

CITY OF MIAMI
OFFICE OF INDEPENDENT AUDITOR GENERAL



AUDIT OF WASTE MANAGEMENT, INC.

AUDIT REPORT NO. 08-015

Prepared By

Office of Independent Auditor General

Victor I. Igwe, CPA, CIA
Independent Auditor General

PAULINO GARCIA, STAFF AUDITOR

City of Miami

VICTOR I. IGWE, CPA, CIA
Independent Auditor General



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September 10, 2008

Honorable Members of the
City Commission
City of Miami
3500 Pan American Drive
Coconut Grove, FL 33133-5504

Re: Audit of Waste Management, Inc.
Audit No.08-015

Pursuant to Section 48 of the City of Miami's (City) Charter and the Fiscal year 2007 audit plan, we have examined the billing records of Waste Management, Inc. (WM). The audit was performed to determine whether WM complied with applicable Sections of the City Code and the Commercial Waste Franchise Agreement (Agreement) between the City and commercial solid waste hauling companies. Chapter 22 of the City Code and said Agreement regulates the operation of commercial solid waste services in the City.

Additionally, we examined the internal control policies and procedures in the City's Solid Waste Department to determine whether they were adequate and effective in administering and overseeing the operation of commercial solid waste services in the City.

The audit covered the period October 1, 2006 through September 30, 2007 and selected financial transactions that were processed prior and subsequent to this period.

Sincerely,

A handwritten signature in black ink that reads "Victor Igwe". The signature is written in a cursive style with a large, prominent "V" and "I".

Victor I. Igwe, CPA, CIA
Independent Auditor General
Office of Independent Auditor General

C: The Honorable Mayor Manuel A. Diaz
Pedro G. Hernandez, Chief Administrator/City Manager
Members of the Audit Advisory Committee
George Ruiz, District Manager, Waste Management, Inc.
Roger Hernstadt, Assistant City Manager, Office of the City Manager
Bill Anido, Assistant City Manager, Office of the City Manager
Larry M. Spring, Assistant City Manager/Chief Financial Officer
Peter W. Korinis, Chief Information Officer, Information Technology Department
Michael J. Boudreaux, Director, Budget Department
Julie O. Bru, City Attorney, City Attorney's Office
Robin Jones Jackson, Assistant City Attorney
Mario A. Soldevilla, Director, Solid Waste Department
Priscilla A. Thompson, City Clerk, City Clerk's Office
Diana M. Gomez, CPA, Director, Finance Department
Demetrio Constantiny, Accounts Receivable Supervisor, Finance Department
Audit Documentation File

**AUDIT OF WASTE MANAGEMENT, INC.
OCTOBER 1, 2006 THROUGH SEPTEMBER 30, 2007**

TABLE OF CONTENTS

INTRODUCTION.....	1
SCOPE AND OBJECTIVES	4
METHODOLOGY.....	6
AUDIT CONCLUSION.....	7
SUMMARY OF AUDIT FINDINGS	8
WASTE MANAGEMENT, INC., SOLID WASTE, AND FINANCE DEPARTMENTS	8
COMPLIANCE WITH CERTAIN SECTIONS OF THE CITY CODE AND THE FRANCHISE AGREEMENT	8
WASTE MANAGEMENT, INC.	9
ADDITIONAL FEES DUE TO THE CITY	9
AUDIT FINDINGS AND RECOMMENDATIONS.....	10
WASTE MANAGEMENT, INC.	10
ADDITIONAL FEES DUE TO THE CITY	10
EXHIBIT I.....	19

INTRODUCTION

On July 25, 2002, and October 14, 2004, the City Commission passed and adopted Ordinance Numbers 12258 and 12259, respectively, amending Chapter 22, Articles I, II, and III of the City Code. A total of 25 firms signed the Commercial Solid Waste Franchise Agreement (Agreement), which authorized them to operate commercial solid waste hauling services in the City of Miami for the period starting November 1, 2004 through September 30, 2009, with a three year renewal option period through September 30, 2012. The option to renew the Agreement for an additional three year period will be at the sole discretion of the City.

Article V of the Agreement titled “Franchise Fees” stipulates that the following fees be assessed and collected:

- **Gross Receipts Franchise Fees.** In accordance with Article II, Section 2.2 of the Agreement, the term “Gross Receipts” shall mean, “all monies whether paid by cash, check, debit or credit, collected from customers for garbage, solid waste, fuel surcharge, construction and demolition debris, roofing materials, trash, litters, refuse and/or rubbish collection removal and disposal services rendered, or from any other source related directly from waste collection services by the FRANCHISEE, exclusive of taxes as provided by law, whether wholly or partially collected within the CITY, less bad debts.” During the period October 1, 1999 through September 30, 2004, the franchisee was required to remit to the City 20% of the gross receipts generated. Effective October 1, 2004, the rate increased to 22%. A one and half percent (1-1/2%) late payment penalty fee would be assessed per month on any balance due.
- **Annual Franchise Fee.** The sum of \$5,000 (increased annually by \$500, thus \$6,000.00 was due for the audit period) for the right to provide commercial solid waste services and special waste handling services within the City. A one and

half percent (1-1/2%) late payment penalty fee would be assessed per month on any balance due.

- Annual Specialized Waste Handling Service Fee. The sum of \$1,000 (increased annually by \$500, thus \$2,000 was due for the audit period) for the right to provide “Specialized Waste Handler” services within the City. Ordinance 12258, Section 22-1 defines “Specialized Waste Handlers” as companies whose primary business is limited to collecting and disposing of solid waste that requires special handling and management including, but not limited to, white goods (appliances), waste tires, used oil, lead-acid batteries, construction and demolition debris, ash residue, biomedical and biological waste. A one and half percent (1-1/2%) late payment penalty fee is assessed monthly on any balance due.
- Permit Per Account Fee. The franchisee is required to pay \$50 for each account contracted within the City for commercial solid waste services and/or specialized waste handling services, including, each container and/or roll-off utilized by franchisee in the course of providing solid waste services. The franchisee may only pass on an amount not to exceed \$24 of paid Permit Per Account Fee to each contracted customer. This fee is not transferable. A one and half percent (1-1/2%) late payment penalty fee is assessed monthly on any balance due.

During the fiscal year, October 1, 2006 through September 30, 2007 the twenty five franchisees remitted a total of \$12,855,449 to the City. WM is one of the franchisees selected for review to determine compliance with the provisions of the Franchise Agreement. A separate audit report will be issued for each of the franchisees audited.

The Solid Waste Department (SWD) is responsible for ensuring that commercial solid waste service accounts and applicable fees/transactions are properly assessed and paid to the City. The SWD is also responsible for monitoring the operations of the commercial

solid waste franchisees. This audit report describes whether WM and the SWD complied with the terms of the Agreement and applicable Sections of the City Code.

SCOPE AND OBJECTIVES

This audit was performed pursuant to the authority set forth in Section 48 of the City's Charter titled, "Office of the Independent Auditor General", and was conducted in accordance with the Fiscal Year 2007 Audit Plan. As part of our oversight responsibilities, the Office of the Independent Auditor General performs financial and operational audits to determine the extent of compliance with terms of contracts, programs, and/or lease agreements between the City and private companies. This audit focused primarily on whether Waste Management, Inc. (WM) and the City's Solid Waste Department (SWD) complied with the terms of the Commercial Solid Waste Franchise Agreement (Agreement) and with Chapter 22 of the City's Code, which govern the operation of commercial solid waste collection services in the City. The audit also included examinations of various transactions to determine whether they were processed in accordance with the generally accepted accounting principles. The audit covered the period October 1, 2006 through September 30, 2007 and focused on the following broad objectives:

- To ascertain whether all customer accounts located in the City were properly identified, coded, and assessed the appropriate fees.
- To determine whether all the applicable franchise fees as stipulated in Article V of the Agreement were properly computed and remitted to the City.
- To review the annual statement of gross receipts that was prepared by an independent Certified Public Accountant retained by WM. Additionally, to determine whether said statement was submitted to the SWD within 60 days after the end of the fiscal year.

- To ascertain whether the fees remitted to the City were properly recorded in the City's accounting system and deposited into the City's treasury.
- To verify whether the appropriate public liability insurance and bonds were obtained as required by Article VII of the Agreement.
- To examine the internal control policies and procedures of Waste Management, Inc. and the City's Solid Waste Department and determine whether they were adequate and effective in administering and overseeing the operation of commercial solid waste hauling services in the City.

METHODOLOGY

We conducted this performance audit in accordance with *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence in order to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit methodology included the following:

- Interviewed and inquired of appropriate personnel, reviewed and observed applicable written policies and procedures, in order to gain an understanding of the internal controls, assessed control risk, and planned substantive testing.
- Performed substantive testing consistent with the audit objectives.
- Examined, on a test basis, applicable transactions and records.
- Determined compliance with all the objectives noted on pages 4 and 5.
- Performed other audit procedures as deemed necessary.
- Drew conclusions based on the results of the testing and made corresponding recommendations and obtained the auditee's responses and corrective action plans.

AUDIT CONCLUSION

Based upon various test performed and the audit findings noted, we conclude that adequate internal control were not in place to ensure that:

- All customer accounts located in the City were properly identified, coded, and assessed the appropriate fees.
- All applicable franchise fees were remitted to the City in a timely manner.

Based upon various test performed and the audit findings noted, we conclude that adequate internal controls were in place to ensure that:

- Franchise Fees remitted to the City were properly recorded in the City's accounting system and deposited in the City's Treasury.
- Appropriate public liability insurance was obtained as required by Article VII or the Agreement.
- The SWD obtained vehicle insurance certificates and the CPA statement as required by the City Code and the Agreement.

Overall we conclude that the internal control policies and procedures in place at the Waste Management, Inc. and at the City's Solid Waste Department were not adequate and effective in administering and overseeing the operation of commercial waste hauling services in the City.

SUMMARY OF AUDIT FINDINGS

WASTE MANAGEMENT, INC., SOLID WASTE, AND FINANCE DEPARTMENTS

COMPLIANCE WITH CERTAIN SECTIONS OF THE CITY CODE AND THE FRANCHISE AGREEMENT

We conducted various audit tests, on a sample basis, to determine compliance with certain requirements of the City Code, the Commercial Solid Waste Franchise Agreement, and other guidelines. Our tests disclosed that Waste Management, Inc. (WM), the Solid Waste Department (SWD), and the Finance Department (FD) materially complied with the following:

- The FD properly recorded the sampled payments made to the City by WM. The sampled payments received by the FD were also traced to the City's treasury.
- WM complied with the vehicle insurance requirement as stipulated by Section 22-47 (4a) of the City Code.
- The SWD obtained vehicle insurance records as stipulated by Section 22-47(4)a of the City Code.
- The SWD obtained the CPA statement and the appropriate amount of surety bond was also obtained and retained on file as required by the City Code.

WASTE MANAGEMENT, INC.

ADDITIONAL FEES DUE TO THE CITY

Article V, Section 5.2 of the Agreement titled “Franchise Fees” stipulates certain fees the franchisee is required to remit to the City. Our review of Waste Management’s accounting and billing records disclosed that \$14,768.21 is due to the City. See detailed discussions on pages 10 through 12.

AUDIT FINDINGS AND RECOMMENDATIONS

WASTE MANAGEMENT, INC.

ADDITIONAL FEES DUE TO THE CITY

Article V, Section 5.2 of the Commercial Waste Franchise Agreement (Agreement) titled “Franchise Fees” stipulates the various franchise fees (FF) to be remitted to the City. Waste Management, Inc. (WM) generated total gross receipts of \$16,058,494 for services provided within the City during the audit period (fiscal year 2006-2007). The total gross receipts include revenues generated from commercial waste services and also from roll-off container accounts. The total FF remitted to the City during the audit period was \$3,532,868. Our review of WM’s accounting and billing records disclosed that an additional \$14,768.21 is due to the City, as itemized below:

ANNUAL FEES

- Article V, Section 5.4 of the Agreement stipulates that the franchisee agrees to remit to the City annually (Due October 1) the sum of \$6,000 (increased annually by \$500, thus \$6,000 was due for the audit period) for the right to be a franchisee for Commercial Solid Waste Handling Services and Specialized Waste Handling Services within the City. This Section further states that a late payment penalty of one and half percent (1-1/2%) per month will be assessed on the balance due to the City. Our audit disclosed that WM remitted its annual fee for the fiscal year 2006-2007 on November 13, 2006 (2 months late) to the City. As a result of the late remittance, a late payment penalty fee of \$180 is due to the City.

PERMIT PER ACCOUNT FEES

- Article V, Section 5.6 of the Agreement requires the franchisee to remit to the City annually (Due October 15) a permit per account fee (PPAF) in the amount of \$50 for each account contracted for commercial solid waste handling services

within the City, including each container and/or roll-off utilized by the franchisee. Said Section of the Agreement further states that a late payment penalty of one and half percent (1-1/2%) per month will be assessed on the balance due to the City. Our audit of WM's and the City's accounting records disclosed the following:

- WM remitted its PPAF for the fiscal year 2006-2007 on November 13, 2006 (1 month late) to the City. As a result of the late remittance, a late fee of \$2,661 is due to the City.
- Also, WM did not remit to the City the annual \$50 PPAF related to 3 accounts for which it provided services during the audit period. As a result, the un-remitted PPAF and late fees totaling \$165.75 (\$150 + \$15.75) are due to the City.

MISCODED ACCOUNT

- Article V, Section 5.2 of the Agreement states that the Franchisee agrees to remit monthly to the City 22 percent (22%) of its Gross Receipts, generated from accounts within the City limits, or \$500 whichever is greater. The remittance of the previous month's collection should be received by the City on or before the last day of each month. Failure to remit by the last day of the following month will result in a one and half percent (1-1/2%) penalty per month on the balance due.

Our audit of WM's billing records and listing of its customers in unincorporated Miami-Dade County and other municipalities indicated that the 22% franchise fee and the related \$50 permit per account fees (PPAF) generated from 1 customer was not remitted to the City as required. The un-remitted franchise fees, PPAF, and applicable late fee totaling \$11,761.46 (\$8,451.01 + \$500 + \$2,810.45) are due to the City.

REVENUE GENERATED FROM MAINTENANCE OF EQUIPMENT

- In accordance with Article II, Section 2.2 of the Agreement, the term “Gross Receipts” shall mean, “all monies whether paid by cash, check, debit or credit, collected from customers for garbage, solid waste, fuel surcharge, construction and demolition debris, roofing materials, trash, litters, refuse and/or rubbish collection removal and disposal services rendered, or from any other source related directly from waste collection services by the FRANCHISEE, exclusive of taxes as provided by law, whether wholly or partially collected within the CITY, less bad debts.”

During our audit field work we noted that Waste Management Inc. (WM) excluded from its calculation of the franchise fees due and payable to the City those fees generated in connection with the rental, lease and maintenance of equipment. In response to our audit inquiry, WM’s legal counsel stated in a written memorandum that the definition of “Gross Receipt” as stated in the final Franchise Agreement removed the language relating to **leases, rentals and repairs** of equipment to conform with addendum (#1) to RFQ #03-04-107. However, the fee relative to **“maintenance”** of equipment, which WM excluded as well from franchise fees calculations, is not included in the said addendum. The Office of the City Attorney is currently reviewing this issue and upon conclusion of said review WM will be billed for any additional fees that may be due and payable to the City, including late fees and penalty charges.

Recommendation:

We recommend that the Finance Department bill Waste Management, Inc. (WM) for the total amount of \$14,768.21 due and payable to the City. We also recommend that WM enhance its internal control procedures to ensure that service accounts located within the

OFFICE OF INDEPENDENT AUDITOR GENERAL/444 S.W. 2ND AVENUE, SUITE 715/MIAMI, FLORIDA 33130-1910

City boundaries are properly identified and coded and that the appropriate fees are remitted to the City in a timely manner accompanied by a supporting listing of all the accounts, addresses and total amounts collected, as required by the Agreement.

Auditee's Response and Action Plan:

Except from revenue generated from maintenance of equipment, WM concurred with our findings and recommendations. See auditee's response on pages 14 through 18.

City of Miami

VICTOR I. IGWE, CPA, CIA
INDEPENDENT AUDITOR GENERAL



Telephone (305) 416-2040
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August 28, 2008

Mr. George Ruiz, District Manager
Waste Management, Inc. (WM)
2125 NW 10th. Court
Miami, Florida 33127

RE: Audit of Waste Management, Inc. (WM) (#08-015)

Dear Mr. Ruiz:

In connection with our audit of Waste Management, Inc. (WM) for the period October 1, 2006 through September 30, 2007, and selected transactions prior and subsequent to this period, our audit disclosed that additional franchise fees totaling \$14,768.21 (**WP T-6**) is due to the City as summarized below: .

- I. Article V, Section 5.4 of the Commercial Solid Waste Franchise Fee Agreement (Agreement) stipulates that franchisee agrees to remit to the City annually (due October 1) the sum of \$5,000 (increased annually by \$500, thus \$6,000 was due for the audit period) for the right to be a franchisee for Commercial Solid Waste Services and Specialized Waste Handling Services within the City. This Section further states that late payment penalty of one and half percent (1-1/2%) per month will be assessed on the balance due to the City. Our audit disclosed that WM remitted its annual fee for the fiscal year 2006-2007 on December 21, 2006 (2 months late). As a result of the late remittance, a late fee of \$180 is due to the City. (**W/P T-8**)

I agree I disagree _____ Please Initial: gr
Explanation _____

II. Article V, Section 5.6 of the Agreement requires the franchisee to remit to the City annually (due October 15) a permit per account fee (PPAF) in the amount of \$50 for each account contracted for commercial solid waste handling services within the City, including each container and/or roll-off utilized by franchisee. This Section of the agreement further states that late payment penalty of one and half percent (1-1/2%) per month will be assessed on the balance due to the City. Our review of WM's and City Finance Department's accounting records disclosed that:

- o WM remitted its permit per account fee for the fiscal year 2006-2007 on November 13, 2006 (1 month late). As a result of the late remittance, a late fee penalty of \$2,661 is due to the City. **(W/P T-10)**

- o Also we noted that WM did not remit to the City the permit per account fee for three (3) accounts that were serviced during the audit period. As a result, the unremitted PPAF and late fees totaling \$165.75 (\$150 + \$15.75) is due to the City **(W/P T-10)**

I Agree I disagree _____ Please Initial gr
Explanation: _____

III. Article V, Section 5.2 of the Commercial Solid Waste Franchise Agreement (Agreement) states that Franchisee agrees to remit monthly to the City 22 percent (22%) of its Gross Receipts, generated from accounts within the City limits, or \$500 whichever is greater. The remittance of the previous month's collection should be received by the City on or before the last day of each month. Failure to remit by the last day of the following month will result in one and half percent (1-1/2%) penalty per month on the balance due. Our review of WM's billing records and listing of customers in unincorporated Miami-Dade County and other municipalities disclosed that WM did not remit to the City, the 22% franchise fees and the related permit per account fees (PPAF) generated from one (1) customer as required. The un-remitted 22% franchise fees, the related PPAF, and the applicable late fees totaling \$11,761.46 (\$8,451.01+ \$500 + \$2,810.45) are due to the City. (W/P T-195)

I agree I disagree Please Initial: gr
Explanation: _____

IV. In accordance with Article II, Section 2.2 of the Agreement, the term "Gross Receipts" shall mean, "all monies whether paid by cash, check, debit or credit, collected from customers for garbage, solid waste, fuel surcharge, construction and demolition debris, roofing materials, trash, litters, refuse and/or rubbish collection removal and disposal services rendered, or from any other source related directly from waste collection services by the FRANCHISEE, exclusive of taxes as provided by law, whether wholly or partially collected within the CITY, less bad debts." During our audit field work we noted that Waste Management Inc. (WM) excluded from its calculation of the franchise fees due and payable to the City those fees generated in connection with the rental, lease and maintenance of equipment. In response to our audit inquiry, WM's legal counsel stated in a written memorandum that the definition of

"Gross Receipt" as stated in the final Franchise Agreement removed the language relating to **leases, rentals and repairs** of equipment to conform with an addendum (#1) to RFQ # 03-04-107. However, the fee relative to "**maintenance**" of equipment, which WM excluded from franchise fees calculations, is not included in the said addendum. The Office of the City Attorney is currently reviewing all issues relative to this audit observation and upon conclusion WM will be billed for any additional fees that may be due to City including late fees and penalty.

I agree _____ I disagree X Please Initial GR
Explanation: COMPACTOR RENTAL/MAINTENANCE IS
EXCLUSIVE OF THE AGREEMENT AND NO FRANCHISE FEES
IS DUE AS STATED ON PREVIOUS OCCASIONS.

Please confirm our understanding by indicating whether you agree or disagree with each of the observations described above by checking the appropriate box and include your initials on the space provided for each observation. Also, sign on the space provided below and return this memorandum to us. In the event that you disagree with any of the items listed above, please provide your explanations and attach all supporting documents/records. Please respond by July 11, 2008.

Anthony Correnti
George Ruiz, District Manager
ANTHONY CORRENTI, S.W. FLA MARKET
AREA CONTROLLER

9/4/08
Date

A summary schedule is attached for your reference. If you have any questions, please feel free to contact me at (305) 416- 2047

Thank you for your attention in this matter.

Sincerely,

Page 5 of 5
Mr. George Ruiz
August 28, 2008

Paulino Garcia
Staff Auditor
Office of Independent Auditor General

C: Mario E. Soldevilla, Director, Solid Waste Department
Steven Margolis, Principal Auditor, Solid Waste Department
Victor Igwe, CPA, CIA, Auditor General

EXHIBIT I

**WASTE MANAGEMENT, INC.
SCHEDULE OF FEES DUE TO THE CITY
OCTOBER 1, 2006 THROUGH SEPTEMBER 30, 2007**

DESCRIPTION	ITEMIZED AMOUNT	TOTAL FEES DUE
	\$	\$
<u>Annual Franchise Fee</u>		
1.50% Penalty on Late Remittance - Annual Franchise Fee		180.00
<u>Permit Per Account Fee</u>		
1.50% Penalty on Late Remittance - Permit Per Account Fee	2,661.00	
PPAF on un-reported Accounts	<u>165.75</u>	2,826.75
<u>Miscoded Accounts</u>		
Franchise Fees on Miscoded Account	11,034.33	
Permit Per Account Fee on Miscoded Account	<u>727.13</u>	11,761.46
TOTAL DUE TO THE CITY		<u><u>14,768.21</u></u>