



Clackamas County Tourism and Cultural Affairs:

Procurement, contracting and internal revenue code

November 2017

A Report by the Internal Auditor

Brian Nava

Clackamas County Internal Auditor

Shari Anderson, CPA, CIA, CFE

Clackamas County Treasurer

Executive Summary

Key Findings

This audit of the Clackamas County Tourism and Cultural Affairs (CCTCA) department finds that CCTCA generally follows best practices as compared to their peers in the destination marketing industry. Social media and e-mail marketing are effective as compared to CCTCA's peers.

Procurement card policies were updated in May 2017. CCTCA management needs to ensure compliance with procurement card policies during their review. Attention should be given to supporting documentation requirements.

CCTCA needs to work with the Finance department to ensure appropriate tax forms are issued to travel influencers and promotion or prize recipients.

We identified some agreements, leases and contracts that were only approved by CCTCA management, which deviated from County policies. Based on the opinion of County Counsel regarding these circumstances, these identified agreements, leases and contracts require approval by the Board of County Commissioners (BCC). The CCTCA should also review their records and work with County Counsel to determine if any additional agreements, leases or contracts require approval by the BCC.

Transient lodging tax (TLT) collection from intermediaries continues to be a challenge. The effect of not receiving TLT from intermediaries is significant. The Finance department serves as the primary party to collect the TLT for the County. The County should continue to ensure compliance with Clackamas County Code. Additional options to identify non-reporters exist, such as working with the State of Oregon or a third party vendor.

We followed-up on eight recommendations issued by an outside firm in November 2015 regarding the TLT. We found four recommendations were partially corrected or no corrective action had been taken.

Key Recommendations



Our specific recommendations for management are included on page 21 of this report. In summary, we made recommendations to ensure:

- Compliance with County Finance and purchasing policies;
- Compliance with Internal Revenue Service (IRS) codes;
- Prior audit recommendations from November 2015 become resolved.

Response

Management responses are located at the end of the report.

Background

In accordance with the Clackamas County 2017 internal audit plan, we conducted an audit of Clackamas County's Tourism and Cultural Affairs department.

History

Tourism in Oregon is an \$11.3 billion industry. The tourism industry directly generates more than 109,000 jobs in Oregon, with secondary impacts that create another 56,900 jobs.

Transient lodging tax

Clackamas County Tourism and Cultural Affairs (CCTCA) is almost entirely funded through the 6% transient lodging tax (TLT).

Since the 1940s, public entities have imposed some form of a "transient lodging tax" on occupied hotel, motel and inn dwelling units within their jurisdiction. Often, cities and counties would reinvest these funds into their local tourism industries. Some public entities allocated these funds to general fund purposes such as fire, police, streets, and sewers that benefited both residents and tourists alike. Local TLT rates varied based on jurisdiction.

Since 2003, there have been significant changes to TLT regulations. These include 2003 House Bill (HB) 2267, changes in 2005 to include dwelling units that are used for temporary human occupancy (e.g. houses), and 2013 HB 2656.

In 2015 the Oregon Department of Revenue (DOR) reported that 85 of the 242 cities and 15 of the 36 counties in Oregon had a local transient lodging tax (TLT). Most transient lodging taxes are from 6-9%, but overall the DOR has found they can be as low as 2% or as high as 13.5%.

Some cities within Clackamas County also charge an additional TLT:

- Lake Oswego: 6%
- Oregon City: 4%
- Sandy: 3%
- Wilsonville: 5%

Clackamas County
has a 6% Transient
Lodging Tax



Forbes magazine lists Timberline Lodge as one of the sixteen "Favorite Inspirational Locations in the US for 2013".

What can transient lodging tax revenue be spent on?

Transient lodging tax (TLT) revenue can generally only be spent on two things¹:

- Tourism² promotion
Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists³. Conducting strategic planning and research necessary to stimulate future tourism development; operating tourism promotion agencies; and marketing special events and festivals designed to attract tourists.
- Tourism-related facility
A conference center, convention center or visitor information center; and other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities⁴.

CCTCA is unique amongst its peers

Form and function



CCTCA is a department within Clackamas County. They are the primary entity in the County responsible for destination brand development, awareness and inspiration to potential visitors. There exists a nine member Tourism Development Council (TDC) appointed by the Board of County Commissioners (BCC) to oversee the development and promotion of tourism in the County.

We spoke with five other destination marketing organizations (DMOs) in

Oregon and found they were structured much differently than Clackamas County. All the public entities we spoke with contract with a not-for-profit DMO to perform their tourism activities for their public entity. The public entity typically went through a request for proposal (RFP) process to determine the contractor (e.g. not-for-profit) who could best legally use the tourism funds received to fulfill the public entity's tourism goals and objectives. These contracts were typically from 3-5 years with options to extend.

Oversight from the public entity varied, but typically the not-for-profit selected, reported regularly (e.g. monthly) to a council, chamber or board, whose members were specifically structured and/or selected by the public entity. Then, the not-for-profit would also regularly report less frequently to the public entity's board or council (e.g. annually or quarterly).

¹ For more information, see Oregon Revised Statute (ORS) 320.300 and Clackamas County Code 8.02.

² "Tourism" means economic activity resulting from tourists.

³ "Tourist" means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip: (a) Requires the person to travel more than 50 miles from the community of residence; or (b) Includes an overnight stay.

⁴ See Department of Justice, Attorney General Opinion OP-2008-3 for more information.

Support

Each not-for-profit DMO has to perform or pay for financial accountants, legal counsel, human resource analysts, insurance, facilities and more, as applicable and determined necessary. The CCTCA is allocated a cost for the County to provide most of these services (figure 9).

Procurement

All not-for-profits we spoke with who were the DMO for their respective public entity discussed how they believed they could be more flexible than a public entity in regards to procurement. Not-for-profits are generally not constrained by the same procurement laws as public entities. However, the not-for-profits also had to develop procurement rules, perform the procurements, ensure legal sufficiency and monitor the contractors.

Hiring

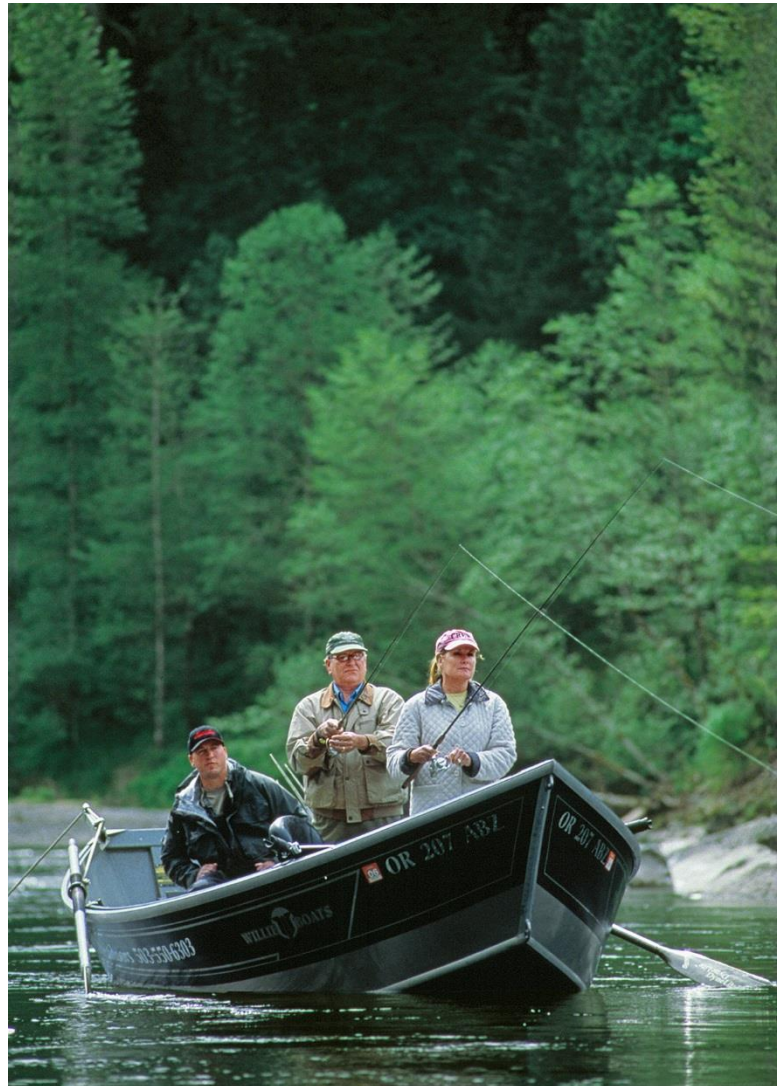
DMOs we spoke with indicated there existed a substantial amount of flexibility in how they hire their employees. The process can generally be as quick as they need it to be and they can negotiate and determine with individual employees how much they will get paid. Similar to procurement (above), this is done without the assistance of a human resources department, unless the DMO specifically hired or contracted out this function. Additionally, benefit packages amongst DMOs and the CCTCA varied.

Alcohol

We are not aware of any public entities in Oregon who allow their employees to purchase alcohol with government funds, serve alcohol or consume alcohol while on duty. Not-for-profit DMOs that contract with a public entity have different rules and regulations than public entities. It is common for these DMOs to purchase, serve and consume alcohol at marketing events (with some restrictions as they determine necessary,) as part of their familiarization tours and marketing strategies.

Structure conclusion

Although CCTCA's structure is different than their peers, there are both benefits and weaknesses in the structure.



Audit Results and Recommendations

Best practices

Clackamas County Tourism and Cultural Affairs does well

CCTCA's strategy is to promote three pillars of tourism in the Mt. Hood Territory: outdoor recreation, agritourism and heritage/culture. As acknowledged by CCTCA staff and other destination marketing organizations (DMOs) we spoke with, it can be difficult to measure what marketing efforts are effective.

One of our objectives was to determine if there were things being performed by other DMOs that CCTCA could or should be performing. There did not exist any glaring deficiencies in the strategies used by the CCTCA to promote tourism as compared to their peers.

The primary strategies used by CCTCA to promote tourism in the County are outlined in the business plan issued each year and the five year strategic plan, which is guided by the tourism development and promotion master plan. Each are available on the CCTCA's website. When compared to their peers, we generally found the CCTCA has implemented similar or better strategies for promoting tourism.

CCTCA effectively partners with other organizations

Partnerships can help maximize reach and reduce costs

The CCTCA does a good job of maximizing its reach by partnering with organizations like Travel Portland, Travel Oregon, Willamette Valley Visitors Association and more. As expressed by CCTCA staff and their peers, partnering with these larger organizations and peers can have a significant impact on reach and cost. Further, having a separately identifiable organization at the same location may bring in additional travel influencers and tourists, than if it were just the CCTCA. Overall, most organizations see these partnerships as a win-win.

Social media

Background – Social media is important

Social media is still a relatively new marketing channel and continually evolves, with new networks, updates, and features. In late 2007, shortly after Facebook opened the network to the general public, only 100,000 business pages were created. Ten years later, in 2017, there are now more than 65 million business profiles. The total number of social media users across all networks⁵ grew by 20% within the last year, an increase of 482 million users. In the U.S. alone, social media users report spending over two hours each day on social media. According to the 2013 Portrait of American Travelers study, 74% of U.S. travelers have a Facebook profile and 1 out of 3 travelers' reference social media as a main source of travel ideas and inspiration.

With an increasing amount of individuals communicating, reviewing and recommending products and experiences to their friends and family through social media, online word of mouth is vital to successful organic referrals, leads and conversions⁶ in today's marketplace.

⁵ Facebook, Tumblr, YouTube, Twitter, Instagram, Snapchat, Pinterest, and LinkedIn.

⁶ Signals you have driven consumers further into the travel purchase path through web visits, vacation guide requests, newsletter sign ups, etc.

CCTCA operates the following social media channels:

- Facebook
- Twitter
- Instagram
- Pinterest
- Blog
- YouTube Channel

Note: CCTCA does not currently use Snap Chat, Tumblr or Google+. This decision to not spend resources on these social media channels is generally in line with CCTCA peers.

Social media – Return on investment is hard to measure

Most marketing organizations agree. Measuring your return on investment related to social media spending and resources can be difficult.

Statistics related to the aforementioned social media channels began being tracked in 2013. This is when CCTCA hired a person whose primary responsibility was to manage social media in-house. Social media statistics are primarily measured by CCTCA as follows:

- Number of Followers: Number of individuals following your Facebook, Twitter, Instagram or Pinterest site.
- Engagement: Interactions with your organic content and ads. Engagement is measured by the number of people who saw a post that reacted to (e.g. liked or thumbs up), shared, clicked, commented on it, retweeted, etc.
- Reach: The number of your target audience you are reaching. Reach is the number of people who saw any of your page posts. Reach can also be broken down into people who saw your posts with or without advertising (paid or organic posts).
- Impressions: The total number of times Twitter or Facebook has been viewed. This includes ads or sponsorships for the CCTCA Facebook or Twitter accounts. For example, when an ad appears on the right side of the screen while a user is viewing Facebook, an impression is registered to CCTCA’s Facebook account.

Reach and impressions are currently only measured for Facebook and Twitter. Reach and impressions are an important element in building CCTCA’s brand, but these numbers can be controlled by funding. For example, if material is getting pretty good engagement from followers on Facebook, CCTCA can “boost” a post on Facebook or Instagram for a fee, in an effort to reach and get impressions from more people. This is typically where you will find the post with the word “sponsored” or “ad” above it.

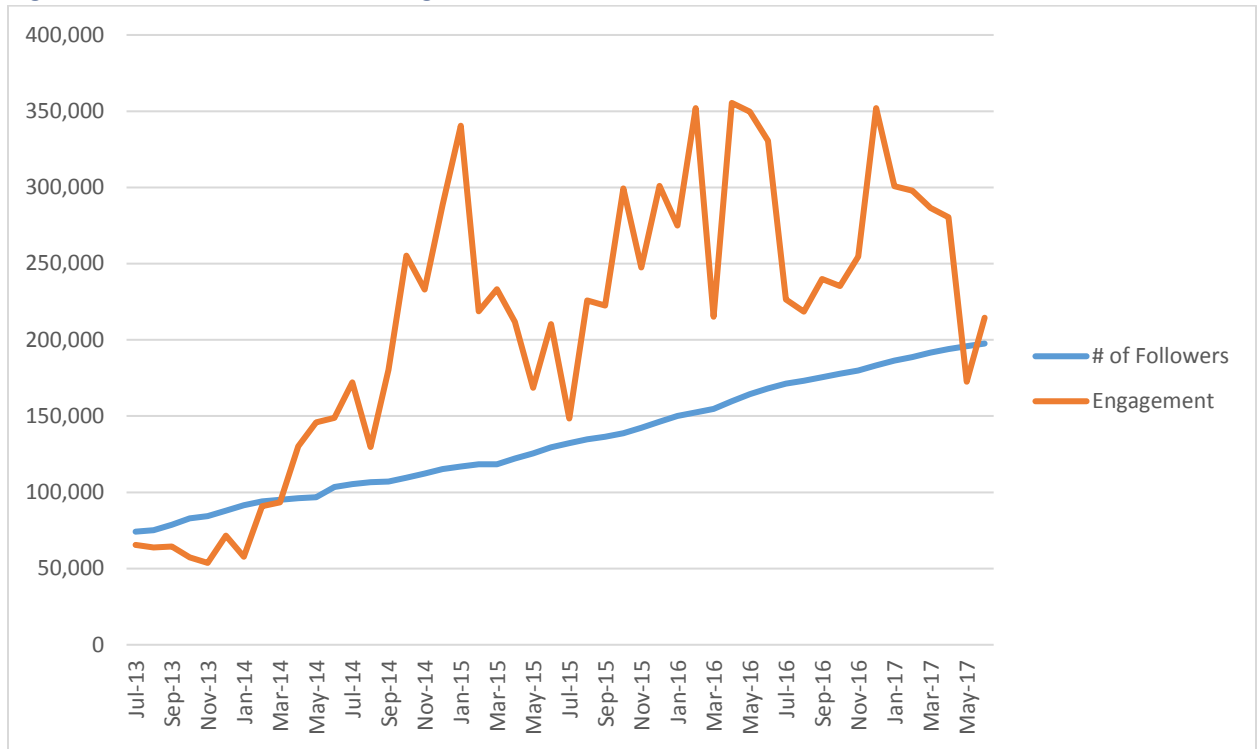
Engagement continues to be the standard metric when measuring the success of social media and social media campaigns. The overall goal is to increase the number followers and engagement of each social media channel. The number of followers and engagement of those followers or people is one of the primary ways marketing organizations can show the value and success of their social media channels and value in expending resources on social media marketing efforts. In CCTCA’s case, they have continued to show growth in the number of followers and engagement on their social media channels since they brought it in-house in 2013. It is also important to note that Facebook is the top procurement card expense (figure 12).



2016 US Travel Educational Seminar for Tourism Organizations (ESTO), Destiny Award for Social Media campaign

Engagement continues to be the standard metric when measuring the success of social media.

Figure 1: Facebook, Twitter, Instagram and Pinterest



Note: Engagement for Instagram and Pinterest began being measured in July 2014 and July 2016, respectively.

MtHoodTerritory.com visitors continue to steadily increase

According to Google, travelers visit 22 different sites over an average of 9.5 sessions before booking. A **destination**, airline or hotel website could be the most impactful area of all marketing. A 2017 analysis indicates online search is the primary resource turned to for international trip planning.

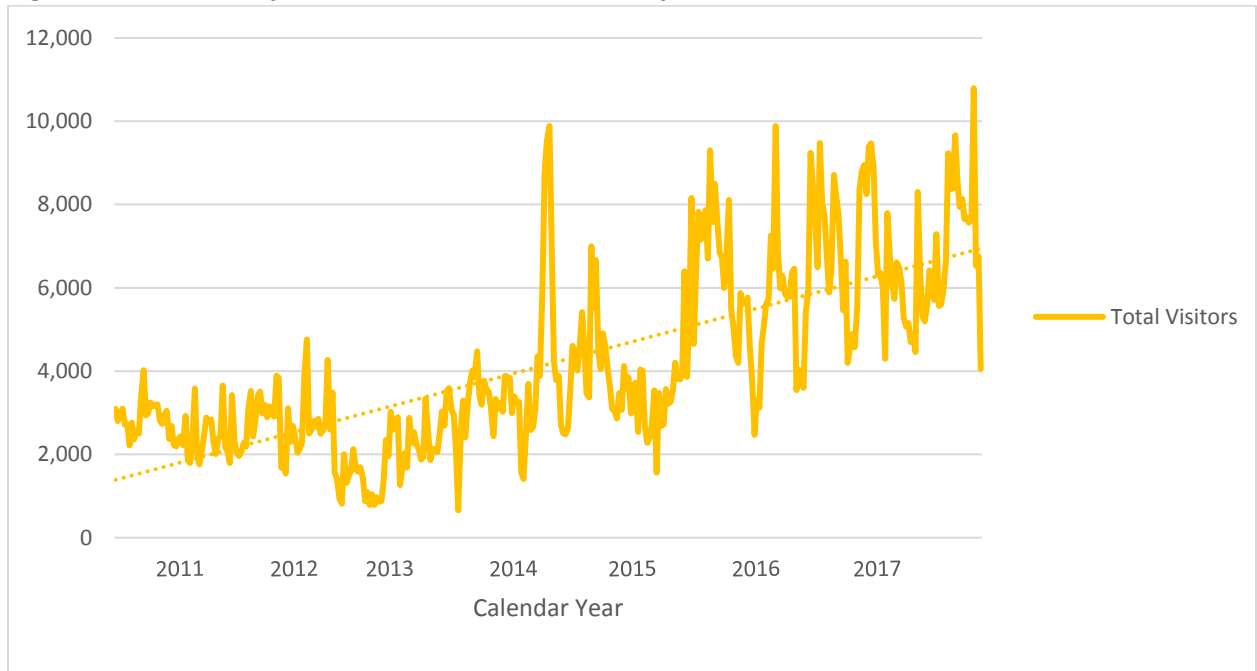
Web analytics are one tool to help CCTCA gauge the effectiveness of various marketing campaigns by determining where the person was when they accessed the site, how they accessed the site (e.g. through a general web search, the CCTCA’s Facebook account, etc.), what they looked at while on the website, what they used to access the website (e.g. mobile device or desktop computer), and more.

The CCTCA generally measures traffic to the MtHoodTerritory.com’s (CCTCA’s) website weekly. While weekly traffic does vary to MtHoodTerritory.com, website visitors are trending upwards (figure 2).

“There’s no question that a travel-related website needs to be more than just a pretty face – it needs to have killer content too.”

- **MMGY Global**

Figure 2: Total weekly visitors to the MtHoodTerritory.com



Overall, social media and website data available indicates CCTCA is having continued success.

We recommend CCTCA management continue to develop ways to measure and report on their return on investment (ROI) as it relates to social media and the CCTCA website. Continue to work with their peers and organizations to ensure the CCTCA has the latest social analytics software to help measure ROI and optimize CCTCA’s social media and website strategies.

E-mail marketing

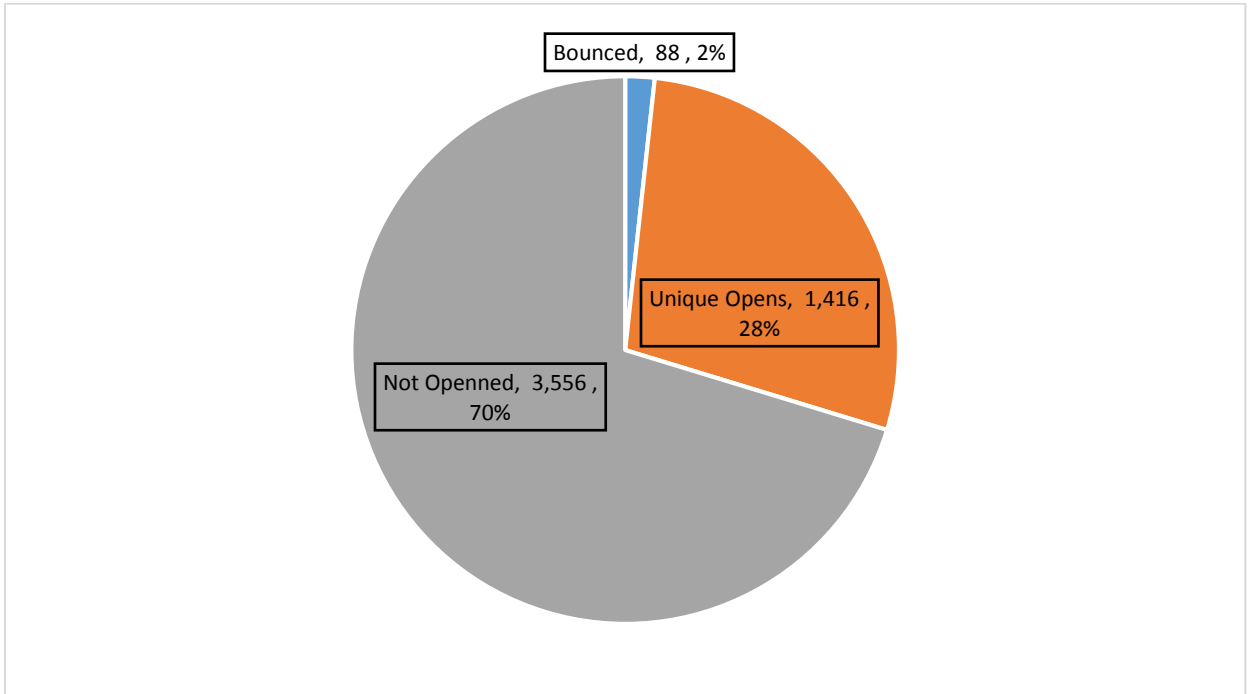
Another common method used by DMOs and the CCTCA to distribute their message is e-mail marketing. There are many advantages to e-mail marketing, including:

- Easy to track a return on investment (ROI),
- Low cost,
- Fast,
- Almost half of American users check or send e-mail on a typical day⁷.

CCTCA sends e-mails to its subscribers monthly to promote the Mt. Hood territory. Opt-in e-mail marketing assumes that the recipient wants to receive the e-mail, which makes it unlike unsolicited advertisements sent to the consumer. Ideally, opt-in e-mail advertisements will be more personal and relevant to the consumer than untargeted advertisements. CCTCA also tries to regularly clean out addresses that bounce, fail or just don’t open e-mails. Keeping the subscription list clean also helps improve CCTCA’s “open” percentage.

⁷ Pew Internet & American Life Project, "[Tracking surveys](#)", March 2000 – March 2009

Figure 3: E-mail statistics for fiscal year (FY) 2017 – monthly average



CCTCA’s e-mail marketing ROI is good

As outlined above, one of the positive aspects related to e-mail marketing is the ability to easily measure your return on investment (ROI). As is shown in figure 4, CCTCA is currently outperforming the average industry rates.

Figure 4: E-mail marketing results

	CCTCA (FY’17 Average)	Travel and Tourism ⁸	Government Agency or Services	Marketing, Advertising, Public Relations
Open rate	28%	15%	22%	11%
Click through rate ⁹	17%	8%	9%	6%
Unsubscribe rate	0.40%	0.14%	0.10%	0.09%

Writing great subject lines, using pre-headers¹⁰, having an identifiable e-mail address, testing to determine the best time to send out e-mails, and having updated and relevant content are just some of the things that can be done to improve e-mail open rates. As CCTCA is currently outperforming industry averages, it appears that some or all of this is being considered when sending out their monthly e-mails.

⁸ E.g. Limousine driver, tour guide.

⁹ Percentage of people who opened the e-mail and clicked at least one link, button, or clickable image link in the e-mail.

¹⁰ Many e-mail clients display a short line of text in addition to the subject line. A good preheader supports the subject and gives DMOs a little more room to entice opens.

Procurement card

Policy

The procurement card policy was updated effective May 1, 2017, partially as a result of the procurement card internal audit¹¹. Prior to this update, procurement cardholders were required to include a copy of the credit card receipt or sales slip as supporting documentation. Credit card receipts, such as those provided by restaurants, typically just include the following:

- Amount billed,
- Location for customer to insert a tip, and
- Total to be billed to credit card (i.e. amount billed plus tip).

Supporting documentation should be improved

Without an itemized receipt, we are unable to verify what was purchased. Within our sample, we identified transactions to 17 different vendors where we could not determine what was purchased. Total questioned costs for these transactions equals \$1,071, or \$1,283 if you include the tip. While we could not verify what was purchased, there was general notation which indicated the purpose of the purchase supported tourism promotion. For example, within the procurement card log it would state the food purchased was associated with a “familiarization tour”.



Conclusion

Given the unique nature of CCTCA’s business and the number of CCTCA employees with a procurement card, ***we recommend CCTCA management ensure compliance with procurement card policies during their review. We also recommend CCTCA management consider making notations on the procurement card log to clarify circumstances that could indicate non-compliance.***

IRS compliance needs to be addressed

Trips or familiarization (“fam”) tours

There are generally three types of trips related to travel influencers:

1. **Media Trips** – Tourism staff organize media trips for the purposes of providing editorial staff, freelance writers, bloggers and social/travel influencers with direct experience of the area for first-person coverage across media platforms.
2. **Trade Trips** – Tourism response to travel trade familiarization tours brought to the area by Travel Oregon. CCTCA does not recruit and host their own trips of this nature.

¹¹ Clackamas County Internal Audit Report #2016-4 at <http://www.clackamas.us/internalaudit/documents/report2016-4.pdf>

3. **Frontline Trips (Concierge Fams)** – CCTCA hosts several tours for frontline travel industry service staff (e.g. concierge staff) from around the area each year. The tours focus on activities and attractions that frontline staff can recommend to their guests.

Destination marketing organizations (DMOs), including the CCTCA, typically look for two distinctive qualities when searching for a travel influencer for media trips: reach and expertise. Travel influencers are able to expand markets through and give marketing messages greater reach by sharing those messages with their own social networks. Media trips range from national travel influencers to worldwide travel influencers.

Costs associated with the travel influencers’ media trip can be paid for by CCTCA staff on their County procurement card. Travel influencers are generally being brought to Clackamas County by the CCTCA to promote the County. Payment in money, gift cards (i.e. Visa gift cards), products or services, in exchange for the travel influencer sharing information about the County on their social network(s) is income for the travel influencer.

After speaking with Internal Revenue Service (IRS) staff and reviewing IRS forms, instructions and publications, it is Internal Audits’ opinion that IRS tax forms, such as a 1099-Miscellaneous form, are required to be issued by the County when independent contractors (e.g. travel influencers) are compensated in cash, goods or services that equals or exceeds \$600 in one calendar year. This would include the cost paid for by the County for the travel influencers’ plane ticket, lodging, activities, food, gift cards for incidentals, etc. For example, we noted one instance where CCTCA paid for a travel influencers lodging, pontoon boat rental, picnic supplies, and provided them with a Visa gift card, as well as gift cards to Oregon City Brewing Company and Op Wurst, Timberline Lodge and the Skyway Bar and Grill for a total of \$2,554.

Some DMOs enter into a written agreement with the travel influencer prior to their media trip. This written agreement ensures DMOs have adequate information from the travel influencer to provide the travel influencer with the necessary IRS documentation. Written agreements serve to protect the interests of all parties, define ownership and usage rights of materials, outline total compensation and clarify expectations. Consideration is also given in the written agreement to ensure the travel influencers’ message remains independent of any conflicts.

Authentic experiences are the purest form of inspiration for Oregon’s “Explorer” target audience

IRS tax forms are required to be issued by the County when travel influencers are compensated in cash, goods or services that equals or exceeds \$600 in one calendar year.



Promotions – Gift cards and gift certificates

CCTCA incentivizes existing users and tries to attract new users through contests, sweepstakes or giveaways. Regardless of household income level, consumers have consistently named promotions, deals and discounts as the number one reason they connect with brands, specifically on social media. To capitalize on this consumer behavior, successful marketers leverage offers and develop contests, sweepstakes and giveaways. These promotions can result in prizes, gifts, gift certificates and/or gift cards. For example, we reviewed two transactions for different time periods that were to two separate people for Alaska Airline gift certificates equaling \$1,000 a piece (or \$2,000 total) as a part of winning an Austin, Texas sweepstakes. Another promotion was good for two people for 3-nights of lodging (one room), a \$500 travel allowance, a digital camera (\$150 value), a certificate to create a personal travel photo journal (\$35 value) and meal certificates. To promote their newsletter, CCTCA also offers a monthly drawing promotion to those who sign up. Purchases for these promotions are primarily made by CCTCA staff via the County's procurement card.



If someone wins a sweepstakes or contest prize, such as a gift or gift card, there may be taxes due on the prize. (If the prize or gift is a non-cash award, the County should consider the prize or gift at the items fair market value.) Prizes are generally considered taxable income regardless of whether the prize is in the form of cash, trips or merchandise. If the prizes or gifts are at least \$600 in one calendar year, the County is required to report the value to the prize winner and the IRS on a Form 1099-MISC. This is potentially significant because the County would likely have to get not only the prize winners name and address, but also their social security number.

The County does not currently track and issue an IRS Form 1099-MISC when the CCTCA awards a prize or provides a travel influencer with meals, lodging, flights, incidentals, etc., which are equal to or greater than \$600 in one calendar year.

We recommend CCTCA management work with the Finance department and County Counsel to develop a system that ensures compliance with federal reporting laws associated with payments for travel influencers, prize or promotion recipients. Management needs to ensure the County receives adequate reporting information (e.g. IRS form W-9) prior to the travel influencers' media trip or promotion recipients receive their prize, so management can prepare the appropriate IRS form(s).

We also recommend CCTCA management consider creating a written agreement with travel influencers visiting Clackamas County where CCTCA is paying for some or all of the travel influencers' media trip costs.

Additional items to consider including in a standard agreement include, but are not limited to:

- Who retains creative control?
- Image specifications?
- Will a preview be made available prior to posting?
- Any applicable deadlines?
- Will content created be promoted across other social channels?
- Payment details?
- Standard contract clauses?
- Ownership, licensing, clearances?
- Federal Trade Commission considerations?
- Liability risk?

Additional approval needed on leases, agreements and contracts

At the time of the issuance of this report, there existed different interpretations of the County Code in regards to the authority of the CCTCA’s Director’s ability to enter into various leases, agreements and contracts. Our findings and recommendations are based on the opinions of County Counsel.

Hoodland Senior Center lease

The property at 65000 E Highway 26 in Welches was purchased by the CCTCA with transient lodging tax (TLT) revenues. Originally this location served as a visitor information center (VIC). With the closing of the Dorman Center in Welches, the senior center found itself without a location for its operations. The Dorman Center agreed to occupy the property in exchange for covering the operational and some maintenance costs.



Picture courtesy of Google

Because the property was purchased with TLT revenues, this arrangement must have a “tourism” benefit (e.g. ORS 320.300). According to CCTCA management, this arrangement benefits the traveling public by making public restroom facilities available mid-mountain and will benefit the community by putting a tenant in a building that was vacant for years. The Hoodland Senior Center currently leases the facility for \$1 per month.

The most recent lease agreement was signed by the CCTCA Executive Director on December 20, 2016. Conversations with County Counsel indicate that according to ORS 203.010 leases of this nature should be entered into (i.e. approved) by the Clackamas County Board of County Commissioners (BCC). We are not aware that such approval has been granted by the BCC for this lease.

In exchange for \$1 per month in rent, the Hoodland Senior Center covers operational and some maintenance costs.

Travel Oregon IGA

CCTCA relies on Travel Oregon to build overall visitor awareness for Oregon, with CCTCA efforts directed and focused on the familiarity and selection of Mt. Hood Territory as the final trip destination.

As a part of testing procedures performed, we reviewed the current intergovernmental agreement (IGA) with Travel Oregon. Travel Oregon has agreed to pay the CCTCA an amount not to exceed \$350,000 for the 2015-17 biennium and an amount not to exceed \$600,000 for the 2017 – 19 biennium for work to be performed by the CCTCA in the Mt. Hood/Columbia River Gorge regions (figure 7). According to conversations with County Counsel, IGA's of this size and nature should go through the BCC for review and approval. As confirmed by CCTCA management, this agreement did not go through the BCC for approval.

USDA Forest Service agreement

The CCTCA has an agreement with the USDA Forest Service for them to provide visitor information services personnel for the ZigZag visitor information center (VIC). In the agreement signed in May 2016, it noted that the funds were going to be used so that the ZigZag VIC could be open 7 days a week in the summer and into the fall.

In the past three fiscal years, the CCTCA has contributed the following to the USDA Forest Service:

<u>Fiscal Year</u>	<u>Expense</u>
2014-15	\$50,580
2015-16	\$49,820
2016-17	\$50,550
Total	\$150,950

We are not aware that the original agreement nor the subsequent modifications have gone through the BCC for approval.

Contract with Travel Portland

CCTCA continues to partner with Travel Portland or the Portland Oregon Visitors Association on getting tourists to Oregon and the Mt. Hood Territory. Since at least fiscal year 2013-14 the CCTCA has paid Travel Portland at least \$7,500 a quarter. At the beginning of each fiscal year, CCTCA and Travel Portland agree to a scope of work. We reviewed the scope of work for fiscal years 2016 and 2017. We noted the scope of work was nearly identical for the two years we reviewed (fiscal year 2016 and 2017). We are not aware that these scopes of work have been reviewed and approved by the BCC.

Recommendation regarding agreements, leases and contracts

We recommend CCTCA management have the aforementioned lease, agreements and contract reviewed and approved by the appropriate departments and officials (e.g. BCC) in compliance with procurement and local contract review board (LCRB) rules. Note, we are aware that security cameras were purchased by CCTCA staff and are on-site at the Hoodland Senior Center location. CCTCA should work with Records Management to ensure the retention schedule for these recordings meets state archiving rules.

We are not able to identify or review every lease, contract or agreement that the CCTCA may enter into that may require additional (e.g. BCC) approval. **We also recommend CCTCA management work to identify all leases, agreements and contracts which may require additional (e.g. BCC) approval.** We encourage consultation with the Procurement division and/or County Counsel.

Sole source procurement documentation could be improved

Procurement rules can vary from CCTCA’s peers in the tourism industry. The most noticeable difference is due to the structure of the County’s tourism organization versus the County’s peers. As previously discussed, CCTCA is a department within Clackamas County whereas their peers are not-for-profits with a contract to be the DMO for a public entity. This dynamic means CCTCA must follow County policies and procedures related to procurements.

Throughout detailed testing procedures performed we noted nine instances where services or products were sole sourced. Given the unique nature of CCTCA’s business objectives, the CCTCA staff and management were generally able to provide information which supported why they believed a sole source procurement was appropriate. For example, providing information on why the vendor is the only one with the necessary availability, quality, merit or functionality required by the County. Information of this nature was generally gathered via interviews with CCTCA staff versus documentation previously prepared by staff.

We recommend CCTCA management work with the Procurement division to develop a process to adequately and efficiently document sole sourcing decisions and compliance with sole sourcing procurement requirements.

Transient lodging tax collection

Transient lodging tax (TLT) revenue continues to be cyclical for the County with the bulk of revenue coming in the summer. As expected, hotel/motels provide the most TLT to Clackamas County. The addition of eight online travel companies (OTC’s) in July 2015 also helped provide an average of ~\$30,900 in TLT revenue every month.

Figure 5: Clackamas County transient lodging tax – Count by month

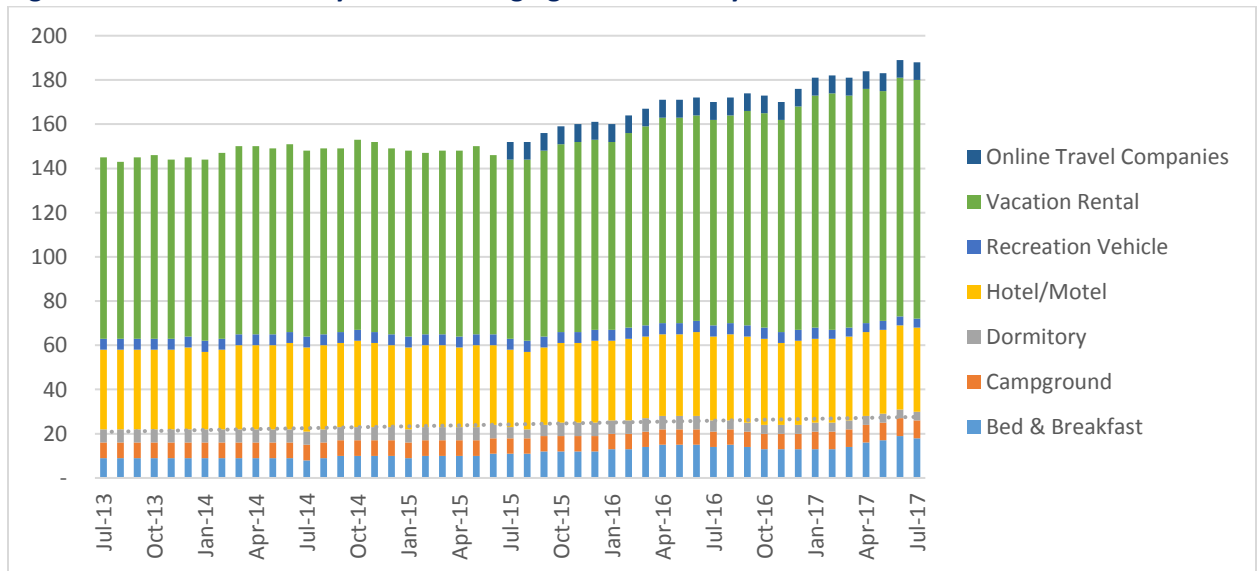
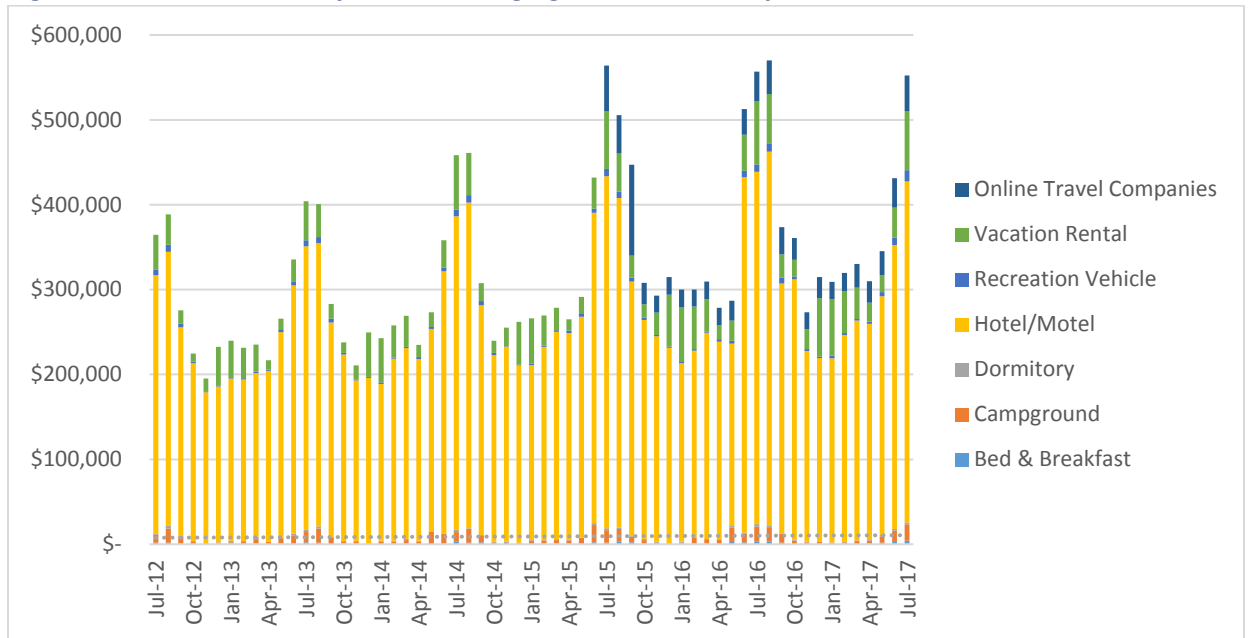


Figure 6: Clackamas County transient lodging tax – Revenue by month



TLT collection from intermediaries continues to be a challenge

The most recent challenge for public entities is the growing prevalence of residents engaging in short-term rentals (i.e. individuals or “hosts,” who list their homes, or a room in their homes, on a website such as Airbnb, VRBO, HomeAway, TripAdvisor, etc. and allow “guests” to stay with them and charge rent). As discussed below, these rentals are also generally subject to the State and County TLT. Instead of attempting to track down each and every host within the jurisdiction, many public entities (including Portland, San Francisco and New York City,) have attempted to impose regulations and requirements on the hosting/intermediary platforms.

TLT is the main revenue source for the CCTCA. The Finance department serves as the primary collecting party for the County. An increase in TLT revenue would increase funding to the CCTCA.

Clackamas County has recently updated language in the County Code to specifically include intermediaries. County Counsel is actively engaging intermediaries, including lawsuits, to help ensure compliance with the recent code update. The challenge facing many public entities, including Clackamas County, is that they have not received taxes from many intermediaries or are not receiving information for tax verification.

The effect of not receiving the TLT from lodging intermediaries is significant

The State of Oregon did not receive TLT from lodging intermediaries until HB 2656 passed in 2013. Since then, annual lodging tax received from lodging intermediaries has increased dramatically each calendar year (CY):

- CY 2013 - \$64,592
- CY 2014 - \$410,578
- CY 2015 - \$1,153,382

Washington County agreed to transient lodging tax revenue terms with Airbnb on July 1, 2016. Washington County's TLT revenue¹² in the last four fiscal years (FY's) is outlined below:

- FY 2014: \$9,052,785
- FY 2015: \$10,069,044
- FY 2016: \$12,262,425
- FY 2017: \$14,068,503

OTC's and intermediaries like Airbnb and Vacation Rental by Owner (VRBO) made up over \$1.5 million (~11%) of the fiscal year 2017 TLT revenue received by Washington County. Information of this nature helps support how imperative it is for Clackamas County to work with these intermediaries and OTC's to ensure compliance with the County Code.

***We recommend** Finance management, in conjunction with County Counsel, continue to identify and work with OTC's and intermediaries to ensure their compliance with the Clackamas County Code.*

Additional options to ensure TLT compliance

Obtain information on operators from the State

House Bill (HB) 3180 clarifies ORS 320.340 and creates a path for other taxing jurisdictions, such as public entities, to obtain information on operators who are remitting lodging taxes to the State for regulatory purposes of compliance and enforcement. This level of information sharing will act as a resource to public entities to identify lodging operators paying the State tax, but avoiding local taxes. By sharing this basic information, the State and local governments would be able to compare business registrations and investigate any discrepancies.

HB 3180 went into effect on October 6, 2017. The Oregon Department of Revenue (DOR) will start the rule making process establishing how they will implement HB 3180. According to DOR management, the rules will be adopted in consultation with public entities. The DOR anticipates the earliest this could be completed is by July 2018. In order to share information with public entities, such as Clackamas County, likely public entities will need to sign a "secrecy certificate" with the DOR.

Additional options exist to identify non-reporters

Companies do exist who have explicitly developed programs to identify properties who are not

reporting their TLT revenue. Programs of this nature typically get information from the County on who is reporting and then information from the Tax Assessor on all properties within the County. With this information, the company is able to use longitude and latitude data, in conjunction with reviewing 25+ websites, to determine which listings are appropriately reporting to the County and which listings are not.

One company reviewed two popular intermediary sites and identified 683 short term rentals in Clackamas County

¹² Washington County's TLT is 9%. Washington County's net TLT received is distributed to the Tourism Fund (26%), General Fund (28%), Fair Fund (11%), Events Center (7%) and Cities (28% of the TLT remitted is returned to the respective city it originated from).

We spoke with one company who reviewed two popular intermediary sites. This company identified 683 short term rentals listed on these internet sites who were located in Clackamas County. Although possible, it is unlikely all these listings are registered and reporting TLT separately to the County.

How are we identifying non-reporters

Finance personnel has indicated that due to their limited resources, they have not been able to put a significant effort into identifying non-reporters.

We recommend Finance management work with the DOR to identify non-TLT reporters when this option becomes available. **We also recommend** Finance management explore additional options, such as outside vendors, to identify noncompliant TLT reporters. Cost-benefit considerations should be contemplated when determining if options of this nature are appropriate.

Outside audits

Some prior audit recommendations remain unresolved

Merina and Company, LLP, (MCO) issued a management letter on November 16, 2015, based on the agreed upon procedures they conducted for the period January 1, 2011 through December 31, 2013. Detail objectives of the agreed upon procedures were to:

- Determine what level of noncompliance exists among lodging providers.
- Review records of non-compliant operators and deliver unrealized revenue being denied the County as a result of willful tax evasion, record keeping mistakes, and lack of awareness of tax compliance obligations.
- Provide a foundation to implement positive changes to the TRT program.

As a result of procedures performed, MCO issued eight recommendations. Recommendations where only “partial corrective action” or “no corrective action” has occurred are discussed below. Recommendations where “corrective action is complete” are not discussed below.

- MCO recommends the County continue efforts to have the State of Oregon Department of Revenue (DOR) release information about the operators reporting and paying the state transient room taxes.

Partial Corrective Action: HB 2400 and 3180 passed in 2017, which should make this possible in the near future. Once rules are created and implemented by the DOR, the County will need to work with the DOR to create this information sharing and do a cost-benefit analysis to determine if it would be more efficient and effective to have the DOR collect, enforce, administer and distribute the TLT for Clackamas County.

- MCO recommends the County contact booking agents (i.e. Airbnb, FlipKey, etc.) to register.

Partial corrective action: As discussed earlier in this report, we are aware that the County is engaging intermediaries to ensure compliance with the County Code.

- MCO recommends the County do monthly spot audits to ensure compliance with the County Ordinance on a more consistent basis.

No corrective action taken: The County is not currently performing monthly spot audits. The County’s focus is on getting OTCs and intermediaries compliant.

- MCO recommends the County update the County Ordinance to clarify responsibilities and deadlines. Some suggestions include:
 - Eliminating County Ordinance section 8.02.150 (C), MCO would recommend adding some wording similar to that below instead:
 - The audit by the Tax Administrator or person authorized by the Tax Administrator need not be based on reasonable cause to believe the operator’s returns are incorrect, but may be conducted as a periodic check to ascertain and determine the amount required to be paid, or to verify the accuracy of any return.
 - Require online travel companies (i.e. Expedia, Travelocity, etc.) and booking agents (i.e. Airbnb, FlipKey, etc.) to remit a reconciliation for the operators for which they have collected transient room taxes.
 - One of the significant issues MCO ran into was operators not being responsive in a timely manner. MCO would recommend adding clarifying wording that if there is an audit or examination of records that the operator has a specified number of business days after notification to respond. For example:
 - The Tax Administrator or person authorized by the Tax Administrator may from time-to-time, conduct periodic audits of any person required to file a return or pay a transient occupancy tax, and may, at a mutually agreed upon time with the operator, but no later than ten (10) business days after notification, examine the books, papers and accounting records of any hotel operator during normal business hours.

Partial corrective action taken: Updates have been recently made to the County Code¹³ to address some of the recommendations outlined above.

We (Clackamas County Internal Audit) recommend Finance management continue to work to fully implement all recommendations outlined by MCO (above).



¹³ County code chapter 8.02

Recommendations in Summation

To improve County processes, we recommend CCTCA management:

- Continue to develop ways to measure and report on their return on investment (ROI) as it relates to social media and the CCTCA website.
- Ensure compliance with procurement card policies during their review.
- Consider making notations on the procurement card log to clarify circumstances that could indicate non-compliance.
- Work with the Finance department and County Counsel to develop a system that ensures compliance with federal reporting laws associated with payments for travel influencers, prize or promotion recipients.
- Consider creating a written agreement with travel influencers visiting Clackamas County where CCTCA is paying for some or all of the travel influencers' media trip costs.
- Have the aforementioned lease, agreements and contract reviewed and approved by the appropriate departments and officials (e.g. BCC) in compliance with the procurement and local contract review board (LCRB) rules.
- Work to identify all leases, agreements and contracts which may require additional (e.g. BCC) approval.
- Work with the Procurement division to develop a process to adequately and efficiently document sole sourcing decisions and compliance with sole sourcing procurement requirements.

To improve County processes, we recommend Finance management:

- In conjunction with County Counsel, continue to identify and work with online travel companies (OTC's) and intermediaries to ensure compliance with the Clackamas County Code.
- Work with the Oregon Department of Revenue (DOR) to identify non-transient lodging tax reporters when this option becomes available.
- Explore additional options, such as outside vendors, to identify noncompliant transient lodging tax (TLT) reporters.
- Continue to work to fully implement all recommendations outlined by MCO.

Objectives, Scope and Methodology

Our audit objective was to evaluate Clackamas County's Tourism and Cultural Affairs (CCTCA) department. We focused on industry reports and metrics, comparing CCTCA to its peers and ensuring compliance with key Federal, State and County policies and procedures.

To address our audit objectives, we interviewed:

- CCTCA employees,
- Finance employees,
- County employees in various departments who assist in administering CCTCA functions,
- Members of the Tourism Development Council (TDC), and,
- Employees of various destination marketing organizations (DMOs) throughout the State of Oregon.

We compared our operations to other destination marketing organizations. We learned of additional procedures that could be implemented by the County and existing challenges the CCTCA department faced.

We reviewed internal controls associated with processing financial and procurement card transactions. These controls include signature authority and the associated approval documentation. We also reviewed individual purchase decisions.

To understand the CCTCA's financial position, we reviewed documents covering CCTCA's revenues, expenses and budgets.

We conducted a series of control, substantive and legal compliance tests. We used individual transaction data from the County's financial management application (PeopleSoft Financial) and procurement card subsidiary system (Bank of America). Our population consisted of PeopleSoft expenses from July 1, 2013 – April 15, 2017 and procurement card transactions from December 23, 2009 – May 29, 2017.

Detail control, substantive and legal compliance testing was ultimately performed over individual transactions. We selected all transactions judgmentally using various data stratification techniques.

We reviewed Federal and State laws, administrative rules and best practices related to our audit objectives. We also reviewed a prior audit conducted by Merina and Company, LLP (MCO). We commented on prior recommendations that had not yet be corrected.

An auditor from another organization, who was not involved with the audit, conducted a quality control review of the audit report to ensure it was accurate and conclusions were supported by audit evidence. This auditor is a Certified Public Accountant, Certified Internal Auditor and Certified Fraud Examiner.

The courtesies and cooperation extended by volunteers, officials and employees of the CCTCA, TDC, the County's Finance Department, County Counsel and County Administration during the course of this audit were commendable and sincerely appreciated.

Pictures courtesy of the Mt. Hood Territory, unless otherwise noted.

Supplementary Information

More tourism money is coming to Clackamas County

Travel Oregon

The 2016 Legislative Assembly approved HB 4146, which increases the State lodging tax rate from 1 to 1.8 percent for four years and then sets the rate as 1.5 percent thereafter. The increase applies to payments made on or after July 1, 2016 for taxable lodging transactions. The new law also changes how Travel Oregon is required to spend lodging tax proceeds. The required amount to be spent on State tourism programs decreases from 80 to 65 percent of net lodging tax revenue, while the amount to be spent on regional tourism programs goes to exactly 20 percent from a previous maximum of 15 percent. This has potential to be a significant increase in the amount of State lodging tax money spent throughout Clackamas County, especially since Clackamas County resides in three of the 10 lodging tax regions and three of the seven regions established by the Oregon Tourism Commission (i.e. Greater Portland, Mt. Hood/Gorge and Willamette Valley).

As discussed in the “Audit Results and Recommendations” section above, Travel Oregon and the CCTCA have an intergovernmental agreement (IGA). Per this IGA, Travel Oregon has agreed to pay the CCTCA for work to be performed by the CCTCA in the Mt. Hood/Columbia River Gorge region. CCTCA could see this amount increase significantly as a result of HB 4146.

Figure 7: Oregon Tourism Commission’s seven regions



Picture courtesy of Travel Oregon

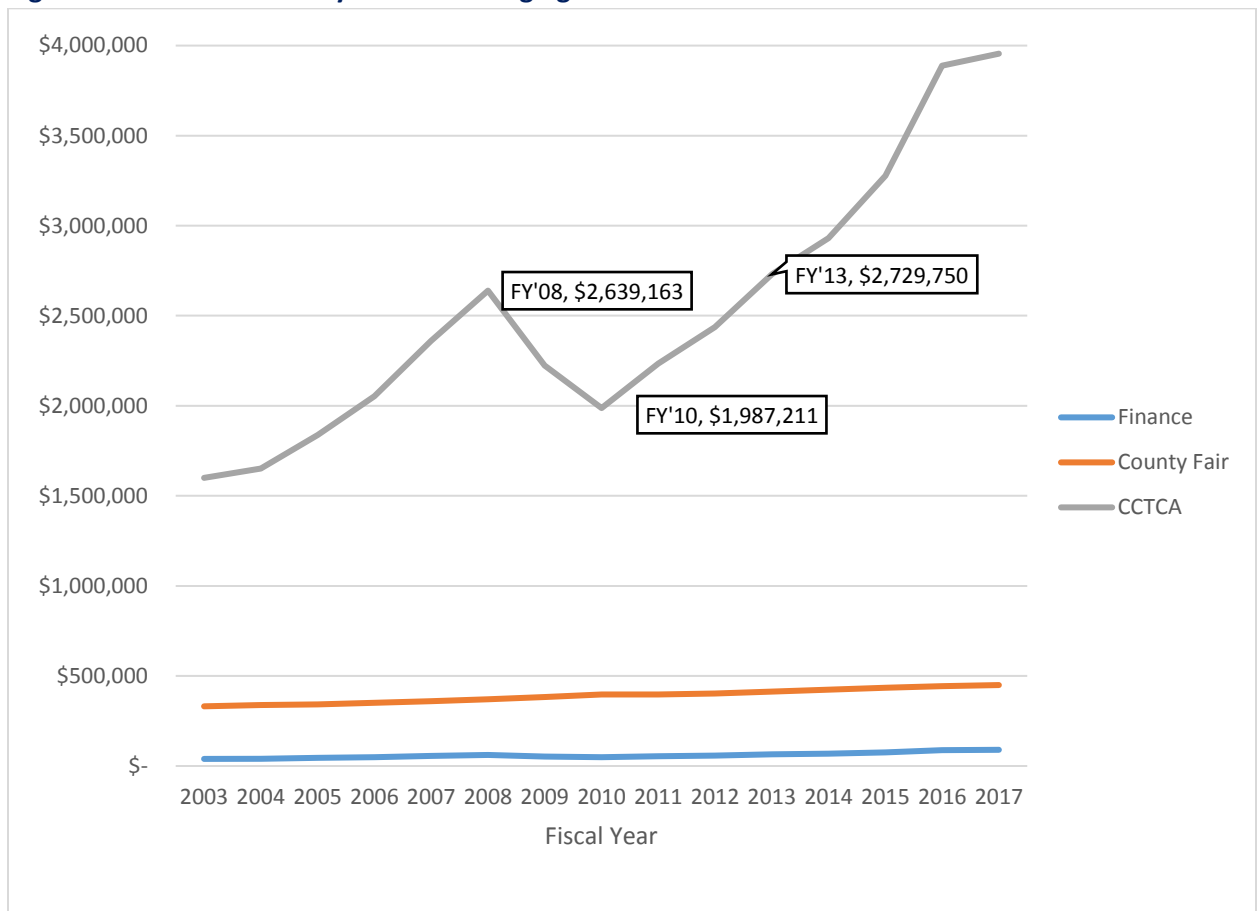
A regional allocation formula distributes revenues to regions in proportion to the amount of State TLT revenues collected in each region. The distribution is based on the 7 regions established by the Oregon Tourism Commission (figure 7).

Clackamas County Transient Lodging Tax – Distribution

Another way to gauge Tourism’s success is to look at the transient lodging tax (TLT) revenue received by Clackamas County.

As is seen in figure 8, transient lodging tax (TLT) revenue distributed to the CCTCA dipped in fiscal years 2008 – 2010. This appears to coincide with the “Great Recession” that began in December 2007 and ended in June 2009¹⁴. TLT received by the County did not fully recover until fiscal year 2013. TLT has continued to steadily increase since.

Figure 8: Clackamas County Transient Lodging Tax Distribution



¹⁴ U.S. National Bureau of Economic Research.

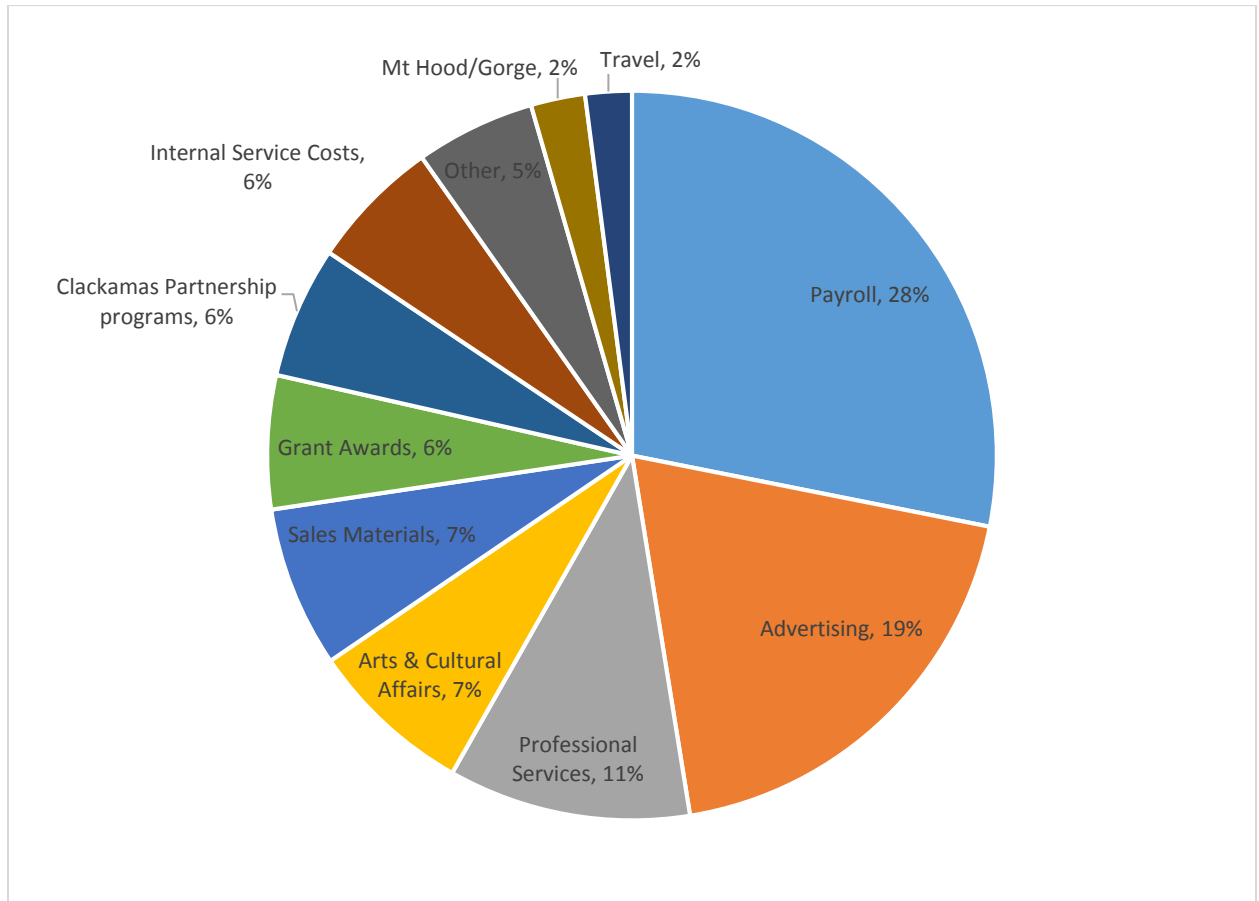
How does the CCTCA spend money?

There are two primary ways County departments can spend money.

1. Field purchase orders, purchase orders, vouchers, etc. that are recorded directly into the County's financial management system, currently PeopleSoft Financial.
2. Using the County's procurement card.

PeopleSoft financial

Figure 9: CCTCA expenses from July 1, 2013 – April 15, 2017



Note: Total dollar amount of expenses above is \$14,598,248.

Figure 10: Top vendors paid by CCTCA from July 1, 2013 – April 15, 2017

<u>Vendor</u>	<u>Amount</u>
Borders Perrin Norrandner Inc (BPN)	\$3,350,400
Arts Action Alliance Foundation	\$768,187
Regional Arts & Culture Council	\$320,000
Clackamas Heritage Partners	\$263,167
Travel Oregon	\$249,010
We Love Clean Rivers	\$194,190
USDA Forest Service	\$150,950
Willamette Falls Heritage Area Coalition	\$140,865
Portland Oregon Visitors Association	\$135,508
Mt Hood Cultural Center & Museum	\$127,376

Procurement card spending

Figure 11: Procurement card expenses for December 23, 2009 – May 29, 2017

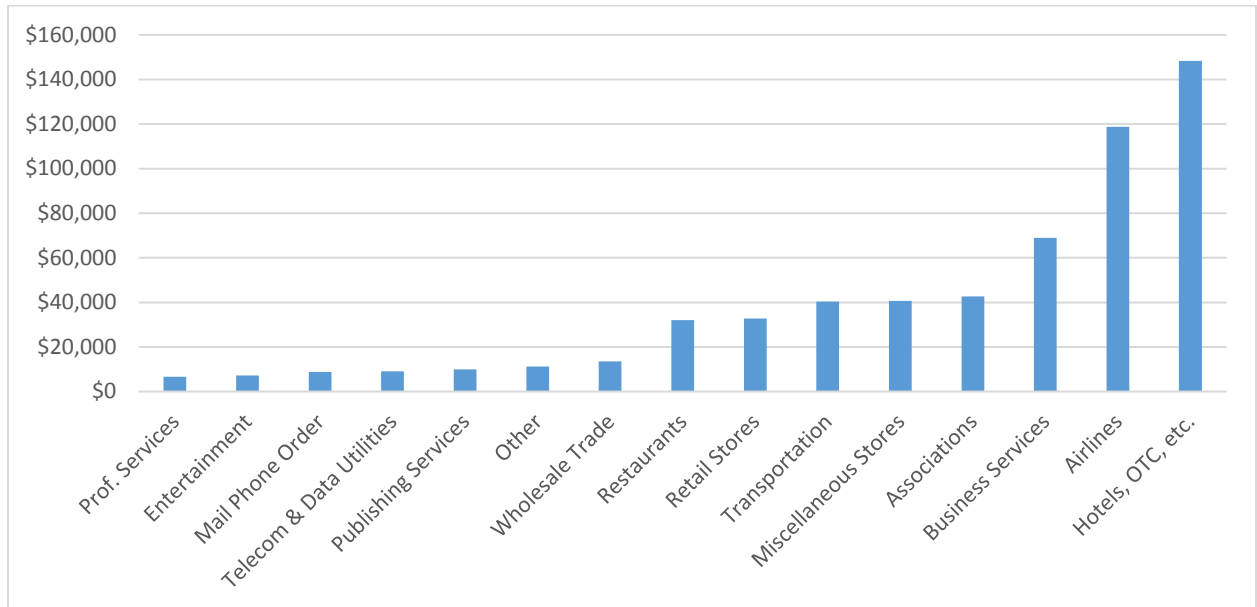


Figure 12: Top vendors, procurement card expenses for December 23, 2009 – May 29, 2017

Vendor	Amount
Facebook	\$43,538
Alaska Airlines	\$28,064
Best Western	\$23,335
Southwest Airlines	\$20,292
Kaser & Blair	\$18,315
Virgin America	\$15,257
American Airlines	\$11,707
Paypal	\$10,986
Delta	\$10,677
Orbitz.com	\$10,388

Reports and more reports

Measuring ROI

As discussed in the “Audit Results and Recommendations” section of this report, measuring the return on investment (ROI) of every marketing campaign can be difficult. There exists a significant amount of reports that we reviewed to try and measure the success of the CCTCA. This includes Smith Travel Research (STR), Longwoods, Visa Vue, Dean Runyan, Forward Keys, MMGY Global, Oxford Economies, and more.

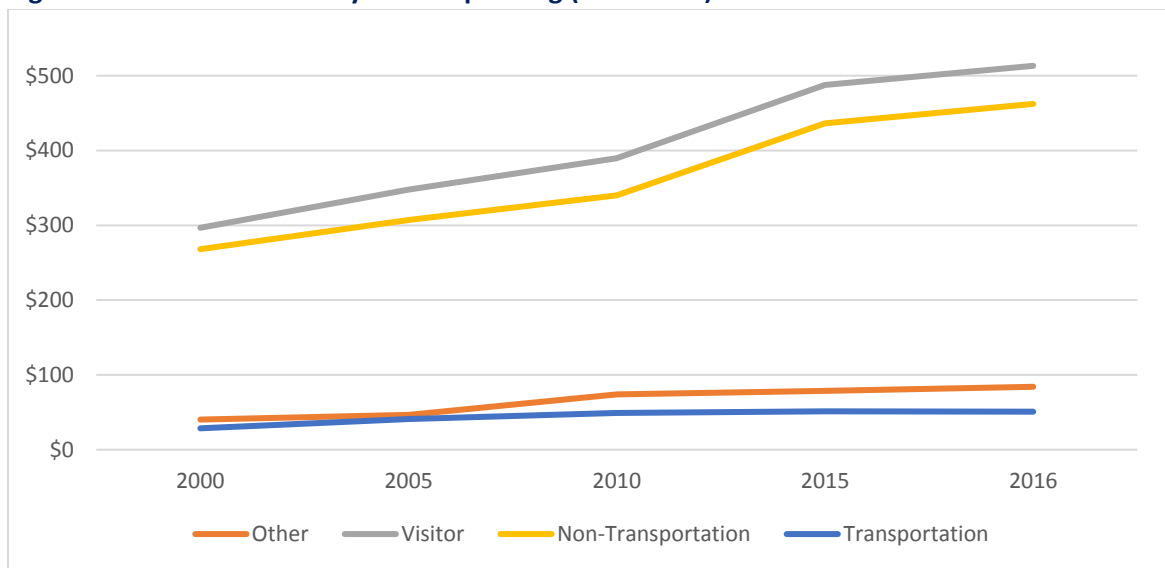
Statistics

In 2015 there were 33.1 million overnight trips to Oregon. Of those trips, 3.2 million or 10% spent time in the Mt. Hood-Columbia River Gorge region (figure 7). \$483 million was spent in the region, primarily on lodging and food.

In Clackamas County, visitors who stay in private homes typically comprise the largest share of overnight visitor volume; while visitors who stay overnight in commercial lodging typically have the greatest economic impact. There is substantial variation among destinations, however; most rural and suburban areas have high shares of private home visitation. Urban areas tend to have greater shares of hotel/motel stays.

Total visitor spending in Clackamas County has increased since the year 2000. With the exception of “transportation”, visitor spending has increased in every measured category.

Figure 13: Clackamas County visitor spending (in millions)



Source: Dean Runyan, Oregon Travel Impacts 1992-2016p (May 2017)

Note: Non-transportation spending includes accommodations, food services, retail, food stores, arts, entertainment & recreation.

Visitor spending continues to increase in the County, while the amount of rooms available have generally remained the same since August 2014. The demand or amount of rooms sold has never surpassed the measurable supply within the County (i.e. occupancy averages 72%, with a low of 56% and a high of 89%). As expected, the amount of rooms sold generally coincides with the amount of TLT revenue received by the County (figure 6).

Tourism grants

Grants offered

Tourism offers three different grant programs:

- Community Partnership Program Grants
- Development Grants
- Heritage Grants

Community Partnership Program (CPP) grants

CCTCA offers up to \$260,000 to thirteen local communities, (\$20,000 per community,) for tourism related projects that have the ability to:

- Increase overnight stays in lodging facilities;
- Bring visitors into a community from more than 50 miles away to recreate, shop, dine, or take in the arts cultural or historic offers, and/or;
- Entice visitors to linger longer in communities within Clackamas County.

Separate applications are required for each project, even if an applicant is submitting multiple proposals. The CPP grant is built as a competitive grant program. Generally projects have to be completed within one year. Unlike the Development Grant Program, which is a grant program/process led by CCTCA, the CPP is a grant program offered in partnership with 13 Clackamas County communities that makes funds available for local projects. Local review committees review applications using criteria, standards and guidelines established by the Tourism Development Council (TDC).

An evaluation sheet exists where applicants can receive a total of 100 points, as follows:

- 20: Likelihood of attracting visitors from outside the community,
- 20: Ability to create additional overnight stays within the County,
- 15: Includes/involves multiple community/tourism partners,
- 15: Leverages additional dollars and/or resources
- 15: Project is self-sustaining, has growth potential, or is capacity building,
- 15: Project has measurable or attainable return on investment (ROI).

The projects selected are those that the local review committee believes can offer the most tourism-related benefit to the community that year given the mix of proposals. A local administrator oversees the review and selection process. Administrators are chamber directors, city staff, and the likes. After review committees have made their decisions, the administrators send a list of recommended projects with award amounts to CCTCA staff. CCTCA staff review the information to confirm the projects fit within the program's parameters. They also check to confirm that these applicants have completed year-end reports for any previous awards before an award agreement is sent.

According to CCTCA management, CPP includes:

- Standard grant materials
- Standard application process
- Short term smaller projects are preferred
- Hard schedule on dates of completion with clear deliverables
- Standard year end reports
Note: Year-end reports and invoices can now be submitted online
- Standard funding award agreements

Typically 80-90 grants are awarded each year. Organizations do not get any more money if they do not fulfill all the requirements of the grant process.

Development grants

Development grants are open to public, private and not-for-profit organizations whose project benefits the greater public interests of tourism development. Grant monies will not be awarded to projects that emphasize private profitability or one where the investment could be considered a regular cost of doing business.

The goal is to create and improve County assets. Grant recipients can receive \$5,000 - \$100,000 per grant, with total development grant awards to not exceed \$250,000 in each fiscal year. Generally projects must be completed within one year, but they have had projects that range from 2 months to 2 years.

A panel reviews the proposal from the organization and looks at input from CCTCA staff. For example, a recent review panel consisted of two Tourism Development Council (TDC) members, a person from Travel Portland, a person from Travel Oregon, two CCTCA employees and a person from America's HUB World Tours. Each application is scored individually. Based on the scoring, a recommendation is given to the TDC on who should be awarded the grants and for how much. The TDC ultimately awards the grants. CCTCA staff circle back with those awarded and not awarded grants. Typically there is an award letter and a partial advance to get the project moving.

CCTCA receives reports regularly. Reports are typically submitted in paper files, but they are moving to an electronic format.



Restoration of the Dibble House south wall.



Torch area ventilation system, lighting, chairs, and more, created with help from the County's Heritage Grants.

Heritage Grants

Heritage Capital Improvement grants are intended to provide support for capital improvements, unique opportunities or unforeseen needs. Any County-based individual or organization with a need related to heritage and possessing visitor-facing (tourism) programming may apply for Heritage Capital Improvement grant assistance. Application is made via Letter of Intent and must be accompanied by a completed budget sheet. The minimum grant request is \$500. The maximum grant request is \$20,000.

Visitor information centers (VICs)

Visitor information centers exist at the end of the Oregon Trail Interpretive center, Mt. Hood cultural center and museum, and the Zigzag ranger district.



Oregon Trail Interpretive Center

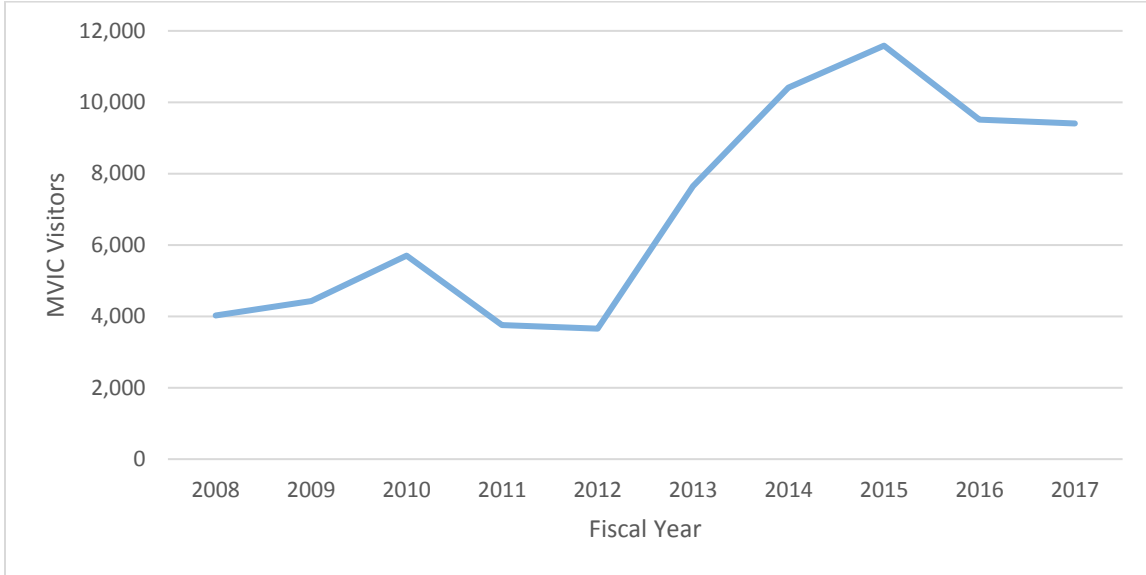
Mobile visitor information center (MVIC)



The MVIC serves as an ambassador and traveling showcase, promoting the Mt. Hood Territory at fairs, festivals and other popular events around the Pacific Northwest. The MVIC goes to approximately 29 events for 84 days out of the year. According to statistics gathered from the CCTCA, the audience attending these events has grown drastically since they first started

measuring this number in fiscal year 2007-08 from 63,000 to over 1.8 million in 2016-17. Of that audience attending these events, the CCTCA indicates visitors to the MVIC has also increased, as shown in figure 14.

Figure 14: Visitors to the MVIC



Note: Fiscal year 2017 data is through February 2017.

Finance Department Management Response:

- 1) In conjunction with County Counsel, continue to identify and work with online travel companies (OTC's) and intermediaries to ensure compliance with the Clackamas County Code.**

The County has identified the primary online travel companies and intermediaries, naming them in the official complaint filed by County Counsel on September 7, 2017. Counsel is currently in negotiations with AirBnB and has a draft agreement, with hopes that a final agreement will be reached in the next few months. Counsel is actively working with other intermediaries such as HomeAway.

- 2) Work with the Oregon Department of Revenue (DOR) to identify non-transient lodging tax reporters when this option becomes available.**

The County successfully lobbied the Oregon Legislature for a new information sharing law between governmental entities (State & Local) that went into effect October 6, 2017. The Oregon State Department of Revenue is gearing up to implement this law and has requested that local governments identify a staff member who is authorized to receive confidential information and supply the State with a completed the Secrecy Certificate. The Finance Department completed these actions in November 2017.

- 3) Explore additional options, such as outside vendors, to identify noncompliant transient lodging tax (TLT) reporters.**

Initial cost benefit analysis indicated that the cost of using a company to do this work would not yield the necessary revenues to make this worthwhile. Small operators, such as a single cabin owner renting occasionally, comprise the majority of the remaining non-compliant operators presently. The County has determined that contracting to find smaller noncompliant operators would yield fairly small increases in revenue at this point in time. With the County's legal complaint filed against large operators, which yield the highest tax revenues for the County, we are confident that we will capture the majority of the previously unidentified and unremitted revenues through the efforts of County Counsel.

- 4) Continue to work to fully implement all recommendations from MCO.**

Merina and Company recommended the following measures that are either partially resolved or not resolved at this date.

- a) The County work with DOR: This is partially resolved per our response to number 2 above.
- b) Contact booking agents to get OTC's registered: This is partially resolved as the County filed a complaint per our response to number 1.
- c) Updated county code to be more clarify the language: This is partially resolved as the County has made code updates to clarify that third parties must comply. Updates also changed late filing rules, penalties and interest calculations. Finance

will continue to review annually and refer suggested code changes to the County's Code Committee in Spring each year.

- d) Perform spot audits: No action has been taken on this to date. Finance will consider this option in the future (with a cost benefit analysis of this strategy); however, our current focus is to continue pursuing the intermediaries and collect those unremitted revenues for the County as this will bring the largest amount of revenues into the program.



January 16, 2018

Response to Clackamas County Internal Audit Recommendations by Clackamas County Tourism & Cultural Affairs

Clackamas County Tourism & Cultural Affairs appreciates the opportunity to respond to the findings of the Internal Auditor and his team on the review of our work. The Internal Auditor went to great lengths to understand the business and industry of tourism and hospitality, and spent many hours interviewing partners in the industry to better understand CCTCA and the work of a Destination Marketing Organization. We were pleased to see that in his audit findings, CCTCA performs as well as or better than others in the industry. He determined that we are well regarded leaders in the industry and trusted partners. Additionally, he determined that we spend our funds appropriately and that we implement effective strategies for the promotion and development of tourism in the county. The Auditor did have recommendations on how we can improve our business practices or at least had further questions about how CCTCA handles certain contracts and expenditures. Our responses to these recommendations are as follows:

Social Media

We recommend CCTCA management continue to develop ways to measure and report on their return on investment (ROI) as it relates to social media and the CCTCA website. Continue to work with their peers and organizations to ensure the CCTCA has the latest social analytics software to help measure ROI and optimize CCTCA's social media and website strategies.

CCTCA Response

As is our current practice, CCTCA under guidance by the Tourism Development Council, will continue to explore opportunities to measure and report the effectiveness of all of our marketing and communication efforts, in particular utilizing reputable third-party vendors who specialize in the tourism industry to measure Return on Investment specific to the industry. Tourism staff have already identified some new metrics to add to our reporting as we continue to search for ways to measure our success. These measurements are in part controlled by the APIs released by the social channels themselves, limiting some of the numbers that can be gleaned. Currently, CCTCA engages with an industry leader, Simply Measured, to help us measure ROI on our efforts and are open to new resources and technologies for measurement.

Procurement Cards

Given the unique nature of CCTCA's business and the number of CCTCA employees with a procurement card, *we recommend CCTCA management ensure compliance with procurement card policies during their review. We also recommend CCTCA management consider making notations on the procurement card log to clarify circumstances that could indicate non-compliance.*

CCTCA Response

Due to the nature of our business enterprise as compared to other county departments, CCTCA will continue to work with the Tourism Development Council, the County Administrator and other county departments to determine the most appropriate manner to report and comply with County Procurement Card policies. In the recent second opinion obtained by the Board of County Commissioners and the TDC to ascertain authorities regarding the expenditure of Transient Lodging Taxes (TLT), the determination was that the TDC has the authority to direct TLT expenditures which includes the promotion of the county's

numerous wineries, breweries and other related hospitality industries (such as restaurants, etc.), which is a common feature among Destination Marketing Organizations (DMOs) and is a key element of the County's Tourism Master Plan approved by the Board of County Commissioners. Currently, county procurement card policies do not offer a clear path for achieving the required mission of the CCTCA staff in this regard and the relevant county departments and boards are working on a viable solution to that dilemma.

Also, according to the analysis by Mr. Berman: "...The County, cannot, in good faith, change its policies or ordinances as a means to obtain authority or disapprove TDC actions or intended actions." The audit refers to county policy changes to the Procurement Policy in May 2017 which further restricts how purchases are to be reported. We believe we are compliance in most circumstances with the pre- May 2017 policies, but are being subjected to new, more restrictive reporting that were approved May 2017. Given the findings in the second opinion, we believe county policies should be reviewed to determine if changes to them have further restricted or negatively impacted the actions or intended actions of the TDC to fulfill its mission.

Another area of concern relates to the work of other DMO partners and CCTCA. Often county staff are working in partnership with entities such as Travel Oregon and Travel Portland where we may be co-hosting an event sponsored by a partner that may require CCTCA staff to use a county procurement card to pay for the event or an aspect of the event that then is reimbursed by the partner agency at a later date. In those situations, we do not direct or control the price or items served, but function merely as a pass through agent, creating a potential conflict with county procurement card policies. We agree that in those rare circumstances, such irregularities are appropriately noted on the transactions reporting forms.

Compliance with IRS Requirements

We recommend CCTCA management work with the Finance department and County Counsel to develop a system that ensures compliance with federal reporting laws associated with payments for travel influencers, prize or promotion recipients. Management needs to ensure the County receives adequate reporting information (e.g. IRS form W-9) prior to the travel influencers' media trip or promotion recipients receive their prize, so management can prepare the appropriate IRS form(s).

CCTCA Response

Tourism does not equate each of these areas of our work, so our response here will differentiate between them in this response:

Promotional Prize Recipients

CCTCA will continue to implement proper reporting for promotional prize recipients while ensuring use of adequate forms for proper reporting for tax information in consultation with the appropriate County Departments.

Travel Media Influencers

When CCTCA has hired independent contract writers, etc. for deliverable services/outcomes, we always strive to follow the appropriate reporting mechanisms required by the country and the Internal Revenue Service. However, the audit suggests that benefits received by FAM tour participants and travel influencers, also need to be reported as taxable income. We believe that further analysis of this question is necessary for these reasons:

When CCTCA hosts a familiarization tour or a travel influencer there is no contractual relationship and we are not aware of any other destination marketing organization that reports meals, lodging etc., in these circumstances as taxable income. Although, the audit presupposes that the travel writers are independent contractors of the CCTCA, we do not believe that that is the case. Unlike a traditional independent

contractor such as a gardener who is paid to produce a specific outcome, CCTCA has no control over whether the individuals will produce work, let alone work featuring our destination. It is not merely a question of direction and control in how the person performs a task, it is a complete lack of control as to whether the task will be started or completed. There is no behavioral control, financial control, nor do either of the parties perceive that benefits provided require specific or general work to be performed.

We believe that our situation is akin to that of economic development offices, including the county, who recruit CEOs and industry leaders/influencers/investors, in hopes that those individuals will locate their companies or do business in Clackamas County. Although those individuals may receive meals and other non-cash remuneration, we do not believe that those payments are reported as taxable income. The same is true of visiting dignitaries from China and other countries. We believe that recruitment of travel influencers who are no way contracted with CCTCA for predetermined outcomes or deliverables is no different from economic developments recruitment of business leaders, of the county's hosting of politicians, and that in none of those instances should benefits be reported as taxable income.

We also recommend CCTCA management consider creating a written agreement with travel influencers visiting Clackamas County where CCTCA is paying for some or all of the travel influencers' media trip costs. CCTCA's current media request form captures the types of information that the industry considers applicable and ethically appropriate for Destination Marketing Organizations to request for traditional travel influencer trips. Some of that information includes information such as outlet, media value, circulation, audience demographics, estimated story length, story angles, etc. Per both journalist and Public Relations ethics, a result cannot be guaranteed from traditional travel influencer trips.

However, destinations work with travel influencers in different ways beyond traditional media hosting and may require a more detailed agreement and be subjected to the appropriate IRS reporting requirements. Some of those situations that warrant additional written expectations between parties include when a destination hosts a travel influencer with the expectation that the influencer creates content that the destination will then own. CCTCA agrees that a different level of written agreement or a contract (depending on the type of media trip) is a best practice that we plan on observing if we work with travel influencers in capacities beyond traditional hosting. CCTCA will also continue updating its media request form as industry standards develop and change, or as the IRS requires.

Recommendation regarding agreements, leases and contracts

We recommend CCTCA management have the aforementioned lease, agreements and contract reviewed and approved by the appropriate departments and officials (e.g. BCC) in compliance with procurement and local contract review board (LCRB) rules. Note, we are aware that security cameras were purchased by CCTCA staff and are on-site at the Hoodland Senior Center location. CCTCA should work with Records Management to ensure the retention schedule for these recordings meets state archiving rules.

CCTCA Response

CCTCA generally follows the contracting rules and procedures as directed and as have traditionally been implemented. Some CCTCA contracts have been in existence for a decade or more and have followed the policy and procedures under which those were created. The Audit report in some instances has determined that those practices may not reflect current county policy or they were unaware that CCTCA did in fact seek and follow appropriate county direction and guidance. Specifically:

- 1.) The lease with the Hoodland Senior Center for Tourism's building in Welches was written with the assistance of County Council. They supplied the draft that was used. The staff attorneys who worked on it were Scott Ciecko and Scott Sideras.

- 2.) When it was determined cameras were needed for the Welches Building, Tourism staff consulted with County Technical Services. TS's response was that their involvement with the installation and maintenance of the system was not needed. There was no mention or referral to a need to consult further with Records Management. If this is a requirement, then certainly CCTCA intends to follow that guidance. However, we were not made aware of that as an issue when we originally consulted with other departments on this project.
- 3.) The contracts for the Visitor Information Centers, with the exception of the U.S. Forest Service, have always been drafted through the County's Procurement Division. Rationales for sole source contracts were provided to Procurement. Procurement approved all uses of this option. Copies of the documentation behind sole source contracts were provided to the auditor when requested.

Recommendation regarding agreements, leases and contract continued

We are not able to identify or review every lease, contract or agreement that the CCTCA may enter into that may require additional (e.g. BCC) approval. *We also recommend CCTCA management work to identify all leases, agreements and contracts which may require additional (i.e. BCC) approval.* We encourage consultation with the Procurement division and/or County Counsel.

CCTCA Response

CCTCA has some agreements with other travel organizations that have been in place for many years where we serve as a pass through agent for those funds. For instance, our agreement with Travel Oregon establishes CCTCA as the regional fiscal agent and administrator of state funds to work on behalf of the entire region, not solely for Clackamas County. Decisions for work plans and budgets are directed by the regional partners, not CCTCA. Since we have served as the pass through fiscal agent since the inception of the state TLT program in 2005, the agreement has never been reviewed by the Board of County Commissioners. CCTCA's annual budget has always included the Travel Oregon revenue and expense line item as a pass through, and the BCC has never questioned when they have approved the CCTCA budget.

Recommendation regarding agreements, leases and contract continued

We recommend CCTCA management work with the Procurement division to develop a process to adequately and efficiently document sole sourcing decisions and compliance with sole sourcing procurement requirements.

CCTCA Response

CCTCA has been consistent with reviewing multiple quotes and screening multiple vendors when selecting a sole source, consistent with the Direct and Intermediate Procurement process through the Procurement Division (i.e. Procurement Threshold Matrix). CCTCA historically has engaged with Procurement when the amount of the contract warranted a formal RFQ/RFP process.

Finance Department Findings

Separately, but covered under the CCTCA Internal Audit Report were findings that relate to the County's Finance Department and are not within CCTCA's purview. Although related, it is important for the readers to understand that CCTCA has no authority in directing how Finance collects or implements its portion of the TLT Ordinance. The following recommendations pertain to Finance and not CCTCA, but we felt compelled to make an observation regarding these:

Finance Department Recommendations

We recommend Finance management, in conjunction with County Counsel, continue to identify and work with OTC's and intermediaries to ensure their compliance with the Clackamas County Code.

CCTCA Response

CCTCA staff and the TDC Board has worked with the County's director of Finance, and his department, on issues related to the collection and reporting of transient lodging tax funds. It is very confusing to read in the Audit report that the "finance management has indicated that due to their limited resources, they have not been able to put a significant effort into identifying non-reporters." We believe that further explanation is warranted and necessary since the TDC Board authorized significant financial resources sufficient to hire a full time finance staff person to identify non-reporting lodging providers and to bring them into compliance. At the time that these resources were provided, the Finance Department opined that the position would pay for itself in the collection of taxes owed by intermediaries. To-date, the results appear to have been negligible.

On a separate but similar vein, CCTCA believes that page 25 should reflect the monies paid by the TDC to the Arts are pass through General Funds to the Arts Alliance and to the Regional Arts Action Alliance that the TDC does not control or direct and that these funds do not benefit the TDC or TDC staff.

We recommend Finance management work with the DOR to identify non-TLT reporters when this option becomes available. We also recommend Finance management explore additional options, such as outside vendors, to identify noncompliant TLT reporters. Cost-benefit considerations should be contemplated when determining if options of this nature are appropriate.

CCTCA Response

CCTCA agrees with these recommendations.

We (Clackamas County Internal Audit) recommend Finance management continue to work to fully implement all recommendations outlined by MCO (above).

CCTCA Response

CCTCA agrees with these recommendations

Again, thank you for the opportunity to respond. We appreciate the efforts by the Auditor and look forward to implementing the best strategies and processes to ensure that Transient Lodging Taxes continue to be invested effectively and appropriately.

Sincerely,

Danielle A Cowan

Danielle Cowan
Executive Director
Clackamas County Tourism & Cultural Affairs



Shari Anderson, CPA, CIA, CFE
Treasurer

Brian Nava
Internal Auditor

The audit of the Clackamas County Tourism and Cultural Affairs (CCTCA) department resulted in 12 recommendations (page 21). Eight of those recommendations were directed at CCTCA management, while four of the recommendations were directed at Finance management. CCTCA and Finance management appear to generally agree with 11 of the 12 recommendations. As outlined in CCTCA's response, they appear to generally disagree that CCTCA management needs to "work with the Finance department and County Counsel to develop a system that ensures compliance with federal reporting laws associated with payments for travel influencers..."

Specifically, Internal Audit recommends IRS Form 1099 be prepared for travel influencers when CCTCA pays for travel, lodging, food and gift cards for the travel influencer which total \$600 or more in one calendar year. The disagreement is on the basis that additional analysis of the question is necessary. CCTCA management states, they are not aware of any other destination marketing organizations that report these values on IRS Form 1099. In an effort to provide further clarity related to our recommendation, we offer this additional information and analysis that was gathered during the field work portion of our audit and led us to the aforementioned recommendation.

The CCTCA marketing plan uses FAM (familiarization) tours to promote travel destinations within the Mt. Hood Territory. The travel influencer is brought to the Mt. Hood Territory by the CCTCA and provided with direct experience of this area so they can provide first-person coverage of the area across their media platforms (e.g. Blog, Facebook, Instagram, Twitter). While there is no contractual requirement that the individual perform, there is anticipation of performance. If there was not, there would not be a valid business purpose for expending the funds to bring the travel influencer to the Mt. Hood Territory and Clackamas County. This creates a compensatory relationship between the travel influencer and CCTCA.

IRS Form 1099 MISC is used to report miscellaneous income to persons, who in the course of business, are paid at least \$600 in one calendar year for services performed by someone who is not an employee (box 7), prizes and awards (box 3), and other income (box 3). Governmental entities are subject to the 1099 reporting requirements. CCTCA management indicated, they do not believe travel writers (or travel influencers) are "independent contractors" of the CCTCA. There is no requirement that the person receiving the 1099 be an "independent contractor", only that they not be an employee of the business.

The value of the travel, lodging, food and gift cards provided are compensation and should be reported on IRS Form 1099 MISC. According to IRS Publication 525, Taxable and Nontaxable income, taxable income includes "Free tours". The publication states that if an agent receives a free tour from a travel agency...you must include its value in your income. While the CCTCA is not a "travel agency" the concept is similar. Furthermore, according to IRS Publication 525 miscellaneous income includes barter (the exchange of property or services) income. The fair market value of barter income must be included in your income.

Internal Audit respects that CCTCA management wants to perform or have further analysis conducted of this topic before ultimately agreeing with the conclusions that we reached. Since we feel our recommendations are well supported, CCTCA's further analysis should be performed in a timely manner to ensure compliance with internal revenue code. Internal Audit looks forward to reviewing the further analysis CCTCA management will conduct. We will incorporate the review of any further analysis conducted by CCTCA management into the customary finding follow-up work we perform.