

City of Miami

THEODORE P. GUBA, CPA, CIA, CFE
INDEPENDENT AUDITOR GENERAL



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March 29, 2018

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 –
Bicon, Inc., d/b/a S&S National Waste
Report No. 18-03

Executive Summary

We have completed an audit of records and selected financial transactions of Bicon, Inc., d/b/a S&S National Waste (S&S) for the period from October 1, 2015 through September 30, 2017. The audit was performed to determine whether S&S complied with applicable sections of the City Code and the Commercial Solid Waste Franchise Agreement (Agreement). Additionally, we examined the internal control policies and procedures in the City's Solid Waste Department (SWD) to determine whether they were adequate and effective in administering and overseeing the operation of specialized waste services in the City. During the period, S&S reported Gross Receipts of \$6,107,714 for services provided within the City and remitted Franchise Fees totaling \$1,518,957 to the City.

Overall, we have concluded that 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 all service locations within the City area properly identified and franchise fees are remitted timely. **As a result of these deficiencies, S&S owes the City an additional \$46,931.** Details are included on page four of the report.

We wish to express our appreciation for the cooperation and courtesies extended to us by the S&S accounting staff and personnel in the City's SWD and Risk Management Department while conducting the audit.

Sincerely,

A handwritten signature in cursive script that reads "Theodore P. Guba".

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

C: The Honorable Mayor Francis Suarez
Emilio T. Gonzalez, City Manager
Victoria Mendez, City Attorney
Todd Hannon, City Clerk
Fernando Casamayor, Assistant City Manager
Nzeribe Ihekweba, Assistant City Manager
Christopher Rose, Director, Office of Management and Budget
Erica Paschal, Director of Finance, Finance Department
Munirah J. Daniel, Assistant Director of Finance, Finance Department
Mario Nunez, Director, Solid Waste Department
Jennifer Moy, Assistant Director, Solid Waste Department
Vanessa Giron, Fiscal Administrator, Solid Waste Department
Demetrio Constantiny, Accounts Receivable Supervisor, Finance Department
Janna Wheeler, Chief Executive Officer, Bicon, Inc. (S&S National Waste)
Members of the Audit Advisory Committee
Audit Documentation File

Audit conducted by: Paulino Garcia, Staff Auditor

Audit reviewed by: Robyn Sachs, CPA, CIA, CISA, CFE, CISSP
Information Systems Audit Administrator

**AUDIT OF COMPLIANCE WITH COMMERCIAL SOLID WASTE
FRANCHISE AGREEMENT
BICON, INC., D/B/A S&S NATIONAL WASTE**

**OCTOBER 1, 2015 THROUGH SEPTEMBER 30, 2017
Report No. 18-03**

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SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of the audit was to assess and report on whether S&S complied with the terms of the Agreement and with Chapter 22 of the City's Code, which govern the operations 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 generally accepted accounting principles. The audit covered the period October 1, 2015 through September 30, 2017, during which S&S reported Gross Receipts of \$6,107,714 for services provided within the City.

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 the applicable Franchise Fees as stipulated in the Agreement were properly computed and remitted to the City.
- 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 follow-up on prior audit findings and determine the status of all unresolved and outstanding issues, if any.

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
- Observations of current practices and processing techniques
- Tests of applicable transactions and records
- Other audit procedures as deemed necessary

BACKGROUND

On September 23, 2010, the City executed a 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 renewal option periods through September 30, 2018. S&S was selected as one of the haulers awarded a franchise in the City. In July 2016, the City executed an updated version of the Agreement with S&S.

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

- Gross Receipts Franchise Fees – The greater of \$500 or 24% of the Gross Receipts generated from accounts within the City.
- Annual Franchise Fee – \$8,000 the first year under the Agreement (2010), (increased annually by \$500) for the right to provide commercial solid waste handling services within the City limits.
- Annual Specialized Waste Handling Fee – \$4,000 for the first year under the Agreement (2010), (increased annually by \$500) for the right to provide specialized waste handling services.
- Permit Per Account Fee – \$75 for each solid waste hauling account and roll-off container active as of October 1st of each fiscal year, of which the franchisee may pass on \$38 to the customer. Temporary roll-off containers placed in service after October 1st must obtain permits valid for 90-day intervals at the prevailing per-account rate, and new accounts acquired after October 1st are subject to the per-account fee.
- Late Payment Penalty – All late payments of the above-listed fees will cause the franchisee a one and one-half percent (1.5%) penalty per month on the balance payable to the City.

Other terms of the Agreement require the following:

- Insurance: Franchisee must maintain a public liability policy in the minimum amount of \$1,000,000; automobile liability insurance policy covering franchisee's operations with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage liability. Franchisee's certificate shall also include workers' compensation coverage. The City shall be listed as an additional insured for liability.
- Performance Bond: Franchisee agrees to maintain, for the term of the Agreement, a Performance Bond, executed by a surety company duly authorized to do business in the State of Florida, which shall be counter-signed by an agent for the company. The amount of the bond shall be the greater of \$25,000 or the franchisee's previous 12 months' franchise fees paid to the City.

In order to determine that S&S remitted to the City all applicable fees due, we requested and reviewed S&S's Franchise Fee payment records for all City activity from October 2015 through

September 2017. We obtained a list of S&S's accounts located in Miami-Dade County (unincorporated areas and other municipalities) then independently determined which of S&S's accounts were located within the geographic boundaries of the City and whether the account

activity pertained to recycling, construction and demolition hauling (C&D), or solid waste hauling. According to Florida Statutes, source separated recovered materials are exempt from Franchise Fees.

However, the Agreement states that all other solid waste hauling activity, including C&D and grapple, is subject to Franchise Fees. To determine an S&S account's service location, we used: S&S's account address records; the Miami-Dade County Property Appraiser website; and Google maps.

During the fiscal year ended September 30, 2017, all franchisees remitted a total of \$14,247,818 to the City. S&S is one of the franchisees selected for audit in order to determine compliance with the provisions of the Agreement and City Code. A separate audit report will be issued for each of the franchisees audited.

AUDIT FINDINGS AND RECOMMENDATIONS

Based on the results of our audit, we have concluded that 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 all service locations within the City area properly identified and franchise fees are remitted timely. **As a result of these deficiencies, S&S owes the City an additional \$46,931.**

Details of our findings and recommendations follow:

FINDING 1: ADDITIONAL FEES DUE TO THE CITY

S&S reported Gross Receipts of \$6,107,714 for services provided within the City during the audit period and remitted Franchise Fees of \$1,518,957 during the same period. However, our audit of S&S's accounting and billing records disclosed that additional Franchise Fees and late payment penalties of \$34,931 are due and payable to the City (see Exhibit I, page 5), as discussed below.

LATE REMITTANCES OF MONTHLY 24% FRANCHISE FEES

The Agreement requires the Franchisee to remit monthly to the City 24 percent (24%) of its Gross Receipts generated from accounts within the City limits, or \$500 whichever is greater. Failure to remit payments on time results in a monthly penalty of one and one-half percent (1.5%) on the balance due.

Our review of S&S's remittances disclosed that they paid monthly Franchise Fees late for three months (October 2015, January 2016, and September 2016), incurring late payment penalties of \$1,082, \$60, and \$1082, respectively. Additionally, S&S remitted Franchise Fees that were due in March 2016 through April 2017 for one customer as a lump sum in July 2017, incurring late payment penalties of \$980.

As a result, a total of \$3,204 of late payment penalties are due the City.

MISCODED CITY CUSTOMER ACCOUNTS

Also, S&S did not report three customer accounts ("miscoded accounts") served within City boundaries and pay the corresponding Franchise Fees. Due to the omission of \$104,763 in Gross Receipts related to these three accounts, S&S owes the city \$25,143 in monthly Franchise Fees and late payment penalties of \$6,584 thereon.

As a result, a total of \$31,727 concerning these three miscoded accounts is due the City.

Finally, according to paragraph 6.2 of the Agreement, if a City Audit reveals that a Franchisee underreported gross receipts, and results in additional revenue due the City in the amount of \$20,000 or more, Franchisee agrees to pay for the cost of said audit. Because S&S owes a subtotal of \$34,931 (\$3,204 plus \$31,727), the cost of the audit of \$12,000 is due and payable.

RECOMMENDATION 1: FINANCE DEPARTMENT

We recommend that the City's Finance Department bill and collect the total additional fees due to the City from S&S in the amount of \$46,931 as shown in Exhibit I.

EXHIBIT I

AUDIT OF COMPLIANCE WITH COMMERCIAL SOLID WASTE FRANCHISE AGREEMENT – BICON INC., D/B/A S&S NATIONAL WASTE

OCTOBER 1, 2015 THROUGH SEPTEMBER 30, 2017
Report No. 18-03

SCHEDULE OF ADDITIONAL FEES DUE TO THE CITY

Description	Fees Due (\$)
Late Remittance of Monthly Franchise Fees:	
October 2015	1,082
January 2016	60
September 2016	1,082
July 2017	<u>980</u>
SUBTOTAL	3,204
Miscoded Accounts:	
Monthly Franchise Fees on Miscoded Accounts	25,143
Late Payment Penalties on Miscoded Accounts	<u>6,584</u>
SUBTOTAL	31,727
TOTAL	\$34,931
Cost of the City Audit	12,000
Total Due to the City	\$46,931