

Memorandum



CITY OF DALLAS
(Report No. A09-019)

Date: September 25, 2009

To: Honorable Mayor and Members of the City Council

Subject: Final Audit Report – Follow-Up of Audit Recommendations, City Controller’s Office – Special Collections Group, Fiscal Year 2003

The City Controller’s Office – Special Collections Group (SCG) has responded to seven recommendations resulting from the “*Audit of Hotel Occupancy Tax Collections*,” dated September 20, 2002. *Attachment A* provides detailed information for the seven recommendations included in this audit¹ report.

Summary of Follow-up Audit Results

Fiscal Year Audit Report Issued	Number of Report Recommendations	Recommendations Implemented	Recommendations Partially Implemented	Recommendations Not Implemented
2003	7	2	3	2

SCG Policies and Procedures now require SCG to send a, “*Hotel Information Package*,” to new hotel/motel owners and management when ownership changes. SCG also distributes this information during Hotel Occupancy Tax Audits. The “*Hotel Information Package*” provides hotel/motel owners, managers, and guests with information on hotel occupancy tax exemptions which helps them comply with provisions of the Dallas City Code and the Texas Tax Code.

SCG did refer the three hotels identified during the original audit to the City Attorney’s Office (CAO) for legal intervention. Collection efforts resulted in settlements for two hotels and the CAO is still pursuing collection efforts for the third hotel. SCG did not provide the information necessary for the auditors to verify that the current list of delinquent accounts referred to the CAO is complete and included all delinquent accounts identified between October 1, 2005 and May 31, 2009. According to SCG, a request was made to Pay1 Administration to provide reports that would allow SCG to track and

¹ This audit was conducted under the authority of the City Charter, Chapter IX, Section 3 and in accordance with generally accepted government auditing standards. The audit objective was to verify that management has taken corrective action(s), the corrective action(s) are achieving the desired results or management has assumed the risk of not taking corrective action(s). This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusion based on our audit objective. We interviewed SCG department personnel, reviewed policies and procedures, and evaluated internal workplans.

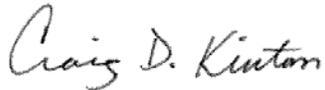
evaluate the status of delinquent accounts. This type of report would help ensure that SCG has complete delinquent account information. However, Pay 1 Administration has not yet implemented this request.

Management has accepted the risks associated with partially implementing three recommendations and not implementing two recommendations. The City Auditor's Office will not conduct any further follow-up on these recommendations, but will consider the risks in determining future audit coverage as part of the annual audit plan.

We appreciate the cooperation of SCG and the City Attorney's Office personnel. This report was discussed with SCG management, but a written response was not requested.

If you have any questions or need additional information, please contact me at 214-670-3222 or Carol Smith, Assistant City Auditor, at 214-670-4517.

Sincerely,



Craig D. Kinton
City Auditor

Attachment A

C: Mary K. Suhm, City Manager
Dave K. Cook, Chief Financial Officer
Edward Scott, City Controller
Corrine Steeger, Assistant Director – City Controller's Office
Thomas P. Perkins, City Attorney

ATTACHMENT A

Audit Report	Audit Issues	Audit Recommendations	Audit Follow-Up Results
Audit of the Hotel Occupancy Tax Collections (September 20, 2002)	Three hotels did not report, or incorrectly reported, taxable revenues and/or occupancy taxes.	Refer these delinquent accounts to the City Attorney for collection.	Implemented. The Special Collection Division (SCG) referred these three hotels to the City Attorney's Office (CAO) for legal intervention. The CAO settled two of the three cases. Regarding the third hotel, the CAO confirmed there is an agreed judgment; however, the hotel has filed for bankruptcy. The CAO is still pursuing collections on this account.

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	<p>Exemptions for hotel occupancy tax cause confusion.</p>	<p>Develop an ongoing educational program for hotel management for the administration of the hotel occupancy tax. Materials that are sufficiently comprehensive and easily understandable should be provided to the hotels as needed. The materials should include information that is suitable for distribution to hotel guests. An "official" information sheet, published in the name of the City, could assist hotel staff in answering guests' questions relating to occupancy tax exemptions.</p> <p>Provide the hotel tax information on the City's website.</p>	<p>Implemented.</p> <p>SCG Policies and Procedures require SCG to send the Hotel Information Package to new hotel/motel owners and management when the hotel ownership changes.</p> <p>The Hotel Information Package is also distributed to the hotel/motel owners and management during Hotel Occupancy Tax Audits. (Note: These audits occur every two years for existing hotels. An audit is also conducted when the hotel/motel management changes or when a new hotel/motel becomes operational.)</p> <p>The Hotel Information Package includes:</p> <ul style="list-style-type: none"> - Hotel Occupancy Tax Exemptions information which align with the Article V, Sec 44-35.1 of the Dallas City Code and Chapter 351. Municipal Hotel Occupancy Taxes Sec. 351.006, Exemption of the Texas Tax Code. - Hotel Information Sheet, which is a summary of the Hotel Occupancy Tax Exemptions. <p>The Hotel Information Package is also available on the City's website.</p>

Audit Report	Audit Issues	Audit Recommendations	Audit Follow-Up Results
	<p>The SCG should expand its policies to improve administration of the hotel occupancy tax.</p>	<p>Develop formal administrative policies for the hotel occupancy tax. Such policies should include a requirement that hotel records be available in the City and include guidelines for the estimation of taxes when hotels do not submit monthly tax returns. These administrative policies should be communicated to all hotels.</p>	<p>Partially implemented.</p> <p>A Hotel Occupancy Tax Form was developed. Hotel/motel owners can report gross revenue, exemptions, and taxable receipts on the form. The form has been sent to hotel/motel owners monthly. If hotel/motel owners do not receive the form, it is their responsibility to obtain the form. The form can be downloaded from the City's website. This information is also included in the Hotel Information Package provided to the hotel/motel owners.</p> <p>However, current SCG Policies and Procedures do not include requirements that hotel records are available in the City and include guidelines for the estimation of taxes when hotels do not submit monthly tax returns. This information is also not communicated to the hotel/motel owners.</p>

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	<p>The City should enforce ordinances to improve collections of delinquent hotel occupancy taxes.</p>	<p>Refer all delinquent accounts to the City Attorney for legal action.</p>	<p>Partially Implemented.</p> <p>SCG provided a list of delinquent accounts, from September 2002 through April 2008, which they referred to the CAO for legal intervention. However, SCG did not provide the information necessary for the Auditors to verify that the provided delinquent account list was complete and included all accounts which were designated as delinquent between October 1, 2005 and May 31, 2009. According to SCG, a request was made to Pay1 Administration to provide reports that would allow SCG to track and evaluate the status of delinquent accounts. This type of report would help ensure that SCG has complete delinquent account information. However, Pay 1 Administration has not yet implemented this request.</p>
		<p>Request from the City Attorney's Office periodic updates on the collections/litigation status on the delinquencies referred by the SCG.</p>	<p>Not implemented.</p> <p>According to the SCG personnel, SCG and CAO maintain constant communications; however, there is no documentation from the CAO on the status of referrals which are delinquent. Furthermore, SCG does not maintain a communication log which includes the name of the delinquent accounts, date of SCG's referral of the account to CAO, follow-up dates, and the current collection status of delinquent accounts. As a result, we cannot verify whether this recommendation has been implemented or not.</p>

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		<p>Request an opinion from the City Attorney to determine whether it is feasible for the City to adopt an ordinance that contains provisions similar to Section 111.016 of the Texas Tax Code. Such an ordinance would provide that all occupancy taxes collected on behalf of the City are held in trust until remitted to the City. The individuals responsible for the collection and payment of all taxes owed to the City would then be held personally liable in the event of non-payment. Addition of this provision would likely require enabling statutes be enacted by the state legislature. Such enabling statutes should be pursued.</p> <p>An ordinance of this type would encourage the prompt monthly payment of hotel occupancy taxes. This ordinance could also be used to enforce remittance of other taxes collected on behalf of the City, such as the motor vehicle rental tax and certain telephone franchise fees.</p>	<p>Partially implemented.</p> <p>The recommendation has been discussed with CAO. The City included the subject item in both the 2001 and 2005 Legislative Package as part of the City's support agenda; however, the subject item was not included in any proposed legislation.</p> <p>The City Attorney's Office is considering whether the subject item will be presented to the City Council's Legislative Committee for inclusion in the 2011 Legislative Package.</p>

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		Explore other options, such as the withholding of a Certificate of Occupancy by the Building Inspection Division, to ensure collection of delinquent hotel taxes.	Not implemented. The SCG has not explored the feasibility of withholding building permits and the Certificates of Occupancy for repair and remodeling projects. The SCG stated that the Certificate of Occupancy is not required when a hotel/motel is undergoing remodeling. However, per Development Services - Building Inspections Division personnel, the Certificate of Occupancy, which is a component of the building permit, is required for repair and remodeling projects. SCG should discuss the feasibility of withholding the Certificate of Occupancy with the Building Inspections Division.
