


ARTS TAX:
Promises to voters
only partly fulfilled

July 2015

RECREATIONAL CANNABIS TAX:
Greater transparency
and accountability
needed




May 2019



FIXING OUR STREETS:
Some
accountability
commitments
not fulfilled

May 2019

PORTLAND HOUSING BOND:
Early implementation
results mostly
encouraging



June 2019

The City needs to make realistic commitments to voters and ensure they are delivered

December 2019



P O R T L A N D
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The City needs to make realistic commitments to voters and ensure they are delivered

The City makes commitments to voters but does not always deliver

In recent years, the City has asked voters to approve revenue-generating measures for arts education, affordable housing, street repair and traffic safety, mitigation of possible safety impacts of cannabis legalization and support for businesses and communities negatively impacted by its prohibition. Each measure assured voters that, if approved, the City would implement accountability measures regarding what the new revenue would be used for, how it would be overseen, how often reports to the public would be made, the performance of audits, and any administrative caps that would be used.

Taxes and bond

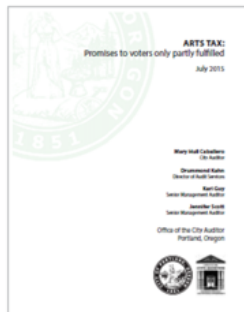
Portland arts tax passed in 2012- Annual arts income tax of \$35 per person

Portland recreational cannabis tax passed in 2016- 3 percent tax on recreational cannabis sales

Portland housing bond passed in 2016- \$258.4 million bond to build affordable housing repaid from property taxes

Local Gas Tax passed in 2016- Four-year gas tax of 10-cents per gallon

Audit report



During our audits of programs created by each of those City-referred ballot measures, we noticed a trend that the City's implementation of some of the accountability protections fell short of what had been promised.

This report examines the implementation of the City's accountability promises, makes recommendations for improvement, and shares examples of better approaches to use for future ballot measures.

No early vetting of accountability commitments

There was no consistent assessment of the feasibility of commitments made to voters. Although Council approves all measures the City places on the ballot, Council meetings did not include discussion about each accountability measure the City planned to promise. Portland is not alone. Other cities also did not have a unique mechanism to help ensure that commitments made to voters were realistic.

Fiscal impact statements, which must be completed for all items that go to Council for a vote, did not include information about the administrative burdens and cost to implement the accountability measures for the new taxes and bond. The fiscal impact statement form has detailed instructions and prompts for what information to include but does not instruct legislative sponsors to describe the budget impact of delivering accountability measures.

Unclear language

The City is not always clear when communicating commitments to voters in ballot titles and explanatory statements. The City Attorney's Office drafts ballot titles, and the summary cannot exceed 175 words. Accountability measures usually appear at the end of the ballot title summary, and City Attorneys try to choose the briefest way to communicate the information. The explanatory statement in the voter's guide includes more information and is typically written by the Commissioner's Office that sponsors the legislation and for the measures included in our review, was often informed by polling. Unclear language and varying levels of detail can make implementation challenging for the bureau that is responsible for the program.

Commission form of government can make it harder to fulfill commitments

Portland's Commission form of government may make program implementation more disconnected from the commitments made to voters than in other cities. In the case of the gas tax, the Commissioner who helped craft the ballot language lost reelection shortly after the tax was passed. A different Commissioner was placed in-charge of the Bureau of Transportation when the program was implemented, during which time the Bureau Director left the City. Yet another Commissioner took responsibility for the Bureau when the program was up and running. The turnover may have contributed to Bureau managers and staff not being able to explain why there were differences between elements of the oversight committee that Council approved and what was implemented.

There is a risk that commitments fall through the cracks or diverge from what was promised to voters when there are changes in leadership coupled with unclear commitments.

No monitoring to ensure commitments are delivered

There is no central and consistent monitoring once a voter-approved City tax or bond is passed to help ensure that accountability measures are established and consistent with what was promised.

Oklahoma City and Austin assigned monitoring of voter approved programs to the City Manager's Office to ensure commitments to voters were delivered. Because Portland does not have a central position overseeing all City operations, monitoring to ensure that commitments are delivered is harder here than in other cities.

Recommendations

To help ensure ballot commitments are achieved, we recommend that before preparing language for City-referred ballot measures, City Council:

1. Direct bureaus to assess the administrative burdens and costs to implement planned accountability measures to ensure that they are feasible. These assessments should be documented so that the meaning and intent behind commitments can be referenced when the program is implemented. The fiscal impact statement is one existing tool that should be considered.
2. Make commitments in the ballot title and explanatory statement to voters that are specific, measurable, achievable, realistic and when appropriate, time-bound.
3. Specify the position or body responsible for monitoring accountability commitments. Early verification that accountability measures are implemented, and ongoing monitoring to assess if they are operating as intended should be included in their duties. Public reporting about programs paid for by the new taxes or bonds should include this information.

**Popular
accountability
commitments
and practices to
consider when
communicating
to voters**

The City made commitments to voters when asking for approval of taxes and bonds regarding what the new revenue would be used for, how it would be overseen, how often reports to the public would be made, the timing of audits, and any administrative caps that would be used. Delivery of these commitments has not been consistent. The following good practices are intended to improve the City's accountability to voters when crafting future ballot measures.

Accountability Measures Often Promised to Voters





Commitments about what new revenue would be used for

What we saw in our audits:

We found that the City generally delivered on the overall commitments they made about how new tax and bond revenue would be used. But what voters expected in terms of how much of the new revenue would go to specific groups or programs based on the language in the cannabis tax, housing bond and gas tax ballot titles and explanatory statements may not have been delivered when those programs were implemented.

Cannabis tax — The City committed to use cannabis tax revenue to fund services in three categories: drug and alcohol education and treatment, public safety, and support for neighborhood small businesses. The ballot measure did not define the amount allocated to each category and proponents of the tax said the categories were intentionally broad to meet changing needs and priorities.

During the first two years of cannabis tax collection, nearly 80 percent of revenue went to public safety. Drug and alcohol treatment received no funding in one year. While City spending of tax revenue fell within the three categories included in the ballot title, voters may have expected that each category would receive funding every year.

Portland housing bond — In the ballot title, the City committed to build housing for low income families, seniors, veterans, and people with disabilities. However, a policy developed after the bond was passed to guide the development of bond funded housing did not include veterans as a community needing housing.

Good practices:

Commitments made to voters should be specific, measurable, achievable, realistic and when appropriate, time-bound. Programs funded with voter approved taxes and bonds should reflect commitments made to voters.

Writing ballot titles using plain language helps voters understand what they are being asked to pay for. To help ensure that ballot language is clear and specific, writers should use short, simple, everyday words. Language should be written in the active voice, and make it clear who is responsible for action. Short sentences help information stand out. Ballot questions should be framed with information about what will change if a measure passes and what it means to vote for or against a measure.



Oversight

What we saw in our audits:

We found that commitments promising the establishment of oversight bodies were delivered when the arts tax, housing bond and gas-tax funded programs were implemented. The exception was the cannabis tax, where the City told voters that the Budget Office would provide independent oversight of the tax fund. But many bureaus had a role in tax allocations and fund administration and there was no clear responsible party to ensure accountability.

The arts tax, housing bond and the gas tax have public oversight committees made up of volunteers. These committees are charged with significant monitoring and reporting responsibilities, but the arts tax and gas tax committees did not always have the tools they needed.

Gas tax — Although the City committed to have an oversight committee for the gas-tax-funded program, the Bureau of Transportation did not provide the committee with current, consistent, and accurate information needed for effective oversight.

Arts tax — The Arts Oversight Committee had limited staff support. In addition to attending meetings, committee members were responsible for collecting information from school districts, the City, and the regional arts organization, developing working agreements and metrics, analyzing the information and creating an annual report.

Without the necessary information and support, oversight committees may not be able to provide effective oversight and members may quit if the commitment is too burdensome. Without effective oversight, commitments may not be delivered or may not operate as intended.

Good practices:

The City chose public committees to fulfill most of its commitment of oversight for recent voter-approved taxes and bonds. Government bodies should consider the advantages and disadvantages when making decisions about involving the public in oversight.

Advantages and disadvantages of public participation in oversight

	Advantages	Disadvantages
Government	<ul style="list-style-type: none"> • Gain/strengthen legitimacy of decisions • Obtain public acceptance 	<ul style="list-style-type: none"> • Costly, less budget for program • Loss of decision-making control • May backfire, creating more hostility towards government. (Lack of representation and authority most often cause participation to backfire)
Public	<ul style="list-style-type: none"> • Gain skills for activism • Gain some control over policy process 	<ul style="list-style-type: none"> • Participation is pointless if input is ignored by government
Both Government and Public	<ul style="list-style-type: none"> • Education (learn from and inform government/the public) • Persuade and enlighten on government's abilities and public's needs • Better policy and implementation decisions • Build strategic alliances • Break gridlock; achieve outcomes 	<ul style="list-style-type: none"> • Time consuming • Worse policy decision if heavily influenced by opposing interests • Few members of the public want to participate, so group may not be representative. Only certain interests are advanced, and benefits of public involvement may not be realized

Public committees are not always the best way to provide oversight of a program. When a mandate from the voters is specific, the oversight role must include verification that the mandate is delivered. In this instance, a professional manager from a program or bureau may be best suited to provide oversight. These staff and managers most often have more time, resources, interest and expertise to maintain a watchful eye to help ensure that commitments are delivered.

Public committees may be better suited to provide advice. For example, when a mandate is vague, as with the cannabis tax, government bodies should solicit advice on how to fulfill the mandate. In this instance, a public advisory committee could provide input that would likely result in better decisions than if a bureaucrat made the decisions alone.

If a government body commits to public oversight, it must work to ensure that participation is meaningful because ineffective participation can jeopardize public trust and waste resources and time. Some steps to consider include:

- Flexible meeting schedules with multiple opportunities to participate
- Rotating meeting locations so participants don't always have to travel far
- Use electronic resources (but not exclusively)
- Provide free child-care, meals, transportation vouchers
- Seek diversity in representation
- Allocate resources for participation activities
- Involve the public before the agenda is set so they have an opportunity to influence outcomes
- Consult with the Public Involvement Advisory Committee on City's Public Involvement Principles



Annual public reports

What we saw in our audits:

The City committed to provide annual public reports when asking voters to approve the arts tax, cannabis tax, housing bond, and gas tax. However, public reports were not produced for the cannabis tax, and reports were late for the housing bond and the gas tax.

Good practices:

Sharing information with the public about how programs are operating helps ensure community members know the City is making good on commitments. Public reporting also gives the City an opportunity to share information about obstacles that may have slowed progress. Sharing information about setbacks assures the public that the program hasn't been abandoned.

Although the City has committed to annual public reports for recent voter-approved taxes and bonds, public reporting can be achieved many ways. Online tools, such as websites and social media, allow the City to communicate with the public regularly. For example, periodic reporting can be done online through dashboards and allows the City to share up-to-date information rather than a snapshot in time.

The promise of an annual report implies the release of a report each year, regardless if there is progress to report. Annual reports about new taxes should contain information that allows the reader to learn how the City is doing compared to what was planned or promised. For example:

- What was promised to be completed by this date
- What has been done to date compared to what was planned
- What is needed to complete the plan/achieve original goal
- How much revenue was anticipated to be generated
- How much has been collected to date
- Challenges encountered and what has been done to address them

The schedule for public reporting should be clear to voters and to program staff.



Annual audits

What we saw in our audits:

The City committed to audits when it asked voters to approve the arts tax, cannabis tax, housing bond and gas tax. However, the City is only on track to deliver the commitment for the housing bond. The Housing Bureau hired a consultant to perform a review of the Bureau’s use of bond funds.

Gas tax — The City made three commitments regarding audits of the gas-tax-funded program, each suggesting a different kind of review and focus. The Bureau of Transportation said, however, that including the new tax revenues in the City’s audited comprehensive annual financial report is how it met the audit commitment.

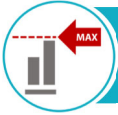
The City’s annual financial audit verifies that the financial statements of the City were presented fairly and accurately. It does not offer an opinion on program management and does not satisfy a commitment to voters suggesting a focused review.

Good practices:

There are many different types of reviews to assess if a program is operating efficiently and effectively, if commitments are delivered, or if financial statements are recorded accurately. Depending on the type of review and the standards followed by those performing the work, they may or may not be called “audits.”

Type of audit	When it might be used
Performance audits assess the efficiency, effectiveness, and equity of program delivery.	This comprehensive look at program performance could be done at specific points in time, like mid-point or conclusion.
Compliance audits assess whether the organization has systems in place to meet specific financial, legal or programmatic requirements.	This focused review is useful to check against specific questions, such as whether administrative spending is within allowable limits or whether all payments are properly approved and consistent with ballot language.
Financial audits confirm that an organization’s financial statements fairly and accurately represent the activities of the organization.	The City Auditor’s office contracts for an annual audit of the City’s financial statements. This audit cannot be relied on to provide assurances regarding program operation.

The City must determine what it wants from a review or audit, describe this in the fiscal impact statement, and write language for the ballot that appropriately conveys how it plans to fulfill the commitment.



Administrative cap

What we saw in our audits:

The City committed to cap administrative costs for the arts tax and the housing bond.

Arts Tax — The administrative costs to collect the arts tax exceeded the administrative cap. Managers responsible for collecting the tax said that the cap was not realistic and was promised to voters because it was popular. City Council repealed the administrative cap for the arts tax in 2018. This change was not affirmed by voters.

Good practices:

The City needs to assess the administrative burdens and costs to deliver all aspects of a program, including accountability measures, and make commitments to voters that are realistic and achievable.

**Objective,
Scope,
and
Methodology**

Our audit objective was to summarize trends in accountability commitments from recent audits of voter-approved taxes and bonds. Included in our review were the following audits:

- [Arts Tax: Promises to voters only partly fulfilled](#) (2015)
- [Recreational Cannabis Tax: Greater transparency and accountability needed](#) (2019)
- [Portland Housing Bond: Early implementation results mostly encouraging](#) (2019)
- [Fixing our Streets: Some accountability commitments not fulfilled](#) (2019)

To accomplish our objectives, we:

- Identified trends in the promise and delivery of accountability commitments across four audits of voter-approved taxes and bonds
- Interviewed Chiefs of Staff for 2019 City Council members, a former City Commissioner, the City Elections Officer, managers and/or staff from the Chief Administrator's Office; City Budget Office; and the City Attorney's Office, the Director of the Tax Supervising and Conservation Commission, auditors and/or managers from Austin; Kansas City; Oklahoma City; San Jose; and Seattle.
- Reviewed the November 2012, May 2016 and November 2016, Voters' Pamphlets and records of City Council meetings where the arts tax, cannabis tax, Portland housing bond and gas taxes were approved
- Reviewed Oregon Constitution, Oregon Revised Statutes, and City guidelines about City referred measures
- Reviewed the City's Public Involvement Principles
- Reviewed best practices in public participation and writing ballot measures
- Reviewed the City's financial impact statement form and instructions and those completed for the arts tax, cannabis tax, Portland housing bond, and the gas tax

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 audit findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

RESPONSE TO THE AUDIT



December 11, 2019

TO: Auditor Hull Caballero

FROM: Mayor Ted Wheeler
Commissioner Chloe Eudaly
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Jo Ann Hardesty

SUBJECT: Council response to audit of accountability for voter-approved taxes

Council thanks the Auditor and her office for the work done on this audit. The three recommendations are thoughtful and well-reasoned.

We are pleased to see that recent City-referred measures are generally delivering on commitments about how new tax and bond revenue will be used. And we appreciate that commitments about accountability, cost, and deliverables should be clear and realistic. Both the Council and voters should understand what they are being asked to consider so that they can make informed, appropriate decisions.

The specific approaches outlined in the audit are thoughtfully presented and will help us better ensure that accountability measures are specifically and clearly defined in future City referrals.



P O R T L A N D
CITY AUDITOR
Audit Services



The City needs to make realistic commitments to voters and ensure they are delivered

Report #528, December 2019

Audit Team: Jenny Scott, Alexandra Fercak, Martha Prinz, Dylan Cain

Other recent audit reports

Portland Building Contract:

Costs reviewed were consistent with contract, although required cost classification and calculations for final payment need to start now (October 2019)

Police Overtime:

Management is lax despite high overtime use (September 2019)



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Audit Services

We audit to promote effective, efficient, equitable, and fully accountable City government for the public benefit. We assess the performance and management of City operations and recommend changes to the City Council and City management to improve services. We follow Government Auditing Standards and have strict internal quality control procedures to ensure accuracy. We also operate the Auditor's Fraud Hotline and coordinate the City's external financial audit.

Mission of the City Auditor

The mission of the Auditor's Office is to promote open and accountable government by providing independent and impartial reviews, access to public information, and services for City government and the public.