



COUNTY OF EL PASO  
OFFICE OF THE COUNTY AUDITOR

EDWARD A. DION, CPA  
COUNTY AUDITOR  
[edion@epcounty.com](mailto:edion@epcounty.com)  
[www.epcounty.com/auditor](http://www.epcounty.com/auditor)

County Administrative Offices  
800 East Overland Street, Rm. 406  
EL PASO, TEXAS 79901-2407  
(915) 546-2040  
(915) 546-8172 FAX

10-01

October 3, 2019

Mr. Brian Kennedy  
CEO  
El Paso Sports Commission  
4100 Paisano  
El Paso, Texas 79905

Dear Mr. Kennedy:

The County Auditor's Internal Audit division performed an audit of the contractual management agreement between the County of El Paso and the El Paso Sports Commission. In addition to contract compliance, this audit included a review of the Sports Commission's financial records, revenue collection and deposit procedures and a sample of expenditures and contracts to ensure completeness and accuracy. These factors were evaluated to ensure proper preparation and calculation of the El Paso Sports Commission's annual incentive payment. Policies, procedures, and regulations were also reviewed to ensure processes are documented, operating as intended and efficient.

The audit report is attached. We tested two operational controls and three financial controls with a total of 296 samples. There were two high risk findings noted as a result of the audit procedures; one was a repeat finding. We wish to thank the management and staff of the El Paso Sports Commission for their assistance and courtesies extended during this audit.

Because of certain statutory duties required of the County Auditor, this office is not independent in regard to your office, as defined by AICPA professional standards. However, our audit was performed with objectivity and due professional care.

Respectfully,

Edward A. Dion  
County Auditor

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cc: Ms. Betsy Keller, County Administrator  
Mr. Ronald Pate, Coliseum Accountant



# El Paso County Coliseum Audit



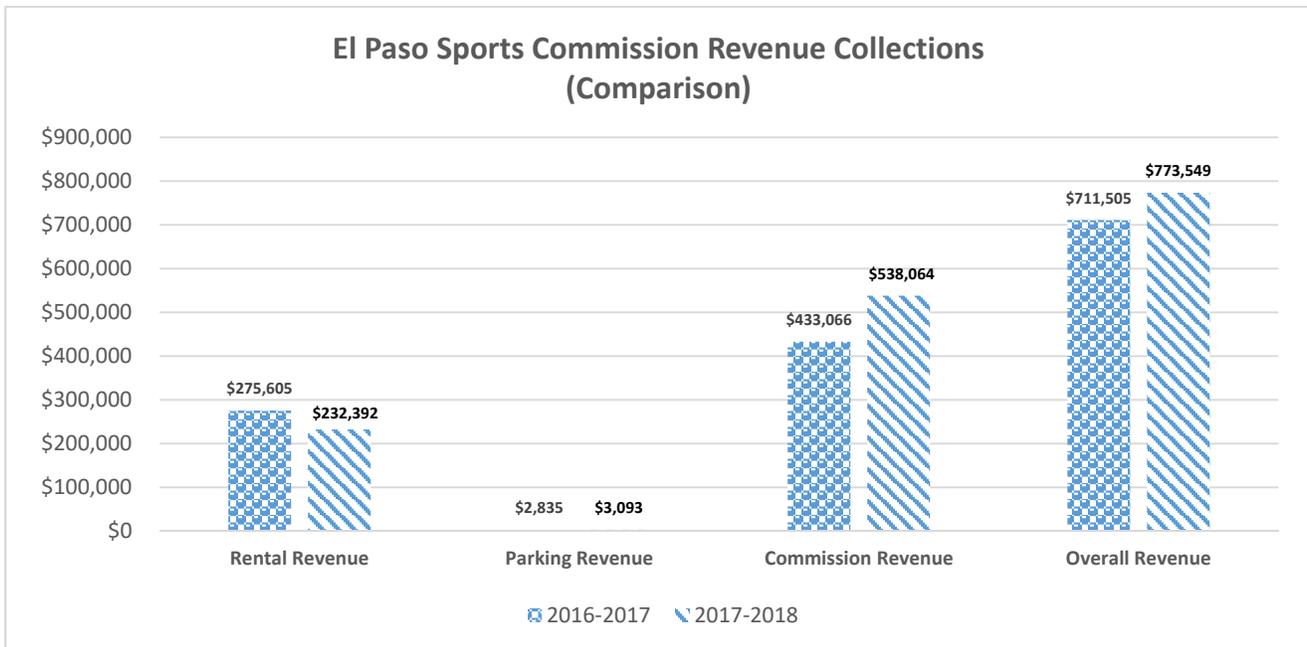
## EXECUTIVE SUMMARY

### BACKGROUND

In 2003, the County of El Paso contracted with the El Paso Sports Commission (EPSC) to manage, operate and promote the County Coliseum and El Paso tourism in general. At the beginning of each fiscal year, the County supplements the EPSC with a contractual monthly management fee paid from hotel occupancy tax revenue. The EPSC further receives an incentive payment based on the amount of revenue generated and submitted to the County. This revenue is comprised of Coliseum rental, parking for events, concession commissions and other commissions paid by outside vendors contracted with EPSC. To verify and assist in the incentive payment calculations, financial reports and supportive documentation are provided on a monthly basis by the El Paso Sports Commission accountant. Once this information is reviewed and audited, the annual management incentive payment is remitted to EPSC. The audit was performed by James O’Neal, internal audit manager – senior. The most recent audit report was issued on July 10, 2018.

### FINANCIAL REPORTING

The following financial statistics were noted when compared to previous year collections:



Source: Monthly Attraction Report Submissions by EPSC

Pursuant to section 9.2.1 of the contractual agreement, an incentive payment in the amount of \$162,539.00 was paid to the EPSC for the period under review. Further, the Coliseum base revenue target increased from \$460,200.92 to \$471,913.03 due to an increase in the Consumer Price Index (CPI) of 2.545%.

### AUDIT OBJECTIVES

The audit evaluated the adequacy of controls and processes to achieve key business objectives related to the EPSC’s financial reports in managing the El Paso County Coliseum. Following are the business objectives and related control assessment.



**El Paso County Coliseum Audit**  
**EXECUTIVE SUMMARY**



<b>Business Objective</b>	<b>Control Assessment</b>
1. Compliance with regard to contractual agreement with the County of El Paso	<b>Unsatisfactory</b>
2. Accurate reporting of Coliseum revenue collections	<b>Satisfactory</b>
3. Acceptable usage of hotel occupancy tax revenue	<b>Needs Improvement</b>
4. Timely recording and depositing of revenue collections	<b>Needs Improvement</b>
5. Compliance with regard to contractual agreements with outside vendors	<b>Satisfactory</b>

**SCOPE**

The scope of the audit was October 2017 through September 2018.

**METHODOLOGY**

To achieve the audit objectives we:

- Reviewed the contractual agreement between the County of El Paso and the EPSC.
- Reviewed all collections and deposits made related to the use of the El Paso County Coliseum and the surrounding County facilities and parking areas.
- Reviewed all EPSC collections and deposits to ensure rapid deposit compliance per Local Government Code § 113.022.
- Reviewed a sample of expenditures with hotel occupancy tax funds and contractual agreements of outside vendors with the EPSC.
- Reviewed all bank accounts and credit card statements associated with EPSC activities.

**RESULTS**

Listed below are control and finding summaries, with findings listed from highest to lowest risk. Please see the *Findings and Action Plans* section of this report for details and management action plans and the status of the prior report action plans.

<b>Control Summary</b>	
<b>Good Controls</b>	<b>Weak Controls</b>
1. Accurate reporting of collections (Obj. 2) 2. Compliance with outside vendor contractual agreements (Obj. 5)	1. Contractual Compliance with County of El Paso (Obj. 1) 2. Acceptable usage and recording of hotel occupancy tax funds (Obj. 3) 3. Timely depositing and recording of revenue collections (Obj. 4)
<b>Finding Summary</b>	
1. Certain items purchased with hotel occupancy tax funds were not properly documented or may not be in compliance with statutory and contractual requirements for the use of hotel occupancy funds. 2. Four of 11 (36%) deposits reviewed were not deposited in compliance with Local Government Code (LGC) §113.022 (repeat finding).	

**INHERENT LIMITATIONS**

This financial review was designed to provide reasonable assurance that the internal control structure is adequate to safeguard the County’s assets from loss, theft, or misuse. The County’s internal control structure is designed to provide reasonable, but not absolute assurance that these objectives are met. The concept of reasonable assurance recognizes that: (1) the cost of implementing the controls should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires the use of estimates and judgment by management. Because of the inherent limitations in any system of internal controls, errors or irregularities may occur and not be detected.



## El Paso County Coliseum Audit



### EXECUTIVE SUMMARY

#### **CONCLUSION**

The EPSC has met two of the five objectives of this audit. Stricter controls on the use of hotel occupancy funds and proper documentation regarding contractual agreements must be implemented to ensure compliance and proper controls. Further, a timelier recording of collections should be implemented. Implementation of the recommendations provided in this report should assist the Sports Commission in meeting all future objectives and strengthen internal controls.



**El Paso County Coliseum**  
**FINDINGS AND ACTION PLANS**



**Prior Audit Findings Summarized with Current Status**

**Status**

**H Closed**

1. **Finding:** Non-enforcement of outside vendor contractual compliance (El Paso Coyotes Soccer)  
**Recommendation:** The County Attorney's and Auditor's office both recommend the Sports Commission update its contract(s) to accurately reflect the Sports Commission's business practices and the authorities allowed by Mr. Brian Kennedy and his staff. Further, the County Attorney's Office recommends the Sports Commission commit the event settlements to writing, preferably before the event and submit these settlements as part of the monthly submissions by the Sports Commission to the County Auditor's Office.  
**Action Plan:** EPSC agreed with auditor recommendation. An addendum was added to the Coyotes contract upon renewal explicitly stating that at Mr. Kennedy's discretion the Sports Commission will pay any additional game expenses based upon certain game day facts and/or circumstances.

**Status**

**M Closed**

2. **Finding:** Untimely submission of EPSC financial reports per contractual agreement  
**Recommendation:** EPSC should adhere to the contractual agreement and submit all financial documentation in a timely manner.  
**Action Plan:** EPSC stated that some of the data included in the audit packets is not received by the Commission until the end of the following month. Therefore, the Commission and Mr. Kennedy have agreed to use its best efforts to deliver the audit packet by the end of the following month. Further, it is recommended for the Sports Commission to contact the County Attorney's Office and the Office of the County Administration to discuss a possible amendment to the current contract to reflect the additional time requested by the Sports Commission.

**Status**

**M Closed**

3. **Finding:** Questionable hotel occupancy tax purchases  
**Recommendation:** EPSC should exercise due care when submitting items for payment via hotel occupancy tax funds. Further, EPSC should request and submit detailed invoices and copies of any contractual agreements for any monthly services performed and submitted for payment.  
**Action Plan:** EPSC shall exercise due care when submitting items for payment via hotel occupancy tax funds and shall request contractual agreements for monthly services performed.

**Status**

**M Open**  
**See**  
**Current**  
**Finding # 2**

4. **Finding:** Seven of 30 sampled deposits made by outside vendors were not deposited within the five business days required by Local Government Code§113.022. Further, four out of the 30 sampled deposits showed non-compliance by outside vendors regarding submission of contracted fees or commissions owed to the Sports Commission and to the County. (Repeat finding)  
**Recommendation:** All deposits made by the EPSC should be made in accordance with Local Government Code§113.022. Further, enforcement of outside vendor contractual agreements regarding timely submission of fees and commissions should be enforced to ensure compliance.  
**Action Plan:** EPSC shall introduce new procedures to ensure compliance with regard to collections and deposits made by Coliseum staff. Outside vendor submission of contractual fees may be hindered by outside circumstances and are out of the Sports Commission control.



**El Paso County Coliseum**  
**FINDINGS AND ACTION PLANS**



**Current Audit Findings & Action Plans**

Finding #1	Risk Level <span style="color: red; font-weight: bold;">H</span>																				
<p>Questionable Hotel Occupancy Tax Expenses Paid – The EPSC is allowed to use hotel occupancy tax funds to promote the Coliseum and overall El Paso tourism. In a sample of 263 paid expenses, 13 (5%) were questionable or missing supportive documentation. Those questionable expenses are as follows:</p> <ul style="list-style-type: none"> <li>• Six invoices and two receipts comprised of ten expenses totaling \$2,560.70, did not have an upper management approval signature or initial per current policies and procedures. The lack of proper management review and approval could lead to possible fraud, theft or misuse of hotel occupancy tax funds.</li> <li>• Invoice number 4666 in the amount of \$405 from the El Paso Joint Scheduling Group for Rhino hockey game security on February 10, 2018, does not match the Sports Commission justification form amount of \$380. The invoice is comprised of three expenses in the amount of \$135 each. The lack of proper reconciliation and review of justification forms to invoices may increase the risk of possible fraud or theft.</li> <li>• The El Paso County Employee Picnic, held on September 15, 2018, received a “donation” from the Sports Commission for catering services in the amount of \$25,872. However, hotel occupancy funds were used to pay for this “donation”. Proper review of expenses paid may reduce the risk of statutory non-compliance and possible misappropriation of funds*.</li> <li>• A late credit card payment fee in the amount of \$38 was paid in October 2017 using hotel occupancy funds. This late payment is due to an error on the Sports Commission’s behalf and does not promote tourism or the Coliseum in any way. Proper review of expenses paid may reduce the risk of statutory non-compliance and possible misappropriation of funds</li> </ul> <p><b>*Auditors Note:</b></p> <p>After seeking guidance from the El Paso County Attorney’s office in regards to the donation of HOT funds for the El Paso County Employee picnic, it was determined further research was needed to determine if donations were made to picnics in 2018 or previous years. The following previous year picnic expenses were noted:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">YEAR</th> <th style="text-align: center;">AMOUNT</th> </tr> </thead> <tbody> <tr><td style="text-align: center;">2017-2018</td><td style="text-align: right;">\$28,237.00</td></tr> <tr><td style="text-align: center;">2016-2017</td><td style="text-align: right;">\$15,005.00</td></tr> <tr><td style="text-align: center;">2015-2016</td><td style="text-align: right;">\$16,637.30</td></tr> <tr><td style="text-align: center;">2014-2015</td><td style="text-align: right;">\$20,711.00</td></tr> <tr><td style="text-align: center;">2013-2014</td><td style="text-align: right;">\$26,895.00</td></tr> <tr><td style="text-align: center;">2012-2013</td><td style="text-align: right;">\$21,857.59</td></tr> <tr><td style="text-align: center;">2011-2012</td><td style="text-align: right;">\$9,608.00</td></tr> <tr><td style="text-align: center;">2010-2011</td><td style="text-align: right;">\$9,711.55</td></tr> <tr> <td style="text-align: center;"><b>Total</b></td> <td style="text-align: right;"><b>\$148,662.44</b></td> </tr> </tbody> </table> <p>These expenses are not in contractual compliance nor with hotel tax fund guidelines. Attachment A contains a detailed listing of all expenses per year.</p>		YEAR	AMOUNT	2017-2018	\$28,237.00	2016-2017	\$15,005.00	2015-2016	\$16,637.30	2014-2015	\$20,711.00	2013-2014	\$26,895.00	2012-2013	\$21,857.59	2011-2012	\$9,608.00	2010-2011	\$9,711.55	<b>Total</b>	<b>\$148,662.44</b>
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**El Paso County Coliseum**  
**FINDINGS AND ACTION PLANS**



**Recommendation**

We recommend the following:

- All invoices and billings submitted for payment should:
  - Contain proper approval from upper management prior to payment.
  - Be reviewed to ensure EPSC justification form and invoice or billing totals reconcile.
  - Be paid promptly to avoid possible late fees.
- The Hotel Motel fund be refunded \$148,662.44 for previous years expenses paid that are not in compliance with hotel tax fund guidelines. Due care should be exercised in the future when submitting items for payment via hotel occupancy tax funds.

**Action Plan**

Person Responsible	Sports Commission President	Estimated Completion Date	September 2019
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EPSC agrees to auditor recommendations. EPSC will ensure all invoices and billings are approved by either EPSC CEO or President before submission for payment. Further, all justification forms, invoices and billings shall be reviewed to ensure all information reconciles. EPSC agrees employee picnic donation payment using HOT funds was done in error and will ensure this error does not occur in the future. EPSC further agrees to reimburse the HOT fund account the full amount of \$148,662.44, for picnic expenses paid in error.

**\*Auditors Note:**

The EPSC has issued a check in the recommended amount of \$148,662.44 from the Sports Commission general fund account into the HOT fund account.



**El Paso County Coliseum**  
**FINDINGS AND ACTION PLANS**



Finding #2				Risk Level
<b>H</b>				
<p><u>Deposits not Timely</u> – We reviewed all 11 parking collections and deposit slips for Rhino Hockey games. Four of the 11 deposits (36%) were not in compliance with Local Government Code §113.022. The government code states that all collections should be deposited on or before the next regular business day after the date on which the money is received. If this deadline cannot be met, collections must be deposited, without exception, on or before the fifth business day. The six deposits mentioned above are listed below. This is a repeat finding and continues to be an issue.</p>				
<b>Attraction Report Description</b>	<b>Date of Event/Attraction</b>	<b>Deposit Slip Date</b>	<b>Bank Deposit Date</b>	<b>Difference Business Days</b>
Rhino Parking	November 5, 2017	12/07/17	12/11/2017	24
Rhino Parking	November 25, 2017	12/07/17	12/11/2017	11
Rhino Parking	December 10, 2017	02/01/18	2/2/2018	37
Rhino Parking	January 28, 2018	02/06/18	2/8/2018	9
Recommendation				
<p>All deposits should be made on or before the next business day after collection. However, if this deadline is not obtainable, collections must be deposited, without exception, on or before the fifth business day of receipt to ensure compliance with Local Government Code §113.022. The EPSC should review their collection and depositing policies and procedures to identify any deficiencies and make the appropriate corrections to ensure compliance.</p>				
Action Plan				
<b>Person Responsible</b>	<b>Sports Commission President</b>	<b>Estimated Completion Date</b>	<b>Next Hockey Season</b>	
<p>EPSC agrees with auditor recommendation. EPSC will re-evaluate their collection processes and determine where controls can be improved or changed to ensure compliance.</p>				