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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 19, 2006

Ms. Bernadette Castro
Commissioner
New York State Office of Parks, Recreation
and Historic Preservation (Parks)
Agency Building, 1, 20th Floor
Albany, NY 12238

Re: Report 2006-F-20

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 New York State Parks officials to implement the recommendations contained in our prior audit report, Report 2004-R-2 (*Administration of Contract X000381 {Jones Beach Marine Theatre} Beach Concerts, Inc.*, issued August 10, 2005).

Background, Scope and Objectives

New York State welcomes 65 million visitors a year to its parks, historic sites and recreation areas. One such facility, Jones Beach State Park, located on the south shore of Long Island, is reported to be the largest bathing facility complex in the world. In addition to the bathing facilities, boardwalk recreation and restaurants, the Jones Beach complex houses the Jones Beach Marine Theatre (Theatre). It was originally erected in 1952 and reconstructed and enhanced in the 1990's and currently seats 15,200. The theatre features more than 35 well-known entertainers in an annual music concert series which runs from May to September.

As noted in our prior report, Beach Concerts, a subsidiary of Clear Channel Communications, was awarded a multi-year concession license to manage Theatre operations and maintenance. During the original audit period, Tommy Hilfiger paid Parks an annual sponsorship revenue in return for exclusive naming rights. During our follow-up audit, the Theatre's new sponsor was Nikon, Inc.

Our prior audit determined that Beach Concerts complied with most of the payment provisions of Contract X000381. In addition, we concluded that Beach Concerts' controls over box office operations were generally adequate for collecting, recording and depositing ticket revenue, and that revenue, as reported, was accurate in all material respects. However, we also identified instances of noncompliance with certain contract requirements. For example, the contractor owed Parks several thousand dollars for late deposits, and had deviated from contract requirements regarding the maintenance of certain bank accounts. We also found that, although Beach Concerts

issues thousands of complimentary tickets each year, Parks had no written policies regarding the issuance of these tickets, and had not required Beach Concerts to control their use. In fact, we found that Parks' Theatre Manager, who had received 576 complimentary tickets during the audit period - valued at \$25,417 - could have sold these tickets without authorization, and could also have misappropriated the associated revenues because he was not required to account for their disposition. This same Parks employee was also employed by a local township and had recorded working a questionable number of hours for both employers on numerous occasions. We recommended that Parks periodically verify Beach Concerts' compliance with the contract's financial requirements, establish effective control over complimentary tickets, and improve time and attendance controls for the Theatre manager.

The objective of our follow-up, which was conducted in accordance with generally accepted government auditing standards, was to assess the extent of implementation, as of November 8, 2006, of the seven recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Parks officials have made progress in implementing the recommendations contained in our prior audit report. Of the seven prior audit recommendations, five recommendations have been implemented, one recommendation has been partially implemented, and one recommendation is not currently applicable.

Follow-up Observations

Recommendation 1

Recover the amount due from Beach Concerts for interest due.

Status - Implemented

Agency Action - Parks officials gave us a copy of the cancelled check from Beach Concerts satisfying this debt. We traced the cancelled check to the appropriate bank account deposit.

Recommendation 2

Require that Beach Concerts makes future payments on time, and adjusted as stated in the contract; revise R & R and maintenance accounts to conform with contract requirements.

Status - Partially Implemented

Agency Action - Our review of the R & R and Maintenance accounts for calendar year 2005 and the first six months of 2006 found that most, but not all, of each month's required deposits were made in a timely manner. We also found that account checkbooks are now maintained on Parks premises. However, account monies are still maintained in a non passbook account, and account checks still do not require dual signatures (although we did confirm that two authorized persons have been signing the single line provided for signators).

Recommendation 3

Require Beach Concerts to work with Ticketmaster to improve its physical and logical access controls in its computerized ticketing system to safeguard access to ticket processing.

Status - Implemented

Agency Action - Live Nation, Beach Concert's new corporate name for contract purposes, has developed "Guidelines for Security Measures on Ticket Sellers Operator Codes". These guidelines require each operator to have a distinct access code and password. Passwords have been enhanced to require a minimum of eight characters and to include numbers as well as letters. The system now automatically requires password changes every 45 days.

Recommendation 4

Work with Beach Concerts to develop appropriate guidelines for the issuance of complimentary tickets (e.g., document the justification and authorization of tickets issued, etc.).

Status - Implemented

Agency Action - Pursuant to Park's request, Live Nation has developed guidelines to govern the issuance of complimentary tickets. The guidelines require Live Nation to contact the Jones Beach Park Manager when ticket sales for an upcoming concert are low, to propose the number of complimentary tickets Live Nation would like to issue for that event. When the number of complimentary tickets is agreed upon by these two parties, it is forwarded to the Long Island Regional Office for approval. The documentation for these discussions is to be maintained by Live Nation. We were given a copy of the guidelines and an example of process compliance.

Recommendation 5

Develop control procedures that can account for the use of complimentary tickets and reduce the risk that ticket revenue could be misappropriated. Periodically monitor Beach Concerts' implementation of these control procedures.

Status - Implemented

Agency Action - Live Nation generates a listing of all complimentary tickets issued for each event with a corresponding seat number and price. The list is maintained in the event file and a copy is sent to Parks. We observed written documentation in Parks' files to evidence this process.

Recommendation 6

Implement the proposed “Five-Year Plan.” If significant issues, discrepancies and deficiencies are identified as a result of these reviews, perform them at more frequent intervals.

Status - Not Currently Applicable

Agency Action - According to Parks officials, the “Five-Year Plan” is still in effect. Their next audit of this contract is scheduled for 2009. As such, it is too soon to assess compliance with this recommendation.

Recommendation 7

Improve controls over time and attendance to help ensure the Theatre Manager works the hours he is paid for.

Status - Implemented

Agency Action - The Jones Beach Theatre Manager is now required to sign in and out each day at a supervised location. We observed the attendance logs maintained in Jones Beach’s administrative office.

Major contributors to this report were Anthony Carbonelli, Peter Blanchett, and Carole LeMieux.

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 the management and staff of the Office of Parks, Recreation and Historic Preservation for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Frank P. Patone, CPA
Audit Manager

cc: Lisa Ng, Division of the Budget