

OFFICE OF THE SUFFOLK COUNTY COMPTROLLER



Suffolk County Department of Parks, Recreation and Conservation

A Performance Audit of the Administration of Requests for Proposals and Awarding of License Agreements

**Period Covered:
January 1, 2018 through May 1, 2018**

Report No. 2018-07

Date Issued: October 14, 2020

John M. Kennedy, Jr.

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REPORT HIGHLIGHTS/FACT SHEET

Department of Parks, Recreation and Conservation

Audit Objective

To determine the Suffolk County Department of Parks, Recreation and Conservation's (Department) compliance with guidelines dictated by Suffolk County Standard Operating Procedure (SOP) I-04, the Request for Proposals (RFP) criteria and any other applicable laws, regulations and legislative resolutions as it pertains to the execution of the RFP and awarding of the License Agreements (Agreements).

Key Findings

- The Department's failure to provide adequate guidance resulted in misunderstandings between the Advisory Committee and Department staff as it pertains to the RFP process. (p.6)
- The Department's lack of oversight when composing the RFPs led to inconsistencies and gross misstatements within the RFP document. (pp.6 - 7)
- The Department did not ensure that all provisions of the executed Agreement were consistent with the terms set forth in the successful proposal. (p.6)
- The Department did not always ensure proper financial disclosures by the RFP proposers. (p.8)

Key Recommendations

- Improve communication with their Advisory Committee to ensure that the RFP process requirements and goals are met. (p.10)
- Implement procedures to ensure all information provided in the RFP is clear and accurate. (p.11)
- Adopt more stringent procedures relative to the execution of the Agreements that includes an effective review process by multiple levels of authority. (p.11)
- Establish additional RFP financial requirements and implement procedures that will ensure thorough inspections of RFP remitted documents for completeness. (pp.11 - 12)

Background

The Department is administered by a Commissioner of Parks who is appointed by the County Executive and approved by the County Legislature. The Parks Board of Trustees makes policy recommendations and approves all matters having to do with the regulation and use of park facilities. The County Legislature has the authority to supersede an action or determination of the Trustees and establish County policy with regard to County parks.

Pursuant to SOP I-04, the Department is responsible for preparing the RFP which must be approved by the Trustees and the Commissioner. Proposals are reviewed and ranked by an Advisory Committee selected by the Commissioner. The Commissioner reviews and considers the Committee's evaluations, but ultimately makes the final determination as to the award of the Agreement.

The Department is responsible for the preparation, evaluation and awarding of license agreements in accordance with various New York State and Suffolk County laws, policies and regulations which govern the RFP process. (p.3)

Quick Facts

Subsequent to termination of three license agreements by Suffolk County due to tax fraud, the Department advertised three RFPs on January 25, 2018 for license agreements to operate food service concessions at:

- Smith Point County Park
- Cupsogue Beach County Park
- Meschutt Beach County Park

The RFP process and the awarding of the license agreements is the subject of our review. (p.4)

LETTER OF TRANSMITTAL

October 14, 2020

Mr. Jason Smagin, Commissioner
Department of Parks, Recreation and Conservation
P.O. Box 144
West Sayville, New York 11796

Dear Commissioner Smagin:

In accordance with the authority vested in the County Comptroller by Article V of the Suffolk County Charter, a performance audit was conducted of the Department of Parks, Recreation and Conservation's (Department) administration over the execution of Requests for Proposals (RFP) and the subsequent awarding of license agreements (Agreements) for the period January 1, 2018 through May 1, 2018. The Department is located at 200 Montauk Highway, West Sayville, New York.

The objectives of our audit were as follows:

- To obtain an understanding of the Department's internal controls and procedures relative to the issuance of a RFP and the subsequent awarding of concession Agreements.
- To determine whether the Department was in compliance with guidelines dictated by Suffolk County Standard Operating Procedure (SOP) I-04, the RFP criteria and any other applicable laws, regulations and legislative resolutions pertaining to the execution of the RFP.
- To determine whether the Department was in compliance with guidelines dictated by the RFP and SOP I-04 relative to the reasonableness of the final choice as to the award of the Agreements.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

Office of the County Comptroller
Division of Auditing Services

BACKGROUND

The Department was created by Local Law No. 1 of 1966 and Article XXVIII of the Suffolk County Charter. In accordance with Article XXVIII, the Department is administered by a Commissioner of Parks (Commissioner) who is appointed by the County Executive and approved by the County Legislature. Article XXVIII also establishes a Board of Trustees of Parks, Recreation and Conservation (Trustees), comprised of 11 members; one member from each of the ten Suffolk County towns recommended by the Town Supervisor and one member appointed at large by the County Executive, subject to the approval of the County Legislature. The powers and duties of the Trustees include making policy recommendations and approving all matters having to do with the regulation and use of park facilities. The County Legislature has the authority, by duly enacted resolution, to supersede an action or determination of the Trustees and establish County policy with regard to parks.

The Department is responsible for the preparation, evaluation and awarding of Agreements in accordance with various provisions of New York State General Municipal Law, SOP I-04, and other County policies and regulations which govern the RFP process. Pursuant to SOP I-04, the Department is responsible for preparing the RFP which must be approved by the Trustees and the Commissioner.

SOP I-04 also requires that proposals are reviewed by an Advisory Committee selected by the Commissioner, consisting of: a budget analyst from the Executive Budget Office, an Administrative staff member from the Parks Department, and a Representative from the Board of Trustees. If capital improvements are included in the proposal criteria, a licensed engineer or architect from the Department of Public Works shall serve on the Advisory Committee. In the event that the proposal involves Historic Trust Property, a member of the Suffolk County Historical Trust shall serve as a member of the committee. The Commissioner also has the authority to include additional members from appropriate County agencies. In addition, the Chairperson of the Parks, Recreation, and Public Works Legislative Committee, or his/her designee is invited to attend [the Advisory Committee meeting]. The Commissioner serves as the non-voting chairperson of the Advisory Committee. The Advisory Committee evaluates each applicant's proposal based on the criteria outlined in the RFP, and ranks each proposal according to the point system described in the RFP. Each Advisory Committee member's individual evaluation of proposals along with a master evaluation summary is submitted to the Commissioner for review. The Commissioner reviews and considers the Advisory Committee's evaluation, but ultimately makes the final determination as to the award of the Agreement. Should the Commissioner determine to choose a proposal that has not received the highest aggregate total points on the evaluation, the Commissioner shall provide, in writing, an explanation of the reasons for such alternative choice and the County purposes advanced by selection of the alternative choice, together with documentation in support of such decision.

Subsequent to the termination of three license agreements by Suffolk County due to tax fraud, the Department advertised three RFPs on January 25, 2018 for license agreements to operate food service concessions at Smith Point County Park, Cupsogue Beach County Park and Meschutt Beach County Park. The RFP process and the awarding of these Agreements is the subject of this audit.

AUDIT FINDINGS

The Suffolk County Comptroller's Office conducted an audit of the Department's Administration of Agreements for the period January 1, 2015 through December 31, 2016 which concluded that the Department did not effectively monitor licensees to ensure compliance with the provisions of their Agreements. Subsequent to the publication of the Comptroller's Audit Report 2016-19, the Department has taken several steps in response to the report's recommendations. The Agreements now contain "required completion dates" for capital improvements, in contrast to prior Agreements where project completion dates were merely suggested. The modification of this language in the Agreements may eliminate confusion and ensure that the licensees clearly recognize that their capital improvement obligations are to be completed within an explicit time frame. The Department also revised the contractual provisions for payments by the licensees to contain specific and clear terms that were consistent among the Agreements.

Our review of the Department's internal controls and procedures relative to the audit subject disclosed multiple instances of inadequate internal controls and procedures which resulted in the Department's, as well as the Advisory Committee's, failure to comply with provisions contained in the RFP and required by SOP I-04. We found that the Department provided limited guidance to the Committee members and failed to follow customary RFP practices. Therefore, it is questionable whether a thorough and fair evaluation of the proposals was performed. Moreover, we determined that there were errors and inconsistencies found in the RFP documents, internal documents used for the purpose of evaluating proposals, and the execution of one of the three Agreements.

It should be noted that the Department did not cooperate with audit requests and created a scope limitation by not permitting the audit staff to observe oral presentations of the RFP respondents. Placing such a restriction on standard audit procedures hindered the ability to satisfy the audit objective. According to United States Generally Accepted Government Auditing Standards (GAGAS) for Field Work, Chapter 6.61b., "Evidence obtained through the auditors' direct physical examination, observation, computation, and inspection is generally more reliable than evidence obtained indirectly." Furthermore, the GAGAS Supplemental Guidance A6.04 states, "Physical evidence is obtained by auditors' direct inspection or observation of people, property, or events."¹

¹ As a result of the Department's lack of cooperation a subpoena for the requested documents was issued on March 1, 2018. Although the Department subsequently provided the requested documents, we are currently involved in litigation pertaining to this audit.

Policies and Procedures Manual

The Department does not have a formal policies and procedures manual relative to the administration and oversight of the RFP process. Our interviews of departmental staff revealed that there are no written procedures for any of the processes related to the execution of RFPs, review of proposals, oversight of the Advisory Committee, and the subsequent awarding of the Agreement. As a result, we found that the employees tasked with oversight were not as familiar with the provisions of the RFP and SOP I-04 as they should be, which likely contributed to the Department's lack of compliance.

Inadequate Oversight

The Department's failure to provide adequate guidance and oversight to the Advisory Committee resulted in misunderstandings between the Committee members and the Department staff as it pertains to the division of responsibility. Our interviews of departmental staff and members of the Advisory Committee revealed an ambiguity pertaining to the responsibility for ensuring that all documents necessary to perform a thorough evaluation are available and reviewed for completeness. As a result, the Advisory Committee members and Department staff each had the belief that the responsibility rests with the other; therefore, it is questionable whether a fair and thorough evaluation was performed by the Advisory Committee members.

Inadequate Internal Controls and Noncompliance

There were errors and inconsistencies contained in the RFP document, internal documents used for purposes of evaluating the proposals, and the fully executed license agreement.

- Department staff distributed inaccurate information, summarizing the proposed capital improvements, to the Commissioner and members of the Advisory Committee. This information was provided as a guide in the scoring and awarding of the Agreements. Therefore, it is possible that the assessment of the proposals and final award of the Agreements was affected by this inaccurate information.
- The Department did not ensure that all provisions in one of the executed Agreements were consistent with the conditions set forth in the successful proposal. Subsequent to audit staff advising the Department of this discrepancy, the Department amended the Agreement correcting the divergent terms. Had this discrepancy not been detected by the audit staff, the error in the Agreement terms pertaining to the percentage of gross receipts may have resulted in a loss of County revenue in the amount of \$296,936 over a ten year period.

- The Department advertised the Smith Point Food Concession RFP containing inaccurate revenue information. The Department's lack of oversight when composing the RFPs led to inconsistencies amounting to \$1.9 million and gross misstatements of \$2.1 million pertaining to the "Approximate Revenue Generated" in the Smith Point RFP. This presented a considerable hindrance to the proposers, as they rely on the accuracy of the "approximate revenue generated" as the foundation of their proposed revenue projections; a major criteria for which they are judged and scored.

Smith Point Food Concession RFP

❖ *Inconsistencies between Revenue stated in the Initial RFP and Revenue stated in the Addendum to the RFP*

Year	Revenue Initially stated in the RFP	Addendum to RFP - Exhibit A Revenue
	<i>Col x</i>	<i>Col y</i>
2015	\$2,116,249	\$1,275,981
2016	\$1,929,326	\$1,388,733
2017	\$1,909,752	\$1,364,026
Total	\$5,955,327	\$4,028,740

Difference between Revenue Initially stated and Exhibit A of the RFP

\$1,926,587

❖ *Gross Misstatement between the Stated Revenue in the RFP and the Actual Revenue*

Year	Revenue Reported by previous Licensee to the Department	Taxable Sales Not Reported by previous Licensee (plea agreement with DA)	Adjusted (actual) Revenue that Should have been Stated in the RFP	Revenue Initially stated in the RFP (figures were used by Parks to score greatest benefit to the County)
	<i>Col a</i>	<i>Col b</i>	<i>c = a + b</i>	<i>Col d</i>
2013	\$742,234	\$187,327	\$929,561	\$1,248,274
2014	\$843,369	\$188,607	\$1,031,976	\$1,349,505
2015	\$1,275,981	\$273,414	\$1,549,395	\$2,116,249
2016	\$1,485,150	not investigated	\$1,485,150	\$1,929,326
2017	\$1,442,646	not investigated	\$1,442,646	\$1,909,752
Total			\$6,438,728	\$8,553,106

Revenue Over / (Under) Stated in the RFP (*d - c*)

\$2,114,378

The lack of adequate internal controls, procedures and guidance, as noted above, resulted in the Department's failure to comply with certain provisions of the RFP and SOP I-04, and in many instances may have hindered the Advisory Committee's ability to properly evaluate the proposals.

- For all three RFPs, the Department did not provide evidence of the Commissioner's review and approval of the RFP document prior to advertisement, nor is there evidence of a review by the Advisory Committee and the Trustees for comments and recommendations as required by SOP I-04.
- The Department's lack of knowledge with the provisions of SOP I-04 resulted in the Department failing to ensure that the Advisory Committee's evaluation was performed in compliance with SOP I-04. SOP I-04 requires the undertaking of reasonable efforts to sample the food, evaluate the quality of service and review board of health records. The Department did not require proposers to provide food samples at the oral presentations or to submit board of health records with their proposals.
- The Department did not ensure that all proposals included a valid credit rating or credit score from a major credit-reporting agency as required by the RFP. As a result, the scoring by the Advisory Committee members was hindered due to a lack of sufficient information pertaining to financial strength.
- The Department failed to require bankruptcy disclosure as a RFP criterion, or perform reasonable research on their own. Both the Department and Advisory Committee members were unaware that J&B Restaurant Partners, who were awarded the Agreements for all three concessions, had multiple Chapter 11 bankruptcies. Had the Advisory Committee members been aware of J & B Restaurant's history of bankruptcies, such knowledge may have influenced the outcome of the award process.

Best Practices

The Department disregarded practices commonly followed in other RFP processes which likely hindered the Advisory Committee's ability to fairly compare and assess all proposals of the RFP prior to their scoring of the proposals.

- It is questionable whether the Advisory Committee members were provided a reasonable amount of time to perform a thorough evaluation of the 18 proposals. It is common practice for a RFP evaluation meeting to be scheduled at least two weeks after the proposals are distributed to the committee members. Although it took departmental staff one week to review and process the proposals, Advisory

Committee members were only afforded two business days to review and evaluate the proposals.

- The Department did not allow the Advisory Committee the opportunity to meet and discuss the proposals during the RFP process, nor were the Committee members permitted to submit their final score sheets subsequent to the conclusion of all presentations. The Department collected each Committee member's score sheets immediately after each presentation, not allowing for changes. Such restrictions placed on the Advisory Committee may hinder their ability to adequately process or compare all proposal documentation and information gained during the presentations.

RECOMMENDATIONS

The Department should comply with audit requests so as not to place limitations on the audit scope. Had the audit staff been permitted to observe the proposal presentations they would have been able to review the procedural actions conducted by the Department and Advisory Committee in order to ensure compliance with the law and ensure accountability and efficiency.

Policies and Procedures Manual

The Department should develop a comprehensive policies and procedures manual relative to the RFP process and subsequent execution of Agreements. Such policies and procedures should provide clear and concise guidelines to aid staff tasked with the administration of RFPs, review of proposals, guidance and oversight provided to the Advisory Committee in the evaluation process, and proper execution of Agreements. The manual should include, but not be limited to, detailed descriptions of procedures, job responsibilities, management oversight functions, proper review and verification processes by multiple levels of authority, standardized forms and checklists, and clear and concise time lines that will ensure the requirements are met in a manner that is consistent with the laws, rules, policies and regulations while reducing the risk of an error occurring within the RFP and execution of license agreements.

Inadequate Oversight

The Department should adopt policies and procedures to ensure Department staff and Advisory Committee members are aware of their roles and responsibilities pertaining to the RFP evaluation process. It is imperative that the Department improve their oversight and communication with the Committee members. Communication, guidance and adequate procedures relative to the review of proposals are essential elements to meeting the requirements and goals of the RFP process. The procedures should include clear and concise guidelines to aid the Department staff and members of the Advisory Committee as it pertains to the division of responsibility when verifying the completeness of all documents required by the RFP and to ensure that the Committee members can perform a fair and thorough evaluation of all proposals.

Inadequate Internal Controls and Noncompliance

The Department should establish procedures to strengthen internal controls and ensure compliance with all laws, rules, policies and regulations related to the RFP process as follows:

-
- Department staff should ensure that the information they provide, which may be relied upon during the review and evaluation of proposals, is complete and accurate.
 - The Department should implement adequate procedures relative to the oversight of the execution of Agreements such as, a proper review process that includes proof reading when compiling the agreement as well as a review by multiple authoritative levels in the Department prior to the execution of the Agreement. Following such procedures would have reduced the risk of error and therefore, reduced the risk of potential loss of revenue to the County.
 - The Department should develop adequate procedures relative to the oversight of the drafting of a RFP. These procedures should include the thorough verification of historic revenue amounts the Department intends to include in the RFP to ensure that proposers have complete and accurate information in which to base their own revenue projections that will be weighed by the Advisory Committee members.
 - The Department should review all laws, rules, policies and regulations related to the RFP process and formulate comprehensive written procedures to ensure compliance with all requirements. These policies and procedures should also provide clear and concise time lines that will ensure the requirements are met in a manner that is consistent with the laws, rules and regulations.
 - The Department should include in the RFP a request for food samples to be provided by the proposers at their presentations to ensure that the Advisory Committee performs the evaluation in compliance with SOP I-04.
 - RFPs should include a requirement for proposers of food service concessions to submit any and all board of health records with their proposals.
 - The Department should establish additional RFP financial requirements and implement procedures that will ensure thorough inspections of RFP submitted documents for completeness. To ensure proper financial disclosures by proposers, it is recommended that the Department establish a RFP criterion that all proposals include a statement disclosing any bankruptcies filed within the last seven (7) years. The statement must include the date the bankruptcy was originally filed, the current status, and if applicable, the date the bankruptcy was discharged. Additionally, it is recommended that a thorough inspection of the applicant's credit report is performed. The financial status of the company is a key factor when evaluating proposals. Missing or misleading financial information can leave the County vulnerable and susceptible to a loss of

proposed fees, percentage of gross receipts and unfulfilled capital improvement obligations.

Best Practices

The Department should ensure the Advisory Committee is provided with pertinent information that is complete, and allow ample time for a thorough and fair evaluation as follows:

- The Department should allow Advisory Committee members a minimum of two weeks from distribution of proposals to evaluation, unless more time is warranted by the number of proposals to be reviewed.
- The Department should permit Advisory Committee members to meet to discuss questions pertaining to the RFP requirements. Advisory Committee meetings may be beneficial and informative to the members, as each can share insight pertaining to their areas of expertise, allowing all members to make a more informed decision.
- The Department should allow Advisory Committee members to submit their score sheets after all presentations have occurred and each member has had ample time to review the proposals in their entirety.
- In the event that the Commissioner opts to select a proposal that has not received the highest aggregate total points on the Advisory Committee's evaluation, SOP I-04 requires the Commissioner to provide, in writing, an explanation of the reasons for such alternative choice and the County purposes advanced by selection of the alternative choice, together with documentation in support of such decision. However, SOP I-04 is silent as to the submission of such written documentation. Although such justification is required in writing by the Commissioner, we recommend that the County Code be amended to require that the Commissioner obtain Legislative approval of the alternate choice. Such approval would parallel the Legislature's existing oversight authority to supersede any action or determination of the Trustees and establish County policy with regard to parks.

CONCLUSION

Our review found inconsistencies, errors and instances of non-compliance that can be attributed to inadequate internal controls and poor oversight by the Department, with regard to the RFP process and awarding of concession services agreements. We believe the Department would benefit by utilizing the Personal Services Procurement Checklist for guidance with the RFP process.

With the intention of improving and strengthening the County's consultant procurement process the Suffolk County Legislature issued Resolution No. 676-2009 which in addition to establishing procedures for procuring consultant and personal services, required all departments, offices and agencies to file a Personal Services Procurement Checklist developed by the County Comptroller, with the Comptroller's Office within ten (10) days of award of a consultant contract. In 2019, the Suffolk County Legislature enacted Resolution No. 1199-2019, Repealing Chapter 1065 of the Suffolk County Code and substituting a New Chapter 1065. This new law extended this filing requirement to the award of concession services agreements prompted by requests from the Comptroller's Office. Although this requirement provides a mechanism to foster propriety of the Department's RFP process, we further recommend that the Department file copies of all fully executed concession services agreements with the Clerk of the Legislature and the Comptroller's Office as is required for all other County contracts.

CONTRIBUTORS TO THIS REPORT

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APPENDIX A: RESPONSE FROM THE DEPARTMENT

Suffolk County Department of Parks, Recreation and
Conservation Contracts Unit
Response to Assignment #2018-07

A Performance Audit of the Administration of Requests
for Proposals and Awarding of License Agreements

The Suffolk County Department of Parks, Recreation, and Conservation appreciates the opportunity to review and respond to this Performance Audit. It is important to recognize that the Department was under strict time constraints to award new licensees for the beach concessions in order to ensure operations for the summer season as a benefit to park visitors. Also, due to this process being the subject of intense media hype, the Department wanted to ensure that evaluators made decisions for themselves based on the proposals and presentations and were not influenced by fellow evaluators to vote for a specific vendor. These factors may have contributed to changes in the Request for Proposal (RFP) process and ultimately reported in the findings of this report.

Since the Comptroller's evaluation of this process, the Contracts Unit of the Parks Department has been working with the County's Performance Management Team to streamline the RFP and Procurement process. The Department is hopeful that updates to the process will provide a more transparent and more equitable process to ensure that Vendors selected for County parks concessions will provide the best services to the public and resources to the County.

Policies and Procedures Manual

The Department does not have a formal policies and procedures manual relative to the administration and oversight of the RFP process. Our interviews of the departmental staff revealed that there are no written procedures for any of the processes related to the execution of RFPs, review of proposals, oversight of the Advisory Committee, and the subsequent awarding of the Agreement. As a result, we found that the employees tasked with oversight were not as familiar with the provision of the RFP and SOP-I-04 as they should be, which likely contributed to the Department's lack of compliance.

Department's Response: *The Department is working with the County's Performance Management Team to streamline the RFP and Procurement process. The Department is working on a manual specific to the Parks Concession RFP process.*

Inadequate Oversight

The Department's failure to provide adequate guidance and oversight to the

Advisory Committee resulted in misunderstanding between the Committee members and the Department staff as it pertains to the division of responsibility.

Our interviews of departmental staff and members of the Advisory Committee revealed an ambiguity pertaining to the responsibility for ensuring that all documents necessary to perform a thorough evaluation are available and reviewed for completeness. As a result, the Advisory Committee members and Department staff each had the belief that the responsibility rests with the other; therefore, it is questionable whether a fair and thorough evaluation was performed by the Advisory Committee members.

***Department's Response:** The Advisory Committee was provided with a copy of all of the proposals received for the beach concessions. They were asked to review the proposals, as well as the presentations by each of the potential vendors. At the end of the presentations, they were asked to submit their evaluation form to the Commissioner for his review and consideration. (Examples of the notifications provided are attached hereto as Exhibits A & B).*

Inadequate Internal Controls and Noncompliance

There were errors and inconsistencies contained in the RFP document, internal documents used for purposes of evaluating the proposals, and the fully executed license agreement.

- Department staff distributed inaccurate information, summarizing the proposed capital improvements, to the Commissioner and members of the Advisory Committee. This information was provided as a guide in the scoring and award of the Agreements, Therefore, it is possible that the assessment of the proposals and final award of the Agreements was affected by this inaccurate information.

***Department's Response:** The summarizing document was initially prepared by the Parks Department's evaluation committee representative for his own evaluation purposes. Upon seeing the chart prepared by the Department representative, other committee members requested a copy of this document as it laid out each proposal in a comparative format for easy review. The Department representative shared the document but told the evaluation committee members that it was prepared by him for his own review purposes, and was not intended to be a formal review of the proposals.*

- The Department did not ensure that all provisions in one of the executed Agreements were consistent with the conditions set forth in the successful proposal. Subsequent to audit staff advising the Department of

this discrepancy, the Department amended the Agreement correcting the divergent terms. Had this discrepancy not been detected by the audit staff, the error in the Agreement terms pertaining to the percentage of gross receipts may have resulted in a loss of County revenue in the amount of \$296,936 over a ten year period.

Department's Response: *The Department acknowledged this error and took corrective action immediately upon notification. This review process will be included in the RFP manual to avoid this oversight in the future.*

- The Department advertised the Smith Point Food Concession RFP containing inaccurate revenue information. The Department's lack of oversight when composing the RFPs led to inconsistencies amount to \$1.9 million and gross misstatements of \$2.1 million pertaining to the "Approximate Revenue Generated" in the Smith Point RFP. This presented a considerable hindrance to the proposers, as they rely on the accuracy of the "approximate revenue generated" as the foundation of their proposed revenue projections; a major criteria for which they are judged and scored.

Department's Response: *The Department realized this error after the RFP had been issued and subsequently provided an addendum to the RFP which was made available to all prospective proposers prior to the deadline for submission of the Proposals. The addendum is attached hereto as Exhibit C.*

Smith Point Food Concession RFP

The lack of adequate internal controls, procedures and guidance, as noted above, resulted in the Department's failure to comply with certain provisions of the RFP and SOP I-04, and in many instances may have hindered the Advisory Committee's ability to property evaluation proposals.

- For all three RFPs, the Department did not provide evidence of the Commissioner's review and approval of the RFP document prior to advertisement, nor is there evidence of a review of the Advisory Committee and the Trustees for comments and recommendations as required by SOP I-04.

Department's Response: *The Commissioner directed the Contracts Unit to draft the RFP and had significant input regarding the contents through the whole drafting process. Attached hereto as Exhibit D, is verification of the Commissioner's approval of the three RFPs. The Department did notify the Parks Trustees that the RFP was being drafted, but does acknowledge that*

they were not provided a copy of the RFP for review prior to the document being released due to the time constraints of this process. Under SOP I-04 the purpose of the Advisory committee is to select the best proposer, not to determine the contents or the needs of the Department in the RFP. The Department will review SOP I- 04 during its crafting of an updated Parks RFP manual.

- The Department's lack of knowledge with the provisions of SOP I-04 resulted in the Department failing to ensure that the Advisory Committee's evaluation was performed in compliance with SOP I-04. SOP I-04 requires the undertaking of reasonable efforts to sample the food, evaluate the quality of service and review board of health records. The Department did not require proposers to provide food samples at the oral presentations or to submit board of health records with their proposals.

Department's Response: *All proposers were provided the opportunity to provide food samples at the oral presentations which several proposers did. These findings will be further clarified in the RFP manual to ensure that these guidelines are in place.*

- The Department did not ensure that all proposals included a valid credit rating or credit score from a major credit reporting agency as required by the RFP. As a result, the scoring by the Advisory Committee members was hindered due to lack of sufficient information pertaining to financial strength.

Department's Response: *The Department acknowledges this finding and will ensure that this point is further clarified in the RFP manual.*

- The Department failed to require bankruptcy disclosure as a RFP criterion, or perform reasonable research on their own. Both the Department and Advisory Committee members were unaware that J&B Restaurant Partners, who were awarded the Agreements for all three concessions, had multiple Chapter 11 bankruptcies. Had the Advisory Committee members been aware of J&B Restaurant's history of bankruptcies, such knowledge may have influenced the outcome of the award process.

Department's Response: *The Department acknowledges this finding and will ensure that this point is further clarified in the Park's RFP manual to ensure that these guidelines are in place for future RFPs.*

Best Practices

The Department disregarded practices commonly followed in other RFP processes

which likely hindered the Advisory Committee’s ability to fairly compare and assess all proposals of the RFP prior to their scoring of the proposals.

- It is questionable whether the Advisory Committee members were provided a reasonable amount of time to perform a thorough evaluation of the 18 proposals. It is common practice for a RFP evaluation meeting to be scheduled at least two weeks after the proposals are distributed to the committee members. Although it took departmental staff one week to review and process the proposals, Advisory Committee members were only afforded two business days to review and evaluate the proposals.

Department’s Response: *The Department has acknowledged that these RFPs were issued with a limited time restriction. We do understand the benefit of allowing a longer period of time for review of the proposals, but did not have the time frame during these specific RFPs to allow for that in order to have concessions up and running for the start of the season.*

- The Department did not allow the Advisory Committee the opportunity to meet and discuss the proposals during the RFP process, nor were the Committee members permitted to submit their final score sheets subsequent to the conclusion of all presentations. The Department collected each Committee member’s score sheets immediately after each presentation, not allowing for changes. Such restrictions placed on the Advisory Committee may hinder their ability to adequately process or compare all proposal documentation and information gained during the presentations.

Department’s Response: *The Department requested that the Advisory Committee individually score the proposals in response to SOP I-04. Section B-5 of SOP I-04 states that **“The advisory committee will individually total their evaluations of the proposals. These along with a master evaluation summary which compiles the totals by category, will be submitted to the Commissioner of Parks for review.”** After receiving the individual scores from the Advisory Committee members, the Contracts unit created a master evaluation summary of the scores, and then provided them to the Commissioner for review. The procedure followed was in compliance with the SOP.*

Through this RFP process, the Department recognizes the importance of having clear and updated guidelines to follow, especially when time limitations are not favorable. The findings of this Audit have provided a better understanding to the Department on necessary

improvements and changes that are needed to the RFP and procurement process. The Department will be working with the new Procurement Director to establish an RFP manual to incorporate these changes.

Exhibit A

Lauri, Emily R.

From: Lauri, Emily R.
Sent: Tuesday, March 6, 2018 1:30 PM
To: Naughton, Eric
Cc: Tinn, Kelly; Berdolt, Philip; Malanga, Tom; Heuer, Cindy; Ladowski, Patricia
Subject: FW: Cupsogue, Smith Point and Meschutt RFP Evaluation Committee
Attachments: Cupsogue Beach Food Concession RFP 01-25-2018.pdf; Meschutt Beach Food Concession RFP 01-25-2018.pdf; Smith Point Food Concession RFP 01-24-2018 FINAL.pdf; RFP Package to -budget eval committee.pdf

Tracking:	Recipient	Read
	Naughton, Eric	Read: 3/6/2018 1:32 PM
	Tinn, Kelly	
	Berdolt, Philip	
	Malanga, Tom	Read: 3/6/2018 1:41 PM
	Heuer, Cindy	
	Ladowski, Patricia	Read: 3/6/2018 1:34 PM

Dear Mr. Naughton,

Thank you for agreeing to serve as a member of the Evaluation Committee for the Request for Proposals (RFP) to renovate, operate, maintain and manage a food service and related activities concession at Cupsogue Beach County Park, Westhampton Beach, NY, at Smith Point County Park in Shirley, NY, and at Meschutt Beach County Park in Hampton Bays, NY. Attached for your review are the three RFP packages.

We have received a total of eighteen (18) proposals which will be delivered to you later this week for your review, prior to the oral presentations which we plan to schedule the week of March 12th. We will need to schedule nine (9) one hour long presentations plus one additional hour for the evaluation committee to discuss and vote. Please provide your availability for the following dates: March 12, 13, 14 & 15, 2018.

If you have any questions, please do not hesitate to contact me at 631-854-4980 or via e-mail at Emily.lauri@suffolkcountyny.gov. Thank you for your assistance on this important committee.

Copies of the Attachments and Addendums to the RFP's to follow in separate emails....

*Emily R. Lauri, Community Relations Director
Suffolk County Department of Parks, Recreation, and Conservation
P.O. Box 144, Montauk Highway
West Sayville, NY 11796*

631-854-4980
631-854-4978 (Fax)
Email: emily.lauri@suffolkcountyny.gov

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Exhibit B

Lauri, Emily R.

From: Lauri, Emily R.
Sent: Friday, March 9, 2018 3:32 PM
To: Naughton, Eric; Maccarrone, Terry; Johnson, Lew; gilstu@yahoo.com; Berdolt, Philip; Fuentes, Massiel
Cc: Rittman, Barbara (barbara.rittman@suffolkcountyny.gov); Gellerstein, Lora; Heuer, Cindy; Ladowski, Patricia; Malanga, Tom
Subject: Final Schedule for RFP Proposal Presentations for the Beach Huts.

Tracking:	Recipient	Read
	Naughton, Eric	Read: 3/9/2018 3:34 PM
	Maccarrone, Terry	
	Johnson, Lew	Read: 3/9/2018 4:04 PM
	gilstu@yahoo.com	
	Berdolt, Philip	
	Fuentes, Massiel	Read: 3/9/2018 3:34 PM
	Rittman, Barbara (barbara.rittman@suffolkcountyny.gov)	
	Gellerstein, Lora	Read: 3/15/2018 11:07 AM
	Heuer, Cindy	
	Ladowski, Patricia	Read: 3/9/2018 3:41 PM
	Malanga, Tom	Read: 3/14/2018 8:55 AM

Monday, March 12th

10:00 – 11:00 am Woodside Group Corporation
11:00 am – 12:00 pm Strano Enterprises
12:00 – 1:00 pm Ian Duke
1:00 – 1:30 pm Lunch
1:30 – 2:30 pm J. Mill Management Co., Inc.
2:30 – 3:30 pm Lazy Tuna
3:30 – 4:30 pm SeaSalter

Tuesday, March 13th

10:00 am – 11:00 am Helen Ficolora
11:00 – 12:00 pm IslandTime
12:00 – 1:00 pm J & B Restaurant Group

Wednesday, March 14th

2:00 pm – 4:00 pm EVALUATION COMMITTEE REVIEW

All presentations and meetings will be held at the Meadowedge Building in West Sayville.

The scoring will be based on the following criteria and scoring sheets will be handed out the morning of the presentations.

Return to County—50 Points

- Fee to the County of Suffolk 25 Points
- Capital Improvement Investment 25 Points

Proposer Background and Experience—50 Points

- Appropriate Experience 20 Points
- Financial Strength 20 Points
- Personnel Qualifications and Experience 10 Points

Proposal Contents—50 Points

- Business Plan 20 Points
- Capital Improvement Plan 15 Points
- Operation of Concession 15 Points

TOTAL 150 Points

*Emily R. Lauri, Community Relations Director
Suffolk County Department of Parks, Recreation, and Conservation
P.O. Box 144, Montauk Highway
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631-854-4980

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Exhibit "C"

ADDENDUM NO. TWO

TO

REQUEST FOR PROPOSALS (RFP) NO. 18-PK-018

FOR THE

**SUFFOLK COUNTY
DEPARTMENT OF PARKS, RECREATION AND CONSERVATION
FOR A LICENSE TO
RENOVATE, OPERATE, MAINTAIN AND MANAGE
A FOOD SERVICE AND RELATED ACTIVITIES CONCESSION
("CONCESSION") AT
SMITH POINT COUNTY PARK,
SHIRLEY, NY**

PURPOSE OF ADDENDUM

Provide Responses to Technical Questions Submitted

Proposals must be submitted no later than 11:00 a.m. on March 01, 2018
Proposal must be returned to the Suffolk County Parks Department

CONTACT INFORMATION

Emily R. Lauri, Community Relations Director
Tel. (631) 854-4980
Fax: (631) 854-4978
Email: Emily.Lauri@suffolkcountyny.gov

Response Package Requirements

Proposers should refer to the Response Package Requirements as listed within
the RFP.

Late Proposals Will Be Rejected

A. ADMINISTRATIVE AND TECHNICAL QUESTIONS RECEIVED WITH ACCOMPANYING ANSWERS

The questions and answers are set forth below.

1. What is the percentage of food vs. alcohol sales for previous vendor at Cupsogue?

Answer: The County does not have a breakdown showing food vs. alcohol sales.

2. Is the new licensee permitted to deliver food or drinks to patrons on the beach?

Answer: No.

3. Is the new licensee responsible for the maintenance of the bathrooms?

Answer: The new licensee would be responsible for cleaning the restrooms from 4:00 pm to closing.

4. What are the required hours of operation preseason, during the season and post season for the facility?

Answer: The Department is open to all requests subject to the Commissioner's Approval. The license facility is not permitted to operate past 10:00 pm.

5. After reviewing the bid package and more particularly the section regarding: Financial Strength", it states that "Proposers must provide a financial statement prepared by a Certified Public Accountant which presents a full and detailed description of the most recent fiscal year of the Proposer's assets, liabilities and net worth which verifies the Proposer's ability to undertake and complete the proposed project." Does the County want a personal financial statement or a corporate one?

Answer: Either one is acceptable.

6. If the proposer has more than one corporation or entities, does the County want a financial statement from each one?

Answer: Yes.

7. If the proposer is providing a personal financial statement, would the County request one from each principal in the entity?

Answer: Yes.

8. We were going to set up a new corporation for this venture, however, if we do, there would be no financial history to review. Should we wait, and if we were awarded the contract, would we then transfer it to the new entity?

Answer: Yes.

9. Do the proposals have to include all aspects of the operation, or can a vendor apply for portions of the food service?

Answer: Proposals need to include all aspects of the operation.

10. During the inspection, we noticed that there might be a leak in the roof. As mentioned in the RFP, it is the responsibility of the concessionaire for the repair of the roof and also mentioned that there was a new roof put on in 2009. Is there a warranty on the roof?

Answer: The licensee is not responsible for repairs to the roof at this site.

11. Do you have a recommended area for volleyball courts?

Answer: There is one court located within the footprint of the licensed premises. There are an additional four (4) courts located at the extreme west end (the DARE area) of the park with the ability to add additional courts.

12. Who operates the campground concession area?

Answer: The campground store is operated through a license agreement with Nappyone, Inc.

13. What months of the year are the campgrounds open and can the County provide occupancy data?

Answer: The campground at Smith Point is open from March 1 – October 31 each year.

**The reservation occupancy date for the campground is:
2016-Reservations 6932 2017-reservations-7055**

14. The other requirements section of the proposal states that "The Proposal must include A Financial Statement, prepared and certified by a Certified Public Accountant, which presents a full and detailed description, as of the most recent fiscal year...." The proposer obtained an audit for 2016 audit during the summer of 2017. The proposer has always obtained an audit during the summer in the past, and it would be extremely difficult for the

auditor's CPA to perform an audit during February, on such short notice. Would a certified audit for 2016 and CPA reviewed financial statements for 2017 be acceptable?

Answer: Yes – this is acceptable.

15. Can the purchase of a Jitney Bus, for the use of transportation of the campground patrons to the Smith Point Pavilion be part of the capital expense?

Answer: Yes.

16. If storage containers are necessary, can they be considered part of the Capital?

Answer: Yes.

17. Is all equipment that is listed on the RFPs operational and up to health department codes?

Answer: In 2017, the equipment met all the required regulatory agency standards. As per section 8., paragraph e. of the RFP Guidelines for Improvement to Licensed Premises; "All equipment on the Licensed Premises shall be accepted by the Licensee "as is"."

18. In order for us to accurately project the profitability for the year, we would need to know the utility costs for gas, propane electric and water for the previous years. Since we don't have the account # or are a signor on the account, the utility companies are not forthcoming with that information. Can you please provide that information?

Answer: The County does not have this information. All accounts were the responsibility of the previous licensee.

19. Can you provide the bi weekly or monthly sales for 2015, 2016 and 2017?

Answer: See attached Exhibit "A".

20. In the RFPs it references that the proposer is responsible for the heating system. Can you please let us know how old the heating system is? Is it electric or gas and can you provide the maintenance log for the last 3 years?

Answer: See Attached Maintenance Log – Exhibit "C".

21. Are the buildings air conditioned?

Answer: No.

22. In order to accommodate the crowds, can the new licensee utilize beer and wine carts?

Answer: Yes, this would be permitted within the confined space of the licensed premises pending proper approvals from all regulatory agencies.

23. Is there is a current camera system at the concession, what type is it? If not what type of system is recommended that is to be integrated with the County's controlled security system?

Answer: Yes, there is an existing camera system at the concession but the type is unknown. The County utilizes cameras and software through Exacq Vision, but would consider other options.

24. Is the proposer responsible for the cost to connect the camera system or does the County have an IT Department that would handle that?

Answer: The proposer would be responsible for the cost to connect the camera system.

25. With regards to the installation of security cameras at each point of sale location – can you clarify if you require one camera at each register location of one camera to cover the POS system in the general area?

Answer: The County is requesting one camera per register.

26. Are the cameras and POS system that are required considered to be part of the capital expense?

Answer: Yes.

27. Are there data lines set up for the ability to utilize credit cards?

Answer: Data lines are not set up, but infrastructure is available.

28. "Proposer is responsible for ongoing maintenance and repair of the licensed premises, grounds, fixtures, etc." Please clarify the license premises and grounds (i.e. parking lot, beach, etc.) as it is too vague as how stated in trying to determine maintenance costs?

Answer: See Attached Site Map - Exhibit "B"

29. Can you provide documentation from the previous concessionaire as to the last time any repairs or maintenance were done to the plumbing systems, alarm systems, sprinkler systems and cesspools?

Answer: See Attached Maintenance Log – Exhibit "C"

30. Why is there mention of the Organic Parks Maintenance Plan for Suffolk County Golf Courses and Parklands in the RFPs? What is the proposer's responsibility for this?

Answer: "The Organic Parks Maintenance Plan for Suffolk County Golf Courses and Parklands" was adopted by the County via Resolutions # 867-1997 and #868-1997 and sets guidelines required for the maintenance and care of park facilities included, but not limited to pesticide use and native plantings. It is the Department's responsibility to make all proposers aware of guidelines which may apply to the daily operations of the licensed premises.

31. The RFP mentions that the licensee is responsible for cleaning all spaces used in the performance of the licensed agreement, including public or shared spaces. Can you please be more specific with regards to the public and shared space?

Answer: See Attached Site Map - Exhibit "B".

32. On page 8, question 7, item e. of the sample agreement, it states "that the Licensee's minimum obligation for maintenance and upkeep of the licensed premises shall be (cost to be determined)" – Can you please provide the cost that was spent for 2016 & 2017 so that we can accurately reflect this in our P & L?

Answer: See Attached Maintenance Log – Exhibit "C".

33. Is entertainment required at each location or is up to the proposer's discretion?

Answer: As per Section 4., **Scope of Concession Activities:** of the RFP, "The Department encourages such events to provide additional recreational opportunities for the public and to increase park attendance", but it is not required.

34. With regards to the Vendor Information Sheet that needs to be provided with the above-mentioned RFPs, can you verify that the RFP #'s are the Law No. 18-PK-018, 017 and 016?

Answer: The RFP Law No. for Smith Point is: 18-PK-018.

35. Who should be put down for the Awarding Department or Agency?

Answer: Suffolk County Department of Parks, Recreation and Conservation.

36. What should be put down for the Projected Start Date and End Date?

Answer: Start Date: Contract Execution Date
End Date: 12/31/2027.

37. Is the \$5000 per location refundable

Answer: As per Section 10, paragraph f. of the RFP, "All Proposal Guaranty checks shall be returned to unsuccessful Proposers within ten (10) business days of execution of a License Agreement to a successful Proposer(s), or within ten (10) days of rejection of all Proposals. The successful Proposer's guaranty check will be returned upon receipt of the security/bonds specified in the Agreement."

Exhibit "A"

Revenue
15-16-17

SMITH POINT BEACH HUT			
	2015 Net Sales	2016 Net Sales	2017 Net Sales
January			
February			
March			
April			
May	\$68,264.53	\$101,750.83	\$68,719.14
June	\$196,835.36	\$301,767.05	\$299,329.62
July	\$444,026.87	\$444,621.26	\$460,261.22
August	\$404,526.84	\$381,268.86	\$369,429.48
September	\$162,328.58	\$169,324.86	\$169,487.64
October	\$0.00	\$0.00	\$16,838.97
November		\$0.00	
December		\$0.00	
TOTAL	\$1,275,981.18	\$1,388,732.70	\$1,364,026.07

Trained. See
see below. See.

	2015 Net Sales	2016 Net Sales	2017 Net Sales
May	\$2,602.50	\$6,763.81	\$601.04
June	\$7,951.39	\$19,203.71	\$15,483.89
July	\$28,796.62	\$33,440.75	\$27,734.78
August	\$25,164.68	\$28,778.38	\$24,562.92
September	\$4,888.81	\$5,280.29	\$5,166.31
October	\$0.00	\$0.00	\$2,714.71
TOTAL	\$68,373.71	\$89,416.84	\$78,819.89

Exhibit D

Lauri, Emily R.

From: Berdolt, Philip
Sent: Thursday, January 18, 2018 8:23 AM
To: Cucciniello, AnaMarie
Cc: Lauri, Emily R.
Subject: RE: Beach Huts RFP - Meschutt, Cupsogue & Smith Point

AnaMarie,

Can you add (per county executive meeting last night),

- Approved POS system (we already have it in)
- Must accept credit cards (not sure if we included)
- County controlled cameras must be installed at every POS.

Call if you need clarification. Job well done!!!

*Philip A. Berdolt, Commissioner
Suffolk County Parks, Recreation and Conservation
PO Box 144, Montauk Hwy
West Sayville, NY 11796
631-854-4985*

From: Cucciniello, AnaMarie
Sent: Wednesday, January 17, 2018 3:38 PM
To: Berdolt, Philip
Cc: Lauri, Emily R.
Subject: Beach Huts RFP - Meschutt, Cupsogue & Smith Point

Good afternoon Commissioner,

As per your request, attached please find our DRAFT RFP's for all three Beach Hut facilities – Meschutt, Cupsogue and Smith Point.

These attachments include our revisions discussed earlier today

I didn't send the attachments again since they are all pretty standard, let me know if you need me to resend with these revised RFP's.

Thanks,

AnaMarie Cucciniello
Contracts Examiner
Suffolk County Department of Parks
PO Box 144, Montauk Highway
West Sayville, NY 11796
Phone 631-854-4983 Fax 631-854-4978
Email: anamarie.cucciniello@suffolkcountyny.gov

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APPENDIX B: COMPTROLLER'S OFFICE COMMENTS TO DEPARTMENT'S RESPONSE

The unofficial draft audit report for the Department's Administration of Requests for Proposals and Awarding of License Agreements was transmitted to the Department on August 31, 2020. The Department's representatives submitted a formal written response to the unofficial draft audit report on September 18, 2020 (Appendix A, p. 15). The Department concurred with several of our audit findings; however, we believe the following needs further clarification:

Inadequate Oversight

The Department's failure to provide adequate guidance and oversight to the Advisory Committee resulted in misunderstandings between the Committee members and the Department staff as it pertains to the division of responsibility. Our interviews of departmental staff and members of the Advisory Committee revealed an ambiguity pertaining to the responsibility for ensuring that all documents necessary to perform a thorough evaluation are available and reviewed for completeness. As a result, the Advisory Committee members and Department staff each had the belief that the responsibility rests with the other; therefore, it is questionable whether a fair and thorough evaluation was performed by the Advisory Committee members.

Department's Response:

The Advisory Committee was provided with a copy of all of the proposals received for the beach concessions. They were asked to review the proposals, as well as the presentations by each of the potential vendors. At the end of the presentations, they were asked to submit their evaluation form to the Commissioner for his review and consideration. (Examples of the notifications provided are attached hereto as Exhibits A & B).

Comptroller's Office Comments:

While we acknowledge the Department's response, this finding is supported throughout the audit report and is evidenced in Department personnel statements that the committee was not given a detailed briefing or any background information regarding the RFP. Advisory Committee members also stated that the evaluation forms were collected at the end of each presentation with no subsequent revisions permitted, which hindered their ability to compare proposals throughout the course of the presentations.

Inadequate Internal Controls and Noncompliance

There were errors and inconsistencies contained in the RFP document, internal documents used for purposes of evaluating the proposals, and the fully executed license agreement.

- Department staff distributed inaccurate information, summarizing the proposed capital improvements, to the Commissioner and members of the Advisory Committee. This information was provided as a guide in the scoring and award of the Agreements. Therefore, it is possible that the assessment of the proposals and final award of the Agreements was affected by this inaccurate information.

Department's Response:

The summarizing document was initially prepared by the Parks Department's evaluation committee representative for his own evaluation purposes. Upon seeing the chart prepared by the Department representative, other committee members requested a copy of this document as it laid out each proposal in a comparative format for easy review. The Department representative shared the document but told the evaluation committee members that it was prepared by him for his own review purposes, and was not intended to be a formal review of the proposals.

Comptroller's Office Comments:

While we acknowledge the Department's response, the Department representative provided copies of the aforementioned document to members of the Advisory Committee prior to the presentations. Although the representative may have advised the committee members that the document was prepared for his own review purposes, it is evident that at least one member of the Advisory Committee relied on this document as he stated, in a Trustees' meeting, that the spreadsheet made it easier for the committee to compare the proposals.

- The Department advertised the Smith Point Food Concession RFP containing inaccurate revenue information. The Department's lack of oversight when composing the RFPs led to inconsistencies amounting to \$1.9 million and gross misstatements of \$2.1 million pertaining to the "Approximate Revenue Generated" in the Smith Point RFP. This presented a considerable hindrance to the proposers, as they rely on the accuracy of the "approximate revenue generated" as the foundation of their proposed revenue projections; a major criteria for which they are judged and scored.

Department's Response:

The Department realized this error after the RFP had been issued and

subsequently provided an addendum to the RFP which was made available to all prospective proposers prior to the deadline for submission of the Proposals. The addendum is attached hereto as Exhibit C.

Comptroller's Office Comments:

We acknowledge the Department's response, however, the Addendum was provided as a result of Technical Questions submitted by a prospective proposer. In response to the question regarding sales, a schedule of 2015, 2016 and 2017 sales for the Smith Point Beach Hut was included in the Addendum as "Exhibit A", with no mention that this was a correction to the revenue originally stated in the RFP.

The lack of adequate internal controls, procedures and guidance, as noted above, resulted in the Department's failure to comply with certain provisions of the RFP and SOP I-04, and in many instances may have hindered the Advisory Committee's ability to properly evaluate proposals.

- For all three RFPs, the Department did not provide evidence of the Commissioner's review and approval of the RFP document prior to advertisement, nor is there evidence of a review of the Advisory Committee and the Trustees for comments and recommendations as required by SOP I-04.

Department's Response:

The Commissioner directed the Contracts Unit to draft the RFP and had significant input regarding the contents through the whole drafting process. Attached hereto as Exhibit D, is verification of the Commissioner's approval of the three RFPs. The Department did notify the Parks Trustees that the RFP was being drafted, but does not acknowledge that they were not provided a copy of the RFP for review prior to the document being released due to the time constraints of this process. Under SOP I-04 the purpose of the Advisory committee is to select the best proposer, not to determine the contents or the needs of the Department in the RFP. The Department will review SOP I- 04 during its crafting of an updated Parks RFP manual.

Comptroller's Office Comments:

We acknowledge the Department's response that the Commissioner had input regarding the drafting of the RFPs; however, Exhibit D does not evidence the Commissioner's final written approval of the RFP. The Parks Trustees were informed of the issuance of the RFPs at their Board meeting on the same date that the RFPs were advertised. In accordance with SOP I-04, the RFP is subject to the review and approval by the Commissioner after: 1) reviewing the RFP

with the appointed Advisory Committee for comments and recommendations, and 2) reviewing the RFP with the Suffolk County Park Trustees for comments and recommendations and obtaining a formal resolution of approval. The Department did not provide evidence of such review. In contrast, members of the Advisory Committee and Board of Trustees were not provided copies of the RFPs for review prior to the advertisement.

- The Department's lack of knowledge with the provisions of SOP I-04 resulted in the Department failing to ensure that the Advisory Committee's evaluation was performed in compliance with SOP I-04. SOP I-04 requires the undertaking of reasonable efforts to sample the food, evaluate the quality of service and review board of health records. The Department did not require proposers to provide food samples at the oral presentations or to submit board of health records with their proposals.

Department's Response:

All proposers were provided the opportunity to provide food samples at the oral presentations which several proposers did. These findings will be further clarified in the RFP manual to ensure that these guidelines are in place.

Comptroller's Office Comments:

While we acknowledge the Department's response, SOP I-04 requires that in the case of food vendors, the committee should undertake reasonable efforts to sample the food, evaluate the quality of service, and review the board of health records, if any. The RFP documents did not require proposers to provide food samples, nor did they require the submission of board of health records. In addition, the Department did not advise the proposers that they may provide food samples at their presentations. Only two of the nine proposers provided food samples. Additionally, the Department did not advise the committee members of this provision in SOP I-04, in fact, one committee member stated they didn't taste the food because they were unsure whether tasting of the food samples was permitted.

Best Practices

The Department disregarded practices commonly followed in other RFP processes which likely hindered the Advisory Committee's ability to fairly compare and assess all proposals of the RFP prior to their scoring of the proposals.

- It is questionable whether the Advisory Committee members were provided a reasonable amount of time to perform a thorough evaluation of the 18 proposals. It is common practice

for a RFP evaluation meeting to be scheduled at least two weeks after the proposals are distributed to the committee members. Although it took departmental staff one week to review and process the proposals, Advisory Committee members were only afforded two business days to review and evaluate the proposals.

Department's Response:

The Department has acknowledged that these RFPs were issued with a limited time restriction. We do understand the benefit of allowing a longer period of time for review of the proposals, but did not have the time frame during these specific RFPs to allow for that in order to have concessions up and running for the start of the season.

Comptroller's Office Comments:

While we acknowledge the Department's response and the limited time restriction; it is our opinion that the members of the Advisory Committee were not provided adequate time to perform a thorough review of all 18 proposals and we find the Department's expectation that two business days was a sufficient amount of time to be unreasonable. Additionally, in our opinion, had the Department afforded committee members a few days more for their review, there would not likely have been an impact on the Memorial Day opening.

- The Department did not allow the Advisory Committee the opportunity to meet and discuss the proposals during the RFP process, nor were the Committee members permitted to submit their final score sheets subsequent to the conclusion of all presentations. The Department collected each Committee member's score sheets immediately after each presentation, not allowing for changes. Such restrictions placed on the Advisory Committee may hinder their ability to adequately process or compare all proposal documentation and information gained during the presentations.

Department's Response:

The Department requested that the Advisory Committee individually score the proposals in response to SOP I-04. Section B-5 of SOP I-04 states that "The advisory committee will individually total their evaluations of the proposals. These along with a master evaluation summary which compiles the totals by category, will be submitted to the Commissioner of Parks for review." After receiving the individual scores from the Advisory Committee members, the Contracts unit created a master evaluation summary of the scores, and then provided them to the Commissioner for review. The procedure followed was in compliance with the SOP.

Comptroller's Office Comments:

While we acknowledge the Department's response, we disagree with the restrictions placed upon the members of the Advisory Committee. It is common practice to hold a meeting where committee members are briefed on the RFP. Additionally, the Advisory Committee is comprised of individuals with specializations in different fields; therefore, discussions among committee members may foster a better understanding of certain aspects of the proposals. For example, the proposals included significant capital improvements. The inclusion of a professional with expertise in the area of capital improvements is lost if they are not permitted to share their knowledge with other members of the Advisory Committee.

No modifications to the findings in the audit report are warranted.

APPENDIX C: AUDIT SCOPE AND METHODOLOGY

In accordance with the authority vested in the County Comptroller by Article V of the Suffolk County Charter, a performance audit was conducted of the Department's Administration of RFP and Awarding of Agreements for the period January 1, 2018 through May 1, 2018. The Department is located at 200 Montauk Highway, West Sayville, New York.

We conducted this audit of the Department's internal controls and procedures to determine if the Department's RFPs, evaluation of proposals and subsequent awarding of the Agreements were properly executed and in compliance with applicable laws, guidelines, regulations and SOPs.

The scope of the audit was limited to a review of the systems and procedures the Department uses specifically in the execution of a RFP and the subsequent awarding of Agreements to determine whether the Department adhered to applicable laws, regulations and SOPs.

The RFP's subject to our review were limited to the three food concessions for Smith Point County Park, Cupsogue Beach County Park, and Meschutt Beach County Park. The County terminated the previous Agreements due to tax fraud perpetrated by Beach Hut, Inc.

In order to accomplish the objectives as stated in the transmittal letter, we performed the following procedures:

- Reviewed the RFPs' criteria and its corresponding remitted proposals pertaining to Smith Point County Park, Cupsogue Beach County Park, Meschutt Beach County Park as well as relevant State and local laws, resolutions, SOPs and any other applicable laws, regulations and legislative resolutions.
- To determine whether the Department, and its Advisory Committee, remained in compliance with the requirements dictated by SOP I-04 when evaluating and awarding parks concession license agreements we interviewed departmental personnel and members of the Advisory Committee to gain an understanding of the following procedures: the Department's issuance of a RFP and awarding of Agreements, and the Advisory Committee's procedures used to evaluate and score the proposals.
- Attended Board of Trustees meetings to observe their level of involvement in matters concerning the Department, specifically the voting process as it pertains to the Resolution No. 1-2018 authorizing beach "food and beverage

license agreements for Cupsogue, Meschutt & Smith Point County Park Food Concessions”.

- Reviewed and summarized pertinent information obtained through proposers’ presentations via audio.
- Performed testing of the Department’s compliance pertaining to the execution of the RFPs utilizing relevant provisions dictated by SOP I-04 and any other applicable laws, regulations and legislative resolutions.
- Using the criteria and point system outlined in the RFPs as a guide, reviewed each proposal and determined the reasonableness of the final choice as to the award of the license agreements.
- Performed a comparative analysis of the proposals by utilizing: the annual fees, percentage of gross receipts and capital improvement obligation amounts contained in each proposal and determined which proposal reflected the greatest benefit to the County.
- Performed a comparison of the annual fees, percentage of gross receipts, capital improvements, surety and performance bonds included in the successful applicant’s proposal to the fully executed Agreement and determined whether the terms of the Agreement corresponds to the conditions set forth in the proposal.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or relevant population size and the sample selected for examination.