FOLLOW-UP REPORT

Denver International Airport
Etai’s Café Concessions Contract
JUNE 2024

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AUDITOR’S LETTER

June 6, 2024

In keeping with generally accepted government auditing standards and Auditor’s Office policy, as authorized by city ordinance, we have a responsibility to monitor and follow up on audit recommendations to ensure city agencies address audit findings through appropriate corrective action and to aid us in planning future audits.

In November 2022, we audited the airport’s concessions contract with Etai’s Café and found risks involving the airport’s monitoring of revenue reporting and deductions, the timeliness of payments, and utility charges. Denver International Airport agreed to implement seven of our eight recommendations.

We recently followed up and found the airport fully implemented over half the recommendations it agreed to implement. Although airport officials did not agree to implement one other recommendation when the original report was published, I am pleased the airport now requires annual certification of revenues by a certified public accountant, which adds assurance that vendors’ revenue statements are accurate.

Despite the airport's notable progress, it did not fully address all risks associated with our original findings. Consequently, we may revisit these risk areas in future audits to ensure the city takes appropriate corrective action.

We appreciate the leaders and team members at the airport who shared their time and knowledge with us throughout the audit and the follow-up process. Please contact me at 720-913-5000 with any questions.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
To evaluate whether Denver International Airport's Concessions Division provides adequate oversight of the Etai's Café concessions contract, including whether the café is accurately reporting all revenue earned and paying the appropriate rent it owes the city based on its sales.

Background

The airport's Concessions Division is responsible for choosing and overseeing 170 airport concessionaires. One of those vendors is Etai's Café — which is owned by Mission Yogurt Inc. and has leased space at the airport since 2012. It sells food and drink items.

The airport's contract requires Etai's Café to pay rent based on two factors: a “minimum annual guaranteed amount” plus a percentage fee based on sales volume. The café submits financial statements to the airport on a monthly and annual basis to report sales and determine the amount of rent it owes.

Denver International Airport’s limited oversight prevented it from knowing whether Etai’s Café’s self-reported revenue was accurate

The airport lacked sufficient contract-monitoring procedures for its concessions program and instead relied on Etai's Café to self-report its revenue. Because of this, the airport could not know whether the sales revenue the café reported — and the resulting rent amount the café owed — was accurate. We could not independently verify the sales Etai's reported to the airport.

Specifically, we found:

• Because airport concessions staff did not independently verify the café’s revenue, they relied primarily on the café’s president to self-certify the reported amounts.

• The Concessions Division did not ensure the café’s self-certified annual statements were in the required format. Specifically, the airport did not enforce a contract provision that required the statements to list what deductions the café subtracted from its reported gross revenue. The more deductions taken out, the less rent the café owes the city.

• The airport never approved in writing the various discounts Etai’s Café had deducted from its gross revenue. And because concessions staff were not verifying the self-reported revenue, they did not know the discounts existed until our audit. Discounts also were not supported with appropriate documentation required by the contract.

• The airport did not ensure Etai’s Café paid rent on time, and the airport failed to charge the café interest when it was late.

• The airport had not reevaluated the Etai’s concessions contract in 10 years — which risked the airport not getting the best value from its longtime vendor.

WHY THIS MATTERS

Although the airport operates like a business, it is owned by the city and therefore has a duty to be a prudent steward of public dollars. If the airport fails to ensure contract oversight and do its own due diligence to verify concessionaires’ self-reported revenue, it does not hold vendors accountable to their contract terms and risks the city losing out on money it is owed.


FULLY IMPLEMENTED  4  PARTIALLY IMPLEMENTED  1  NOT IMPLEMENTED  2  DID NOT AGREE TO IMPLEMENT  1
June 6, 2024

Action Since Audit Report
Etai’s Café Concessions Contract

8 recommendations proposed in November 2022

Denver International Airport fully implemented four recommendations made in the original audit report but only partially implemented one other. It has not taken sufficient steps to address the risks two other recommendations had sought to resolve.

Of note: The airport took corrective action to address the remaining recommendation, which officials did not agree to implement when the original report was published.

Through its efforts, the airport:

• Increased oversight of vendors’ revenue statements through stronger policies to ensure deductions from gross revenues comply with contract requirements and airport policy.
• Has a process to ensure Etai’s Café’s invoice payments are received on time.
• Is negotiating a new contract with Etai’s Café in accordance with Executive Order No. 8.

REMAINING RISKS

The recommendations the airport did not fully implement present several lingering risks. Among them:

• While managers improved policies to define allowable deduction types, the airport is not adequately reviewing Etai’s Café’s revenue statements to ensure deductions are accurate or appropriate. Without a sufficient review process, the airport risks vendors taking unallowed deductions, resulting in the airport not receiving the full rent it is owed.
• The airport is still not reviewing vendors’ real-time sales data. It plans to do so through a continuous monitoring program, but few details are available yet.
• The airport has not finalized how it will accurately bill vendors for electric and water utilities. It plans to finish a pilot program in September 2024.
FINDING | Denver International Airport’s limited oversight prevents it from knowing whether Etai’s Café’s self-reported revenue is accurate

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Recommendation 1.1

ENFORCE PROPER SUBMISSION OF MONTHLY AND ANNUAL REVENUE REPORTS – Denver International Airport’s Concessions Division should review the revenue submissions from Etai’s Café to ensure the reports clearly detail all deductions subtracted from gross revenue for the period, as required by the contract terms.

Agency’s original target date for completion: March 1, 2023

SUMMARY OF AGENCY ACTION

Although airport officials agreed to implement this recommendation by March 2023, they told us during our follow-up review that their efforts would not be finished until July 2024.

In our original audit report, we found Etai’s Café was not sufficiently reporting deductions on its certified annual statements from 2019 through 2021 as is required by its contract with the airport. This prevented the airport from having a complete and accurate understanding of the café’s reported revenue.

In response to our recommendation, in December 2023, the airport’s Concessions Division created a more detailed policy for reviewing certified annual statements. This policy says:
The contract administrator has five business days to review deductions a vendor took to make sure those deductions are allowed.

If the deductions are greater than 2.5% of the vendor’s gross revenue, the contract administrator will ask the vendor for an explanation and supporting documentation.

If the vendor cannot provide supporting documentation, then airport staff will ask the vendor to remove the unallowed deductions from its annual statement.

Meanwhile, the airport also updated its concessions handbook in March 2024 so it now lists allowable deductions.

Airport managers said they were updating the template for monthly concessions revenue reports to include deduction details by June 1, 2024. They said they had not decided whether they will review deductions each month or continue to review them only once a year.

To determine whether the airport’s Concessions Division had reviewed Etai’s Café’s revenue submissions and deductions in line with our recommendation, we asked for the café’s 2022 and 2023 certified annual statements and documentation showing the review process occurred.

Etai’s sent its certified annual statement for 2023 to the airport, but that version was certified by a company official, as was allowed before January 2024. This statement had only general lines for discounts in total food sales and alcohol sales — but no information about specific discount types.

Effective Jan. 1, the airport reinstated its requirement that a certified public accountant review all vendors’ certified annual statements, which provides a greater level of independent assurance of the statements’ accuracy and completeness. Because of this change in policy, airport managers gave the café a two-month extension to submit an annual statement for 2023 that was approved by a certified public accountant.

Under this extended time frame, Etai’s Café managers had to have submitted their revised certified annual statement by April 30, 2024. Airport managers said they would likely not finish reviewing the café’s certified statement until June 2024. Therefore, we could not verify whether the airport reviewed the café’s deductions for 2023 in accordance with its policy.

Regarding the café’s certified annual statement for 2022, an airport contract administrator said in March 2023 that they had reviewed the statement and noted it was missing supporting documentation for deductions and exclusions. The contract administrator asked the café to submit this detail in a spreadsheet. A day later, staff with the café’s parent company — Mission Yogurt Inc. — provided the spreadsheet of Etai’s Café’s deductions and exclusions.

This information showed that in 2022, Etai’s Café allowed three types of deductions, which amounted to $40,725 for the year. These deductions were labeled as “airport 10%,” “donation,” and “guest satisfaction.”
The airport gave us no evidence that it had asked Mission Yogurt for documentation to support these deductions, such as records from the café’s point-of-sale system that might show whether these deductions were accurate or appropriate. The airport also provided no other information when we requested documentation that might show the airport had reviewed these deductions.

To perform our own due diligence, we compared the deductions listed in the 2022 certified annual statement from January 2022 through June 2022 with data in the café’s point-of-sale system that we received during the original audit.

We noticed Etai’s grouped nine different deductions from its point-of-sale system into the three categories reported on its certified annual statement.

- The “airport 10%” category is identical in both.
- The “donation” category on its certified annual statement appears to combine the “employee 50%” and “friends and family 20%” discounts from the point-of-sale system.
- The “guest satisfaction” category from the certified annual statement matches the “guest satisfaction,” “kitchen mistake,” “mgr %,” “mrg $,” “service mistake,” and “Tafoya” deductions from the point-of-sale system.

Because of these discrepancies and a lack of evidence from the point-of-sale system for all of 2022, we cannot conclude whether the data Mission Yogurt provided the airport is reliable or whether the airport sufficiently reviewed the café’s deductions. Furthermore, because the airport has yet to review deductions for 2023, the risk identified in our original audit remains.

We consider this recommendation not implemented.

Recommendation 1.2 IMPLEMENT A UNIVERSAL OR SHADOW POINT-OF-SALE SYSTEM – Denver International Airport’s Concessions Division should conduct a cost-benefit analysis to determine whether using either a universal or shadow point-of-sale system to enhance its oversight and ongoing monitoring of concessionaires’ revenues is feasible. Such a system should allow the airport to have real-time access to vendors’ sales data and to conduct internal audits.

Agency’s original target date for completion: Jan. 31, 2023

SUMMARY OF AGENCY ACTION
Although airport officials agreed to implement this recommendation by Jan. 31, 2023, they told us during our follow-up review that their efforts would not be completed until at least March 2025.

They said they plan to address the risk using a different approach than we recommended. Airport managers plan to hire a third-party consultant to implement a continuous monitoring program instead of implementing a universal point-of-sale system, which would have enabled the airport’s concessions team to review vendors’ sales data in real time. Airport managers said following the city’s standard procurement process to establish the continuous monitoring program requires additional time.

In our original audit, we found airport staff had not reviewed Etai’s Café’s point-of-sale system to check whether the café’s reported revenue was accurate. A universal point-of-sale system captures sales information from each concessionaire’s individual point-of-sale system, allowing airport staff to review sales data as needed.

Since the audit of Etai’s Café, we have continued our series of audits on airport concessions contracts. We next evaluated the airport's oversight of the Woody Creek Bakery & Café concessions contract in a report published in February 2024. In the Woody Creek audit report, we discussed the airport’s plans to pursue a point-of-sale system for monitoring revenues.

Airport staff said during the Woody Creek audit that the Concessions Division and the airport’s Internal Audit Division would create a continuous monitoring program to check whether vendors’ deductions were reasonable. We confirmed with airport managers that they plan to create this program instead of implementing a universal point-of-sale system as we originally recommended during our audit of the Etai’s Café contract.

To determine whether a continuous monitoring program would address the original risk and help the airport enhance its oversight and ongoing monitoring of vendors’ revenues, we asked the airport to describe its plans for the program. Airport staff said the program's purpose would be to provide reasonable assurance about the accuracy and completeness of vendors’ self-reported revenues. But as of March 26, 2024, airport staff did not have a description, scope, or funding estimates available for the planned program.

Similarly, we asked airport staff how often they plan to review vendors’ revenue data and whether they plan to do this for all vendors. As of April 4, 2024, staff did not have this information. Airport staff said they had held a few internal meetings in February and March of this year to discuss data storage needs, using a third party, and their legal rights to request this data for the continuous monitoring program.

Because a continuous monitoring program remains in the early planning stages, we consider this recommendation not implemented.

Recommendation 1.3

DETERMINE AN ACCURATE UTILITY FEE – Denver International Airport’s Concessions Division should determine an accurate formula to calculate utilities for Etai’s Café and adjust billing as necessary.

PARTIALLY IMPLEMENTED

Agency's original target date for completion: Feb. 1, 2023

SUMMARY OF AGENCY ACTION

Although airport officials agreed to implement this recommendation by February 2023, we learned during our follow-up review that their efforts would not be finished until September 2024.

In our original audit, we found no evidence the airport had evaluated Etai’s Café’s utility charges since the contract was signed in 2012. Specifically, no documentation was available to support the formula used to determine the café’s utility charges and the employee who created that formula had retired. Because of this outdated fee, the airport could not guarantee that Etai’s Café was paying a fair amount for utilities in its concessions space.

During our audit earlier this year of the Woody Creek Bakery & Café concessions contract, we learned the airport began working last year on a pilot program to calculate utility fees based on actual usage at Etai’s Café, and this program was supposed to be done by the end of 2023.

For this follow-up review, we asked the airport concessions team about the progress of that pilot program, and concessions leaders said they had worked with staff in the airport’s engineering, finance, sustainability, and technology groups to set up the program. The pilot efforts are now expected to finish in September 2024. At that time, staff plan to evaluate whether it is a “sustainable path forward to accurately bill concession[s] utilities” and adjust past utility billings to match the actual data so Etai’s pays what it truly owes.

Meanwhile, we reviewed a sample of three invoices for electricity use at the café from September 2023 through January 2024. We found the airport lowered the amount it charges Etai’s. It is now about $845 per month, compared to $1,400 per month as we reported in the original audit.

Airport staff gave us their calculations to support this updated monthly charge. They calculated Etai’s average electricity usage from October 2022

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through December 2022 using manual meter-readings, along with an average electric payment rate for Concourse B for all of 2022. Then, staff multiplied these two amounts together to determine Etai’s monthly billing. We independently verified these calculations.

Airport staff said electricity usage is now imported into a system, while water usage continues to be read manually. During the Woody Creek audit, concessions leaders said manual readings of all concessions’ utilities were not practical, which is why an average calculation would be needed.

At the beginning of our follow-up for the Etai’s audit, airport officials said they would establish the 2024 monthly rate for Etai’s Café based on the same process once data from 2023 is available.

But when it comes to charging for water usage, airport staff gave us no information about usage and fees despite saying they were also measuring this as part of the Etai’s pilot program. Rather, we learned during our separate audit of the Woody Creek Bakery & Café’s concessions contract that the airport is not billing any vendors for water usage.

Therefore, we consider this recommendation partially implemented.

Recommendation 1.4

REQUIRE A CERTIFIED PUBLIC ACCOUNTANT TO CERTIFY ANNUAL STATEMENTS – Denver International Airport’s Concessions Division should consider reinstating contract requirements to have certified public accountants prepare and certify concessionaires’ annual statements, which would provide the airport with better assurance that vendors’ submitted statements are accurate. This requirement should either apply to all airport concessionaires or be based on revenue thresholds or other factors as determined by concessions management.

DID NOT AGREE TO IMPLEMENT

Airport officials did not agree to implement this recommendation after our original audit, saying at the time that they wanted to act “in support of small business” but that they also reserved the right to change course “at any time for any reason.”

During our audit of the Woody Creek Bakery and Café concessions contract, which was published in February 2024, we learned airport officials now support the reinstatement of having an independent certified public accountant, or CPA, sign off on vendors’ annual revenue statements.

We had offered this same recommendation in that audit, and this time, they

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agreed to require CPA certification for annual revenue statements. Officials said they had implemented this change as of Jan. 1, 2024, and that this requirement would be in all new vendor contracts moving forward.

This standard of certification adds greater credibility to a concessionaire’s revenue statements and provides the airport with greater assurance that the statements are accurate.

We asked airport staff for Etai’s new contract to verify that the language requiring CPA certification for annual revenue statements was included. Airport staff said the new contract is still being negotiated, so we could not review it.

However, airport staff showed us how they notified concessionaires — including Etai’s Café — in multiple monthly newsletters that the airport would be requiring CPA certification for annual revenue statements beginning with the revenue statements for 2023. Additionally, the airport’s concessions team developed a more detailed policy to review these statements.

As we discussed in the airport’s efforts to implement Recommendation 1.1, revenue statements for 2023 were originally due in February 2024. Etai’s Café requested an extension to submit its CPA-certified annual revenue statement after April 15, which airport officials agreed to.

Because the airport reinstated the contract requirements for all concessionaires to have a certified public accountant prepare and certify its annual revenue statements, the risk from the original audit is resolved.

This was the airport’s full response to our original recommendation when the “Etai’s Café Concessions Contract” audit report was published in November 2022:

To support small businesses, the airport considered continuous feedback from the community about the high cost of annual Certified Public Accountant (CPA) certifications. Small business concession partners indicated costs being in the thousands of dollars per year for each report. On 11/1/2008, in exercise of the reserved authority to modify requirements for annual statements, the Manager of Aviation at the time granted permission to continue to have its officer, in lieu of an independent CPA certify each annual revenue statement so long as the business satisfies the conditions in its concession agreement. The annual revenue statements signed by an officer of the concession must be submitted to the Airport Concession Management Section and Airport Finance Section not later than February 28 of each and every year, and any annual revenue statement submitted after this deadline, needs to be certified by an independent CPA, in accord with and as required by each concession agreement. The airport has continued to support this change in support
DEN retains the right in its contractual language to require a CPA-certified annual statement at any time for any reason.

Recommendation 1.5

DEVELOP CRITERIA FOR ALLOWABLE DISCOUNTS – Denver International Airport’s Concessions Division should develop criteria for what are allowable discounts and include this in concessions contracts and its concessions handbook. While the airport could allow concessionaires to give any amount of discount, the airport should make clear that vendors can deduct from their revenue and rent paid to the city only an amount up to the allowable limit.

Agency’s original target date for completion: Nov. 1, 2022

SUMMARY OF AGENCY ACTION

Denver International Airport added a list of allowable deductions to its template for new concessions contracts and in its concessions handbook. The airport also created a procedure requiring the airport to check whether concessionaires’ deductions from their gross revenues exceed a specified limit: 2.5%.

At the time of the original audit, we found the discounts that Etai’s Café had subtracted from its gross revenues did not comply with its contract terms, which lowered the net revenue amount the café used to calculate how much rent it owed the city. Allowable discounts from gross revenues were also not outlined in the airport’s concessions handbook at the time.

In the updated handbook, dated March 1, 2024, the airport now lists allowable discounts. It also covers those discounts that were not outlined in Etai’s contract but that Etai’s nonetheless deducted, as we reported in the original audit. This includes a 10% discount for airport employees.

Meanwhile, airport staff gave us a standard contract template they said they will use for all new concessions contracts. The airport is still negotiating Etai’s Café’s new contract, and staff expect to have it finalized later this year. Although we could not view the contract language, staff said the contract will use the new template. We verified this template language lists allowable discounts and requires Etai’s Café to comply with the concessions handbook.

Additionally, airport staff said they plan to include an allowable limit for discounts as part of their review of concessionaires’ 2023 certified annual statements, as we discussed in the implementation efforts for Recommendation 1.1.
Therefore, we consider this recommendation fully implemented.

**Recommendation 1.6**

**CONDUCT REGULAR AUDITS TO MONITOR REVENUE** – Denver International Airport’s Concessions Division should work with the airport’s Internal Audit Division to develop a risk assessment and determine steps to regularly monitor concessionaires’ revenues. The two divisions should partner to create a plan to conduct regular audits of vendors’ self-reported revenues.

**Agency’s original target date for completion: Jan. 31, 2023**

**SUMMARY OF AGENCY ACTION**

Denver International Airport developed a risk assessment to identify medium- and high-risk concessions contracts and included those in the Internal Audit Division’s annual audit plan.

At the time of the original audit, the airport’s Concessions Division did not review concessionaires’ sales data to ensure contract compliance or to verify concessionaires’ self-reported revenue. Accordingly, we sought to independently determine whether Etai’s Café’s self-reported revenue was accurate, and we ultimately could not verify that this was the case.

During this follow-up review, we learned that in 2023 the Concessions Division reviewed 126 concessions contracts using the new risk assessment and identified five medium-risk and three high-risk contracts by rating the severity and likelihood of financial and operational risks. The airport’s Internal Audit Division then used the results of this risk assessment to determine which concessions contracts and revenues it would review as part of the airport’s 2024 annual audit plan.

While we reviewed only the risk assessment that was used to determine the concessions audits planned for 2024, we found the airport’s 2023 annual audit plan also included concessions contracts. It noted the Internal Audit Division used a risk-based approach to determine what to include in the annual plan.

Additionally, in March 2024, the airport’s Internal Audit Division completed an audit for a sample of 10 concessionaires. This report reviewed the vendors’ revenues and found inconsistencies related to allowable deductions and sales data. The airport’s Internal Audit Division recommended airport officials update policies on the types and amounts of deductions subtracted from gross revenues. The audit division also recommended the Concessions Division investigate vendors’ sales data.

The Internal Audit Division’s report also said the division would continue
auditing concessionaires’ self-reported revenues each year, and the division is developing a continuous audit program to increase the scope and frequency of its reviews of concessionaires’ self-reported revenues. Furthermore, as discussed in the airport’s efforts to implement Recommendation 1.2, the airport expects to regularly monitor concessionaires’ revenues after implementing a continuous monitoring program in 2025.

Therefore, we consider this recommendation fully implemented.

**Recommendation 1.7**

**ENSURE ETAI’S CAFÉ PAYS ON TIME** – Denver International Airport’s Concessions Division should work with the airport’s Finance Division to ensure Etai’s Café’s monthly payments are paid according to the due dates in the contract.

**Agency’s original target date for completion:** Oct. 1, 2022

**SUMMARY OF AGENCY ACTION**

Since our original audit, Denver International Airport staff are providing monthly statements and meeting regularly with Etai’s Café to ensure it pays its invoices on time.

During the original audit, the airport’s invoicing practices did not have sufficient safeguards to identify invoices the café paid late. In response to our audit finding, the airport said it contacted Etai’s management company and requested that it submit payments according to the contract’s due dates.

During our follow-up, we reviewed 25 invoices from March 2023 to March 2024 and found that six — or 24% — were still paid late. One of these invoices surpassed the five-business-day grace period, after which the airport should have charged the café interest. Meanwhile, some of the 25 invoices were paid ahead of schedule.

Even though six invoices were paid after the contractual due date, we reviewed emails from the airport showing how staff were in frequent contact with Etai’s by sending account statements and holding monthly meetings.

Because timeliness of payments improved and the airport is actively engaged with Etai’s and providing support to help the café pay on time, we consider this recommendation fully implemented.
Recommendation 1.8

REVIEW ETAI’S CONTRACT – Denver International Airport’s Concessions Division should work with the airport’s contracts director to review the contract for Etaí’s Café and assess opportunities for competitive bidding or negotiating a new contract, in accordance with Executive Order No. 8, before the contract extension expires on Sept. 1, 2024.

FULLY IMPLEMENTED

Agency’s original target date for completion: Oct. 24, 2022

SUMMARY OF AGENCY ACTION

Denver International Airport gave Etaí’s Café a Premium Value Concessions award in February 2019, a benefit that permitted the café to bypass competitive bidding and directly negotiate a new contract with the airport. In agreeing to implement this recommendation after the original audit, airport officials said, “New contract details have been contemplated and are in motion to align with the COVID-19 extension expiration of Sept. 1, 2024.”

In March 2024, airport concessions managers said they were negotiating a new contract with Etaí’s Café and “finaliz[ing] appropriate deal points.” Concessions managers said they expected a new contract with the café later this year.

Because the airport is negotiating a new contract with Etaí’s, we consider this recommendation fully implemented.
Office of the Auditor

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