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# OFFICE OF THE CITY AUDITOR

## REVENUE SHARING AGREEMENT WITH THE CITY OF EULESS

**Thomas M. Taylor, CPA  
City Auditor**

**Prepared by:**

Joe R. Saucedo Jr., CPA, CFE  
Audit Manager

Robert W. Reynolds, CPA, CFE, JD  
Audit Supervisor

Tony Sivasothy  
Auditor

**November 8, 2002  
Report No. 373**

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## Memorandum



CITY OF DALLAS

November 8, 2002

Honorable Mayor and Members of the City Council  
City of Dallas

We have conducted an audit of the Revenue Sharing Agreement with the City of Euless, which is administered by the Office of Financial Services.

In our opinion, the City of Euless has complied with the terms of the revenue sharing agreement. However, we noted that no audits of rent-a-car companies have been conducted and two of those companies have not paid motor vehicle rental taxes. In addition, we found an error in the computation of the net amount of motor vehicle taxes to be shared. These concerns are discussed in the *Opportunities for Improvement* section of this report.

We appreciate the cooperation of City staff during our examination.

*Thomas M. Taylor*

Thomas M. Taylor, CPA  
City Auditor

c: Teodoro J. Benavides, City Manager

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## AUDIT OF THE REVENUE SHARING AGREEMENT WITH THE CITY OF EULESS

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## INTRODUCTION

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### **Authorization**

We have conducted a financial related and compliance audit of the Revenue Sharing Agreement among the Cities of Dallas, Fort Worth, and Euless for the calendar year 2001. This audit was conducted under the authority of Chapter IX, Section 2 of the Dallas City Charter and in accordance with the Annual Audit Plan approved by the City Council.

### **Scope and Methodology**

Our audit was conducted in accordance with generally accepted government auditing standards and, accordingly, included tests of the accounting and related records and other audit procedures that we considered necessary in the circumstances.

The objectives of our audit were to determine whether:

- Revenues received from the City of Euless were properly computed and in accordance with the revenue sharing agreement.
- The City of Euless has complied with the terms of the revenue sharing agreement.
- Current controls and processes are adequate to provide periodic updates of business entities operating within the City of Euless' boundaries located at Dallas/Fort Worth International Airport (D/FW).

Our audit included a review of selected revenues received and reported by the City of Euless for the calendar year 2001. We also reviewed various other procedures and transactions occurring outside the audit period.

To develop an understanding of relevant internal controls, policies, and procedures, we:

- Reviewed financial records and related reports and performed analysis.
- Visited City of Euless and D/FW administrative offices and held discussions with personnel.
- Conducted site visits of City of Euless property locations at D/FW airport.

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- Interviewed management and staff regarding internal accounting controls.
- Traced revenues received to the City's RESOURCE accounting system.
- Accessed information on the Internet for various property valuations.

### **Overall Conclusion**

In our opinion, the City of Euless has complied with the terms of the revenue sharing agreement. The amount allocated to the City of Dallas as Increased Revenues and Additional Revenues for the calendar year 2001 are reasonable. However, we noted that no audits of rent-a-car companies have been conducted and two of those companies have not paid motor vehicle rental taxes. In addition, we found an error in the computation of the net amount of motor vehicle taxes to be shared. These concerns are discussed in the *Opportunities for Improvement* section of this report.

### **Background**

When the site for D/FW was selected in the mid-1960s, the land that was to become D/FW was located in unincorporated and undeveloped portions of Dallas and Tarrant Counties. The Cities of Dallas and Fort Worth invested \$70 million cumulatively for the acquisition of 18,000 acres. Today, D/FW produces a substantial economic impact for the North Texas economy.

The Cities of Dallas and Fort Worth jointly own D/FW (7/11 and 4/11, respectively). D/FW has an eleven-member board comprised of seven members from Dallas and four members from Fort Worth. Members are appointed by their respective city councils. In addition, a non-voting board member is appointed on a rotating basis, from the five cities located within the boundaries of D/FW.

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D/FW has 18,074 acres of property located in the jurisdiction of Coppel, Euless, Fort Worth, Grapevine, and Irving. The chart below indicates the acreage within the corporate boundaries of each respective city.

<b>City</b>	<b>Acreage</b>	<b>Percentage of Total Acreage</b>
Coppel	266	1.47%
Euless	3,196	17.68%
Fort Worth	295	1.63%
Grapevine	7,979	44.14%
Irving	6,340	35.08%
<b>Total</b>	<b>18,076</b>	<b>100.00%</b>

The Cities of Dallas and Fort Worth wanted to receive their fair share of taxes generated from activities that occur on D/FW property. In the spirit of regional cooperation, Euless agreed to share revenues generated at D/FW with the Cities of Dallas and Fort Worth.

In 1998, the D/FW Board, in consideration for the encouragement and support of economic development on D/FW property, proposed revenue sharing agreements with cities whose:

- Property is within the boundaries of D/FW.
- Community would benefit from such economic development.

In February 1998, the City of Euless, the City of Dallas, the City of Fort Worth, and the D/FW Board approved an inter-local agreement to share revenues. The agreement is perpetual in nature and can only be terminated by the mutual written agreement of all the parties. The base year for the agreement is calendar year 1996, and Base Year Revenues for the agreement are \$778,133.

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Pursuant to the agreement, the City of Euless is to share an amount equal to the increased revenues over the Base Year Revenues with the Cities of Dallas and Fort Worth as follows:

- Euless – one-third (1/3)
- Dallas and Fort Worth – two-thirds (2/3)  
(Split proportionately to ownership interest in D/FW, 63.6% and 36.4% respectively.)

The revenue sharing agreement specifies that Increased Revenues shall be an amount equal to the sum of the following amounts collected, credited to, and/or received by Euless in any calendar year, which are generated on the property, and which are in excess of Base Year Revenues:

- Annual maintenance and operation portion of Ad Valorem Tax on real and personal property.
- Sales and Use Tax Revenues (excluding portion for general obligation debt service).
- Utility Franchise Tax Revenues.
- Municipal Court Revenues.
- Mixed Beverage Tax Revenues.
- All taxes authorized in Chapters 334 and 335 of the Local Government Code.
- All other general revenue tax levies.

In addition to the Increased Revenues, the Cities of Dallas, Fort Worth, and Euless share equally in the additional revenues authorized in Chapters 334 and 335 of the Local Government Code. Additional revenues are derived from the motor vehicle rental taxes. The consolidated car rental facility is located at the South entrance of D/FW and is within Euless City limits. The 200-acre facility has 1.5 million square foot parking garage with a capacity to hold 4,500 rental cars.

In the revenue sharing agreement “property” means that portion of Euless located within the geographical boundaries of D/FW (which is owned in fee simple by the Board, Dallas, and/or Fort

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Worth) as it exists to date and/or as it may be changed as permitted by law.

Accounting for the revenues due to the Cities of Dallas and Fort Worth is on a cash basis. The agreement states that Euless agrees to pay Dallas and Fort Worth their respective shares of Increased Revenues and Additional Revenues attributable to each calendar year by March 31<sup>st</sup> of the following calendar year, unless otherwise agreed by all parties. Additionally, the agreement requires the independent auditor of the City of Euless to verify the amount of Increased Revenues and Additional Revenues generated, with the cost of verification apportioned based on the percentages specified above.

The information shown in the table below is a summary of Increased and Additional Revenues for calendar year 2001.

Description	Amount
<b>Increased Revenues</b>	
Total Increased Revenues	\$863,369
Less: Base Year Revenues	<u>778,133</u>
Increased Revenues To Be Shared	\$ 85,236
<b>Additional Revenues - Motor Vehicle Rental Tax</b>	\$10,683,826
<b>Accounting Fees for Agreed - Upon Procedures</b>	<u>(1,750)</u>
<b>Total Increased Revenues and Additional Revenues</b>	\$10,767,312
<b>Total Increased Revenues and Additional Revenues Paid to the City of Dallas for 2001</b>	\$3,596,853

**Status of Prior Audit**

An audit report of the revenue sharing agreement for the years 1998, 1999, and 2000 was issued in March 2002. This audit contained four opportunities for improvement and seven recommendations. Management did not submit responses for the audit. Our practice is to allow City departments approximately twelve months to take corrective action before we evaluate the status of prior recommendations. We will perform a follow-up on the prior audit recommendations at a later date.

## **OPPORTUNITIES FOR IMPROVEMENT**

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We identified certain policies, procedures, and practices that could be improved. Our audit was not designed or intended to be a detailed study of every relevant system, procedure, and transaction. Accordingly, the opportunities for improvement presented in this report may not include all areas where improvements may be needed.

### **1. The City of Euless has not collected delinquent motor vehicle rental taxes.**

The City of Euless has not been able to collect approximately \$167,000 of delinquent motor vehicle rental taxes from two rental car agencies. This issue was also noted in our March 2002 audit report.

The corporate office has taken over operations for one of the companies, and its staff claim that they are not liable for the franchisee's debt. The other company has filed for bankruptcy. The City of Euless has filed a proof of claim for the taxes owed by both of the companies.

The enforcement tools available to the City of Euless to collect these taxes (assessment of penalties and interest) do not seem adequate. The Euless Motor Vehicle Rental Ordinance provides for two, 5% penalties and past-due interest at the rate of 12%. The ordinance does not include criminal penalties for the failure to file returns or for the failure to pay taxes owed. Since Euless does not employ a full-time staff attorney, there is a disincentive for Euless to pay all collection expenses and only retain one-third of the revenue collected.

The State of Texas has a law that enhances the ability of the Texas Comptroller of Public Accounts to collect all types of taxes, including the motor vehicle rental tax. This law, Section 111.016 of the Texas Tax Code, provides that any person who receives or collects a tax from another person, *holds the amount so collected in trust for the benefit of the state*, and is liable to the State for the full amount collected plus any accrued penalties and interest on the amount collected. This law provides that the personal liability created with respect to the tax collected extends to individuals responsible for the control or supervision of collection, accounting, and remittance of the taxes collected and held in trust.

Responsible individuals are defined to be partners, officers, managers, directors, and employees who are under a duty to perform an act with respect to the collection, accounting, or payment of taxes owed to the State. The dissolution of a corporation, association, limited liability company, or partnership does not affect a responsible individual's liability under this law.

Although the State Comptroller has certain account administration responsibilities for this tax on behalf of the City of Euless, the State Comptroller is specifically exempted from the collection of delinquent taxes.

## **OPPORTUNITIES FOR IMPROVEMENT**

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An ordinance similar to this State law would provide that all local taxes, including the motor vehicle rental taxes and hotel occupancy taxes, collected on behalf of the City of Euless are held in trust until remitted to the City of Euless. The individuals responsible for the collection and payment of all taxes owed to the City of Euless would then be held personally liable in the event of non-payment. An ordinance of this type would encourage the prompt monthly payment of the motor vehicle rental taxes.

Failure by the City of Euless to receive payment for all the motor vehicle rental taxes collected deprives the Cities of Euless, Fort Worth, and Dallas of revenues that have been paid by customers at the D/FW car rental facility.

**We recommend** that the Chief Financial Officer obtain an opinion from the City Attorney concerning whether or not it is feasible to encourage the City of Euless to adopt an ordinance that contains provisions similar to Section 111.016 of the Texas Tax Code.

Addition of this provision would likely require that enabling statutes be enacted by the State Legislature. The Cities of Dallas and Fort Worth should support this legislative initiative.

### **Management's Response:**

Management agrees. A letter of request will be forwarded to the City of Euless.

### **2. Motor vehicle rental taxes paid to the City of Euless are not audited.**

Although the Euless Motor Vehicle Rental Ordinance permits an audit of motor vehicle rental agency records to determine that the correct amount of revenue has been reported and taxes paid, no audits have been conducted.

The City of Euless does not have adequate staff to conduct audits of the individual vehicle rental agencies. If the audit work is contracted to an outside accounting firm, the City of Euless would have to bear the entire cost, unless a cost-sharing arrangement is made with the Cities of Dallas and Fort Worth.

By ordinance, the City of Euless has the right to audit the records of entities that act on their behalf in the collection of taxes and other revenues in order to ensure that the public funds are properly received. In addition, audits may be necessary to establish the following:

- Amount of tax liability (if any) that may be transferred to the purchaser of a motor vehicle rental business.

## **OPPORTUNITIES FOR IMPROVEMENT**

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- Verification that all taxes have been paid if the purchaser of a motor vehicle rental business requests the City of Euless issue a certificate stating that no tax is due.
- Compliance with other provisions of the Euless Motor Vehicle Rental Ordinance.

Audits of the motor vehicle rental agencies would determine whether or not the proper taxes are being collected and remitted in accordance with the provisions of the Euless ordinance. The absence of audits could result in a loss of revenue to the City of Euless and, in turn, to the Cities of Dallas and Fort Worth.

We noted that the D/FW Airport Board has concession agreements with each of the motor vehicle rental agencies operating at the airport. These agreements contain a “right to audit” provision and internal audits are routinely conducted on behalf of the D/FW Board.

**We recommend** that the Chief Financial Officer, in conjunction with the City Manager, consider:

- The feasibility of initiating discussions with the Cities of Euless and Fort Worth, whereby a combined audit effort of the motor vehicle rental agencies could be implemented.

OR

- The feasibility of combined concession audits with D/FW staff.

Joint audits of this type would be more efficient, less expensive, and less burdensome to the motor vehicle rental agencies. The cities that benefit from this tax could provide staffing and/or funding for this effort.

### **Management’s Response:**

Management agrees. A letter will be sent to the City of Euless suggesting they initiate and coordinate a combined audit effort.

### **3. The City of Euless inaccurately computed the amounts due the Cities of Dallas and Fort Worth for 2001.**

An error was made in the computation of Additional Revenues for the calendar year 2001. One Euless rental car agency is subject to the City of Euless motor vehicle rental tax, but is not located on D/FW airport property. Therefore, when compiling the annual revenues subject to the revenue sharing agreement, this rental car agency’s tax revenue

**OPPORTUNITIES FOR IMPROVEMENT**

should have been deducted, rather than added, to the annual totals. The following table illustrates this error:

Description	Amount
Total Motor Vehicle Rental Tax collected	\$ 10,678,882
Taxes attributable to rental agency not located at D/FW airport	\$ 4,944
Total reported by City of Euless	\$ 10,683,826
Total Motor Vehicle Rental Tax collected	\$ 10,678,882
Deduct taxes attributable to rental agency not located at D/FW airport	(\$ 4,944)
Correct amount attributable to Revenue Sharing Agreement	\$ 10,673,938
Overstatement of amount reported by City of Euless	\$ 9,888
One-third of overstated amount attributable to City of Dallas	\$3,296

This error resulted in the City of Euless overpaying each of the Cities of Dallas and Fort Worth by \$3,296 when the annual distribution was made in March 2002.

**We recommend** that the Chief Financial Officer ensure that a refund in the amount of \$3,296 is made to the City of Euless.

**Management’s Response:**

Management agrees. A letter will be sent to the City of Euless with the suggestion the \$3,296 be withheld from the March 2003 payment.