



MIAMIBEACH

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: August 26, 2009
AUDIT: Republic Services of Florida, d/b/a All Service Miami-Dade Division (Non-Exclusive Franchise Contractor)
PERIOD: October 2005 to January 2009

This report is the result of a regularly scheduled audit of the Franchise Service Agreement with Republic Services of Florida, d/b/a, All Service Miami-Dade Division. (All Service Miami-Dade Division)

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 All Service Miami-Dade Division 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 All Service Miami-Dade Division for the collection and disposal of solid waste, to also included 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 another company 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. On 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%).

All Service Miami-Dade Division reported to the City of Miami Beach \$4,060,227.01 in gross receipts for Waste, Roll-offs & Public Right-of-Way. All Service Sanitation Miami-Dade Division remitted amounted to \$752,145.67 for the services performed within the city limits in compliance with the City

We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

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Code. The following table summarizes the total amount of gross receipts reported and related fees paid:

	2005 (Oct-Dec)	2006	2007	2008	2009 (Jan)	TOTAL
Audited Gross Receipts	\$250,661.38	\$1,077,827.14	\$1,253,198.75	\$1,361,010.52	\$117,529.22	\$4,060,227.01
16%Franchise fee paid	31,686.88	143,441.37	175,778.66	210,773.19	17,550.83	579,230.53
2%Public Right-of-Way	3,960.86	17,930.16	21,474.88	23,419.25	1,950.05	68,735.20
Roll-off	\$8,418.95	\$29,010.98	\$28,936.49	\$34,208.69	\$3,604.83	\$104,179.94

Footnote: On October, 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%).

OVERALL OPINION

All Service Miami- Dade Division remitted the correct amount of franchise fees for Waste, Roll-offs and Public Right-of-Way; based on the records provided in adherence to the City Code and Service Agreement. 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:

- All Service Miami-Dade Division did not comply with City Code sections requiring monthly report of recyclable materials.
- All Service Miami-Dade Division did not 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 preceding fiscal year.

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.

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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 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
All Service Miami-Dade Division 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.*" All Service Miami-Dade Division did not deliver to the City Manager the required monthly report of recyclable materials as required by the City Code. Going forward, a list that states address, size, number of containers or totters and frequency serviced must be delivered monthly.
 - b. 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*". All Service Miami-Dade Division 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 preceding fiscal year. However, upon requested during the audit All Service Miami-Dade Division provided a CPA annual statement for fiscal year 07/08.

Recommendation(s)

All Service Miami-Dade Division must comply with the designated sections of the City Codes as follows:

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- 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. All Service Miami-Dade Division 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 preceding fiscal year.

EXIT CONFERENCE

On June 30, 2009 we forwarded an audit draft to All Service Miami-Dade Division. Their attorney responded on July 13, 2009 by providing further clarification to our audit findings. On August 24, 2009, we visited their offices to verify additional information and made changes accordingly to our report. Going forward, the waste contractor agreed to take the necessary action to address our audit findings.

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
Al Blease (General Manager for All Service Miami-Dade Division)
Cindy Thompson (Office Manager for All Service Miami-Dade Division)