

STATE OF NEVADA

Performance Audit

Department of Tourism and Cultural Affairs
Division of Tourism

2014



Legislative Auditor
Carson City, Nevada

Audit Highlights



Highlights of performance audit report on the Division of Tourism issued on April 28, 2014. Legislative Auditor report # LA14-15.

Background

The Nevada Commission on Tourism was created in 1983 to develop and implement a national and international marketing campaign. During the 2011 Legislative Session, the Legislature created the Department of Tourism and Cultural Affairs and placed the Division of Tourism (formerly part of the Nevada Commission on Tourism) within the Department. In addition, the Division includes the Nevada Magazine. There is also a Commission on Tourism that establishes policies and approves programs and budgets for the Division of Tourism.

The Division's day-to-day operations are supervised by the Director of the Department of Tourism and Cultural Affairs. The Governor appoints the Director. The 2013 legislatively approved budget included 26 authorized full-time positions for the Division, and an additional 7.75 for Nevada Magazine.

The Division is funded by a 3/8 share of the one percent lodging tax established by the Legislature in 1983. In fiscal year 2013, the Division's lodging tax revenue totaled \$17.6 million. The Nevada Magazine accounts for its financial activities through an enterprise fund and exists on monies generated from magazine, calendar, and advertising sales. The Magazine's fiscal year 2013 revenue totaled just over \$1 million.

Purpose of Audit

The purpose of this audit was to determine whether: (1) the Division effectively procured, awarded, and managed contracts for services; and (2) Nevada Magazine properly controlled its cash receipts.

The primary focus of our work was fiscal year 2013. However, we performed follow-up work in certain areas through November 2013, and we included information from prior years in several areas.

Audit Recommendations

This audit report contains nine recommendations to improve the Division's activities related to the procurement of contractor services and contract management. In addition, one recommendation was made to help ensure Nevada Magazine's cash receipts are properly safeguarded.

The Division of Tourism accepted nine recommendations and rejected one recommendation.

Recommendation Status

The Division's 60-day plan for corrective action is due on July 23, 2014. In addition, the six-month report on the status of audit recommendations is due on January 23, 2015.

Division of Tourism

Department of Tourism and Cultural Affairs

Summary

When procuring contracts for services, the Division did not always follow state procurement requirements. For 2 of 10 contractors tested, the Division did not have formal, state contracts. In addition, we found the Division did not select these contractors through a formal, competitive process as required by law. Furthermore, the Division's selection of another contractor did not comply with the selection process described in the Request for Proposal. Failure to follow state procurement requirements could expose the State to unnecessary liabilities and costs, and does not ensure millions of dollars for professional services are awarded fairly.

The Division's management of contracts was inadequate. Payments to contractors were made without adequate supporting documentation, payments to some contractors exceeded contract maximums, and some contractor invoices were not properly reviewed. Adequate oversight of contracts is critical to help ensure the Division receives those services it desires and that state tax dollars are spent effectively.

Nevada Magazine does not have adequate controls to safeguard its cash receipts. We tested Nevada Magazine's receipt process for advertising revenue and found key activities were not properly segregated. In fiscal year 2013, the Magazine received over \$598,000 in advertising receipts, or 57% of its revenues for the year. Although we did not identify missing funds, proper segregation of duties is important to help ensure agency assets are safeguarded.

Key Findings

For 2 of 10 contractors tested, the Division did not have state contracts. These contractors acted as brokers for purchasing traditional and digital advertising. Fiscal year 2012 and 2013 payments to one contractor were over \$4.7 million, and payments to the other contractor were \$2.3 million in fiscal year 2013. The Division used insertion orders to procure the services of these contractors. Insertion orders are written agreements to publish advertisements for established prices. However, insertion orders are not state contracts and do not ensure the State is adequately protected. (page 6)

The Division did not comply with state law for selecting these two contractors. Division management indicated a solicitation waiver and an emergency procurement authorization allowed them to award the services without competitive bids. However, the Division did not follow the requirements of the solicitation waiver or the state's emergency procurement procedures. (page 7)

For 21 of 57 (37%) payments tested, contractors' invoices lacked adequate supporting documentation. For example, the Division paid \$2.3 million to purchase advertising space from media providers through a digital media advertising contractor, but did not have evidence from the publishers that the advertisements were placed, or the costs charged by the publishers. Proper supporting documentation is important to ensure only appropriate costs are paid. (page 11)

For 5 of 10 contractors tested, payments exceeded the contract maximums. Payments for the five contractors exceeded the maximums by over \$660,000, and could be more because payments related to one contract were made to other contractors. Paying more than the contract maximum could force the Division to limit or eliminate expenditures in other program areas if adequate funding is not available. (page 14)

For the 57 contractor payments tested, we found several instances where contractor invoices were not properly reviewed, and some contractors were overpaid. For example, the Division paid \$2,200 for travel expenses not allowed by the contract. Failure to properly review contractors' invoices may result in payments for services and products that do not comply with contract terms. (page 17)

Some payments and obligations to the Division's public relations and marketing contractor have, or will, result in itemized costs for some contract deliverables being exceeded. For example, Division payments and future obligations for production of television commercials could exceed \$1.2 million, compared to the \$537,000 specified in the contract. The terms for this contract included vague language regarding deliverables. When contracts do not clearly define deliverables, the State may not receive the services or products desired, and other contract services may not be realized. (page 18)

The Division has not fully realized deliverables contained in one contract. The contract terms indicated that, at the end of fiscal year 2013, the Division would have redesigned websites and a mobile application to help promote Nevada. However, neither of these deliverables were fully realized as of December 2013. At the end of fiscal year 2013, payments for website redesign and mobile application development totaled \$125,500 and \$69,200 respectively. (page 20)

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This report contains the findings, conclusions, and recommendations from our performance audit of the Department of Tourism and Cultural Affairs, Division of Tourism. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes 10 recommendations to improve activities related to the procurement of contractor services and contract management, and safeguarding Nevada Magazine's cash receipts. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

April 1, 2014
Carson City, Nevada

Division of Tourism

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Introduction

Background

The Nevada Commission on Tourism was created in 1983 to develop and implement a national and international marketing campaign. During the 2011 Legislative Session, the Legislature created the Department of Tourism and Cultural Affairs. The Department includes the Division of Tourism (formerly part of the Nevada Commission on Tourism), the Division of Museums and History, the Board of Museums and History, the Nevada Arts Council, the Board of the Nevada Arts Council, the Nevada Indian Commission, and the Commission for Cultural Affairs. In addition, there is a Commission on Tourism that establishes policies and approves programs and budgets for the Division of Tourism.

The Commission on Tourism is comprised of 11 members, with the Lieutenant Governor as its chair. Eight members, who have knowledge and experience in travel and tourism, are appointed by the Governor. The other members are officers of county fair and recreation boards, or county commissions.

The Division's primary mission is to promote Nevada's vast wealth of tourism, cultural inventories, attractions, points of interest, and recreational resources. The Division manages a variety of programs and campaigns that share a common goal, increasing revenue to the State by strengthening Nevada's travel and tourism industry. The major programs of the Division fall into four categories:

- **Marketing and Advertising** – creates brand excitement using marketing strategies that reach travelers through traditional and social media, collects and analyzes economic data, and conducts research studies to measure the impact of advertising.
- **Public Relations** – performs outreach efforts through traditional and social media, and promotes events and

activities for all agencies within the Department of Tourism and Cultural Affairs.

- **Sales and Industry Partners** – promotes domestic and international leisure travel to Nevada by attending travel trade shows, managing international tourism offices, and conducting familiarization tours.
- **Nevada Magazine** – educates tourists and residents on Nevada’s activities through its printed publication, website, and social media. The Magazine also produces the State Visitor’s Guide, two Events & Shows publications, and various niche market publications that promote travel to and within the State.

Staffing and Budget

The Division’s day-to-day operations are supervised by the Director of the Department of Tourism and Cultural Affairs. The Governor selects and appoints the Director from a list of three persons developed by recommendations from the Commission on Tourism, and the Chairs of the Commission for Cultural Affairs, the Board of Museums and History, the Board of the Nevada Arts Council, and the Nevada Indian Commission. The 2013 legislatively approved budget included 26 authorized full-time positions for the Division, and an additional 7.75 for Nevada Magazine.

The Division is funded by a 3/8 share of the one percent lodging tax established by the Legislature in 1983. Exhibit 1 shows the Division’s share of lodging tax revenues by county for fiscal years 2009 to 2013.

Share of Lodging Tax Revenues by County Fiscal Years 2009 to 2013

Exhibit 1

Fiscal Year	Counties						Total
	Clark	Washoe	Douglas	Elko	Carson	All Other	
2009 ⁽¹⁾	\$16,326,801 89.9%	\$1,112,528 6.1%	\$234,329 1.3%	\$205,230 1.1%	\$62,980 0.3%	\$221,441 1.2%	\$18,163,309 100.0%
2010	\$12,342,232 89.2%	\$906,419 6.5%	\$193,111 1.4%	\$160,768 1.2%	\$46,440 0.3%	\$193,045 1.4%	\$13,842,015 100.0%
2011	\$14,098,479 90.2%	\$884,631 5.7%	\$196,586 1.2%	\$175,634 1.1%	\$47,306 0.3%	\$233,869 1.5%	\$15,636,505 100.0%
2012	\$15,768,085 91.0%	\$870,456 5.0%	\$192,185 1.2%	\$190,527 1.1%	\$47,899 0.3%	\$249,746 1.4%	\$17,318,898 100.0%
2013	\$15,994,645 90.6%	\$946,657 5.4%	\$207,843 1.2%	\$196,912 1.1%	\$47,312 0.3%	\$252,102 1.4%	\$17,645,471 100.0%

Source: The Division.

⁽¹⁾ FY 2009 includes 14 months of data because the State changed how lodging tax revenue was reported.

For fiscal years 2012 and 2013, the Division's expenditures consisted primarily of promotion and advertising expenditures. Exhibit 2 shows the Division's fiscal years 2012 and 2013 expenditures and the percentage change.

Expenditures by Type Fiscal Years 2012 and 2013

Exhibit 2

Description	2012	2013	% Change
Promotion and Advertising	\$ 7,784,020	\$ 9,387,298	21%
Interdepartmental Transfers	1,950,257	2,869,661	47%
Personnel	1,936,548	1,887,164	-3%
Rural Matching and Tourism Grants	1,264,980	1,571,432	24%
Other Agency Transfers ⁽²⁾	1,147,318	1,194,560	4%
International Marketing Contractors	504,175	698,367	39%
Operating	311,909	288,384	-8%
Postage	384,408	283,451	-26%
Other ⁽¹⁾	201,779	153,695	-24%
Washington Office	101,439	101,439	0%
Total	\$15,586,833	\$18,435,451	18%

Source: State accounting system.

⁽¹⁾ Other expenditures include: travel, information services, state assessments and cost allocations, and training.⁽²⁾ Other agency transfers include transfers to the Nevada Film Office in the Governor's Office of Economic Development and Nevada State Parks in the Department of Conservation and Natural Resources.

In addition to promotional and advertising activities, the Division supported other agencies within the Department through interdepartmental transfers, like the Division of Museums and History, the Nevada Arts Council, and the Nevada Indian Commission.

The Nevada Magazine accounts for its financial activities through an enterprise fund and exists on monies generated from magazine, calendar, and advertising sales. Exhibit 3 shows Nevada Magazine’s funding sources for fiscal years 2012 and 2013.

Nevada Magazine’s Funding Sources **Exhibit 3**
Fiscal Years 2012 and 2013

Description	2012	2013
Beginning Cash	\$ 108,055	\$ 173,849
Advertising Sales	573,777	598,503
Events & Shows Sales	193,166	193,166
Subscriptions	139,182	124,113
Publication Sales ⁽¹⁾	119,972	102,847
Calendar Sales	50,282	51,599
Newsstand Sales	21,849	15,404
Other Revenue ⁽²⁾	9,158	7,340
Total Funding Available	\$1,215,441	\$1,266,821
Less Total Expenditures	\$1,041,592	\$1,046,694
Reserve Balance	\$ 173,849	\$ 220,127

Source: State accounting system.

⁽¹⁾ Publication Sales-includes Visitor’s Guides, Nevada Magazine 75th Anniversary Edition, and Nevada Magazine sales not through subscription or newsstands.

⁽²⁾ Other Revenue-includes agent sales and miscellaneous revenue.

As shown above, Nevada Magazine’s expenditures in fiscal years 2012 and 2013 were \$1,041,592 and \$1,046,694 respectively, and consisted primarily of personnel and printing costs.

Scope and Objectives

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature’s oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the

Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit included a review of the Division's activities to procure, award, and manage contracts for professional services; and Nevada Magazine's cash receipt process. The primary focus of our work was fiscal year 2013. However, we performed follow-up work in certain areas through November 2013, and we included information from prior years in several areas. Our audit objectives included:

- Determining if the Division effectively procured, awarded, and managed contracts for services; and
- Evaluating whether Nevada Magazine properly controlled its cash receipts.

Contractor Procurement Requirements Not Followed

When procuring contracts for services, the Division did not always follow state procurement requirements. For 2 of 10 contractors tested, the Division did not have formal, state contracts. In addition, we found the Division did not select these two contractors through a formal, competitive process as required by law. Fiscal year 2012 and 2013 payments to these contractors totaled over \$7 million. Furthermore, the Division's selection of another contractor did not comply with the selection process described in the Request for Proposal (RFP). Failure to follow state procurement requirements could expose the State to unnecessary liabilities and costs, and does not ensure millions of dollars for professional services are awarded fairly.

Services Procured Without Contracts

We found that 2 of 10 contractors tested did not have state contracts as required by law. These contractors acted as brokers for purchasing traditional and digital advertising space from media providers. Traditional media providers include television stations, and digital media providers include internet sites and services like Twitter. Fiscal year 2012 and 2013 payments to one contractor were over \$4.7 million, and payments to the other contractor were \$2.3 million in fiscal year 2013. The Division used insertion orders to procure these services. Insertion orders are written agreements to publish advertisements for established prices, and normally include instructions regarding the dates, times, and costs of advertising runs. However, insertion orders are not state contracts and do not ensure the State is adequately protected.

To place Nevada tourism advertisements with television, internet, and other media sources, the Division used independent contractors that purchase media advertising space. For fiscal years 2012 and 2013, the purchase of media advertising space

accounted for almost \$9 million of the \$17 million (52%) the Division expended for advertising and marketing activities.

State law governs the use of independent contractors by state agencies. NRS 333.700 (6) requires contracts for services over \$2,000 to be in writing. The form of the contract must be approved by the Attorney General, and submitted to the State Board of Examiners for approval.

Division management indicated they used insertion orders for media buys, and that insertion orders are like contracts. However, insertion orders lack important clauses, like the non-appropriation and audit clauses, found in state contracts and are not subject to the state's contract review process. Insertion orders are written authorization to print or broadcast advertisements. They normally include instructions regarding the insertion date(s), number of insertions in a stated period, ad size or length, and ad placement or time slot.

Failure to have formal, state contracts that are reviewed and approved through the required process could leave the State exposed to unnecessary liability and costs. For example, one of the responsibilities of the Board of Examiners is to review contracts to determine if sufficient authority exists to expend the money required by the contract and to determine if the services provided could be performed by a state agency in a more cost-effective manner.

Contractors Selected Without Competitive Bids

For the two independent contractors described above, the Division did not comply with state law, or the requirements of the Department of Administration's Purchasing Division (Purchasing) for selecting contractors. Division management indicated a solicitation waiver, granted in 2008, and an emergency procurement authorization granted by Purchasing allowed them to award the services without competitive bids. However, the Division did not follow the requirements of the solicitation waiver or the state's emergency procurement procedures. As a result, millions of dollars were awarded without competitive bids.

In 2009, the Division issued its own RFP and selected one contractor to purchase television advertising space. However, this selection was done without the authorization of Purchasing. During fiscal years 2012 and 2013, the Division paid this contractor more than \$4.7 million for advertising, including over \$708,000 in commissions.

The Division selected the second contractor to purchase digital media advertising space on the advice of its public relations and marketing contractor. This media advertising contractor was paid \$2.3 million in fiscal year 2013. Although the Division indicated most of the \$2.3 million went to purchase advertising space, the contractor's invoices did not include sufficient detail to determine if a commission was paid. Exhibit 4 shows the types of advertising buys and amounts in fiscal years 2012 and 2013 for the two contractors mentioned above, and other advertising buys.

Advertising Expenditures by Source and Type **Exhibit 4**
Fiscal Years 2012 and 2013

Source	Advertising Buys	2012	2013	% Difference
Contractor A	Digital Media	\$ -	\$2,300,000	N/A
Contractor B	Television and Radio	3,420,977	1,303,129	-62%
Other ⁽¹⁾	Digital Media	1,574,649	377,973	-76%
Total		\$4,995,626	\$3,981,102	-20%

Source: State accounting system.

⁽¹⁾ Other-includes Division direct buys from Google, Yahoo, and the Weather Channel.

As shown above, most fiscal year 2012 and 2013 advertising buys were performed by the two contractors that were not selected through a formal, competitive process. The Division's other advertising buys were direct buys by the Division from the advertising sites.

During the audit, a solicitation waiver granted by Purchasing in 2008 was provided as justification for not soliciting bids. The solicitation waiver allowed the Division to purchase advertising space directly from television and internet media sources. To obtain the waiver, the Division indicated it would save money by purchasing advertising space directly, without the use of independent contractors and the payment of associated

commissions. However, the Division's current practice of using contractors to procure advertising space does not reflect the conditions of the waiver.

For its use of the contractor selected by the public relations and marketing contractor, the Division indicated it worked with Purchasing and received authorization to proceed without a formal selection process. When requesting permission to forgo the formal selection process, the Division indicated time was a factor for its advertising campaign. Although Purchasing allowed the Division to forgo a formal selection process, it required them to use emergency procurement procedures outlined in NRS 333.300. The emergency procurement process requires agencies to do everything possible to secure three competitive bids.

Several state laws and the State Administrative Manual (SAM) govern the procurement of services, including the following:

- **NRS 333.165** – requires services with an estimated value of \$100,000 or more be procured by Purchasing unless authority is specifically delegated to the agency by Purchasing.
- **SAM 0338** – states that whenever possible an agency shall solicit and review at least three bids or proposals for each contract, and it requires an RFP, administered by Purchasing, for contracts for services of \$100,000 or more.
- **NRS 333.300 (4)** – allows the Purchasing Administrator to waive the requirement for competitive bids in cases of emergency. However, every effort must be made to secure the maximum competitive bidding under the circumstances. In no case may contracts be awarded until every possible effort has been made to secure at least three bona fide competitive bids.

By not using formal, competitive selection processes, the Division cannot be sure it obtains the best value for the State. In addition, the Division cannot demonstrate millions of dollars in contracts for professional services were awarded fairly.

Selection of One Contractor Did Not Comply With the RFP

The Division did not comply with its RFP when awarding a \$3 million contract to perform public relations and marketing services. After scoring technical and cost evaluation factors contained in the

RFP, the Division selected four contractors to give presentations. Presentations were scored and the contractor with the top presentation score was awarded the contract, without factoring in the scores for the technical and cost criteria included in the RFP.

The RFP for this contract indicated it could be awarded after scoring the technical and cost factors. In addition, the RFP stated vendors might be required to make a presentation. However, the RFP did not specify how the presentations would be scored, or how the presentations would factor into the overall score.

The RFP did state that the award would be made pursuant to NRS 333.335 (5). This statute requires contracts be awarded based on the best interests of the State as determined by the total scores assigned pursuant to the evaluation factors. For this contract, the evaluations factors included the following:

1. demonstrated competence,
2. experience in performance of comparable engagements,
3. conformance with the terms of the RFP,
4. expertise and availability of key personnel,
5. cost, and
6. presentation.

Although the total scores for the contractor awarded the contract were not significantly different from the contractor with the highest score, basing a contract award on the presentation, without considering all evaluation criteria, did not ensure the contract was awarded in the best interests of the State.

Recommendations

1. Ensure formal, state contracts are used to procure services.
2. Solicit formal, competitive bids for vendor services when required by state law.
3. Ensure contracts are awarded pursuant to the RFP and based on total evaluation scores.

Contract Management Was Inadequate

The Division's management of contracts was inadequate. Payments to contractors were made without adequate supporting documentation, payments to some contractors exceeded contract maximums, and some contractor invoices were not properly reviewed. We also found that, for one contract, the Division paid more for some deliverables than specified in the contract, the contractor has not fully completed some deliverables timely, and some invoices were not submitted or processed timely. Adequate oversight of contracts is critical to help ensure the Division receives those services it desires and that state tax dollars are spent effectively.

Contractor Payments Lacked Adequate Supporting Documentation

For 21 of 57 (37%) payments tested, contractors' invoices lacked adequate supporting documentation. For fiscal years 2012 and 2013, payments to these 10 contractors totaled over \$12.5 million. Proper supporting documentation for contractors' invoices is important to ensure only appropriate costs are paid.

The Division paid about \$1.8 million in fiscal year 2013 to one contractor for public relations and marketing services. We found the Division did not require adequate supporting documentation for most payments made. For example, the Division prepaid \$485,000 for television commercial production costs. Although commercial production did not begin until March 2013, the Division paid the expenses in February 2013. In addition, the supporting documentation maintained by the Division was an invoice with only the description "Television Advertising Production." The Division's contract with this vendor stipulates the State will not make payment prior to the receipt of goods or services.

Most payments for the public relations and marketing contract were supported by letters with vague descriptions of the services performed by the contractor and its subcontractors. The lack of detail and supporting documentation does not allow for adequate verification that the State received the services for which it paid. The following are examples of inadequate supporting documentation for the public relations and marketing contract:

- Most invoices were letters that identified the project area, listed a cost for services, and provided a few bullet points as support. For example, one letter showed \$80,000 in fees under the heading “Advertising.” To support this claim, the letter had three bullet points that read:
 - Strategy and ideation for the overall brand for the State;
 - Meetings with officials to discuss the branding ideas and campaign ideas; and
 - Draft timeline for development of commercial and other advertising materials.
- Some invoices included similar vague language to describe services performed and billed under different contract areas. For example, one invoice billed \$15,875 under the area “Public Affairs,” with a bullet stating, “prepared media lists and conducted outreach to media in Arizona and Utah.” This same invoice also billed \$10,038 under “Public Relations: Outreach,” with several bullets that read:
 - Outreach to media in relevant markets and respond to requests;
 - Outreach for brand launch, with emphasis on media strategy; and
 - Social media outreach and coordination.
- The Division paid a total of \$56,000 for services its public relations and marketing contractor indicated were performed by a subcontractor, but the contractor did not provide invoices from the subcontractor. The invoices from the contractor only included the wording, “This figure includes \$7,000 in professional service fees for work performed by [subcontractor].”

- For one invoice, the Division's accounting staff found the total invoice amount did not agree to the individual contract area costs billed. When the contractor was questioned about the discrepancy, a new invoice was submitted. This invoice increased one contract area cost by \$755 to match the original total cost billed, but did not provide any justification or support for the increase.

The Division's contract for public relations and marketing services requires monthly reports with hours for each team member by project area. These reports were not obtained by the Division. However, the Division has indicated that, as of fiscal year 2014, these reports are being provided as support for contractor invoices. In addition, the contract does not allow for mark-ups on subcontractor products and services, or prepayment of expenses. The current documentation provided with the contractor's invoices does not allow the Division to verify compliance with these contract terms.

We also found supporting documentation for other contractor payments was not adequate. The following documentation issues were observed when testing the Division's contractor payments:

- **Digital Media Advertising Contractor** – For payments totaling \$2.3 million, the Division did not have evidence from media providers that the digital advertisements were placed, or the costs charged by the publishers. We also noticed several issues with an invoice for \$1.4 million. For example, the invoice date was before many of the dates the advertisements were run, making the payment a prepayment for services. Additionally, the contractor's invoice showed the number of units received was about 24% less than the units ordered.
- **International Contractor** – Four international contractors help market Nevada tourism in other countries. Most payments tested for one international contractor were paid in advance for projected expenses. Of the \$376,457 in payments tested, we identified \$259,575 that did not include documentation to support the amounts were spent as projected. Prepaid projections included government taxes and benefits; office, telephone, transportation, travel, and entertainment expenses; legal consultation, trade show, and membership fees; brochures and gifts; and contractor employees' salaries.

- **International Contractor** – Documentation for a payment of \$44,800 failed to include receipts to justify reimbursements of \$29,800 for two separate events the contractor claimed to participate in.
- **International Contractor**- The Division could not provide copies of payment documents for one payment of \$11,040.

State policy and best practices require adequate supporting documentation to ensure contract payments are appropriate. For example, State Administrative Manual (SAM) section 0325 requires that contractor billings describe all work performed and that monthly statements itemize all expenses when contracts provide for reimbursement of expenses. In addition, SAM 2616 requires agencies to maintain documentation justifying all expenditures.

The Division's contract monitors did not ensure adequate supporting documentation was obtained. For example, documentation to support the \$485,000 television commercial payment made in February 2013 was received in October 2013, after we requested this information. Contract monitors are responsible for ensuring payments are appropriate and that adequate documentation is obtained. Accepting and paying bills without adequate documentation could result in the State paying more than it was required to under the contract, or not receiving all services billed.

Payments Exceeded Contract Maximums

Payments exceeded the contract maximums for 5 of 10 contractors tested by over \$660,000. By the end of fiscal year 2013, payments to four international contractors totaled \$655,534 more than the contracts' maximums. The Division also exceeded the year one maximum for its public relations and marketing contract. Payments in excess of this contract maximum totaled at least \$6,792, and could be more because some payments related to the contract were made to other contractors. Although the Division's approved budget included sufficient authority to cover these costs, paying more than the contract maximum could result in the agency exceeding its budget authority. The Division could also be forced to limit or eliminate expenditures in other program areas if adequate funding and budget authority are not available.

The Division contracts with international companies to market Nevada tourism in foreign countries. For their services, international contractors are paid a quarterly professional services fee, typically \$15,000. These fees cover general marketing activities. The contract maximums listed in the contracts for most international contractors are the total of the quarterly professional services fees. Exhibit 5 shows the countries represented by the four international contractors, and the contract maximums and payments.

International Contract Maximums and Contract Payments Exhibit 5

International Contractor (Country Represented)	Contract Maximum ⁽¹⁾	Contractor Payments ⁽²⁾	Difference
France & Germany	\$270,000	\$ 517,902 ⁽³⁾	\$(247,902)
Mexico	180,000	366,874	(186,874)
England	180,000	366,876	(186,876)
China	\$342,575	\$376,457	(33,882)
Totals	\$972,575	\$1,628,109	\$(655,534)

Source: State accounting system and Division contract records.

⁽¹⁾ Contract maximum includes all amendments for contract in effect through fiscal year 2013.

⁽²⁾ Contractor payments include those payments made for the duration of the contract, as amended through fiscal year 2013 (fiscal year 2011 to fiscal year 2013 for all but China and fiscal years 2012 and 2013 for China).

⁽³⁾ FY 2013 payments to this contractor were reduced \$4,913 by the auditors because these expenses related to a different contract.

The contracts with international contractors allow them to perform additional marketing services for the Division like purchasing media in the contractors' respective markets. These services are to be reimbursed at cost. However, the contracts' maximums do not allow funding for these additional activities.

The Division also exceeded the first year contract maximum for its public relations and marketing contract by at least \$6,792. The contract's fiscal year 2013 contract maximum was \$1,850,000, and the Division paid expenses totaling \$1,760,379 to the contractor. However, an additional \$96,413 in payments related to the public relations and marketing contract were made to other contractors. The following expenses were paid to other contractors:

- **Digital Media Advertising Contractor** – The Division paid \$91,500 to a contractor for services to help maintain and disseminate social media content, and track social media followers, which are tasks already included in a contract with another vendor and not included in this vendor's contract. The digital media advertising contractor's scope of work only included the purchasing of advertising space from media publishers. However, the Division's public relations and marketing contract contained provisions for the work described above including: 1) development of internet advertising banners and social media platforms; 2) development of social media strategy and content from research and analytical evaluations; 3) ensuring all activities are featured prominently in the social media platforms and add to the on-going content generation; and 4) driving the conversation about Nevada travel through ongoing, dynamic activity on social media channels.
- **International Contractor** – The Division paid \$4,913 to a contractor for services related to the recording of a song used in the Division's television commercials and sales video. Division management indicated it was appropriate to charge these expenses to the international contract because the song was used in a sales video. However, the public relations and marketing contract states the contractor will, "**develop sales video(s) for use at trade shows and other activities...**" In addition, other expenses related to the recording of the song, totaling \$23,475, were correctly recorded to the public relations and marketing contract.

Best practices require that contracts document what services will be performed and at what cost. In addition, SAM 0322 indicates that contract maximums are required to help governing bodies ensure agencies have sufficient authority to expend the money required by the contract and whether the services that are the subject of the contract could be provided by a state agency in a more cost effective manner.

Paying more than contract maximums allow can result in an agency exceeding its budget authority. In addition, the Division operates with limited resources; additional expenses in one area can result in fewer resources to carry out other areas critical to the agency's mission.

Contractor Invoices Not Properly Reviewed

For the 57 contractor payments tested, we found several instances where contractor invoices were not properly reviewed, and some contractors were overpaid. For example, 4 of 57 payments tested did not include a sign-off by the contract monitor. In addition, the Division paid a contractor for chauffeured car services used by the contractor's employees. However, the Division did reduce the contractor's reimbursement for first class airfare to the economy class rate, a difference of over \$1,000. The Division's policies and procedures require all contract invoices to be audited, approved, and signed by the applicable program manager. Failure to properly review contractors' invoices may result in payments for services and products that do not comply with contract terms.

Some contractor invoices were not properly authorized, or the Division overpaid the contractor for the services performed. We observed the following exceptions during our audit testing:

- Four of 57 payments tested did not include a sign-off by the contract monitor. Authorization should be noted by the initials or signature of the monitor and the date of authorization. Unauthorized payments amounted to \$665,779.
- The Division overpaid its public relations and marketing contractor \$2,213 for travel expenses that were not allowed by the contract. For example, the Division paid \$1,557 in chauffeured car services for the contractor's employees during travel to or from Nevada.
- One international contractor was overpaid \$1,901. The invoice showed these charges were for translation and website services, which are covered under the quarterly professional service fee. However, the Division processed these payments as additional marketing expenses.
- For one invoice, the Division overpaid an international contractor \$543 because the spreadsheet used to calculate the amount owed contained an error in its currency conversion formula.

The Division's policies and procedures require all contract invoices to be audited, approved, and signed by the applicable program manager. In addition, best practices for contracting

require that a qualified, knowledgeable employee review invoices to determine and approve their payments. Failure to properly review contractors' invoices may result in payments for services and products that do not comply with contract terms.

Payments for Some Deliverables Exceeded Contract Amounts

In addition to exceeding the contract's first year maximum, some payments and obligations to the Division's public relations and marketing contractor have, or will, result in itemized costs of some contract deliverables being exceeded. Specifically, the Division has paid \$123,900 more for the production of television commercials than agreed to in the contract, and anticipated future costs of \$583,000 may result in exceeding the cost estimated in the contract by nearly 130 percent. In addition, the Division has agreed to pay over \$525,000 for website development services originally estimated to be \$475,000. The contract's terms include vague language regarding these deliverables, and do not give requirements and terms for acceptance of the deliverables. When contracts do not clearly define deliverables and tie payments to the acceptance of those deliverables, the State may not receive the services or products desired. In addition, other contract services and products may not be realized.

When services are completed for the production of television commercials and website redesign, the Division's payments to its public relations and marketing contractor will significantly exceed the contracted amounts. Exhibit 6 shows the costs and contract amounts associated with the television commercials and redesigned websites.

Costs and Contract Amounts Television Commercials and Redesigned Websites

Exhibit 6

Deliverable	Contract Amount	Division Payments (FY 2013)	Future Obligations	Total (Payments & Obligations)	Difference (Contract Amount & Total)
Television Commercials	\$ 537,000	\$660,903	\$583,014 ⁽¹⁾	\$1,243,917	\$(706,917)
Websites	\$ 475,000	\$125,489	\$400,000 ⁽²⁾	\$ 525,489	\$(50,489)
Totals	\$1,012,000	\$786,392	\$983,014	\$1,769,406	\$(757,406)

Source: State accounting system and Division records.

⁽¹⁾ The Division anticipates an additional \$363,014 in talent usage fees. In addition, Division will pay \$220,000 to re-shoot scenes for its Fall/Winter 2013 and 2014 advertising campaign.

⁽²⁾ To redesign the Division's website, the contractor originally used a subcontractor, but subsequently procured another subcontractor to complete the website for \$400,000.

As shown in Exhibit 6, the Division's payments and approval of future obligations for the deliverables will exceed the contract amounts. The payments for these deliverable costs are anticipated to exceed the contract amounts by over \$750,000.

The contract included \$317,000 for the production of one 30-second and four 15-second television commercials, and \$220,000 for "creative refresh and account management," for a total cost of \$537,000. The cost to produce television commercials for the Division's advertising campaigns was \$660,903, as of the end of fiscal year 2013, June 30, 2013. In addition, the Division approved an additional \$220,000 for revisions and edits to the commercials for its Fall/Winter 2013 and 2014 campaign. Furthermore, the Division indicated it will incur additional payments for talent fees each time the commercials are used in a campaign run, approximately \$363,014 for the next two campaigns. This will place the production costs for these television commercials at over \$1.2 million, compared to the \$537,000 specified in the contract.

The contract for public relations and marketing services includes \$475,000 for website development services. At the end of fiscal year 2013, the Division had paid over \$125,000 for website development services, but did not have a website that met its requirements. The contractor used a subcontractor to redesign the Division's website and has since obtained another subcontractor. The new subcontractor has submitted a proposal to redesign the Division's website and complete additional website services. The new subcontractor proposed this work at an additional cost of \$400,000. In addition, the Division was invoiced another \$154,000 in fiscal year 2013 for work performed by the first subcontractor, but the Division has not paid this invoice as of December 31, 2013. Without including the costs invoiced and not paid, the Division will pay over \$525,000 for the redesign of its website.

Contracts should provide for specific, measurable deliverables and tie payments to the acceptance of deliverables. However, the contract terms found in the Division's public relations and marketing contract included vague terms regarding deliverables.

For example, the contract states the contractor will “develop architecture for each website,” “coordinate with staff to develop robust websites,” “develop content management tools to disseminate vibrant content,” and “develop a robust back-end administrative tool.” However, the contract does not give specifications or actual deliverable requirements, and does not include terms for acceptance of these deliverables.

When contracts do not clearly define deliverables or the terms for acceptance of those deliverables, the State may not receive the services or products desired. In addition, other services and products may not be realized if the State is forced to decrease the contractor’s scope of work due to cost overruns in some areas and budget constraints. For example, the public relations and marketing contract required that the contractor redesign all of the Department of Tourism and Cultural Affairs websites; however, Division management indicated the contractor is only redesigning the Division’s website. The other departmental websites are now being redesigned by the Department of Tourism and Cultural Affairs’ staff.

Some Contract Deliverables Not Fully Realized

The Division has not fully realized deliverables contained in its public relations and marketing contract. For example, the contract terms indicated that, at the end of fiscal year 2013, the Division would receive redesigned websites and a mobile application to help promote travel and tourism to Nevada. However, neither of these deliverables was fully realized as of December 2013. At the end of fiscal year 2013, Division payments for website redesign and mobile application development totaled \$125,489 and \$69,192 respectively. The contract terms included vague language regarding due dates and timelines for deliverables.

The Division’s contractor for public relations and marketing services was supposed to redesign all seven of the Department of Tourism and Cultural Affairs websites. Not only were the websites to be redesigned, but the websites were to be mobile internet friendly. This would allow the websites to be more easily viewed on cell phones and tablets. In addition, a downloadable mobile application (app) was to be developed.

The website redesign services were to be completed in the first year of the contract, fiscal year 2013. Although not specifically stated, the contract implied the version of the app for Apple's operating system (iOS) would also be completed in the first year. However, neither the websites nor app were completed in fiscal year 2013. Division management indicated the Division's website redesign will be completed by April 2014. In addition, the Division believes the app will be completed at the same time, but Division management did not know if this included other versions or just the iOS version.

Although best practices require that contracts identify due dates and deadlines for deliverables, the contract terms found in the Division's public relations and marketing contract included vague language regarding due dates and timelines for deliverables. For example, the contract states this is a 2-year project and the timing of activities will be determined collectively between the Division and the contractor. However, contract documents do not provide specific timelines.

Billings for Contract Services Not Submitted or Processed Timely

For one contract totaling over \$3 million, the contractor did not submit several invoices timely and the Division did not process some invoices timely. The average time for submission of the contractor's invoices was 109 days after the end of the billing month, and some were not submitted for over 250 days. Furthermore, some invoice payments were delayed because the Division's contract monitor did not review them timely. Although the contract indicates the vendor will be paid upon receipt of complete invoices, it does not require the monthly submission of invoices, and Division policy does not specify a time frame for the contract monitor's review of invoices.

For the Division's public relations and marketing contract, the average time for submission of contractor's invoices was 109 days after the end of the month in which services were performed. Five invoices were submitted more than 250 days past the end of the service month. These invoices were reimbursements for contractor travel expenses incurred September through November 2012. The travel expenses were originally submitted without supporting documentation. The contractor resubmitted the

invoices in July and August 2013, or the end of the fiscal year. In addition to the travel expenses mentioned above, the contractor submitted several fiscal year 2013 invoices, totaling over \$105,000, after August 13, 2013. The contract requires all billings for work done before July 1 be submitted no later than the first Friday in August, which was August 2nd in 2013.

Some invoices were not processed timely by the Division once received. The Division took at least 113 days to pay 4 contractor invoices. Three of these payments were not processed for more than 170 days. For example, the contract monitor approved two invoices at the end of July 2013 that were received at the beginning of March 2013. This was almost 5 months after the invoices were received. Documentation showed completed invoices were paid timely by Division accounting, once approved by the contract monitor.

State administrative policies require monthly billings for professional services where compensation is not a fixed amount. In addition, good contract monitoring practices require that an agency assign a contract manager with authority, resources, and time to monitor the project.

It is difficult for program personnel to effectively review the appropriateness of charges when so much time has passed since the services were provided. This increases the risk of incurring expenses that exceed contract maximums and makes monitoring contractor performance more difficult.

Recommendations

4. Ensure payments have adequate, detailed documentation of the propriety of expenses.
5. Ensure contract maximums include all budgeted costs for each contractor, and properly record payments to the appropriate contract.
6. Ensure future contracts include terms that clearly specify deliverable requirements, and, when possible, tie payments to acceptance of deliverables.

7. Ensure future contracts include specific due dates and deadlines for deliverables.
8. Train contract monitors to properly review contractor invoices as required by agency policies.
9. Ensure future contracts contain requirements for the timely submission of invoices, and develop internal policies and procedures for the timely review and payment of invoices.

Controls Over Cash Receipts At Nevada Magazine Are Not Adequate

Nevada Magazine does not have adequate controls to safeguard its cash receipts. We tested Nevada Magazine's receipt process for advertising revenue and found key activities were not properly segregated. In fiscal year 2013, the Magazine received over \$598,000 in advertising receipts, or 57% of its revenues for the year. Although we did not identify missing funds, proper segregation of duties is important to help ensure agency assets are safeguarded.

During our audit work, we observed two individuals were involved in Nevada Magazine's cash receipt process. However, the activities of the second employee did not ensure proper segregation of duties. One employee received the mail and then totaled the amount received before giving the cash receipts to another employee. The second employee then prepared a receipt log and returned the cash receipts to the first employee. The first employee then prepared and made the deposits, and handled all accounting records. Because the first employee received the monies, prepared and made the bank deposits, and recorded the deposits in the accounting system, there is an increased risk that errors or theft could occur and go undetected.

NRS 353A.020 requires an agency to establish a system of controls to safeguard the assets of the agency. This includes controls to help ensure proper segregation of duties. To help agencies establish a system of controls, the Division of Internal Audits has published a self-assessment questionnaire. This tool emphasizes the separation of key duties for receiving revenues, preparing deposits, and reconciling receipts and deposits. In addition, standards for internal controls require separation of

duties so that the duties of authorizing transactions, processing and recording them, reviewing them, and handling the related assets are not assigned to the same person.

Although the Nevada Magazine has policies and procedures regarding cash receipts, they do not adequately address which staff positions are responsible for receiving revenues, preparing deposits, and reconciling deposits to receipt logs. However, when we discussed this issue with Nevada Magazine, management indicated they are taking steps to resolve the problem and train staff. Without proper controls to safeguard assets, the risks of errors, fraud, theft, and abuse increase.

Recommendation

10. Develop policies and procedures to ensure the key duties of receiving, depositing, and reconciling cash receipts are properly segregated.

Appendix A

Audit Methodology

To gain an understanding of the Division of Tourism and Nevada Magazine, we interviewed staff and reviewed statutes, regulations, and policies and procedures significant to their operations. We also reviewed financial information, legislative committee minutes, and other information describing the agencies' operations.

To determine if the Division effectively procured and awarded professional services, we judgmentally selected 10 vendors providing services to the Division. Our judgmental sample was based on the vendor payment amounts and vendor type. We selected the four international vendors and six domestic vendors who were paid the most in fiscal year 2013.

For each vendor tested, we determined how the vendor was procured. We examined solicitation waivers and Requests for Proposals (RFP) used to evaluate and award contracts to the vendors. We analyzed the evaluation process of applicable RFP awards. We evaluated whether the RFP clearly stated the evaluation criteria and procedures for determining the winning bidders; the contract was awarded based on the process explained in the RFP; and documentation was maintained supporting the decision of award. Then, we verified if the procurement process complied with state law, regulation, and policy.

We investigated why some vendors did not have contracts. We reviewed the appropriateness of solicitation waivers and their uses. For one contract, we reviewed the timeliness of invoice submission and the Division's payment of invoices.

To determine if the Division effectively managed the procured professional services, we tested payments to each of the 10 vendors selected for testing. We judgmentally selected the five

largest payments made to eight vendors in fiscal year 2013. If the vendor did not receive five payments in 2013, we selected the remaining payments from fiscal year 2012. However, based on our concerns regarding invoices from one vendor, we tested all 14 of the payments to this vendor. In addition, we tested three payments for the tenth vendor because those were the only payments to the vendor during fiscal years 2012 and 2013. This resulted in a sample of 57 vendor payments recorded in fiscal years 2012 and 2013. Since this sample of payments was judgmentally selected, the results of our testing cannot be projected to the entire population of vendor payments.

When reviewing vendor payments, we tested to see if the payments were accompanied by adequate supporting documents, payments were approved by the contract monitor, and payments agreed to contract scope of work and terms in the contracts. In addition, we analyzed contracts to understand the scopes of work, deliverables, reporting requirements, payment terms, time constraints, maximums, amendments, incentives and penalties, and other contractual obligations.

To evaluate whether Nevada Magazine properly controlled its cash receipts, we tested advertising revenues. We judgmentally selected 10 advertisements each from the 2013 July/August editions of the Nevada Magazine and the Las Vegas Events and Shows publication. We selected advertisements as we encountered them starting at the front of the publications and proceeding through each page. Furthermore, we selected advertisements with accounts that would show on the accounts receivable ledger so we could track collection efforts. Any duplicate advertisements found in both publications were skipped over to the next available advertisement. We discussed with staff the process they used to record and collect advertising dollars, and observed the process. In addition, we tracked payments from receipt in the mail to deposit in the bank and the recording of these receipts in the accounts receivable subsidiary ledger and in the state accounting system.

Our audit work was conducted from April to November 2013. We conducted this performance audit in accordance with generally

accepted government auditing standards. 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 on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Director of the Department of Tourism and Cultural Affairs. On March 12, 2014, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix B which begins on page 29.

Contributors to this report included:

Todd Peterson, MPA
Deputy Legislative Auditor

Jane Bailey, MS
Audit Supervisor

David Steele, CPA, MPA
Deputy Legislative Auditor

Appendix B

Response From the Division of Tourism



March 24, 2014

Paul V. Townsend, CPA
Legislative Auditor
Legislative Counsel Bureau
401 S. Carson St.
Carson City, NV 89701

Dear Mr. Townsend:

In response to the performance audit of the Department of Tourism and Cultural Affairs, Division of Tourism (Nevada Commission on Tourism and Nevada Magazine), this letter hereby transmits the written statement of explanation as required per your letter dated March 3, 2014. We also have included the page entitled "Division of Tourism's Response to Audit Recommendations" with 9 of the 10 recommendations accepted. The written response includes narrative as to why we agreed to the nine and rejected one of the recommendations.

I appreciate the opportunity to review NCOT's operational procedures and ensure that the agency is open to suggestions for operating at the highest level possible. Please contact me if you have any further questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Claudia Vecchio".

Claudia Vecchio
Director

Enclosures (2)



Nevada Commission on Tourism
LCB Audit #LA14-XX
Report Response
March 24, 2014

Summary

The Nevada Commission on Tourism (NCOT) appreciates the opportunity to review its operational procedures and ensure that the agency is operating at the highest level possible. Achieving a world-class level of excellence is the way we approach our results-driven marketing campaigns and will accept no lesser standard for our overall operations.

The Nevada Commission on Tourism has existed since 1983 and has operated as one of the state's most successful performance-based agencies, returning more than \$90 million per year based on its marketing campaigns alone, resulting in an ROI of at least 19:1 since reporting was begun in 2008.

The LCB last conducted an audit of the Nevada Commission on Tourism starting in March 2001 with completion in March 2002. During the past 12 years, the agency has had four directors, was merged into the Department of Tourism and Cultural Affairs and has had numerous staffing changes within its operations team. These changes have ultimately put the agency in a tremendous place for programmatic success, but challenged in regard to operational consistency. As noted in the audit, current NCOT administration works not only with NCOT, but leads the Department of Tourism and Cultural Affairs as well. While operational excellence is imperative, the merger of the agencies need to enhance program effectiveness and thus revenue returned to the State took precedence during the first year. The NCOT team has risen to the task, and has boosted its sales and revenue returns:

- Return On Investment (ROI) from the FY13 Spring/Summer campaign rose from 19:1 to 22:1 year-over-year with \$4.4 million of NCOT advertising generating \$98 million in visitor-related tax revenue to Nevada
- The total average yearly spend per visitor to the State increased 23 percent (\$2,485 vs. \$2,028 in summer 2012)
- A robust list of new itineraries developed promoting Nevada to the now nine global markets in which NCOT has representative firms.

We welcome the opportunity to improve our operational functions and through this audit have gained valuable information that will certainly be of assistance to not only NCOT, but we believe could also benefit all agencies. For example, during the early stages of the audit, a couple of phrases were uttered by the auditors time and again, "contracting standards" and "best practices for contracting." No one in NCOT was fully aware of these standards. If we were being judged against a set of standards, these should be widely provided and thoroughly taught rather than briefly discussed during the existing contracting class as offered by State Purchasing. The "best practices" articles were sent to NCOT so now we know the benchmarks for success:

http://www.nasact.org/nsaa/committees/performance/downloads/bestpractices/Contracting_for_Services.pdf

<http://www.acquisition.gov/bestpractices/bestpcont.html>

Although contract standards are briefly covered during the contracting class, we would suggest these be an integral part of every contracting class and that a “best practices” training course be offered, if not required, of agency directors and supervisors as well as operations function staff.

Response to Audit Findings

1. Services Procured Without Contracts – Media purchases, for which a vendor receives about 15% of the total buy, rather than the figures as shown in the report for the total media purchase, had not been done correctly for years (prior to 2011). NCOT’s current operations team recognized these errors and had already begun to correct this situation when this audit started. NCOT has conducted and completed a Media Buying RFQ process, putting media buying agencies under contract. **This issue has been resolved.**

2. Contractors Selected Without Competitive Bids – NCOT agrees with this finding, which resulted in the media buying RFQ. When the new administrative team came on board in 2011, we were told this was how NCOT has done it for years and while that’s a terrible excuse, the agency had other issues that had to be addressed first within the critical programming and ROI areas. Because the previous Deputy Director of Administration and Marketing Director (the staffer directly responsible for this work) had been and continue to be with the state for more than a decade, the assumption was made (obviously incorrectly) that this was okay.

This section also refers to a media buy that was done through a contracted vendor (Burson-Marsteller) and that evidence was not produced that a commission was not paid. The RFP for which this vendor was selected clearly states:

3.4 ACCOUNT MANAGEMENT (page 16)

Please Note: Firms are not allowed to charge the NDTC a commission for any media purchased or for mark-ups on products or services.

The vendor was obligated by the terms for which it was hired that no commission would be charged.

The media buying RFQ has been completed. **This issue has been resolved.**

3. Selection of One Contractor Did Not Comply With the RFP – The RFP cited was a State Purchasing RFP and NCOT followed the state purchasing procedure as it was instructed. We rely on State Purchasing as experts to understand and guide the policies and procedures governing the process. As vendor selections are often challenged, it is imperative that state agencies rely on the expertise of State Purchasing to complete the bidding process. As this was the first major RFP for NCOT in many years, we followed the Purchasing process as we were guided. We were given the option of “Miss America” style evaluations – identifying the finalists, zeroing out the scoring and determining the winner based on the oral presentation. The section noted in the audit is nebulous – NCOT did in fact consider all the factors cited. Nowhere does it state these factors need to be cumulative.

NCOT believes that State Purchasing has changed its process to include both the preliminary and finalist scoring, however, at the time of this RFP, other options were available. NCOT will continue to rely on State Purchasing to provide all ground rules for and process management of vendor selection. NCOT will always contend its vendor selections are made within the best interest of the state.

This issue and its associated process is one in which NCOT disagrees with the LCB Auditors as we believe no mistake was made. We do, however, completely agree with the statement on the Audit Recommendation: Ensure contract are awarded pursuant to the RFP and based on the total evaluation scores.

4. Contractor Payments Lacked Adequate Supporting Documentation – NCOT is working to ensure all invoices (documentation that precedes any payment) have adequate detail to ensure the work completed for every dollar spent is a good value for the State. NCOT has provided the LCB with invoices received for marketing contractors prior to 2011 and absolutely no detail exists. Burson-Marsteller, the contractor in question, provided significantly greater detail than the previous marketing contractor – managed under the previous NCOT administration. The supporting documentation for the marketing contract was undergoing detail enhancement prior to the LCB audit. NCOT now requires hour-by-hour back up for each dollar billed. Updated invoices have been provided to the LCB Audit Division. **This issued has been resolved.**

5. Payments Exceeded Contract Maximums – This finding consists of two components, one of which relates to the contracts with international vendors to market tourism in their own countries. For most of the international office contracts, NCOT has contracted with the international vendors at \$15,000 per quarter to cover the professional representation fee. All other costs outside of the representation fee are costs that the international vendors incur on behalf of NCOT. These costs would usually be paid directly by NCOT, but the difficulty of paying international vendors has proven extremely difficult. As a result, the international vendors incur the costs on behalf of NCOT, and NCOT reimburses the vendor at actual cost. NCOT agrees that these contracts should include both the representation fee and a budget for other incurred costs for marketing, sales, and public relations activities, so all future contracts and amendments will include larger contract maximums as necessary to cover the cumulative amounts paid to the international vendors.

The \$91,500 paid to the digital media advertising vendor was paid as part of the buy to develop specific content for the BuzzFeed program. As a specific program, with very specific content needs, it was determined to have the content developed in direct connection with the BuzzFeed editors. This situation occurred once and with NCOT's new media buying environment, will not happen again.

The noted \$4,913 was paid to a recording studio in Germany to record The Killers performing the soundtrack to "Don't Fence Me In" during the band's extensive European tour. The recording session was managed by NCOT's German office. This soundtrack is used not just by the domestic television campaign, but also is the soundtrack to the sales video which is used by NCOT's international offices. The multinational use of this soundtrack is why we believe the expense is justifiable as an international office expense.

The issue specific to the international contracts will be resolved when new contracts or contract amendments are approved for work commencing on July 1, 2014. The other funds were for one-time expenditures that we believe were accounted for in a reasonable way.

6. Contractor Invoices Were Not Properly Reviewed – Prior to the LCB audit, NCOT had changed its invoice process flow. The new process sends all invoices to the finance manager and the program manager for sign-off prior to being delivered to the Director for final sign-off. All steps in this new review process are to be completed within a week when the program manager is in the office or within a week of the program manager returning to the office during an absence. **This issue has been resolved.**

7. Payments for Some Deliverable Exceeded Contract Amounts – This finding actually melds together a number of divergent issues that don't have a connection in the marketing environment, but are challenging to understand for non-marketers.

The Burson-Marsteller contract is again cited in this example. Within the marketing environment and with this contract, the current contract notes an annual total for the integrated marketing program, rather than three separate final numbers for advertising, public relations and digital development. This was done for a reason. During the development of a new campaign, the costs for ideation, production and completion of the campaign is estimated, but it's not until the creative is agreed upon that the costs are truly understood. This flexibility is absolutely essential in the marketing arena. Exhibit 6 does not correctly represent the contract.

As a side note: In a recent survey of state tourism agencies by the Travel Association of America, we were asked for the cost to develop a website. The range was from \$250,000 to over \$1 million. At the moment, the website for a tourism agency is an incredibly complex environment. Because the competitors for Nevada tourism are not only the neighboring states, but major consumer brands that compete for a similar level of discretionary dollars, the site must be spectacularly compelling from both a design and functionality standpoint. This is an expensive undertaking.

This finding also notes that contracts should provide for specific, measureable deliverables. This is not in the best interest of a quickly evolving marketing/media environment. Contracts for marketing agencies should include only overarching goals and strategies (major programs) and not the tactics or measurements. Being stuck to a measure or a tactic erases flexibility and does not allow marketers to take an opportunistic approach to the ever-evolving ways our target audience receives information about travel destinations. As NCOT evolves its marketing to appeal to Millennials, we must be prepared to evolve its campaign to reach this social media-centric, digitally tethered audience. Campaigns are not only obsolete after a year, but NCOT watches each campaign closely and makes daily changes based on non-performing channels. NCOT writes an annual marketing action plan. This is where the tactics and specific measurements live. NCOT also conducts an effectiveness study following each of its campaigns. This is where the campaign ROI is identified. This is where the revenue associated with NCOT's efforts is determined.

The very good news is that the television commercials and associated integrated marketing campaign are working. The Spring/Summer FY13 campaign (the first to be launched with the new brand) boosted direct visitor spending in FY 2013 to \$263 for every dollar spent on advertising (compared to \$228 in FY 2012). This represents an ROI of 22:1 up from 19:1 for the previous year.

The ads, developed by the Burson-Marsteller team are resonating with key audiences with research feedback including:

- The new television ad builds appeal. Most viewers like the ad and the freedom implied by “Don’t Fence Me In” so much so that it exceeds previous NCOT commercials. This was seen in both in the positive opinion ratings: 80 percent this summer liking the ads vs. 65 percent from the summer of 2012 and the stated positive effect on intent to visit of 48 percent this summer vs. 29 percent from the summer of 2012.

NCOT disagrees with the LCB audit in the finding and assumptions made as we believe specifying deliverable requirements restricts the creative process, limits an opportunistic approach and curbs the best use of the ever-evolving media environment. Ultimately this will negatively impact the agency’s ability to be successful.

8. Some Contract Deliverables Not Fully Realized – The NCOT/Burson-Marsteller contract represents a collaborative partnership between NCOT and the agency. The items listed within the scope of work represent the totality of the marketing program. Because NCOT has incredibly capable professionals on its staff, some of the work to complete the marketing programs comes from the staff. While this doesn’t lessen the burden of the agency to complete the work, this collaborative effort is essential for retaining a high level of effectiveness and connectivity between the agency and its Nevada industry partners as well as the audiences outlined in the marketing plan.

Burson-Marsteller also provided deliverables not included in the contract, including the ideation for the brand. NCOT provided Burson-Marsteller’s subcontractor agency, Y&R, with the research to lay the groundwork for the brand, Y&R was able to create the branding language and tag lines for both Nevada: A World Within. A State Apart. and the tourism campaign slogan “Don’t Fence Me In.”

And as has been noted, the deliverables are contained within the marketing plan. These deliverables must be flexible enough to meet an evolving marketing arena.

The contract has not yet completed and NCOT continues to work with the agency to ensure all programming is completed within the contracted period.

NCOT does not believe this is an issue and will provide a final report regarding the agency’s work for all stakeholders. The Audit Recommendation for this bullet point is: “Train contract monitors to properly review contractor invoices as required by agency policies.” NCOT agrees that all contracts should be reviewed by contracting experts PRIOR to signing and that as contracts become due to expire or be extended, each should be reviewed for ongoing effectiveness. In the case of NCOT, it’s the marketing plan and the vendor’s ability to achieve the goals outlined in this plan that will determine if deliverables are fully realized. NCOT has evolved its contracting to ensure no contract is issued for more than two years with a two year potential extension. This is due to the nature of marketing and NCOT’s need to evaluate its vendors more frequently than the four-year contract period that was in place prior to 2011.

9. Billings for Contract Services Not Submitted or Processed In A Timely Manner – NCOT couldn’t agree more. Following last year’s challenging end of fiscal year invoice processing, we have made it a mandate for contractors that provide monthly invoices, to do so within 45 days of the end of the month billed. And, through the above referenced invoicing workflow, documents will be processed in a timely manner. On occasion, NCOT requests additional information for invoices, causing a delay in processing. We will not scale back those requests, but will ask for more timely responses. NCOT program managers also travel frequently so invoices are not always reviewed as quickly as possible. NCOT is aware of and

working to improve this process. **We believe this issue has been resolved and will continue to work with all vendors to ensure a timely processing of invoices.**

10. Controls Over Cash Receipts At Nevada Magazine Are Not Adequate – Nevada Magazine has instituted a new policy to meet this recommendation. Our mailed checks (and very rarely cash) are received by our Office Manager, Pati Stefonowicz, who opens the envelopes and endorses the backs of the checks with our deposit stamp. She gives the checks to our Circulation Manager, Carrie Roussel who lists each check on a log, with the date of the check, check number, name of customer, and amount of check. Carrie totals the daily log and returns the checks to Pati. Pati deposits the checks, using the state's electronic system and returns all the back-up paper work (the customer's order forms) to Carrie who inputs this information into our subscription software system, Subscription Genius. Carrie then compares the totals from the daily log with the totals input into the subscription system, to ensure that they balance. The checks are kept for a couple days to ensure they clear the bank and then are shredded. Nevada Magazine understands the importance of ensuring all cash receipts are tracked and have proper accounting. **This issue has been resolved.**

Division of Tourism’s Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Ensure formal, state contracts are used to procure services	<u> X </u>	<u> </u>
2. Solicit formal, competitive bids for vendor services when required by state law	<u> X </u>	<u> </u>
3. Ensure contracts are awarded pursuant to the RFP and based on total evaluation scores	<u> X </u>	<u> </u>
4. Ensure payments have adequate, detailed documentation of the propriety of expenses	<u> X </u>	<u> </u>
5. Ensure contract maximums include all budgeted costs for each contractor, and properly record payments to the appropriate contract	<u> X </u>	<u> </u>
6. Ensure future contracts include terms that clearly specify deliverable requirements, and, when possible, tie payments to acceptance of deliverables	<u> </u>	<u> X </u>
7. Ensure future contracts include specific due dates and deadlines for deliverables.....	<u> X </u>	<u> </u>
8. Train contract monitors to properly review contractor invoices as required by agency policies.....	<u> X </u>	<u> </u>
9. Ensure future contracts contain requirements for the timely submission of invoices, and develop internal policies and procedures for the timely review and payment of invoices.....	<u> X </u>	<u> </u>
10. Develop policies and procedures to ensure the key duties of receiving, depositing, and reconciling cash receipts are properly segregated	<u> X </u>	<u> </u>
TOTALS	<u> 9 </u>	<u> 1 </u>

Appendix C

Auditor's Comments on Agency Response

The Division of Tourism, in its response, does not agree with several of our findings and conclusions. In addition, the Division has rejected one of our recommendations. The following identifies some sections of the report where the Division has taken exception to our position. We have provided our comments on some of the issues raised in the Division's response to assure the reader that we believe our findings, conclusions, and recommendations, as stated in the report, are appropriate.

1. The Division in its response to the report section "Contractors Selected Without Competitive Bids" agreed with the finding that competitive bids were not used to select contractors that purchase media advertising space. However, the Division found issue with the report language that one of these contractors (paid \$2.3 million in fiscal year 2013) did not provide sufficient documentation to determine whether a commission was charged or not. The Division cited contract terms from its public relations and marketing contract, and stated the contractor was obligated by the terms of the contract not to charge a commission. (see page 31)

Legislative Auditor's Comments

The Division's response refers to a contract with a different vendor and not the vendor described in the finding. In its response, the Division provides contract terms from its public relations and marketing contract. These contract terms do not apply to the digital media advertising vendor that was paid \$2.3 million. As stated in our report on page 8, the Division selected a vendor to purchase digital media advertising on the advice of its public relations and marketing contractor, without soliciting competitive bids. The vendor that purchased the digital media advertising did not have a contract, and billed the Division directly. Therefore, the contract terms cited by the Division do not apply. As stated in the report, sufficient supporting documentation was not provided by the vendor that purchased digital media advertising to determine whether a commission was charged or not.

2. The Division indicated in its response that the RFP mentioned in the report was a Purchasing Division RFP and stated, "We rely on State Purchasing as experts to understand and guide the policies and procedures governing the process." The Division further stated, "The section noted in the audit is nebulous – NCOT did in fact consider all the factors cited. Nowhere does it state these factors need to be cumulative." (see page 31)

Legislative Auditor's Comments

The auditors agree that the RFP was issued through the Purchasing Division. The RFP process is a collaborative process between agencies and Purchasing, with the agencies helping to write the RFP and evaluate the proposals. Because agencies work with Purchasing, they have a responsibility to help ensure the contract is awarded pursuant to the RFP. The RFP created by the Division, with the help of Purchasing, indicated the proposals would be evaluated pursuant to statute. As shown in our report on page 10, the RFP provided the evaluation factors and stated the award would be made pursuant to NRS 333.335 (5), which requires contracts be awarded based on the total scores assigned pursuant to the evaluation factors. Since this contract was

not awarded based on the total scores assigned to the evaluation factors, the contract was awarded using an evaluation method that was different from the method described in the RFP.

3. The Division in its response to the report section "Payments for Some Deliverables Exceeded Contract Amounts" indicated Exhibit 6 does not correctly represent the contract. In addition, the Division rejected Recommendation 6: "Ensure future contracts include terms that clearly specify deliverable requirements, and, when possible, tie payments to acceptance of deliverables." The Division states:

NCOT disagrees with the LCB audit in the finding and assumptions made as we believe specifying deliverable requirements restricts the creative process, limits an opportunistic approach and curbs the best use of the ever-evolving media environment. Ultimately this will negatively impact the agency's ability to be successful.

(see pages 33 and 34)

Legislative Auditor's Comments

As indicated in our report on page 19, the contract for public relations and marketing services included defined costs for the production of television commercials and websites. These costs were itemized in the contractor's proposal and included in the contract. Therefore, we believe Exhibit 6 on page 18 accurately reflects the contract amounts, payments made, and future obligations for these deliverables.

Our concerns, as reported on pages 18 through 20, are that the contract includes vague language for the tangible deliverables in the contract, like website development, app development, and television commercials. Contracts with these types of deliverables can include well-defined specifications, and should be clearly defined in the contract. In addition, when possible, full and final payment for these types of deliverables should be tied to how well they fulfill the Division's expectations. Failure to do so can result in cost overruns, delayed delivery, and a final product that does not function as intended. As indicated in our report on pages 19 and 20, the Division has incurred additional website design costs because the original website design did not meet its requirements. In addition, the contractor's scope of work has decreased regarding website design. Instead of redesigning all the websites associated with agencies within the Department of Tourism and Cultural Affairs, as required by the contract, Division management has stated the contractor is only redesigning the Division of Tourism's website.