

FOLLOW-UP REPORT

Flog, LLC, at Willis Case

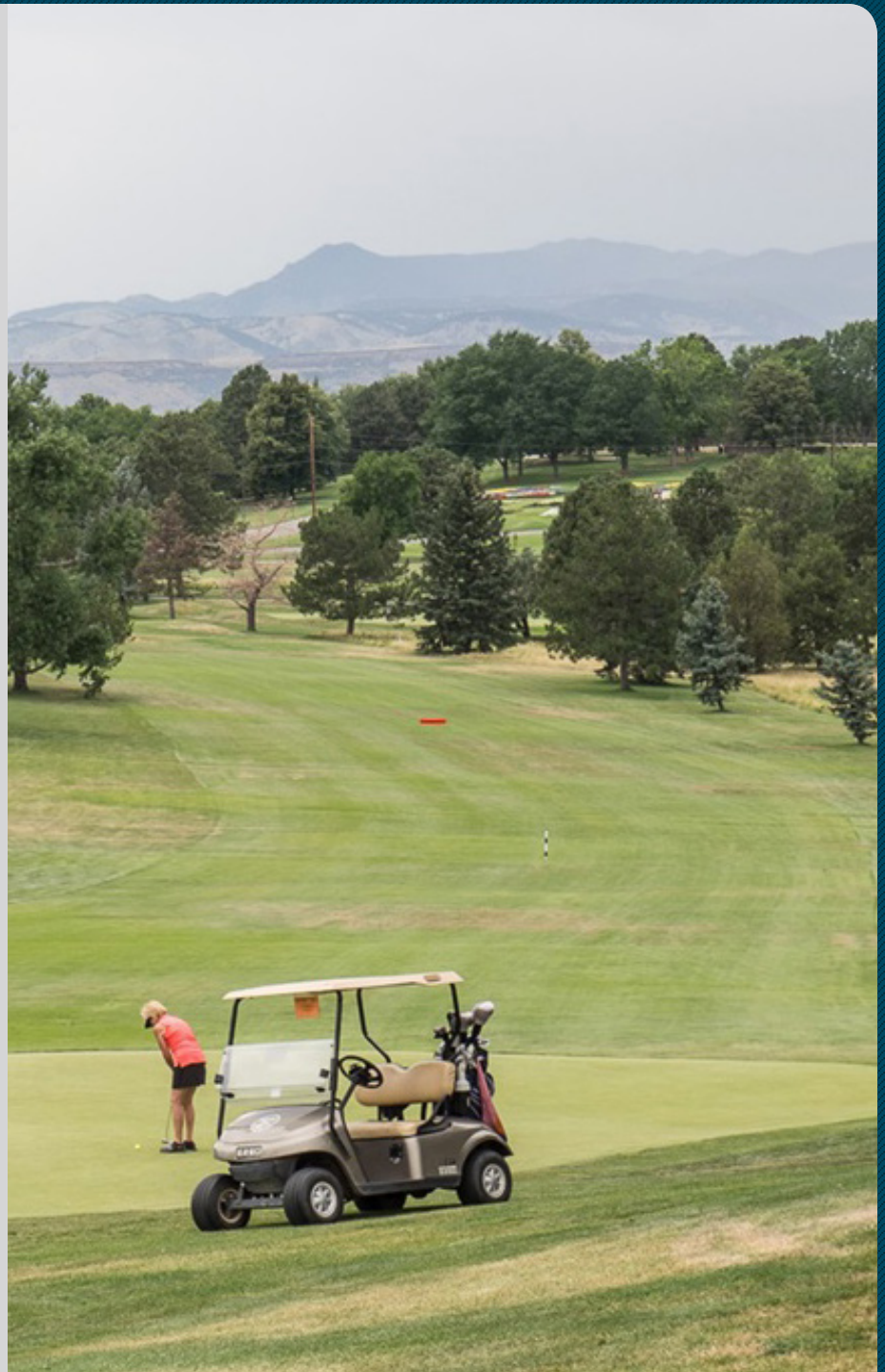
Department of Parks and Recreation

November 2019

**Office of the Auditor
Audit Services Division
City and County of Denver**



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November 7, 2019

AUDITOR'S LETTER

In keeping with generally accepted government auditing standards and Auditor's Office policy, as authorized by city ordinance, the Audit Services Division has a responsibility to monitor and follow up on audit recommendations to ensure audit findings are addressed through appropriate corrective action and to aid us in planning future audits.

In our follow-up effort for the Flog, LLC, at Willis Case audit issued August 2018, we determined Flog LLC and the Department of Parks and Recreation have implemented most of the recommendations made in the audit report. Despite Flog and the Department of Parks and Recreation's efforts, auditors determined the risks associated with the audit team's initial findings have not been fully mitigated. As a result, the Audit Services Division may revisit these risk areas in future audits to ensure appropriate corrective action is taken.

The Highlights page in this report provides background and summary information about the original audit and the completed follow-up effort. Following the Highlights page is a detailed implementation status update for each recommendation. We did update the status of one recommendation that the Department of Parks and Recreation disagreed with, as we found in the course of our audit work that the agency did take action toward implementing the recommendation. However, for the other recommendation Parks and Recreation disagreed with, we did not review any documents related to the recommendation because the agency did not agree to implement it.

I would like to express our sincere appreciation to the Department of Parks and Recreation and Flog personnel who assisted us throughout the audit and the follow-up process. For any questions, please feel free to contact me at 720-913-5000.

Denver Auditor's Office

A handwritten signature in black ink, appearing to read "Timothy M. O'Brien".

Timothy M. O'Brien, CPA
Auditor



Flog, LLC, at Willis Case November 2019

Follow-Up Status

Out of six total recommendations made in the August 2018 report, Flog, LLC, has fully implemented one and partially implemented another, while the Department of Parks and Recreation fully implemented two and disagreed with two.

Objective

This audit examined several objectives regarding compliance with key terms of the contract between the City and Flog, LLC, at Willis Case. First, we evaluated revenue reported by Flog and determined whether it was paying the correct percentage to the City under the contract. Next, we determined whether Flog was applying the correct sales tax to transactions and then paying the correct sales taxes to the City.

Background

The Department of Parks and Recreation manages four contracts between Flog and the City. This audit reviewed its contract with Flog to sell concessions at Willis Case Golf Course. The contract began in 2007 and was renewed in 2018.

REPORT HIGHLIGHTS

Highlights from Original Audit

Our audit of the Department of Parks and Recreation's contract with Flog, LLC, at Willis Case Golf Course revealed deficiencies in Flog's compliance with the contract and in Parks and Recreation's oversight of the agreement.

FINDING 1: Flog Is Not Complying with Revenue Reporting Requirements and Needs to Improve Its Recordkeeping

- Flog was deducting the costs of discounts and complimentary items, which is not specifically allowed under the contract with the City.
- Flog's October 2017 monthly report was missing one day of sales.
- Flog's sales tax reporting was incorrect.

FINDING 2: Parks and Recreation Is Not Adequately Overseeing the Contract with Flog

- Parks and Recreation's oversight of revenue reporting was limited.
- Parks and Recreation had not defined what capabilities Flog's point-of-sale system to track transactions must have.
- Department officials were unaware of Flog's processes for reporting revenue, including deducting costs of discounts and complimentary items. In addition, the contract and other authoritative governance documents were unclear on whether this practice is allowed.

Our report made multiple recommendations to Flog and to Parks and Recreation for improving recordkeeping and contract compliance.

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or contact the Auditor's Office at (720) 913-5000.

RECOMMENDATION — STATUS OF IMPLEMENTATION

FINDING 1 – Flog at Willis Case Golf Course is Noncompliant in Reporting Revenues, and Its Recordkeeping Needs Improvement

Recommendation

- 1.1 **Revenue Reporting** – Flog, LLC, should adjust reporting practices to ensure compliance with the revenue reporting terms established in the contract.

Status: Partially Implemented (Original target date for completion: October 2018)

Agency Action

The Department of Parks and Recreation and Flog staff met to review and demonstrate the point-of-sale system requirements, which include detailed revenue reporting requirements. In our original audit, we found that discounts and complimentary items were not included in the definition of gross revenues in the contract between the city and Flog, and that the contract did not clarify whether this was allowed. In October 2018, a contract amendment updated the calculation of gross revenues to deduct discounts and complimentary items at point of sale, in line with Flog's practices. By taking this action, the Department of Parks and Recreation and Flog have adjusted revenue reporting terms in the contract, which ensures their practices comply for reporting gross revenue to the city.

In addition, our original audit found a miscalculation in sales revenue reporting due to manual processes required with Flog's previous point-of-sale system. Manual processes were necessary due to the past point-of-sale system lacking the functionality to generate weekly, monthly, and annual revenue reports. Flog has implemented MyAxisPoint as its current point-of-sale system, which automatically generates sales revenue reports in compliance with the contract, so risks of errors due to manual calculations have been mitigated.

Finally, our original report found that gross revenues were rounded on sales tax returns to the nearest \$10, a practice not permitted in the contract. While gross revenues were not rounded to the nearest \$10, a sample of three months of city sales tax returns revealed gross revenues, net taxable revenues, and sales tax amounts due did not match the monthly revenue reports from Willis Case's point-of-sale system. While we were provided potential reasons by Flog and the city for why these numbers do not match, we could not resolve the discrepancies.

Although Flog has implemented a new point-of-sale system and eliminated some manual processes, issues with sales tax reporting continue. Therefore, the recommendation is partially implemented.

Recommendation

- 1.2 **Point-of-Sale System Capabilities** – Flog, LLC, should ensure the point-of-sale system and recordkeeping procedures are enhanced to properly track and report gross revenues and meet the City's contract requirements.

Status: Implemented (Original target date for completion: October 2018)

Agency Action

The Department of Parks and Recreation and Flog staff met to review and demonstrate the point-of-sale system requirements. At the time of the original audit, Flog staff could not generate revenue reports from its point-of-sale system and created reports by manually calculating revenues. Flog's current point-of-sale system, MyAxisPoint, can generate revenue reports that report to the level of detail required in the contract.

In addition, at the time of the original audit, there were unclear product labels within the point-of-sale system. When we completed the original audit, we found some product labels could not be identified by Flog staff. Upon commencing follow-up review, Flog staff provided a product list from its point-of-sale system, and the name of items are now clear and specific.

Lastly, we reported in our original audit report there was a confusing method of applying sales tax to individual orders, resulting in inconsistent sales tax calculation. Flog was including sales tax in the price of some products, but was not including sales tax in the price of other items. This confusing method left auditors observing sales tax applied to some orders, but not to others. Flog staff provided system requirements that state that MyAxisPoint automatically calculates sales tax based on applicable laws. They also provided a sample receipt showing the state and city tax applied.

Based on this analysis, Flog addressed the issues in the original audit report, and therefore this recommendation is implemented.

RECOMMENDATION — STATUS OF IMPLEMENTATION

FINDING 2 – The Department of Parks and Recreation Does Not Provide Adequate Oversight of Flog Willis Case's Contract and Point-of-Sale System to Verify Revenues

Recommendation

- 2.1 **Point-of-Sale System's Functionality** – The Department of Parks and Recreation's Director of Finance and Administration should obtain an understanding of the Flog, LLC, point-of-sale system's functionality so Parks and Recreation can properly monitor compliance of gross revenues reported.

Status: Implemented (Original target date for completion: December 31, 2018)

Agency Action

The Department of Parks and Recreation and Flog staff met to discuss the point-of-sale system functionality, including demonstrations of system functionality like processing reports and closing out sales at the end of the day. In addition, Flog staff provided detailed receipts, sales reports, and tax reports they reviewed with Parks and Recreation staff. Based on this meeting and the supporting documentation provided by Flog and city staff, this recommendation has been implemented.

Recommendation

- 2.2 **Requirements of the Point-of-Sale System** – The Department of Parks and Recreation's Director of Finance and Administration should discuss detailed requirements of Flog, LLC's, point-of-sale system with the concessionaire to ensure accurate reporting of gross revenues.

Status: Implemented (Original target date for completion: December 31, 2018)

Agency Action

Audit follow-up work revealed that Department of Parks and Recreation staff provided detailed point-of-sale system requirements to Flog personnel. In addition, the staff provided meeting notes of their site visit to the Willis Case Golf Course detailing Flog's compliance with each point-of-sale system requirement, including reporting gross revenues. Therefore, the recommendation has been implemented.

Recommendation

- 2.3 **Amend the Current Contract Definition of Gross Revenues** – The Department of Parks and Recreation's Director of Finance and Administration should amend the definition of gross revenues in the Flog, LLC, contract to address how discounts and complimentary items should be reported.

Status: Disagreed

Agency Action

In the course of our review of Recommendation 1.1, we found that the Department of Parks and Recreation took action to implement this recommendation. In October 2018, the contract with Flog was amended to clarify the calculation of gross revenues as it relates to discounts and complimentary amounts.

This was the agency's response to the recommendation when the original report was issued in August 2018:

The Department disagrees with this recommendation. This Concession License, and all other Parks and Recreation revenue agreements, comply with the definition of Gross Sales as set forth in D.R.M.C Sections 53-23 (14) and 53-23 (21). Both the City Treasurer and the City Attorneys who deal with tax, accounting and treasury issues agree that this definition is clear. As a result, our practice is consistent with how the City defines Gross Revenues. In addition, the City Attorney's Office reviewed the definition of Gross Revenues in the Concession License and determined that the current language in the agreement is sufficient to reflect the City's current accounting and calculation practices, including the contractual requirement for the Concessionaire to adhere to all applicable law including the Denver Revised Municipal Code. As a result, the Department believes it is unnecessary to amend these agreements to reiterate the definition provided in D.R.M.C.

Our original report had the following auditor's addendum in response to the agency's response:

Although the Department of Parks and Recreation indicates that their concession revenue agreements follow the definition of Gross Sales in the Denver Revised Municipal Code (D.R.M.C.), the Sections mentioned specifically relate to gross sales for sales tax purposes and not gross revenues for revenue contracts. In our follow-up with the City Treasurer for clarification, he indicated that the definition of Gross Sales provided in Chapter 53 in the D.R.M.C. is clear and is consistent with how most jurisdictions define Gross Sales for taxation purposes. However, his opinion had not been offered regarding treatment of discounts in relation to gross revenues, and he had not reviewed the language in the contracts. Therefore, we maintain our original stance that the definition of gross revenues as it relates to discounts is not defined in the contract, nor is it defined in other authoritative City governance documents. It therefore requires clarification.

Recommendation

- 2.4 **Review Flog's 2016-2017 Financial Records for Compliance to Revenue Terms and Seek Collection** – The Department of Parks and Recreation's Director of Finance and Administration should require a review of Flog, LLC's, 2016 and 2017 financial records for compliance with reporting of gross revenues and seek collection of unpaid revenue.

Status: Disagreed

Agency Action

Because the agency disagreed with the recommendation made in our original report, the audit team did not review any documents related to the recommendation. This was the agency's response to the recommendation when the original report was issued in August 2018:

The Department disagrees with this recommendation. The Department does not have adequate resources to perform revenue audits. The Department relies on the Concessionaire's contractual obligation in each Concession License Agreement to annually submit a report of Gross Revenues prepared and certified by an independent certified public accountant to provide assurances that reporting and payments to the City is accurate and complete. Upon receipt of the annual audit, Department staff analyze the information contained in the audit compared to the periodic reports and payments submitted to the City by the Concessionaire. Adjustments to monies owed are made either by invoicing the Concessionaire, issuing a refund to the Concessionaire, or issuing a credit to the Concessionaire's account. In addition, provisions are in each agreement that enables the Auditor's Office to audit concessionaire records. The Department will, however, begin requiring the Concessionaire to provide POS reports and verify that percentage payments are based upon the Gross Sales amounts indicated on these reports.

CONCLUSION

While the Department of Parks and Recreation has implemented most of the recommendations made in the Flog, LLC, at Willis Case audit report, others have yet to be fully implemented. In regard to Recommendation 2.3, at the time of the original audit, the contract's definition of how to calculate gross revenue did not specify that discounted and complimentary amounts can be deducted at the point of sale. We recommended amending the contract to address how discounts and complimentary items should be reported, but the agency disagreed. Typically, when an agency disagrees with a recommendation, auditors do not conduct work to follow up on the recommendation because the agency did not agree to implement it. However, in this case, in the course of our review of Recommendation 1.1, we found that the Department of Parks and Recreation took action to implement this recommendation. In October 2018, the contract with Flog was amended to clarify the calculation of gross revenues as it relates to discounts and complimentary amounts.

Despite Flog, LLC, and the Department of Parks and Recreation's efforts, auditors determined the risks associated with the audit team's initial findings have not been fully mitigated. There is still a risk Flog is not reporting gross revenues, net taxable revenues, and sales tax correctly on its tax returns. As a result, the Audit Services Division may revisit these risk areas in future audits to ensure appropriate corrective action is taken.

On behalf of the citizens of the City and County of Denver, we thank staff and leadership from the Department of Parks and Recreation and Flog for their cooperation during our follow-up effort and for their dedicated public service.

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