



**CITY OF COLORADO SPRINGS
OFFICE OF THE CITY AUDITOR**

**11-01 COLORADO SPRINGS AUDIT –
ON-SITE RENTAL CAR CONTRACT COMPLIANCE**

PUBLIC REPORT

JANUARY 12, 2011

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Office of the City Auditor

Public Report

Date: January 12, 2011
To: Honorable Mayor and Members of City Council
Re: 11-01 – Colorado Springs Airport – On-Site Rental Car Contract Compliance

The purpose of this audit was to determine whether the rental car companies operating on-site at the Colorado Springs Airport (Airport) complied with the terms and conditions of their Rental Car Concession Agreements. The audit period was October 1, 2008 through September 30, 2009.

As of September 30, 2009, there were seven on-site rental car companies operating at the Airport. For the years ended December 31, 2007 and 2008, the Airport recognized revenue from rental car fees and rents of approximately \$3.67 million and \$3.67 million, respectively. During the same periods, deplaned passengers totaled 1,033,824 and 994,681.

We conclude that overall the rental car companies were operating in material compliance with the terms and conditions of their Rental Car Concession Agreements. However, during the course of our audit, we identified two opportunities for improvements. These opportunities are listed in the attached report.

As always, feel free to contact me if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "Denny L. Nester".

Denny L. Nester
City Auditor

cc: Steve Cox, Interim City Manager
Nancy Johnson, Assistant City Manager
Terri Velasquez, City Finance Director
Mark Earle, Director of Aviation
Gisela Shanahan, Assistant Director of Aviation
Dan Gallagher, Assistant Director of Aviation

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Introduction

11-01 – COLORADO SPRINGS AIRPORT ON-SITE RENTAL CAR CONTRACT COMPLIANCE

PUBLIC REPORT

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Abbreviations and Acronyms used in the Report

Airport	Colorado Springs Airport
CFC	Customer Facility Charge
Concession Agreement	Colorado Springs Airport On-Site Rental Car Company Concession Agreement
MAG	Minimum Annual Guarantee
Tax Guide	CITY OF COLORADO SPRINGS TAX GUIDE AUTOMOBILE RENTAL TAX – SHORT-TERM RENTAL

Introduction

AUTHORIZATION

We performed an audit of the Colorado Springs Airport (Airport) On-Site Rental Car Concession Agreements (Concession Agreements) for the period of October 1, 2008 through September 30, 2009. We conducted this audit under the authority of Chapter 1, Article 2, Part 7 of the City Code, and more specifically parts 703, 705 and 706, which state:

1.2.703: ENSURE PUBLIC ACCOUNTABILITY:

The City Auditor shall ensure that administrative officials are held publicly accountable for their use of public funds and the other resources at their disposal. The City Auditor shall investigate whether or not laws are being administered in the public interest, determine if there have been abuses of discretion, arbitrary actions or errors of judgment, and shall encourage diligence on the part of administrative officials.

1.2.705: DETERMINE EFFECTIVENESS AND EFFICIENCY OF PROGRAMS:

The City Auditor shall determine the extent to which legislative policies are being efficiently and effectively implemented by administrative officials. The City Auditor shall determine whether City programs are achieving desired objectives. The City Auditor shall review the administrative control systems established by the enterprises, department or group managers and by the City Manager, Utilities Executive Director and Memorial Hospital Executive Director and determine whether these control systems are adequate and effective in accomplishing their objectives.

1.2.706: EXAMINE BOOKS, RECORDS:

The City Auditor shall examine and inspect all books, records, files, papers, documents and information stored on computer records or in other files or records relating to all financial affairs of every office, department, group, enterprise, political subdivision and organization which receives funds from the City or under the direct or indirect control of the City Council. The Auditor may require any person to appear at any time upon proper notice and to produce any accounts, books, records, files and other papers pertaining to the receipt or expenditure of City funds, whether general or special. If that person fails to produce the papers, then the Auditor may request Council approval to search for and take any book, paper or record in the custody of that person or public official.

ORGANIZATIONAL PLACEMENT

The Colorado Springs Office of the City Auditor is structured in a manner to provide organizational independence from the entities it audits. This independence is accomplished by the City Auditor being appointed by and reporting directly to the City Council. The audited entities in this audit were the on-site rental car companies at the Colorado Springs Airport. The rental car companies are separate entities from the City.

Introduction

SCOPE AND METHODOLOGY

The purpose of this audit was to determine whether the rental car companies operating on-site at the Airport were in compliance with the terms and conditions of their Rental Car Concession Agreements. The audit period was October 1, 2008 through September 30, 2009.

The audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*, a part of the Professional Practices Framework promulgated by the Institute of Internal Auditors. The audit included interviews with appropriate personnel and included such tests of records and other supporting documentation as deemed necessary in the circumstances. We reviewed the internal control structure and compliance tests were performed. Sufficient, competent, evidential matter was gathered to support our conclusions.

BACKGROUND

As of September 30, 2009 there were seven on-site rental car companies operating at the Airport. For the years ended December 31, 2007 and 2008, the Airport recognized revenue from rental car fees and rents of approximately \$3.67 million and \$3.67 million, respectively. During the same periods, deplaned passengers totaled 1,033,824 and 994,681.

OVERALL OPINION

We conclude that overall the rental car companies were operating in material compliance with the terms and conditions of their Rental Car Concession Agreements. However, during the course of our audit, we identified two areas as opportunities for improvement.

We have made no determination as to which findings are more important than others. Therefore, the findings are not necessarily listed in order of importance.

Findings, Recommendations, and Responses

The following finding is presented in the context of City Code 1.2.709, which instructs the City Auditor to make periodic reports to Council which include “recommendations for lessening expenditures, for promoting frugality and economy in City affairs and for an improved level of fiscal management.”

1. The Minimum Annual Guarantee (MAG) abatement language contained in the Concession Agreements was ambiguous.

The calculation of the MAG abatement was not clearly defined in Subsection 5.2.e - Minimum Annual Guarantee and Privilege Fee – Abatement of the Concession Agreements and could be subject to multiple interpretations. According to the contract, “In the event that for any reason the number of passengers deplaning on scheduled airline flights at the Airport during any calendar month shall be less than or equal to eighty percent (80%) of the number of such deplaning passengers in the same calendar month in the preceding calendar year, then the Minimum Annual Guarantee for that month shall be proportionally reduced for the period of time such condition continues to exist.” While this language may seem clear, it does not address how the reduction will impact the annual MAG. It does not specify whether the reduction will be based on the proportional amount below 80% or whether the reduction would be proportional to 100% of the MAG. Without an example of how the amount is to be calculated, the language may be subject to various interpretations.

Auditor’s Recommendation:

We recommend that the Airport clarify how the amount of the MAG abatement per Subsection 5.2.e of the Concession Agreements should be calculated. The Airport should include examples of calculations in future contracts to ensure all parties agree with the method of calculation.

Airport’s Response:

The Airport coordinates its lease language with the City Attorney. At the request of the City Auditor, the City Attorney’s office was asked to review the Minimum Annual Guarantee language and agreed that the current MAG language could be interpreted several ways. The Airport has incorporated example calculations in its new leases and will modify the rental car MAG calculation language when the current agreement expires and a new concession agreement is executed.

Opportunities for Improvement

2. The City of Colorado Springs Tax Guide section “Automobile Rental Tax – Short-Term Rental” had not been updated since January 2005.

The City of Colorado Springs Tax Guide section “Automobile Rental Tax – Short-Term Rental (Tax Guide) could be accessed by the general public through the City of Colorado Springs website. The Tax Guide has not been updated or revised since January 2005. Since that time, new fees have been developed by rental car companies. Taxability of new rental car fees was not clear under the current Tax Guide. The Tax Guide should be updated to provide tax applicability details on charges such as the customer facility charge (CFC), carbon offset, fuel service option, Government Administration Rate Supplement and frequent traveler/flyer program fees.

Auditor’s Recommendation:

We recommend that the City of Colorado Springs Revenue and Collections Division analyze the sales tax applicability of new fees that have been developed by rental car companies and update the Tax Guide accordingly.

City’s Response:

The tax guide titled “Automobile Rental Tax – Short Term Rental” will be updated. However, since new fees are continuously being added by the rental car companies, the Revenue and Collections Division believes that a general statement regarding the taxability of these fees is more appropriate than a specific list of fees. The current tax guide does provide examples of both taxable and non-taxable charges, but the examples are not all inclusive. Additional examples will be provided to include some of the fees or charges developed since the tax guide was last updated.