

Metropolitan Nashville Airport Authority

MEMORANDUM

TO: Raul Regalado, President and CEO

CC: Rob Wigington, Executive Vice President and COO
Stan Van Ostran, Vice President and CFO
John Howard, Asst. Vice President of Properties and Business Development
Tom Bibb, Director of Properties
Rebecca Ramsey, Assistant Director of Properties

FROM: Julie Zwicknagel, Internal Audit Coordinator

DATE: January 18, 2012

SUBJ: Budget Rent A Car Systems, Inc. Audit Report

Background

On May 15, 2000, Budget Rent A Car Systems, Inc. ("Budget") entered into a Concession Agreement with the Metropolitan Nashville Airport Authority ("Authority"). The Agreement granted Budget the right to operate an automobile rental concession at the Nashville International Airport for a period of seven (7) years. Budget agreed to pay to the Authority the greater of a minimum annual guarantee of Eight Hundred Eighteen Thousand One Hundred Twenty Five and 00/100 Dollars (\$818,125), which is subject to an annual adjustment based on prior year rentals, or 9.25% of gross revenues.

In addition to the minimum annual guarantee and/or percentage of gross revenue payments required, Budget agreed to pay a fixed monthly rental for use of counter and office space and parking spaces. The Concessionaire leases from the Authority 729 square feet of counter and office space within the Ground Transportation Center in the amount of Thirty Six and 00/100 Dollars (\$36.00) per square foot ("psf") per annum. Budget has the exclusive use of 43,346 square feet of automobile parking space in the amount of Three and 30/100 Dollars (\$3.30) psf per annum.

The Agreement stated that Budget would furnish a written statement to the Authority, prepared in accordance with generally accepted accounting principles and certified by a responsible officer of Concessionaire, that the minimum annual guarantee and the percentage payment paid by the Concessionaire to the Authority during the preceding contract year were made in accordance with the terms of the Agreement. The statement would contain gross

revenues as shown on the books and records of Budget that were used to compute the percentage payment made to the Authority.

On the twentieth (20th) day of the second month following the end of each calendar year of the term of the Agreement, Budget agreed to pay to the Authority the balance of the rent, if any, due to the Authority for the preceding calendar year on account of the percentage payment provisions. The rental, though payable monthly, would be computed on a calendar basis. If any refund was due to Budget, such refund would be applied to future rental payments due to the Authority.

On May 23, 2001, Properties informed Budget through a Letter of Notification that the minimum annual guarantee would be adjusted to Nine Hundred Twenty Four Thousand Nine Hundred Thirty One and 00/100 Dollars (\$924,931), effective May 1, 2001.

On July 11, 2002, Properties informed Budget through a Letter of Notification that the minimum annual guarantee would be adjusted to Eight Hundred Thirty Three Thousand Six Hundred Eighteen and 00/100 Dollars (\$833,618), effective May 1, 2002.

The First Amendment to the Concession Agreement, effective March 4, 2004, provided Budget with the deletion of 701 square feet of counter and office space and the addition of 729 square feet of counter and office space formerly occupied by Alamo Rental at the Nashville International Airport.

On July 5, 2005, Properties informed Budget through a Letter of Notification that the minimum annual guarantee would be adjusted to Eight Hundred Forty Eight Thousand One Hundred Thirty Eight and 00/100 Dollars (\$848,138), effective May 1, 2005.

On April 13, 2007, Properties informed Budget through a Letter of Notification that the existing Concession Agreement would be extended on a month-to-month basis effective May 15, 2007, in order for the Authority to review the recent Consolidated Rental Car Facility ("CONRAC") study. The results of the CONRAC study would determine the Authority's plan with respect to a new agreement for the right to operate an automobile concession at the Nashville International Airport.

On April 30, 2007, Properties informed Budget through a Letter of Notification that the Authority would no longer accept a written statement prepared by an officer of the corporation and Budget would be required to employ an independent Certified Public Accountant ("CPA") to furnish a written statement to the Authority.

On August 31, 2007, Properties informed Budget through a Letter of Notification that the minimum annual guarantee would be adjusted to One Million Twenty Four Thousand Five Hundred Twenty One and 00/100 Dollars (\$1,024,521), effective May 1, 2007.

On December 6, 2007, Properties informed Budget through a Letter of Notification that the Authority would be moving forward with developing a design for construction of CONRAC and implementing a Customer Facility Charge ("CFC") to fund the project. The Authority

would implement a CFC in the amount of \$4.00 per transaction per day, effective January 1, 2008. The Authority provided Budget with a reporting form for CFC's, which were required to accompany the monthly reports and remitted on the tenth (10th) day of the following month. CFC charges were to be stated as a separate line item on Rental Agreements and placed in a separate account isolated from the other fees and charges paid on a monthly basis.

On May 19, 2008, Properties informed Budget through a Letter of Notification that the minimum annual guarantee would be adjusted to Nine Hundred Ninety Nine Thousand Four Hundred Thirty Nine and 00/100 Dollars (\$999,439), effective May 1, 2008.

On May 21, 2009, Properties informed Budget through a Letter of Notification that the minimum annual guarantee would be adjusted to Nine Hundred Thirty Three Thousand Four Hundred Fifty Four and 00/100 Dollars (\$933,454), effective May 1, 2009.

The Second Amendment to the Concession Agreement, effective November 1, 2009, provided Budget with the deletion of 729 square feet of counter and office space located within the ground transportation center of the main terminal.

On January 1, 2010, the Authority increased CFC's from \$4.00 per transaction per day to \$4.50 per day.

On January 4, 2010, the Authority successfully negotiated and executed a new concession agreement with the rental car agencies. The new Agreement becomes effective upon beneficial occupancy of the Consolidated Rental Car Facility, which is anticipated to be November 2011. Until then the Budget's current concession agreement will renew on a month-to-month basis.

On June 7, 2010, Properties informed Budget through a Letter of Notification that the minimum annual guarantee would be adjusted to Eight Hundred Eighteen Thousand One Hundred Twenty Five and 00/100 Dollars (\$818,125), effective May 1, 2010.

In accordance with the terms of the Concession Agreement, Budget has agreed to pay to the Authority the greater of a minimum annual guarantee of \$818,125 or 9.25% of gross revenues. The following are the gross revenues and percentage payment provisions for Budget per the Statement of Gross Revenues for the Year Ended April 30, 2011, provided by J. H. Cohn LLP:

Period	Gross Revenues
May 2010	\$1,053,177
June	1,155,078
July	1,077,600
August	896,013
September	805,027
October	932,565
November	831,868
December	712,860
January 2011	557,926
February	616,543
March	857,350
April	862,160
Total Gross Revenue	\$10,358,167
Contractual Percentage Rate	X 9.25%
Calculated Percentage Payment	\$958,130
Minimum Annual Guarantee	818,125
Amount Paid by Budget	\$987,356
(Under)/Over Payment	\$29,226

Budget's percentage payments from the gross revenues were \$958,130. Thus, the percentage payment paid to the Authority was greater than the minimum annual guarantee. The total rent paid by Budget to the Authority for the Year Ended April 30, 2011, was \$987,356; therefore, Budget had an overpayment of rent to the Authority in the amount of \$29,226. Accordingly, Budget was due a refund for the overpayment of rent.

The Authority's Finance Department determined on September 29, 2011, that Budget had an overpayment of rent to the Authority in the amount of \$29,226 and issued Budget a credit memo (CRM#0002065) for the overpayment amount. Finance based the determination upon the minimum annual guarantee, percentage payment provisions, and the total rent paid by Budget to the Authority for the Year Ended April 30, 2011.

Objectives

The objectives of the audit were as follows:

1. Determine the validity of gross revenue amounts reported and rent paid to the Authority;
2. Determine compliance with contract terms and operational requirements; and
3. Document and evaluate internal controls.

Testing

In order to satisfy the audit objectives, the following tests were performed:

1. Selected 3 months for detailed testing (March, April, and June 2011). For each month selected, performed the following:
 - a. Obtained the monthly fixed rent invoices from Authority's Accounts Receivable and verified the rent amount agreed to the schedule of rental fees and charges in the Lease Agreements.
 - b. Obtained monthly revenue report and performed the following:
 - i. Reviewed report for mathematical accuracy.
 - ii. Tied amounts per report to amounts reported to the Authority.
 - iii. Selected 5 consecutive days each month and performed the following:
 1. Obtained the Daily Activity Report for the day selected.
 2. Reviewed report for mathematical accuracy.
 3. Tied amounts per report to the monthly revenue report.
 4. For a selection of rental agreements, tied all revenue information per the signed rental agreement to the Daily Activity Report.
 5. Reviewed rental agreements for mathematical accuracy.
 6. Verified that the concession fee recovery on rental agreements agreed to the Concession Agreement.
 - iv. Reviewed excluded amounts, such as carbon offset fees, surcharges, taxes, or discounts for appropriateness and compliance with Concession Agreement.
 1. Reviewed listing of excluded discounts to ensure discount was supported by corporate contract.
 - c. Obtained a copy of the company's general ledger. Verified that the revenue amounts per the general ledger were consistent with the revenue amounts reported to the Authority.
 - d. Obtained a copy of the Tennessee Sales and Use Tax form.
 - i. Reviewed tax returns for reasonableness and determined sales and use tax were properly remitted to the State.
 - e. Obtained a copy of the quarterly Motor Vehicle Rental Surcharge Tax form.

- i. Reviewed tax returns for reasonableness and determined motor vehicle rental surcharge taxes were properly remitted.
- f. Obtained a listing of rental agreements. Reviewed listing to identify any missing rental agreement numbers. Traced a selection of rental agreements for inclusion in the appropriate Daily Activity Report.
- g. Obtained a listing of prepaid internet reservations. Ensured vehicles checked out at this airport were included in the gross receipts reported to the Authority.
- h. Obtained a listing of customer facility charges (“CFC”) collected in the month of April 2011.
 - i. Reviewed report for mathematical accuracy.
 - ii. Tied amounts per report to amounts reported to the Authority.
 - iii. Selected 5 consecutive days of the month and performed the following:
 - 1. Reviewed report for mathematical accuracy.
 - 2. Tied amounts per report to rental agreements.
 - 3. For a selection of rental agreements, verified CFC per the signed rental agreement agreed to the Daily Activity Report.
 - 4. Verified CFC on rental agreements agreed to Authority approved rate.
 - iv. Identified all other non rental and CFC revenues.
 - 1. Determined whether or not they should be included in gross revenue.
 - 2. Determined whether or not they should be subject to the contractual percentage payment.
- 2. Determined through observations that the premises were maintained in a clean, neat, sanitary, and attractive condition and appearance.
- 3. Determined Budget maintained adequate insurance coverage.
 - a. Obtained a copy of the current certificate of insurance on file.
 - b. Verified that the comprehensive public liability and property damage insurance coverage met or exceeded the amounts specified in the contract.
 - c. Verified that the comprehensive automobile liability insurance coverage met or exceeded the amounts specified in the contract.
 - d. Verified that the certificate of insurance was not current and adhered to all other contract terms.
- 4. Determined Budget maintained an Irrevocable Letter of Credit (“LOC”).
 - a. Obtained a copy of the current LOC.
 - b. Verified that the LOC coverage met or exceeded the amount specified in the contract.
 - c. Verified that the LOC was current and adhered to all other contract terms.
- 5. Obtained a current listing of all vehicles in the fleet. Reviewed the list to ensure that no automobiles with a model year more than one year older than the current year model were being used.
- 6. Determined Budget was meeting operational requirements.
 - a. Determined Budget’s operating hours and observed that the customer service counter was open during scheduled hours.
 - b. Through observations, determined that employees were well trained, experienced, uniformed, professional, and courteous.

7. Through inquiry and observation, reviewed the existing internal controls in place.

Conclusion

Based upon the audit, the following was determined with respect to the stated objectives:

1. Budget's certificates of insurance on file were expired, as noted in finding #1.
2. The Concession Fee Recovery is not listed on the rental agreement in the same area as the Concessionaire's other separately stated charges, as noted in finding #3.
3. Budget is not meeting the DBE participation requirement of the Concession Agreement, as noted in finding #3.

Finding #1

Observation

Budget's certificates of insurance on file were expired.

Background

According to Section 14.1 of the Concession Agreement, "Concessionaire shall, at its expense, procure and maintain the following types and amounts of insurance set forth below:

1. Comprehensive General (Public) Liability and Property Damage Insurance in an amount of not less than One Million and 00/100 (\$1,000,000) Dollars combined single limit. Such insurance shall include contractual liability insurance to insure Concessionaire's obligation to indemnify and hold Authority, its Board of Commissioners, its officers and its employees harmless in accordance with the indemnification provisions of this Agreement.
2. Comprehensive Automobile Liability in an amount of not less than One Million and 00/100 (\$1,000,000) Dollars combined single limit.
3. Property Insurance for physical damage to the property of Concessionaire, including permanent improvements and contents of its Assigned, covered for the full replacement value."

An objective of the audit was to verify the certificates of insurance were current and adhered to all other contract terms. Through audit testing, it was determined that the certificates of insurance coverage met the amounts specified in the contract; however, the certificates on file with the Authority expired on July 1, 2011. Through the course of the audit, current certificates of insurance with expiration dates of 7/1/2012 were obtained from Budget.

Recommendation

Properties should ensure that certificates of insurance on file are current.

Management Response

Properties requested and received an updated certificate of insurance for Budget as required by this lease. The Properties Lease Management System has been updated to include accurate suspense dates for the new insurance certificate requirements for the new Avis/Budget Concession Agreement.

Finding #2

Observation

The Concession Fee Recovery is not listed on the rental agreement in the same area as the Concessionaire's other separately stated charges.

Background

According to Article IX, Privilege, Fees, Charges and Accountability, Section 9.9 of the Concession Agreement, "Concessionaire shall recover the nine and one-quarter percentage (9.25%) of gross revenues payment from customers by disclosing it separately on Rental Agreements. Concessionaire agrees it shall use the terminology "Concession Fee Recovery" or "Concession Fee Recumbent" on the Rental Agreements. Concessionaire agrees that this terminology shall be listed on the Rental Agreement in the same area provided for Concessionaire's other separately stated charges and shall not be included in that part of the Rental Agreement on which taxes are collected by Concessionaire. As set forth in Article I, Section 1.6, any revenue so collected by Concessionaire shall be a part of gross revenue and must be included when calculating and paying the percentage of gross revenue payment to the Authority."

As noted below, the Concession Fee Recovery is properly identified on the rental agreement; however, it is included as part of the taxes collected by Concessionaire. The Concessionaire is required to include the Concession Fee Recovery in the same area as other separately stated charges.

Copy of Budget rental agreement

C100000000000127 1 TERMINAL DRIVE NASHVILLE, TN, 37214, US 01455
 RA DOCUMENT 46685551 F-133C 1208 RENTED: 24FEB11/1402 AT: NASHVILLE, TN PHONE: 615-366-0822 414N2C
 CAR# 5 0 7 5 8 5 7 3 GRP A / B DUE IN: 03MAR11/1000 AT: NASHVILLE, TN RATE CODE: L3/B

MI OUT: 175 *****OPTIONAL SERVICES***** *MIN 99 HRS
 PLATEN TN UPDATE FUEL OUT: B/B *MAX 28 DAY
 SXL KIA FORT 4DR BPACE# 056
 LDI: 25.99/DAY DECLINE
 PAE: 6.95/DAY DECLINE HOURLY: 16.50
 ESP: 5.00/DAY DECLINE DAILY: 33.00
 SLI: 14.49/DAY DECLINE ADD'DY: 55.00
 WCF: MASTER 0127 AUTH: 24003/245 WEEKLY: 181.99
 DRIVERS LIC# USTXXXXXXXXX305 MONTHLY: \$
 ESTIMATED RENTAL CHARGES \$ 265.70
 BY MY INITIALS I ACCEPT OR
 DECLINE OPTIONAL COVERAGE AS
 SHOWN ABOVE.

MILEAGE CHG: UNLIMITED
 FUEL SERVICE: .2865/MI
 7.449/36L
 \$ 4.50/DY CUST FAC CHG
 \$.56/DAY ERF
 9.25% CONCESSION RECOVERY FEE
 TAX: 10.250%
 3% TENNESSEE SURCHARGE

HELMKAY, BILLIE

-----NOTICES----- BUDGET -----NOTICES----- BUDGET -----NOTICES----- BUDGET -----NOTICES-----
 ***RENTERS ARE NOT REQUIRED TO PURCHASE LOSS DAMAGE WAIVER (LDW). IT IS NOT MANDATORY. BEFORE PURCHASING LDW, RENTER SHOULD CHECK IF OWN INSURANCE COVERS DAMAGE TO AND LOSS OF THE CAR. THE LIMIT OF COVERAGE AND DEDUCTIBLE. IF THE RENTER DECLINES LDW, RENTER MAY BE LIABLE FOR UP TO THE RETAIL FAIR MARKET VALUE (LESS SALVAGE) OF THE CAR, REGARDLESS OF FAULT, UNLESS ORDINARY NEGLIGENCE IS EXCLUDED BY LAW. REPAIRS ARE AT BUDGET'S COST. READ LDW TERMS ON THE RENTAL DOCUMENT JACKET TERMS AND CONDITIONS, INCLUDING EXCLUSIONS FROM LDW.
 ***FUEL SERVICES ADD'L IF CAR IS RETURNED WITH LESS FUEL THAN WHEN RENTED. 00-76 413.99 FUEL FEE ADDED. TO REMOVE SHOW RECEIPT.
 ***MINIMUM CHARGE IS 1 DAY (24 HRS) PLUS MILEAGE.
 IF I RETURN THE CAR PRIOR TO THE DUE IN TIME SET FORTH ABOVE, I MAY BE CHARGED A HIGHER RATE.
 ***NO ADDITIONAL OPERATORS ARE AUTHORIZED OR PERMITTED WITHOUT BUDGET'S PRIOR WRITTEN APPROVAL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE RENTAL AGREEMENT OR APPLICABLE STATE LAW.
 ***YOU MAY BILL ALL CHARGES, PARKING/TRAFFIC TICKETS INCLUDED, TO THE CARD I USE FOR PAYMENT, WITHOUT ADDITIONAL SIGNATURE BY ME ON A VOUCHER.
 ***BY MY SIGNATURE, I ACKNOWLEDGE RECEIPT OF ALL NOTICES WHICH APPEAR ON THIS RENTAL DOCUMENT. I AGREE TO THE TERMS AND CONDITIONS INCLUDING WHO MAY DRIVE THE CAR, WHICH IS STATED ON THE RENTAL DOCUMENT JACKET PROVIDED.
 RES # 26945774-US-6C
 PREPARED BY: 06557
 11C7/210/11055/25:03/0 RENTAL# 4 6 6 8 5 5 3 5 1

It should be noted that the proper Concession Fee Recovery of 9.25% is being assessed, collected, and remitted to the Authority by Budget on a monthly basis.

Recommendation

Properties should request Budget to include the Concession Fee Recovery in the same area as other separately stated charges to ensure compliance with contract terms.

Management Response

Properties has requested in the past that Budget include the Concession Fee Recovery in the same area as other separately stated charges to ensure compliance with contract terms in the past and they have complied. If there are changes to their computer accounting or printer systems however, this is an issue that seems to fall through the cracks on their end.

As the new Avis/Budget Concession Agreement has taken effect, Properties will send a reminder and continue to monitor this going forward as the requirement is also included in the new Agreement.

Finding #3

Observation

Budget is not meeting the DBE participation requirement of the Concession Agreement.

Background

According to Article XXVII, Disadvantaged Business Enterprise and Nondiscrimination, Section 27.1 of the Concession Agreement, “Concessionaire agrees that it will comply with Authority’s Disadvantaged Business Enterprise Program and applicable laws and regulations, specifically with Federal Regulations under 49 CFR, Part 23. Concessionaire specifically agrees that its initial DBE participation shall be as set forth in its proposal, incorporated herein by reference, or as Authority may otherwise approve. At all times, Concessionaire shall endeavor to meet or exceed the percentage goal set forth in the Invitation for Bids of ten percent (10%) DBE participation in the automobile rental concession, or Concessionaire will have such DBE participation as may be approved by Authority. Participation shall be measured based upon the DBE participation component of total Gross Revenue received by Concessionaire, or otherwise as Authority may approve. Concessionaire agrees that participation by DBE’s will be in accordance with the goals and objectives of Authority.”

An objective of the audit was to determine Budget’s compliance with contract terms. Through audit testing, it was determined that Budget is not meeting the DBE participation requirement.

According to Authority’s Department of Business Diversity Development (“BDD”), the Federal Aviation Administration (“FAA”) and the car rental companies have been in discussion on how to accomplish the DBE participation on a national level. The FAA has made a determination to accept national certifications for local participation levels.

Furthermore, in the newly executed concession agreements with the rental car companies, the Authority has established a new DBE goal of eight and four-tenths percent (8.40%). The DBE participation level will be effective upon beneficial occupancy of CONRAC.

Recommendation

Properties should require Budget and the other rental car companies to make good faith efforts to meet the DBE participation requirements in the new Concession Agreement and submit verification of such good faith efforts.

Additionally, BDD should track verification of such good faith efforts.

Management Response

Properties will require Avis and Budget to maintain the established a goal of eight and four-tenths percent (8.4%) ACDBE participation for their new Concession Agreement which participation may be achieved through the purchase of goods and services necessary to conduct a Rental Car Concession business at the Airport from ACDBEs, as further described in the DOT regulations governing ACDBE participation, 49 C.F.R. Part 23.53.

BDD agrees and has included a report format for the rental car agencies to submit ACDBE utilization on a quarterly basis starting February 15, 2012.