



COUNTY OF EL PASO
OFFICE OF THE COUNTY AUDITOR

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08-21

August 17, 2021

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. 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 five financial controls with a total of 438 samples. There was one high risk finding noted as a result of the audit procedures. 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.

It should be noted, due to the COVID-19 pandemic the timeliness of this audit report has been hindered. The pandemic shifted priorities for several parties causing an extension in performing audit work for the scope under review.

Respectfully,

A handwritten signature in blue ink that reads "Edward A. Dion".

Edward A. Dion
County Auditor

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cc: Ms. Betsy C. Keller, Chief Administrator
Mr. Omar Ropele, Sports Commission President
Mr. Ronald Pate, Coliseum Accountant



**EL PASO COUNTY COLISEUM AUDIT
OCTOBER 2019 – SEPTEMBER 2020
EXECUTIVE SUMMARY**

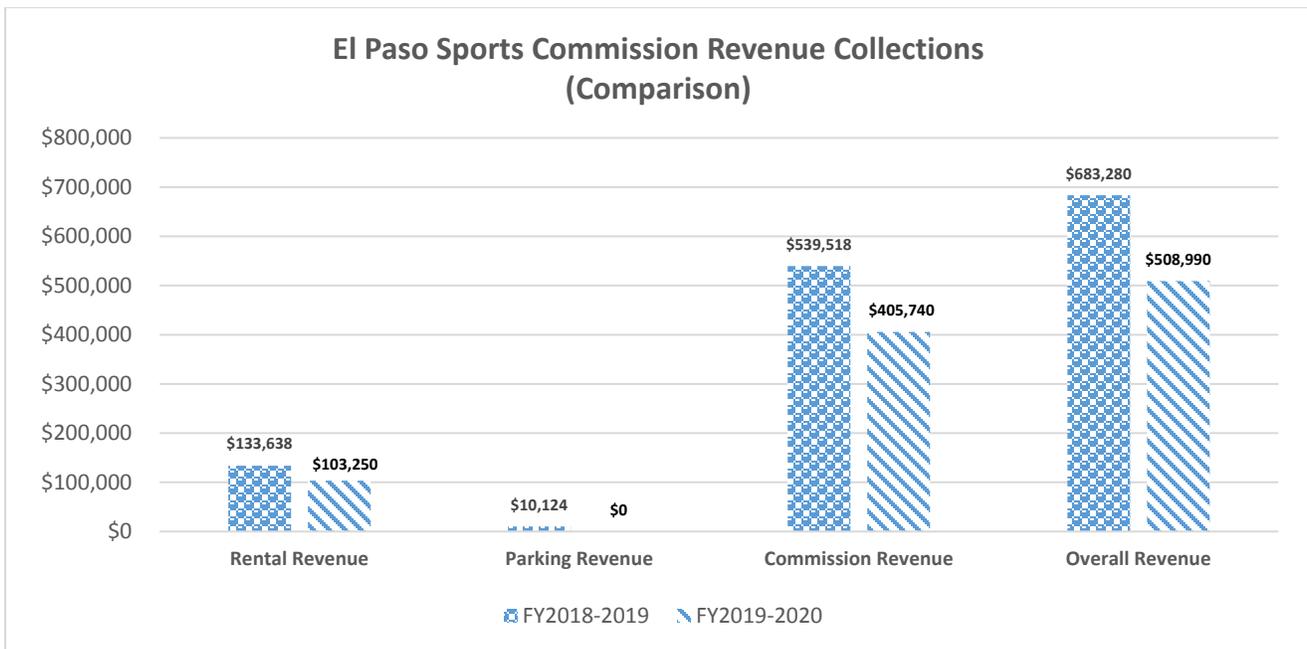


BACKGROUND

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 would supplement the EPSC with a contractual monthly management fee paid from hotel occupancy tax revenue and an incentive payment based on the amount of revenue generated and submitted to the County. However, per the fifth amendment of the contractual agreement, these fees and payments were eliminated as of September 30, 2018, and were replaced with a capped fee equal to 8.3333% of the aggregate management fees and incentive payments paid to the EPSC up to September 30, 2018. This capped fee commenced October 1, 2018 and will be recognized until the end of the current contract, September 30, 2021, or when a new management contract is implemented. All expenses paid via hotel occupancy tax funds for coliseum operations and promotion are regulated by Texas Tax Code Chapter 352 compliance. Further, the EPSC enters into contractual agreements, on behalf of the County of El Paso, with outside vendors and promoters for coliseum and surrounding area usage and rental, concession sales and commissions and other commission based services. A new management contract between the County and EPSC was effective July 12, 2021. This audit was performed by James O’Neal, internal audit manager – senior. The most recent audit report was issued on October 26, 2020.

FINANCIAL REPORTING

The following financial statistics compare current to previous fiscal year collections. The significant drop in overall revenue received by the County is attributable to the COVID-19 pandemic. An El Paso County mandated stay at home order resulted in a decrease of events scheduled during the scope of this review. This lack of events served as a catalyst for a 23% drop in rental revenue and a 25% drop in ATM usage and concession commissions remitted to the County.



Source: Monthly Attraction Report Submissions by EPSC



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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.

Business Objective	Control Assessment
1. Accurate reporting of Coliseum revenue collections	Satisfactory
2. Accurate and timely monthly bank reconciliations	Satisfactory
3. Acceptable usage of hotel occupancy tax revenue	Satisfactory
4. Timely recording and depositing of parking revenue collections	Not Applicable FY20
5. Compliance with regard to Coliseum rental agreements with outside vendors	Satisfactory
6. Accurate and timely concession commission calculation and remittance	Satisfactory
7. Compliance regarding inventory verification and timely submission	Unsatisfactory
8. Timely submission of monthly information required per contractual agreement	Satisfactory

SCOPE

The scope of the audit was October 2019 through September 2020.

METHODOLOGY

To achieve the audit objectives we:

- Reviewed all collections and deposits related to the use of the El Paso County Coliseum and the surrounding County facilities and parking areas.
- Reviewed all monthly bank reconciliations for completeness and accuracy.
- Tested a sample of expenditures with hotel occupancy tax funds and contractual agreements of outside vendors with the EPSC.
- Tested a sample of coliseum rental agreements made by EPSC, on behalf of the County of El Paso, to ensure compliance of timely rental fee submission.
- Reviewed all concession agreements and tested a sample of commission submissions for timeliness and accuracy.
- Requested verified and signed inventory report of County property per contractual and statutory requirements.
- Reviewed all monthly required information submission to ensure contractual compliance.

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.

Control Summary	
Good Controls	Weak Controls
1. Accurate reporting of collections (Obj. 1) 2. Accurate and timely bank reconciliations (Obj. 2) 3. Acceptable usage and recording of hotel occupancy tax funds (Obj. 3) 4. Rental agreement fee submission (Obj. 4) 5. Concession commission submission (Obj. 5) 6. Monthly information submission (Obj. 7)	1. Inventory verification requirement submission (Obj. 6)
Finding Summary	
1. Non-compliance with inventory verification requirements and stipulations.	



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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 EPSC's internal control structure should be 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.

CONCLUSION

The EPSC has met six of the seven objectives of this audit. Inventory requirements and stipulations must be adhered to in order to ensure proper asset assessment and reporting. Implementation of the recommendation provided in this report should assist the Sports Commission in meeting all future objectives and strengthen internal controls.



EL PASO COUNTY COLISEUM
OCTOBER 2019 – SEPTEMBER 2020
FINDINGS AND ACTION PLANS



Prior Audit Findings Summarized with Current Status

Status

H Closed

1. **Finding:** Questionable Hotel Occupancy Tax Expenses Paid

Recommendation: All supportive documentation should contain proper approval from upper management prior to payment and be included as supportive documentation when submitted to the County Auditor's office for review. Further, the Hotel Motel fund should be refunded \$902.51 for those expenses paid deemed not in compliance with contractual and hotel tax fund guidelines. Finally, due care should be exercised in the future when submitting items for payment via hotel occupancy tax funds.

Action Plan: EPSC agreed to recommendations. EPSC will ensure all invoices and billings are approved by either EPSC CEO or President before submission for payment. EPSC reimbursed the HOT fund account the full amount of \$902.51 during a transfer from the EPSC general fund.

Status: Closed. Expenses sampled during current audit were deemed acceptable. Proper upper management review and approval of invoices was missing from one out of 428 invoices sampled. Verbal recommendation noted.

Status

H Closed

2. **Finding:** Rental Contract Non-Compliance

Recommendation: Sports Commission should enforce the collection of licensee rental fees per agreed upon contractual terms and submit those collections to the County in a timely manner. Further, if a licensee continuously fails to meet contractual due dates, the Sports Commission should consider adjusting the contractual agreement to take into account the lengthy reimbursement processing time frame.

Action Plan: EPSC has indicated that several of the licensees, such as the federal government, have a lengthy reimbursement processing timeframe and therefore cannot meet the agreed upon contractual rental payment due date. The Sports Commission agrees to adjust the rental agreements in order to accommodate for a licensee's lengthy reimbursement time frame. Further, the Sports Commission will continue to monitor and notify licensee if payment has not been received by agreed upon payment due date.

Status: Closed. Contractual rental agreements sampled during current scope of review were not given ample time to be addressed by upper management due to audit report being issued after indicated scope. Current rental contracts will be discussed and addressed verbally with Sports Commission. Verbal recommendation noted.

Status

H Closed

3. **Finding:** Deposits not timely and non-compliance with LGC §113.022

Recommendation: 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 LGC §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

Action Plan: EPSC agrees with recommendation. The incident noted during audit review was due to a combination of Sports Commission employee oversight and the closeness of the transaction to the Thanksgiving holiday. The Sports Commission will relay the importance of timely depositing to all employees to ensure statutory compliance.

Status: Closed. There were no collections to be deposited to the County due to the Stay Home Work Safe closure order. Testing of this item will be part of the regular audit plan in the future when there are applicable collections.



**EL PASO COUNTY COLISEUM
OCTOBER 2019 – SEPTEMBER 2020
FINDINGS AND ACTION PLANS**



Current Audit Findings & Action Plans

Finding #1		Risk Level H	
County Inventory Verification Compliance – The EPSC has failed to comply with the contractual requirement and the statutory assistance request for inventory verification. Per section 8.1 of the contractual agreement between the County of El Paso and the EPSC, the commission is to perform an inventory of County’s facilities, buildings, fixtures, equipment and consumable goods by June 15 th of each fiscal year. On July 1, 2020, the El Paso County Auditors Department submitted a memorandum to all County departments requesting a signed and verified inventory listing by August 31, 2020, to assist the County in complying with Texas Local Government Code § 262.011(i). Failure to submit a verified and signed inventory report in a timely manner results in contractual non-compliance and increases the risk of theft, loss and misappropriation of County owned property.			
Recommendation			
We recommend the EPSC submit a signed and verified property listing to both the El Paso County Purchasing and County Auditor Departments to ensure contractual compliance and assist the County in satisfying Texas Local Government Code § 262.011(i).			
Action Plan			
Person Responsible	EPSC, President	Estimated Completion Date	September 30, 2021
It is correct that Sports Commission did not prepare and forward an inventory of fixed assets by June 15, 2020. There are mitigating circumstances as follows:			
<p>Sports Commission has met the deadline in all previous years and has annually requested that many items be removed from the inventory. The requested removed items consisted of items no longer on the premises, broken items and items that should never have been included on the inventory. Essentially the inventory listing provided by the County annually has been wrong (overstated) for years and the County has ignored Sports Commission requests for corrections.</p> <p>Many items on the inventory listing should have been expensed since the IRS allows the expensing of items costing less than \$5,000 if the organization has an audit. The County’s inaction to remove items on the inventory listing gave the message that the matching of items to the inventory listing was not important.</p> <p>The El Paso County mandated stay at home order made it impossible to meet the June 15, 2020, deadline and comply with the stay at home order. Although, personnel were in the Coliseum offices and collections were recorded, the individuals responsible for conducting the inventory were ordered to remain and work from home.</p> <p>The new management contract effective July 12, 2021, provides for an inventory of items over \$5,000 in value. Sports Commission will need an inventory listing consisting ONLY of items of \$5,000 or more to prepare an inventory for the year ended September 30, 2021, and will reflect the County’s new commitment to accuracy and materiality.</p> <p><i>Auditor’s Note:</i> An updated inventory listing was submitted to the Sports Commission on August 13, 2021, in order to provide ample time for Sports Commission staff members to conduct and complete the requested inventory by September 30, 2021.</p>			