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November 7, 2014

Rose Harvey  
Commissioner  
New York State Office of Parks, Recreation and  
Historic Preservation  
625 Broadway  
Albany, New York 12207

NYS IG 0837-010-2011

Dear Commissioner Harvey:

In April 2011, a former employee of [REDACTED] Inc., a catering company under license agreement with the Office of Parks, Recreation and Historic Preservation (OPRHP) to provide catering services to Sunken Meadow State Park, alleged certain improprieties by [REDACTED] that went undetected by OPRHP. Specifically, the former employee alleged that cash proceeds from food sales were being misappropriated by [REDACTED] employees, resulting in the underreporting of gross receipts to OPRHP, and that [REDACTED] failed to report health code violations to OPRHP as required under the license agreement. While my office did not substantiate the misappropriation of funds by [REDACTED] employees, we found that OPRHP's monitoring of [REDACTED] daily sales was inadequate. We also determined that OPRHP failed to properly monitor [REDACTED] health code violations.

The 10-year licensing agreement commenced on January 1, 2007, and concludes on December 31, 2016. By the terms of the license agreement, [REDACTED] must pay OPRHP a monthly license fee based on a graduated return of gross sales, between 9 and 15 percent. The license agreement also requires [REDACTED] to pay 2 percent of gross receipts to OPRHP's Rehabilitation and Refurbishment Account. Accordingly, the underreporting of gross receipts necessarily affects license fee and Rehabilitation and Refurbishment Account payments to OPRHP. The license agreement requires [REDACTED] to use "cash registers or point of sale systems with tamper proof totalizers . . . No sales of any kind shall be made without immediate recording of sales on said equipment." The

license agreement continues, "Consecutive daily readings shall be taken from each cash register in each sales and tax category and posted to a daily sales report for each register location. The daily sales report shall be provided to the Park Manager weekly." The license agreement also requires [REDACTED] to retain "original records of all gross receipts and any other related records and supporting data" throughout the term of the lease and for six years thereafter.

This investigation revealed that while [REDACTED] was complying with these requirements at most of the concession locations at Sunken Meadow State Park, it was not doing so with regard to the mobile concession cart from which it made cash only sales of beverages and packaged food items. This mobile concession cart is not equipped with a totalizer. [REDACTED]

[REDACTED] This lax procedure is susceptible to misappropriation and underreporting of cash to OPRHP. In addition, under the current system, OPRHP is unable to conduct an accounting of the mobile concession cart gross receipts and daily sales. Accordingly, I recommend that OPRHP require [REDACTED] to equip the mobile concession cart with a totalizer as required by the license agreement.

My office also determined that [REDACTED] was not complying with the license agreement requirement that, "[REDACTED] shall forward a copy of any notice, inspection report, and/or citation received from any State or County health agency, to State Parks' Regional Headquarters and Albany Concession Bureau." My investigators found that from 2007 through 2012, [REDACTED] did not report its numerous health code violations to OPRHP: 2007 – 31 violations; 2008 – 47 violations; 2009 – 52 violations; 2010 – 31 violations; 2011 – 112 violations; and 2012 – 19 violations. While [REDACTED] was remiss in not forwarding copies of the violations, OPRHP also should have inquired of [REDACTED] regarding the yearly inspections known to occur regularly and requested copies of the reports.

Within 45 days of this letter, please provide information concerning OPRHP's review and actions. If you require any further information about our investigation, please contact Special Deputy Inspector General Philip Foglia at (212) 635-3150.

Sincerely,

[REDACTED]  
Catherine Leahy Scott  
Inspector General