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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 15, 2004

Ms. Bernadette Castro
Commissioner
New York State Office of Parks, Recreation and Historic Preservation
Empire State Plaza, Agency Building 1
Albany, NY 12238

Re: Report 2004-F-9

Dear Ms. Castro:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by the New York State Office of Parks, Recreation and Historic Preservation (Parks) officials to implement the recommendations contained in our audit report, *Administration of Contract X00310, Bethpage Associates, LLC* (Report 2001-R-4).

Background, Scope and Objectives

In 1998, Parks awarded a 20-year license agreement (Contract X00310) to Bethpage Associates, LLC (Bethpage), to provide food and beverage services at Bethpage State Park's clubhouse, golf course refreshment stands, picnic area, polo field and catering facility.

As consideration for this exclusive license, Bethpage agreed to pay Parks a license fee based on a percentage of the gross receipts generated. The gross receipts exclude any excise and sales tax, gratuities, refunds, or discounts. According to the contract, Bethpage must:

- Pay a license fee to the State of 9.5 percent of the gross revenues realized each month in each of the concession categories. The fee is due by the 15th day of the month after the revenues are collected. Bethpage may be liable for a penalty of 2 percent per month for any part of the license fee that is not paid as required.
- Invest \$2.5 million in capital improvements during the first three years of the contract. The capital improvements were to be made in the clubhouse area, parking lot, and golf course refreshment stands. Bethpage is also responsible for renovations and modifications to the existing clubhouse building.

- Establish a distinct and separate interest-bearing checking account for capital refurbishment entitled “Bethpage F&B Replacement & Refurbishment Account (R&R Account).” Three percent of gross receipts are to be deposited into this account each month for the purchase, replacement, or refurbishment of necessary equipment and property. Untimely deposits are subject to a 2-percent penalty fee.

Parks oversees Bethpage’s performance through three of its offices: the Division of Administration and Finance located in Albany (Parks Headquarters), the Long Island Regional Office (Regional Office) at Belmont State Park; and its on-site office at Bethpage State Park.

Our initial audit report, which was issued on December 26, 2002, examined the contract related operations of Bethpage Associates at Bethpage State Park for the period April 1, 1998 through December 31, 2001. Our audit objectives were to determine whether the contractor was complying with contract terms, and Parks officials were providing adequate oversight of contractor operations. As noted in our original report, Bethpage was providing the food and beverage services required by contract, and had significantly contributed toward the vast improvement in the appearance of the Bethpage facility including the construction of a brand new catering room. However, we found that the respective internal control structures Parks and Bethpage had established over contract operations did not provide adequate assurance that revenues were being recorded, deposited, or reported accurately - nor that Bethpage was making the required deposits into the R&R Account. We also found that Bethpage had not paid the required fees - a total of \$300,000 - for the six month period March through August 2001. In addition, despite the fact that the catering operation provided most of Bethpage’s revenue, Parks was not monitoring it adequately. The objective of our follow-up, which was conducted in accordance with Generally Accepted Government Auditing Standards, was to assess the extent of implementation of the 12 recommendations included in our initial report as of July 20, 2004.

Summary Conclusions and Status of Audit Recommendations

We found that Agency officials have made significant progress in correcting some of the problems we identified. However, additional improvements are needed. Of the 12 audit recommendations, four recommendations have been implemented, one recommendation has been partially implemented, two recommendations have not been implemented, and five recommendations are not applicable at this time.

Follow-up Observations

Recommendation 1

Require Bethpage to remit all license fees in accordance with the contract. Any exceptions should be approved, in advance, via formal contract amendment.

Status - Implemented

Agency Action - We tested selected revenue transactions and transmittals and confirmed that Bethpage was remitting all license fees as required by the contract.

Recommendation 2

Reconcile all revenue-related reports provided to Parks. Specifically, reconcile the weekly report to the monthly report, trace reported revenue figures back to original source documents to verify that all pertinent data (e.g., opening and closing balances) have been provided, and follow up on any discrepancies. Obtain the appropriate license fee resulting from the unreported income in July 2001.

Status - Partially Implemented

Agency Action - Although Parks officials now perform detailed reconciliations of catering revenue, and have collected the license fee relating to the unreported July 2001 income, they are not performing such reconciliations for the other sources of Bethpage revenue nor tracing reported figures back to source records.

Recommendation 3

Reconcile the two monthly catering reports that are being provided, and record all daily events occurring at the clubhouse. Compare this event data with relevant data in the monthly reports.

Status - Implemented

Agency Action - Parks officials have asked Bethpage to provide them with a notice of booking for all catered events at the clubhouse. Parks staff reconcile these notices with monthly catering reports and associated subsequent revenue reports to ensure that the revenue for all catered events is properly reported to them. We observed several of the reconciliation worksheets.

Recommendation 4

Verify that Bethpage is including all contract-related income in gross receipts when it calculates the license fee. Collect and remit the \$14,421 in additional license fees it owes the state for 1999 and 2000. Recalculate the additional license fees that are due, and remit them to the State for prior and subsequent periods.

Status - Not Implemented

Agency Action - Parks officials did not recover the \$14,421 in additional license fees noted in our prior report. Their position remains that these ancillary revenues are not part of the contractor's gross income as defined by the contract. As such, they are not verifying that Bethpage is including all contract-related income in gross receipts.

Recommendation 5

Follow up on the dates valet services were reportedly provided to Bethpage, where corresponding events were not listed on the catering log. Determine whether any income was not reported for those dates - and if so - recoup the appropriate license fee.

Status - Implemented

Agency Action - Parks officials have been reconciling the individual event listings with data recorded on the contractor's monthly reports, which we reviewed for the 2003 season events. Noted discrepancies were recently sent to the contractor for explanation. The contractor's responses have just recently been received and are being reviewed to determine whether additional commissions are due to Parks.

Recommendation 6

Ensure Bethpage submits the required audited financial statements, and reconcile the statements to reported revenues.

Status - Not Implemented

Agency Action - The contractor has not been providing Parks with certified financial statements. Parks officials believe that the contractor's uncertified statements in conjunction with its Federal tax return are sufficient for their purposes. However, we note that the accuracy of these alternative documents is not attested to by any independent party, and thus would not provide the independent assurance required by the contract.

Recommendation 7

Document Parks review of all capital improvements made by Bethpage to date at Bethpage State Park.

Status - Implemented

Agency Action - Subsequent to our prior report, Parks officials performed a detailed review of all completed capital projects. As a result of this review, Parks gave Bethpage a deferral on making R & R account deposits as a credit for its excessive capital project costs.

Recommendation 8

Monitor all future Parks projects to ensure that all contract terms are complied with.

Status - Not Applicable

Agency Action - We noted that Parks officials have developed formal procedures to monitor all future projects' compliance with contract terms. However, no new projects have been initiated in order for Parks to monitor compliance.

Recommendation 9

Enforce Bethpage compliance with the contract requirement to establish the R&R Account. Maintain the Account checkbook and verify that bank statements are being sent directly to Parks' Regional Office.

Recommendation 10

Ensure that Bethpage Associates is depositing the required amount of funds into the R&R Account in a timely manner, bringing the account balance to its appropriate level, considering the relief granted on June 27, 2002.

Recommendation 11

Follow up on late or missed deposits immediately. Evaluate the need to impose a penalty assessment against Bethpage Associates whenever timely deposits are not made in the R&R Account.

Recommendation 12

Obtain the budget and schedule of proposed expenditures that will be made when funds are withdrawn from the R&R Account. Require that all such expenditures are documented.

Status - Not Applicable

Agency Action - Regarding Recommendations 9-12, subsequent to our initial audit, Parks and Bethpage signed off on a contract amendment giving Bethpage certain fiscal relief that currently precludes the necessity for establishing the R&R account. Therefore, maintaining a R&R checkbook, monitoring the extent and timing of deposits, as well as budgeting and scheduling proposed expenditures from the R&R account, will not be necessary until the granted relief is achieved.

Major contributors to this report were Richard Sturm, Frank Patone, Michael Filippone and Tina Kim.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank Parks management and staff for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

William P. Challice
Audit Director

cc: Robert Barnes, DOB