



COUNTY OF EL PASO  
OFFICE OF THE COUNTY AUDITOR

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07-07

July 11, 2023

Mr. Omar Ropele, CEO  
El Paso Sports Commission  
4100 Paisano  
El Paso, Texas 79905

Dear Mr. Ropele:

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 1,086 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.

Respectfully,

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

Edward A. Dion  
County Auditor

EAD:JO:ya

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



**EL PASO COUNTY COLISEUM AUDIT  
OCTOBER 2020 – DECEMBER 2022  
EXECUTIVE SUMMARY**

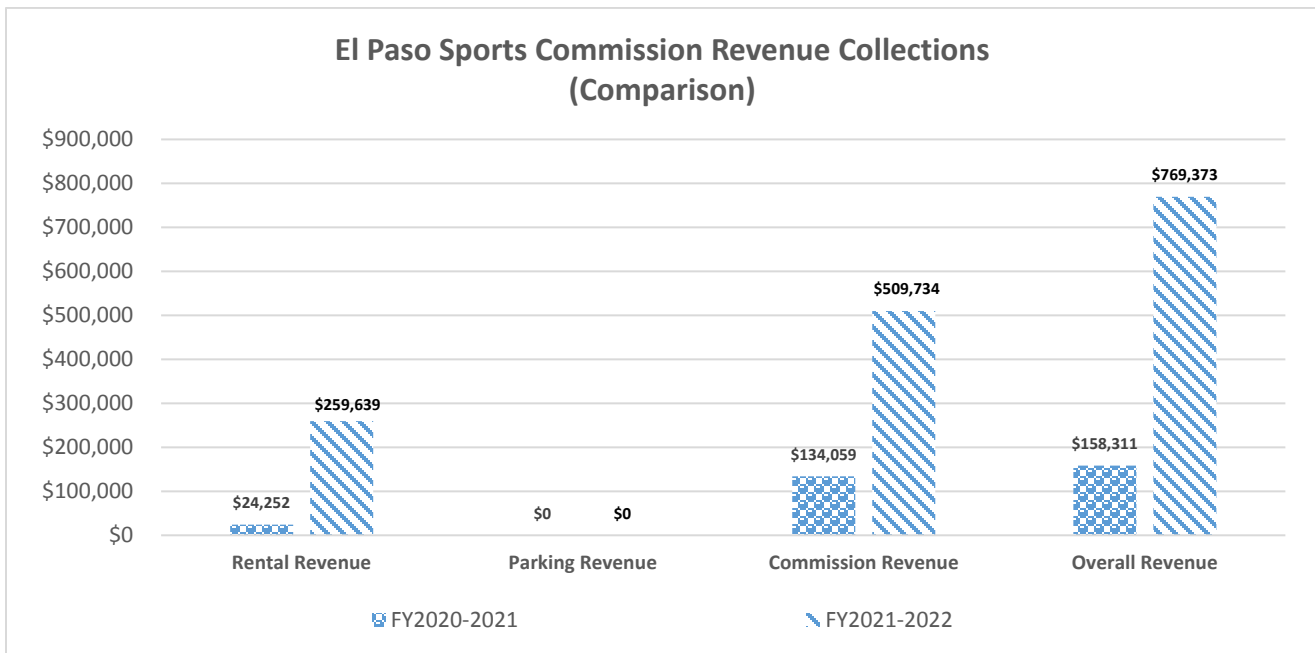


**BACKGROUND**

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. 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. 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. All expenses paid via hotel occupancy tax funds for coliseum operations and promotion are regulated by Texas Tax Code Chapter 352 compliance. 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. Due to circumstances surrounding the COVID-19 pandemic, on May 27, 2020, the County of El Paso issued a notice to the Sports Commission stating the original Management Agreement is to be suspended pursuant to section 10.4 of said contract. As a result of the suspension an interim Management Agreement was entered into on June 1, 2020, and would be in effect no more than six months, terminating on December 31, 2020. However, if deemed necessary the interim agreement may be extended upon mutual agreement by both parties. On July 12, 2021, a new Management Agreement was entered into by both parties and is the current agreement in effect. After 18 years; a new president for the Sports Commission took over operations in September 2021. This audit was performed by James O’Neal, internal audit manager – senior. The most recent audit report was issued on August 17, 2021.

**FINANCIAL REPORTING**

The following financial statistics compare current to previous fiscal year collections. The significant increase in overall revenue received by the County is attributable to the gradual lifting of COVID-19 pandemic restrictions.



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.

<b>Business Objective</b>	<b>Control Assessment</b>
1. Documented operational and financial policies and procedures	Satisfactory
2. Acceptable usage of hotel occupancy tax revenue and coliseum usage	Needs Improvement
3. Compliance with regard to Coliseum rental agreements with outside vendors	Satisfactory
4. Timely recording and depositing of parking revenue collections	Not Applicable
5. Proper and timely remittance of revenue collections and supportive documentation	Satisfactory
6. Accurate and timely concession commission calculation and remittance	Satisfactory
7. Proper and timely adherence of contractually required performance measures	Satisfactory
8. Accurate and timely monthly bank reconciliations	Satisfactory
9. Compliance regarding inventory verification and timely submission	Satisfactory
10. Proper invoice submission and fee calculation for monies owed to EPSC	Satisfactory

**SCOPE**

The initial audit scope of the audit was October 2020 through September 2021. However, due to pending litigation resulting from findings during the initial scope, the scope was extended to December 2022.

**METHODOLOGY**

To achieve the audit objectives, we:

- Reviewed both operational and financial policies and procedures to ensure proper documentation and adherence.
- Tested a sample of expenditures with hotel occupancy tax funds to ensure compliance with Chapter 352 of the Texas Tax Code.
- 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 collections, deposits and required revenue information submissions related to the use of the El Paso County Coliseum and the surrounding County facilities and parking areas for timeliness, accuracy and compliance.
- Reviewed all concession agreements and tested a sample of commission submissions for timeliness and accuracy.
- Reviewed contractually required performance measures information to ensure contractual compliance.
- Reviewed all monthly bank reconciliations for completeness and accuracy.
- Requested verified and signed inventory report of County property per contractual and statutory requirements.
- Reviewed EPSC invoice submissions to ensure proper calculation and remittance of fees owed to EPSC.

**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, management action plans and the status of the prior report action plans.



**EL PASO COUNTY COLISEUM AUDIT  
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Control Summary	
Good Controls	Weak Controls
<ol style="list-style-type: none"> <li>1. Accurate reporting of collections (Obj. 1)</li> <li>2. Accurate and timely bank reconciliations (Obj. 2)</li> <li>3. Acceptable usage and recording of hotel occupancy tax funds (Obj. 3)</li> <li>4. Rental agreement fee submission (Obj. 4)</li> <li>5. Concession commission submission (Obj. 5)</li> <li>6. Inventory verification requirement submission (Obj. 6)</li> <li>7. Monthly information submission (Obj. 7)</li> </ol>	<ol style="list-style-type: none"> <li>1. Acceptable coliseum usage and recording of hotel occupancy tax funds (Obj. 3)</li> </ol>
Finding Summary	
<ol style="list-style-type: none"> <li>1. Questionable expenses and usage of the coliseum by EPSC</li> </ol>	

**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. 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 2020 – DECEMBER 2022  
FINDINGS AND ACTION PLANS**



**Prior Audit Findings Summarized with Current Status**

**Status**

**H Closed**

1. **Finding:** Contractual County Inventory Verification Non-Compliance

**Recommendation:** EPSC submit a signed and verified property listing to ensure contractual compliance

**Action Plan:** EPSC agreed to submit a verified inventory listing of items over \$5,000 in value.

**Status:** *Closed. An updated inventory listing was submitted to EPSC for verification. A signed and verified inventory listing was submitted to the County by the recommended due date of September 30, 2021.*

**Current Audit Findings & Action Plans**

Finding #1	Risk Level <b>H</b>
<p><b><u>Questionable Hotel Occupancy Tax Expenses Paid</u></b> – The EPSC is allowed to use hotel occupancy tax funds to promote the Coliseum and overall El Paso tourism. In a sample of 907 paid expenses, 34 (4%) were deemed as questionable. After further review of the initial 34 sampled questionable expenses an additional 134 non-sampled related expenses were also deemed as questionable and submitted to the County Attorney’s Office for guidance and clarification. The following timeline shows the audit progression during the initial and extended scope:</p> <ul style="list-style-type: none"> <li>• <b>Nov-2021</b> Audit commencement with initial scope of October 2020 – September 2021</li> <li>• <b>Feb-2022</b> Questionable HOT fund usage for expenses totaling \$190,303.02 related to an El Paso Events sponsored events brought to County Attorney’s attention.</li> <li>• <b>Mar-2022</b> County Attorney acknowledges receipt of questionable expenses and events for statutory compliance review.</li> <li>• <b>Apr-2022</b> Due to commencement of new management contract in July 2021, scope of audit extended to March 2022 to ensure new agreement compliance.</li> <li>• <b>Apr-2022</b> County Attorney requests detailed expenditure and event information for review to ensure compliance with original management contract.</li> <li>• <b>May-2022</b> County Attorney provides legal opinion regarding HOT fund expenditure usage and requests a response from EPSC for expenditure justification.</li> <li>• <b>Jun-2022</b> Questionable expenses and event information sent to EPSC for justification and clarification.</li> <li>• <b>July-2022</b> Response received from EPSC regarding questionable expenses and event information, which is then forwarded to County Attorney for review.</li> <li>• <b>July-2022</b> County Attorney acknowledges receipt of response from EPSC and seeks guidance from El Paso County Bond Counsel.</li> <li>• <b>Aug-2022</b> Bond Counsel presents opinion regarding questionable expenses and sponsored events. Bond Counsel feels the question of HOT fund usage compliance is irrelevant and determines main issue to be the usage of the Coliseum by El Paso Events for a revenue generating event. County Attorney agrees with Bond Counsel assessment and deems HOT fund usage for questionable expenses as statutorily compliant.</li> <li>• <b>Sep-2022</b> Litigation between County Attorney and Sports Commission legal team is recommended by Bond Counsel regarding revenue generated by questioned event.</li> </ul>	



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FINDINGS AND ACTION PLANS**



- **Sep-2022** Agenda placed for Commissioners Court meeting on October 17, 2022. Commissioners Court to discuss County legal rights and responsibilities related to questionable event hosted by EPSC and El Paso Events in December 2020.
- **Oct-2022** Agenda item tabled until Commissioners Court meeting of October 24, 2022.
- **Oct-2022** Commissioners Court requests County Attorney to obtain full financial information from Sports Commission regarding questionable event. This is to include total amount of revenue generated and total expenses paid by Sports Commission.
- **Jan-2023** Agenda placed for Commissioners Court meeting of January 23, 2023, to review additional information obtained by County Attorney.
- **Jan-2023** Commissioners Court reviews additional information presented by County Attorney and deems revenue generated (\$26,339.28) to be a violation of current management agreement contract between the County and EPSC and federal tax laws. To achieve compliance in both situations, Commissioners Court requests County Attorney to draft a demand letter for all revenue generated from said event to be remitted to the County. County Attorney agrees and begins commencement of demand letter.
- **Feb-2023** County Attorney issues demand letter to EPSC. Letter is sent to both EPSC and legal offices representing EPSC with a response deadline of April 2023.
- **Feb-2023** EPSC legal representatives acknowledge receipt of demand letter. However, County Attorney is informed of lead attorney’s current medical leave of absence with an unknown return date.
- **Apr-2023** County Attorney is informed of EPSC lead attorney’s return from medical leave and agrees with demand letter stipulations. Lead attorney instructs EPSC to remit total amount stated in demand letter to the County.
- **Apr-2023** El Paso County Cash Management division acknowledges receipt of full amount requested in demand letter.

**Recommendation**

It is recommended EPSC (and any known subsidiaries or affiliates) refrain from using the Coliseum or surrounding grounds for revenue generating events in which EPSC is the only beneficiary. Implementation of this recommendation will ensure both contractual and federal law compliance.

**Action Plan**

<b>Person Responsible</b>	EPSC, President	<b>Estimated Completion Date</b>	N/A
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No action plan needed as finding was resolved in April 2023.