

Harris County Auditor's Office



MEMORANDUM

To: Christian D. Menefee, Harris County Attorney
Ann Harris-Bennett, Harris County Tax Assessor-Collector

From: Mike Post, Harris County Auditor *MP*
Errika Perkins, Chief Assistant County Auditor – Audit Division *EP*

CC: Manasi Tahiliani, Senior Assistant County Attorney
Paige Abernathy, Assistant County Attorney
Wendy Caesar, Chief Deputy
Elizabeth Doss, Assistant Chief Deputy, Operations
Rebecca Dupree, Director of Compliance

RE: Airbnb Contract Review

Date: July 28, 2023

EXECUTIVE SUMMARY

The Fiscal Year 2023 Internal Audit Division's Audit Plan included a Hotel Occupancy Tax (HOT) Revenue Collections Audit to determine if Harris County (County) is collecting county taxes from all hotels within its jurisdiction. During preliminary planning, the audit team identified the Voluntary Collection Agreement (VCA) between Airbnb and the County, which resulted in this additional engagement. This engagement's scope was to perform the following objectives:

1. Evaluate the accuracy and completeness of HOT paid to the County through a review of tax returns filed, and
2. Assess the accuracy of HOT collections and remittances to the County based on a sample of reservations.

Airbnb provided adequate supporting documentation for the test sample to confirm completeness and verify that HOT collections were correctly calculated and remitted to the County. The following, however, are recommendations for improvement:

1. Amend the VCA contract to clarify terms and include a definitive response period for the auditee to complete information requests, and
2. Replace the current audit clause in the VCA with the County's standard audit clause.

BACKGROUND

Airbnb's software platform allows third parties ("Hosts") to rent sleeping accommodations to the public, and as a result the rental properties are subject to HOT as defined in Tax Code Chapter 156. The purpose of the local HOT is to fund and support the promotion of tourism, conventions, and the hotel industry.

Tax Code §352.002 (a) establishes authority for the imposition and collection of Local Hotel Occupancy Taxes and states, "The commissioners courts (...) by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use

or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping.”

On January 28, 2020, the County entered into a VCA with Airbnb for the collection and remittance of HOT. In accordance with the VCA, Airbnb shares responsibility with the Hosts for collecting and remitting HOT for sleeping accommodations rented on Airbnb’s internet-based platform.

RESULTS

OBJECTIVE 1: Evaluate the accuracy and completeness of HOT paid to the County

OBSERVATION 1: Auditors obtained the original reservation files from Airbnb and recalculated the HOT reports submitted to Harris County for the 4th quarter of 2021 through the 3rd quarter of 2022. Based on a review of support provided, Airbnb HOT remittances for the period were considered reasonably accurate and complete.

The audit scope was subject to limitations due to multiple instances of vague and/or restrictive contractual terms and clauses in the VCA, including:

- Conflicting language on whether individual “Hosts” are required to register, collect, and remit HOT directly to the County, and
- Limited visibility into exemptions from HOT calculations.

In addition to these limitations, Auditors incurred significant delays in response time for audit requests, including an instance where Airbnb’s reservation files were received more than 120 days after the initial request.

RECOMMENDATION 1: The County Attorney’s Office should consider a formal revision to the established VCA to clarify contractual terms, simplify vague clauses, and establish a definitive response period for Airbnb to complete information requests from the County.

OBJECTIVE 2: Assess the accuracy of HOT collections and remittances on a sample basis

OBSERVATION 2: The audit clause in the VCA imposes limits on auditable transactions, allowing only for a sample of up to 10 reservations per 12-month period to be requested for validation.

Auditors selected a sample of 10 reservations to test the accuracy of the HOT collections and remittances and determined that all 10 samples were correctly calculated.

RECOMMENDATION 2: The County Attorney’s Office should consider a formal revision of the current audit clause to incorporate an audit clause that includes access to the contractor’s facilitates and people, all records pertaining to the agreement, and defined timeliness for the contractor’s delivery of records and access.

Internal Audit Standards

We conducted our engagement in accordance with the International Standards for the Professional Practice of Internal Auditing (Standards). The Standards require that we comply with the Code of Ethics and obtain reasonable assurance that significant risks to the activity are minimized to an acceptable level.