





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: August 24, 2009
AUDIT: Waste Service of Florida of Florida, Inc. (Non-Exclusive Franchise Contractor)
PERIOD: May 2007 to March 2009

This report is the result of a regularly scheduled audit of the Franchise Service Agreement with Waste Service of Florida, Inc. (Waste service of Florida) It includes any revenues reported for Franchise Waste, Public Right-of-Way and Roll-offs.

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 Service of Florida 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 Service of Florida 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%).

Section 90-278 City Code 1964, 14A-7(c) requires each Roll-off 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, 2008 the on-street and off street permit fee for Roll-off waste containers serviced by licensed contractors was raised from 16% to 18%.

INTRODUCTION

Waste Service of Florida reported to the City of Miami Beach \$8,477,334.87 in gross receipts for Waste, Public Right-of-Way and Roll-offs. The franchise fee Waste Service of Florida remitted amounted to \$1,660,891.50 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:

	2007 (May-Dec)	2008 (Jan-Dec)	2009 (Jan-Mar)	TOTAL
FRANCHISE WASTE & PUBLIC RIGHT-OF-WAY:				
Audited Gross Receipts	\$2,415,560.46	\$4,066,265.37	\$1,036,566.61	\$7,518,392.44
16%/18% Franchise fee paid	\$405,242.32	\$731,927.76	\$186,581.99	\$1,323,752.07
2%Public Right-of-Way	\$54,340.68	\$90,466.05	\$24,496.73	\$169,303.46
ROLL-OFF:				
Audited Gross Receipts	\$310,125.89	\$460,803.09	\$188,013.45	\$958,942.43
16%/18% Roll-offs Franchise fee paid	\$51,049.00	\$82,944.55	\$33,842.42	\$167,835.97

Footnotes: 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%) In addition, the Roll-offs permit fee was raised from 16% to 18% on October, 2008.

Effective on March 31, 2007, BFI (Allied Waste) was sold to Waste Service of Florida. Waste Service of Florida has been operating as a Non-Exclusive Franchise Contractor in the City of Miami Beach since April 1, 2007. They have been remitting franchise fees on a monthly basis for Waste, Public Right-of-Way and Roll-offs.

OVERALL OPINION

Waste Service of Florida remitted the correct amount of franchise fees for Waste, Public Right-of-Way 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 provided the In-Kind Services to the City. Also, during the audit Waste Service of Florida complied with a new section of the Service Agreement (8.3) by purchasing recycling receptacles' for the amount of \$36,544. In addition, the contractor's franchise returns were timely filed and correctly recorded in the City's Financial System. The following item was noted during our audit:

- Waste Service of Florida did not comply with City Code sections requiring monthly report of recyclable materials.

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 contractors are purchasing recycling bins for the City.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

1. Finding – Required Reporting
Waste Service of Florida 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.*" Waste Service of Florida 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 toppers and frequency serviced must be delivered monthly.

Recommendation(s)

Waste Service of Florida 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. 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.

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August 24, 2009

EXIT CONFERENCE

Audit findings were e-mailed on August 18, 2009 to Waste Services of Florida, Inc. We confirmed their agreement to our findings on August 24, 2009.

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
Larry Thogmartin (Regional Controller)
Juan Castillo (Assistant Region Controller)