

City of Miami

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



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June 8, 2022

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

Re: Audit of Waste Connections of Florida, Inc.
Report No. 22-07

Executive Summary

We have completed an audit of selected financial transactions and records of Waste Connections of Florida, Inc., (WCF) formerly known as Progressive Waste Solutions of FL, Inc., primarily for the period February 1, 2016 through September 30, 2017. The audit was performed to determine whether WCF complied with applicable sections of the City of Miami (City) Code and the Non-Exclusive Commercial Solid Waste Franchise Agreement (Agreement). Additionally, we examined relevant internal control policies and procedures in the City's Solid Waste Department and Finance Department to determine whether they were adequate and effective in enforcing the provisions of the Agreement.

During the audit period, WCF reported Gross Receipts of \$28,836,476 and remitted Franchise Fees of \$7,481,752 related to services provided within the City. Based on the results of our audit, we have concluded that improvement is needed at WCF to ensure that Franchise Fees are remitted when recovered materials hauling does not meet statutory requirements, that permits are obtained for all temporary roll-off containers in service, and that monthly 24% Franchise Fees are paid in accordance with the Agreement. **As a result of these deficiencies, WCF owes the City additional \$326,648.** (See Exhibit I, page 7).

We wish to express our appreciation for the cooperation and courtesies extended to us by WCF 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
Art Noriega, V, City Manager
Victoria Mendez, City Attorney
Todd Hannon, City Clerk
Nzeribe Ihekwaba, Deputy City Manager
Natasha Colebrook-Williams, Assistant City Manager
Erica Paschal, Director of Finance, Finance Department
Michelle Gouin, Director, Office of Management and Budget
Wade Sanders, 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
Bret Boccabella, Waste Connections of Florida, Inc.
Andres Castillo, Waste Connections of Florida, Inc.
Members of the Audit Advisory Committee
Audit Documentation File

Audit conducted by: Deming Zhang, CPA, Senior Staff Auditor

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

AUDIT OF WASTE CONNECTIONS OF FLORIDA, INC.

FEBRUARY 1, 2016 THROUGH SEPTEMBER 30, 2017

Report No. 22-07

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SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of the audit was to assess and report on whether WCF complied with the terms of the Agreement and applicable sections of Chapter 22 of the City Code governing the operation of commercial solid waste collection services in the City. The audit covered the period February 1, 2016 through September 30, 2017 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 determine whether recovered materials hauling met the requirements described in the Agreement and Florida Statutes.
- To examine the relevant internal controls policies and procedures within the City 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, 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.

- 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.
- Review of the service addresses of WCF's accounts located in Miami-Dade County, then independently determining which accounts were located within the City by utilizing WCF's account address records; the Miami-Dade County Property Appraiser website; and Google maps.
- Review of WCF's financial and operational records for recovered materials hauling.
- 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 March 2016, the City executed an updated version of the Agreement with all haulers, including WCF, pursuant to request for qualifications No. 495344.

According 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, as defined in the Agreement, generated from accounts within the City limits, due monthly.
 - **Gross Receipts Definition:** 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 Franchise Fee:** \$10,500 the first year under the Agreement (2016), increased annually by \$500 for the right to be a Franchisee for commercial solid waste services.
- **Permit Per Account Fee:** \$75 for each solid waste hauling account and permanent 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 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.
- **Audit Cost:** If a City audit reveals that a Franchisee under reported gross receipts, and results in additional revenue due the City in the amount of \$20,000 or more, the Franchisee agrees to pay the cost of said audit.

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, 2021, franchisees remitted a total of \$16,993,085 in fees under the Agreement to the City. During the audit period, WCF reported Gross Receipts of \$28,836,476 and remitted Franchise Fees of \$7,481,752. WCF is one of the franchisees selected for audit 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 OVERALL RECOMMENDATION

Based on the results of our audit, we have concluded that improvement is needed at WCF to ensure that Franchise Fees are remitted when recovered materials hauling does not meet statutory requirements, that permits are obtained for all temporary roll-off containers in service, and that monthly 24% Franchise Fees are paid in accordance with the Agreement. **As a result of these deficiencies, WCF owes the City additional \$326,648.** (See Exhibit I, page 7).

Details of our findings and recommendations follow:

FINDING 1: RECOVERED MATERIALS HAULING DID NOT MEET REQUIREMENTS

Section 2.2 of the Agreement defines Gross Receipts as, “all monies, whether paid by cash, check, debit or credit, collected from customers resulting from all transactions and activities in the Franchisee’s regular course of business and trade including...recycling (*excluding recovered materials at commercial establishments as defined by §403.703, Florida Statutes*).”

Florida Statutes, §403.703 defines recovered materials as, “metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but the term does not include materials destined for any use that constitutes disposal. Recovered materials as described in this subsection are not solid waste.” The Statute also states that recovered materials are not considered source separated when they “contain more than 10 percent solid waste by volume or weight.”

Gross Receipts derived from recovered materials hauling that does not meet the requirements of §403.703, Florida Statutes are subject to the Franchise Fees described in Section 5.2 of the Agreement, “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. 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.”

Through review of financial and disposal records for WCF’s dumpsters and toters, we determined that Gross Receipts of \$391,986 did not meet the requirements for recovered materials hauling. WCF intermittently identified instances when recovered materials hauling did not meet statutory requirements and remitted Franchise Fees of \$7,628. However, additional monthly 24% Franchise Fees of \$86,449 and late fees of \$82,896 are due, totaling \$169,345.

Through review of financial and disposal records for WCF’s roll-off containers, we determined that Gross Receipts of \$170,096 did not meet the requirements for recovered materials hauling. As a result, monthly 24% Franchise Fees of \$40,823 and late fees of \$38,834 are due, totaling \$79,657.

FINDING 2: ROLL-OFF CONTAINER PERMIT FEES WERE NOT REMITTED

Section 5.5 of the Agreement requires payment of temporary roll-off/container permit fees, stating, “for each new commercial account and new roll-off box or container acquired after October 1st, the Franchisee agrees to remit a fee of \$75 for each account acquired during any month of the contract year. All late payments of this fee will cause the Franchisee a one- and one-half percent (1.5%) penalty per month on the balance due.”

The City Code of Ordinances, Article I, §22-1 states, “‘temporary roll-off/container permit fee’ shall mean the charge paid every 90 days the account remains active, per account to the city for each large container and/or roll-off utilized by franchisees to provide contracted removal and disposal of waste from commercial constructions and demolition, renovation and other similar accounts which are of a temporary nature.”

WCF did not obtain eighty-five (85) permits for temporary roll-off containers in service. As a result, Permit Fees of \$6,375 (\$75 x 85) and late fees of \$6,189 are due, totaling \$12,564.

FINDING 3: MONTHLY 24% FRANCHISE FEES WERE NOT PAID IN ACCORDANCE WITH THE AGREEMENT

Section 5.2 of the Agreement 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, whichever is greater. 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.”

Through review of the financial records relevant to WCF’s operations within the City, we found the following instances where monthly 24% Franchise Fees were not paid in accordance with the Agreement:

- For 11 of 20 months in the audit period, WCF remitted Franchise Fees of less than 24% of Gross Receipts, due to errors in bookkeeping. As a result, monthly 24% Franchise Fees of \$3,591 and late fees of \$3,269 are due, totaling \$6,860.
- WCF did not report Gross Receipts of \$4,590 derived from services provided to two (2) accounts. As a result, monthly 24% Franchise Fees of \$1,101 and late fees of \$985 are due, totaling \$2,086.
- WCF miscoded one (1) account as existing outside the boundaries of the City. As a result, on miscoded Gross Receipts of \$4,153, monthly 24% Franchise Fees of \$997 and late fees of \$957 are due, totaling \$1,954.

In all, monthly 24% Franchise Fees of \$5,689 and late fees of \$5,211 are due, totaling \$10,900.

FINDING 4: AUDIT COST

Section 6.2 of the Agreement states, “if a City audit reveals that Franchisee under reported gross receipts, and results in additional revenue due the City in the amount of \$20,000 (per fiscal year) or more, Franchisee agrees to pay the cost of said audit.” The cost of auditing WCF for the period February 1, 2016 through September 30, 2017 is \$54,182 and is due.

OVERALL RECOMMENDATION:

We recommend that the Finance Department bill, and WCF immediately remit, the total additional fees and penalties due to the City as outlined on Exhibit I on page eight (\$326,648).

AUDIT OF WASTE CONNECTIONS OF FLORIDA, INC.

**FEBRUARY 1, 2016 THROUGH SEPTEMBER 30, 2017
REPORT No. 22-07**

EXHIBIT I

SCHEDULE OF ADDITIONAL FEES DUE THE CITY

Description	Amount Due
Recovered Materials Hauling did not Meet Requirements (Finding 1, Page 4)	
Franchise Fees – Dumpsters and Toters	\$86,449
Late Fees	82,896
Franchise Fees – Roll-Off Containers	40,823
Late Fees	38,834
Roll-Off Container Permit Fees were not Remitted (Finding 2, Page 5)	
Franchise Fees	6,375
Late Fees	6,189
Monthly 24% Franchise Fees were not Paid as per the Agreement (Finding 3, Page 5)	
Franchise Fees	5,689
Late Fees	5,211
Audit Cost (Finding 4, Page 5)	54,182
Total Due to the City:	\$326,648