

**BROOME COUNTY
DEPARTMENT OF
AUDIT AND CONTROL**

ARENA/FORUM CONCESSION AUDIT

FEBRUARY 2016

Alex J. McLaughlin, Comptroller



Broome County Department of Audit and Control

Alex J. McLaughlin, Comptroller . Daniel J. Reynolds, Chairman of the Legislature

February 2, 2016

Debra A. Preston, County Executive:

The Department of Audit and Control has completed an audit of Broome County Arena/Forum concession revenues. The principal objective was to gain assurance that concession revenues are being properly computed and remitted.

The audit was conducted in accordance with generally accepted auditing standards. Such standards require that the Department of Audit and Control plan and perform the audit to adequately assess the accuracy of the financial records and adequacy of the internal controls, and that we examine, on a test basis, sufficient, competent and relevant evidence to afford a reasonable basis for our conclusions.

Based on the results of our examination it is our opinion that concession revenues are not being properly computed and remitted.

Sincerely,

Alex J. McLaughlin
Comptroller

cc: Daniel J. Reynolds, Chairman of the Legislature
Members of the Legislature
Aaron M. Martin, Clerk of the Legislature
John Bernardo, Deputy County Executive
Anthony Capozzi, Manager, Arena/Forum

Background:

In October of 2000, Broome County contracted with Food Consultants, Inc. for food and beverage concession services to be provided for events at the Broome County Arena and the Forum. The agreement was subsequently amended in December of 2004. The term of the amended contract was extended to August 31, 2015. The contract (CA 8-516) was amended again in July of 2012 and extended to August 31, 2022.

In exchange for granting the concession rights to Food Consultants, Broome County receives agreed upon percentages of Food Consultants' gross receipts. The percentage of gross receipts is dependent on the type of product sold (the sale of merchandise versus the sale of food and beverages), the location of the sale (sales at stands and booths versus sales at the Arena Club or skyboxes), and the year-to-date total value of gross receipts as adjusted by the Consumer Price Index.

Under the terms of a separate agreement with the BC/ Binghamton Senators (CA 472-a), gross receipts from sales before, during, and after hockey games played at the Arena are assigned to the Senators. The Broome County Arena initially receives the payments for all commissionable sales and, in turn, the Arena makes payments to the Senators for hockey game commissionable sales.

The primary objective of our Audit was to gain reasonable assurance that Arena / Forum concession revenues are properly computed and remitted.

We reviewed the applicable contracts and flowcharted the process of receiving, recording and depositing Broome County's percentage share of gross receipts. We examined all transactions in detail for the period 3/1/15 thru 5/31/2015. For that period, concession revenue transmitted to and retained by the County was \$34,997.

The time period we selected allowed for a detailed comparison between gross sales reported to the Arena and the vendor's quarterly New York State Sales and Use Tax Return.

Staff at the Arena and Food Consultants Inc. were very cooperative and helpful.

FINDING 1: CREDIT CARD CONCESSION REVENUE OMITTED FROM PAYMENTS TO BROOME COUNTY

In an effort to confirm that all applicable sales were being considered in calculating concession revenues owed to the Arena/Forum, we compared sales revenue reported to the County to sales revenue reported on the Vendor's quarterly New York State and Local Sales and Use Tax Return for the filing period 3/01/2015 – 5/31/2015.

The amounts did not match and could not be reconciled. Eventually, it was determined that revenues associated with credit card transactions were being omitted from what was being reported to the County. This had been going on ever since the Vendor began accepting credit cards in October of 2013.

This resulted in an underpayment totaling \$83,666 for the period 10/1/13-11/15/15, \$67,295 of which was attributed to hockey games and, therefore, should be passed along to the hockey team in accordance with the County's agreement with them.

RECOMMENDATION:

The Vendor has already paid the \$83,666 to the County. We recommend that the County pay the hockey team their portion and book the rest.

MANAGEMENT RESPONSE:

The check was forwarded to OMB. Once the audit becomes final and distributed to the appropriate parties for review the County will pay the Hockey team their portion and book the rest as revenue in 2016.

FINDING 2: ARENA / FORUM SHOULD DEVELOP AND PERFORM ANALYTICAL PROCEDURES TO GAUGE EXPECTED COMMISSIONS

During the course of our audit, we noted that the Arena/Forum has not developed and does not perform analytical procedures related to commission revenues resulting from events at the Arena/Forum.

Such procedures would provide a basis for obtaining a reasonable level of assurance that all applicable revenues are being reported and remitted.

It should be noted that the Broome County Arena/Forum receives a percentage of commissionable sales based on gross receipts that are collected, categorized, and reported to the Arena/Forum by the Vendor.

Developing and performing analytical procedures would mitigate some of the risk associated with having to place so much reliance on the Vendor .

RECOMMENDATION:

We recommend that the Arena/Forum develop a schedule that says: A hockey game with x attendees should, based on historical experience, generate commissions of \$x, resulting from sales of \$x from A; \$x from B, etc. Then, compare that expectation to what was received and investigate variances. Prepare a similar schedule for every event.

MANAGEMENT RESPONSE:

Currently all commission statements from AFV are filed for future reference if needed. Moving forward a spreadsheet will be created to track the following information; Venue/Event/Date, Tickets Distributed, Actual Attendance-Tickets Scanned, Commission Statement Received, AFV Gross Receipts, County Commission, Commission Percentage Rate, Commission Check Received, Comments.

The information obtained in the spreadsheet will allow us to track the pertinent analytical information to compare concession revenue by event. The information collected would also allow us to track the average amount of dollars "Per Head" being spent on concessions and merchandise at events. The "Per Head" figure is industry standard when analyzing concession/merchandise dollars being spent at an event.

Tracking of the Gross Receipts collected by AFV will allow for us to verify when contract thresholds are being met and commission percentage rates change.

The information collected in the spreadsheet will run from July 1 to June 30 of every year which follows the fiscal year of the both AFV and the Binghamton Senators.

FINDING 3: ARENA/FORUM SHOULD CREATE AND MAINTAIN AN EVENT LIST

During the course of our audit, we noted that the Broome County Arena/Forum has not created an event list.

In general, creating and maintaining an event list would facilitate the timely Collection of commissions due and could also be used as a starting point to develop analytical procedures.

By creating and maintaining an event list, Arena/Forum Management would have a record as to when events occurred and when payments are due.

RECOMMENDATION:

We recommend that the Broome County Arena create and maintain an event list.

MANAGEMENT RESPONSE:

This information will be included in the spreadsheet created to perform analytical procedure of expected concession revenue and commissions.

FINDING 4: CONTRACT THRESHOLDS ARE NOT TIED TO AN APPROPRIATE CPI MEASURE AND ARE NOT PROPERLY COMMUNICATED TO ARENA/FORUM MANAGEMENT

Commissions due to the County are based on a percentage of gross sales of commissionable items. The percentage due to the County is adjusted throughout the year as total sales rise and pass through various thresholds stipulated in the contract with the Vendor.

The base thresholds stipulated in the Contract (20% of the first \$600k, 25% for \$600k - \$840k and 30% for over \$840k) are to be adjusted annually in accordance with the "Food Away From Home Seasonally Adjusted Index". The vendor, however, has been adjusting the thresholds based on the unadjusted index.

According to the Bureau of Labor Statistics, seasonally adjusted data is to be used as a baseline for high level economic research and to develop data for use in creating or revising economic policy. Unadjusted data should be used in contract escalation clauses.

Over the course of the three years that these adjustments have been applied to the thresholds, the difference between using the specified CPI and using the unadjusted CPI has been minimal. (\$642,851 and \$899,992 adjusted versus \$643,598 and \$901,037 unadjusted).

RECOMMENDATION:

We recommend that the contract be amended to reference an unadjusted CPI.

MANAGEMENT RESPONSE:

Management will recommend to the Law department and the Legislature that the current contract be amended to reference an unadjusted CPI Index.

FINDING 5: CHANGES IN AND APPLICATION OF CONTRACT THRESHOLD AMOUNTS ARE NOT BEING REPORTED TO OR VERIFIED BY ARENA/FORUM

Annual adjustments to contract commission revenue calculation thresholds are not being reported to the Arena/Forum. In turn, Arena/Forum management is not tracking contract revenues in a way that would allow them to verify that thresholds are being properly adhered to. Arena/Forum maintains revenue records by event, but does not aggregate that data into cumulative figures that could be used to verify proper application of thresholds in vendor payments.

RECOMMENDATION:

We recommend that annual adjustments to contract thresholds be formally communicated to the Arena/Forum by the Vendor. We also recommend that the Arena/Forum maintain a cumulative record of revenues, by contract year, to verify when various thresholds have been met to ensure that the thresholds are being properly adhered to by the Vendor.

MANAGEMENT RESPONSE:

Management will request to amend the current contract with AFV so that AFV notify, via letter, the Arena/Forum when a threshold has been reached and the commission percentage rate changes.

Management will also track AFV receipts in the newly created analytical spreadsheet referenced in Finding 2 to ensure that the thresholds are being properly adhered to.

FINDING 6: THE ARENA/FORUM SHOULD DEVELOP WRITTEN POLICIES AND PROCEDURES

During the course of our audit, we noted that the Broome County Arena/Forum does not have any written policies and procedures concerning concession revenues.

Written policies and procedures help provide reasonable assurance that an organization will achieve its objectives, that assets and resources will be adequately safeguarded and that various functions are being performed by the appropriate personnel and in the proper manner.

Maintaining current written policies and procedures helps to inform employees of their duties and responsibilities. Written policies and procedures can also serve as a training resource when employees change jobs or retire.

RECOMMENDATION:

We recommend that the Arena/Forum develop and maintain written policies and procedures related to concession revenues.

MANAGEMENT RESPONSE:

Management will develop and maintain written policies and procedures related to concession revenues.