

# City of Miami

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INDEPENDENT AUDITOR GENERAL



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March 12, 2014

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

Re: Audit of Compliance with Commercial Solid Waste Franchise Agreement / Waste Pro of Florida, Inc.  
Audit No. 14-005

## **Executive Summary**

We have completed an audit of records and selected financial transactions of Waste Pro of Florida, Inc. primarily for the period October 1, 2010 through September 30, 2012. The audit was performed to determine whether Waste Pro complied with applicable sections of the City Code and the Commercial Solid Waste Franchise Agreement (Agreement). For the two fiscal years ended 2012, Waste Pro had total gross receipts of \$946,481 for services provided within the City, and remitted franchise fees totaling \$227,155.

Overall, we have concluded that except for certain controls requiring strengthening, procedures and compliance with the Agreement were generally adequate and being adhered to. Transactions tested were for the most part in compliance with the Agreement and City Code. However, we noted that improvement is needed to ensure that fees are remitted timely, the CPA reports are filed timely as stipulated in the Agreement, that the performance bond requirement is adhered to, and that the Finance Department assesses late payment penalty fees when due. Waste Pro should also enhance its internal control procedures to ensure that customer accounts are coded properly and that corresponding franchise fees are remitted to the City. As a result of these deficiencies, an additional \$1,996 is owed to the City by Waste Pro. Details of our findings and recommendations are included on pages four through nine of the report.

We wish to express our appreciation for the cooperation and courtesies extended to us by the Waste Pro accounting staff and the Solid Waste Department management team while conducting the audit.

Sincerely,



Theodore P. Guba, CPA, CIA, CFE  
Independent Auditor General  
Office of the Independent Auditor General

CC: The Honorable Mayor Tomas Regalado  
Daniel J. Alfonso, City Manager  
Todd Hannon, City Clerk  
Victoria Mendez, City Attorney  
Alice Bravo, Deputy City Manager/Chief of Infrastructure  
Luis Cabrera, Acting Assistant City Manager/Chief of Operations  
Keith A. Carswell, Director, Solid Waste Department  
Christopher Rose, Director, Office of Management and Budget  
Jose M. Fernandez, Director, Finance Department  
Erica T. Paschal, Assistant Director, Finance Department  
Vanessa Giron, Fiscal Administrator, Solid Waste Department  
Demetrio Constantiny, Accounts Receivable Supervisor, Finance Department  
Russell Mackie, Regional Vice-President, Waste Pro of Florida, Inc.  
Damon Stinson, Contract Administrator, Waste Pro of Florida, Inc.  
Members of the Audit Advisory Committee  
Audit Documentation File

Audit conducted by: Paulino Garcia, Staff Auditor  
Mala Khilnani, Senior Auditor

Audit reviewed by: Robyn Sachs, Senior Information Systems Auditor

**AUDIT OF COMPLIANCE WITH THE COMMERCIAL SOLID WASTE FRANCHISE  
AGREEMENT – WASTE PRO OF FLORIDA, INC.  
OCTOBER 1, 2010 THROUGH SEPTEMBER 30, 2012**

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## **SCOPE, OBJECTIVES AND METHODOLOGY**

The scope of the audit was to assess and report on whether Waste Pro of Florida, Inc. 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, 2010 through September 30, 2012.

The primary objectives of the audit were:

- To ascertain whether all customer accounts located in the City were properly identified, coded, and assessed the appropriate fees.
- To determine whether all applicable franchise fees as stipulated in 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, and, to determine if it was submitted to the SWD within 90 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 the Agreement.
- To examine the internal control policies and procedures of Waste Pro and the City's SWD and determine whether they were adequate and effective in administering and overseeing the operation of commercial solid waste hauling services in the City.

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:

- Interviews and inquiries of appropriate personnel; reviews of written policies and procedures in order to gain an understanding of the internal controls; and,
- Observations of current practices and processing techniques;
- Tests of applicable transactions and records; and,
- Other audit procedures as deemed necessary.

## **BACKGROUND**

On July 22, 2004, the City executed a Commercial Solid Waste Franchise Agreement with 25 firms which allowed them to operate commercial solid waste hauling services in the City for the period starting October 1, 2004 through September 30, 2009, with a three year renewal option period through September 30, 2012. On September 23, 2010, a resolution allowed the City to execute a new Non-Exclusive Commercial Solid Waste Agreement (Agreement) with selected firms for the period starting October 1, 2010 through September 30, 2015, with three one year option periods through September 30, 2018.

Pursuant to the Agreement, the following franchise fees shall be assessed and collected:

- Gross Receipts Franchise Fees - during the period October 1, 2004 through September 30, 2010, the franchisee was required to remit to the City the greater of \$500 and 22% of the gross receipts generated. Effective October 1, 2010, the rate increased to 24%.
- Annual Franchise Fee - franchisees must annually remit the sum of \$8,000 (increased annually by \$500) for the right to provide commercial solid waste handling services within the city limits.
- Annual Specialized Waste Handling Service Fee - franchisees must annually remit the sum of \$4,000 (increased annually by \$500) for the right to provide "Specialized Waste Handling Services" within the City. These services include the collection and disposal of solid waste such as white goods (appliances), waste tires, used oil, lead-acid batteries, construction and demolition debris, ash residue, biomedical and biological waste.
- Permit Per Account Fee (PPAF) - franchisees must annually remit \$75 to the City for each account and each roll-off account (booked as of October 1<sup>st</sup> each fiscal year) including each container and/or roll-off utilized by the franchisee in the course of providing solid waste services. In addition, franchisees must remit \$75 for each new commercial account and new roll-off container acquired after October 1<sup>st</sup>. Franchisees may only pass on an amount not to exceed \$38 of paid Permit Per Account Fee (PPAF) to each contracted customer.
- Failure to remit the required fees mentioned above by the prescribed due dates results in a one and one-half percent (1.5%) late payment penalty fee per month on any balance due to the City.
- Safety Inspection Fee - franchisees must pay to the City an annual \$500 per vehicle inspection fee, which is a regulatory fee for the municipal inspection of the vehicles being used by the franchisees to operate within City boundaries.

Other terms of the Agreement include the following:

- Certified Statement of Gross Receipts - on or before 90 days following the close of each fiscal year (September 30<sup>th</sup>), franchisees must deliver to the City, a certified statement of its annual gross receipts and charge-offs generated during the preceding year from accounts within the City, prepared by an independent Certified Public Accountant (CPA).

- Insurance and Bonds - franchisees must maintain a public liability policy in the minimum amount of \$1,000,000; automobile liability insurance policy with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage liability, and coverage for workers' compensation. Franchisees must maintain a Performance Bond equal to their previous 12 month franchise fees paid to the City, or a minimum of \$25,000, whichever is greater, as a security for the performance of the Agreement.

During the fiscal year ended September 30, 2013, franchisees remitted a total of \$12,401,386 to the City. Waste Pro is one of the franchisees selected for audit in order 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) ensures that commercial solid waste service accounts, and applicable fees/transactions, are properly assessed and paid to the City. The SWD also monitors the operations of the franchisees. This audit report describes whether Waste Pro and the SWD complied with the terms of the Agreement and applicable Sections of the City Code.

## **AUDIT FINDINGS AND RECOMMENDATIONS**

**CONCLUSION:** Based on our audit of Waste Pro, we have concluded that except for certain controls requiring strengthening, procedures and compliance with the Agreement were generally adequate and being adhered to. Transactions tested were for the most part in compliance with the Agreement and City Code. However, we noted that improvement is needed to ensure that fees are remitted timely, CPA reports are filed timely as stipulated in the Agreement, the performance bond requirement is adhered to, and the Finance Department assesses late payment penalty fees when due. Waste Pro should also enhance its internal control procedures to ensure that the customer accounts are coded properly and the corresponding franchise fees are remitted to the City. As a result of these deficiencies, an additional \$1,996 is owed to the City by Waste Pro

Details of our findings and recommendations follow:

### **FINDING 1: ADDITIONAL FEES DUE TO THE CITY**

The Agreement stipulates that the “Franchisee agrees to remit to the City annually (due October 1st) the sum of \$8,000 (increased annually by \$500) for the right to provide Commercial Solid Waste Services within the City limits.” Failure to remit the required annual fee by the due date results in a late payment penalty fee of one and one-half percent (1-1/2%) per month on the balance due to the City.

Our audit of Waste Pro’s accounting and billing records disclosed that during fiscal years 2010-2011 and 2011-2012, Waste Pro remitted its annual franchise fee one (1) month late resulting in late payments penalty fees of \$120 and \$128 respectively, due to the City (See Exhibit I).

### **RECOMMENDATION 1: WASTE PRO OF FLORIDA, INC.**

We recommend that Waste Pro immediately remit the total additional fees due to the City (\$248). Also, moving forward Waste Pro should make arrangements to ensure that all amounts due to the City are paid in a timely manner, as required.

- ***Auditee Response:*** Waste Pro agrees to remit the fees as requested
- ***Implementation Date:*** 3/15/14

### **FINDING 2: FINANCE DEPARTMENT DID NOT ASSESS LATE PAYMENT PENALTY**

As indicated in “Finding 1: “Additional Fees Due to the City” above, Waste Pro remitted its annual franchise fee one (1) month late resulting in late payments penalty fees of \$248 due to the City. The City’s Finance Department is responsible for ensuring that Franchisees who have not remitted franchise (and other) fees in a timely manner are assessed the appropriate late payment penalties in accordance with the Agreement.

Our examination disclosed that the Finance Department did not assess late payment fees on Annual Franchise Fees as required by Article V, Section 5.4 of the Commercial Solid Waste Franchise Agreement. Failure to remit the required annual fee by the due date will cause the franchisee a 1.50% penalty per month on the balance due.

**RECOMMENDATION 2: FINANCE DEPARTMENT**

We recommend that the Finance Department bill Waste Pro for the total additional fees due to the City (\$248). In addition, we recommend that Finance Department send collection notices and assess all late payment penalty fees as stipulated in the Commercial Solid Waste Franchise Agreement, in a timely manner, in order to maximize the City's collection efforts.

- **Finance Department Response:** We implemented this change back in July 2013, per agreement between Internal Audit Department and Finance Department.
- **Implementation Date:** 7/1/13

**FINDING 3: SHORTAGES OF PERFORMANCE BONDS**

Article VII, Section 7.2 of the Agreement states that "Franchisee agrees to maintain, for the term of this Agreement, a Performance Bond or an acceptable alternative in an amount equal to the Franchisee's previous 12-month franchise fees paid to the City."

Our audit disclosed that for fiscal years 2010-2011 and 2011-2012, Waste Pro paid total fees (24% franchise fees, annual franchise fee, permit per account fees and safety inspection fees) to the City totaling \$100,690 and \$180,240, respectively; therefore the performance bond should equal said amounts. However, for fiscal year 2010-2011 the performance bond obtained was deficient in the amount of \$75,690 and for the fiscal year 2011-2012 was deficient in the amount of \$155,240. Also, for the fiscal year 2012-2013 Waste Pro paid to the City franchise fees totaling \$201,291. For each period, only the minimum amount of performance bond was obtained (\$25,000), therefore the current bond is short in the amount of \$176,291. The performance bond requirements safeguard the City and represent security for the faithful performance of the Agreement. As such, it is important that franchisees obtain the correct amount of coverage.

**RECOMMENDATION 3: WASTE PRO OF FLORIDA, INC.**

At the end of each fiscal year, Waste Pro should review its records and determine the total amount of franchise fees it remitted to the City (including the annual franchise fee, 24% monthly gross receipts franchise fees, permit per account fees, and any other franchise fees paid to the City) during the previous 12 months. Upon such determination Waste Pro should obtain any additional Performance Bond/Letter of Credit coverage necessary to comply with the requirements stipulated in Article VII, Section 7.2 of the Agreement. Overall, we recommend that Waste Pro enhance its internal control procedures in order to obtain future Performance Bonds/Letters of Credit for the required amounts, on a timely basis, and provide coverage for the entire fiscal year as required by the Agreement.

- **Auditee Response:** By September 1st of each year, Waste Pro will review its annual franchise fee payment total amounts to ensure any adjustments to the coverage are made in a timely fashion.
- **Implementation Date:** 3/15/14

**FINDING 4: CPA REPORT LATE FILING**

Article V, Section 5.3 of the Agreement states that franchisee shall, on or before 90 days following the close of each fiscal year, deliver to the Director of the Department of Solid Waste, a certified statement of its annual gross receipts and charge-offs, generated from accounts within the City prepared by an Independent Certified Public Accountant (CPA) reflecting gross receipts/activity within the City for the preceding fiscal year. The CPA shall render an unqualified opinion relative to the accounting of all revenues, fees and charge-offs generated from accounts and activity within the City limits.

Our audit disclosed that for fiscal year 2011-2012 the report was due December 31, 2012; however it was signed January 2, 2013, which was at least 2 days late.

**RECOMMENDATION 4: WASTE PRO OF FLORIDA, INC.**

We recommend Waste Pro to enhance its Internal Control Procedures in order to ensure that the CPA reports are filed on a timely basis as stipulated in the Agreement.

- **Auditee Response:** Waste Pro will work with its independent auditors to ensure their report is signed and dated on time.
- **Implementation Date:** Immediately

**FINDING 5: MISCODED ACCOUNTS**

Article 5, Section 5.2 of the Agreement stipulates that franchisee agrees to remit monthly to the City, twenty four percent (24%) of its gross receipts, generated from accounts within the City limits, or \$500, whichever is greater. Accompanying the remittance, franchisee must provide the City with a list of the customer's names, addresses and total amount collected. Failure to remit by the last day of the following month will cause the franchisee a one and one half percent (1.5%) penalty per month on the balance due.

Our review disclosed that Waste Pro did not remit to the City, the franchise fees and the related permit per account fee (PPAF) generated by one (1) account within City limits. The unremitted franchise fees, the related PPAF and the applicable late payment fees totaling \$1,195 are due to the City.

**RECOMMENDATION 5: WASTE PRO OF FLORIDA, INC**

We recommend Waste Pro enhance its internal control procedures to code the customer accounts properly and remit the corresponding franchise fees to the City.

- ***Auditee Response:*** Waste Pro will ensure new all accounts are reviewed by a manager that will look up the account in the Miami-Dade property appraiser's data base to ensure the proper coding is applied so that all applicable fees are paid.
- ***Implementation Date:*** Immediately

**FINDING 6: FRANCHISE FEES (24%) LATE PAYMENT**

Our audit disclosed that Waste Pro paid late the franchise fees for May and July 2012. This resulted in late payment fees totaling \$369 due to the City. Also Waste Pro paid late the franchise fees for the month of September 2011, resulting in late payment fees totaling \$184.

**RECOMMENDATION 6.1: WASTE PRO OF FLORIDA, INC.**

We recommend Waste Pro enhance its internal control procedures to ensure timely payment of the monthly franchise fees due to the City.

- ***Auditee Response:*** Waste Pro was experiencing a transition internally during the months fees were reported late, and does not foresee this to be an ongoing problem.
- ***Implementation Date:*** Not Applicable

**RECOMMENDATION 6.2: Finance Department**

We recommend that the Finance Department bill Waste Pro the total additional fees of \$1,996 due to the City.

- ***Auditee Response:*** Finance Department is currently billing Waste Pro for the late fees.
- ***Implementation Date:*** Immediately

