

**CITY OF BUFFALO
DEPARTMENT OF AUDIT AND CONTROL**

**AUDIT REPORT
OF THE BROADWAY MARKET RENTAL REVENUE**

**MARK J.F. SCHROEDER
COMPTROLLER**



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FIRST DEPUTY COMPTROLLER, CPA**

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CITY AUDITOR**

DECEMBER 2014

Preface

In accordance with the goals set forth in the Annual Audit Plan, we conducted an audit to document and evaluate the internal controls over the rental revenues received from vendors occupying space at the Broadway Market (the Market). The Market is owned by the City of Buffalo (the City). The audit will also examine the vendor application/lease process and the profitability of the Market.

The Market has been open since 1888. The Market has been known for unique products and personal service, with meat stands, poultry stands, produce counters, bakeries, delis, candy stands and restaurants. Family-owned businesses, passed from generation to generation, have created some of Buffalo's best loved foods. The Market is open year round, Monday – Saturday, 8 AM – 5 PM, and is located on Broadway between Gibson and Lombard Streets in Buffalo's Historic Broadway-Fillmore Neighborhood.

Audit Objectives

The objectives of the audit are to document and evaluate the internal controls of the Market's revenues and document its profitability.

To achieve these objectives the following procedures were performed:

- Interviews of Market management documenting the controls over the revenue procedures.
- Observations of all vendors present at the Market and verified revenue was recorded for vendors observed.
- Analysis of vendor's accounts receivable balances.
- Review lease agreements, documented terms and tested compliance with terms.
- Review temporary vendor applications, documented terms and tested compliance with terms.
- Document the Market's profitability.

Audit Findings

1. Revenue Cycle for the Broadway Market

Permanent and temporary vendors lease space at the Market. Permanent vendors have a continuous presence at the Market. Most permanent vendor lease agreements are on a month to month basis. Permanent vendors are assigned a customer number in the City's accounts receivable system, which tracks invoices, payments and outstanding balances.

Temporary vendors rent space at the Market on a seasonal basis. These vendors sign agreements to rent space for various lengths, primarily on weekends and during holiday seasons. Temporary vendors can choose several rental options ranging from \$100 to \$1,000 for a 10' by 10' space depending on rental period.

Temporary vendors are not tracked in the City's accounts receivable system. There is minimal segregation of duties related to the temporary vendor revenue process. The same person that approves the temporary vendor application is responsible for receiving rent payments and depositing funds. Additionally, no accounting system is used to record temporary vendor payments and balances due. There is a high risk that errors, omissions and fraudulent transactions could go undetected due to the poor internal controls in place. Rent received from temporary vendors totaled approximately \$57,000 for the year ended June 30, 2014.

2. Past Due Balances of Permanent Vendors

The City's financial software, MUNIS, was used to evaluate the balances due from permanent vendors at the Market. As of June 6, 2014 the following balances were noted:

Accounts Receivable Summary	Amount	Percent of Total
Total Amount Due	\$ 202,113	100%
Amount over 120 days past due	\$ 186,907	92%
Former Vendor Amounts over 120 days	\$ 130,626	65%
Current Vendor Amounts over 120 days	\$ 56,281	28%

3. Temporary Vendor Application

The current temporary vendor application describes payment information for a standard size vendor, but does not state the total amount or due date of rent, amount of space rented or location of space.

According to the temporary application rules, all payments are due at time of registration unless the vendor chooses the most expensive option, in that case payments can be made in five monthly installments. Payments recorded in MUNIS were not made in accordance with the application rules. Additionally, according to a communication from the Market manager, rates are not standardized in accordance with the application, but vary depending on how many weeks vendor is actual open. Therefore the standardized rates on the application are not followed and no written agreement documenting actual rates charged exists.

A total of 64 Temporary vendor applications were analyzed for the 2014 season. The following discrepancies were found:

Temporary Vendors	Number of Vendors in Compliance	Percent of Vendors in Compliance
Proof of Insurance provided	37	58%
City of Buffalo noted as additionally insured by vendor	31	48%
Application on file	61	95%
Application signed by Vendor	51	80%
Rent due noted on application	12	19%

4. Observed Vendors with No Documentation or Payment History

Auditors observed six vendors at the Market who did not have applications on file or payments recorded in MUNIS. The Market manager explained that these vendors exchanged services or performances in lieu of rent. There was no documentation of services provided by these vendors. No analysis of the cost of the services compared to the value of the space given to these vendors was available to auditors. Additionally, the vendors were not required to provide insurance coverage, leaving the City susceptible if an accident were to occur.

5. Permanent Vendor Contracts

During the review of the 30 current permanent vendor contracts the following information was noted:

Description	Number of Vendors in Compliance	Percent of Vendors in Compliance
Provided proof of insurance	25	83%
Contract signed by vendor	16	53%
Contract signed by City	4	13%

6. Rent Comparison, Invoice Amount vs. Lease Agreement

Payment terms from contracts were compared to April 2014 invoices. There was a negligible difference between amounts billed and the contract terms.

7. Market Profitability

The following chart documents the profitability of the Market over the past two years. Included in the figures are estimates for repairs and maintenance for 2013. Excluded from the analysis is the salary of the Market manager.

	2014	2013
Total Revenue	\$ 497,775	\$ 499,784
Expenses		
Utilities	267,105	249,991
Repairs and Maintenance	223,641	230,402
Bad Debt expense	17,641	32,521
Advertising	13,680	13,096
Supplies	10,021	9,668
Miscellaneous	19,479	29,763
Total Expenses	<u>551,566</u>	<u>565,441</u>
Net Income (Loss)	<u>\$ (53,791)</u>	<u>\$ (65,657)</u>

Audit Recommendations

1. Internal Controls over Revenue Cycle

Temporary vendors should be billed through MUNIS the City's financial accounting software. This would allow for a more efficient billing process, including improved tracking of payments and identification of outstanding balances.

Vendors should be required to mail payments to the City's Treasury Department. This would eliminate the Market manager's direct involvement in the collection process, which would increase the internal controls over the process.

2. Collection Process – Past Due Balances

There should be a written collection policy documenting steps taken if rent is not paid timely. The policy should be provided to all vendors and attached to all contracts and applications.

A list of all vendors more than 120 days in arrears should be sent to the City's Collection Department. Efforts should be made to pursue balances deemed collectible, and uncollectible balance should be written off.

3. Temporary Vendor Application

We recommend the design of a new Temporary Vendor Application. The application should include the following:

- Actual rent due
- Payment schedule and due dates of rent
- Amount of deposit if applicable
- Documentation of the general liability insurance required and that the City must be named as additional certificate holder

The application should be signed by both the vendor and City, acknowledging that all the terms of the application have been met prior to allowing the vendor to occupy space at the Market.

4. Procedures for Vendors that Provide Services In Lieu of Rent

Any exchange of services or performances in lieu of rent should have a written agreement signed by both the service provider and the City. A cost/benefit analysis of the transaction should be performed prior to entering into an agreement. An adequate amount of insurance should be required to be provided by the service provider and should be documented in the terms of the agreement.



BYRON W. BROWN
MAYOR

CITY OF BUFFALO
OFFICE OF STRATEGIC PLANNING



BRENDAN R. MEHAFFY
EXECUTIVE DIRECTOR

January 12, 2015

Mr. Kevin J. Kaufman, CPA
City Auditor, Department of Audit and Control
1225 City Hall
Buffalo, New York 14202

Dear Mr. Kaufman:

Please find the below comments on the draft copy of the Audit Report on the Broadway Market Rental Revenue. The comments below apply to the Audit Recommendations and cover steps already taken or a timeline for implementing recommendations.

Response to Audit Recommendation One: Internal Controls over Revenue Cycle

Prior to the commencement of the Audit, with the start of the new fiscal year in July, 2104 temporary vendors began being tracked in the City's accounts receivable system. Application and insurance are forwarded to the Mayor's Office of Strategic Planning who then forwards the information to the Department of Audit and Controls. Temporary vendors are then assigned a customer number in the City's accounts receivable system and invoices are sent out, payments received and outstanding balances are tracked. Payments are then mailed to the City's Treasury Department.

Response to Audit Recommendation Two: Collection Process – Past Due Balances

- a. Efforts have been made to collect on past due accounts from current vendors. Management has worked with the City of Buffalo's Collection Department in setting up payment plans and with the Law Department for eviction and affidavit of judgment processes. These efforts resulted in two vendors being evicted and many vendors reducing arrears including one vendor reducing his arrears from \$32,000 to the current \$13,000. Market Management will work with the Department of Law to write a written collection policy documenting steps to be taken if rent is not paid on time. This policy will be provided to all vendors and attached to all leases and applications. This will be in place by March 1, 2015.
- b. Many of the vendors on the current Accounts Receivable Aging Report who are past due 120 days or more are no longer at the Market. Six of these vendors have not

been at the Market for over five years. Management has been unsuccessful in having them removed from the aging report. Market Management will submit a list of former market vendors who are 120 days in arrears to the Common Council for past due balance to be written off. Market Management will also provide a list to the City's Collections Department of former Market vendors who are in arrears to pursue past due balances. These steps will be taken by March 1, 2015.

Response to Audit Recommendation Three: Temporary Vendor Application

The 2014-15 application has been revised as of August 1, 2014. *Copy attached.*

Response to Audit Recommendation Four: Procedures for Vendors that provide Services In Lieu of Rent

Effective immediately, all vendors providing services in lieu of rent will submit a Temporary Vendor Application along with required insurance.

Thank you for the opportunity to provide this feedback. If you have any further comments or questions, please do not hesitate to contact me.

Sincerely,



Brendan R. Mehaffy
Executive Director, Office of Strategic Planning

Cc: Byron W. Brown, Mayor
Donna Estrich, Commissioner of Administration, Finance, Policy, & Urban Affairs
Kathleen Peterson



THE BROADWAY MARKET
A BUFFALO TRADITION SINCE 1888

SEASONAL VENDOR OPTIONS 2014-2015

RATES QUOTED ARE FOR 10 X 10 SPACE

Dear Prospective Vendor:

You are asked to carefully read the application and rules as they have changed from the 2013/2014 season. We hope that this experience will be as satisfying as in the past – as we move through the season we will work hard to make it a positive one.

The allocation of space is being handled in the following priority order:
Permanent Full Time and Part Time, Seasonal and Temporary.

Additionally, all requests for space will be made to maximize rental income – therefore, requests for space for Option One will receive a higher priority than a request for space for another option.

All vendors are responsible for obtaining and **must supply a copy** of proof of vendor's General Liability Insurance listing the City of Buffalo, 920 City Hall, Buffalo, New York as additional insured and sign and submit the attached Indemnification and Insurance form in connection with the vendor's operations at the Broadway Market; Vendor Permits (if required by City, County or State); Sales Tax Certification. **Vendors will not be allowed to open without this required documentation.**

Vendors must occupy the space for the days and times the market is open.

All payments will be handled directly through the City of Buffalo's Audit and Control Department. DO NOT SEND A CHECK IN WITH THIS APPLICATION. NO CHECKS WILL BE ACCEPTED AT THE MARKET MANAGEMENT OFFICE. Effective July 1, 2014, all vendors will be set up with a customer number through the City of Buffalo's Audit and Control Department. Vendors will then receive an invoice. Checks are then mailed in to the City. Payment in full is required by March 20, 2015.

OPTION 1- \$1,000 One, Two or Five Invoice Option

Train Show – Saturday, September 27, 2014

Oktoberfest – Saturday, October 18

Halloween Saturday, October 25

November Saturdays 11/1 & 11/ 8

Wine Festival - November 14 & 15

Pre-Thanksgiving Shopping – November 22

Kraskindlemart – Friday, November 28, Saturday, November 29, December 6, December 13, December 15 – December 24. (Including Sunday December 21)

December Saturday 12/28

January Saturdays – 1/3, 1/10, 1/17 (**Polka Day**), 1/24, 1/31

February Saturdays - 2/7, 2/14 (**Valentine's Day**), 2/21, 2/28

March Saturdays 3/7, 3/14 (**St. Patrick's Day**)

Easter Festival – Friday, March 20, 2015 – Saturday, April 04, 2015 (including Sunday March 22 and Sunday, March 29).

Dyngus Day – April 06, 2015 12:00 noon – 5:00 pm

If you select this option, you will be able to be open any other day during that period, if you desire at no extra charge. Each vendor is **allowed two absences**, if more are needed please see the office.

OPTION 2 – Octoberfest/Wine Festival/ Thanksgiving/Christmas \$450.00

One Invoice

Oktoberfest Saturday October 18,

Wine Festival November 14 & 15

Pre-Thanksgiving Shopping November 22,

Kriskindlemart Friday November 28, Saturday November 29, December 6, December 13, December 15- December 24 (including Sunday December 21)

You will be in the same location for the entire period* and you will be able to leave goods at your location.

Option 3 – Easter plus Dyngus Day \$900.00 One

or Two Invoice Option

March 20, 2015 – April 04, 2015 including Sunday, March 22 and Sunday, March 29 and Dyngus Day, Monday, April 06, 2015 (closed Easter Sunday)

You will be in the same location for the entire period* and you will be able to leave goods at your location.

Option 4 - (2 Days) Wine Festival \$100.00 One

Invoice

Friday, November 14 and Saturday, November 15, 2014

- **Your location may change if a new or existing permanent vendor requires the space.**

*If you **were not** a vendor during the most recent Easter Season, you **must** provide pictures of your products, a picture of your display or call the office to arrange for a review of your proposed products.*

DO NOT SEND A CHECK IN WITH THIS APPLICATION

The Broadway Market will send ALL VENDOR CORRESPONDENCE VIA EMAIL WHEN POSSIBLE- please insure you have spelled your email address correctly.

SPACE ASSIGNMENTS

We cannot assure that your space assignment will be the same as in past years. Certainly, we will make every attempt to place you at or near your former spot (if you let us know) but many of the floor spaces, dimensions and locations have changed. Broadway Market management reserves the right to assign space that best serves the needs of the entire market and the market customers. All decisions are final.

IMPORTANT INFORMATION

1. All vendor stands must be open and staffed at all times during the hours the market is open.
2. Option 1 includes three Sundays: December 21, 2014, March 22 and March 29, 2015.
3. Vendors must keep their stands attractive and clean. Garbage and recyclables must be disposed of promptly and should not be visible to customers.
4. All vendor merchandise must be contained within the footprint of the rented space. Utilization of adjoining or unused areas is prohibited unless the area has been reserved and paid for.
5. Display requirements to enhance the customer experience:
 - a. Unless a variation is approved in advance, all tables & displays must use either a white, black, green or red (burgundy) table cloth/skirting.
 - b. All vendors should plan to bring their own tables, chairs and any other equipment. You must advise us of your needs with your application.
 - c. Tenting, Tarps, Awnings, ARE NOT allowed.
 - d. Nothing may be hung, displayed or positioned that will block customer views. A clear field of vision must be maintained from the 5' to 8' height.
6. All signage must be professional in look and appearance. Handwritten signs must be reviewed and approved prior to use.
7. Your space cannot be sublet.
8. You cannot bring materials or products that were not included (and approved) on your application. There will be daily checks of your application and goods for sale and you must have sufficient product available throughout your stay. Violations could result in your removal from the market. **Certain products offered for sale by year-round vendors may be protected and not allowed for sale by temporary vendors.** See below.
9. Radios, TV's, electronic speakers, megaphones or horns are not permitted.
10. All persons under 18 years of age must be supervised by an adult at all times.
11. The Broadway Market and its management are not responsible for the loss of product or injuries. Vendors are responsible for their own security within their stands.
12. Loading docks are extremely busy – please use them and promptly move your vehicle. Vendor space is available throughout the garage.
13. NOTHING can be hung or affixed to Market walls without permission.
14. No solicitations or raffles without advance approval.
15. A \$200 fine will be imposed for any violation of Market's rules

**PROHIBITED PRODUCTS TO PROTECT
PERMANENT TENANTS**

CHRUSCIKI	BUTTER LAMBS
HORSERADISH	HORSERADISH MUSTARD
COCKTAIL SAUCE	CHARLIE CHAPLIN
CHOCOLATE DIPPED STRAWBERRIES	CANNOLI



SEASONAL VENDOR 2014/15 - APPLICATION FOR VENDOR SPACE

July 1, 2014 – June 30, 2015

MAILING ADDRESS: 999 BROADWAY, BUFFALO, NY 14212

PHONE: 716-893-0705 FAX: 716-851-5206

BUSINESS NAME			
VENDOR NAME(S)			
STREET ADDRESS			
CITY, STATE ZIPCODE			
BUSINESS PHONE		CELL PHONE	
FAX NUMBER			
EMAIL1		EMAIL 2	

VENDOR INFORMATION: CHRISTMAS 2013 (yes) (no) EASTER 2014 (yes) (no) How Many Years Here__

ALL PAYMENTS ARE NON-REFUNDABLE

DO YOU NEED ELECTRICITY

YES () NO ()

NO () CORDS WILL NOT BE SUPPLIED

DO YOU HAVE ANY OTHER NEEDS: (Please specify)

BUSINESS NAME: _____ **Space Number:** _____

PLEASE RETURN THE ATTACHED CHECKLIST - CHECK YES/NO

YES	NO		OFFICE USE
		Completed application	
		List of products being sold	
		Pictures of products and display (if required)	
		Current general liability insurance certificate ADDITIONAL INSURED MUST READ: City of Buffalo, 920 City Hall, Buffalo, NY	
		Copy - Health Inspection Certificate - if you are in the food business	
		Copy - Sales Tax Id Certificate	
		Copy - Business Certificate (filed with County or State)	
		Electricity - Normal	
		Electricity - Cooking, refrigeration (May require additional charge)	
		I request space # _____	
INITIAL BESIDES EACH ITEM and SIGN BELOW			
		1. I have read the application & rules and agree to abide by all management decisions.	
		2. I understand and agree that I have sole responsibility for storage, loss, theft and damage to my stand and its contents.	
		3. I understand that the location of the stand is solely at the discretion of management and may be moved. I understand my tenancy can be canceled for violation of any rules or management request.	
		4. I understand that Market management reserves the right during the entire tenancy to inspect products and to compel their removal for any reason.	
		5. I understand that failure to follow the rules could result in substantial fines, payable before removing product from the Market.	

Rent Amount: _____ **PLEASE NOTE: PAYMENT IN FULL REQUIRED BY MARCH 20, 2015**

Payment Schedule(PLEASE CHECK ONE) 1 Invoice for full amount _____
Option 1 or Option 3 only **2 Invoices for 50%/invoice** _____
Option 1 only **5 Invoices for 20%/invoice** _____

Vendor Signature: _____ **Date:** _____

Market Manager Signature: _____ **Date:** _____

