



WENDY GREUEL
CONTROLLER

August 9, 2012

Honorable Antonio R. Villaraigosa, Mayor
Honorable Carmen Trutanich, City Attorney
Honorable Members of the Los Angeles City Council

One of my greatest concerns as Controller is the uncollected debts owed to the City, including millions of dollars in outstanding taxes owed by a number of parking lot operators. This large amount of money due to the City, combined with ongoing concerns about the processes and procedures for the collection of parking taxes prompted me to perform an audit. Today, I am releasing my audit of the Collection and Audit Procedures for Parking Occupancy Tax and urging the Office of Finance to strengthen controls and improve collections of this important revenue source for the City.

The Parking Occupancy Tax accounts for about two percent of the City's General Fund revenue, worth approximately \$85 million a year. Improvements to the collection process can be made by hastening the discovery and collection of additional tax revenue. Due to the Office of Finance's contract structure and processes, the contractor has only been able to assign between two and four staff to handle the discovery efforts for the entire City, whereas the City of Chicago has six full-time auditors spending 85% of their time working on parking occupancy tax. Simply put, the more resources dedicated to the collection of this tax, the more revenue that can be collected. The Office of Finance should improve its processes to review parking lot audit results, and work with the contractor to develop a staffing model to enhance discovery and collection efforts.

My audit revealed that the Office of Finance lacks a complete inventory of parking lots in the City, creating uncertainty about whether the City is actually receiving all of the Parking Occupancy Tax it is owed. Through improved monitoring of the City's parking lots as well as the implementation of stronger controls and program enhancements, the City could significantly increase tax revenues.

It is unacceptable to let this program continue without implementing my recommendations. The tax, which is being collected by parking lot operators from

Honorable Antonio R. Villaraigosa, Mayor
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August 9, 2012
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people who park their automobiles, belongs to the City and must be recovered to help provide essential services for its residents and businesses in the City. Without a complete inventory of the City's parking lots, there is no assurance that the Office of Finance is using its resources effectively to maximize revenues owed to the City.

I am calling on the Office of Finance to immediately implement my audit recommendations and put controls in place to adequately ensure that all parking lots in the City are accounted for and that all parking taxes are collected and deposited directly into the City's bank accounts. I recommend creating a formal audit plan for all parking occupancy tax audits and creating a system that can register all possible addresses for a single lot. I also recommend that the City investigate the feasibility of implementing practices used by other cities, such as Chicago and San Francisco, to collect the maximum amount of the parking occupancy tax in the most efficient manner.

Due to the City's Municipal Code, I was precluded from performing a full-scale audit of parking occupancy taxes because disclosure of this information is not allowed. While these laws are intended to protect taxpayers, they actually prohibit the City's independent watchdog from ensuring that taxpayer funds, held in trust by parking operators, are being collected by the City. I urge the Council to rectify this immediately and ensure that the Controller has the access and ability to review parking lot operator records through clarification of the Los Angeles Municipal Code.

Unfortunately, the City's car culture is not going away any time soon. In addition to improving the City's revenue collection of the Parking Occupancy Tax, the City needs to invest in innovative solutions to make parking easier and at the same time, allow for more parking turnover to help our City's businesses. Through improvements to the collection of Parking Occupancy Tax, every dollar in outstanding revenue that can be recovered will help bring the City onto a fiscally sustainable path.

Sincerely,



WENDY GREUEL
City Controller



August 9, 2012

WENDY GREUEL
CONTROLLER

Antoinette D. Christovale, Director of Finance/City Treasurer
Office of Finance
200 N. Spring Street, Room 220
Los Angeles, CA 90012

Dear Ms. Christovale:

Enclosed is a report entitled "Audit of Collection and Audit Procedures for Parking Occupancy Tax." A draft of this report was provided to your Office on June 22, 2012. Comments provided by your Office at the exit conference, as well as additional information you provided in July 2012 were evaluated and considered prior to finalizing this report.

Please review the final report and advise the Controller's Office by September 10, 2012 on planned actions you will take to implement the recommendations.

If you have any questions or comments, please contact me at (213) 978-7392.

Sincerely,

A handwritten signature in black ink, appearing to read 'Farid Saffar'.

FARID SAFFAR, CPA
Director of Auditing

Enclosure

cc: Gaye Williams, Chief of Staff, Office of the Mayor
Janelle Erickson, Deputy Chief of Staff, Office of the Mayor
Monique Earl, Deputy Mayor, Budget and Financial Policy, Office of the Mayor
Miguel A. Santana, City Administrative Officer
Gerry F. Miller, Chief Legislative Analyst
June Lagmay, City Clerk
Independent City Auditors



**City of Los Angeles
Office of the Controller**

**Audit of
Collection and Audit Procedures for
Parking Occupancy Tax**

August 9, 2012

Wendy Greuel
City Controller

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AUDIT OF COLLECTION AND AUDIT PROCEDURES FOR PARKING OCCUPANCY TAX

EXECUTIVE SUMMARY

The Controller's Office has completed an Audit of Collection and Audit Procedures for Parking Occupancy Tax, as overseen by the Office of Finance (Finance). The objective of this audit was to identify potential business risks and areas for improvement related to ensuring Finance's procedures for collecting and auditing the City's parking occupancy tax (POT) are efficient and effective. The audit focused on identifying Finance's significant functions and processes, and evaluating management controls for identifying all parking lots subject to POT and collecting all parking tax revenues due to the City.

Background

In June 1990¹ the City of Los Angeles enacted a parking occupancy tax (POT) to be imposed on individuals who pay to park their vehicle in an off-street parking facility.² Parking facility operators (Parking Operators/Operators) are required to collect a 10% parking occupancy tax from the vehicle driver, calculated on the base parking fee charged by the operator. POT is not a business tax imposed on and payable by a business; rather, it is a tax that a business collects from the patron **on behalf** of the City. Over the last four years, POT revenue averaged \$85 million annually, ranging from \$87 million in 2007-08, to \$83 million in 2010-11, accounting for approximately 2% of General Fund receipts. According to Finance data, as of August 26, 2011, there were approximately 1,900 registered parking facilities/lots³ in the City subject to POT collection and remittance.

Parking Operators must have a police permit from the Commission Investigation Division (CID) of the Los Angeles Police Department and register as a business with Finance. Finance issues a Parking Occupancy Registration Certificate (Parking Certificate) and establishes an account record in its system, LATAX. Police permits are renewed annually, while the Parking Certificate remains in force unless the Parking Operator changes.

¹ Ordinance 165949, added Article 1.15 to Chapter 11 of the Los Angeles Municipal Code (LAMC).

² Parking facility includes any outdoor space or uncovered plot, place, street, lot, parcel, yard or enclosure or building/structure.

³ For easier reference, this report will refer to all parking facilities as parking lots.

On a monthly basis, LATAX automatically generates a reminder letter that is mailed to the Parking Operator for each registered parking lot. Operators must remit POT collections, along with a Parking Occupancy Tax Reporting Form, to Finance by the 25th of each month.

Finance contracts with an outside vendor, The Parking Network, Inc. (TPN), to identify unregistered parking lots or parking lots that may be underreporting the amount of POT collected. The contract terms specify a contingency-based fee; TPN is paid only from the POT revenues remitted as a result of its identification of unreported or underreported POT.

Scope

As part of our audit, we reviewed policies and procedures and conducted interviews with a number of Department management, staff, and other key individuals. We did this to gain a general understanding of collection processes and the overall means of ensuring the successful collection of all parking occupancy taxes due to the City.

We also reviewed the services of TPN to identify unregistered parking lots and parking lots where the amount of POT is being underreported. In addition, we surveyed other jurisdictions to identify their practices for assessing and collecting POT. We conducted our audit fieldwork between July 2011 and January 2012, and considered additional information provided by the Office of Finance in July 2012.

This audit was conducted in accordance with generally accepted government auditing standards. However, due to a scope limitation, we performed no detailed testwork, which may have provided the financial impact to the City as a result of the risks identified in our review. We were unable to conduct testwork due to the restrictions placed on the Controller's Audit team to access and review the taxpayer information maintained by the Office of Finance. Finance and City Attorney staff indicated that disclosure of confidential information to the City Controller as part of an audit of Finance is not allowed under Section 21.17 of the Los Angeles Municipal Code (LAMC). We urge policymakers to rectify this through clarification of the LAMC.

Summary of Audit Results

Our audit identified several areas where Finance's policies and procedures require enhancement to ensure the City receives the correct amount of POT revenues in a timely manner. Specifically, Finance may not have a complete inventory of all parking lots subject to POT collection. In addition, there may be too few contractor resources assigned to the City's discovery program, and insufficient identifying information may hamper discovery efforts. Further, Finance has not developed an adequate formal audit plan; therefore, there is no assurance that resources are being adequately utilized, including coordination with TPN's activities to avoid duplication, and sufficient audit coverage to ensure POT collections are accurately reported and remitted.

Improvements in these areas, along with other initiatives sponsored by the Office of Finance, such as enacting a mandatory Parking Tax Collection Bond and requiring installation of permanent Revenue Control Equipment for scofflaw parking lot operators, can significantly increase revenues collected.

KEY FINDINGS

The following key business risks were identified during our audit:

➤ **LATAX may not be a complete record of parking lots subject to collecting POT.**

As of August 2011, LATAX noted approximately 1,900 registered parking lots in the City. Whether this is a fairly accurate number of parking lots subject to collecting POT cannot be determined since no survey has been conducted of the entire City. Although Finance's contract with TPN required a survey of the entire City, one has not been conducted. While an inventory represents a status at a point in time, it is necessary to identify the City's "universe" of parking lots subject to collecting POT in order for Finance to sufficiently measure risk and allocate audit resources, thus ensuring that sufficient attention is paid to this important source of City revenue. According to Finance, TPN intends to complete a survey of the City within the 18-month time period of its current contract.

➤ **There are few Contractor resources assigned to the POT discovery efforts.**

Finance has not ensured sufficient contract resources are utilized in the discovery efforts of unregistered or underreporting parking lots. For the most part, TPN has dedicated two to four staff to handle the discovery efforts for the entire City which has approximately 1,900 parking lots. By contrast, at the time of our audit, the City of Chicago has six full-time auditors spending 85% of their time working on parking occupancy tax; and, San Francisco assigns several employees to parking tax audits on a near full-time basis.

According to Finance, from March 2004 through June 30, 2012, POT revenue collected as a result of TPN's collaborative audit and discovery efforts totals \$9.3 million with a corresponding aggregate contingency fee paid in the amount of \$2.5 million. Since the inception of its contract, TPN's work has resulted in a direct net revenue gain of \$6.8 million to the City. Since the contract is contingency-based, the City does not pay TPN before receiving the revenues attributable to the contractor's efforts.

As TPN was able to increase the City's net revenues by almost \$7 million in eight years with only two to four staff, adding more TPN staff would seem to hasten the discovery and collection of additional POT revenue. However, according to TPN,

it has been reluctant to add staff to the City's contract due to delays with Finance reviewing and processing the parking audit reports. According to TPN records, 26 parking audit reports had been submitted to Finance and were pending review as of November 2011, but between 2 and 5 reports proceeded to exit interview with the Parking Operator or the audit was closed six months after submission. An additional 20 parking lot audit reports were submitted to Finance from December through June 30, 2012 that are still pending Finance review. Finance management explained that parking audit processing delays occurred, in part, due to Managed Hiring restrictions.

There is an opportunity for the City to increase its POT revenues by having more contractor resources dedicated to identify unregistered and underreporting parking lots. By ensuring the administrative process for POT parking audits is initiated timely, Finance will be in a better position to request TPN to provide more staffing for its discovery efforts.

➤ **There is insufficient identifying information provided for discovery efforts.**

Parking lots may physically encompass multiple street addresses, and have multiple entry/exit ways on different streets. The Parking Operator determines which address will be used for the Police Permit and Parking Certificate, and could conceivably register the same parking lot with different addresses each year. LATAX does not contain sufficient identifying information to facilitate discovery efforts, since there may be only a single address recorded on LATAX. This makes it difficult to confirm whether a particular lot is registered and in compliance. In order to determine which address applies for corner lots, or lots that may span several individual street addresses, additional field investigative work must be performed by TPN or Finance staff.

Complete and accurate street addresses are necessary to ensure Finance's records will facilitate discovery efforts, and avoid confusion when attempting to observe parking operations and report on potential unregistered or underreporting parking lots. TPN relies on LATAX data to determine whether the observed parking lot location is registered, and the observed parking activity coincides with POT reports submitted by the Parking Operator. Physical locations that cannot be readily matched to LATAX addresses can hamper these efforts, resulting in spending additional resources that may otherwise be spent on recovery efforts.

We also noted that auditors (TPN and Finance staff) lack information that would describe the layout of the parking lots or number of parking spaces associated with a particular registered lot. Neither Property Owners nor Parking Operators are required to report the number and type of parking spaces (e.g., monthly, validated, etc.) on their property, or whether drivers pay a parking fee. Parking lot locations and layouts are also not captured in the City's geographic information systems (GIS) to show the size, shape, or layout of parking spaces for each parking lot—or registered parking lot—in the City.

LATAX information also includes the Police Permit number for registered lots, and the Permit should be posted on the parking lot premises. The City should require Parking Operators to note the Police Permit number on the parking lot signs, which would help facilitate the correct identification of registered or unregistered parking lots.

➤ **Finance lacks a formal established audit plan for POT audits.**

Finance's 2004 and 2011 contracts with TPN required a "work plan that outlines the tasks and requirements for the implementation of the Discovery Program including all services and deliverables identified..." To determine how Finance is assured that sufficient audit coverage is provided by TPN, we requested the contractor's work plans for FYs 08-09, 09-10 and 10-11. However, only one work plan for 2010-2012 was provided by Finance. Discussions with Finance and TPN representatives disclosed that the information provided on the work plan was considered as a preliminary step in determining the work to be performed by TPN. However, the work plan provided did not clearly describe it as preliminary, and we were provided no other documents that could be considered the "final" work plan. Finance could not sufficiently demonstrate that an adequate work plan existed that would ensure appropriate audit coverage for the POT Discovery Program, for at least the three fiscal years we reviewed.

Further, while Finance provided documents describing its various audit, enforcement, and collection activities, it appears that Finance does not develop an audit plan on an annual basis that assesses risks and provides a foundation for allocating scarce resources, and how they coordinate their audit efforts with TPN.

Developing an adequate audit plan requires assessing the risks for the "universe" of the areas subject to audit. Risks are assessed for an established set of criteria, such as prior audit results/known problems, time elapsed since last audit, etc. In order to sufficiently assess risk, it is critical to know the "universe" of the areas being audited. As previously noted, no survey of the entire City has been conducted to determine the number of parking lot operations subject to POT. Without an adequate audit plan, there is no assurance that resources are being adequately utilized, including coordination with TPN's activities to avoid duplication, and that sufficient audit coverage has occurred to ensure POT collections are accurately reported and remitted.

➤ **Improvements can be made to POT reporting.**

We noted that Finance's Parking Occupancy Tax Reporting Form (Reporting Form) does not require the Operators to provide sufficient detail as to parking fees for Daily Parking (visitor or transient), Monthly Parking (part of building lease, or monthly pass), Validated Parking, Special Event Parking, Meter/Coin or Other, which other cities, such as Miami, Pittsburgh and San Francisco have

adopted. By requiring more specificity in the type of parking fees assessed by the Operators along with the volume and dollar amounts, the risk of Operators' misreporting the amount of POT revenues that should be remitted is lessened, as they would provide more data to confirm the accuracy of the Operator's reported information.

Also, Finance does not assess a penalty for Operators who fail to file a Reporting Form; a penalty is only assessed for failure to pay the tax. The City of Chicago imposes a penalty equal to 25% of the total tax due if the Operator fails to file a tax remittance return or no return is filed prior to the City issuing a notice of tax deficiency or a notice of tax liability. Using this approach, Finance may minimize the number of Operators who neglect to submit a Reporting Form to validate the amount of POT that should be remitted. This would reduce the efforts of additional assessment and recovery work that delay the City's receipt of POT.

Practices of Other Cities

Our audit also included a survey of practices implemented by other governmental agencies related to parking occupancy taxes. We reviewed literature and contacted several jurisdictions to identify practices that could be considered by the City. In some cases, implementing the practice would require voter approval or changes to the City's Municipal Code. These include:

- Excise Tax on the Property Use

We found several municipalities, outside of the U.S., that assess a tax based on the number of parking spaces. Rather than requiring Operators to collect POT from parking lot patrons, these municipalities collect an excise tax (not a property tax) from the property owner based on the number of parking spaces. This approach virtually assures collection of the tax, while eliminating the processes needed to ensure POT based on the gross receipts is reported accurately and remitted timely.

- Prioritize POT Revenue Collection

San Francisco uses various online tools, such as software applications for parking locations, Craigslist advertisements, etc. as additional ways to identify unregistered parking lots. In addition, a task force of key City employees regularly meets to respond to issues and improve the POT process. San Francisco has also eliminated the statute of limitations for collecting unpaid POT from operators that fail to file a return.

- Personal Liability of Parking Operators

San Francisco holds Parking Operators personally liable for misappropriation of "Third Party Taxes" such as POT, because the taxes are collected in trust on behalf of the City and were never the property of the lot operator.

The Los Angeles Parking Association also recommended to the City's CORE task force that the City establish joint and several liability for POT among Parking Lot Operators and Property Owners.

These business risks, practices of other cities, and our related recommendations are discussed in more detail in the remainder of the report. Specifically, our recommendation related to the use of an excise tax approach could significantly reduce the time-consuming and tedious efforts currently being spent to collect parking taxes. The intent of this report is to assist the Office of Finance in ensuring that the City collects the correct amount of Parking Occupancy Taxes from Operators that is owed to the City based on the law.

Review of Report

On June 22, 2012, a draft report was provided to Finance management. We met with management on July 11, 2012 to discuss the contents of the audit report. Finance's comments were evaluated and considered as we finalized the report. Generally, Finance believes that it has provided sufficient resources toward the identification and collection of POT revenue, as part of its responsibilities for administering other tax programs for the City. For example, Finance indicated that its various audit, enforcement and collection programs maximize limited staffing resources which has led to a nearly 49% increase in POT revenue since the establishment of the Department in FY 2000-01, citing that POT revenue increased from \$59.4 million in 2000-01 to an estimated \$88 million for FY 2011-12. Finance management indicated that the increase in POT revenue of approximately \$29 million is attributable to internal staff audits of POT operators, TPN contract audit work and collaboration with the Police Department's Commission Investigation Division, City Attorney, litigation referrals and other case management activities. While there is no disagreement as to Finance's activities for administering and collecting multiple City taxes, the increase in POT revenue is primarily a result of increased parking rates charged by Operators, along with the related volume of parking customers. For example, we noted that the parking revenues net of POT for the Los Angeles World Airports' lots increased from approximately \$56.6 million in FY 2002-03 to approximately \$68 million in FY 2011-12, an increase of 20%, primarily due to rate and volume increases.

Finance management's opinion that sufficient resources and efforts are directed to POT, as a part of other tax programs, seemingly does not take into consideration the fact that without conducting a Citywide survey to identify the parking lot "inventory," ensuring there is an adequate level of effort based on risk cannot be ascertained. The purpose of this audit is to independently identify areas where improvements can be made that will benefit Finance in its administration of POT and, ultimately to benefit the City and ensure the correct amount of POT revenues is received in a timely manner.

CONTROLLER'S ACCOUNTABILITY PLAN

AUDIT OF COLLECTION AND AUDIT PROCEDURES FOR PARKING OCCUPANCY TAX

RECOMMENDATIONS	PAGE	MAYOR/COUNCIL ACTION REQ'D	DEPARTMENT ACTION REQ'D
SECTION I. POT DATA AND PROCESS IMPROVEMENTS			
The Office of Finance should:			
1. Conduct periodic surveys of the City to have an accurate inventory of commercial parking lots in order to adequately identify risk and allocate sufficient audit resources.	14		Office of Finance
2. Perform a periodic review of the business activity code (e.g., NAICS) noted in Franchise Tax Board data to further ensure parking lot businesses located and operating within the City are registered and remitting the required POT.	14		Office of Finance
3. Establish timeframes for reviewing TPN audit files and ensure assessment letters are sent to Operators timely.	15		Office of Finance
4. Work with TPN to develop a staffing model analysis that will result in improved net revenue gains from the contractor's discovery efforts.	15		Office of Finance
5. Establish a standard process for reporting all possible street addresses for parking lots with multiple entry/exit ways and parking lots located on corners.	17		Office of Finance
6. Require Parking Lot Operators to include the Police Permit Number on parking lot signs.	17		Office of Finance
7. Require Property Owners and/or Parking Lot Operators to report the number of parking spaces and type of parking spaces (i.e., monthly, daily, validated, etc.).	17		Office of Finance

RECOMMENDATIONS	PAGE	MAYOR/COUNCIL ACTION REQ'D	DEPARTMENT ACTION REQ'D
8. Use the City's Geographic Information System to provide the locations and layout of parking lots within the City.	17		Office of Finance
9. Investigate the use of technology, such as consumer software applications, as an additional discovery tool to ensure parking lots are registered with the City and remitting the required POT.	17		Office of Finance
10. Develop a formal risk-based POT audit plan to ensure adequate audit coverage is provided over parking tax revenues, and audit resources are utilized in an effective and efficient manner, in coordination with resources assigned by TPN.	18		Office of Finance
11. Redesign the Parking Occupancy Tax Reporting Form to require more specific parking revenue data from the Operators.	20		Office of Finance
12. Pursue City approval for adding a failure-to-file penalty to the City's Municipal Code.	20		Office of Finance
SECTION II. PRACTICES OF OTHER CITIES			
13. Investigate the feasibility of implementing practices used by other cities to ensure the City receives the maximum amount of POT revenues in the most cost-effective manner.	22		Office of Finance

INTRODUCTION AND BACKGROUND

PARKING OCCUPANCY TAX PROGRAM OVERVIEW

In June 1990⁴ the City of Los Angeles enacted a parking occupancy tax (POT) to be imposed on individuals who pay to park their vehicle in an off-street parking facility.⁵ Parking facility operators (Parking Operators/Operators) are required to collect a 10% parking occupancy tax from the vehicle driver, calculated on the base parking fee charged by the operator. Valet parking services are also subject to POT. POT is not a business tax imposed on and payable by a business; rather, it is a tax that a business collects from the patron **on behalf** of the City. Over the last four years, POT revenue averaged \$85 million annually, ranging from \$87 million in 2007-08, to \$83 million in 2010-11, accounting for approximately 2% of General Fund receipts. According to Office of Finance (Finance) data, as of August 26, 2011, there were approximately 1,900 registered parking facilities/lots⁶ in the City subject to POT collection and remittance.

Parking Operators must have a police permit from the Commission Investigation Division (CID) of the Los Angeles Police Department and register as a business with Finance. Finance issues a Parking Occupancy Registration Certificate (Parking Certificate) and establishes an account record in its system, LATAX. Police permits are renewed annually, while the Parking Certificate remains in force unless the Parking Operator changes.

On a monthly basis, LATAX automatically generates a reminder letter that is mailed to the Parking Operator for each registered parking lot. Operators must remit POT collections, along with a Parking Occupancy Tax Reporting Form, to Finance by the 25th of each month.

Delinquent reporting or payment initiates a Notice of Hearing (the first late payment notice) that is automatically generated by LATAX, which opens a delinquent case. If 30 more days pass with no payment, LATAX automatically generates an Estimated Assessment, based on a 15% increase over the average taxes paid. Delinquent or deficient tax payments will also result in penalties and interest owed by the Operator.

Finance contracts with an outside vendor, The Parking Network, Inc. (TPN), to identify unregistered parking lots or parking lots that may be underreporting the amount of POT collected. The contract terms specify a contingency-based fee; TPN is paid only from

⁴ Ordinance 165949, added Article 1.15 to Chapter II of the Los Angeles Municipal Code (LAMC).

⁵ Parking facility includes any outdoor space or uncovered plot, place, street, lot, parcel, yard or enclosure or building/structure.

⁶ For easier reference, this report will refer to all parking facilities as parking lots.

the POT revenues remitted as a result of its identification of unreported or underreported POT.

Amounts paid to TPN between January 2003 and mid-November 2011 totaled approximately \$2.3 million.

OBJECTIVES, SCOPE AND METHODOLOGY

The objective of the audit was to identify potential business risks and areas for improvement related to the Office of Finance's processes for collecting parking occupancy tax revenue and its related audit procedures to ensure the City is paid correctly. The audit focused on identifying Finance's significant functions and processes related to POT and a survey of practices implemented by other governmental agencies that assess a similar tax on parking.

Due to a scope limitation, we performed no detailed testwork that would have required taxpayer information. Detailed testwork may have provided the financial impact to the City as a result of the risks identified in our review. However, we were unable to conduct testwork due to restrictions placed on accessing taxpayer information maintained by the Office of Finance. Finance and City Attorney staff indicated that disclosure of confidential information to the City Controller as part of an audit of Finance is not allowed under Section 21.17 of the Los Angeles Municipal Code. As part of the POT reporting processes, an Operator reports amounts and sources of income which is recorded on LATAX. City Attorney staff advised Finance management that the City's Municipal Code does not permit the City Controller access to LATAX information that could potentially identify an individual Operator's income. As a result, Finance did not permit the Controller's audit team to access any taxpayer identifiable data or reports. Finance provided some redacted information; however, it was not auditable and did not enable us to perform detailed testwork.

The audit was based on a review of Finance's policies and procedures and interviews with Finance management and staff, as well as the contractor used by Finance to identify unreported or underreporting parking lot operators. We observed an on-site audit conducted by the contractor, and compared a small sample of parking lots identified by a consumer parking lot application with Finance's listing of parking lots. In addition, we surveyed practices of several other governmental agencies that assess and collect a parking occupancy tax.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit generally covered activities from FY 2010-11 and expanded beyond this period when deemed necessary. We conducted our audit fieldwork between July 2011 and January 2012, and considered additional information provided by the Office of Finance in July 2012.

AUDIT FINDINGS AND RECOMMENDATIONS

SECTION I: POT DATA AND PROCESS IMPROVEMENTS

Finding No. 1: LATAX may not be a complete record of parking lots subject to collecting POT.

As of August 2011, LATAX noted approximately 1,900 registered parking lots in the City. However, this number may not represent all of the parking lots located in the City that are subject to collecting POT, primarily because a Citywide survey has not been conducted to identify all commercial parking lots. In addition, industry codes contained in Franchise Tax data are not utilized to identify unregistered parking lots.

The Entire City has not been Surveyed

TPN was required to survey the entire City at the inception of its contract in 2004, and upon the renewal of its contract in 2010, with the intent of ensuring that all commercial parking lots are identified, registered, and remitting POT revenues. However, a survey of the entire City of Los Angeles has not been completed. Instead, Finance primarily relies on Parking Operators to register their parking lots. Discovery of any unregistered lots by either TPN, or Finance staff through other efforts may also add to LATAX records.

Without a survey of the City to identify all commercial parking lots, LATAX may not represent a reasonably accurate inventory of parking lots subject to collecting POT. While an inventory represents a status at a point in time, it is necessary to identify the City's "universe" of parking lots subject to collecting POT in order for Finance to sufficiently measure risk and allocate audit resources, thus ensuring that sufficient attention is paid to this important source of revenue to the City. From FY 2007-08 through 2010-11, POT revenue has averaged \$85 million annually. According to Finance, TPN intends to complete a survey of the City within the 18-month time period of its current contract.

Other Resources for Identification are not Utilized

As allowed by State law, Finance receives a listing of businesses located within the City of Los Angeles from the Franchise Tax Board (FTB). Finance compares businesses that have filed taxes with FTB with its list of businesses with a Business Tax Registration Certificate (BTRC), to help identify businesses that may be operating in the City without a BTRC, and therefore not remitting business taxes to the City.

However, neither Finance nor TPN use the business activity code (e.g., North American Industrial Classification System Code or NAICS) found in Franchise Tax Board data, to obtain a list of parking lot businesses with a City address. Such a list could help identify parking operators who have unregistered parking lots, and therefore are not remitting POT to the City.

According to Finance, NAICS codes that are self-reported by City taxpayers are often inaccurate and as a result, the value of an NAICS analysis for discovery purposes is limited. However, in response to our review, Finance analyzed 857,508 records in its Tax Discovery System database of records since 2002 and identified 219 records identified with a parking-related activity, with 68 having a taxable nexus to the City. Through this effort, Finance discovered four parking lots that had **not** been registered with the City. Finance indicated these four lots were subsequently added to LATAX.

Recommendations

The Office of Finance should:

- 1. Conduct periodic surveys of the City to have an accurate inventory of commercial parking lots in order to adequately identify risk and allocate sufficient audit resources.**
- 2. Perform a periodic review of the business activity code (e.g., NAICS) noted in Franchise Tax Board data to further ensure parking lot businesses located and operating within the City are registered and remitting the required POT.**

Finding No. 2: There are few Contractor resources assigned to POT discovery efforts.

Finance has not ensured sufficient contract resources are utilized in the discovery efforts of unregistered or underreporting parking lots. For the most part, TPN has had two to four staff to handle the discovery efforts for the entire City which has approximately 1,900 parking lots. By contrast, during the timeframe of our audit, the City of Chicago has six full-time auditors spending 85% of their time working on parking occupancy tax. San Francisco also assigns several employees to parking tax audits on a near full-time basis.

According to Finance, from March 2004 through June 30, 2012, POT revenue collected as a direct result of TPN's collaborative audit and discovery efforts totals \$9.3 million with a corresponding aggregate contingency fee paid in the amount of \$2.5 million. TPN's contract has resulted in a direct net revenue gain of \$6.8 million. Since the contract is contingency-based, the City does not pay TPN before receiving the revenues attributable to the contractor's efforts.

TPN described its discovery approach as deploying a two-person team covering "grids" that encompass a nine-block radius. Generally, the team observes parking lot activity over a five-day period. Although much of the City's 470 square miles is taken up with freeways, buildings, roads, parks, houses, etc., it would take TPN's current resources several years to complete its discovery work of the entire City.

As TPN was able to increase the City's net revenues by almost \$7 million in eight years with only two to four staff, adding more TPN staff would seem to hasten the discovery and collection of additional POT revenue. However, according to TPN management, they have been reluctant to increase its staff size due to delays with Finance taking the next steps to process the parking lots audits i.e., sending an assessment letter to the Operator, which enables the Operator to request an administrative hearing. According to TPN records, 26 parking audit reports were submitted to Finance and were pending review as of November 2011, but between 2 and 5 reports had proceeded to exit interview with the Parking Operator six months after submission. An additional 20 parking lot audit reports were submitted to Finance from December through June 30, 2012, that are still pending Finance review.

Finance management explained that parking audit processing delays occurred, in part, because the contract liaison was promoted and due to Managed Hiring restrictions, Finance was unable to have someone assume these responsibilities full time. Finance was able to fill the contract liaison position in February 2012, however, based on TPN's information, there are still many parking lot audit reports that are pending review.

Without sufficient TPN staffing, there is a greater risk that unregistered parking lots are not being identified timely and POT collections are being underreported. Further, without sufficient resources tasked to review TPN's audit results and send assessment letters to Operators, uncollected POT remains outstanding for longer periods of time.

There is an opportunity for the City to increase its POT revenues by having more contractor resources to identify unregistered and underreporting parking lots. By ensuring the administrative process for POT parking audits is initiated timely, Finance will be in a better position to request TPN to provide more staffing for its discovery efforts.

Recommendations

The Office of Finance should:

- 3. Establish timeframes for reviewing TPN audit files and ensure assessment letters are sent to Operators timely.**
- 4. Work with TPN to develop a staffing model analysis that will result in improved net revenue gains from the contractor's discovery efforts.**

Finding No. 3: There is insufficient identifying information provided for discovery efforts.

Parking lots may physically encompass multiple street addresses and have multiple entry/exit ways on different streets. The Parking Operator determines which address will be used for the Police Permit and Parking Certificate, and could conceivably register the same parking lot with different addresses each year. Based on the report and screen shots provided by Finance, there may be only one address shown on LATAx, which makes it difficult to confirm whether a particular lot is registered. LATAx does not contain sufficient identifying information to facilitate discovery efforts. In order to determine which address applies for corner lots or lots that may span several individual street addresses, additional field work and investigation must be performed by TPN or Finance staff.

For example, we accessed a commercial software application that identifies parking locations and compared 40 commercial parking lots located near City Hall in downtown Los Angeles to LATAx records. The software application provides the consumer with the address of the parking lot, i.e., the entrance to the lot, as well as the parking rates. We observed and compared the physical location of the parking lot, any address noted on the parking lot sign, and the copy of the Police Permit (if easily observed) to the LATAx listing of parking lots. For 11 of the locations (28%), we could not readily determine if the parking lot was registered on LATAx. Although Finance was able to determine that ten lots were in fact registered on LATAx (in one case, a location appeared to have removed its parking fee sign), it required sending staff to conduct a field investigation to identify the address used for LATAx registration.

Complete and accurate street addresses are necessary to facilitate discovery efforts and avoid confusion. TPN relies on LATAx data to determine whether the observed parking lot location is a registered lot, and the observed parking activity coincides with POT reports submitted by the Parking Operator. Physical locations that cannot be readily matched to LATAx addresses can hamper these efforts.

During our observation of TPN's on-site audits of parking lots, we also noted that the contractor does not have any information that would describe the layout of the parking lot or number of parking spaces. Neither Property Owners nor Parking Operators are required to report the number and type of parking spaces (e.g., monthly, validated, etc.) on their property, or whether drivers pay a parking fee. Parking lot locations and layouts are also not captured in the City's geographic information systems (GIS) to show the size, shape, or layout of parking spaces for each parking lot—or registered parking lot—in the City.

LATAx information also includes the Police Permit number for registered lots, and the Permit should be posted on the parking lot premises. The City should require Parking Operators to note the Police Permit number on the parking lot signs, which would help facilitate the correct identification of registered or unregistered parking lots.

Providing more specific information related to the parking lot operations, as well as GIS-based location would help make TPN's work more efficient in identifying unregistered parking lots. Requiring Property Owners and/or Parking Operators to report the number and type of parking spaces would add another layer of assurance as to whether POT is being accurately reported and remitted, since TPN's on-site observations would also confirm whether the number and use of the spaces is correct.

Recommendations

The Office of Finance should:

- 5. Establish a standard process for reporting all possible street addresses for parking lots with multiple entry/exit ways and parking lots located on corners.**
- 6. Require Parking Lot Operators to include the Police Permit Number on parking lot signs.**
- 7. Require Property Owners and/or Parking Lot Operators to report the number of parking spaces and type of parking spaces (i.e., monthly, daily, validated, etc.).**
- 8. Use the City's Geographic Information System to provide the locations and layout of parking lots within the City.**
- 9. Investigate the use of technology, such as consumer software applications, as an additional discovery tool to ensure parking lots are registered with the City and remitting the required POT.**

Finding No. 4: Finance lacks a formal established audit plan for POT audits.

Finance's 2004 and 2011 contracts with TPN required a "work plan that outlines the tasks and requirements for the implementation of the Discovery Program including all services and deliverables identified..." To determine how Finance is assured that sufficient audit coverage is provided by TPN, we requested the contractor's work plans for FYs 08-09, 09-10 and 10-11. However, only one work plan for 2010-2012 was provided by Finance. Discussions with Finance and TPN representatives disclosed that the information provided on the work plan, such as the number of addresses within the targeted 10 zip codes, was to be considered as a preliminary step in determining the work to be performed by TPN. However, the work plan provided did not clearly describe it as preliminary, and we were provided no other documents that could be considered the "final" work plan. As a result, Finance could not sufficiently demonstrate that an adequate work plan existed to ensure appropriate audit coverage for the POT Discovery Program.

Finance has asserted that a variety of audit, enforcement, and collection programs have been implemented to increase POT revenue. Although we requested Finance's audit

plan related to POT, no audit plan was provided. Instead, Finance provided a document describing activities that are or have been routinely performed by its audit staff and TPN.

An audit plan provides the framework for allocating scarce resources and providing assurance that resources are being used effectively and efficiently. Developing an adequate audit plan requires assessing the risks for the "universe" of the areas subject to audit. Risks are assessed for an established set of criteria, such as prior audit results/known problems, time elapsed since last audit, etc. In order to sufficiently assess risk, it is critical to know the "universe" of the areas being audited. As previously noted, no survey of the entire City has been conducted to determine the number of parking lot operations subject to POT.

Finance has demonstrated that field investigations have been conducted and, in some cases, these have resulted in new POT registrations. However, without an adequate audit plan, there is no assurance that resources are being adequately utilized, including coordination with TPN's activities to avoid duplication of efforts, and sufficient audit coverage has occurred, to ensure POT collections are accurately reported and remitted.

Recommendation

The Office of Finance should:

- 10. Develop a formal risk-based POT audit plan to ensure adequate audit coverage is provided over parking tax revenues, and audit resources are utilized in an effective and efficient manner, in coordination with resources assigned by TPN.**

Finding No. 5: Improvements can be made to POT reporting.

In comparing the City's POT reporting forms to other jurisdictions, we noted some improvements can be made to ensure operators report POT collections accurately and imposing a failure-to-file penalty may further improve compliance with reporting and remittance requirements.

POT Reporting Forms do not Adequately Ensure Accurate Reporting

Finance's Parking Occupancy Tax Reporting Form (Reporting Form) must be submitted monthly along with the remittance of the POT assessed and collected by the Operators. The Reporting Form requires the Operator to report total parking fees, less allowable deductions (e.g., City owned/operated parking meters, residential parking, etc.) and the principal tax due as a 10% calculation of total taxable parking fees. The Reporting Form does not require the Operators to provide detail as to parking fees for Daily Parking (visitor or transient), Monthly Parking (part of building lease, or monthly pass), Validated Parking, Special Event Parking, Meter/Coin or Other. Parking fees assessed

for these various categories will differ. By requiring more specificity in the type of parking fees assessed by the Operators, along with the respective volume and dollar amounts, it would be more difficult for Operators to misreport the amount of POT revenues that should be remitted. It would also provide more data for Finance or TPN to confirm the accuracy of the Operator's reported information.

We noted that other cities, such as Miami, Pittsburgh and San Francisco require more financial details from their Parking Operators than our City. For example:

Miami requires Operators to submit two forms each month: a Surcharge (tax) Remittance form and a Surcharge Recap form. The Surcharge Remittance form accompanies POT remittances, and requires Operators to break out payments by: Daily (Visitor/Transient), Lease (Monthly), Validation, Event, Meter/Coin, Other. The Surcharge Recap form requires Operators to summarize data about parking transactions. These data provide detail for every day of the month, categorized by transient, valet, event, or monthly, and include the color of the ticket, the starting and ending sequence numbers, and the gross amount received for that ticket sequence.

Pittsburgh also requires Operators to summarize data about parking validation tickets, but the summary is on the back of the monthly tax return itself. Operators submit details for every day of the month, categorized by Day Parking, Night Parking, Event Parking, and Monthly Leases, and include the color of the ticket, the starting and ending ticket sequence numbers, and the gross amount for each ticket sequence.

San Francisco requires Operators to remit taxes monthly and file returns quarterly. Although there are only 4 tax returns each year, each return requires a monthly breakdown of fees collected by rate and by the following categories: Hourly, Flat, Monthly, Exempt, or Other. Exempt parking fees are further broken down by Residential Parking on Same Residential Premises, Government Parking Paid only by Government, Bank/Insurance Company Paid only by Company, and Other.

No Failure-to-File Penalty

Finance does not assess a penalty for Operators who fail to file a Reporting Form. A penalty is only assessed for failure to pay the tax. The Internal Revenue Service assesses a failure-to-file penalty that is approximately 10 times as high as the failure-to-pay penalty. The City of Chicago also imposes a penalty equal to 25% of the total tax due if the Operator fails to file a tax remittance return or no return is filed prior to the City issuing a notice of tax deficiency or a notice of tax liability. Using this approach, Finance would reduce the number of Operators who neglect to report the amount of POT that should be remitted. This would enhance the collection of POT revenues and reduce the resources necessary for additional assessment and recovery efforts that delay the City's receipt of POT.

Recommendations

The Office of Finance should:

11. Redesign the Parking Occupancy Tax Reporting Form to require more specific parking revenue data from the Operators.
12. Pursue City approval for adding a failure-to-file penalty to the City's Municipal Code.

SECTION II: PRACTICES OF OTHER CITIES

Our audit also included a survey of practices implemented by other governmental agencies related to parking occupancy taxes. We reviewed literature and contacted several jurisdictions to identify best practices that could be considered by the City. In some cases, implementing the practice would require voter approval, or changes to the City's Municipal Code.

Excise Tax on the Property Use

We found several municipalities outside of the U.S. that assess a tax based on the number of parking spaces. Rather than requiring Operators to collect POT from parking lot patrons, these municipalities collect an excise tax (not a property tax)⁷ from the property owner, based on the number of parking spaces.

In Canada, Vancouver, British Columbia implemented a *Parking Site Tax* that added approximately \$25-\$40 per non-residential parking space to a regular annual property tax bill. This approach virtually assures collection of the tax, while eliminating the processes needed to ensure POT based on the gross receipts is reported accurately and remitted timely. In 2007 this tax was eliminated and replaced by a sales tax applied to all parking transactions that rose to 21% in 2010.

In Australia, Sydney has a *Parking Space Levy* of AU\$800 per space applied to parking in the Central Business District (CBD) and AU\$400 per space applied to other districts in the city. The tax was prorated for parking facilities used only occasionally. Perth, Australia charged a Parking License Fee within the CBD and surrounding area, with different rates for short- or long-term use. Owners pay only for the spaces in use, and may shift spaces from one category to the other. By 2006, this levy reportedly rose to about AU\$169 for short-stay parking and AU\$195 for long-stay parking.

In Melbourne, Australia a Long-Stay Car Park Levy is charged to designated long-stay and permanently leased parking spaces in CBD commercial car parks. The levy is intended to encourage car park owners to convert long-stay spaces into short-stay spaces, creating more parking options for shoppers and visitors. The levy applies to about 52,000 CBD off-street parking spaces.

Perth and Sydney have similar tax collection procedures. The state government's revenue collection agency sends a parking license application to all non-residential property owners within the designated area. Property owners are required to return the completed application indicating all parking spaces on their property, including land

⁷ Ulberg, C., Etchart, G., & Bethany, W. (July 1992). *Local Option Commercial Parking Tax Analysis*, page 7 & Appendix B. University of Washington, Washington State Transportation Center (TRAC). Seattle, Washington: Washington State Transportation Commission, Department of Transportation and in cooperation with the U.S. Department of Transportation, Federal Highway Administration.

used for motor vehicle parking, even if parking spaces are not specifically marked or designated. In Sydney, for example, where an unmarked area is used for parking, the number of spaces is determined by dividing the total area by 25.2 square meters, which takes into account parking spaces and access lanes. Owners are sent an annual assessment based on this application. In Perth, parking license holders are responsible for ensuring that the number of vehicles parked anywhere within the boundary of their property is within the number licensed. Perth officials consulted extensively with stakeholders prior to the levy's introduction. As a result, there was an approximately 98 percent compliance rate the first year.

Prioritize POT Revenue Collection

San Francisco uses various online tools, such as software applications for parking locations, Craigslist advertisements, etc. as additional ways to identify unregistered parking lots. In addition, a task force of key City employees regularly meets to respond to issues and improve the POT process. San Francisco's parking regulations stipulate that there is no statute of limitations for pursuing legal action to collect unpaid POT from Operators that fail to file the Quarterly Parking Tax Return. The City of Los Angeles regulations are silent on this issue.

Personal Liability of Parking Operators

San Francisco also holds Parking Operators personally liable for misappropriation of "Third Party Taxes" such as POT, because the taxes are collected in trust on behalf of the City and were never the property of the lot operator.

The Los Angeles Parking Association also recommended to the City's CORE task force that the City establish joint and several liability for POT among Parking Lot Operators and Property Owners.

Recommendation

The Office of Finance should:

- 13. Investigate the feasibility of implementing practices used by other cities to ensure the City receives the maximum amount of POT revenues in the most cost-effective manner.**

Respectfully submitted,



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For



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July 24, 2012

APPENDIX I

AUDIT OF COLLECTION AND AUDIT PROCEDURES FOR PARKING OCCUPANCY TAX

Finding Number	Description of Finding	Ranking Code	Recommendations
SECTION I: POT DATA AND PROCESS IMPROVEMENTS			
1.	LATAX may not be a complete record of parking lots subject to collecting POT.	N N	<p>The Office of Finance should:</p> <ol style="list-style-type: none"> 1. Conduct periodic surveys of the City to have an accurate inventory of commercial parking lots in order to adequately identify risk and allocate sufficient audit resources. 2. Perform a periodic review of the business activity code (e.g., NAICS) noted in Franchise Tax Board data to further ensure parking lot businesses located and operating within the City are registered and remitting the required POT.
2.	There are few Contractor resources assigned to POT discovery efforts.	N N	<ol style="list-style-type: none"> 3. Establish timeframes for reviewing TPN audit files and ensure assessment letters are sent to Operators timely. 4. Work with TPN to develop a staffing model analysis that will result in improved net revenue gains from the contractor's discovery efforts.
3.	There is insufficient identifying information provided for discovery efforts.	N N	<ol style="list-style-type: none"> 5. Establish a standard process for reporting all possible street addresses for parking lots with multiple entry/exit ways and parking lots located on corners. 6. Require Parking Lot Operators to include the Police Permit Number on parking lot signs.

Finding Number	Description of Finding	Ranking Code	Recommendations
		<p>N</p> <p>N</p> <p>N</p>	<p>The Office of Finance should:</p> <p>7. Require Property Owners and/or Parking Lot Operators to report the number of parking spaces and type of parking spaces (i.e., monthly, daily, validated, etc.).</p> <p>8. Use the City's Geographic Information System to provide the locations and layout of parking lots within the City.</p> <p>9. Investigate the use of technology, such as consumer software applications, as an additional discovery tool to ensure parking lots are registered with the City and remitting the required POT.</p>
4.	Finance lacks a formal established audit plan for POT audits.	N	10. Develop a formal risk-based POT audit plan to ensure adequate audit coverage is provided over parking tax revenues, and audit resources are utilized in an effective and efficient manner, in coordination with resources assigned by TPN.
5.	Improvements can be made to POT reporting.	N	<p>11. Redesign the Parking Occupancy Tax Reporting Form to require more specific parking revenue data from the Operators.</p> <p>12. Pursue City approval for adding a failure-to-file penalty to the City's Municipal Code.</p>
SECTION II: PRACTICES OF OTHER CITIES			
	Practices of Other Cities for Consideration	N	13. Investigate the feasibility of implementing practices used by other cities to ensure the City receives the maximum amount of POT revenues in the most cost-effective manner.

Description of Recommendation Ranking Codes

U- Urgent-The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

N- Necessary- The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. The recommendation should be implemented within six months.

D- Desirable- The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

N/A- Not Applicable