

Sonoma County

Auditor-Controller-Treasurer-Tax Collector

Internal Audit Report

**Follow-Up of the  
Agreed Upon Procedures Report of the  
Sonoma County Tourism  
Business Improvement Area**

For the Period: January 1, 2011 – December 31, 2011

Engagement No: 3560  
Report Date: April 28 2016



**Donna M. Dunk, CPA**  
Auditor-Controller-Treasurer-Tax Collector

---

## Table of Contents

---

**Follow-up of the Agreed Upon Procedures Report:  
Sonoma County Tourism - Business Improvement Area  
Engagement No. 3560  
For the Period January 1, 2011 to December 31, 2011**

	<u>Page</u>
Executive Summary .....	1
Background .....	2
Objective, Scope and Methodology .....	2
Prior Findings, Recommendations and Current Status .....	3
Staff Acknowledgement .....	4
Appendix A: Business Improvement Area Ordinance Organization Chart .....	5

---

## Executive Summary

---

As a part of the 2015/2016 Annual Audit Plan, the Internal Audit Division of the Sonoma County Auditor-Controller-Treasurer-Tax Collector's Office (ACTTC) conducted a follow-up of the Agreed Upon Procedures (AUP) Report for Sonoma County Tourism (SCT)-Business Improvement Area (BIA) dated June 24, 2013. The following observations are noted as a result of this follow-up:

- A revenue stream, flowing to SCT, of approximately \$150,000 per year was created as a result of reversing the exempt status of WorldMark Club (WorldMark), a lodging facility.
- The Board of Supervisors agreed with County Counsel's recommendation not to pursue at least \$830,000 in BIA assessments from inception of the BIA Ordinance.
- The City of San Diego initiated legal action against online travel companies which is being considered by the California Supreme Court. The Auditor-Controller-Treasurer-Tax Collector (ACTTC) and County Counsel are awaiting the result of pending legal action before investigating means for collecting additional BIA assessments due from rooms rented via online travel companies.
- Of the \$261,920 in past due BIA assessments noted in our original report, \$136,842 was attributable to one business, Vacation Rentals USA. All records maintained by Vacation Rentals USA were seized by the Sonoma County Sheriff, and the business subsequently filed for bankruptcy protection and closed, making the amount owed uncollectible. Of the remaining \$125,078 past due, the ACTTC was able to collect \$64,772.
- ACTTC sent a letter to the cities that have administrative agreements to ensure lodging facilities provide adequate support for rent receipts exempt from BIA assessments.

---

## **Background, Objective, Scope and Methodology**

---

As part of our Annual Audit Plan, we conducted a follow-up of SCT – BIA AUP Report dated June 24, 2013. The original report contained four recommendations which were accepted by ACTTC and SCT management.

### **Background**

In April 2012, ACTTC Internal Audit Division was engaged by SCT to issue an agreed upon procedures report covering the period of January 1, 2011 to December 31, 2011 for the purpose of assisting SCT, in evaluating compliance with the BIA Ordinance number 5525. The original report was issued on June 24, 2013. The responsibility for collecting BIA assessments rests with Sonoma County (County), however the County coordinates collection activities with the cities in which the lodging establishments are located. The ordinance designates the Sonoma County Tax Collector (now known as the Sonoma County Auditor-Controller-Treasurer-Tax Collector or ACTTC), as the “Collecting Entity” responsible for collecting BIA assessments from owners of lodging businesses. Section 33-6 of the ordinance allows the ACTTC to enter into administrative agreements with local cities to collect the assessments within their jurisdictions. Once an agreement with a city is in place, the city becomes the “Collecting Entity” for lodging establishments in their jurisdiction. The ACTTC had in effect such agreements with the cities of Santa Rosa, Rohnert Park, Petaluma, Sebastopol and the Town of Windsor during our reporting period. These agreements, require the cities to provide the County a list of all lodging operators within the city’s jurisdiction for the purpose of determining whether each lodging operator is subject to assessment under section 33-5(a) of the BIA ordinance. Our agreed-upon procedures covered collections and remittances of BIA assessments by the County, the cities that entered into administrative agreements with the ACTTC and seven lodging establishments.

### **Objective, Scope and Methodology**

The objective of this follow-up was to determine the status of implementation of recommendations contained in the agreed-upon procedures report dated June 24, 2013 and, where applicable, the impact of actions taken by ACTTC and SCT management.

Our procedures were limited to reviewing evidence supporting actions taken by SCT and the County, as of August 31, 2015, towards implementation of the report recommendations. We reviewed BIA assessment collection records and conducted interviews with management of SCT, the ACTTC Office and the cities, where applicable. We reviewed documentation supporting WorldMark’s BIA assessments received by the ACTTC and the collection of past due BIA assessments from other lodging establishments.

We conducted the follow-up AUP in accordance with the International Standards for the Professional Practice of Internal Auditing (Standards). These Standards require that we identify, analyze, evaluate, and document sufficient information and evidence to achieve audit objectives. We believe that the evidence obtained provides a reasonable basis for the conclusion contained in our follow-up report. The Standards require that we establish a follow-up process to monitor and ensure that management has effectively implemented actions or that senior management has accepted the risk of not taking actions. We conducted this follow-up from November 2015 through December 2015.

---

## Prior Findings, Recommendations and Current Status

---

The following is a discussion of the status of implementation of the agreed-upon procedures report recommendations. Each recommendation is referenced to the section of the report where it is discussed.

### **WorldMark Club (WorldMark) in the Town of Windsor pays Transient Occupancy Tax (TOT) to the Town of Windsor but does not pay BIA assessments.**

- 3.5 Perform further research to determine whether WorldMark is subject to the BIA ordinance and if so, the amount of assessments owed to the County and SCT.

#### **Status: Implemented:**

In our agreed-upon procedure report we pointed out evidence that indicated that WorldMark is not a timeshare organization as the Town of Windsor had represented to the County. As such, WorldMark should have been paying BIA assessments since the inception of the BIA ordinance. We estimated that on an ongoing basis WorldMark would owe over \$100,000 per year in BIA assessments. We also estimated that WorldMark would owe \$830,000 in BIA assessments since the inception of the BIA Ordinance.

Sonoma County Counsel agreed with our assessment that WorldMark should have been assessed BIA and advised the County Board of Supervisors (Board) to direct the ACTTC to coordinate with the Town of Windsor and commence collection of BIA assessments from WorldMark starting March 1, 2014. The Board decided to forego assessing WorldMark for periods prior to March 1, 2014. The ACTTC in conjunction with the Town of Windsor made a determination to delay starting collection until August 31, 2014 due to procedural issues faced by the Town of Windsor and WorldMark. The Board ratified that decision on May 10, 2016. For the one year period ending August 31, 2015, WorldMark remitted \$152,317 in BIA assessments.

### **Some lodging establishments use Online Travel Companies (OTC) to increase occupancy. Operators are applying BIA assessments on the discounted amount paid by the OTCs instead of the retail amount paid by the occupants.**

- 4.1 Perform further research to determine the financial impact and feasibility of collecting TOT and BIA on the retail rates paid by occupants.

#### **Status: In Progress:**

In our agreed upon procedures report, we noted that when OTCs purchase rooms, BIA is assessed on the price they pay rather than the higher amount they resell the rooms for. It would appear, based on the language of the ordinance, that BIA should be assessed on the higher amount paid by the room occupant. We were not able to determine a practical means for collecting the additional BIA due and thus made the above recommendation for the County to follow up.

The City of San Diego initiated legal action which is being considered by the California Supreme Court. The ACTTC and County Counsel are awaiting the result of pending legal action before investigating means for collecting additional BIA assessments due from rooms rented via OTCs.

---

## Prior Findings, Recommendations, Current Status & Staff Acknowledgement

---

**Operators in unincorporated areas of the County owed \$261,920 in past due BIA assessments as of April 3, 2013. The Ramada Inn owes approximately \$16,526 in past due BIA assessments.**

- 5.1 The County is pursuing collection of past due amounts from the establishments in the unincorporated area. The County, through the City of Santa Rosa, should pursue collection of \$16,526, together with penalties and interest, from Ramada Inn.

**Current Status: In Progress:**

As of December 31, 2015, the ACTTC collected \$64,772 of the \$261,920 in past due assessments that existed at the time of our Agreed-Upon Procedures Report. The ACTTC determined that as of 2013, \$136,842 of this remaining balance is uncollectable, because the operator went out of business and filed for bankruptcy. While there has been no recent collection activity related to this balance, the ACTTC maintains the balance in its collection system and reserves its rights under the BIA Ordinance to collect the past due BIA amounts. The ACTTC will continue to collect \$60,306 of past due BIA assessments.

A delinquent notification letter was sent to the Ramada Inn by the ACTTC on January 22, 2016 demanding payment of \$16,526 in past due BIA assessments.

**Some lodging establishments did not attach any documentation to support exemptions claimed on returns and some cities did not follow up with lodging establishments or require them to submit support for exempt amounts claimed.**

- 7.1 All exemptions claimed on BIA returns should be accompanied by supporting documentation that provides enough detail for a reasonable person to determine whether the exemption is valid. Entities that collect BIA assessments should require supporting documentation for exemptions and follow up with lodging establishments if adequate support is not received.

**Current Status: In Progress:**

The County sent a letter on January 5, 2016 to the cities, that have administrative agreements with the ACTTC to collect BIA, asking them to obtain from lodging facilities appropriate support for exemptions claimed.

### Staff Acknowledgement

The ACTTC Internal Audit Division staff would like to thank the ACTTC Investment and Debt Division staff, the County Counsel staff and the SCT staff for their helpfulness and cooperation in conducting this follow-up. If you have any further questions regarding this report, please contact Donna Crume at (707) 565-8301.

April 28, 2016

# Appendix A: Business Improvement Area Ordinance Organization Chart

