wide range of events including concerts, Broadway theatre, cultural events, public and private meetings, dance, symphony and opera. During fiscal year 2012, Memorial and Tivoli held 94 and 152 events, respectively.

Revenues generated from the civic facilities include rental fees, preservation fees and concession revenues. Both preservation fees and rental rates are set by City Code Section 2-585 and 2-586, respectively. Prior to fiscal year 2011, concessions at both civic facilities were managed and operated by City employees.

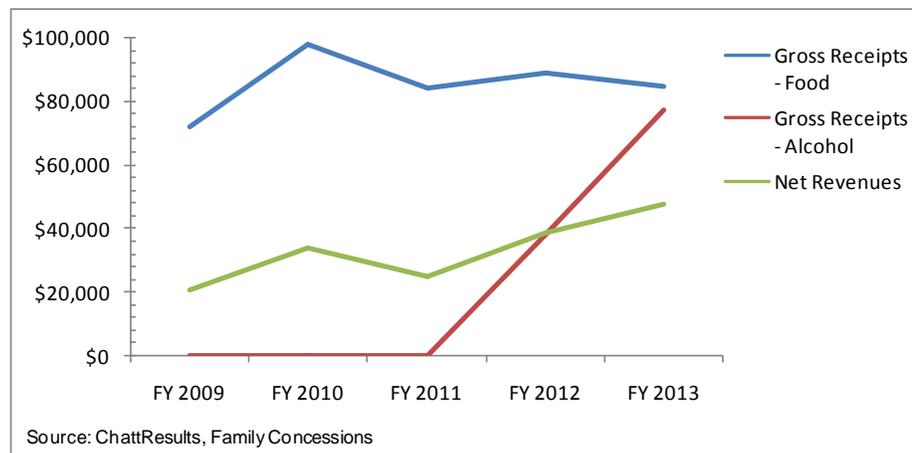
During 2010, the City Council passed Resolution # 26270 providing for the sale of alcoholic beverages at the Memorial and Tivoli venues. Due to the intricacies of selling alcohol, the EAC department decided to solicit vendors to manage and operate both the food and alcohol concession stands. In July 2011, the contract was awarded to Family Concessions, LLC.

The contract provides exclusive rights to Family Concessions to provide food and beverage services during events held at Memorial Auditorium and Tivoli Theatre. The contract included a period of twelve months with two optional twelve month extensions by written mutual agreement. Both parties agreed to the first twelve month extension that ends June 30, 2013.

Financial Information

Net profits generated from the sale of food through concession stands operated by City personnel were \$20,853, \$34,032 and \$24,672 in fiscal years 2009, 2010 and 2011, respectively. During the first year (FY2012) the contractor assumed operations of the concessions, the City received rental payments of \$38,900. Currently in the second year of the contract, the City has received 57% (\$22,083) of the prior year total rental payments within the first 6 months of the contract. As shown in Exhibit 1, gross receipts from food sales have remained comparable to prior periods whereas gross receipts from alcohol sales have increased dramatically.

Exhibit 1: Gross Receipts and Net Revenues¹



FINDINGS AND RECOMMENDATIONS

The City has no assurance gross receipts reported by contractor are accurate.

The original terms of the Family Concessions contract (executed July 2011) provide rental payments to the City based on a percentage of the contractor's gross receipts from the sale of concession food and beverage, alcoholic beverages, candy, and catering food and beverages. The contract renewal (executed in July 2012) removed catering food and beverages from the rental payment calculation.

To determine if the contractor accurately reported gross receipts, we interviewed the contractor's personnel and reviewed support documents related to six months of reported gross receipts. The six

¹ Gross receipts and net revenues for fiscal year 2013 were estimated using actual totals from July 1, 2012 through December 31, 2012 and prior period (Jan – Jun 2012) for the remaining six months of the fiscal year.

months included eighty (80) events held at Memorial Auditorium and Tivoli Theatre. Forty-seven (47) events offered food only and the remaining thirty-three (33) events offered both food and alcohol. Our review noted the following areas of deficiency:

- The contractor has not provided a cash control and security/point-of-sale (POS) system as required per contract.
- The contractor has not maintained supporting documents, such as register tapes and inventory control sheets, for food concessions.
- The point of sale system used by the contractor is not adequate to ensure reported gross receipts are complete.
- Liquor inventory sheets were not maintained for five (5) of the thirty-three (33) shows serving alcohol.
- Gross receipts were not reported to the City for two (2) of the eighty (80) shows.
- Addition/extension errors on liquor inventory sheets were noted on four (4) of the thirty-three (33) shows.
- The contractor did not obtain audited financial statements, as required by contract.

Ensuring optimal revenues for the City under the current contract requires an effective point of sale and internal control system on the part of the contractor as well as proper oversight and a quality monthly review process by City management. Currently, the contractor's operation lacks the necessary control systems. In addition, City management has not developed procedures to effectively manage and monitor the concessions contract.

Recommendation 1:

We recommend administration enforce the terms of the contract requiring the contractor provide a point-of-sale system. We recommend management receive documentation from the POS system immediately following each event. In addition, we recommend management develop written policies and procedures related to the management and oversight of the concessions contract.

Auditee Response:

We concur with the finding and recommendations. Civic facilities administration has requested that the contractor install a point-of-sale system immediately.

Employees of the contractor did not obtain required health certificates.

The contract terms state “all employees of the contractor shall be required to possess a valid health certificate.” Health certificates were not on file with the contractor. The contractor cited lack of knowledge as reason for noncompliance with this contractual requirement.

City Code Section 20-143 requires “every employee working in a food service establishment” have a certificate issued by a physician or public health department “stating that such person has been examined and found free of tuberculosis or other obvious communicable diseases.” In addition, City Code Sec. 20-144 requires every employee to provide a copy of the health certificate to the owner of the food service establishment. Such health certificates shall be maintained at the food service establishment and be subject to inspection by any lawful agent of the state or its political subdivisions.

Recommendation 2:

We recommend EAC require the contractor maintain copies of employee health certificates. Further, we recommend EAC staff periodically review and compare current contractor employees to health certificates.

Auditee Response:

We concur with the finding and recommendations.

Contractor owes the City additional rental payments from unreported buyout and caterings.

Buyout fees totaling \$270 due to City

Event organizers are not required to use Family Concessions for food and alcohol concessions. However, organizers declining the contractor’s services are required to pay a “buyout fee”. The standard buyout fees were negotiated and agreed upon in the concessions contract. The contract terms require a 70/30 split between the contractor and the City, respectively.

Between July 1, 2011 and December 31, 2012, the EAC Department collected \$1,200 from four event organizers for buyout fees. The buyout fees collected were paid in full to the contractor with expectation the contractor would reimburse the City’s portion along with its monthly rental payment. However, the contractor only included and reimbursed the City for one of the four events; therefore, the contractor owes the City \$270 in buyout fees.

Catering fees totaling \$871 due to City

As stated in a previous finding, rental payments are based, in part, on catering and beverage gross receipts. Prior to the contract renewal

date, Family Concessions provided catering services at four events, totaling \$2,904 in gross receipts. Based on our review and discussions, the contractor did not include its catering gross receipts when reporting monthly totals to the City. Therefore, the City has not received its portion (30% of \$2,904), as required by contract.

Recommendation 3:

We recommend management immediately request payment for past due rental payments. For all future buyouts, we recommend the City remit the seventy percent due to the contractor rather than requiring reimbursement on the monthly reports.

Auditee Response:

We concur with the finding and recommendations. The civic facilities director has invoiced the vendor for the above referenced amounts.

APPENDIX A: SCOPE, METHODOLOGY AND STANDARDS

Based on the work performed during the preliminary survey and the assessment of risk, the audit covers the concessions contract from July 1, 2011 through December 31, 2012. When appropriate, the scope was expanded to meet the audit objectives. Source documentation was obtained from Education, Arts and Culture, Finance and Purchasing departments, as well as the contractor. Original records as well as copies were used as evidence and verified through physical examination.

We interviewed personnel from EAC department to gain an understanding of its contract oversight. We reviewed the contract between Family Concessions and the City for pertinent facts related to our audit. We interviewed the contractor's staff to gain an understanding of the contractor's operations. In addition, we reviewed a six month sample (January 2012 to June 2012) of the contractor's receipts and various support documentation.

We conducted this performance audit from December 2012 to February 2013 in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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