



## Washington State Auditor Brian Sonntag

Lodging Tax

By Brian Sonntag  
State Auditor

Recently, at the request of several local governments, the state Attorney General's Office revisited the issue of the appropriate use of money collected through lodging taxes. The Office's Opinion (AGO 2006 No. 4) answered three questions that have been at the heart of the discussion.

First, the Attorney General reaffirmed its conclusion in AGO 2000 No. 9 which stated a municipality must have an ownership interest in tourism-related facilities in order to spend lodging tax revenues on the operations of these facilities. This portion of the opinion is not intended to address contracts for services with tourism promotion agencies, however, because contracts with these agencies are authorized as "tourism promotion".

Second, with regard to special events and festivals, the Attorney General concluded municipalities are not authorized to spend lodging tax receipts to fund operations of special events or festivals. The opinion noted lodging tax proceeds may only be used for "tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities" and special events and festivals are not included within the definitions of tourism-related facilities. For special events and festivals designed to attract tourists, it is allowable to expend lodging tax revenue on advertising and promotion to attract tourists, because this qualifies under the definition of tourism promotion.

Finally, the Attorney General concluded municipalities may not provide advance payments of lodging tax revenues to service providers. Payment must be made after services have been provided and must be supported by adequate documentation. Payment may not be made as an outright grant to an organization, prior to any services being performed.

This portion of the opinion is critical to the agreements made with private organizations, including visitor and convention bureaus, to provide tourism related services. Typically these services are provided under a contract which specifies activities and deliverables as well as a payment schedule. The opinion notes municipalities must obtain "authentication and certification" prior to the payment of any claim. This does not mean that receipts are required for the operations of a tourism promotion organization; it simply means that the organization must demonstrate that it has performed the services required under the contract.

This Opinion may mean local governments may need to consider making changes in how they use these revenues. We realize these changes will not occur overnight. To the extent changes are required, they will most likely occur when the municipality and contracting organization enter into a new contract for 2007.

With this in mind, we will begin to examine compliance with this issue in 2007, for audits covering the period January 1, 2006 through December 31, 2006. This should allow governments sufficient time to adjust budgets, spending, and contracts to demonstrate progress towards full compliance with the Opinion. *Funds encumbered or expended during 2006 will not be subject to findings if we can see that actions have been taken to come into compliance in 2007 or they are pursuant to a contract that was in existence prior to the date of the AGO.* As in the past, we will audit to the contract, to insure both the municipality and the affected organizations have complied with its terms. We will review whether the government has taken action to come into compliance up to the time of our fieldwork.

Since it is clear that the legislative intent was for significant local control of the expenditure of these funds, we will continue to focus on whether your lodging tax advisory committee is established and operating in compliance with state law (RCW 67.28 RCW). If your entity is not required to establish a committee, we will look to the council/commission to analyze proposed expenditures for appropriateness under the law.

Our goal, as always, is to work with you to ensure compliance and accountability. If you have questions regarding the requirements, please contact Jan Jutte, Deputy Director of Audit at (360) 725-5359.