



Joseph M. Centorino, Inspector General

TO: Honorable Mayor and Members of the City Commission
FROM: Joseph Centorino, Inspector General

DATE: June 21, 2022
PROJECT: Public Towing Pricing Methodology Analysis
OIG No. 22-03

The City of Miami Beach Office of the Inspector General (OIG) was separately requested by City Commissioner David Richardson to evaluate the methodology used in the public towing pricing currently being negotiated by the City with Beach Towing Services, Inc. (Beach Towing) and Tremont Towing, Inc. (Tremont Towing). Any recommendations made by the OIG in this report may be considered in subsequent negotiations between the City and the tow companies regarding the terms of new Towing Permits, which must be approved by the City Commission before implementation.

BACKGROUND

The City has executed various City of Miami Beach Administrative Rules and Regulations For Police and Parking Towing Permits (Towing Permits) over the past twenty-plus years with Beach Towing Services and Tremont Towing. Although these companies also conduct private tows and other related services, the terms of the Towing Permits only apply to public tows stemming from the requests of the City Parking and Police Departments for the removal of vehicles within the City.

After a lengthy audit process, the OIG previously issued in September 2020, the following three public towing audits with an October 1, 2017 through October 31, 2018 audit period: Beach Towing Services, Inc. – Towing Audit (OIG No. 20-18); Tremont Towing, Inc. – Towing Audit (OIG No. 20-19); and Parking and Police Department Requested Tows Operational Audit (OIG No. 20-13). These audits can be found at <https://www.miamibeachfl.gov/inspectorgeneral/reports/>.

As the audit findings and the recommended process revisions were being analyzed and/or implemented, the Towing Permits were nearing a February 2020 expiration. Several extensions of the Towing Permits have been subsequently approved by the City Commission during the past two-plus years, while negotiations have continued between the City and the tow companies.

The Towing Permits list various fees in the Maximum Allowable Rates section, besides standard hook-up fees, which range from a low of \$140 for Class A to \$200 for Class D towed vehicles. The hook-up fees charged vary based on the weight classification of towed vehicles. Examples of additional fees include, but are not limited to, a \$40 dollies or flatbed services fee, a \$30 labor-to-engage/tow fee, a \$30 after-hours fee, and a \$35 administrative fee.

WALKER CONSULTANTS STUDY

In addition, Section 22 (L) of the Towing Permits states, *“The City Manager or his designee may initiate and administrative review of the Maximum Allowable Rates whenever the cumulative change in the Consumer Price Index (CPI – All Urban consumers – US City average – All items – Base Period 1982-84 = 100) (CPI), between the current CPI and the date of the CPI used to establish the last rate adjustment, is greater than five percent (5%). Upon reaching this threshold and, further, following a survey conducted by the City of maximum allowable towing rates for similar services in surrounding communities, and/or an analysis to review the current cost of providing such services, the City Manager or his [or her] authorized designees shall prepare a recommendation as to whether there should be an adjustment to the Maximum Allowable Rates; which recommendation shall be subject to final approval by the Mayor and City Commission.”*

This section stipulates that the City Manager or his/her designee may initiate an administrative review of the Maximum Allowable Rates when stated criteria are met. In 2018, the City hired an independent firm, Walker Consultants, to assess the Maximum Allowable Rates. Its report, revised on December 10, 2018, concluded that the base rate for Miami Beach Class A tows, representing about 99% of all tows in the OIG’s prior audits, was the second-highest when compared to the following ten Florida cities and counties: (1) City of Daytona Beach; (2) City of Key West; (3) City of Miami; (4) City of Panama City Beach; (5) City of Tampa; (6) City of West Palm Beach; (7) Hillsborough County; (8) Miami-Dade County; (9) Monroe County; and (10) Palm Beach County. Based on the Walker Consultants study, the City Commission adopted Resolution No. 2018-30662, granting the tow companies a one-year renewal extension without a rate increase, among other revisions.

RECENT CHANGES TO THE CITY FEE

Section 3 of the Towing Permits provides that the tow companies are to pay a fee to the City for each public tow requested by its Parking or Police Departments. The City fee established under the Towing Permits was \$20 for abandoned vehicles, \$25 for Miami Beach resident vehicles, and \$30 for non-resident vehicles. The tow companies paid the City fee from the monies collected from its customers pursuant to the Maximum Allowable Rates under the Permits, thereby reducing the amount retained by the tow companies. For example, if a non-resident public tow customer paid \$250 to retrieve his/her vehicle, the tow company retained \$220, and the City received \$30.

The October 1, 2020 adoption of Florida House Bill CS/CS/HB 133 changed the structure of the City fee, prohibiting it from being paid from the amounts collected by the tow companies from customers. Instead, it is now listed as a separate line item on the customer’s invoice, and, therefore, has increased the amount of each tow accordingly. The change has meant that the City fee no longer reduces the amounts retained by the tow company. In effect, Beach Towing and Tremont Towing have both received an increase per public tow (\$20 for abandoned vehicles, \$25 for resident vehicles, and \$30 for non-resident vehicles). This increase in revenue for the tow companies must be considered in negotiations with the City over a new pricing schedule.

The OIG’s examination of January 2022 public tows found that the average tow customer charge has increased to \$288.95, which consists of an average price of \$307.83 for Beach Towing and \$270.29 for Tremont Towing (a disparity based primarily on differences in the frequency of added charges between the two companies). These rates may be compared to the prior OIG audit reports issued in September 2020, in which the average was \$255.45, comprised of \$268.60 for Beach Towing and \$242.27 average for Tremont Towing. Thus, with the change in the billing of the City fee collected by the companies, the tow fee charged per customer has actually increased.

OIG'S RECOMMENDED PRICING METHODOLOGY

The OIG consulted with the Parking Department Director between December 2021 and May 2022 regarding a new pricing schedule for the upcoming new Towing Permits, for which the Director advocated establishing flat tow prices. The amounts of the proposed flat tow prices have changed several times as Parking's negotiations with the tow companies have been ongoing. This has created an obstacle for the OIG in determining the reasonableness of the flat fee proposal.

A primary benefit of charging a flat rate for tow services is to simplify the pricing structure and reduce the need to maintain and review supporting documentation to justify the additional fees charged. The flat rate should be fairly calculated based on the validated frequencies that the additional fees are charged by the tow companies.

The OIG examined public tow data provided by the tow companies during January 2022 to calculate the frequencies in which additional fees (dollies or flatbed services fee, labor to engage/tow fee, after-hours fee, mileage, etc.) were charged to public tow customers. The calculated percentage, rounded to the nearest integer, was then multiplied by the associated charge in the Maximum Allowable Rates section of the current Towing Permits. Each component was totaled to equal the OIG recommended flat rate for City residents and non-residents.

As the tow companies alternate public tows and are located on the same street in Sunset Harbour, one would expect that the frequency in which the additional fees charged by each company would be relatively consistent and not vary significantly. However, testing found significant frequency differences between Beach Towing and Tremont Towing, related to the labor-to-engage/tow fee, raising concerns about the accuracy of the underlying customer charge. The labor-to-engage/tow fee, which is applied when the tow company needs to enter the vehicle at the tow location, was charged with a 98.8% frequency by Beach Towing, compared with 42.6% by Tremont Towing.

The OIG's prior review of the body camera footage maintained by the Parking Department for 18 tested Beach Towing tows occurring during October 2018 found that only four customers were properly charged labor-to-engage/tow fees and 14 were overcharged. In lieu of having City staff spend countless hours reviewing body camera footage to determine the legitimacy of the 98.8% figure reported by Beach Towing, the January 2022 percentages related to labor-to-engage/tow fee were averaged to arrive at the 70% frequency, as reflected in the table below.

The following table summarizes the calculations leading to the OIG's suggested flat rate of \$230 for non-resident tows in the next Towing Permits. This suggested rate assumes that the Maximum Allowable Rates in effect since March 1, 2018 remain unchanged.

Type of Fee	Current Rate	Frequency	Current Rate x Frequency
Hookup Fees	\$140	100%	\$140
Admin	\$35	100%	\$35
Dollies/Flatbed	\$40	7%	\$3
Labor to Engage/Tow	\$30	70%	\$21
After-Hour	\$30	57%	\$17
Mileage	\$ 6 per mile	2.33 miles	\$14
City fee originally paid by the Tow Company			(\$30)
Total flat fee retained by the Tow Company			\$200
City fee paid by the vehicle owner and collected by the Tow Company			\$30
Total charged to the vehicle owner			\$230

The suggested \$230 rate for non-resident tows also assumes that the January 2022 reported frequencies for additional fees are accurate, which may not be the case, based on the OIG's prior October 2018 reviewed body camera footage which showed that charges imposed were not always justified, particularly on the part of Beach Towing. Regardless, we believe these flat rates as computed are reasonable, based on the available information and documentation, and may even be higher if more reliable documentation were available, which could offset any increased costs incurred by the tow companies related to fuel, tow truck purchases/leases, etc. Furthermore, the OIG believes that any increase in costs due to inflation should, in fairness, be fairly allocated between private and public tows. This would require the provision of all private and public tow records to the City to determine the correct allocation. Both companies have previously refused to do so.

Although Section M of the Towing Permits asserts a discount rate for Miami Beach residents, it does not explicitly state the amount or percentage. As such, the OIG did not perform any corresponding calculations to determine the resident flat tow rate, similar to the non-resident flat rate. It is recommended that future Towing Permits include the amount or percentage of the Miami Beach resident discount.

ADDITIONAL OBSERVATIONS

Debit/Credit Cards

Both Tremont and Beach Towing agreed to a pilot program of permitting the use of debit and credit cards for resident public tows. Tremont Towing representatives shared with the OIG on January 13, 2021, that its acceptance of debit and credit cards for payment of resident public tows, which represent less than 5% of all public tows, was going well, and no requests for chargebacks had been received. Furthermore, the 2018 Walker Consultants report stated that 70% of its sample (Broward County, Key West, Miami, Monroe County, Pinellas County, Palm Beach County, and Miami-Dade County) accepted credit cards as a payment option. As a result, the OIG recommends negotiation of the acceptance of both debit and credit cards for City residents and the acceptance of at least debit cards for non-residents for future Towing Permits.

RSM US LLP Audit Expense

Prior to the establishment of the OIG in November 2019, the City Commission, at the request of the attorney then representing both towing companies, directed that an independent compliance audit be performed of both tow companies by the independent firm, RSM US LLP (RSM). Based on representations made before the City Commission by the attorney then representing both companies, the cost of that audit was agreed to be borne by the tow companies.

The RSM audit was commenced but terminated by RSM before completion, due to unpaid invoices submitted at different audit stages. The City relayed the invoices received to the tow companies for payment, but no monies were paid. The City relied upon the representation of the attorney for both tow companies, who told the City Commission on the dais that Beach Towing and Tremont Towing would pay for the audit. Instead, the City paid the entire \$53,350 billed for the incomplete audit. The OIG recommends that, prior to the issuance of new Towing Permits for the tow companies, the City should be fully reimbursed by the tow companies for the audit work performed by RSM at the request of the tow companies.

RESPONSES

A written response was received by email on June 20, 2020 and is attached to this report. Tremont Towing and the City Parking Department declined to comment on the report.

Approved by:



Joseph Centorino, Inspector General

06/21/2022
Date

Reviewed by:



Mark Coolidge, Chief Auditor

06/21/2022
Date

Completed by:



Norman Blaiotta, Auditor

6/21/2022
Date

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June 20, 2022

Mr. Joseph Centorino
Inspector General
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Re: Public Towing Pricing Methodology Analysis – OIG No. 22-03

Dear Mr. Centorino:

I represent the interests of Beach Towing Services, Inc., concerning the above referenced report dated June 19, 2022. This letter shall serve as Beach Towing's response to the recommendations in the report. However, this letter will not respond to the baseless aspersions you continue to cast against my client.

Flat Discounted Towing Rate for Residents

You recommend that the Administrative Rules and Regulations specify the amount of the discounted rate for residents. Beach Towing agrees. Section 22(C)(6) of the Administrative Rules and Regulations specifies that the flat discounted rate for residents is \$150. This discounted rate is a decrease from the current average resident rate.

Flat Towing Rate for Non-Residents

In contrast to the Administration's recommended flat rate of \$250 for non-residents, you recommend a flat rate of \$230. Since you did not provide Beach Towing with the data used in your calculations, it cannot comment on the validity of your recommended rate.

Assuming the validity of the \$230 flat rate, it is based on rates that have not been adjusted for CPI since December 2012. Tellingly, you offer no explanation why the rates should remain stagnant and why CPI should not apply. Applying CPI to \$230 from 2013 through 2021, and through YTD 2022, results in an adjusted rate of **\$278** and **\$305**, respectively.¹ (See Exhibit A).

¹ All items in Miami-Fort Lauderdale-West Palm Beach, FL, all urban consumers, not seasonally adjusted (Series ID CUURS35BSA0).

The Administration's recommended rate of \$250 takes into account the change in state law which prohibits the City from imposing the "permit fee" on Beach Towing and results in a net increase to Beach Towing's revenue.² In fact, if you deduct the \$30 per vehicle tow fee from the adjusted \$278 rate, the result is \$248 – a mere \$2 difference from the Administration's recommended rate of \$250.

Based upon the foregoing, Beach Towing supports the Administration's recommended rate of \$250, and rejects your recommended rate of \$230.

Debit/Credit Card Acceptance

You recommend that Beach Towing accept debit and credit cards from residents, and debit cards from all non-residents. Beach Towing agrees to accept debit and credit cards from residents. Beach Towing does not agree to accept debit cards from all non-residents due to the risk of chargebacks and fraud; however, Beach Towing agrees to accept debit cards from residents of Miami-Dade County.

RSM US LLP Audit Expense

You recommend that Beach Towing reimburse the City for its portion of the \$53,300 paid to RSM for audit work performed but not completed. Beach Towing rejects your recommendation. As you may recall, the City Commission voted to terminate the audit partially performed by the City's internal auditors due to the auditors' failure to follow Generally Accepted Government Audit Standards, and instead, voted to outsource the audit to RSM. In consideration of the City Commission terminating the internal audit, Beach Towing agreed to pay for half of the audit to be performed by RSM. However, the City subsequently revived the terminated internal audit thereby breaching the agreement and rendering the incomplete RSM audit useless under the parties' agreement.

Moreover, the City owes Beach Towing in excess of \$1,000,000 for, among other things, overcharges related to the "permit fee."³ Even though the Parking and Police Department Requested Tows Operational Audit (OIG No. 20-13) "**concentrated its testing on the accuracy of the City's monthly billings,**" you failed to include in your findings that the City overcharged Beach Towing for permit fees. Appendix A of the City Code established the "per vehicle tow" fee at \$20.⁴ From November 1, 2002 through November 30, 2012, the City overcharged Beach Towing \$25 per vehicle towed.⁵ From December 1, 2012 through September 30, 2020, the City overcharged Beach Towing \$25 per vehicle towed for residents, and \$30 per vehicle towed for non-residents.⁶

² This is without waiver that any "permit fee" collected prior to October 1, 2020, was an unconstitutional tax and/or illegal purely revenue-producing measure.

³ This letter is not intended to be a full recitation of the facts or legal theories upon which the City's liability may rest and is expressly without waiver of any claims.

⁴ The "per vehicle tow" fee has been deleted from Appendix A (Ordinance No. 2022-4473).

⁵ Resolution No. 2002-25043.

⁶ Resolution 2012-28069.

Based upon the foregoing, Beach Towing rejects your recommendation that it reimburse the City for its portion of the \$53,300 paid to RSM, and instead, urges you to perform an audit of the permit fees billed by the City for the period commencing November 1, 2002 through September 30, 2020. Upon completion of the audit, the accounts between the City and Beach Towing can be reconciled.

Walker Consultants Study

To the extent your recommended rate of \$230 relies on the Walker Consultants Study, revised on December 6, 2018, such reliance is misplaced. For example, the Walker Consultants Study lists the Class A Towing Rate for Broward County at \$137.28. However, the current Class A Towing Rate for Broward County is \$160. Further, the City's Class A Towing Rate of \$140 is not the "second-highest" of the jurisdictions as stated in your report. Palm Beach County (\$167), West Palm Beach (\$167), and Broward County (\$160) are all 15% to 20% higher than Miami Beach. Finally, it must be noted that the following three counties have recently increased their Class A Towing Rate higher than the City's: Lake County - \$160 (August 2018), Seminole County - \$150 (August 2021), and Pasco County - \$150 (August 2021).

Please call or write with any questions. Thank you.

Sincerely,

/s/ Rafael E. Andrade

Rafael E. Andrade, Esq.

EXHIBIT A

CPI Analysis of Maximum Allowable Towing Rates

The Annual Consumer Price Index was obtained from the U.S. Department of Labor for the Miami-Fort Lauderdale-West Palm Beach, FL area, not seasonally adjusted, applied to the Maximum Allowable Towing Rates established on November 14, 2012, or earlier applicable base rate.

CPI Adjusted Maximum Allowable Towing Rates from Applicable Base Rates in FY 2013 to 2022		
*Miami-Fort Lauderdale-West Palm Beach, FL CPI Per Year	YEAR	**Average Tow Fee
	Dec 2012	\$230.00
1.3%	2013	\$232.99
2.1%	2014	\$237.88
0.9%	2015	\$240.02
1.8%	2016	\$244.34
2.8%	2017	\$251.19
3.3%	2018	\$259.47
1.8%	2019	\$264.15
0.9%	2020	\$266.52
4.4%	2021	\$278.25
9.6%	2022	\$304.96
28.9%	Total CPI	

*CPI inflation rates obtained from the US Bureau of Labor Statistics Database for Series CUURS35BSA0 (2022 is forecast at 9.6% through April 2022).

Average Tow Fee is based on the Inspector General's Recommended Pricing Methodology which assumes a Class A hook-up rate of \$140, administrative fee of \$35; dollies/flatbedfee of \$3, labor to engage/tow fee of \$21, mileage of \$14, and after-hours of \$17 (Average Tow Fee **excludes storage, administrative charge, and other applicable charges).