



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

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TO: Local Government Officials and their Independent Auditors
FROM: Sharon Edmundson, Director, Fiscal Management
SUBJECT: Operation of and Accounting for Discretely Presented Component Units, Including
Tourism Development Authorities
DATE: September 30, 2013

There have been many questions raised in recent months about the accounting for, the audit presentation of, and the administration of component units, particularly those formed by the primary government such as tourism development authorities (the TDA). The purpose of this memorandum is to clarify what can be a confusing topic, and put forth in writing the policies of the State and Local Government Finance Division. The discussion points in this memorandum apply to all discretely presented component units but we are going to use a TDA as an example. TDAs are rapidly becoming the most numerous of the discretely presented component units, second only to ABC Boards, and are often the type of unit about which we are questioned.

Forming a Tourism Development Authority

The authorization to levy an occupancy tax on the gross receipts from the rental of any room, lodging or other accommodation furnished by hotels, motels, inns and similar establishments is generally coupled with the requirement to create a tourism development authority and is established by the enabling act, a local act or Session Law. There is no general law authority to levy occupancy taxes or to create a TDA. The text of Session Laws is available from the website of the [North Carolina General Assembly](#). Once a Session Law has been passed by the General Assembly granting permission to levy an occupancy tax and to establish a TDA, the county or municipality's board may adopt resolutions to levy an occupancy tax and create a TDA. The county or municipality (the Primary Government) should provide a copy of the resolutions to the Fiscal Management Section of State and Local Government Finance Division (the SLGFD) of the Department of State Treasurer to provide notice of the creation of the TDA. In fact, the SLGFD should be notified any time a new authority or other governmental entity is formed.

It is important to note that while the Session Laws authorizing tourism development authorities are generally similar to the structure described in this memorandum, there are occasional but often important differences in the legislation that authorizes any given TDA. The governing bodies and finance officer of both the Primary Government and the TDA must be familiar with the provisions of the particular legislation authorizing the specific TDA and related occupancy tax.

Session Laws authorizing the levy of an occupancy tax and the establishment of a TDA generally, but not always, include the following provisions:

“When the [county’s or municipality’s] governing body adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the unit’s tourism development authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act.”

“The finance officer for the [county or municipality] shall be the ex officio finance officer of the Authority.”

The impact of the first of these provisions is that the TDA is a public authority and is a separate legal entity distinct from the Primary Government creating it. The second provision appoints the finance officer. An “ex officio finance officer” has the exact same duties and responsibilities under The Local Government Budget and Fiscal Control Act ([LGBFCA](#)) as any other finance officer – the only distinction is the method of appointment. ([Wearing Several Hats: Multiple and Ex Officio Office-Holding](#), Fleming Bell, [canons.sog.unc.edu/?p=2273](#), April 20, 2010.) Again, however, it should be noted that there is some variety in the Session Laws creating TDAs and one should carefully review the specific Session Law and any amendments, the related governing board resolutions, and any other documents establishing the TDA.

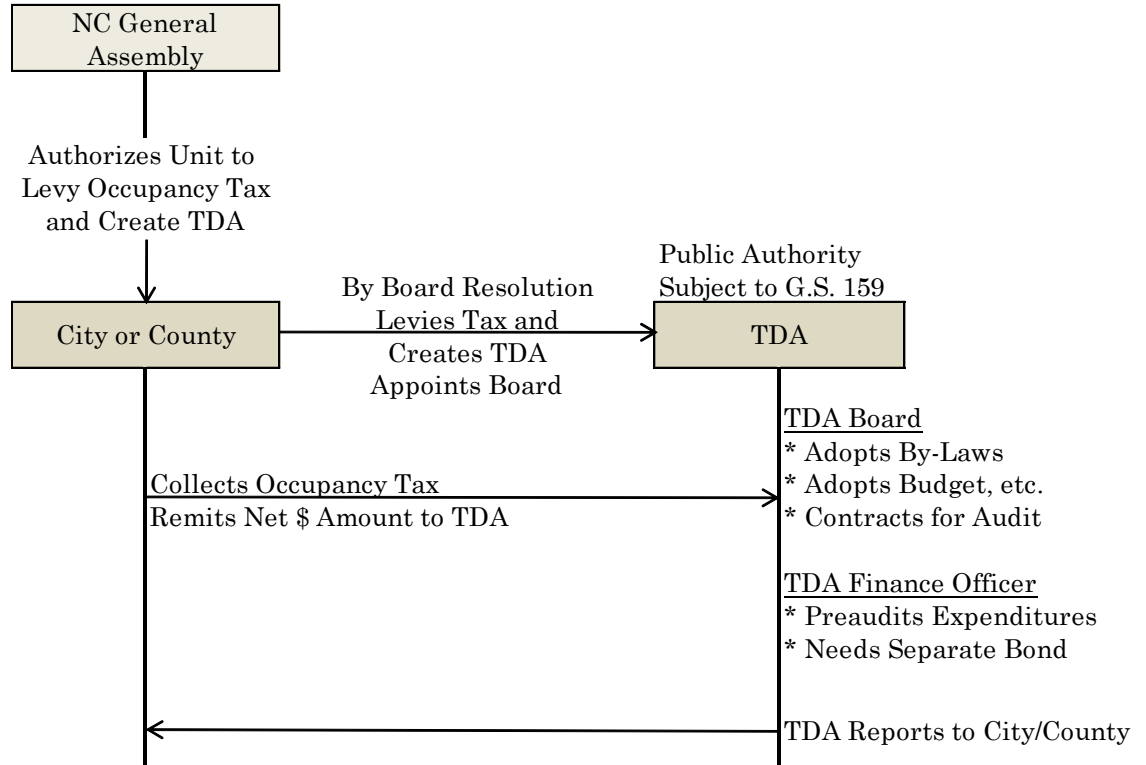
Because of the TDA’s status as a separate legal entity, the TDA’s governing board has the responsibility to adopt a budget that complies with the provisions of *Part 1 – Budgets* of the LGBFCA (G.S. 159-7 through G.S. 159-17.1), to adopt appropriate bylaws and resolutions, to execute a contract for an audit of the TDA’s financial statements, etc. The Primary Government’s (the county or municipality) board and the TDA’s board must be careful to assure that ordinances and resolutions are adopted by and contracts approved by the proper governing body.

Similarly, the finance officer has all the responsibilities imposed by G.S. 159-25. Additionally, the finance officer is subject to fidelity bond requirements of G.S. 159-29. In regard to the fidelity bond requirement, the finance officer should have a separate individual bond to protect the TDA and that names the TDA as obligee or beneficiary of the bond. This bond will be in addition to the bond on the finance officer that names the county or municipality as obligee. ([Finance Officer Fidelity Bonds: When Are Multiple Bonds Required?](#), Kara Millonzi, [canons.sog.unc.edu/?p=6126](#), January 12, 2012.)

TDAs are subject to G.S. 159-33 and must complete the semiannual Report on Deposits and Investments on [Form LGC 203](#). In addition, TDAs must file the annual Notification of Public Deposits on [Form INV 91](#) with their official depository and the Department of State Treasurer. The SLGFD staff is aware that some Primary Governments co-mingle cash and investments of the TDA with that of the Primary Government, which is not an issue as long as the accounting records can accurately identify the amount of cash and investments that belong to the TDA. However, the accounting records must be such that the assets, liabilities, revenues, expenditures and fund balance of the TDA can be distinguished from the Primary Government at any given time.

The following chart illustrates the establishment and organization of a TDA as created using the most common structure found in forming the vast majority of TDAs:

Establishment and Structure



Financial Reporting Requirements

Component Unit Status

Tourism Development Authorities will almost always qualify under GASB Statement No. 14, as amended by GASB Statement No. 39 and GASB Statement No. 61, as a component unit that should be discretely presented.

The analysis of the requirements to support this conclusion is as follows:

- The TDA is legally separate from the Primary Government because the enabling act provides that the Primary Government "...shall also adopt a resolution creating the unit's Tourism Development Authority, which shall be a public authority...." The TDA is authorized to promote travel and tourism in its area and to make tourism-related expenditures defined as "expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities ... or to attract tourists or business travelers...."
- The Primary Government appoints a majority of the TDA's board as the enabling act provides that the Primary Government board's resolution creating authority shall "...provide for membership of the Authority, including members' terms of office, and for the filling of vacancies...."

- The Primary Government is able to impose its will on the TDA because it has the ability to modify the rate affecting revenue as it is authorized to “...levy a room occupancy tax of up to...” a specified percentage of the gross receipts. Additionally, the enabling act requires the TDA to report quarterly to the governing body of Primary Government on its receipts and disbursements “in such detail” as they may require.
- Comparison of the two boards will generally lead to the determination that they are not substantially the same. This is because the enabling act usually requires that “At least one-third [or other proportion] of the members must be individuals affiliated with businesses that collect the tax in the county or municipality, and at least one-half [or other proportion] of the members must be individuals currently active in the promotion of travel and tourism in the county or municipality.” However, if the two units have substantially the same governing body and you have either (1) a financial benefit or burden relationship or (2) management of the Primary Government has operational responsibility for the component unit, the TDA would be a component unit but with the financial presentation blended with the Primary Government, not discretely presented.
- The TDA does not provide services entirely or almost entirely to the Primary Government. It provides services to the citizens of the Primary Government.

It is important to note that each county or municipality should conduct its own analysis of its TDA or other component unit and, along with the independent auditor, draw its conclusions based on the guidance provided by GASB.

Financial Statements

As a separate legal entity from the Primary Government, a TDA is subject to the audit requirements in the LGBFCA. Separate audited financial statements must be prepared for discretely presented component units. The separately issued financial statements are a very simple and straightforward way to communicate the financial position and changes in financial position to the TDA’s board so they can fulfill their stewardship and oversight obligations.

However, component units have the option of presenting those statements as part of the Primary Government audit rather than publishing a separate financial report. If the TDA makes the decision to present its financial statements only as a part of the Primary Government’s report, all relevant and material note disclosures, as well as a schedule showing a modified accrual balance sheet and budget to actual revenue and expenditures, must be included in the Primary Government’s report. In other words, all the significant information that would normally be in a separately issued report must be in the Primary Government’s report if that is the reporting option the TDA chooses. Discussion of component unit(s) in the primary government’s MD&A is not required but should be considered based on the individual component unit’s significance and its relationship to the primary government. In rare instances, it may be appropriate to discuss component units in the aggregate in the MD&A. See GASB Statement 34, paragraph 10 for a complete discussion on this issue.

It is recommended that the TDA have separately issued financial statements and a separate audit contract since it is an entity legally separate from the Primary Government.

When the TDA issues stand-alone financial statements, they are no different from those of other governmental units with only one governmental fund and will be presented in accordance with generally accepted accounting principles. The following points should be considered:

- A separate audit contract executed by the Chairman of the TDA's board must be approved by the SLGFD staff. The standard procedures for filing the audit report should be followed.
- The auditor's report, an MD&A, the basic financial statements, notes to the financial statements and any additional statements or schedules are required.
- A budget to actual statement for the TDA is presented as part of its basic financial statements with no budget to actual presentation for the TDA required in the Primary Government's report.
- Notes to the financial statements disclose for the TDA any stewardship violations, cash and investments with related policy information, risk management information specifying the amount of TDA finance officer's individual bond, and other required information.
- A related party transactions disclosure is included since the TDA pays the Primary Government a fee to collect the occupancy tax and the county or municipality may also provide office space, staff services, etc., to the TDA.
- A TDA will often qualify as a single-program government and as such is permitted to present its financial statements in the format described in GASB Statement No. 34, paragraphs 136 and 137.

When the TDA does not issue a separate financial statement and elects to present its financial statements as part of the financial statements of the Primary Government rather than publishing a separate financial report, the following guidelines apply:

- Audit Contract – A combined audit contract for the Primary Government and the TDA must be executed by both the Chairman for the Primary Government and the Chairman of the TDA and approved by the SLGFD staff. The standard procedures for filing the audit report should be followed.
- Audit Opinion – With the TDA audited by the same auditor as the Primary Government, the opinion for the Primary Government must reference the TDA. The first paragraph identifying the entities audited should identify and include the TDA. The opinion paragraph should include the language related to “budgetary comparison” for both the Primary Government and the TDA.
- Government-Wide Statements – Assuming discrete presentation, the statement of net assets and changes in net assets for the TDA must be in a separate column on the government-wide statements, or if there are multiple discretely presented component units, there may be one combined column on the government-wide statements, with combining statements with a column for each component unit presented with the supplemental statements and schedules. This presentation is required whether or not the TDA issues a stand-alone report
- Fund Statements – When the TDA is included in the Primary Government's report, and does not issue its own report, a modified accrual balance sheet and budget to actual statement for the TDA subject the audit must be included in the supplemental statements and schedules of the Primary Government.

- Notes to Financial Statements – The TDA, as a component unit, should be described in the Reporting Entity note with an explanation of how it is presented in the financial statements. There also will be Related Party Transactions disclosure since the TDA pays the Primary Government a fee to collect the occupancy tax and the county or municipality may also provide office space, staff services, etc. to the TDA. If the TDA is issuing a stand-alone report, this is generally the extent of the note disclosures in the Primary Government's report regarding the TDA. These same types of notes, written from the TDA's perspective, would appear in the stand-alone report of the TDA as well.

Since the TDA is not issuing a stand-alone report, the significant note disclosures that would have appeared in that stand-alone report must be included in the Primary Government's report. These include but are not limited to:

- Any stewardship violations of the TDA should be separately disclosed, e.g. budget over-expenditures, improper bonding, etc.
 - Cash and investments for the TDA should be separately stated in the cash and investments note as well as any policy matters, e.g. custodial credit risk, etc. for the TDA disclosed.
 - A capital assets note for the TDA should be included if it has capital assets material to the TDA.
 - The risk management note should specify that the TDA's finance officer has an individual bond, the amount of the bond, describe any other insurance coverage obtained by the TDA, or if there is no other insurance coverage for the TDA, so indicate.
 - All entities should be aware of any specific reporting requirements for certain types of component units that are dictated by oversight boards or other agencies. For example, ABC Boards are discretely presented component units but are required to issue separate financial reports by the State.
- Financial Oversight – Since the governing board of the TDA is not receiving separate financial statements, the TDA's finance officer must make sure they receive the necessary information to fulfill their oversight responsibilities.

Blended Presentation

In the case, which is expected to be rare, where the board of the Primary Government and the board of the TDA are substantially the same, a blended presentation in the financial statements may be appropriate. All cash, investments, capital assets, and liabilities are reported and disclosed as if they are part of the Primary Government. There is no requirement to issue separate financial statements for a blended TDA but the entity may choose to do so.

Operational Considerations

Regardless of the method of presentation of the financial statements, when the TDA is a public authority and a separate legal entity from the county or municipality certain legal and operational formalities must be observed.

The TDA's governing board, not the governing board of the county or municipality creating it, must adopt the budget for the TDA in compliance with provisions of the LGBFCA. The TDA's governing board should receive regular and timely financial reports presenting the fund balance, the change in fund balance and a budget to actual comparison for the TDA. When necessary, the TDA's governing board should promptly adopt amendments to the budget ordinance. The actions of the TDA's governing board should be reflected in its minutes.

The TDA should have a tax identification number and a bank account in its name in an official depository. Monies held by the county or municipality on behalf of the TDA should be held and accounted for in an agency fund. The TDA should file the Form LGC 203 and the Form INV 91 in its own name.

The Session Law authorizing the creation of the TDA generally requires it to report quarterly and at the close of the fiscal year to the governing board of the county or municipality on its receipts and expenditures for the preceding quarter and for the year in such detail as the Primary Government may require.

Provisions Regarding Room Occupancy Taxes

The provisions of the specific Session Law authorizing the room occupancy tax as well as [G.S. 153A-155](#) (counties) and [G.S. 160A-215](#) (municipalities) govern the levy, collection, use, and other matters related to room occupancy taxes. The following provides a brief summary of the provisions of these statutes. One should be familiar with and refer directly to the language of the relevant statutes when questions arise regarding room occupancy taxes.

Levy

A room occupancy tax may be levied by the county or municipality only by resolution with not less than 10 days' public notice and after a public hearing. A room occupancy tax becomes effective on the date specified in the resolution levying the tax which must be the first day of a calendar month. However, the effective date may not be earlier than the first day of the second month after the date the resolution is adopted.

Use of the Net Proceeds

The net proceeds of the room occupancy tax levied shall be used for the purposes specified in the authorizing legislation. It is incumbent on the TDA's governing board and its finance officer to fully understand the purposes for which the net proceeds from the occupancy tax may be expended. Subject to reference to the specific authorizing legislation, TDAs generally have the authority to promote travel, tourism, and conventions; sponsor tourist-related events and activities; and finance tourist-related capital projects in the unit. To promote travel and tourism is to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to an area; and includes administrative expenses incurred in engaging in these activities. Tourism-related expenditures are expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities or to attract tourists or business travelers to the unit and include tourism-related capital expenditures.

G.S. 153A-155(f1) and G.S. 160A-215(f1) limit the use of the room occupancy tax proceeds in that the proceeds of a room occupancy tax shall not be used for development or construction of a hotel or other transient lodging facility.

Collection and Administration

The taxing county or municipality administers the room occupancy tax it levies and shall design and furnish to all appropriate businesses and persons the necessary forms for filing returns and instructions to ensure the full collection of the tax. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county or municipality a discount equal to the discount the State allows the retailer for State sales and use tax. The governing board of the taxing county or municipality has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

A room occupancy tax return filed with the finance officer of the taxing county or municipality is not a public record and may not be disclosed except in accordance with [G.S. 153A-148.1](#) or [G.S. 160A-208.1](#).

Should you have questions or need assistance, please contact Jones Norris at (919) 807-2386 or via email at jones.norris@nctreasurer.com.