



## **Council Auditor's Office**

### **Follow-Up on Nonresidential Solid Waste Franchise Fees Audit**

#### **Report #793A**

**Released on:** November 16, 2020

**OFFICE OF THE COUNCIL AUDITOR**  
Suite 200, St. James Building



November 16, 2020

Report #793A

Honorable Members of the City Council  
City of Jacksonville

The purpose of this report is to document our follow-up review of our past report #793, Nonresidential Solid Waste Franchise Fees Audit, and to determine whether corrective action has been taken in response to our findings and recommendations. We are providing this special written report in accordance with Ordinance Code Section 102.102. This report does not represent an audit or attestation conducted pursuant to Government Auditing Standards.

We reviewed our recommendations and the auditees' responses from the original audit report. We sent a follow-up letter to the Solid Waste Division on May 14, 2019 inquiring as to the status of the original audit report recommendations. We reviewed the recommendations from our audit report, the auditees' responses to the recommendations, and the auditees' responses to our follow-up letter. We then performed limited testing to verify the Solid Waste Division's responses. Based on the responses received and our follow-up testing, a table detailing the original number of issues noted and the number of issues resolved as of this follow-up is included below.

<b>Types of Issues</b>	<b>Original Number of Issues</b>	<b>Issues Cleared</b>	<b>Remaining Issues</b>
Internal Control Weaknesses	2	2	0
Findings	8	4	4
Opportunities for Improvement	4	4	0
<b>Total</b>	<b>14</b>	<b>10</b>	<b>4</b>

The following is a brief summary of the remaining issues with responses from the Solid Waste Division that we received on October 20, 2020.

**Finding 1 \*Understated Franchise Fees Submitted to City\***

In the original audit, we found some franchisees inaccurately calculated franchise fees owed to the City due to those companies excluding various fees from gross receipts. We recommended the Solid Waste Division work with the Office of the General Counsel, the Administration, and the City Council (as needed) to address the underpayments from past years. Additionally, we recommended an official signed confirmation from each franchisee annually that certain fees are not being excluded from the calculation of gross receipts.

During the follow-up review, one company had not made a payment related to issues noted in the original audit issued in April of 2017. Based on information provided by representatives of the franchise, it was noted in the audit that this company underpaid the City approximately \$300,000 in 2015. We checked with the Administration in August of 2019 and January of 2020, and the response was that the negotiations were still being held to address this issue.

For franchisees with noted issues in the audit that had made a payment related to those issues as well as any new franchisee, we performed testing in this follow-up to verify the franchise fee was being accurately calculated and remitted to the City. Invoices from eight companies in total were tested. This testing identified underpayments to the City of over \$45,000. See below for specific detail:

1. One company, in pulling detail in response to our follow-up, found that they were still excluding certain fees (administrative, late, and service interruption) from the gross amount that should not be excluded. We confirmed this during the follow-up testing. For 2018, \$13,871.07 was underpaid to the City based on the company's calculations. We brought this to the Solid Waste Division's attention, and \$15,258.18 was paid by the company (amount owed plus 10 percent late fee).
2. Three other companies incorrectly calculated franchise fees due to a systematic (or at least repetitive) exclusion of certain fees (e.g., late, delivery, fuel, special events, etc.) from the calculation of the gross receipts. The gross fee times 17% is what is to be collected as the franchise fee and then remitted to the City. For the invoices tested, the entities paid \$9,276.11 instead of \$11,556.21 causing an underpayment to the City of \$2,288.95 (or 20%). All but \$8.95 of the underpayment was due to systematic and/or repetitive errors. The companies calculated that in 2019 alone a total of \$17,037.39 was underpaid to the City. This amount plus 10 percent interest was repaid to the City by these companies during our testing after we brought this issue to the Solid Waste management's attention.
3. An error was discovered in the calculation of franchise fees by another company for the month we tested when they were pulling data. This led to an additional payment of \$14,673.74 to the City after we brought this issue to the Solid Waste management's attention.

Given that we still found various issues with exclusion of various fees, we recommend the Solid Waste Division take additional steps to address this issue. The division should conduct some periodic testing. This could include requesting a listing of invoices that ties to the gross amount reported for the month, and then picking a few invoices to verify if franchise fees were accurately collected and passed on to the City. The division should also consider sending out a questionnaire by email each year to ask which fees (if any) are excluded from the calculation of the gross fees. If a company states it is excluding some fees that should not be excluded, the division should request those fees be included in the gross calculations immediately. Many of the items we noticed appeared to be unintentional items and would be caught with some regular monitoring by the City. Lastly, the results of any of this work should be sent to the applicable independent auditor hired by the franchise companies to help ensure compliance in the future.

***Solid Waste Division Response to the Follow-Up of Finding 1***

Agree

Disagree

Partially Agree

*Solid Waste Division (SWD) will coordinate with the Public Works Director's Office to conduct periodic testing of invoices. By January 29, 2021, a procedure will be created to identify the roles and process for conducting the invoice review. In addition, an email will be sent annually to all*

approved franchisees asking if any fees are excluded from the calculation of gross fees. If any changes are made as a result of this process, the results will be sent to their independent auditors to ensure future compliance.

**Finding 2 \* Different Methods to Calculate Franchise Fees\***

In the original audit, it was noted that there was a lack of consistency regarding how franchise fees were listed on invoices, and the Municipal Code did not address the issue. This seemed to be driving some issues with how franchises calculated the franchise fee. We recommended the Solid Waste Division work with the Office of the General Counsel to determine if any changes in the Municipal Code were needed to address this issue as well as work with the franchisees to address the matter.

After the original audit, Municipal Code Section 380.608(b)(1) was updated (October 2017) to include specific information regarding the listing of the franchise fee on each invoice.

*The franchise fee shall be listed separately on each customer's invoice as 17 percent of the subtotal of all monthly gross receipts so that no more than one franchise fee is listed per invoice.*

During the follow-up review, we found that three companies listed no franchise fee at all or listed multiple franchise fees on some of their invoices. However, we did not note any instance where this directly appeared to cause an issue with a payment to the City.

***Solid Waste Division Response to the Follow-Up of Finding 2***

Agree                       Disagree                       Partially Agree

*SWD will send out correspondence to all approved nonresidential franchisees to remind haulers that the franchise fee must be listed on each invoice and no more than one franchise fee is to be listed per invoice.*

**Finding 4 \*Issues with Insurance, Bonds, and Annual Reports\***

During the original audit, we found various issues related to insurance certificate documentation, payment bond documentation, and the annual reports from the franchisees. We recommended the Solid Waste Division:

1. establish internal controls to improve compliance with the Municipal Code regarding insurance, payment bond, and reporting requirements,
2. seek to change the Municipal Code requirements to address the timeliness issue for submission of the annual reports,
3. train its staff to always date stamp annual reports, and
4. work with the Risk Management Division to update the Municipal Code's insurance requirements so the City is adequately protected.

During the follow-up review, we found issues with the following:

1. Certificates of Insurance - One out of twelve (or 8%) certificates of insurance was not approved by Risk Management.

2. Payment Bonds
  - a. One out of twelve (or 8%) franchisees had payment bond documentation that was incomplete as it did not include the amount of the bond, and
  - b. Two out of twelve (or 17%) franchisees had payment bonds for amounts less than that required by the Municipal Code.
3. Annual Reports
  - a. One out of twelve (or 8%) franchisees had submitted an annual report past the due date but had not been charged the 10% late fee as now required by Section 380.608(b)(2)(i) of the Municipal Code. The payment was made after we pointed this out to the division.
  - b. One out of twelve (or 8%) franchisees did not pay \$116 owed to the City based on the audited annual report submitted. The payment was made after we pointed this out to the division.

***Solid Waste Division Response to the Follow-Up of Finding 4***

Agree                       Disagree                       Partially Agree

*As an added level of oversight, the Solid Waste Accounting Manager will review and initial the checklist completed by the Franchise Investigator as part of the franchise application and renewal process. This will ensure the application is in compliance with municipal code requirements.*

**Finding 7 \*Issues with Renewal Process\***

During the original audit, we found:

1. renewal applications were not always sufficiently completed by the franchisees,
2. renewal applications and payment documentation were not always date stamped,
3. various fields in the renewal application were not required to be filled out, and
4. renewal applications were not always received by the due date.

We recommended that the Solid Waste Division:

1. create written standard operating procedures for the renewal applications review process,
2. ensure renewal applications are reviewed by two people, and train staff so that renewal reminders are sent out timely and applications are date stamped and reviewed for completeness,
3. require for all fields to be filled out, and
4. seek changes in the Municipal Code to introduce financial penalties for late renewal submissions.

During the follow-up review, we found that some issues still have not been addressed. In particular, two out of five (or 40%) renewal applications were either not reviewed by a second person or not reviewed by anybody at all based on the checklists on file. We also found that four out of five (or 80%) renewal applications were not filled out completely.

***Solid Waste Division Response to the Follow-Up of Finding 7***

Agree

Disagree

Partially Agree

*As an added level of oversight, the Solid Waste Accounting Manager will review and initial the checklist completed by the Franchise Investigator as part of the franchise application and renewal process. This will ensure the application is in compliance with municipal code requirements.*

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We would like to thank the Solid Waste Division for their cooperation in conducting this follow-up review.

Respectfully submitted,

*Kim Taylor*

Kim Taylor, CPA  
Council Auditor