

City of Miami

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



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May 15, 2020

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

Re: Audit of Lopefra Corporation
Report No. 20-08

Executive Summary

We have completed an audit of selected financial records and transactions of Lopefra Corporation (Lopefra) primarily for the period from October 1, 2017 through September 30, 2018. The audit was performed to determine whether Lopefra complied with applicable sections of the Commercial Solid Waste Franchise Agreement (Agreement). Additionally, we examined relevant internal control policies and procedures in the City's Solid Waste Department (SWD) and Finance Department (FD) to determine whether they were adequate and effective in enforcing the provisions of the Agreement.

During the audit period, Lopefra reported Gross Receipts of \$796,875 for services provided to City customers and remitted Franchise Fees totaling \$240,822 to the City.

Based on the results of our audit, we have concluded that Lopefra complied with the applicable sections of the Agreement during the audit period. However, internal control procedures in the City's SWD and FD require strengthening to ensure that all required franchisee customer and collection reports and supporting documents are maintained, all payments are recorded correctly, and franchisees receive adequate instruction to comply with the Agreement.

We wish to express our appreciation for the cooperation and courtesies extended to us by Lopefra and City personnel 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
Arthur Noriega, V, City Manager
Victoria Mendez, City Attorney
Todd Hannon, City Clerk
Sandra Bridgeman, Assistant City Manager/Chief Financial Officer
Fernando Casamayor, Assistant City Manager/Chief of Operations
Nzeribe Ihekwa, Assistant City Manager/Chief of Infrastructure
Erica Paschal, Director of Finance, Finance Department
Munirah Daniel, Assistant Director of Finance, Finance Department
Christopher Rose, Director, Office of Management and Budget
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
Rosemary Hartigan, Lopefra Corporation
Members of the Audit Advisory Committee
Audit Documentation File

Audit performed by: Paulino Garcia, Staff Auditor

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

AUDIT OF LOPEFRA CORPORATION
OCTOBER 1, 2017 THROUGH SEPTEMBER 30, 2018
REPORT No. 20-08

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SCOPE, OBJECTIVES AND METHODOLOGY

The scope of the audit was primarily to assess and report on whether Lopefra Corporation (Lopefra) and the City's Solid Waste Department (SWD) complied with the terms of the Non-Exclusive Commercial Solid Waste Franchise Agreement (Agreement) which, along with Chapter 22 of the City's Code, govern the operation of commercial solid waste collection services in the City. The audit covered the period October 1, 2017 through September 30, 2018 and the objectives 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 verify whether the appropriate public liability insurance and bonds were obtained as required by the Agreement.
- 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 determine whether selected financial transactions were processed in accordance with generally accepted accounting principles.
- 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, appropriate evidence 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 to gain an understanding of internal controls.
- Observations of current practices and processing techniques.
- Reviewing the service addresses of Lopefra's accounts located in Miami-Dade County, then independently determining which accounts were located within the City by utilizing Lopefra's account address records; the Miami-Dade County Property Appraiser website; and Google maps.
- Tests and examinations of applicable financial transactions and records.
- Other audit procedures as deemed necessary.

BACKGROUND

Pursuant to request for qualifications No. 222246, the City executed a Non-Exclusive Commercial Solid Waste Franchise Agreement (Agreement) with selected haulers effective from October 1, 2010 through September 30, 2015, with three one-year renewal options through September 30, 2018. In 2016, the City executed an updated version of the Agreement with all haulers, including Lopefra, pursuant to request for qualifications No. 495344.

Pursuant to the Agreement, the City shall assess and collect the following fees:

- Gross Receipts Franchise Fees – The greater of \$500 or 24% of the Gross Receipts generated from accounts within the City, due monthly.
 - Gross Receipts are defined in the Agreement as all monies collected from customers resulting from all transactions and activities in the Franchisee’s regular course of business and trade, including recycling with the exceptions of recovered materials at commercial establishments as defined in the Florida Statutes.
- Annual Specialized Waste Handling Fee – \$6,500 the first year under the Agreement, increased annually by \$500 for the right to provide specialized waste handling services.
- Permit Per Account Fee – \$75 for each account booked as of October 1st of every new fiscal year and for each new account and roll-off box acquired after October 1st.
- 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.

During the fiscal year ended September 30, 2019, the franchisees remitted approximately \$16.8 million in fees to the City. During the audit period, Lopefra reported Gross Receipts of \$796,875 for services provided to City customers and remitted Franchise Fees totaling \$240,822. Lopefra is one of the franchisees selected for audit in order to determine compliance with 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 Lopefra complied with the applicable sections of the Agreement during the audit period. However, internal control procedures in the City's SWD and FD require strengthening to ensure that all required customer and collection reports and supporting documents are maintained, all payments are recorded correctly, and franchisees receive adequate instruction to comply with the Agreement.

Details of our findings and recommendations follow:

FINDING 1: MONTHLY CUSTOMER AND COLLECTION REPORTS AND SUPPORTING DOCUMENTS WERE NOT MAINTAINED BY CITY DEPARTMENTS

Section 5.2 of the Agreement between the City and franchisees states, "Franchisee agrees to remit monthly to the City, twenty-four percent (24%) of its Gross Receipts, generated from accounts within the City limits, or \$500.00 per month, whichever is greater. Accompanying the remittance, Franchisee must provide the City with a list of the customers' names, addresses, folio numbers, and total amount collected."

The City has established policies and procedures to enforce and monitor franchisee's compliance with the Agreement and to ensure that remittances are recorded correctly by the City. Accompanying the 24% franchise fee remittance and aforementioned list (known as the Master Accounts Detail Sheet), franchisees must submit a signed and notarized "Monthly Report for Existing Accounts, New Accounts, Gross Receipts and Other Items and Amounts Due to the City."

Pursuant to the Monthly Report Submission Process established by the City, franchisees must email the Monthly Report and Master Accounts Detail Sheet to the SWD, and send the original notarized Monthly Report, Master Accounts Detail Sheet, and 24% franchise fee remittance to the City's FD. In addition to the original documents, the FD maintains electronic copies of these records in the Laserfiche system.

However, all Monthly Reports and Master Account Detail Sheets were not maintained in the Laserfiche system. For the fiscal year ended September 30, 2019, there were no copies of these documents in the Laserfiche system for 3 of the 11 (or, 27%) franchisees; and, documents were missing for a range of 2 to 11 months for the remaining eight franchisees; a total of 158 documents were missing.

As a result of not maintaining these critical documents, the City cannot adequately oversee the franchisees' performance under the Agreement; and, our Office may be precluded from auditing the franchisee's activity in the City and payments remitted under the Agreement.

RECOMMENDATION 1.1: FINANCE DEPARTMENT

We recommend that the Finance Department obtain all the Monthly Reports and Master Accounts Detail Sheets for each franchise hauler and place the documents in the respective section of each hauler's Laserfiche file, for the period beginning March 1, 2016; appropriate personnel within or outside the City should be contacted to obtain any missing documents in a timely manner.

- **Auditee Response:** Communication was not very clear on the custodian of the missing documentation. It is imperative that SWD make all due diligence to request missing documentation from the haulers, to resolve the immediate audit requirement.

Prospectively, ITD will develop a new upload mechanism for franchisees based on a standardized template to capture detailed supporting documentation summarized into the master report. The information will be visible to pertinent stakeholders, SWD, FD and the Auditor General's Office.

It is important to clarify that SWD is the administrator of the contract which includes its compliance. The FD processes payments of hauler information based on the honor system, but the reasonableness test relies on the expert-in this case, the administrator.

- **Implementation Date:** The estimated implementation date is undetermined at this time due to Department of Innovation and Technology (DoIT) scheduling affected by the coronavirus pandemic. DoIT is currently performing a laserfiche upgrade, once completed, the new upload process will be developed in coordination with both SWD and FD.

RECOMMENDATION 1.2: SOLID WASTE AND FINANCE DEPARTMENTS

We recommend that the Solid Waste Department work with the Finance Department to better delineate responsibilities for monitoring franchisees' compliance with monthly and annual payments and documentation, as well as the City's organization and storage of financial records.

- **Solid Waste Response:** The SWD will meet with the FD will work with the City Manager's office to revisit current delineation of responsibilities and procedures for monitoring Franchisees documentation and payment
 - **Implementation Date:** No earlier than the last quarter of FY 20
- **Finance Response:** The Solid Waste Department will continue to work with the Finance Department as needed, to monitor the franchisees for compliance of their contract with the City of Miami, for the provision of refuse hauling services. SWD will cover the administration and compliance of the contract and Finance will continue to invoice, record financial transactions, and apply payment and late fees properly and timely.

The SWD will meet with the FD to revisit and review the responsibilities and procedures for monitoring franchisees documentation and payment until the entire process works. The SWD will continue to be the administrator of the contract; thus, the department will ensure compliance. Finance will: 1. Continue to be the payment processor, 2. Will record revenue streams according to the new template, 3. Generate late fees timely, and 4. Follow all routine collection activities and procedures.

SWD should update the presentation to haulers to introduce the use of templates, which will provide the coding necessary to record different categories of revenues for the master report and the detailed supporting documentation. Moreover, it will introduce the new

efficient upload feature. SWD should also provide refresher training for existing and new haulers.

- **Implementation Date:** No earlier than the last quarter of FY 20, after ITD has fully implemented the new upload feature to the Hauler Portal.

FINDING 2: SUPPORTING DOCUMENTS FOR ANNUAL FRANCHISE AND PERMIT PER ACCOUNT FEE REMITTANCES SHOULD BE REQUIRED

Section 5.3 of the Agreement states, “Annual Franchise Fee: Franchisee agrees to remit to the City annually (due October 1st) the sum of \$10,500.00 for the right to be a Franchisee for Commercial Solid waste Services within the City; said fee shall increase annually by \$500.00.”

Section 5.6 of the Agreement states, “Specialized Waste Handling Fee: Franchisee agrees to remit to the City annually (due October 1st) the sum of \$6,500 for the right to provide only Special Waste Handling Services within the City limits [...] the annual franchise fee will increase by \$500 per year.”

Section 5.5 of the Agreement states, “Franchisee agrees to remit to the City annually a Permit Per Account Fee in the amount of seventy-five (\$75.00) (due October 1st) [...] for each account effective October 1st of every new fiscal year.”

During fiscal year 2019, franchisees remitted Annual Franchise Fees (AFF) of \$87,500 Specialized Waste Handling Fees (SWHF) of \$34,000 and annual Permit Per Account Fees (PPAF) of \$705,975; for a total of \$827,475 in annual franchise fees remitted to the City.

To adequately enforce and monitor franchisees’ compliance with these provisions of the Agreement, the City should require that remittances of the annual AFF, SWHF and PPAF be accompanied by a certified annual report and account detail sheet. The certified annual report should be similar to the Monthly Report, stating the name and address of the franchisee, applicable fiscal year, annual franchise fee type and amount, number of City customer accounts, dollar amount of each permit fee, amount of the PPAF payment and total amount remitted. The annual report should be signed and certified by the preparer, and notarized. Accompanying the annual report, the City should require an account detail sheet listing the PPAF account names, service addresses, service types, start dates and folio numbers. Additionally, the City should designate an appropriate department as the custodian of these documents and require that electronic copies of the documents be maintained in the Laserfiche system.

However, the City and the Agreement do not require a certified annual report or account detail sheet to be submitted by haulers accompanying their payments of the annual AFF, SWHF and PPAF. Also, the City does not require or maintain any documentation related to annual franchise fee payments in the Laserfiche system.

As a result, we found that the FD incorrectly recorded a franchise hauler’s combined remittance of the AFF (\$10,500) and the annual PPAF (\$476,550), or \$478,050, as a monthly franchise fee payment. Without supporting documentation accompanying the remittance, FD personnel also did not know that the payment was late. Consequently, they did not assess and collect late fees totaling \$14,612. (Note that these late fees were assessed in Audit No. 16-09 Audit of Progressive Waste Solutions of FL, Inc. and were paid in full by the franchisee).

RECOMMENDATION 2: SOLID WASTE DEPARTMENT

We recommend that the Solid Waste Department (SWD) require that a certified annual report and account detail sheet be submitted to support franchisee's annual franchise fee remittances. The SWD should implement templates of the annual fee documentation, based on the Monthly Report for Existing Accounts and Master Account Detail Sheet that must be submitted by the franchisees on a monthly basis.

Also, the SWD should require franchisees to submit the certified annual report and account detail sheet along with corresponding payment of the Annual Franchise Fee or Specialized Waste Handling Fee, and applicable Permit Per Account Fees, as a complete package by the due dates defined the Non-Exclusive Commercial Solid Waste Franchise Agreement.

Lastly, the SWD should conduct training for the franchisees to instruct them how to complete and submit all required documents and payments to City departments by the due dates.

- **Auditee Response:** The SWD will implement a new template for the annual fee documentation and communicate and train the Franchisees on this new requirement. A single coversheet for all annual fees (annual franchise fee or specialized waste handling fee; and permit per account fee) and an Excel file detailing the accounts included in the PPAF payment will be implemented.
- **Implementation Date:** First Quarter of Fiscal Year 2021