



**Sun Bowl Game Audit
No. A2024-04**

Issued by the
Internal Audit Department
June 26, 2024

**City of El Paso
Internal Audit Department
Sun Bowl Game Audit A2024-04**

EXECUTIVE SUMMARY

The Internal Audit Department has concluded the Sun Bowl Game Audit. Based on the results of the audit, two findings were identified. The findings are considered “Regular Findings.”

Listed below is a summary of the findings identified in this report:

1. The following reporting requirements are contained in the *Agreement between the City of El Paso and the Sun Bowl Association*:
 - The Office of the Comptroller is providing reports to the Sun Bowl Association detailing the amount of Motor Vehicle Rental Tax Revenue collected. The reports are not constructed in a user-friendly format.
 - The Sun Bowl Association is submitting payment requests on an annual basis versus quarterly as required by the *Agreement between the City of El Paso and the Sun Bowl Association*.
2. A review of the Motor Vehicle Tax Venue “Project Fund” and the Sun Bowl Association’s Consolidated Financial Statements identified that the Sun Bowl Association has \$8,740,836.13 available for Sun Bowl Game Team Payments and authorized expenses:
 - As of April 30, 2024, the Motor Vehicle Tax Venue Project Fund had a balance of \$4,214,836.93 maintained in the City of El Paso Treasury.
 - As of December 31, 2023, the escrow account of \$4,525,999.20 is on deposit with a local bank in a Certificate of Deposit.

For a detailed explanation of the findings, please refer to the body of the Audit Report.

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BACKGROUND

The Sun Bowl Association is a volunteer based 501(c)(3) organization founded in 1934. The creation of the Sun Bowl Association served to present a football attraction of national importance, promote El Paso and the Southwest and to generate income for the area. The Sun Bowl Association is assisted by over 700 volunteers who help promote and serve the El Paso community year-round events culminating with the Annual Tony the Tiger Sun Bowl football game. The first Sun Bowl football game was played on January 1, 1935 as a fundraising event. New Mexico State University and Hardin-Simmons University were invited to play the following year and the Sun Bowl has been a college game ever since.

The Sun Bowl Association partners with the Atlantic Coast Conference (ACC) and the Pac-12 Conference to bring teams and fans to El Paso. The Sun Bowl Association is governed by a President and Board of Directors that oversee operations related to Tony the Tiger Sun Bowl and other Sun Bowl core events. The Sun Bowl Association's Mission Statement reads "The Sun Bowl Association is committed to improve the quality of life by presenting, through its volunteers, the Southwest's friendliest bowl game and a series of festive events appealing to El Paso's diverse cultural heritage."

A referendum was approved on November 4, 1997 by El Paso voters authorizing the City of El Paso to add a 5% tax on the rental of motor vehicles, effective January 1, 1998. On August 11, 1998, the City of El Paso and the Sun Bowl Association signed the current Agreement to "remit the proceeds of the Tax to the Association for purposes consistent with Chapter 3.40 of the El Paso City Code." The "Motor Vehicle Rental Tax", as noted in the Agreement is used "to pay for the costs associated with collecting the tax, operating one or more athletic events in the City, and any costs associated with such an athletic event.". The Sun Bowl Association currently uses the Motor Vehicle Rental Tax for payment to the participating teams in the annual Sun Bowl and for any expenses associated with the Sun Bowl game.

AUDIT OBJECTIVES

The objectives of the Sun Bowl Game Audit were to perform an assessment of the Agreement between the City of El Paso and the Sun Bowl Association to:

- Determine if the Sun Bowl Association is compliant with the following major requirements of the Agreement:
 - Using the Motor Vehicle Rental Tax only for Qualified Expenses,
 - Required quarterly and annual financial reports are provided to the City on a timely basis,
 - Securing personnel at its own expense,
 - Proper insurance coverage is maintained.
- Document any "considerations" made between the City and the Sun Bowl Association outside the Agreement.

AUDIT SCOPE

Active Agreement between the City of El Paso and Sun Bowl Association #GINER/56729/SUN BOWL ASSN dated August 11, 1998.

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AUDIT METHODOLOGY

To achieve our audit objectives, we:

- Obtained an understanding of the Terms and Conditions contained in the Agreement between the City of El Paso and the Sun Bowl Association.
- Reviewed the City's and the Association's processes and applicable procedures for monitoring the performance and management of the Agreement.
- Interviewed City and Association management and staff responsible for monitoring the performance and management of the Agreement.
- Documented any areas where:
 - Monetary obligations were not met.
 - Funds were not used for stated purpose.
 - Proper insurance coverage was not maintained.
 - Adequate amount of fidelity bond was not maintained.
 - Agreed terms were not performed by the City or the Association.
- Conducted a review of the Motor Vehicle Tax Venue Project Fund.
- Selected a sample of Sun Bowl Association reimbursement payments made by the City and tested that:
 - Valid invoices with support documentation were submitted.
 - Expenditures were used for supporting the Sun Bowl Game.
 - No expenditures were used for personnel, office space, equipment or supplies.
 - The City is paying amounts available in the Motor Vehicle Tax Venue Project Fund.
 - Payment amounts matched up with the Association's financial statements.
- Obtained an understanding of the Sun Bowl Association's reporting requirements.
- Determined if the Sun Bowl Association was providing:
 - Quarterly reports of expenditures.
 - Annual Financial Statements.
- Conducted an analysis of the Sun Bowl Association Financial Statements.
- Evaluated the operational performance of the Sun Bowl Association.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards and the International Standards for the Professional Practice of Internal Auditing. 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.

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***REGULAR FINDINGS, RECOMMENDATIONS,
AND MANAGEMENT'S RESPONSES***

The definition of a “Significant Finding” is one that has a material effect on the City of El Paso’s financial statements, identifies an internal control breakdown, is a violation of a City procedure, or a violation of a law and/or regulation, which the City is required to follow. Any finding not meeting these criteria will be classified as a “Regular Finding”.

Finding 1

Sun Bowl Association Agreement Reporting Requirements

City of El Paso Strategic Plan:

- Goal 6.6 *Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.*

Agreement between the City of El Paso and the Sun Bowl Association #GINER/56729/SUN BOWL ASSN dated August 11th, 1998:

- Section 1. *COLLECTION OF TAX*
 - *As provided under Chapter 3.40 of the El Paso City Code, the City shall collect the Tax and shall report to the Association, upon the Association’s written request, the amount of tax revenue collected for the immediately preceding quarter.*
- Section 5. *PAYMENT OF THE TAX*
 - *Before the 30th day of July, October, January and April of each year, the Association shall deliver the Director of Office of Management and Budget for the City, (“Director”), a payment request and a copy of the Association’s “Qualified Expenditures”, certified by an officer of the Association, for the Association’s expenditures for the preceding three month period.*
- Section 13. *FINANCIAL INFORMATION*
 - *...The Association shall report quarterly to the Director of the Office of Management and Budget on such expenditures, and on request of the City Council or the Director of the Office of Management and Budget shall make the records available for inspection.*

The following reporting requirements are contained in the *Agreement between the City of El Paso and the Sun Bowl Association*:

- The Office of the Comptroller is providing reports to the Sun Bowl Association detailing the amount of Motor Vehicle Rental Tax revenue collected by the City of El Paso. The reports list the total Gross Rental Receipts and Motor Vehicle Rental Tax collected from all El Paso Car Rental Agencies for each quarter of the fiscal year. However, the reports are not constructed in a user-friendly format.
- The Sun Bowl Association is required to submit quarterly payment requests and copies of the Sun Bowl Association’s Qualified Expenditures for the preceding three-month period. Payment requests and expense reports are being submitted on an annual basis for Team Payments by the Sun Bowl Association.

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Recommendation

The Office of the Comptroller should ensure that:

- User-friendly reports are provided to the Sun Bowl Association to report the amount of Motor Vehicle Rental Tax revenue collected quarterly by the City of El Paso.

The Sun Bowl Association is currently submitting one payment requests and expense report annually. This payment request is related to the Annual Sun Bowl Football Game Team Payments:

- The Sun Bowl Association should request an update to the Agreement to reflect the current practice of a single payment request and expense report.

Management's Response

Office of the Comptroller was not aware about the reports not being user friendly. Sun Bowl Association has not communicated their need for a different report. We will work with the Sun Bowl Association to provide them with reports that align with their expectations.

Refer to the attached memo documenting the Management Responses from the Sun Bowl Association dated August 8, 2024.

Responsible Party

City of El Paso Comptroller.

Implementation Date

Next Motor Vehicle Rental Tax Report.

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Finding 2

Motor Vehicle Tax Venue Project Fund

City of El Paso Strategic Plan:

- Goal 6.6 *Ensure continued financial stability and accountability through sound financial management, budgeting and reporting.*

The Agreement between the City of El Paso and the Sun Bowl Association #GINER/56729/SUN BOWL ASSN dated August 11th, 1998 states:

- *WHEREAS, pursuant to Chapter 3.40 of the El Paso City Code, Motor Vehicle Rental Tax, the City has imposed a 5% tax on the rental of motor vehicles in El Paso, Texas (the "Tax") to pay for the costs associated with collecting the tax, operating one or more athletic events in the City, and any costs associated with such an athletic event;*
- Section 2. *SCOPE*
 - *The Association agrees that all Tax revenue paid to it by the City shall be used only to conduct an Athletic Event held in the City. "Athletic Event" is defined as the post season intercollegiate athletic football bowl game, commonly known as the Sun Bowl Game... including payment of the costs of planning, acquiring, establishing, developing, advertising, promoting, conducting, sponsoring or otherwise supporting the Athletic Event.*
- Section 5. *PAYMENT OF THE TAX*
 - *...the Director shall pay all such amounts to the Association, to the extent that such funds are available in the City's Motor Vehicle Tax Venue "Project Fund".*

A review of the Motor Vehicle Tax Venue “Project Fund” and the Sun Bowl Association’s Consolidated Financial Statements identified that the Sun Bowl Association currently has \$8,740,836.13 available for Sun Bowl Game Team Payments and authorized expenses.

1. The Internal Audit Department completed an analysis of the Motor Vehicle Tax Venue Project Fund dating back to City of El Paso Fiscal Year ending August 31, 2002. As of April 30, 2024, the Motor Vehicle Tax Venue Project Fund has a balance of \$4,214,836.93.

Deposits to Motor Vehicle Tax Venue Project Fund since August 31, 2002				Disbursements	Balance
Beginning Fund Balance	Investment Interest Revenue	Motor Vehicle Rental Tax Revenue	Penalties and Interest	Sun Bowl Association Payments	Balance as of 4/30/2024
\$4,088,930.00	\$96,378.75	\$69,296,712.26	\$20,744.01	\$69,287,928.09	\$4,214,836.93
Total		\$73,502,765.02		\$69,287,928.09	\$4,214,836.93

2. The Sun Bowl Association was authorized in 2001 by the City of El Paso to withdraw monies from the Motor Vehicle Tax Venue Project Fund to deposit into an escrow account. A Certificate of Deposit was established in 2002 at WestStar Bank as part of an agreement with the participating NCAA football conferences. The escrow account was established for the sole purpose of guaranteeing future Sun Bowl Game Team Payments. As of December 31, 2023, the escrow account had a balance of \$4,525,999.20.

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Motor Vehicle Tax Venue Project Fund Balance as of 4/30/2024	\$4,214,836.93
Escrow Account Balance in a Certificate of Deposit at WestStar Bank as of 12/31/2023	\$4,525,999.20
Total	\$8,740,836.13

Recommendation

The City of El Paso and the Sun Bowl Association should quarterly monitor the Motor Vehicle Tax Venue Project Fund balances maintained by both the City of El Paso and the Sun Bowl Association.

Management's Response

Refer to the attached memo documenting the Management Responses from the Sun Bowl Association dated August 8, 2024.

Responsible Party

Implementation Date

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INHERENT LIMITATIONS

Because of the inherent limitations of internal controls, errors or irregularities may occur and not be detected. Also, projections of any evaluation of the internal control structure to future periods beyond the Audit Report date are subject to the risk that procedures may become inadequate due to changes in conditions, management override of internal controls, or that the degree of compliance with the procedures may deteriorate. This was a limited scope audit which only reviewed the areas stated in the Audit Objectives during the Audit Scope period. No representations of assurance are made to other areas or periods not covered by this audit.

CONCLUSION

We have concluded our work on the objectives of the Sun Bowl Game Audit. The audit evidence used in the analysis is sufficient and appropriate for addressing the objectives and supporting the findings and conclusion. In reviewing the current agreement between the City of El Paso and the Sun Bowl Association, the requirements contained in the agreement do not match up with the current practices. The Agreement was executed August 11, 1998 and is in need of an update to document the current practices.

Current Agreement Requirements	Current Practices
Section 2 & Section 5 – Provides a definition of allowable expenses as “payment of the costs of planning, acquiring, establishing, developing, advertising, promoting, conducting, sponsoring or otherwise supporting the Athletic Event”.	Only 1 disbursement is requested annually by the Sun Bowl Association and disbursed by the City of El Paso. This payment represents the amount paid to the participating Football Teams of the annual Athletic Event.
Section 5 – Requires Quarterly Reports and allows Quarterly Disbursement from the Motor Vehicle Rental Tax Account.	Only 1 Annual Report is submitted and 1 Payment Disbursement is requested by the Sun Bowl Association.
Section 5 – The Association and the City agree that the City shall make withdrawals from the Tax revenue for reimbursement to the City for the actual cost of the City associated with the collection of the tax. Such Cost may include indirect cost allowed per the approved A-87 Indirect Cost Recovery Plan and direct cost, which shall include but not limited to personnel cost, election costs, or other costs administering and collecting the Tax.	The City of El Paso is currently not invoicing the Sun Bowl Association for the cost associated with Collecting, Administering, or Monitoring the Motor Vehicle Rental Tax. This to include the cost associated with this audit. The Internal Audit Department has expended 483 Audit Hours in the completion of this audit.
No mention of an Escrow Account.	A Certificate of Deposit was created in 2002 and increased in 2011 at WestStar Bank to guarantee future payments to the participating Football Teams. This Certificate of Deposit was established as a result of separate agreements with the participating College Football Conferences. A review of the requests to withdraw the funds from the Motor Vehicle Rental Tax Account was conducted by the City Attorney’s Office in 2001.

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<p>No mention of a required analysis on the performance of Motor Vehicle Tax Account</p>	<p>A trend analysis of the Motor Vehicle Tax Account and the upcoming Team Payouts for the 2024 Football Game indicates the following:</p> <ul style="list-style-type: none"> • The Motor Vehicle Tax Account is generating a little over \$4 Million a year. • Based on the agreed Team Payouts beginning in 2024, a total of \$5.2 Million will be needed to fund the Team Payouts. <p>Both the City of El Paso and the Sun Bowl Association need to be aware of the required amount for the Team Payouts.</p>
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In accordance with Generally Accepted Government Auditing Standards, we are required to conclude on whether the Sun Bowl Association met the objectives of this audit. Based on our audit work, we have determined that:

1. The Sun Bowl Association is compliant with the following major requirements of the Agreement:
 - The Association submits proper support documentation for reimbursements.
 - The Association uses only uses the Motor Vehicle Rental Tax funds to support the Sun Bowl Game.
 - The Association is providing Annual Financial Statements to the City.
 - The Association accurately reports reimbursement payment amounts received from the City of El Paso in their Financial Statements.
 - The Association maintains proper insurance and fidelity bond coverage.

We wish to thank Sun Bowl Association Staff for their assistance and numerous courtesies extended during the completion of this audit.

Signature on File

Edmundo S. Calderón, CIA, CGAP, CRMA, MBA
Chief Internal Auditor

Signature on File

Sergio Carrillo, Jr., CGAP, MBA
Auditor II

Signature on File

Liz De La O, CFE, CIA, CGAP, MPA
Auditor IV

Distribution:
 Financial Oversight and Audit Committee
 Cary Westin, Interim City Manager
 Bernie Olivas, Executive Director – Sun Bowl Association
 Robert Cortinas, Deputy City Manager of Support Services & Chief Financial Officer

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Management Responses from
the Sun Bowl Association



August 8, 2024

The Sun Bowl Association is a volunteer based 501(c)(3) organization founded in 1934. The Sun Bowl is committed to improve the region’s quality of life by presenting the Southwest’s friendliest bowl game and multiple festive events highlighting the region’s cultural heritage.

At the request of Mayor Oscar Leeser, the Internal Audit Department of the City of El Paso conducted an audit of the Sun Bowl Association, to include the use of the Motor Vehicle Rental Tax. In addition, the Audit was to include required reporting and handling of the funds by the applicable entities within the City of El Paso.

The Sun Bowl Association is very aware of the qualified expenses in which the Rental Car Tax can be used to include the costs of planning, establishing, developing, advertising, promoting, conducting, sponsoring or otherwise supporting the athletic event. It can also be used for payments to the colleges and universities that participate in the athletic event. The Association is very diligent in tracking the monies collected and requested. As per the contract between the City of El Paso and the Sun Bowl Association, it states that the Association shall request payment before the 30th day of July, October, January, and April. However, to avoid any confusion as to where the money is spent and to simplify the request, the Association requests payment once a year and is only used for payment to teams that participate in the annual Sun Bowl Football game. This request is made before March 31, when the team payments are due. The Association would like to continue to make one request a year, unless unknown circumstances occur that would require additional money be requested.

The Association would, however, like to have quarterly reports so that both parties are aware of the balance of the Rental Car Tax.

The Sun Bowl Association accepts the findings of the Internal Audit department of the City of El Paso. The Sun Bowl Association continues to be prudent stewards of the funds provided through the Motor Vehicle Rental Tax revenue.

Thank you,

Bernie Olivas
Executive Director
Sun Bowl Association

Michael Guerra
President
Sun Bowl Association