

City of Miami

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INDEPENDENT AUDITOR GENERAL



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December 15, 2017

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/Eastern
Waste Systems, Inc.
Report No. 18-01

Executive Summary

We have completed an audit of records and selected financial transactions of Eastern Waste Systems, Inc. (EWS) primarily for the period from October 1, 2013 through September 30, 2015. The audit was performed to determine whether EWS 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, EWS had total gross receipts of \$3,901,824 for services provided within the City and remitted franchise fees totaling \$973,388 to the City.

Overall, we have concluded that transactions tested were for the most part in compliance with the Agreement and City Code. However, improvement is needed to ensure that fees are remitted in a timely manner. **As a result of this deficiency, an additional \$734 is owed to the City by EWS.** Details are included on page 5 of the report.

We wish to express our appreciation for the cooperation and courtesies extended to us by EWS personnel and the City's Solid Waste and Finance Departments 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
Daniel J. Alfonso, City Manager
Victoria Mendez, City Attorney
Todd Hannon, City Clerk
Fernando Casamayor, Assistant City Manager/Chief Financial Officer
Nzeribe Ihekwebaba, Assistant City Manager/Chief of Operations
Alberto Parjus, Assistant City Manager
Mario Nunez, Director, Solid Waste Department
Erica Paschal, Director, Finance Department
Demetrio Constantiny, Accounts Receivable Supervisor, Finance Department
Michael C. Marzano, President, Eastern Waste Systems
Members of the Audit Advisory Committee
Audit Documentation File

Audit conducted by: Paulino Garcia, Staff Auditor

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

**AUDIT OF COMPLIANCE WITH THE COMMERCIAL SOLID WASTE
FRANCHISE AGREEMENT – EASTERN WASTE SYSTEMS, INC.**

**OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2015
REPORT No. 18-01**

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SCOPE, OBJECTIVES AND METHODOLOGY

The scope of the audit was to assess and report on whether Eastern Waste Systems, Inc. (EWS) 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, 2013 through September 30, 2015, during which fees collected from EWS totaled \$973,388.

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 examine the internal control policies and procedures of EWS 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.
- To follow-up on prior audit findings and determine the status of all unresolved and outstanding issues.

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 new Non-Exclusive Commercial Solid Waste 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. Eastern Waste Systems, Inc. (EWS) was selected as one of the franchisees.

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, (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, (increased annually by \$500) for the right to provide specialized waste handling services.
- Permit Per Account Fee (PPAF) – \$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.
- Safety Inspection Fee – Annual \$500 regulatory fee per vehicle used by the franchisee in the City.
- 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 the City received all applicable fees due, we requested and reviewed EWS's franchise fee payment records for all City hauling activity from October 2013 through September 2015. We obtained a list of EWS's accounts located in Miami-Dade County (all municipalities and unincorporated areas) then independently determined which EWS 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, is subject to franchise fees. In order to determine an EWS account's service location, we used: EWS's account address records; the Miami-Dade County Property Appraiser website; and, information provided by the City's Geographical Information Service (GIS) sub-group of the Information Technology Department (ITD).

During the fiscal year ended September 30, 2015, franchisees remitted a total of \$13,808,859 to the City. EWS 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 EWS and the SWD complied with the terms of the Agreement and applicable Sections of the City Code.

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 fees are remitted timely. As a result of this deficiency, EWS owes the City an additional \$734.

Details of our findings and recommendations follow:

FINDING 1: ADDITIONAL FEES DUE TO THE CITY

EWS generated total gross receipts of \$3,901,824 for services provided within the City during the audit period (fiscal years 2014 and 2015). Total fees remitted to the City during the audit period were \$973,388. However, our audit of EWS's accounting and billing records disclosed that an additional \$734 is due and payable to the City (See Exhibit I) from EWS as discussed below.

ANNUAL SPECIALIZED WASTE HANDLING FEE

The Agreement stipulates that the "Franchisee agrees to remit to the City annually (due October 1st) the sum of \$4,000 (increased annually by \$500) for the right to provide Specialized Waste Handling 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 (1.5%) per month on the balance due to the City.

Our review disclosed that for fiscal year 2014, EWS remitted its Annual Specialized Waste Handling Fee (\$5,500 for fiscal year 2014) late. As a result, \$82 in late fees (1.5% x \$5,500) is due to the City. Similarly, EWS remitted the annual specialized waste handling fee during the fiscal year ended September 30, 2015 late, and late fees of \$90 (1.5% x \$6,000) are due. The sum of these two late fees is \$172.

GROSS RECEIPTS - FRANCHISE FEES (24%)

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 EWS's billing records disclosed that they remitted the franchise fees in the amount of \$37,467 for the month of October 2014 late. As a result, a late payment penalty fee of \$562 (1.5% x \$37,467) is due to the City.

OVERALL RECOMMENDATION 1: FINANCE DEPARTMENT

We recommend that the City's Finance Department bill and collect the total additional fees due to the City from EWS in the amount of \$734.

AUDIT OF COMPLIANCE WITH THE COMMERCIAL SOLID WASTE
FRANCHISE AGREEMENT – EASTERN WASTE SYSTEMS, INC.

OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2015
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EXHIBIT I

SCHEDULE OF ADDITIONAL FEES DUE TO THE CITY

Description	Fees Due (\$)
Late Fee Penalties Late Payment of Annual Specialized Waste Handling Fees Late Remittance of Monthly Franchise Fees (October 2014)	172 562
Total Due to the City	\$734