STATE OF COLORADO

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To: Members of the Legislative Audit Committee

From: J. David Barba

Date: September 13, 2000

Re: Status of the Close-Out Audit of the Colorado Travel and Tourism Authority and the Colorado Tourism Board

Background

The Colorado Tourism Board (Board) within the Department of Local Affairs was established in 1983 to promote a coordinated effort to develop tourism and travel in Colorado. The Board was funded by a tourism tax of two-tenths of one percent on certain sales such as lodging, food and beverages, and vehicle rentals until 1993 when the tax was repealed. In 1994, the Board began receiving its funding from general funded appropriations. Also during the 1994 legislative session, the General Assembly created the Colorado Travel and Tourism Authority (Authority) as a political subdivision of the State. The legislation required the Colorado Tourism Board to contract with the Authority and pass-through a portion of its appropriation to enable the Authority to plan and promote Colorado as a quality travel destination through the dissemination of publications and public relations activities. The Authority also received non-state monies from membership dues and advertisements in its publications. In 2000, the General Assembly passed House Bill 00-1224, which abolished both the Authority and the Board and created the Colorado Tourism Office (Office) within the Office of Economic Development and International Trade in the Governor's Office to resume tourism functions for Colorado. The change was effective June 30, 2000 with a 30 day wrap-up period for the Board and Authority to be completed by August 1, 2000.

The Board was appropriated approximately $6.6 million in Fiscal Year 2000 to procure advertising and operate welcome centers throughout the State. It passed from about $2.9 million of the appropriation to the Authority. The Authority also has revenue from the sale of advertisements in the Colorado Vacation Guide and on the Colorado.com website that, according to internal unaudited financial statements, amounted to about $1.1 million for the seven months ended July 31, 2000. Additional financial information prepared by the Board is located in Appendix A. As we will discuss, similar information is not currently available from the Authority.

Purpose and Scope of Review

This review was conducted under the authority of Section 2-3-103 et seq., C.R.S., which authorizes the Office of the State Auditor to conduct reviews and audits of all departments, institutions, and agencies of state government and at the request of the former Director of the Office of Economic Development and International Trade. The purpose of the review was to evaluate and report on the close-out activities of the Board and the Authority.

Comments and Recommendations

Wrap-Up Activities Need to Be Completed

Colorado Tourism Board. The Board substantially wrapped-up its operations and completed its close-out by August 1, 2000. The Board transferred furniture and equipment, completed all contracts by June 30, 2000, and sufficiently accounted for its activities. However, remaining cash of about $46,000 has yet to be transferred from the Board to the Office. The Board is awaiting final billing for two invoices totaling about $18,000. If the Board makes these payments, the cash transferred will be lower by this amount. However, if all cash is transferred, the new Office will have to pay the outstanding $18,000.

We recommend that the Board complete the transfer of remaining cash.

Colorado Tourism Board Response:

Agree. Local Affairs, acting on behalf of the Colorado Tourism Board and the Governor's Office of Economic Development, Budget/Accounting staff will be meeting this week in order to accomplish the transfer of the remaining funds. It is anticipated that all necessary actions will be completed prior to the meeting of the Legislative Audit Committee on September 25, 2000.

Colorado Travel and Tourism Authority. The Authority has not fulfilled its statutory responsibility to complete the close-out of the entity. The Authority contracted with Affleck Gilman & Co., P.C. for its financial audits covering the year ended December 31, 1999, and the seven month period scheduled to end July 31, 2000. To date, Affleck Gilman & Co., P.C. has been unable to complete the audits, because the Authority has not wrapped up operations as required by statute.

We have serious concerns regarding the failure of the Authority to cease its functions and sufficiently account for its operations. As we will discuss later, remaining cash is significantly less than expected, and only a portion has been transferred, without explanation as to the shortfall. The use of Frontier Airline tickets, any commissions owed in the form of Frontier Airline tickets, and related tax reporting issues have not been resolved. Rights to Colorado.com must also be transferred. The Authority continued to write checks to vendors and receive payments from members well into August, rather than wrapping up its operations and transferring the remaining cash to the new Office on August 1.

The failure to have a clean cut-off for all business activities has complicated the transfer and reduced accountability for the funds.

Without a thorough accounting, we cannot determine whether all significant obligations of the Authority have been addressed and resolved satisfactorily. Our concerns are discussed more fully below.

We recommend that the Authority continue to work with the Office to complete its statutory responsibility to close-out the Authority's operations.

Colorado Travel and Tourism Authority Response:

Agree. We have and continue to work with the Office on any and all matters relating to our former activities.

The Authority's Projections to Transfer About $250,000 to the Office Were Significantly Overstated

Authority management stated in the June 22, 2000 board meeting that "if current projections hold, the remaining balance should total about $250,000". This amount would be available for transfer to the new Office on August 1, 2000. No information was provided to support the estimate. The estimate was lowered by about $50,000 only one month later when the treasurer reported in the July 20, 2000 board meeting minutes that what the Authority "could reasonably give the Office was $175,000 in cash and a $25,000 pre-payment of postage". However, the latest estimate falls short of either expectation.

It is currently projected that about $132,000 in cash will be transferred. $100,000 was transferred at the end of August. The new Office anticipates receiving an additional $32,000 once the Authority ceases doing business. Had the Authority ceased operations on July 31, 2000, only $33,000 in cash would have been available to transfer. August receipts increased the amount of cash available for transfer. The new Office should have received these in addition to the transfer from the Authority.

The Authority paid out about $716,000 in cash in July. Payments in July were nearly 2 and one-half times greater than the average monthly expenditures from January through May of about $280,000. Some of the larger expenses in July contributing to the cash shortfall are as follows:

- Postage and shipping of about $281,000 was incurred for mailing promotion literature such as the Colorado Vacation Guide, kids maps, and ski guides. The Authority should have turned over the ongoing responsibility of mailing publications to the new Office in July and focused on close-out issues instead. About $16,000 remained as prepaid postage on July 31, 2000, which was $9,000 less than expected. It is not clear whether these expenses were included the cash projection.

- Temporary and professional services of about $37,000 consisted primarily of a donation to the Tourism Industry Association of Colorado of $25,000. Although the Authority stated that this was a donation in the board meeting minutes, the Authority classified it as a payment for services rendered for financial reporting purposes. We will discuss this issue later in the report. These expenses also include payment for one temporary staff person.

- Commissions and bonuses paid to staff in July that will be discussed in more detail later in the report.

These expenses contributed to a smaller cash transfer. The new Office will have to use its state appropriation to cover some costs that it expected to pay with the transfer. The appropriation totals $6.2 million of which 23 percent is cash funded and 77 percent general funded. The duties of the Office include developing policies and procedures, disseminating tourism information, operating a toll free information number and website, and managing the State's Welcome Centers. The new Office will carry out its duties with 3.3 full-time equivalent staff transferred from the Board to staff the Welcome Centers. The remaining duties will be carried out by existing staff within the Office.

Excessive Severance and Bonus Packages Were Paid by the Authority

The Authority paid $63,285 for severance and bonus packages for those employees who remained until June 30, 2000. Severance was based on one month's salary per year of service and bonuses were awarded at the discretion of the Authority's Board. Bonuses are usually based on employment contracts that have specific amounts payable when employees meet performance goals. In this case, the bonuses were not contractually based and there were no measurable criteria, so they are essentially additional severance payouts. The graph shows the breakdown of amounts distributed by the Authority:

Payment	Amount	% of Annual Salaries
Bonus	$ 30,000	19.0%
Severance	27,576	17.5%
Related Employer Taxes	4,492	2.8%
Benefits	1,757	1.1%
Total Paid Out	**$ 63,825**	**40.4%**

Severance packages were excessive. Three employees, who had all worked for the Authority about 2 years, received an average of 10.3 weeks of their annual salary. The bonus adds an average of 9.4 weeks for a total of about 19.7 weeks per person, or nearly an average of 5 months of their annual salaries. According to one national survey, severance typically is calculated as one week per year of service. The survey reports that no employees in the non-profit and government sector received severance packages in excess of 4 weeks per year of service. In addition, a $2,000 bonus was given to a temporary employee who had been with the organization for only 4 months. It is not standard practice to make bonus payments to temporary employees.

Employees have already been paid the severance and bonuses, except for one bonus check that is being held by the Office pending the resolution of a dispute.

Had the Authority paid traditional severance of one week per year of service, the payments would have totaled about $6,000 including employer taxes and benefits. This would have increased the cash available to transfer to the Office by nearly $58,000.

The Authority's Donation to the Tourism Industry Association of Colorado Needs To Be Reviewed

The Authority contracted with a lobbyist in Fiscal Year 2000 to provide updates about pending legislation and to work on the legislation that created the Office. In July a payment of $25,000 was made to the Tourism Industry Association of Colorado (TIAC). TIAC will retain the lobbyist for the 2001 legislative session. The Authority stated in its board meeting minutes that the payment was considered a donation. However, the Authority classified this as a professional service expense in its unaudited financial statements. Statutes allowed for a period to wrap-up the activities, but the Authority had no authority to commit funding to future projects. Because the services provided for through the donation will not occur until Fiscal Year 2001, the Authority inappropriately committed funds that should have reverted to the new Office. Had the donation not been made, and severance packages been more reasonable, an additional $83,000 would have been available for transfer.

We recommend that the Office review the value of the donation to its operations and either request a refund or establish an agreement whereby the Office is a party to the services provided.

Colorado Tourism Office Response:

Agree. The Colorado Tourism Office will work with the Tourism Industry Association of Colorado to establish a process by which the Office is provided with detailed updates on the services being provided by the lobbyist covering the period from July 1, 2000 to June 30, 2001. Some of these services include acting as legislative counsel, legal drafting, screening of bills that may affect the industry, consulting with appropriate members of the industry, presenting testimony in committee hearings, and contacting legislators as necessary.

Issues Surrounding Airline Tickets Used Need to be Resolved

The Authority has entered into multiple trade agreements with Frontier Airlines. In exchange for an advertisement in the Official Summer Vacation Guide and on Colorado.com, Frontier Airlines reimbursed the Authority with airline tickets. The Authority stated that tickets were used for business travel, prizes, incentives to advertisers, and payments to vendors. According to Frontier's records, since March 1998, the Authority has been given about 170 tickets, totaling approximately $87,000. Of this amount, about $60,000 has been used as of July 31, 2000. The Authority has not provided documentation as to who holds the remaining tickets (about 50) valued at about $27,000. In addition, as of July 31, 2000, Frontier had 40 tickets valued at $20,000 that remained to be distributed to fulfill the agreement. These will be transferred to the new Office.

The Authority was unable to provide a complete accounting for the tickets. Without tight controls over this sensitive area, there is a significant risk that the tickets were not properly used and safeguarded. Specifically,

- **The business purpose for the use of the airline tickets was not clearly documented.** Frontier is able to provide documentation for tickets issued to the Authority and tickets claimed, including the date and name of the individual traveling. However, Frontier was not responsible for ensuring that the tickets were used for a valid business purpose and the Authority, which was responsible, has not maintained sufficient documentation regarding the business purpose of travel. Internal Revenue Service regulations require sufficient corroborating evidence supporting the expense, time, place, and travel purpose.

- **Commissions on the tickets remain unresolved.** The Executive Director has claimed that he is owed a total of $14,000 in airline tickets as commission for establishing the airline ticket agreements. He stated that $8,000 is owed for establishing one agreement and $6,000 for another. The board meeting minutes do not clearly address the validity of the $6,000 claim. The minutes of the July 2000 meeting state that "the board could not take action" to approve the request for the $6,000 in tickets. Approval was given for the distribution of $8,000 in tickets to the Executive Director in the October 1999 board meeting. However, it is not clear from the records what has actually been distributed. As noted earlier, because the Authority has been unable to account for $27,000 in tickets, we are unable to determine whether any commission has been paid.

- **The required federal reporting forms (1099s) were not issued to individuals receiving the tickets.** IRS regulations require that individuals receiving prizes exceeding $600 be issued a 1099 for the fair value of the prize received. Because the Authority failed to issue 1099s to prize recipients, it faces a penalty of $50 per individual, and individuals may fail to report the winnings.

In August the new Office issued 2 tickets to the former Executive Director of the Authority for personal use. There is a possibility that some tickets are due to this employee as a commission, but without a complete accounting for the tickets that is not possible to determine at this time.

We recommend that the new Office work with the former Authority to resolve the accounting and tax reporting issues related to the use of the airline tickets. In addition, the Office should ensure that future tickets are properly approved, use is appropriate, and the purpose is well documented.

Colorado Travel and Tourism Authority Response:

Agree. We would like to assure full and complete information has been and will be provided; however the Authority no longer has a formal existence or staff. Some of the former staff have been less than cooperative in providing information and bringing matters to conclusion. The outstanding issues have been discussed with the Office and suggested courses of action have been outlined to them.

Colorado Tourism Office Response:

Agree. The Colorado Tourism Office has contacted the former Executive Director on August 14, 2000 to obtain related information to the Frontier account. The same information was again requested on August 17, 2000 and to date we have not received a response. We will continue to pursue efforts to resolve the Frontier account. Additionally, the Colorado Tourism Office has established a process to document and account for use of future Frontier tickets.

Colorado.com Needs To Be Transferred to the new Office

Colorado.com is the website maintained by the Authority. It was required to be transferred to the new Office on August 1, 2000. However, the website and rights to its name have not yet been transferred. The website promotes Colorado as a travel destination and contains many advertisements from local businesses that rely in tourism. Until the transfer occurs, changes cannot be made to the advertisements on the website and requests may not be fulfilled because the contact address and telephone number still refers to the former Authority. According to the Authority, the administrator of the account, the former Executive Director, must complete the transfer.

We recommend that the Office work with the former Authority to complete the transfer of Colorado.com.

Colorado Travel and Tourism Authority Response:

Agree. If an existing administrative contract for a web site will not transfer to a new administrative contract there is a procedure to complete the transfer. We have briefed the Office on how this can be accomplished and will continue to cooperate with the Office to accomplish the transfer. Not having this transfer complete has not interfered with the operation of the web site.

Colorado Tourism Office Response:

Agree. On July 28, 2000, the former Executive Director faxed information to Network Solutions, Inc. requesting the transfer of Colorado.com to the Office. We have followed up with Network Solutions several times via e-mail and fax to effect *this transfer. As of September 13, 2000, the administrative contact has been changed from the former Executive Director of the Authority to the current Deputy Director of the Office. We will continue to work with the company to ensure that the transfer of the ownership name is complete.*

Advertising Agreements Need To Be Determined

Local businesses can purchase banner advertisements on Colorado.com. The advertisements expire at various dates, with the latest ending in December 2000. The Office has agreed to assume the responsibility to maintain existing advertising contracts. We found significant discrepancies between the schedule of marketing partners provided by the Authority and actual advertisements on the website and/or information provided directly from the marketing partners. We noted the following:

- **16 advertisers were active on the website on August 1, 2000, but the contracts were reported by the Authority as having expired between May and July.** Staff stated that extensions were given for free to certain partners because of website problems, but it was not documented as to which of the partners were granted extensions. The Authority did not have the ability to commit the advertising space that could have been otherwise sold by the Office beyond June 30, 2000.

- **10 active advertisers on the website on August 1, 2000, were not listed as marketing partners on the Authority's schedule.** According to Authority data, these advertisers did not have a current agreement with the Authority**.**

- **14 instances of conflicting information.** Either the name of the marketing partner or the expiration date of the contract did not agree amongst various internal records.

- **3 of 4 discrepancies between marketing partner records and Authority records.** Two marketing partners indicated an expiration date different from the schedule and 1 indicated that the marketing partner paid $200 more than stated on the schedule prepared by the Authority.

It is essential that the Office is provided with a valid listing of the approved marketing partners, amounts paid for the advertisement, and expiration dates in order to effectively manage the remainder of the contracts.

We recommend that the Colorado Tourism Office thoroughly review the website in order to determine what advertisers are active and determine whether or not there is a current paid agreement for the advertisement.

Colorado Tourism Office Response:

Agree. The Colorado Tourism Office is currently working with the former Colorado Travel and Tourism Authority staff to identify all active advertisers on Colorado.com and to locate any written agreements.

The Impact of Future Tourism Tax Collections and Refunds Needs To Be Considered

The tourism tax has not been in effect since 1994. However, the Department of Revenue continues to conduct audits resulting in collections or refunds to taxpayers. The following represents activity since the tax ceased.

	1995	1996	1997	1998	1999	2000
Collections	$ 148,748	$ 37,460	$ 4,249	$ 3,408	$ 1,631	$ 9,452
Refunds	$ (445)	$ (763)	$ (0)	$ (0)	$ (0)	$ (187,403)

As can be seen, there continues to be activity for the tax. The large refund that occurred in Fiscal Year 2000 was the result of a single protested tax assessment in 1992 that was not settled until the current year in the taxpayer's favor. The Board was required to obtain spending authority to distribute this refund out of the existing fund balance. According to the Department of Revenue, the statute of limitations for receipts continues until 2003 and has ended for refunds. This holds true unless the taxpayer is audited for failure to file or fraud, in which case, the statute of limitations does not apply. This could result in either future collections or refunds.

Until the Board was dissolved, revenue from tourism taxes was statutorily credited to its accounts. The legislation creating the new Office does not address the tax. It is not clear as to whether the State's General Fund or the new Office should absorb any future revenue and payments related to the tax. The Office needs to be aware that it may have to use its available cash to refund prior tourism tax overpayments should any occur.

We recommend that the Office work with the Department of Revenue to resolve the manner in which future collections and refunds will be credited, seeking legislative clarification if necessary.

Colorado Tourism Office Response:

Agree. In early discussions with the Department of Local Affairs regarding the activity on the tourism tax, the $187,403 refund was described as an anomaly, and was due to a long standing lawsuit that was finally resolved. It is also our understanding that auditing on this tax has basically been completed. We will work with the Department of Revenue to resolve any outstanding audit issues.

Additionally, based upon discussions with the Department of Revenue, we are willing to explore legislative clarification on the issue if deemed necessary.

Additional Comments From the Colorado Travel and Tourism Authority

In summary, several of the comments made regarding the close-out activities of the Authority relate to how the Authority chose to allocate their funds. The decisions made were within our authority. The funding involved was private sector dollars provided as membership dues and advertising revenues. The Authority's Board felt it was appropriate to make decisions on the use of funds under its control. The Authority clearly had the authority to make decisions regarding employee compensation and grants to other tourism interests, or other uses deemed appropriate by the Authority. Regarding the inability to close-out activities by August 1, 2000, the Authority staff did, in fact, work throughout the month of July with the Office and under the direction of the Office in determining how to handle the transferring of its obligations to the Office. Many of the decisions which were made regarding the payments by the Authority in July were in concert with, or at the direction of, the Office.