



Sullivan County

Tourism Promotion Services

Report of Examination

Period Covered:

January 1, 2012 — August 21, 2013

2014M-61



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

June 2014

Dear County Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and County Legislature governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of Sullivan County, entitled Tourism Promotion Services. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*

Introduction

Background

Sullivan County (County) has a population of 77,800 and is located in the southeastern part of New York State. The County is governed by a nine-member County Legislature (Legislature) and provides various services to residents. The County's total 2013 appropriations for all funds were approximately \$192.7 million, funded primarily by real property taxes, sales and use taxes, State and Federal aid, as well as various user charges. The Legislature appoints a county manager who is the chief executive and administrative head of the County in accordance with the County Charter. The county manager is responsible for the overall administration of County government and providing and coordinating staff services to the Legislature and its committees.

New York State Tax Law authorizes the County to collect a 5 percent occupancy tax on all receipts associated with providing lodging to tourists who stay in the County. In addition, the law requires¹ the County to remit at least 85 percent of the tax collected to a non-profit corporation to promote tourism in the County. The law permits exemptions for governmental business and charitable purposes, including religious exemptions.

Since at least 1997,² the Legislature has contracted with the same non-profit corporation (Corporation) to promote tourism in the County using these occupancy tax collections. The Legislature is responsible for negotiating the terms and goals of the contract. The Corporation is also a membership organization that provides services to businesses in the County.

The County collected approximately \$629,000 in occupancy tax in 2012. Of those funds, approximately \$573,000 (or 91 percent) were remitted to the Corporation. In addition, the County disbursed approximately \$56,000 in grants to the Corporation to further assist promoting tourism within the County.

Objective

The objective of our audit was to review the contract with the Corporation for the period January 1, 2012 through August 21, 2013. Our audit addressed the following related question:

¹ We examined the occupancy tax collection laws of nine surrounding counties and found the County's law was the only one that required money to be remitted to a non-profit organization.

² In 2012, the County issued a request for proposals for tourism promotion services and the Corporation was still awarded the contract.

- Did the County provide adequate oversight over the collection and expenditure of the County’s occupancy tax?

**Scope and
Methodology**

We examined the County’s tourism promotion contract for the period January 1, 2012 through August 21, 2013. We extended our scope period back to January 1, 2007 to provide additional information for historical perspective.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

**Comments of
Local Officials and
Corrective Action**

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. County officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Legislature to make this plan available for public review in the Clerk’s office.

Tourism Promotion Services

New York State Tax Law authorizes the County to collect a 5 percent occupancy tax on receipts associated with providing lodging to tourists who stay in the County. The County remits at least 85 percent of the tax collected, less exemptions, to the Corporation that, by contract, promotes tourism in the County. The Legislature is responsible for ensuring lodging establishments turn over the appropriate amounts of occupancy tax to the County and that the County remits occupancy tax to the Corporation in accordance with the contract. Finally, the Legislature needs to provide adequate guidance to the Corporation regarding the goals of the program and how it will determine if those goals are achieved.

While the procedures in place for the processing of occupancy taxes paid to the County were sufficient, the Legislature's enforcement of collections could be improved with additional oversight efforts. Further, the establishment of clear goals will also enhance the County's oversight of the use of money paid to promote tourism in the County. The County has difficulty registering smaller seasonal establishments that should pay occupancy taxes and verifying that those establishments and traditional establishments are paying the correct amounts based on their receipts and the exemptions that apply. Exemptions average \$360,000 per year. Moreover, the County paid the Corporation over \$629,000 in 2012 to promote tourism. Although the Corporation spends money on activities, including producing an annual tourism guide and maintaining a website to promote the County and assist tourists, the contract with the Corporation lacks goals, guidelines and benchmarks to measure the results of the different activities.

Collection and Enforcement of Occupancy Tax

The County is responsible for ensuring it is receiving all occupancy taxes due to the County. The County should have procedures to verify that establishments are registered and that each establishment operator is charging, collecting and submitting occupancy tax to the County properly. The County should also ensure that occupancy tax forms are completed accurately and consistently so the information filed can be used for oversight purposes. Lastly, the County should establish procedures to verify exemptions claimed by the establishments.

The County collected approximately \$629,000 in occupancy tax in 2012. While the controls over the administration of the taxes actually paid to the County were sufficient, the County's enforcement of occupancy taxes due could be improved. County staff members have good procedures to review various resources to identify traditional establishments that should be registered. Once registered, the County has good procedures to ensure that all registered establishments are

making their tax payments. However, the County does not have formal procedures to ensure exemptions claimed by the establishments are proper.

To determine if establishments are submitting the proper amount of tax, the County attempts an informal, high-level trend analysis for each vendor by using the submitted information. However, the efforts to attempt any comparative analysis are thwarted because the occupancy tax forms' instructions are not clear enough to ensure the consistency of the information submitted by the establishments. For example, the occupancy tax form requires the number of rooms available for rent (total capacity), but the information submitted by the operators varied between the total capacity and the total capacity multiplied by the number of days in the reporting period. Additionally, not all establishments are completing the forms with all of the requested information (such as sales tax and total number of rooms available), while other establishments are submitting forms that contain relatively obvious mistakes. For example, establishments reporting the same amount of sales tax collected and occupancy tax due.

We reviewed a variety of sources listing establishments hosting overnight accommodations and vacation rentals and concluded the County's list of registrants was reasonably complete, the only exception being the registrations of smaller, seasonal rentals which are made difficult because the owners' contact information is not always readily available. We then reviewed 25 of the 181 registered establishments to verify they were properly submitting their payments to the County. We found they had properly remitted occupancy tax forms and tax payments. However, we were not able to determine if the tax payments were correct because of the form's limitations noted above. Further, not all of the establishments included documented support in their filings for the amounts claimed as exempt³ from the tax. Based on the amount of sales tax reported by the establishments, an average of \$360,000 a year⁴ is claimed as exemptions.

County officials told us they lack staffing to improve their oversight of occupancy tax collections. In the past, they had contracted with an independent auditor to review the occupancy tax filings and collections, but had to remove those expenditures from the County's budget during the recent economic downturn. Without proper oversight, establishments may not be turning over the proper amount of tax to the County, which would cause the Corporation to have less money to promote tourism.

³ The law permits exemptions for governmental business and charitable purposes, including religious exemptions.

⁴ We used the sales tax collection amounts within the County reported for 2008 through 2010 (the most current year available) to derive a gross room rate and then compared that to the 5 percent tax rate.

Contract Goals and Performance Reporting

When a County engages a private contractor for the promotion of tourism, the contract, at a minimum, should state the objective of the contract and how results will be verified. Objectively defining success in clear terms and expectations would avoid potential misunderstandings between the County officials, the contractor, the Legislature or the general public. Moreover, the ability to measure progress by using specific program subobjectives enhances the ability of the County and the contractor to monitor the direction and potential success of the efforts employed. These measurements should be specific, attainable, realistic and timely. For example, expectations of a promotional campaign would begin with defining the focus of what is to be marketed, how it will be marketed through the use of a mix of media (such as Internet, television, radio or printed advertisements) and defining how the campaign's impact will be measured.

The Legislature has contracted with the Corporation to promote tourism in the County using occupancy tax collections. The Corporation received over \$629,000⁵ during 2012 that was spent on salaries, promotions, advertising and events. The Corporation uses local media including newspapers, local journals (seasonal or subject oriented, such as food) and radio advertising along with a mix of regional, national and international outlets, including a not-for-profit motor club and several magazines that are lifestyle or subject oriented. The Corporation promotes a local mix of vendors and events of various types, heavily promoting the County in its annual tourism guide. The guide costs approximately \$100,000 to produce and includes a variety of tourism-related vendors, events, etc. Corporation staff members also attend various regional/national trade shows to promote the County and make use of web-based tools and a fairly extensive website to promote the County and assist tourists.

Although the Corporation's activities appeared to be focused on promoting tourism, the contract between the County and the Corporation did not include clear goals, guidelines and benchmarks reflecting the County's expectations for the use of the money. Instead, the contract included a general goal of "acting as the County's official tourism promotion agency" without any specific expectations or measurable outputs defining a successful promotion of tourism, or defining the scope of the Corporation's expected work towards success.⁶ The lack of specificity voids any effort to measure performance.

⁵ The County remitted \$573,000 in occupancy tax collections and \$56,000 in grants to the Corporation during 2012.

⁶ Although the request for proposals the County issued in 2012 gave expectations regarding types of media to be used, this was never brought forward to the contract.

As a result, there is no clear consensus among the Legislators for the scope or focus of the marketing. Although they agree the mission of the Corporation is to promote tourism within the County, the Legislators have their own ideas of what this means/or how this should be done. For example, one Legislator stated that it should not be marketing specific businesses but should be marketing events within the County. Another Legislator wants the money spent equally between promoting major businesses and small or rural businesses such as farms. Several Legislators want the Corporation to verify the money is only spent on County-specific tourism promotion and not commingled with the Corporation's other revenues from its members.⁷

The absence of measurable benchmarks inhibits the County's ability to monitor the effectiveness of the program and evaluate the impact of marketing and promotional efforts. While the County relied on the Corporation to develop goals and objectives outside of the contract, the County also relied on the Corporation to report its own performance against those goals and objectives. The Corporation's goals and objectives were also non-specific. Measurements included topics such as "sales tax collected" and "occupancy tax collected" with an expectation they increase. However, there was no measurement of the Corporation activities that contributed to the satisfactory progress or achievement of those goals.

A Committee of the Legislature did meet with the Corporation's principals on a monthly basis to discuss the Corporation's recent promotional activities and how those activities promoted tourism. However, these discussions could not represent an objective evaluation of the efforts to promote tourism because the Corporation prepared both the measures and the reports that alleged progress against those measures.

Recommendations

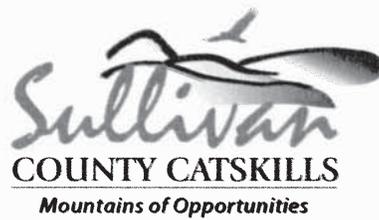
1. The Legislature should strengthen oversight over the enforcement and reporting of occupancy tax and related exemptions. Such oversight could include:
 - Clarifying the information requested on the occupancy tax forms,
 - Requiring establishments to submit support for exemptions with the occupancy tax forms,
 - Conducting trend analysis using occupancy tax forms or other sources such as sales tax amounts and
 - Conducting on-site audits.

⁷ The Corporation is also a membership organization that provides services to businesses in the County.

2. The Legislature should include clear goals, guidelines and benchmarks in the tourism promotional contract with the Corporation to enable the County to monitor the success of the contract.

APPENDIX A
RESPONSE FROM LOCAL OFFICIALS

The local officials' response to this audit can be found on the following pages.



**COUNTY OF SULLIVAN
COUNTY MANAGER'S OFFICE
SULLIVAN COUNTY GOVERNMENT CENTER
100 NORTH STREET
PO BOX 5012
MONTICELLO, NY 12701**

June 4, 2014

Mr. Todd Eames, Chief Examiner
Office of the State Comptroller
State Office Building, Room 1702
44 Hawley Street
Binghamton, New York 13901-4417

Dear Mr. Eames,

Sullivan County Government appreciates the opportunity to respond to your draft Report of Examination for Tourism Promotion Services, for the period covering January 1, 2012 to August 21, 2013.

The Comptroller's stated objective (page 4 of draft examination) was to review the contract with the Corporation for the period January 1, 2012 through August 21, 2013. The audit addressed the related question: "Did the County provide adequate oversight of the collection and expenditure of the County's occupancy tax?"

Your report highlights the fact that while the procedures in place for the processing of occupancy taxes paid to the County were sufficient, the Legislature should strengthen oversight of the enforcement and reporting of occupancy tax and related exemptions. You further recommend that the Legislature should include clear goals, guidelines and benchmarks in the tourism promotion contract with the Corporation to enable the County to monitor the success of the contract.

On Monday, May 15th, 2014 County staff met with representatives from your office to review the draft report and discuss any concerns. As a result of that meeting you updated language to stress that the procedures in place for the processing of occupancy taxes paid to the County were sufficient.

The 2014 County budget includes an appropriation of funds for the purpose of engaging an audit firm to conduct an audit of room tax remittances to the County. We intend to solicit proposals for this exercise this summer. Staff will work to improve the occupancy tax forms to ensure uniformity amongst the establishments and determine how best to require backup information in support of exemptions. Staff

will discuss with the Legislature the recommendation of including clear goals, guidelines and benchmarks in the tourism promotion contract this year with potential changes to the contract starting in 2015.

In conclusion, I would like to thank you once again for the opportunity to comment on the draft report. I would also like to commend the staff of the New York State Comptroller's Office who conducted the field work for the professionalism and courtesy that they exhibited while working with County staff.

Sincerely, 

Joshua Potosek, MBA
Sullivan County Manager

cc: Ira J. Cohen, County Treasurer

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to review the contract with the Corporation receiving occupancy tax funds for promoting tourism in the County. To accomplish the objective of this audit and obtain valid audit evidence, our procedures included the following:

- We interviewed County officials to gain an understanding of the internal controls for occupancy tax collections and disbursements.
- We reviewed New York State and County Laws applying to the collection and disbursement of occupancy tax collections in the County.
- We tested whether lodging establishments were properly registered by comparing various travel and lodging related websites and the travel guide that the Corporation produced that included the County's database of registered establishments.
- We selected 25 registered establishments (randomly picked 20 and then selected five more quarterly to get a better selection of filers) from the County database and examined occupancy tax forms from 2012 and the first two quarters of 2013 to determine if establishments were remitting taxes to the County based on their registered status.
- We analyzed sales and occupancy tax data collected by the County on the occupancy tax forms, New York State sales tax statistics and other industry recognized published data to determine if any trends could be identified to determine if vendors were remitting the proper amounts of occupancy tax to the County.
- We selected a judgmental sample of 10 occupancy tax forms (eight quarterly filers who were larger establishments that would be regularly remitting tax and two annual filers) to determine if all the occupancy tax collected was deposited and recorded properly in the County's accounting records. We also verified the mathematical accuracy of the forms.
- We tested all occupancy tax disbursements to the Corporation in 2012 to determine if they were properly remitted according to the terms of the annual contract and recorded properly in the County's accounting records.
- We reviewed the request for proposals issued for tourism services and the contract with the Corporation to identify any goals, guidelines and performance measures that the County had established.
- We interviewed Legislators to gain an understanding of how they monitor the tourism promotion contract and their expectations for the contract.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX C

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