

City of Miami

THEODORE P. GUBA, CPA, CIA, CFE
INDEPENDENT AUDITOR GENERAL



Telephone (305) 416-2044
E-Mail: tguba@miamigov.com

May 17, 2013

Honorable Members of the City Commission
City of Miami
3500 Pan American Drive
Coconut Grove, FL 33133-5504

Re: Audit of Selected Jungle Island Financial Transactions and Account Balances and Compliance
with Various Agreements - Audit No. 13-007

Executive Summary

We have completed an audit of selected Jungle Island (JI) financial transactions, account balances and records for the period primarily from January 1, 2007 through December 31, 2011. The audit was performed to determine whether 1) selected revenue and expense items indicated in JI fiscal year 2009 (FY09) and fiscal year (FY10) external audit reports, which were prepared by an independent accounting firm, were adequately supported; 2) JI complied with provisions stipulated in its lease, loan and development agreements with the City of Miami (City) to create/retain the required number of full time equivalent (FTE) positions; and, 3) JI complied with the Community Development Block Grant program (CDBG) job creation and retention requirements resulting from the Section 108, U.S. Housing and Urban Development (HUD) loan and pass through sub-loan proceeds JI used to develop its facility located on Watson Island.

Overall, except for payroll expenses which were overstated due to the inclusion of vendor payroll expenses, JI's financial records appear to be reasonably stated. However, the independent accountant expressed doubt of its ability to continue as a going concern. Also, testing indicated that JI created and retained 418 of 500 FTE positions required by CDBG guidelines; however, HUD loan payments remain current and we noted that the HUD loan agreement and CDBG guidelines do not expressly state a deadline for creating such jobs. These and other findings and recommendations are detailed on pages three through seven.

We wish to express our appreciation for the cooperation and courtesies extended to us by all personnel while conducting the audit.

Sincerely,

A handwritten signature in cursive script that reads 'Theodore P. Guba'.

Theodore P. Guba, CPA, CIA, CFE
Independent Auditor General
Office of the Independent Auditor General

Cc: The Honorable Mayor Tomas Regalado
Johnny Martinez, City Manager
Alice Bravo, Assistant City Manager/Chief of Infrastructure
Janice Larned, Chief Financial Officer/ Assistant City Manager
Julie O. Bru, City Attorney, City Attorney's Office
Robin Jones Jackson, Assistant City Attorney
Ninoshka Reyes, Assistant City Attorney
Todd Hannon, City Clerk, City Clerk's Office
Henry Torre, Director, Public Facilities
George Mensah, Director, Community Development
Bern M. Levine, DVM, JI
Ronald Krongold, JI
Jorge Sanchez, Controller, JI
Gregg Fortner, Miami-Dade County
Shannon D. Summerset, Esq., Assistant County Attorney/Miami-Dade County
Kishore K. Rao, Miami-Dade County
Members of the Audit Advisory Committee
Audit Documentation File

Audit conducted by: Lewis Blake, CPA, CIA, Senior Staff Auditor
Scarlette Barrios, Staff Auditor

Audit reviewed by: Karuna Khilnani, CPA, CISA, Senior Staff Auditor
Robyn Sachs, CPA, CIA, CISA, CFE, CISSP, Senior IT Auditor

**AUDIT OF SELECTED JUNGLE ISLAND
FINANCIAL TRANSACTIONS AND ACCOUNT BALANCES AND COMPLIANCE
WITH VARIOUS AGREEMENTS
JANUARY 1, 2007 THROUGH DECEMBER 31, 2011**

TABLE OF CONTENTS

SCOPE, OBJECTIVES AND METHODOLOGY	1
BACKGROUND	2
FINDINGS AND RECOMMENDATIONS	3
1. <i>ANNUAL PAYROLL EXPENSES WERE OVERSTATED</i>	3
2. <i>STATUS OF COMPLIANCE WITH JOB CREATION/RETENTION REQUIREMENTS</i>	4
The Required Number of Jobs Have Not Yet Been Created/Retained	4
51% of the Jobs Were Not Yet Held By Low-Moderate Income Individuals	5

SCOPE, OBJECTIVES AND METHODOLOGY

The scope of the audit was to examine selected JI transactions, account balances, records and operating statistics. We also reviewed compliance with certain federal requirements related to the Section 108 HUD loan and pass through sub-loan proceeds JI used to develop its facility, as well as compliance with certain provisions of its lease, loan and development agreements with the City. Finally, we obtained a basic understanding of JI's revenue and expenditure processes.

The primary objectives of the audit were:

- To determine whether selected revenue, expense, and cash flow statement items indicated in JI FY09 and FY10 external audit reports, which were prepared by an independent accounting firm, were adequately supported.
- To determine whether JI complied with CDBG job creation and retention requirements resulting from the Section 108 HUD loan proceeds JI used to develop its facility located on Watson Island.
- To determine whether JI complied with provisions stipulated in JI's lease, loan and development agreements with the City to create and retain the required number of FTE positions.

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 and appropriate evidence in order 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. The audit methodology included the following:

- Obtaining and documenting an understanding of key JI processes that generate revenue, expense and cash flow statement items
- Employing the use of analytical review procedures for the purposes of both planning substantive testing and confirming the reasonableness of audit findings and conclusions
- Tests of applicable transactions and records
- Other audit procedures as deemed necessary, including, but not limited to, meeting with Miami-Dade County staff involved with the section 108 HUD loan job creation and retention requirements

BACKGROUND

On September 2, 1997, the City leased an 18.6 acre parcel of land on Watson Island to Parrot Jungle and Gardens, Inc. for the development and operation of the JI facility. On January 9, 2001, Miami-Dade County (County) borrowed funding from the U.S. Department of Housing and Urban Development and made a pass through sub-loan to JI in the amount of \$25 million for the construction and operation of the facility. The loan was originally guaranteed 100% by the County under the HUD, Section 108 Loan Guarantee Program (Section 108 Loan), but subsequently pursuant to City Commission Resolution No. 07-0405, adopted July 10, 2007, the City assumed an 80% liability and the County retained 20% liability under the Section 108 loan.

The Section 108 loan and the sub-loan are governed by HUD CDBG guidelines which require JI to create and retain one (1) permanent full time equivalent (FTE) job per \$50,000 of loan proceeds used. As such, JI is obligated to create and retain 500 FTE jobs ($\$25 \text{ million} \div \$50,000$). CDBG guidelines also require that at least 51% of the FTE jobs involve the employment of low-moderate income persons. Additionally, on May 27, 2009, the City executed another loan agreement with JI for \$800,000 (the \$800K loan); in return, the agreement requires JI to retain a minimum of 400 full-time equivalent (FTE) jobs. The \$800k loan agreement requires that a minimum of 51% of the jobs maintained, on a full-time equivalent basis, shall be held by "Low and Moderate" Income persons (as defined under the CDBG Program). Additionally, a modification to the lease agreement between the City and Parrot Jungle and Gardens of Watson Island, Inc. dated June 24, 2009, granted a deferment of four years of minimum annual rent and percentage rent obligation and required the lessee to retain a minimum of 400 existing full-time jobs. Accordingly, a 48-month deferral of minimum annual rent and percentage rent was retroactive from April 1, 2009 to March 31, 2013, with monthly rent payments for current periods beginning April 1, 2013. As of December 31, 2011, the deferred rent amount was \$1.9 million. Payment for deferred rent is due on or before December 31, 2020.

In December 2011, JI requested that the \$1.5 million Section 108 sub-loan payment, which was due in August 2012, be deferred or forgiven but the City Commission denied that request. In order to obtain a degree of assurance regarding JI's financial condition, this audit was requested by the City Commission at its December 8, 2011 meeting. Since that time, JI made the Section 108 sub-loan payments in August 2012 and January 2013 and its independent accountant issued reports on its FY11 and FY12 financial statements which expressed doubts of JI's financial ability to continue as a going concern.

FINDINGS AND RECOMMENDATIONS

Based on our audit, we have concluded that except for the overstatement of payroll expenses, JI's financial records appear to be reasonably stated. In addition, our testing indicated that JI did not provide sufficient evidence to support that: 1) 51% of its FTE positions are held by low-moderate income individuals as required by its multiple agreements with the City, and, 2) it has, as of December 31, 2011, created and retained the 500 FTE positions required by CDBG guidelines which govern the Section 108 loan and sub-loan.

Details of our findings and recommendations follow:

1. ANNUAL PAYROLL EXPENSES WERE OVERSTATED

JI Human Resources (HR) staff informed us that they use Strategic Outsourcing, Inc. (SOI), an employee leasing company, to process its payroll. SOI leases employees to JI and therefore becomes liable for payroll and the other taxes of the "leased" employees. Annually, SOI sends the JI Controller a report listing payroll expense amounts. Such amounts should agree with payroll amounts recorded in JI's accounting system.

We reviewed the payroll expense amount recorded in the JI general ledger (GL) for FY10 and compared it to the payroll expense amount in the FY10 SOI report. Excluding payroll expenses that were accrued at the end of the year, the FY10 GL payroll expense was \$5,575,931 and the payroll costs indicated in the SOI report totaled \$4,722,411 (a difference of \$853,520, or 18%). We were informed by JI that the difference included payroll costs incurred by JI vendors, such as the vendors for parking and shows. However, we believe that such vendor expenses should be included as a part of "cost of sales/operations" in JI's financial statements. As of this date, we were not provided with an explanation by JI for including vendor payroll costs in their payroll expenses.

Including vendor payroll expenses with those of JI overstates JI's payroll expenses and may mislead financial statement users.

Recommendation:

With regard to recording vendor payroll costs, Generally Accepted Accounting Principles (GAAP) require that these expenses be recorded as a line item in the "cost of operations" (e.g. contracted/professional services) section of JI's schedule of consolidated and combined operating statements, rather than as a payroll expense. We were informed by JI personnel that this accounting treatment would be considered during FY 2012.

Auditee Response-Jungle Island:

With regards to recording “vendor” payroll costs, GAAP requires that these expenses be recorded as a line item in the “cost of operations” section of JI’s schedule of consolidated and combined operating expenses.

External Auditors will correct the classification internally for 2013 effective May 2013 retroactively to January 1, 2012. When External Auditors issue the 2013 audit financials, they will do it on a comparative basis to 2012 and will classify these vendor costs within cost of operations.

Implementation Date:

Effective May 2013

2. STATUS OF COMPLIANCE WITH JOB CREATION/RETENTION REQUIREMENTS

Regulations governing Section 108 loans are found in Title 24, Part 570 of the Code of Federal Regulations (24 CFR 570). Pursuant to 24 CFR 570.209(b)(3)(A), JI should comply with mandatory CDBG public benefit provisions that require the creation and retention of at least one FTE permanent job per \$50,000 of CDBG funds used. Accordingly, since the Section 108 loan obligation was \$25 million, JI should ensure that a minimum of 500 FTE ($\$25 \text{ million} \div \$50,000$) permanent jobs are created and retained. In addition, the 800K loan agreement with the City stipulates that a minimum of 51% of the jobs maintained, on a full-time equivalent basis, shall be held by or made available to “Low and Moderate Income” persons (as defined under HUD’s CDBG Program).

We were informed that JI deems an employee as low/moderate income if the employee lives within an Empowerment Zone (EZ), which is an acceptable criteria and fulfills HUD CDBG job creation/retention requirements. In addition, based on our observations and discussions with JI’s HR Department and County staff, a County “Community Development Block Grant Job Creation Verification” form is prepared during the new hire application process; and, “Total Family Size Income” amounts indicated on the form are verified via random sampling and testing conducted by County staff . Also, we were informed that County testing is used to determine whether or not JI employees live in a State of Florida (State) designated “Enterprise Zone”, which is a wider geographical area than HUD’s designated “Empowerment Zone”.

The Required Number of Jobs Have Not Yet Been Created/Retained

Based on income verification documentation dated August 8, 2011, County testing indicated that there were 426 FTE JI employees, which are 74 employees (or 14.8%) less than the 500 FTE employees required in accordance with the CDBG provisions described above (500 minus 426). Also, JI submitted to the City a listing of 611 part-time and full-time employees hired as of December 2011. Of the 611 employees, we noted that there were 418 FTE JI employees, which are 82 employees (or 16.4%) less than the 500 FTE employees required under CDBG provisions (500 minus 418). In addition, we noted that JI did not compile actual hours worked by part-time employees in order to calculate the number of full-time equivalent (FTE) positions. Instead, based on the assumption that a part-time employee works 20 hours per week, JI calculated the

resulting number of FTE positions by counting one FTE position for every two part-time positions. In response to our observations, JI asserted that its consultant prepared an “Economic Impact Study” indicating that 854 direct jobs were created. However, there was no evidence or documentation to indicate the existence of such jobs as of December 2011.

Finally, we examined a feasibility study prepared by a JI consultant which included revenue and attendance projections from 1999 to 2008. After comparing the projected attendance (745,000) and revenue (\$26M - \$31M) indicated in the study with actual attendance (320,268) and revenue (\$14.4M) for 2008, it appears that JI’s short-fall in revenue and attendance numbers may not support an increase of 82 FTE jobs.

However, the County asserted that since the required HUD sub-loan payments were made, JI can continue to make efforts to comply with job creation and retention requirements as a goal throughout the operation periods of the agreements. In addition, we noted that CDBG guidelines do not expressly state a deadline for creating and retaining such jobs.

2a. Recommendation:

JI should create a long term plan to increase revenue that would justify an increase in the number of FTE employees to comply with the CDBG job creation and retention requirements. Also, the actual number of hours worked by part-time employees should be compiled in order to derive true FTE calculations.

Auditee Response-Jungle Island:

Jungle Island is presently in the process of closing negotiations with a consulting firm. This consulting group has world-class experience and the firm is considered a “known expert” in the Attractions and Zoo business. The purpose of the study is to analyze Jungle Island’s potential revenue sources that not only will increase revenue but it will increase FTE jobs as well.

Implementation Date:

Near future

51% of the Jobs Were Not Yet Held By Low-Moderate Income Individuals

County test results indicated that there were 426 FTE JI employees and that 163 employees lived in one of the state’s Enterprise Zones, or 38.3%. However, the results did not contain the number of FTE positions held by 163 Enterprise Zone employees. Nevertheless, if all 163 positions (38% of the 426 FTE positions) were FTE, JI would not yet be in compliance with the City’s \$800k loan agreement which requires that 51%, or 217 FTE jobs (a difference of 54 jobs) be held by low-moderate income individuals as described above. In response to this finding, County staff asserted that JI was located within a federally designated Empowerment Zone (EZ); and, pursuant to CDBG guidelines, there is a presumption that all JI employees are low-moderate income. As evidence, the County submitted a map indicating that JI was located within the EZ. When we researched the HUD website, we noted that JI was in fact located outside of the EZ. However, HUD’s web-site indicated that funding for the EZ program ended

effective December 31, 2011. Finally, we noted that the 51% requirement may be satisfied if jobs are made available to (as opposed to actually held by) low to moderate income persons and that requirement continues as a goal throughout the operation of the HUD Section 108 Loan Agreement.

From the listing of 611 JI employees hired as of December 2011, JI asserted that 593 (or 97%) were low-moderate income. In order to test JI's assertion with a 95% degree of certainty, we randomly selected 201 of the 611 JI employees. We entered employee addresses using the HUD "EZ Locator" web-site and noted that only 9 employees from the sample lived in an EZ. Out of the 201 randomly selected employees, 192 lived outside of the EZ.

2b. Recommendation:

JI and the City should work with County staff to ensure that jobs continue to be made available to low-moderate income individuals in accordance with CDBG requirements. If necessary, the City's Department of Community Development, Office of the City Attorney and Office of the Independent Auditor General should be consulted to ensure that supporting documentation complies with current and future Federal and State funding regulations.

Auditee Response-Jungle Island:

Jungle Island is presently reviewing and revamping its method of recording information concerning:

1. FTE jobs created
2. Requirement of 51% LMI (hired)
3. Requirement of 51% LMI (jobs made available to)

Jungle Island has been working with several agencies in order to make jobs available for the low-moderate income individuals; either by contacting them directly or posting the jobs on websites. In order to satisfy the CDBG requirements Jungle Island has been advertising jobs to those organizations stated in Exhibit A.

JI presented the City with an "Economic Impact Study" that indicates that JI has created a significant impact in job creation for the City of Miami in the form of 854 direct jobs. To address the concern of the City Auditor's that "there is no evidence or documentation to indicate the existence of such jobs", Jungle Island, going forward, will log and document the hours and origin of such jobs.

Jungle Island is documenting its procedures to identify those applicants and potential hires that live in an Enterprise or Empowerment Zone. Applicants fill out a form that determines if new hires are Low-Moderate Income persons. Going forward, Jungle Island will require applicants that the job "has been made available to" to disclose their personal income to determine their eligibility as a Low-Moderate Income Person. Those applicants that the job was made available to will be included in the formula to calculate the 51% as required.

EXHIBIT A

South Florida Workforce One Stop Career Center
Hospitality Institute
Miami Dade College Career Center
Santla.Com
Employment Service Bureau-Miamidade.Gov
Miami-Dade County Public Schools
Camillus House, Inc.
Overtown Youth Center
Miami Beach Latin Chamber Of Commerce –Workforce
Carrfour Supportive Housing
Center For Independent Living Of South Florida
Craigslist.Com
Indeed.Com
Jungleisland.Com
AOHT

Implementation Date:

Immediately

Auditee Response-Community Development Department:

The Department of Community and Economic Development has reviewed the Auditor General’s report findings as it pertains to the percentage of low-income jobs created by Jungle Island and concurs with the findings.

The department accepts the Auditor General’s recommendation and will work with the county to monitor the jobs created by Jungle Island. By August 30th, 2013, a total accounting of all jobs will be performed with the County and Jungle Island informed of any deficiency as it pertains to the Section 108 loan as well as the requirements under the \$800,000 provided to Jungle Island by the City. Jungle Island will then be given an opportunity to provide a plan to remedy any deficiency.

Implementation Date:

August 30, 2013