

The 2004 City audit discussed four material weaknesses, four reportable conditions, and seven management letter comments. Mr. Filliben noted that the City has corrected or is in the process of improving in all 15 areas.

Material weaknesses reported in the 2004 management letter involved:

1. Component Unit Evaluation
2. Office of Economic Development (OED) Loans
3. Revenue Recognition
4. Denver International Airport Financial Reporting

Mr. Filliben described improvement efforts in all areas, such as improving determination of OED loan balances and adequate DIA management review and analysis of its financial statement report.

Reportable conditions involved:

1. Accounting and Financial Reporting
2. Journal Entries
3. Wastewater Management Construction - in -Progress
4. Information Technology General Controls

Mr. Filliben pointed out that the City had made progress in improving its accounting and financial reporting—noting that a few years ago this was a “reportable condition” for the City. He also noted that the recent creation of the controller and chief information officer positions is expected to improve overall City fiscal management and information technology issues respectively. He also credited the controller with creating a fiscal officers group that will work on training needs and other internal agency fiscal issues.

Finally, the seven specific management letter comment areas in the 2004 audit were:

1. Bank Reconciliations and Cash Accounts
2. Commercial Paper Fair Value
3. SAS 70 Review
4. Workers' Compensation
5. Sarbanes-Oxley Best Practices
6. Denver International Airport – Capital Asset Inventory
7. Denver International Airport – Depreciation of Betterments

Overall KPMG recommendations in the 2004 audit were to:

- Clearly define accounting and financial reporting roles within the City and DIA, including responsibility for reviewing the financial statements.
- Clarify role and responsibility of the Controller in relation to financial reporting and addressing internal control issues city-wide.
- Ensure adequate resources (both number and skill set) are directed to key operational areas for accounting and financial reporting.
- Develop and implement accounting and financial reporting policies and procedures, including relevant management review of key financial reports.

- Continue to improve communication between finance and program personnel.

Mr. Filliben cited the following major improvements already being made by the City with regard to the 2004 audit:

- Audit Committee
- Finance Officers Group
- Financial Reporting Committee
- Controller
- Fiscal Accountability Rules

Mr. Filliben explained that the Audit Committee, in particular, is an important fiscal oversight mechanism that:

- determines and oversees the external auditor
- Reviews audit rules
- Oversees internal audit functions, and
- Follows-up on audit recommendations within agencies.

He noted that the Audit Committee now has four independent members to help assure its integrity as an oversight body.

Mr. Filliben discussed in more detail the recommendation to consider implementing “best practices” from the Sarbanes-Oxley Act of 2002. The Act applies to public companies in an effort to improve accountability and financial reporting in response to cases like the recent Enron situation. It imposes new requirements for corporate responsibility, auditor independence, enhanced financial disclosures and establishes an oversight body--the Public Company Accounting Oversight Board (PCAOB). Although the Act does not apply to governments, Mr. Filliben suggested that the City consider implementing additional “best practices” from the Act.

Mr. Filliben outlined the following Sarbanes-Oxley best practices that can be implemented by local governments:

1. Promoting Auditor Independence by prohibiting auditor from performing the following non-audit services:
 - Bookkeeping
 - Financial information systems design and implementation
 - Appraisals or valuation services
 - Internal audit outsourcing
 - Management functions
 - Human resources functions
 - Investment services
 - Legal services
 - Expert services unrelated to audit
2. Pre-approval of all services provided by the auditor (audit and non-audit)

3. Audit partner rotation every five years (includes lead audit partner, concurring partner and client service partner)
4. Auditor reports to audit committees (required communications, critical accounting policies, alternate accounting treatments, etc.)
5. Audit Committee (AC) to appoint, compensate and oversee auditor's work
6. AC members must be independent
7. AC may hire advisors to help carry out its duties
8. AC must have one "financial expert" (former financial officer, controller, public accountant, etc.)
9. Principal executive and financial officers to certify that annual report is accurate, complete and fairly presented and take responsibility for maintaining and evaluating "disclosure controls and procedures"
10. Disclosure of significant changes in internal controls or significant deficiencies or material weaknesses
11. Off-balance sheet arrangements and contractual obligations (MD&A)
12. All releases or announcements about material non-public financial information
13. Transactions involving management and principal stockholders
14. "Rapid and current" basis of disclosure about material changes in financial position or operations
15. Management to report annually on internal controls and procedures for financial reporting and their effectiveness (section 404)
16. Auditors to attest to management's evaluation
17. Disclosure of code of ethics
18. Establishment of ethics/fraud hotline

Cheryl Cohen-Vader explained that some practices have been implemented already such as the establishment of an audit committee with independent members, public official financial disclosure, and bidding for the external auditor every five years. She said that implementing all the practices may not be appropriate for the City. Beth Machann, Controller, said that documenting all the City's internal controls is a major undertaking that must precede annual reporting as required under Sarbanes/Oxley best practice. Councilwoman Boigon requested that the Auditor report on implementation of his hotline in terms of how it meets Sarbanes/Oxley requirements at an upcoming meeting.

In response to Council questions, Mr. Filliben said that no Colorado local jurisdictions have yet implemented Sarbanes/Oxley, but some higher education entities have done so. He explained that implementation could be required by executive order, ordinance, or, most practically, by the City Audit Committee procedures.

Councilwoman Boigon requested that members of the Audit Committee present their ideas about implementing Sarbanes/Oxley at a future Finance Committee meeting. She also asked staff to consider whether to provide a per diem for external members of this important committee. Councilwoman Faatz requested that a fiscal analysis be presented as part of any recommendations for change.

2. Update on City Revenues

Committee Action

Discussion of this item was deferred at the request of the Administration.

3. Changes in tax processes

Committee Action

The Committee approved changing the filing deadline for sales tax to require receipt of the tax by the Treasurer, not just postmarking by the deadline and authorizing waiver of penalties for improper sales tax collection when the tax payer uses a certified state tax data base.

Summary of Discussion

David Hart and Steve Ellington, Treasury, presented two proposed changes in the City's tax collection process.

Change in the Tax Due Dates

Mr. Ellington explained that the proposed ordinance would change the deadline for filing tax returns for sales, use, lodgers', employee occupational privilege, business occupational privilege, facilities development admissions, telecommunications business, and taxicab operators taxes. Currently, the deadline requires postmarking by the due date. This proposed ordinance would instead require that the return must be received by the Manager of Revenue on or before the due date.

The proposal allows the Treasury Division to employ best business practices by fully utilizing a lockbox provider for processing these taxes. Under the current ordinance, the City must save envelopes in order to apply penalty and interest to a late return. Under the proposal, the lock box provider processes the checks on the date received, so the check processing date stamped on the check becomes sufficient evidence of late filing.

According to Mr. Ellington, using a lock box provider will result in tax revenues being deposited in the bank an average of two days faster and increased savings due to efficiencies.

Discussion ensued about the need for an aggressive public notification and marketing process to notify taxpayers of these changes. Councilwoman Faatz did not support the proposal, based on her experience at the state legislature attempting to change the deadlines for property tax. Staff was directed to develop a six-month grace period for tax filers before implementing the new penalties. (Note: Subsequent to this meeting, Treasury has asked to bring a revised proposal to Committee that incorporates both a grace period and a marketing plan.)

Location Database for Determining Municipal Sales Tax

Mr. Ellington proposed an ordinance to require retailers to use a state certified location database for collecting municipal sales tax. The ordinance would also waive penalties for incorrectly remitting the tax if retailers used the appropriate state database and it was inaccurate.

Mr. Ellington explained that Denver has participated with the Colorado Municipal League Sales Tax Simplification Committee to draft the proposal to implement state legislation. The benefit to the retailer, who delivers to multiple jurisdictions, is to simplify and improve the accuracy of the tax collection process. The ordinance will also expedite and improve the accuracy of tax collections for the City.