



Internal Audit Department

Audit Report 2013-5

(formerly Audit Report 2011-2)

Tourism Assets, Revenues, & Expenditures Review

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The files and draft versions of audit reports remain confidential and protected from public records requests during an active audit under *Nicolai v. Baldwin (Aug. 28, 1998 DCA of FL, 5th District)* and Florida Statute 119.0713. Work-papers supporting the observations noted within this report will become public record and can be made available upon request once the final audit report has been issued.

Objectives

The objectives for this review were to verify:

- Contracts for tourism marketing services adhere to the Collier County Purchasing Policy;
- Tourism Department expenditures were eligible transactions under the applicable contract; properly supported; correctly processed for payment; and served a valid, legal, and public purpose;
- Tourist Development Tax revenues were correctly calculated and allocated to the appropriate general ledger funds;
- Existence and accuracy of the petty cash fund(s) assigned to the Tourism Department; evaluate internal controls; and ensure compliance with County Petty Cash Policies and procedures; and
- Fixed Assets were properly recorded.

Scope

The review consisted of, but was not limited to the following tasks:

- Compiling files and information from the Tourism Department, the Clerk's Finance and Accounts Payable Departments, and documents available in county public records;
- Reviewing applicable Florida Statutes;
- Reviewing applicable County Ordinances and Resolutions;
- Reviewing applicable County Manager Administrative Policies and procedures;
- Reviewing applicable BCC agendas, meetings, and minutes;
- Reviewing Tourism Department RFP's, bids, and contracts;
- Interviews with Tourism and Purchasing Department staff;
- Interviews with Clerk's Finance and Accounts Payable staff;
- Unannounced cash counts of the Tourism Department Petty Cash Fund;
- Reviewing Certificate and Request of Imprest Funds forms and Annual Confirmations;
- Reviewing fixed assets records and physical inspection of fixed assets;
- Reviewing Monthly Tourist Tax Revenue Allocations for fiscal years 2004 – 2011; and
- Reviewing a sample of Tourism Department advertising and marketing expenditures and related contracts for fiscal years 2009 - 2011.

Background

Florida Statute 125.0104 - Local Option Tourist Development Act asserts that any county in the state may levy and impose a tourist development tax on the rental or lease of hotel/motel, apartment/condominium, campground, and vacation rental stays of six months or less. Per F.S. 125.0104, at least 60 days prior to levying and imposing the tourist development tax, the governing board of the county (herein referred to as the BCC) must adopt a resolution establishing and appointing members to the county tourist development council. F.S. 125.0104 also mandates that the local Tourist Development Council (TDC) prepare and submit to the BCC for its approval a plan for tourist or county development, contingent upon approval of the tourist development tax by County voters.

In 1992, the BCC adopted Ordinance No. 1992-18 authorizing the formation of the TDC, subject to voter approval of a 2% Tourist Development Tax (TDT). Collier County voters approved a referendum and the BCC adopted Ordinance No. 1992-60 levying a 2% TDT on rentals within Collier County as defined by F.S. 125.0104. In 1995, Collier County voters approved a second referendum and the BCC adopted Ordinance No. 1995-46 increasing the TDT by 1%. In 2002, the BCC adopted Ordinance No. 2002-501 creating the Tourism Department. In 2005, Collier County voters approved a third referendum and the BCC adopted Ordinance No. 2005-43 increasing the TDT by an additional 1%, resulting in the current 4% TDT. The Collier County Tax Collector is responsible for collecting the 4% TDT revenue and remitting the funds to the BCC.

As required by F.S. 125.0104, the Collier County TDC consists of nine voting members serving staggered four-year terms. Members are appointed by the BCC and represent local government, the tourism industry, and owners/operators of establishments subject to the TDT. The TDC serves in an advisory capacity to the BCC and is responsible for developing a strategic plan for tourist development and recommending uses for TDT revenues.

F.S. 125.0104 defines authorized uses for TDT revenues, while Collier County Ordinance 2005-43 details the specific uses and allocation of TDT revenues. Collier County uses TDT revenues to fund the following activities:

- Improvements to beach/park facilities and beach related projects (Category A);
- Advertising and marketing of local facilities and attractions (Category B);
- County owned and operated museums (Category C-1);
- Museums owned and operated by municipalities and not-for-profit organizations (Category C-2); and
- Emergency advertising for occasions such as the Deepwater Horizon oil spill in 2010 (funded by transfers from the above categories).

Three county departments separately oversee these activities. Coastal Zone Management is responsible for improvements to beach/park facilities and beach related projects. The Collier County Museum manages county owned and operated museum exhibits. The Tourism Department, operating as the Naples, Marco Island, Everglades Convention and Visitors Bureau, coordinates advertising and marketing activities, including emergency advertising and museums owned and operated by municipalities and not-for-profit organizations.

Since 2003, the Tourism Department has contracted with Paradise Advertising and Marketing, Inc., a private advertising agency, to develop and execute marketing and advertising campaigns. The Tourism Department also circulates information about visiting Collier County to worldwide travel media and serves as the point of contact for meeting planners, tour operators, travel agents, and other industry professionals. In addition, the Tourism Department awards grants and sponsorships funded by TDT revenues to organizations for out-of-county marketing and promotion of cultural, sporting, and other events to attract tourists to Collier County. The Tourism Department's operating budget is funded by TDT revenues and requires BCC approval. In fiscal year 2011, the Tourism Department had seven full-time employees with an operating budget of \$6,461,400.

For a review of the TDT Revenue Grant Applications for fiscal year 2011-2012, see *Interim Audit Report 2013-6 Limited Scope: Tourist Development Tax (TDT) Revenue Grant Applications – Fiscal Year 2011-2012 (formerly Interim Audit Report 2011-2A)*.

Summary

The following observations were generated during this review:

1. Change orders caused annual tourism marketing expenditures to routinely exceed contract.
2. Changes in hourly rates and services were considered a “Zero” dollar change order.
3. Inconsistencies were noted between the County’s Request for Proposal, vendor proposal, and contract for tourism marketing services.
4. Expenditures submitted by vendors were not in compliance with contract terms.
5. A donation by Paradise Advertising and Marketing, Inc. was not consistent with TDC and BCC recommendations.
6. There is a potential appearance of a Code of Ethics violation (“conduct that gives the appearance of impropriety”).
7. Certain Tourism Department expenditures were not in compliance with County Resolution, Policy, or procedure.
8. Tourism Department Petty Cash fund was not in compliance with County Policy.
9. Inaccuracies were noted in SAP vendor account information.

Other Recommendations noted during the audit:

- The Clerk’s Finance staff should update the Monthly Tourist Tax Allocation Spreadsheet in a timely manner when the TDT rate and/or allocation percentages change.
- Invoices should be date stamped, initialed, and promptly processed by Tourism Department staff.

Controls over processing change orders to tourism contracts, payment of tourism expenditures, obtaining and updating vendor contact information, and the Tourism Department’s petty cash fund should be reviewed, evaluated, and monitored by county staff to ensure compliance with Florida Statutes, County Ordinances and Resolutions, Policies, and Procedures. County staff should also ensure vendor proposals address RFP specifications; and terms and conditions in documents, including executive summaries and contracts, presented to the BCC are consistent.

County staff should consider implementing consistent County-wide policies and procedures for donations. County officials should take care to avoid the appearance of a conflict of interest.

Inadequate controls increase the risk for fraudulent payments and misappropriation of county assets.

County Management Summary

County staff members are committed to implementing business processes which are consistent with ensuring fiscal responsibility and integrity.

County Management has made a number of changes to its business processes prior to, and, as a result of this audit, including, but not limited to:

- Completed refresher training on Purchasing Card transactions with Tourism staff;
- Returning the petty cash fund to the Finance Department by end of fiscal year 2013;
- Updated solicitation documents to include the County’s historical spend;
- Report all change orders and contract amendments to the Board consistent with Purchasing Policy; and
- Continue to work with the Clerk’s Finance and Internal Audit Office to ensure corrections have been addressed.

Observations

1) Change orders caused annual tourism marketing expenditures to routinely exceed contract.

Contract #06-4007 awarded to Paradise Advertising and Marketing, Inc. for Tourism Marketing Services was in effect from October 1, 2006 through March 31, 2011 for \$2,350,000 annually. During the term of the contract, five change orders were processed for additional marketing services totaling \$3,767,000, resulting in tourism expenditures exceeding the original contract amount by approximately 53%.

Contract #06-4007 Original Term - 10/1/2006 to 9/30/2008				\$ 2,350,000	
Date	Change Order #	Purpose	Amount	Contract Total	% Change
10/09/07	Amendment #1	Increase County Museum Advertising budget	\$ 70,000	\$ 2,420,000	3.0%
07/08/08	Change Order #1	Additional Marketing expenditures	\$ 700,000	\$ 3,120,000	28.9%
			\$ 770,000		32.8%
Contract Renewal #1 10/1/2008 to 9/30/2009				\$ 2,350,000	
Date	Change Order #	Purpose	Amount	Contract Total	% Change
12/02/08	Zero Dollar #1	Replace Exhibit A - Hourly Rates	\$ -	\$ 2,350,000	-
03/09/09	Change Order #2	Additional International Marketing Expenses	\$ 204,000	\$ 2,554,000	8.7%
04/20/09	Zero Dollar #2	Clarify Agency Fee language in contract	\$ -	\$ 2,554,000	-
07/15/09	Change Order #3	Additional Marketing Expenditures - Summer Campaign	\$ 918,000	\$ 3,472,000	35.9%
			\$ 1,122,000		47.74%
Contract Renewal #2 10/1/2009 to 9/30/2010				\$ 2,350,000	
Date	Change Order #	Purpose	Amount	Contract Total	% Change
04/01/10	Change Order #4	Additional Marketing Expenditures - Yearly Campaign	\$ 1,875,000	\$ 4,225,000	79.8%
			Total Change Orders =	\$ 3,767,000	53.43%

It does not appear change orders to Contract #06-4007 were considered when the County set the \$2,100,000 budget amount for RFP #10-5541, Tourism Marketing Services.

Recommendation:

- Going forward, County staff should ensure services solicited in the bidding documents (i.e. RFP) reflect the full services of the intended contract.

County Management Response:

- “Change Orders are the mechanism that the Purchasing Department utilizes to receive BCC authorization for increases in expenditures not contemplated at the start of an agreement. In the case of Paradise Advertising and Marketing, Inc., Change Orders were requested for specific TDC recommended and BCC approved additional destination marketing expenditures. These change orders occurred during an un-anticipated downturn in tourism, for circumstances beyond the County’s control; change orders were issued to reduce the negative impact on the community’s economy.*
- The BCC approved FY 2005-06 budget amount for tourism advertising and marketing was used in bid solicitation #06-4007. Historical spend activity is identified in solicitation documents; the County will endeavor to include information about unusual and unanticipated annual expenditures in Tourism marketing related solicitations.*
- Additional funds or other modifications are approved by the Board via a Change Order, or amendment, according to the BCC approved Purchasing Policy.”*

Internal Audit Response:

By under soliciting services, a concern is raised that potential respondents may be deterred from responding. This may narrow the competition, where marketing agents may be interested in large contracts. The contract amount has been increased each year through change orders to a level that may attract additional respondents.

2) Changes in hourly rates and services were considered a “Zero” dollar change order.

Contract #06-4007 awarded to Paradise Advertising and Marketing, Inc. for Tourism Marketing Services was in effect from October 1, 2006 through March 31, 2011. In December 2008, a change order was processed for the “Replacement of Exhibit A specifying hourly rates for services performed on behalf of Collier County. This new Exhibit A indicates new services and rates, which will be performed within the dollar limits of the existing agreement.” County staff regarded the new exhibit as a “zero” dollar change order and did not obtain BCC approval. The new Exhibit A contained five additional staffing positions related to digital/internet services and new hourly rates ranging from \$50 per hour for a Data Entry Specialist to \$200 per hour for an Interactive Developer.

Changes to rates and services significantly alter the original terms of the contract, which requires BCC approval. If rates increase, then service hours decrease accordingly in order for expenditures to remain within “the dollar limits of the existing agreement.”

Also, Contract #06-4007, section #4 - THE CONTRACT SUM: AGENCY FEE states “... All media and production costs ... up to \$2,000,000 annually will be billed to the County at net, so that the County receives any available discount. Media and production billing over \$2,000,000 annually ... will be billed at gross, reflecting a Contractor commission of 15%”.

County staff did not calculate the monetary impact of the new rates and additional positions. A substantial increase in digital/internet services may cause advertising and marketing costs to surpass the \$2,000,000 threshold more quickly, subjecting additional expenditures to the 15% Contractor commission and increasing the cost of tourism marketing services.

Recommendation:

- County staff should implement procedures to ensure change orders to existing contract terms and conditions are properly evaluated and approved by the BCC.

County Management Response:

- a. “The Tourism staff will follow the BCC approved Purchasing Policy related to change orders and amendments and work directly with the Purchasing Department to execute, and obtain approval by the Board.*
- b. In the audit for Contract #06-4007, the “new” Exhibit A did not increase rates, rather, it provided for new personnel categories, all of which (the new personnel categories) fell within the contract scope of work. These new personnel categories were added in the event the department needed to utilize these skill sets in the scope of work, and to enable the payment by the Clerk’s Finance staff.”*

Internal Audit Response:

New services and rates have a financial impact on the contract. If the new hourly rates and positions are added and the budget remains at the same set amount, then the number of service hours may decrease in order to stay within budget. This results in a fiscal impact. “Zero” dollar change orders implies there is no fiscal impact.

For example, if the advertising rate equals \$10 hour and the total advertising budget is \$1,000, then the total service hours cannot exceed 100 hours. If the hourly rate increases to \$20 hour and the budget remains \$1,000, then total service hours available is reduced to 50 hours. The County may receive fewer service hours for the same budgeted amount. The addition of new positions/services may result in the set budgeted amount being reached faster.

3) Inconsistencies were noted between the County's Request for Proposal, vendor proposal, and contract for tourism marketing services.

The Board of County Commissioners (BCC) awarded Contract #10-5541, Tourism Marketing Services, to Paradise Advertising and Marketing, Inc. (Paradise Advertising) on January 25, 2011. A comparison of the County's Request for Proposal (RFP), Paradise Advertising's submitted proposal, and contract approved by the BCC identified the following inconsistencies:

Budget

- The RFP budget was \$2,100,000 plus an undetermined amount for museums.
- Paradise Advertising's proposal was \$2,400,000, which included a \$2,100,000 annual base and a \$300,000 administration fee.
- The Contract was \$2,350,000, which included a \$2,000,000 annual base, plus a \$300,000 administration fee and \$50,000 in advertising and marketing services for museums.

Emergency Funds

- The RFP included a provision for \$1,500,000 in emergency funds.
- Neither Paradise Advertising's proposal nor the Contract referred to emergency funds other than Paradise Advertising will work with the County to develop an emergency advertising plan.
- Paradise Advertising was paid \$2,375,000 in emergency funds for advertising under the previous tourism marketing services contract (Contract #06-4007).

Administration Details

- The RFP required vendors to provide projected costs with estimated duration and a schedule of principals and staff.
- Paradise Advertising's proposal included projections of 490 hours per month from principals and staff.

Note: In December 2010, three key employees with experience working on Collier County's marketing account left Paradise Advertising, including the company's Vice President/Creative Director and an account supervisor with 20 years of industry experience. This change in staffing occurred after Paradise Advertising submitted its proposal in August 2010, but was not disclosed to the BCC prior to approving Contract #10-5541 in January 2011. The principals on Collier County's account, as detailed in Paradise Advertising's proposal, were substantially altered prior to awarding the contract without notifying the BCC.

Additional Billing

- The RFP allowed for creative time and out-of-pocket expenses.
- Paradise Advertising's proposal included hourly rates for creative design; incremental advertising options of \$1,000,000; and out-of-pocket expenses to be billed at net.
- The Contract includes creative time in regular media and production costs, which are billed at net up to the \$2,000,000 annual base; anything over the \$2,000,000 will be billed at gross; and out-of-pocket expenses will be billed at net.

Use of Subcontractors

- The RFP did not allow for any mark-up and vendors were required to provide a list of subcontractors with letters of intent.
- Paradise Advertising's proposal stated no subcontractors would be required, but later referred to the use of outside vendors to augment services. Paradise Advertising's proposal did not include a list of outside vendors.
- The Contract requires Paradise Advertising to provide invoices from outside vendors.

Commission

- The RFP encourages vendors to accept less than a 15% commission or charge a fee in lieu of commissions.
- Paradise Advertising's proposal does not specify a commission percentage.
- The Contract includes a \$300,000 administrative fee, plus a 15% commission on costs over the \$2,000,000 annual base.

Recommendations:

- County staff should ensure contracts are consistent with the documented scope of work.
- County staff should use the terms and conditions detailed in RFPs and vendor proposals to prepare contracts to ensure consistency within documents presented to the BCC for approval.

County Management Response:

- a. The Tourism Department will comply with the BCC approved Purchasing Policy for any RFP solicitations.*
 - b. Contract # 06-4007 for Tourism Marketing Services was awarded to Paradise Advertising and Marketing, Inc. after an RFP process that adhered to the BCC approved Collier County Purchasing Policy.*
 - c. The contract with Paradise Advertising and Marketing Inc. was for \$2,350,000 which accurately reflected the final BCC approved budget for that fiscal year for these services.*
 - d. The RFP indicated that Emergency funds of \$1,500,000 could be used in the case of a declared emergency for destination advertising and marketing. Emergency marketing expenditures are used only when needed and are not reoccurring.*
 - e. The Vice President/Creative Director and an Account Supervisor left Paradise Advertising in December of 2010. Those positions were immediately filled by Paradise Advertising with seasoned professionals with credentials that exceeded those of the departing staff members. Neither Collier County, nor the Tourism Department experienced any decrease in service as a result of these staff changes. We experienced an immediate increase in account service attention and a much higher level of creativity with the new staff members.*
 - f. Paradise Advertising and Marketing, Inc. is a full-service marketing company providing to its clients a wide range of in-house advertising, promotion, media and other marketing services. They did not intend to use, nor have they used subcontractors for their creative work or other outside services on our account under their agreement with Collier County.*
 - g. An RFP outlines the scope of services the County wishes to receive. The vendor Proposals indicate what each bidder is willing to offer related to that scope of services. The Contract is negotiated with the successful vendor to achieve the best possible arrangement for the County. For these reasons, these three documents by necessity may have a few differences and might not have complete agreement.*
- *The Board's Purchasing Policy (VIII A 3) allows departments to use the competitive proposal methodology "Where the County is incapable of specifically defining the scope of work for which the commodity(s) or service(s) is required ..."*
 - *The solicitation is used to describe the "intended scope of work/service" and the selection criteria; the vendor's proposal describes the vendor's ability to perform the intended scope of work and respond to their qualifications; and the contract is the codification of what will be performed for the stated, and agreed upon terms and conditions. The goals of each of these documents are different, and inter-related.*
 - *Contracts that are the result of requests for proposals are negotiated with the selected vendor and may not necessarily match the solicitation and/or the vendor's submitted proposal. This negotiation is in compliance with Purchasing Policy as noted above.*

- *Each Selection Committee is provided instructions regarding the review process (including selection criteria), the solicitation document and the vendor's proposals.*

Internal Audit Response:

Item "F" - Use of Subcontractors

Miles Media was hired by Paradise Advertising to provide webhosting services for County websites. It appears Miles Media is serving in the capacity of a subcontractor of Paradise Advertising under contract #06-4007. Paradise Advertising did not disclose Miles Media's involvement in the completion of contract #06-4007 to Collier County, as required by the RFP. Miles Media has a separate contract with Collier County to provide webhosting services at a lower rate. See **Observation # 4** for further detail.

4) Expenditures submitted by vendors were not in compliance with contract terms.

Vendor submitted an ineligible expenditure for payment.

Contract #06-4007 awarded to Paradise Advertising and Marketing, Inc. (Paradise Advertising) for Tourism Marketing Services was in effect from October 1, 2006 through March 31, 2011. Paradise Advertising submitted an invoice dated May 6, 2010 for website hosting and maintenance services related to the Tourism Department's film commission website (www.shootinparadise.com). A review of Contract #06-4007 and the invoice noted the following:

- Contract #06-4007, section #2 - Statement of Work did not list website hosting and maintenance as a service provided by Paradise Advertising.
- Paradise Advertising submitted an invoice for website hosting and maintenance services completed by Miles Media Group, Inc. It appears Miles Media Group, Inc. is a subcontractor for Paradise Advertising. Collier County has a separate contract with Miles Media Group, Inc. (#09-5183) for tourism website design and maintenance, including www.shootinparadise.com.
- Paradise Advertising was paid for a service already contracted through Miles Media. Paradise Advertising's Invoice #983-0 in the amount of \$2,100 was for 6 months of website hosting and maintenance with an average cost of \$350 per month. Under Contract #09-5183, Miles Media Group, Inc. charges Collier County a monthly rate of \$250 for website hosting and maintenance. It appears Miles Media submitted the invoice for the website hosting and maintenance under Paradise Advertising's contract at a higher rate than was allowed under their contract. It appears Collier County overpaid website hosting and maintenance by \$100 per month.

Note: During the November 28, 2011 TDC meeting, a TDC member said Miles Media Group, Inc. was a subcontractor under the Paradise Advertising and Marketing, Inc. contract and held their own contracts with the County. The Tourism Director responded "No ma'am, that's not true". At the meeting the owner of Paradise Advertising and Marketing, Inc. confirmed Miles Media Group, Inc. was not a subcontractor. The above example directly conflicts with these statements.

Contract #06-4007, section #4 - THE CONTRACT SUM: AGENCY FEE states "... All media and production costs ... up to \$2,000,000 annually will be billed to the County at net, so that the County receives any available discount. Media and production billing over \$2,000,000 annually ... will be billed at gross, reflecting a Contractor commission of 15%."

The payment of ineligible expenditures under Contract #06-4007 could cause advertising and marketing costs to surpass the \$2,000,000 threshold more quickly, subjecting eligible expenditures to the 15% Contractor commission and increasing the cost of tourism marketing services.

Documents presented to the BCC for approval were inconsistent.

The Executive Summary presented to the BCC for approval indicated Contract #10-5534, between the County and Alan S. Maltz, photographer, was for a series of 30 photographs to be completed "... over the next three years at an annual cost of \$30,000 including travel and production expenses not to exceed \$10,000 per year for a total project cost over three fiscal years of \$90,000."

Contract #10-5534, TERM section states “This is a one (1) year agreement commencing on July 1, 2010 and terminating on June 30, 2011. The CLIENT may, at its discretion and with the consent of the ARTIST, renew the Agreement under all terms and conditions contained in this Agreement for two (2) additional one (1) year periods ... Funding is not guaranteed beyond one (1) year, and subsequent years’ agreements will be based on availability of an appropriation of tourist tax funds.”

Contract #10-5534 also contained conflicting payment terms. The RIGHTS GRANTED section states “...Payment will be at the agreed amount of two thousand dollars (\$2,000) per shot up to a maximum of sixty thousand dollars (\$60,000) over a three (3) year period ...” The FINANCIAL TERMS section states “... it is anticipated that a sum of sixty thousand dollars (\$60,000) plus expenses ... will be paid for the services of Alan S. Maltz over a three (3) year period based on availability and appropriation of tourist tax funds ... A portion of the expenses ... and other costs associated with this project will be paid by the CLIENT up to a maximum per year of ten thousand dollars (\$10,000).”

Annual expenditures complied with the most restrictive contract terms; however conflicting language increases the risk of inappropriate payments to vendors or may result in the Clerk’s inability to pay vendors.

Recommendations:

- County staff should ensure contract terms are consistent and accurately described in documents presented to the BCC for approval.
- When reviewing expenditures to the contract, Clerk’s Accounts Payable staff should identify any conflicting language and/or discrepancies.

County Management Response:

- a. *“Tourism staff will ensure that contact terms are consistent and accurately described in documents presented to the BCC for approval. Tourism staff acknowledges that the use of Miles Media by Paradise Advertising and Marketing, Inc. for website hosting was not a correct procedure and we will advise this vendor and all of our other vendors that they must use the lowest priced vendor and ensure that the selected vendor does not have a contractual relationship with the County for similar services.*
- b. *The Alan Maltz agreement to purchase 30 images over three years has a wording conflict with the Executive Summary presented to the BCC. A review of SAP records indicates the Tourism Department expended \$29,905 in FY 10, \$30,000 in FY 11 and \$30,000 in FY 12 for the services provided by Alan Maltz. This appears to be in compliance with the Agreement terms to purchase 10 images at \$2,000 each plus production expenses for a total of \$30,000 per year.*
- c. *Tourism staff will ensure that future Executive Summaries are in direct compliance with the related agreement when presented to the BCC for approval.”*

Clerk’s Accounts Payable Management Response:

“Clerk’s Accounts Payable staff will continue to identify any conflicting language and/or discrepancies crossing related legal documents. Purchasing will be contacted for further clarification of content and/or possible contract amendment if required in order to make a legal payment on behalf of the Board of County Commissioners.”

5) A donation by Paradise Advertising and Marketing, Inc. was not consistent with TDC and BCC recommendations.

In December 2009, the BCC approved a \$1,000,000 change order for additional marketing services to Contract #06-4007 with Paradise Advertising and Marketing, Inc.

In the TDC’s Advisory Board Meeting on Monday, January 25, 2010, Paradise Advertising and Marketing, Inc. offered to donate up to \$100,000 of the media commissions to the county contingent upon being awarded and receiving payment in full for the \$1,000,000 change order for additional services. The TDC Meeting Minutes state the firm’s intent was to allow the TDC to re-invest the \$100,000 into marketing efforts.

The owner of Paradise Advertising and Marketing, Inc. noted he would rely on TDC's direction regarding the proposed \$100,000 donation. The TDC encouraged the \$100,000 donation to be provided to the Marco Island Museum Exhibit Project.

In the BCC Meeting on Tuesday, January 26, 2010, the BCC Chairman was asked how the donation was to be allocated according to the TDC recommendation. The BCC Chairman said the donation would be allocated as follows: \$50,000 to Marco Island Museum and \$50,000 to be used for advertising services, rather than Paradise Advertising and Marketing, Inc. lowering their fees charged to the County for marketing services.

On December 9, 2010, the donation was received by the County with \$50,000 earmarked for the Marco Island Museum and \$50,000 for Freedom Memorial, a project initiated by the BCC chairman. The donation was not consistent with the recommendation of the TDC and BCC Minutes.

In the BCC Meeting on Tuesday, December 14, 2010, the BCC accepted the donation for \$50,000 earmarked for Freedom Memorial.

Recommendation:

- The BCC should consider establishing a consistent County-wide donation process.

County Management Response:

"Tourism Department staff discussed with the Tourist Development Council (TDC) a proposal by Paradise Advertising to make a donation of a portion of their media commissions they would have earned as a result of the additional destination marketing funding approved by the BCC in response to the world-wide economic crisis that was negatively affecting tourism to our community. The TDC recommended a donation by Paradise Advertising to the Marco Island Museum. As an Advisory Board, the TDC only recommends actions to the BCC. The BCC, in turn, is under no obligation to follow TDC recommendations."

6) There is a potential appearance of a Code of Ethics violation ("conduct that gives the appearance of impropriety").

Collier County Ordinance 2004-05 mirrors and further elaborates Florida Statute Chapter 112 - Code of Ethics. The Ordinance indicates "Public officials shall not solicit or accept, directly or indirectly, any fee, compensation, gift, gratuity, favor, food, entertainment, loan, or any other thing of monetary value, from anyone who the public official knows or reasonably should know: a. has, or is seeking to obtain, contractual or other business or financial relations with the county department or board with which the public official is affiliated..."

Collier County Ordinance 2004-05 indicates it is the responsibility of each public servant to act in a manner that contributes to ensuring the public's trust in its government. Individuals should avoid conduct that gives the appearance of impropriety in the performance of his or her public duties.

Since 2003, Paradise Advertising and Marketing, Inc. has been under contract with the County to provide tourism marketing services.

On January 25, 2011, Commissioner Coyle, pointed out "...Paragraph 14 of the procurement policy prohibits those kinds of interactions between companies who are bidding on contracts and commissioners... 'Firms and their agents are not to contact members of County Commission for purposes such as meeting or introduction, luncheons, dinners, et cetera'... 'Failure to abide by this provision may serve as grounds for disqualification for award of this contract to the firm.'"

On July 25, 2011, the owner of Paradise Advertising and Marketing, Inc. had dinner with a sitting commissioner at the commissioner's home. The dinner was scheduled the night before a pending BCC (July 26, 2011) agenda item for the enrichment of the owner's company, with a change order for \$800,000 of increased services and fees. This has the potential appearance of a conflict of interest according to Collier County Ordinance 2004-05.

Subsequent to this audit finding, the Board of County Commissioners amended the Collier County Ordinance through the adoption of Collier County Ordinance 2013-39.

Recommendations:

- All public servants and vendors should comply with county / state code of ethics.
- Public officials should take care to avoid the appearance of a conflict of interest.

County Management Response:

“The Tourism Department staff has and will continue to comply with County and State Code of Ethics. We have no knowledge of a dinner attended by a Commissioner and the owner of Paradise Advertising and Marketing, Inc.”

7) Certain Tourism Department expenditures were not in compliance with County Resolution, Policy, or procedure.

Tourism purchasing card expenditures were not in accordance with County Resolution 2006-40 or County Manager Administrative (CMA) Policy #5808 – Purchasing Card Program.

- A review of Tourism Department purchasing card expenditures identified one transaction in which the employee e-mailed a vendor on January 21, 2011 explaining that a charge for a conference registration in mid-December 2010 did not appear on the employee’s December purchasing card statement. The employee requested that the vendor wait to “... process those charges now after Feb. 1st because my January credit card limit has hit its max”.

County Resolution 2006-40, Section F – COUNTY PURCHASING CARD USE states “... The Purchasing Card issued to each Tourism Department staff member will have ... a maximum monthly spending limit of \$10,000”.

Requesting vendors to hold or delay processing purchase card expenditures is a circumvention of spending limits established by County Resolution 2006-40.

- 3 purchasing card expenditures for tradeshow exhibit services posted to Out of County Travel Professional Development (GL #640300). It appears Marketing & Promotion (GL #648170) is a more appropriate account.

Expenditures should be appropriately classified.

Tourism Department expenditure lacked proper supporting documentation.

A review of Tourism Department purchasing card expenditures identified one transaction lacked an itemized receipt. The expenditure was airfare for the Tourism Director to attend a tradeshow in Washington, D.C. The receipt included with the expense report listed flight information but did not list the amount of airfare.

CMA #5808, Section C(2)(h) states the cardholder agrees to “Obtain an itemized receipt for all purchases. The itemized receipt must include the quantity, a description of the item(s), the unit cost and the extended price ...”

Incomplete supporting documentation and conflicting payment information on schedules and invoices increases the risk of fraudulent payments.

Tourism employee expense reimbursement was overstated.

A review of Tourism Department employee expense reimbursements noted an employee booked airfare for herself and a companion. The employee included the companion’s \$28.00 seat assignment fee resulting in an ineligible expense reimbursement.

Accurate requests are necessary to ensure reimbursement of proper expenses.

Recommendations:

- Training should be provided to the Tourism Department Staff to ensure each person understands the policies, procedures, and forms governing Purchasing Card transactions.
- County staff should continue to review supporting documentation and expense reports to ensure expenditures are eligible; for the proper amount; and paid to the correct vendor.

- County staff should continue to review Purchasing Card Transactions to ensure expenditures are posted to the proper general ledger accounts.

County Management Response:

- Tourism Management acknowledges that the vendor request was wrong and the tourism employee has been notified of this incorrect use of her Purchasing Card. The tourism employee in question was trying to register for a trade show that was in accordance with our tourism mission and was in the best interest of the County.*
- Tourism Management acknowledges the errors on three purchasing card expenditures for trade show exhibit expenses that were incorrectly posted to the wrong GL code. Tourism staff will endeavor to post these types of expenses and all other tourism expenditures to the correct GL code in the future.*
- The purchasing card expenditure for airfare by the Director to Washington DC was a change fee that was necessitated by the rescheduling of a BCC tourism item that required a later departure. The Tourism Director requested Delta Airlines to provide a more detailed receipt than the one they provided, but Delta was unable to produce such a document.*
- The expenditure for a seat fee of \$28 for a companion was an oversight on the Tourism Department employee's part and she has reimbursed the County for that \$28 fee.*
- The Tourism Department staff received a Purchasing Card refresher course on March 28, 2013 by the Purchasing Department staff in the proper use of the County Purchasing Card.*
- Purchasing policies and County Manager procedures (CMA # 5808) were reviewed and acknowledgement forms signed by all Tourism Staff prior to receiving their card; an audit was conducted as recently as February / March 2012 validating credit cards were in the staff's possession.*
- The Purchasing staff increased the Purchasing Card limits of some Tourism staff beyond the standard limits due to the amount of travel by staff members per Purchasing Resolution 2007-340 (approved 11/27/07; #10W), which was approved and dated after BCC approval of Resolution 2006-40. The Tourism staff intends to update Resolution 2006-40 to reflect consistency between the Purchasing Policy and the Tourism Travel Resolution.*

8) Petty Cash fund was not in compliance with County Policy.

Unannounced reviews of the Tourism Department's Petty Cash fund on April 28, 2011 and September 15, 2011 identified the following:

The petty cash fund was not replenished or balanced quarterly

- A Reimbursement Form dated March 7, 2011 requested reimbursement for eight purchases dating from December 2005 through December 2009.
- The custodian or sub-custodian did not document each time the petty cash fund was balanced. Since records were not available for review, Internal Audit was unable to verify if the petty cash fund was balanced on a quarterly basis.

County Petty Cash Policy, Item #11 states "Petty Cash accounts should be replenished and balanced quarterly".

Timely submission of reimbursement requests is necessary to ensure expenses are reported in the appropriate period. Quarterly balancing of petty cash funds is key to detecting and correcting any discrepancies in a timely manner.

Appears the Tourism Department did not return prior annual confirmations and returned the Fiscal Year 2011 confirmation after the designated due date

Clerk's Finance Department did not receive annual confirmations for Fiscal Year 2008, 2009, and 2010. For Fiscal Year 2011, the Tourism Department's confirmation was dated August 15, 2011, but the Clerk's Finance Department did not receive the confirmation until August 25, 2011.

County Petty Cash Policy, Item #15 states “Imprest Fund Confirmations will be done on an annual basis at the fiscal year end. The form will be sent to the departments by Finance and must be returned by the date requested.”

Petty cash funds may not be properly recorded if annual confirmation forms are not completed and returned by the established deadline.

Fiscal Year 2011 annual confirmation did not list accurate fund information

The confirmation listed the wrong physical location, custodian, and sub-custodian for the petty cash fund. The fund custodian did note the correct information on the confirmation returned to the Clerk’s Finance Department.

County Petty Cash Policy, Item #8 states “A new Certificate of Request form must be filled out and submitted each time there is a change of the following: Director, custodian, sub-custodian, or physical location.”. The Clerk’s Finance Department has not received an updated Certificate and Request of Imprest Funds form.

Using the Certificate and Request of Imprest Fund Form to update petty cash fund information ensures only authorized custodians and sub-custodians have access to the fund and that all funds are in the authorized location.

Recommendations:

Training should be provided to the custodian and sub-custodian to make certain each person understands the policies, procedures, and forms governing petty cash funds. In particular, procedures should be implemented to ensure:

- Petty cash reimbursement forms are submitted at least quarterly,
- Petty cash funds are balanced at least quarterly and the balancing is documented,
- Annual confirmations are returned to the Clerk’s Finance Department by the designated due date, and
- Changes to the petty cash fund are documented on a Certificate and Request of Imprest Fund form and the original provided to the Clerk’s Finance Department.

County Management Response:

- a. *“Tourism staff acknowledges that the Petty Cash fund is to be balanced quarterly, but due to very few if any transactions each year, this procedure was overlooked. The Petty Cash Fund Custodian is now aware that the fund must be balanced quarterly in accordance with Petty Cash Policy Item # 11, whether or not there have been transactions in the fund.*
- b. *Tourism Department staff acknowledges they did not return the annual report for FY 08, 09 and 10 due to a misunderstanding of this requirement. The lateness of the FY 11 report was due to a delay in interoffice mail delivery.*
- c. *Tourism Management will update procedures to require the Custodian to contact the Clerk’s Finance Department prior to the end of each fiscal year for the Petty Cash form.*
- d. *Tourism Department staff feels that the Petty Cash account is no longer necessary to support our operations. The Tourism staff intends to return the \$50 in the fund to Finance after completing and delivering the final report for 2013.”*

9) Inaccuracies were noted in SAP vendor account information.

The Purchasing Department creates a payment account in SAP for each vendor doing business with Collier County. This payment account includes the vendor’s mailing address, phone number, tax identification number, and preferred payment method. The Clerk’s Accounts Payable Department uses this payment account to determine where to send payments.

Vendor payment accounts contained inaccurate contact information

A comparison of contact information on vendor invoices to vendor account profiles in the SAP financial system identified the following:

- Four vendors submitted invoices that did not list a mailing address or phone number. One of these vendors had a W-9 Request for Taxpayer Identification Number and Certification form on file containing the mailing information and contact phone number.

Inaccurate contact or account information increases the risk of fraudulent payments.

Recommendation:

- The Purchasing Department should establish procedures to routinely review and update vendor account contact information and ensure current W-9 forms are on file for vendors.

County Management Response:

- *“Both Purchasing and Accounts Payable staff have access to creating vendor accounts in SAP and both staff groups can make changes/updates to the Vendor Master file for company code 1000. It is therefore recommended, that both offices establish procedures prior to payment.*
- *Purchasing staff implemented a W-9 (and substitute W-9) process for all formal solicitations and contracts during the August 2007 SAP Upgrade. The process of obtaining a W-9 or substitute W-9 continues to be used with any new vendor selected as a result of a formal solicitation/contract awarded by the Board. Further, the Purchasing Department has implemented an on-going updated vendor W-9 process.*
- *When Accounts Payable staff reports payment address discrepancies, the Purchasing Department will communicate with vendors and update addresses using obtained W-9.”*

Clerk’s Accounts Payable Management Response:

“Clerk’s Accounts Payable staff will continue to validate that the invoicing party and remit-to addresses are accurately reflected in the vendor master. With the advent of the new accounts payable invoice imaging software there is an appropriate built-in workflow that allows the accounts payable staff to notify purchasing of any discrepancies between current vendor master name and address to actual invoice name and remit-to address imaged in the system. Vendor master file maintenance will be segregated.”

Other Recommendations

10) The Monthly Tourist Tax Allocation Spreadsheet should be updated in a timely manner when the Tourist Development Tax rate or allocation percentages change.

Clerk’s Finance staff uses the Monthly Tourist Tax Allocation Spreadsheet to calculate the distribution of TDT revenues to the designated general ledger funds. Effective October 2005 (Fiscal Year 2006), the TDT rate increased from 3% to 4%. In addition, two new general ledger funds were created, which changed the allocation percentages.

An inordinate number of adjusting journal entries were posted in January 2006 for the October, November, and December 2005 monthly allocations to correct the revenues distributed to the general ledger funds. The Monthly Tourist Tax Allocation Spreadsheet was not updated until February 2006, resulting in the adjusting entries for the fiscal year.

The untimely update of the Monthly Tourist Tax Allocation Spreadsheet may result in the incorrect allocation of tax revenues to the specific general ledger funds and the amount available for tourism activities.

Recommendation:

- The Clerk’s Finance staff should update the Monthly Tourist Tax Allocation Spreadsheet in a timely manner when the TDT rate and/or allocation percentages change.

Clerk's Finance Management Response:

"The Finance and Accounting Management team understands that revenue allocation changes approved by ordinance are an immediate priority and are routinely booked. Subsequent to the adoption of Ordinance 2005-43, on July 26, 2005, master data updates were made to the financial system in August of 2005 to accommodate the additional 1% tax and its attendant allocation percentage changes. The effective date of Ordinance 2005-43 was September 1, 2005 and as of the effective date all database preparations for the new allocation were in place. However, at the time of the ordinance change adopting the 4th percent there was debate regarding the application of the new 1% to rental contracts let prior to the ordinance change. The Tax Collector's November lump sum distribution, for October receipts, provided a breakout between revenues collected under the 3% ordinance versus the 4% ordinance. Two months lapsed while our Department analyzed the data contained in the Tax Collector's revenue reports. These reports were eventually used as the basis to correct the October through January receipts, in February of 2006, and continued to be used as the basis for postings. All corrections were made within the proper fiscal year, so there was no impact to fiscal year 2006 financial reporting. The Finance and Accounting Department's policy is to change all revenue allocations on a timely basis."

11) Invoices should be date stamped, initialed, and promptly processed by Tourism Department staff.

A review of tourism expenditures identified four invoices were not date stamped and initialed by Tourism staff. Without the proper date stamp and approval, it cannot be determined if the invoices were promptly processed.

Recommendations:

- With the implementation of the Dolphin system, invoices should be sent by vendors directly to the Clerk's Accounts Payable Department.
- If the Tourism Department does receive invoices, the department should implement procedures to ensure invoices are date stamped, initialed, and promptly processed.

County Management Response:

- a. "The new Dolphin system directs all vendors to send their invoices directly to the Clerk's Accounts Payable Department. The Tourism Department staff will direct all our contracted vendors to adhere to this new policy."*
- b. Invoices received by the Tourism Department staff directly from a vendor will be date stamped, initialed and promptly processed with the Finance Department for payment."*

Conclusion

County staff should assess the monetary impact of change orders to determine proper approval and include historical spend data when preparing future RFPs. Before making recommendations to the BCC, selection committees should ensure vendor proposals and contracts are consistent with RFPs. County staff should review expenditures for proper supporting documentation and monitor compliance with Florida Statute, County Ordinance and Resolutions, contract terms, and Policies and Procedures.

County staff should consider developing a consistent County-wide process for donations. County officials and County staff should take the necessary precautions to avoid the appearance of any conflict of interest.

Ultimately, it is the responsibility of County management to understand and implement the proper controls in order to limit the risk of fraud, error, and misappropriation of county assets. The Clerk's Internal Audit Department may recommend improvements in audit reports, but it is the duty and decision of County management to formulate processes that ensure compliance with Florida Statutes, County Ordinances and Resolutions, Contract Terms, and County Policies and Procedures.

The cooperation of the Tourism and Purchasing Department staff along with the Clerk's Finance and Accounts Payable staff during this review is greatly appreciated.

Additional County Management Comments:

Tourism Management and Purchasing Management appreciate the time the Internal Audit team dedicated to this audit assignment. The Audit Report indicates some areas for improvement in the Tourism Department operations, implementation will be forthcoming. Additional future actions have also been identified for implementation in conjunction with the Purchasing Department.

Additional Clerk's Finance Management Comments:

None

Additional Clerk's Accounts Payable Management Comments:

None