



MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jimmy L. Morales, City Manager
FROM: James J. Sutter, Internal Auditor 
DATE: June 21, 2013
AUDIT: Waste Management, Inc. (Non-Exclusive Franchise Contractor)
PERIOD: June 2009 to December 2012

This report is the result of a regularly scheduled audit of the Franchise Service Agreement with Waste Management, Inc. (Waste Mgmt) it includes any revenues reported for Franchise Waste, Public Right-of-Way, Roll-offs and Sustainable Initiatives (Green initiatives).

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 Waste Management 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 Waste Management 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. Out of the five haulers, All Service of Florida and General Hauling were merged with other haulers. Subsequently, leaving the City of Miami Beach with three haulers and they are Choice Environmental, Waste Management and Waste Services of Florida.

Whereas, at the May 9, 2012 City Commission meeting, the City Commission determined that, premised upon the contractors' agreement to provide the City with certain additional contributions, which would be allocated by the City toward additional public waste collection and disposal, recycling, and sustainability initiatives and programs, it would be in the City's best interest to not issue the RFQ for a fourth hauler and, in the alternative, renew the three (3) existing franchise agreements for an additional (1) year (with such renewal term commencing October 1, 2014, and ending September 30, 2015;) and, further, condition such renewal upon the successful negotiation of an amendment to the existing Service Agreement by and among the City and three(3)

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franchisees, to provide for additional, public benefits (in addition to what is already being provided under such Agreement) (including, without limitations, additional monetary contributions to the City, in the amount of \$390,000 per year and \$25,000 per year). It was approved as to form & language & for execution on December 27, 2012.

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. Currently, the franchise fee paid to the City by its franchise waste contractors (18%) of said gross receipts and the Public Right-of-way franchise fees (2%).

BACKGROUND

Previously, Internal Audit conducted an audit of Waste Management for the period of October 2005 to May 2009. Our audit report dated September 21, 2009 produced no audit assessment. A review of the company's invoices showed that franchise fees were charged and collected throughout the audit period. Waste Management records showed that franchise fees were remitted timely to the City of Miami Beach.

OVERALL OPINION

Waste Management of Florida remitted the correct amount of franchise fees for Commercial Waste, and Roll-offs; 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 timely submitted their annual Certified Public Accountant (CPA) Statements of Gross Receipts to the City.

Waste Management reported to the City of Miami Beach \$36,099,428.03 for Waste, Public Right-of-Way, Roll-offs and Sustainable Initiative fees. The fees Waste Management remitted amounted to \$7,506,338.45 for the services performed within the city limits in compliance with the City Code. The following table summarizes the total amount of gross receipts reported and related fees paid:

	2009 (Jun.-Dec.)	2010 (Jan-Dec.)	2011 (Jan-Dec.)	2012 (Jan-Dec.)	TOTAL
Audited Gross Receipts	\$5,888,810.59	\$10,309,459.60	\$9,942,450.21	\$9,958,707.63	\$36,099,428.03
18% Franchise fee	1,006,301.73	1,793,479.67	1,732,626.27	1,733,198.45	6,265,606.12
2%Public Right-of Way	111,811.30	199,275.52	192,514.03	192,577.61	696,178.46
18% Roll-offs Franchise fee paid	53,684.18	62,223.05	57,014.77	59,368.92	232,290.92
Total Franchise fees paid	1,171,797.21	2,054,978.24	1,982,155.07	1,985,144.98	7,194,075.50
Sustainable Green initiative Fees	\$0.00	\$47,153.38	\$115,728.95	\$149,380.61	312,262.95
Totals	\$1,171,797.21	\$2,102,131.62	\$2,097,884.02	\$2,134,525.59	\$7,506,338.45

Waste Management has not fully complied with the City Codes as it relates to reporting requirements for waste contractors. The following items were noted during audit:

- Waste Management incorrectly charged their franchise waste customers having roll-offs services a 2% Right of Way Fees for the Roll-offs portion which only applies to franchise fee revenues.
- Waste Management did not comply with the City Code section requiring monthly report of recyclable materials.
- Waste Management did not comply with the City Code section by delivering to the City's Finance Department a detail monthly report stating customer names, service addresses, account numbers and the actual amount of waste/solid waste and any recycles materials collected from each customer. However, during the audit Waste Management forwarded the report.

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 City Code.
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.
8. Confirm that the private waste contractor has complied with the Sustainable Initiative agreement. (Green Initiatives)
9. Confirm that the private contractors are purchasing recycling bins for the City.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Finding – Fees and Requirement

Waste Management correctly charges the 18% permit fees for roll off services in accordance to City Code Section 90-278. However, Waste Management incorrectly charged their franchise waste customers having roll-offs services a 2% Right of Way Fees for the Roll-offs portion which only applies franchise fee revenues toward the establishment implementation, and operation of a public-right-of way cleaning program, to be established by the City and operated through its Sanitation Department.

Recommendation(s)

Waste Management must comply with the designated sections of the City Codes by correcting their computer billing software to not charge the 2% Right of way fees for Roll-off services; no further action is required. Upon notification of the error, Waste Management adjusted their computer billing software on May 1, 2013 to comply with the City Codes.

2. Finding – Monthly Reporting

Waste Management did not submit the following documents in accordance with the listed City Code sections during the audit period:

- a. Waste Management did not submit the Monthly Report in accordance with 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”.*
- b. Waste Management did not submit the following documents in accordance with the City Code Section 90-223. *“The licensed contractor shall deliver to the finance department a true and correct monthly report of gross receipts generated during the previous month from accounts within the city on or before the last day of each month. This detailed monthly report shall include the customers’ names, service addresses, account numbers, and the actual amount of waste/solid waste and of any recycles materials collected from each customer”.*

Recommendation(s)

Going forward, Waste Management must comply with the designated sections of the City Codes by delivering 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. In lieu of sending the report to the City Manager, the report should be forwarded to the Sanitation Director as his or her designee. In addition, Waste Management must comply by submitting to the City’s Finance Department a detailed monthly report shall include the customers’ names, service addresses, account numbers, and the actual amount waste/solid waste and of any recycles materials collected from each customer.

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EXIT CONFERENCE

Audit findings were e-mailed on June 7, 2013 to Waste Management. We confirmed their agreement to our findings on June 11, 2013.

JJS: CD
Audit performed by Carmin Dufour

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cc: Eric Carpenter, Director of Public Works
Alberto Zamora, Sanitation Director
Patricia Walker, Chief Financial Officer
Leslie Sanatan, (District Revenue Manager of Waste Management)
Jim Lambros, (Area Controller of Waste Management)