MANAGEMENT AUDIT REPORT

OF

LODGERS' TAX RECEIPTS

DEPARTMENT OF FINANCE AND ADMINISTRATIVE SERVICES

REPORT NO. 07-102

City of Albuquerque
Office of Internal Audit and Investigations

Lodgers' Tax Receipts Audit – Department of Financial & Administrative Services
Report No. 07-102
Executive Summary

Background A five percent tax is collected by lodging facilities located within the Albuquerque City limits for rooms rented 30 days or less. The lodging facilities remit the tax collected to the City on a monthly basis. As of June 30, 2006, the City had approximately 175 lodging facilities. These facilities included hotels, motels, bed and breakfasts, RV parks, hostels and apartment complexes.

Objective: Were lodging facilities collecting and remitting Lodgers' Tax in accordance with 4-4 ROA 1994: Lodgers' Tax?

OIAI reviewed the records of nine facilities during July 1, 2005 through June 30, 2006 (FY06) and noted:

- Eight facilities owe the City $28,523 in late payment penalties.
- Two facilities owe the City $2,087 in back Lodgers' Tax.
- One facility over paid their taxes by $725.
- OIAI was unable to calculate interest of one percent per month due to the City on late payments since delinquency notices were not sent by Treasury timely.

Recommendations:

- Department of Finance and Administrative Services (DFAS) Treasury Division (Treasury) should collect $29,885 in penalties and back taxes from the facilities tested.
- DFAS Treasury should impose late penalties and interest, if applicable, on facilities that do not have their payment paid and posted to the City's subsidiary account by the 25th of each month as required by the Lodgers' Tax Ordinance.
- DFAS Treasury should review the Lodgers' Tax Ordinance and verify compliance with all aspects of the Ordinance.

Objectives:

- Was Treasury in compliance with State Statute 3-38-17.1. NMSA 1978: Audit of Vendors?

- Were the annual Lodgers' Tax audit(s) conducted by the Treasury in compliance with their Lodgers' auditing procedures?

Treasury reported it did complete at least one vendor audit for FY06 as required by State Statute 3-38-17.1. NMSA 1978: Audit of Vendors. However, Treasury does not maintain documentation of the annual audit test work performed. OIAI could not verify the audit test work performed by Treasury during FY06.

Recommendations: DFAS Treasury should retain documentation of the required annual audit performed.

Objective: Were Treasury's internal controls relating to the collection of Lodgers' Tax adequate?

- Treasury's payment processing duties are currently not separated.
- One Treasury employee opens the mail and takes the checks to the cashiers for payment processing. There is no log to document checks received by mail and no one ensures that the checks are posted.
- OIAI determined Treasury is not reviewing delinquent accounts, sending delinquency notices on a timely basis, or collecting applicable past due penalties and interest.

Recommendations:

- DFAS Treasury should ensure proper separation of duties for collecting and posting revenue, and reviewing delinquent accounts. Treasury should consider eliminating the mailing of payments directly to Treasury and require facilities to use the lockbox provider.
- DFAS Treasury should ensure delinquency notices are sent in accordance with Treasury's procedures manual. Facilities with late payments should be accessed a penalty and interest as required by the Lodgers' Tax Ordinance.

During our fieldwork we noted no exceptions for the following objective:

- Were meaningful performance measures developed for Lodgers' Tax and were they achieved?

Management responses are included in the audit report.

City of Albuquerque

Office of Internal Audit and Investigations
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

November 28, 2007

Accountability in Government Oversight Committee
City of Albuquerque
Albuquerque, New Mexico

Audit: Lodgers' Tax Receipts Audit
Department of Finance & Administrative Services
07-102

FINAL

INTRODUCTION

The Office of Internal Audit and Investigations (OIAI) conducted a management audit of the Lodgers' Tax Receipts process operated by the Department of Finance and Administrative Services (DFAS) Treasury Division (Treasury). The audit was included in the fiscal year (FY) 2007 approved audit plan.

A five percent tax is collected by lodging facilities located within the Albuquerque City limits for rooms rented 30 days or less. The lodging facilities remit the tax collected to the City on a monthly basis. As of June 30, 2006, the City had approximately 175 lodging facilities. These facilities included hotels, motels, bed and breakfasts, RV parks, hostels and apartment complexes.

AUDIT OBJECTIVES

The objectives of the audit were to determine:

- Were lodging facilities collecting and remitting Lodgers' Tax in accordance with 4-4 ROA 1994: Lodgers' Tax?
- Was Treasury in compliance with State Statute 3-38-17.1. NMSA 1978: Audit of Vendors?
- Were the annual Lodgers' Tax audit(s) conducted by Treasury in compliance with their Lodgers' Tax auditing procedures?

- Were Treasury's internal controls relating to the collection of Lodgers' Tax adequate?

- Were meaningful performance measures developed for Lodgers’ Tax and were they achieved?

SCOPE

Our audit did not include an examination of all functions and activities related to the Lodgers’ Tax receipts process. Our scope included a review of Treasury’s required annual audit of at least one facility, Treasury’s Lodgers Tax payments processes and a review of selected lodging facilities from July 1, 2005 through June 30, 2006 (FY06).

This report and its conclusions are based on information taken from a sample of transactions and do not intend to represent an examination of all related transactions and activities. The audit report is based on our examination of activities through the completion of fieldwork, May 25, 2007, and does not reflect events or entries after that date.

The audit was conducted in accordance with Government Auditing Standards.

METHODOLOGY

We tested the records of nine lodging facilities from July 1, 2005 through June 30, 2006. The nine lodging facilities were selected based on three risk factors:

- Total number of late payments in the fiscal year.
- Total lodgers’ receipts collected by the City during the fiscal year.
- Concerns regarding the facility by either Treasury or OIAI.

We reviewed documents for compliance with applicable State Laws and City Ordinances. We also interviewed Treasury and lodging facility personnel who were deemed necessary to attain a conclusion on our objectives.

FINDINGS

The following findings concern areas that we believe could be improved by the implementation of the related recommendations.

1. DFAS TREASURY SHOULD COLLECT $29,885 IN PENALTIES AND BACK LODGERS’ TAXES.

OIAI selected nine lodging facilities within the City limits to perform test work. The nine facilities were grouped into the following three risk categories:

High risk:	Moderate risk:	Low risk:
Facility A	Facility E	Facility H
Facility B	Facility F	Facility I
Facility C	Facility G	
Facility D		

To perform our test work we judgmentally selected:

- Four monthly tax remittances for high risk facilities
- Three monthly remittances for moderate risk facilities
- Two monthly remittances for low risk facilities
- Ten consecutive days from each month

Eight of the nine facilities tested were not in compliance with two or more sections of the Lodgers’ Tax Ordinance. One (Facility B) had no exceptions. We noted exceptions to the following Albuquerque Code of Ordinances Chapter 4: Revenue and Taxation / Article 4: Lodgers’ Tax:

- §4-4-4 Definitions. Taxable Premises. … apartment, apartment hotel …

- §4-4-9 Collection of the taxes; reporting change in ownership. (D) (1) … Occupancy taxes not paid and posted to the city’s Lodgers Subsidiary Ledger Vendors’ Account by the 25th of the month as provided herein shall be considered delinquent. (2) If the 25th day of the month falls on a weekend or holiday, the return shall be due on the next business day.

- §4-4-11 Failure to pay tax or make return; penalty; collection of delinquencies; continuous surety bond; appeal. (A) … if any vendor makes a return as required by this article without paying the occupancy tax then due, he shall be liable for the tax and a penalty equal to 10% thereof or $100, whichever is greater. (C) If payment is not made by the vendor within 15 days of the date of the notice that occupancy tax is delinquent, … interest on the unpaid principal at a rate of not exceeding 1% a month…

The following exceptions were noted:

High Risk Facilities			
Facility A			
Condition	**Cause**	**Effect**	**Criteria**
The facility would not provide the information requested to perform the audit.	• The facility was sold in May 2007 and the records were shipped out of state. • The facility stated that the cost to ship the records would be too high. • The May 2006 payment was late by one business day and facility personnel did not self-assess the late payment penalty.	• The facility owes the City \$2,810 in a late payment penalty.	• City Ordinance §4-4-9 (D) • City Ordinance §4-4-11 (A)
Facility C			
• May 2006's revenue was under reported by \$34,921. • February 2006's revenue was under reported by \$195. • July 2005's revenue was under reported by \$44. • 11 of 12 Lodgers' Tax payments were paid after the monthly due date.	• The facility was sold to a subsidiary of the same parent company on May 20, 2006. Lodgers' Tax was paid on revenue up to that date. The remaining 10 days of tax was not paid. • 8 of the 12 months were paid on May 31, 2006. The remaining 4 months were paid during June 2006. Only the June 2006 payment was paid by the due date.	• The facility owes the City \$1,758 in back Lodgers' Tax. • The facility owes the City \$6,920 in late payment penalties.	• City Ordinance §4-4-9 (D) • City Ordinance §4-4-11 (A)
Facility D			
• The night audit packet for June 21, 2006 could not be located. • 5 of 12 Lodgers' Tax payments were paid after the monthly due date.	• Facility personnel had the wrong date information included in the night audit packet for June 21, 2006. Management could not locate the requested information. • Facility management thought that as long as the payment was postmarked by the due date the payment would be considered paid on time.	• The facility owes the City \$5,219 in late payment penalties.	• City Ordinance §4-4-9 (D) • City Ordinance §4-4-11 (A)

Moderate Risk Facilities			
Facility E			
Condition	**Cause**	**Effect**	**Criteria**
10 of 12 Lodgers' Tax payments were paid after the monthly due date.	• Facility management thought that as long as the payment was postmarked by the due date the payment would be considered paid on time.	• The facility owes the City $4,245 in late payment penalties.	• City Ordinance §4-4-9 (D) • City Ordinance §4-4-11 (A)
Facility F			
10 of 12 Lodgers' Tax payments were paid after the monthly due date.	• Facility management thought that as long as the payment was postmarked by the due date the payment would be considered paid on time.	• The facility owes the City $4,111 in late payment penalties.	• City Ordinance §4-4-9 (D) • City Ordinance §4-4-11 (A)
Facility G			
• The facility made an over payment of $725 for August 2006. • All 12 Lodgers' Tax payments were paid after the monthly due date.	• Facility management used the July 2005 revenue amount instead of the August 2005 amount. July's revenue was $14,495 higher than August's revenue. • Facility management thought that as long as the payment was postmarked by the due date the payment would be considered paid on time.	• The City owes the facility $725 from the August 2006 over payment. • The facility owes the City $4,518 in late payment penalties.	• City Ordinance §4-4-9 (D) • City Ordinance §4-4-11 (A)

Low Risk Facilities			
Facility H			
Condition	**Cause**	**Effect**	**Criteria**
The facility has never collected or reported Lodgers' Tax.	• Facility management was unaware of the Ordinance requiring them to collect and remit Lodgers' Tax on rentals of 30 days or less.	• The facility owes the City $329 in back taxes. • The facility owes the City $200 in late payment penalties.	• City Ordinance §4-4-4 • City Ordinance §4-4-9 (D) • City Ordinance §4-4-11 (A)
Facility I			
5 of 12 Lodgers' Tax payments were paid after the monthly due date.	• Facility management thought that as long as the payment was postmarked by the due date the payment would be considered paid on time.	• The facility owes the City $500 in late payment penalties.	• City Ordinance §4-4-9 (D) • City Ordinance §4-4-11 (A)

Management at several facilities were under the impression that if the monthly payment was postmarked by the 25th of each month the City would consider the payment on time. Treasury does look at the postmark date but does not send a late notice if postmarked by the 25th. City Ordinance §4-4-9 states that the taxes should be paid and posted to the City's subsidiary account by the 25th of each month. This language is also included on the monthly invoices received by each lodging facility.

OIAI did not calculate interest of one percent per month due to the City on late payments because Treasury did not send delinquency notices timely.

RECOMMENDATION

DFAS Treasury should:

- Collect $29,885 in penalties and back taxes from the facilities tested.

- Impose late penalties and interest, if applicable, on facilities that do not have their payment paid and posted to the City's subsidiary account by the 25th of each month as required by the Lodgers' Tax Ordinance.

- Review the Lodgers' Tax Ordinance and verify compliance with all aspects of the Ordinance.

RESPONSE FROM DFAS

"DFAS concurs with the recommendation and will attempt to be more diligent in monitoring lodger's tax payment receipts and postings to general ledger according to the Lodger's Tax Ordinance.

"By June 30, 2008 DFAS will investigate various methods to step up the collection efforts, including but not limited to, contracting with a collection agency and implementing an amnesty program.

"DFAS will prepare a letter/invoice to Lodging establishments who were audited and concluded to owe Lodger's backed tax and penalties in the total amount of $29,885. The letters will be sent out by November 30, 2007."

2. DFAS TREASURY SHOULD RETAIN DOCUMENTATION WHEN PERFORMING REQUIRED ANNUAL LODGERS' TAX AUDITS.

State Statue 3-38-17.1. NMSA 1978: Audits of Vendors states that the governing body of any municipality that collects over $50,000 in occupancy tax proceeds shall randomly select one or more vendors annually for an audit. The audit shall verify the amount of gross rent subject to occupancy tax and ensure that the full amount of tax is collected.

Treasury management reported that they conducted three annual Lodgers' Tax audits in FY06. OIAI could not verify the audit test work performed by Treasury since they write over the spreadsheets and do not maintain copies.

If Treasury had retained the documentation, OIAI would have verified the test work to ensure the State Statue and Treasury's internal auditing procedures were adequately performed.

RECOMMENDATION

DFAS Treasury should retain documentation of the required annual audits performed.

RESPONSE FROM DFAS

"DFAS concurs with the recommendation and will ensure that subsequent annual lodger's audits documentation will be retained in both hard and electronic version form."

3. DFAS TREASURY SHOULD ENSURE PROPER SEPARATION OF DUTIES.

One Treasury employee currently opens the mail and takes the checks to the cashiers for payment processing. The same employee is also responsible for maintaining the records of the facilities payments, sending delinquency notices and adjusting balances.

There is no log to document checks received by mail and no one ensures that the checks are posted. Since Lodgers' Tax is a self-imposed tax, the facilities do not know if their account is paid. Misuse of City assets could result if logs are not utilized and duties are not separated.

According to the Government Finance Officers Association (GFOA), incompatible duties should be separated. Duties of authorization, recordkeeping and custody of assets should be assigned to different individuals. No one individual should be assigned more than one of these duties.

RECOMMENDATION

DFAS Treasury should ensure proper separation of duties for collecting and posting revenue, and reviewing delinquent accounts. Treasury should consider eliminating the mailing of payments directly to Treasury and require facilities to use the lockbox provider.

RESPONSE FROM DFAS

"DFAS concurs with the recommendation and will attempt to ensure proper separation of duties for collecting and posting revenue and reviewing delinquent accounts.

"Currently, Treasury receives 93% of lodger's payments through lockbox. The other 7% lodger's payments are delivered to Treasury in person or by mail. Treasury has implemented a process that will assign a finance technician to log in lodger payment checks received prior to transferring to another finance technician for payment processing at the Point of Sale system. The finance technician who logged in the check payment will then ensure the payment was posted and indicate in the log the date of posting."

4. DFAS TREASURY SHOULD ENSURE DELINQUENCY NOTICES ARE SENT MONTHLY.

Treasury is not:

- Reviewing delinquent accounts
- Sending delinquency notices on a timely basis
- Collecting past due penalties and interest which is required by the City Ordinance.

Treasury stated these exceptions were due to a shortage of staff. If Treasury does not review delinquent accounts and send delinquency notices, the City may lose revenue.

Treasury's procedures manual states:

- Approximately five days after the payment due date a list of outstanding balances due should be reviewed.

- Appropriate research should be completed on each overdue account and a delinquent letter should be generated.

- The letter should be sent via certified mail and include the applicable penalty and interest due to the City.

- Any establishment 60 days in arrears needs to be reviewed and contacted by telephone and certified mail. It may require a lien either on actual or estimated revenue based on six months of payments.

RECOMMENDATION

DFAS Treasury should ensure that delinquency notices are sent in accordance with Treasury's procedures manual. Late payments should be assessed a penalty and interest, if applicable, as required by the Ordinance.

RESPONSE FROM DFAS

"DFAS concurs with the recommendation and will attempt to evaluate the process and develop a plan by December 31, 2007 to ensure delinquency notices are sent in accordance with Treasury's procedure manual and Lodger's Tax Ordinance."

CONCLUSION

Eight of nine facilities tested owe the City either back taxes or penalties for not paying on time. The total amount due to the City is $29,885. Treasury has not sent delinquency notices to facilities that pay within a few days of the due date. This has led to facilities paying taxes late. This does not comply with the Lodgers' Tax Ordinance.

Treasury should reevaluate the duties and responsibilities of the Lodgers' Tax staff to ensure proper internal controls are in place. Treasury should also review their procedures manual to ensure that current practices are reflected within the manual.

We appreciate the assistance and cooperation of DFAS Treasury personnel during the audit.

Principal Auditor

REVIEWED:

Audit Manager	Internal Auditor

APPROVED:	APPROVED FOR PUBLICATION:
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