



MIAMI BEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager
VIA: Kathie G. Brooks, Budget and Performance Improvement Director 
FROM: James J. Sutter, Internal Auditor 
DATE: June 29, 2009
AUDIT: Davis Sanitation, Inc. (Non-Exclusive Franchise Waste Contractor)
PERIOD: January 2006 to August 2008

This report is the result of a regularly scheduled audit of the Franchise Service Agreement with Davis Sanitation, Inc. (Davis Sanitation).

INTRODUCTION

Chapter 90, Article IV Solid Waste of the City Code provides for the City to have Non-Exclusive Franchise Waste Contractor Agreements and Service Agreements with five waste contractors. These contractors provide waste collection and recycling services for Commercial and Residential for multi-family residences with eight (8) or more units in the City of Miami Beach. According to the Non-Exclusive Franchise Waste Contractor Agreement, the waste contractor is granted the franchise and is required to undertake and perform each and every obligation set forth in this Agreement. The "Service Agreement" covers the provision of additional solid waste collection and disposal and recycling services at certain City owned facilities and properties. The Service Agreement is intended to have a term that will run concurrent with the terms of the Non-Exclusive Franchise Waste Contractor Agreement.

The City Commission under resolution 2003-25385 renewed Davis Sanitation and the other waste contractor's franchise service agreement on October 15, 2003 for an additional five-year term expiring September 30, 2008. Subsequently the City Commission adopted Resolution (#2008-26923) authorizing the further renewal of the City's existing four franchise waste contractors including Davis Sanitation) for the collection and disposal of solid waste, to also include recycling services. The waste contractors' renewal was for three years, commencing retroactively on October 1, 2008 and ending on September 30, 2011.

For the past several years, the City had franchise waste contractor and service agreements with four waste contractors to provide commercial service within its boundaries. On May 25, 2009 the City Commission by resolution 2009-27020 approved a new waste contractor to be the fifth hauler.

Section 90-221 City Code 1964, 14A-16 (a) requires each franchise waste contractor to pay the City a franchise fee consisting of a percentage of the licensee's total monthly gross receipts established by resolution of the City Commission. Effective October 1, 2007 as required pursuant to section 90-278 of the City Code, the franchise fee paid to the city by its franchise waste contractors was raised from 16% of the franchisee's total monthly gross receipts for waste removal in the city, to 18% of said gross receipts. However, the Public Right-of-way franchise fees remained the same (2%). Davis Sanitation does not provide roll-off services.

For the past three calendar years, Davis Sanitation reported to the City of Miami Beach \$3,508,448.17 in gross receipts. The franchise fee Davis Sanitation remitted amounted to \$593,688.48 and Public-Right-of-way totaled \$70,168.96 for the services performed within the city

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limits in compliance with the City Code. The following table summarizes the total amount of gross receipts reported and related fees paid:

	2006	2007	2008 *	TOTAL
Audited Gross Receipts	\$1,026,099.07	\$1,183,808.56	\$1,298,540.54	\$3,508,448.17
16%Franchise fee paid	\$164,175.85	\$195,775.33	\$233,737.30	\$593,688.48
2%Public Right-of-Way	\$20,521.98	\$23,676.17	\$25,970.81	\$70,168.96

*Footnote: Amounts reported for 2008 above represent the entire calendar year. Audited amounts per the audit period were \$3,088,210.75 in gross receipts, representing \$518,045.74 in Waste Franchise fees and \$61,764.21 in Public Right-of-way fees.

On June 3, 2009, the City Commission by resolution 2009-27084 approved the assignment of Choice Environmental Services, Inc. to replace Davis Sanitation, as a Non-Exclusive Franchise Waste Contractor due to Choice Environmental Services' recent purchase of Davis Sanitation.

OVERALL OPINION

Davis Sanitation remitted the correct amount of franchise and public right-of-way fees based on the records provided in adherence to the City Code. The waste contractor properly and timely obtained an annual business tax receipt, submitted the required certificate of liability insurance and provided the In-Kind Services to the City. In addition, the contractor's franchise returns were timely filed and correctly recorded in the City's Financial System. However, the following items were noted during our audit and are in need of improvement:

- Davis Sanitation did not comply with City Code sections requiring monthly report of recyclable materials, annual list of accounts and CPA annual statement of gross receipts.
- Davis Sanitation did not comply with the following sections of the Terms of Service Agreement by not providing the City with collection route schedule, notifying the City about complaint procedures, rates and regulations and documenting complaint procedures.

PURPOSE

The purpose of this audit is to determine whether the franchise waste contractor reported all gross receipts to the City, were correctly calculated, received timely and accurately recorded by the City, and the contractor was in compliance with designated sections of the City Code and related Ordinances.

SCOPE

1. Review the private waste contractor's books and records to confirm that their billings were correct; their gross receipts were correctly calculated and support the monthly franchise fee and public right-of-way payments submitted to the City.
2. Confirm that the private waste contractor timely sent the City the required reports in

adherence with the terms listed in the Service Agreement.

3. Confirm that the private waste contractor is timely sending the required Monthly Report of Gross Receipts along with their remittance to the City.
4. Confirm that the private waste contractor timely obtained and paid their required annual City Business Tax Receipt.
5. Confirm that the private waste contractor timely submitted their annual Certified Public Accountant (CPA) Statements of Gross Receipts to the City, and that amounts reported therein agree with corresponding totals reported on the waste contractor's Monthly Reports of Gross Receipts.
6. Confirm that the private waste contractor has obtained the required insurance in adherence with Section 90-223 of the City Code and the signed service agreement.
7. Confirm that all monthly franchise and public right-of-way fee payments were timely and correctly recorded in the City's Financial System.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Finding – Required Reporting
Davis Sanitation did not submit the following documents in accordance with the listed City Code sections during the audit period:
 - a. The City Code Section 90-308 Monthly Report, *"Each recycling contractor shall deliver monthly to the city manager an accurate report regarding the nature and disposition and volume of Recyclable Materials collected by it from each account within the limits of the city. Upon request by the City Manager, each contractor shall also furnish the city with verifiable information regarding the method and place of final disposal or distribution of said materials."* Davis Sanitation did not deliver to the City Manager the required monthly report of recyclable materials as required by the City Code.
 - b. Section 90-222 (a) states *"The licensed contractor shall provide the City Manager (1) a current list of names and addresses of each account, upon initial application and upon application for renewal of its business license; (2) the frequency of service, (3) the permit number and capacity of each dumpster and compactor as per account; and (4) the address serviced by each dumpster and compactor."* Davis Sanitation did not provide the City Manager with a current list of names and addresses of each account, upon initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each dumpster and compactor as per account, and the address serviced by each dumpster and compactor.
 - c. Section 90-223 states *"The licensee shall on or before 30 days following the close of its fiscal year deliver to the Finance Director and the City Manager a statement of its annual gross receipts generated from accounts within the City certified by an independent certified public accountant reflecting gross receipts within the City for the preceding fiscal year"*. Davis Sanitation did not provide statements of its annual gross receipts generated from accounts within the City certified by an independent public certified public accountant reflecting gross receipts within the city for the years 2006, 2007 and 2008.

Recommendation(s)

Davis Sanitation must comply with the designated sections of the City Codes as follows:

- a. The contractor shall deliver to the City Manager monthly report regarding the nature and disposition, volume of recyclable materials collected from each account within the City limits.
- b. Davis Sanitation must provide the City Manager and the Sanitation Director with a current list of names and addresses of each account, upon the initial application and upon application for renewal of its business license, the frequency of service, the permit number and capacity of each dumpster and compactor as per account and the address serviced by each dumpster and compactor.
- c. Davis Sanitation must submit a statement of annual gross receipts generated from accounts within the city certified by an independent certified public accountant reflecting gross receipts within the city for the 2006, 2007 and 2008 fiscal years.

2. Finding – Terms of Service Agreement

Davis Sanitation did not fully comply with certain sections of the Terms of Service Agreement during the audit period:

- a. Section 6.8 *“Contractor shall provide the City with schedules for all collection routes and keep such information current. If any change in the collection routes occurs, then the City shall be immediately notified in writing”*. Davis Sanitation has not provided the City with schedules for all collection routes. If any change in the collection routes occurs, then the City shall be immediately notified in writing.
- b. Section 9.2 *“Contractor shall notify the City, in writing, about complaint procedures, rates, and regulations”*. Davis Sanitation did not have a control log at their establishment and did not provide the City in writing about complaint procedures, rates, and regulations. However, the contractor informed us that they have an excellent relationship with their customers. When a complaint occurs and not often, it is taken care of expeditiously. But going forward, they will notify the City in writing about complaint procedures, rates, and regulations.
- c. Section 13.1 *“Contractor shall prepare and maintain a register of all complaints and indicate the disposition of each complaint. Complaints shall be identified and such record shall be available for City inspection at all times during business hours. All complaints must be addressed within 24 hours”*. Davis Sanitation did not prepare and maintain a register of all complaints and indicate the disposition of each complaint. Complaints shall be identified and such record shall be available for City inspection at all times during business hours. All complaints must be addressed within 24 hours. Davis Sanitation stated that they will comply in the future.

Recommendation(s)

Davis Sanitation should provide the City with schedules for all collection routes and keep such information current. If any change in the collection routes occurs, then the City shall be immediately notified in writing. Contractor shall notify the City, in writing, about complaint procedures, rates, and regulations. In addition, Davis Sanitation should prepare and maintain a register of all complaints and indicate the disposition of each complaint. Complaints shall be identified and such record shall be available for City inspection at all times during business hours. All complaints must be addressed within 24 hours.

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EXIT CONFERENCE

Audit findings were e-mailed on June 17, 2009 to Kerry Simmons (General Manager for Davis Sanitation). Mr. Simmons concurred with our findings and recommendations as presented. Davis Sanitation has recently been purchased by Choice Environmental Services. Therefore, the current contractor will be required to follow-up on the reported findings and recommendations to ensure future compliance with the existing service agreement and sections of the City Code.

JJS: CD
Audit performed by Carmin Dufour

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cc: Fred Beckmann, Public Works Director
Alberto Zamora, Sanitation Director
Patricia Walker, Chief Financial Officer
Kerry Simmons (General Manager for Davis Sanitation)