

**Audit of Pier Associates Inc. Concession
at Skyway Fishing Pier State Park**

Division of Recreation and Parks

Report: A-1516DEP-010

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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The Office of Inspector General (OIG) conducted an audit of Agreement CA-0714 (Agreement) with Pier Associates Inc. Concession (Concessionaire) at Skyway Fishing Pier State Park. This audit was initiated as a result of the Fiscal Year (FY) 2015-2016 Annual Audit Plan.

Scope and Objectives

The scope of this audit included selected activities of the Concessionaire during the period January 1, 2015 through August 30, 2015. The objectives were to determine:

- Concessionaire compliance with the Agreement's Minimum Operational Requirements, Minimum Accounting Requirements, and selected provisions
- the accuracy of the Concessionaire's reported gross sales

Methodology

This audit was conducted under the authority of Section 20.055, Florida Statutes (F.S.), and in conformance with the *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors. The procedures of this audit included an inspection of the Concessionaire's operations, interviews with Concessionaire and Park management, as well as a review of Concessionaire and Park records.

Background

In October 2014, the Department of Environmental Protection (Department) through the Division of Recreation and Parks (Division) entered into the Agreement with the Concessionaire to collect pier admission fees and provide recreational services such as kayaking, swimming, wading, kite surfing and other water activities and food services. The Park is located on the north

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and south sides of Tampa Bay on interstate 275. The remains of the old Sunshine Skyway Bridge are used as a fishing pier that is open 24 hours a day, 365 days a year. The Board of Trustees of the Internal Improvement Trust Fund granted the Department of Transportation (DOT) an easement that includes the Sunshine Skyway Bridge and structure. The Department entered into a Lease and Maintenance Agreement with DOT in December 1994 to operate a fishing pier and Park facility. According to the Lease and Maintenance Agreement, DOT assumes responsibility for the pier deck and rails, and the Department remits to DOT all revenues received by the Department from the fishing pier concession Agreement. In 2014, the Division received \$152,876.00 in commission fees from the Concessionaire.

Results and Conclusions

Agreement Compliance

During our site visit, we verified that the Concessionaire provides services outlined in the Agreement. This includes the tollbooth operations, bait and tackle stores on each pier, and public restrooms. The hours of operation are posted near the main entrance of the pier as required. Based on our observations, the Concessionaire maintains the facilities and space in accordance with the Agreement.

Capital Improvements

According to Exhibit B *Schedule and Scope of Capital Improvements* of the Agreement, the Concessionaire was required to complete a list of 159 capital improvement repairs no later than December 31, 2015. According to the Park Manager, a Park staff member performed monthly and quarterly inspections on the progress of improvements. The Park Manager also provided a list of improvement repairs that had been completed. As part of the capital

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improvements, the Concessionaire has performed exterior routine maintenance and repair to the piers to include windows, doors, exterior painting, roof systems, lighting, electrical systems, plumbing systems, and fencing. Some of the required improvements had not been completed at the time of our site visits.

We verified the completion of 138 of the 159 required improvements. Of the remaining, three were in progress and 11 had not been initiated. We were unable to determine the completion of seven capital improvements. A determination from the Division was needed for clearly specified improvement requirements on the list and for the Americans with Disabilities Act (ADA) requirements. The Park Manager indicated that the Concessionaire requested an extension for the uncompleted improvements from the Division. However, at the time of our review, there were no additional amendments to the Agreement to confirm Division approval of an extension. We also noted that some improvements on the list provided by the Park Manager to the Concessionaire had been changed.

The Concessionaire was also required to have Environmental Protection, Safety, and Capital Improvement Plans approved and implemented. We obtained these plans from the Park Manager. According to the Park Manager, the Plans were implemented at the same time of the most recent Agreement amendments.

ADA requirements

According to the Agreement, the Concessionaire must comply with ADA requirements regarding facilities included. According to Exhibit H *List of Capital Improvements*, handrails were to be replaced with ADA compliant handrails. The handrails observed during our site visit appeared to be the same as those included in the Exhibit I *Visual Record of Needed Capital*

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Improvements. According to the Concessionaire Manager, the current metal pipe handrails were ADA compliant. However, the Division's Accessibility and Safety Manager indicated that based on handrail requirements as outlined by the *Florida Building Code 5th Edition (2014) Accessibility*, the handrail extensions, as reviewed from pictures taken during our site visit, did not appear to be compliant.

One of the ramps included in the Exhibit H *List of Capital Improvements* had no handrail. We observed that an oval shaped wooden handrail had been installed. Exhibit H *List of Capital Improvements* also included the addition of three ADA picnic tables. During our site visit, we verified the tables were added. However, a determination regarding ADA compliance of the handrails and tables was needed by the Division.

Insurances and Licenses

We verified that required insurance policies are currently in place and have been obtained in the amounts specified in the Agreement. This includes commercial general liability, automobile, workers compensation and a letter of credit. We obtained a copy of their limited engagement document prepared by a Certified Public Accountant in accordance with the concession Agreement.

Utilities

The Concessionaire paid for utilities in accordance with the concession Agreement. These payments were reflected in the general ledger.

Sexual Predator and Offender Checks

Section 36 of the Agreement states that *the Concessionaire shall perform sexual predator and sexual offender checks on which all its employees and subcontractors and shall keep a copy*

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of such records in their personnel files that will be available to the Department during the Concessionaire's regular office hours. According to the Concessionaire, a personnel management company is responsible for payroll issues and employee background checks. We requested sexual predator and offender checks for all employees. We were provided documents from the personnel company dated the day of our request. As a result, we could not verify that the checks were conducted at the time employees were hired. Section 36 of the Agreement also states that *the Department shall conduct a sexual predator and sexual offender check on the Concessionaire's Agreement Manager and its officers prior to executing this Agreement.* Based on our discussions with Division staff and documentation received, we were able to determine that these checks had been conducted prior to Agreement execution.

E-Verify Employment Eligibility Authorizations

Executive Order Number 11-116 (*Superseding Executive Order 11-02; Verification of Employment Status*) issued by the State of Florida Office of the Governor, indicates that agencies are to require contractors to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor during the contract term. This also applies to subcontractors. This Executive Order was superseded on May 2011.

The Agreement became effective October 2014. Section 35a of the Agreement states that *the Concessionaire shall use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification system to verify the employment eligibility of:*

- a. all persons employed by the Concessionaire, during the term of this Agreement, to perform employment duties within Florida; and*

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- b. *all persons (including subcontractors) assigned by the Concessionaire to perform work pursuant to this Agreement. The Concessionaire shall include this provision in all subcontracts it enters into for the performance of work under this Agreement*

Of the 30 listed Concessionaire employees, we requested verification documents for a sample of 19. According to the Concessionaire's payroll management company, E-Verify searches were not conducted on employees hired by the Concessionaire prior to May 2011 in conformance with the date of the Executive Order. As a result, verification documents were only available for 11 of the 19 sampled employees.

Concession Operations and Financial Documentation

We reviewed the concession's financial documentation to test for compliance with the Agreement Minimum Accounting Requirements and for accuracy of reported gross sales. The Concessionaire has established a bank account solely for operations under the Agreement.

Based on interviews with the concession employees, checks are not accepted as a form of payment for services or merchandise. Sales receipts are offered to customers regardless of the amount of purchase. Signs are posted at registers reminding customers to ask for a receipt. Refunds are not typically issued to customers. Cash registers record all sales, calculate tax, and provide a sequentially numbered journal tape. Management provides daily supervision over employees using the register. There are three shifts per day for the bait shop and tollbooth on both the North and South piers. Each operator counts the cash drawer at the beginning and end of the shift, fills out a shift report form, submits a shift journal and Z1 tape. The shift deposit and associated documentation is kept in the safe until deposited. Only two employees have the

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combination to the safe. The Concessionaire Manager or another employee authorize adjustments of sales or voids if needed.

The Concessionaire Office Manager maintains records and reconciles the daily receipts. The Concessionaire Pier Manager also prepares and makes the deposits and conducts the bank statement reconciliation. According to the Agreement Minimum Accounting Requirements, the Concessionaire is required to deposit cash that exceeds \$2,000 daily. If cash does not exceed \$2,000, it is to be stored in a secure manner and deposited within five working days. Based on our review of the daily deposits for the sample months of March and April 2015, deposits are made within the required time frame.

Each week the Concessionaire Manager sends the weekly sales information, bank deposit documents, and bank reconciliation to the Concessionaire bookkeeper. The information is then sent to the Certified Public Accountant firm who maintains financial documents and prepares the Monthly Reports of Gross Sales. During the sample months of March and April 2015, adjustments and corrections made to the financial documents were notated. The adjustments and corrections matched to entries made directly on the daily register tapes or the daily sheets signed by Concessionaire employees.

Report of Gross Sales

We obtained copies of the general ledger, Daily Deposit Reconciliation sheets, daily Z1 tapes, and receipts of commissions paid to the Department. We compared the revenue amounts reported on the daily deposit reconciliation sheets to the sales reflecting on the daily Z1 cash registers receipts. With the exception of a few minor documented discrepancies in the month of March 2015, the amounts reflected on these documents for both of the sample months were

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consistent. We compared revenue amounts reported on the Monthly Reports of Gross Sales to entries made in the general ledger. All amounts reported were consistent with minor exceptions. We also compared the Monthly Reports of Gross Sales amounts to the amounts reported on the Daily Deposit Reconciliation sheet including a credit card revenue analysis for both sample months. We compared the daily credit card settlement receipt totals to the daily totals reflected on the bank statements. We reconciled amounts in the bank account with the amounts on the receipts with minor timing differences. We also verified all check withdrawals from the bank account were consistent with amounts in the general ledger.

Based on our review, Concessionaire financial records supported gross sales reported to the Department.

Our findings and recommendations are included in the remainder of this report.

Findings and Recommendations

Finding 1: Capital Improvements

According to Exhibit B *Schedule and Scope of Capital Improvements* of the Agreement, the Concessionaire was required to complete a list of 159 capital improvement repairs no later than December 31, 2015. At the time of the site visit, there were discrepancies between the improvements the Park Management documented as completed and items that we observed completed. Of the 159 required capital improvements, 14 had not been completed, and seven were not clearly defined or needed determination from the Division regarding ADA compliance.

The Park Manager indicated that the Concessionaire requested an extension for the uncompleted improvements from the Division. However, at the time of our review, there were no additional amendments to the Agreement to confirm Division approval of an extension. We also

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noted that some improvements on the list provided by the Park Manager to the Concessionaire had been changed, resulting in a lack of clarity to the Concessionaire.

According to the Agreement, the Concessionaire must comply with ADA requirements regarding facilities included. According to Exhibit H *List of Capital Improvements*, handrails were to be replaced with ADA compliant handrails. The handrails observed during our site visit appeared to be the same as those included in the Exhibit I *Visual Record of Needed Capital Improvements*. According to the Concessionaire Manager, the current metal pipe handrails were ADA compliant. However, the Division's Accessibility and Safety Manager indicated that based on handrail requirements as outlined by the *Florida Building Code 5th Edition (2014) Accessibility*, the handrail extensions, as reviewed from pictures taken during our site visit, did not appear to be compliant.

One of the ramps included in the Exhibit H *List of Capital Improvements* had no handrail. We observed that an oval shaped wooden handrail had been installed. Exhibit H *List of Capital Improvements* also included the addition of three ADA picnic tables. During our site visit, we verified the tables were added. However, the Division needs to make a determination regarding whether ADA requirements have been met.

Recommendation:

We recommend the Division take steps to ensure the Concessionaire meets all required capital improvements listed in the Agreement Exhibit H *List of Capital Improvements*. This includes providing a determination regarding ADA compliance of items listed. If any changes are needed to capital improvements as required by the Agreement, the Division should take steps

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necessary to amend the Agreement so clear expectations are communicated between the Division and the Concessionaire.

Finding 2: E-Verify Employment Eligibility Authorizations

Executive Order Number 11-116 *Verification of Employment Status* issued by the State of Florida Office of the Governor, indicates that agencies are to require contractors to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor during the Agreement term. This also applies to subcontractors. This Executive Order was signed May 2011.

The Agreement became effective October 2014. Section 35a of the Agreement states that the *Concessionaire shall use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification system to verify the employment eligibility of:*

- a. all persons employed by the Concessionaire, during the term of this Agreement, to perform employment duties within Florida; and*
- b. all persons (including subcontractors) assigned by the Concessionaire to perform work pursuant to this Agreement. The Concessionaire shall include this provision in all subcontracts it enters into for the performance of work under this Agreement.*

Of the 30 listed Concessionaire employees, we requested verification documents for a sample of 19. According to the Concessionaire's payroll management company, E-Verify searches were not conducted on employees hired by the Concessionaire prior to May 2011 in conformance with the date of the Executive Order. As a result, verification documents were not available for 11 of the 19 sampled employees.

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Although the current Executive Order in effect does not require searches to be conducted on agency contract employees hired prior to May 2011, Section 35a of the Agreement requires searches for all Concession employees during the term of the Agreement.

Recommendation:

We recommend the Division direct the Concessionaire to ensure E-Verify searches are conducted on all employees as required in the Agreement.

Management Concern

Sexual Offender and Predator checks

The Concessionaire Agreement Section 36 requires that *the Concessionaire shall perform sexual predator and sexual offender checks on which all its employees and subcontractors and shall keep copy of such records in their personnel files that will be available to the Department during the Concessionaire's regular office hours.* This Section does not specify that these checks are required at the time of hire. We were provided sexual predator and sexual offender checks dated the day of our request. As a result, we could not verify that the checks were conducted at the time employees were hired.

Recommendation:

We recommend the Division take steps to ensure Concessionaire Agreements provide specific direction regarding the timing of these checks. Additionally, the Division should ensure that the Concessionaire maintains checks in employee personnel files.

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To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our audit was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The audit was conducted by Cindy Newsome and supervised by Valerie J. Peacock.

Please address inquiries regarding this report to the OIG's Audit Director by telephone at (850) 245-3151. Copies of final reports may be viewed and downloaded via the internet at <http://www.dep.state.fl.us/ig/reports.htm>. Copies may also be obtained by telephone (850) 245-3151, by fax (850)245-2994, in person or by mail at Department of Environmental Protection, Office of Inspector General, 3900 Commonwealth Boulevard, Mail Station #41, Tallahassee, FL 32399.

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