



**Joseph M. Centorino**, Inspector General

October 19, 2022

TO: Honorable Mayor and Members of the City Commission  
FROM: Joseph M. Centorino, Inspector General

PROJECT Sanitation Tax Auditor Annual Activity Summary  
OIG No. 22-20  
PERIOD: October 1, 2021 through September 30, 2022

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Within the Office of the Inspector General is a Sanitation Tax Auditor who conducts audits to verify selected contractors' compliance with provisions in the City Code related primarily to roll-off and recycling activities. Unannounced site visits are also periodically conducted of Miami Beach addresses issued any of nine identified Building permits often requiring the removal of construction and demolition debris and/or bulky waste. If the contractor was deemed non-compliant during these site visits, the Code Compliance Department is promptly notified to further investigate referrals and issue any warranted Notices of Violation.

The joint efforts and diligence of OIG, Code Compliance, and Finance Department staff have resulted in increased contractor compliance with the City Code. The Office of the City Attorney has been instrumental in providing requested interpretations of the City Code and in clarifying identified uncertainties. The information obtained has been shared with audited contractors to provide guidance concerning the taxability of prospective transactions thereby helping them be more compliant and avoid the disciplinary actions authorized in the City Code.

In addition, the cumulative Sanitation revenues, separately addressed in the following sections of this report (Business Tax Receipts (BTRs), Notices of Violation (NOVs), etc. have also increased, some significantly, when compared to other recent fiscal years as contractors become more compliant with established regulations.

### **Business Tax Receipts (BTRs)**

City Code Section 102-356 defines business tax as the fees charged for which the City grants the privilege of engaging in or managing any business, profession, or occupation within the city's jurisdiction. Furthermore, Section 102-360 states, *"Each business tax receipt shall be valid for one year. Tax receipts shall be issued beginning October 1 of each year and shall expire on September 30 of the following year"* and Section 102-370 explains *"(a) The city shall endeavor to notify all business tax receipt holders that their business tax receipts are due for renewal. However, if the taxee does not receive a renewal notification, the taxee is responsible to renew the business tax prior to October 1 to avoid delinquent charges."*

In addition, Section 90-192 states, *"(a) No person shall engage in the business of disposal and/or collection of any kind of solid waste, or recyclable material within the city without first having been approved by the city manager, and having secured a current business tax receipt for such activity."*

Section 90-278(7) states, “In order to effectively provide for the collection of the permit fee by the contractor to the city, any person seeking to renew his/her annual business tax receipt pursuant to the provisions of chapter 102, article V, in addition to the requirements contained therein, shall provide to the finance director evidence of payment of all outstanding permit fees, fines and other charges as a condition to reissuance or renewal of the business license.” Lastly, Section 102-377 states, “(a)Any person who shall carry on or conduct any business for which a tax receipt is required by this article without first obtaining such tax receipt shall be issued a violation for the offense which shall have a civil fine of \$1,000.00. The enhanced enforcement for this violation shall be pursuant to subsection 102-377(d) herein. (d) In addition to the above, a continued violation of subsection 102-377(a) for a period of 30 days or more without first obtaining a tax receipt, shall be punished by imprisonment not to exceed 60 days or by imposition of a fine not to exceed \$500.00 or both.”

Each roll-off and recycling contractor operating in Miami Beach is required to obtain an annual BTR from the City Finance Department. This requirement is often difficult to enforce by City staff as many contractors do not maintain a permanent physical business location within the City. Consequently, services provided to Miami Beach customers by non-compliant contractors will likely escape detection without extra vigilance by City staff.

Furthermore, the number of contractors frequently changes, either upward, as new contractors abide by the City’s guidelines and obtain their annual BTRs, or downward as contractors merge or stop conducting business in Miami Beach and do not renew their BTRs. The City’s fiscal year is from October 1<sup>st</sup> through September 30<sup>th</sup>, so a BTR obtained for the 2017/18 fiscal year would include business activity from October 1, 2017 through September 30, 2018.

Given the OIG’s increased emphasis on Sanitation related issues since its November 1, 2019 genesis, and with the corresponding collaboration and support received from other affected City departments, there has been a significant increase in the number of recently issued BTRs to roll-off contractors. For example, the table below shows a 69.23% increase (22-13 = 9/13) in the number of BTRs issued during the 2021/22 fiscal year compared to the 2017/18 fiscal year. The reported figures were obtained from the City’s EnerGov system, the City’s licensing and permitting system.

Fiscal Year	Issued BTRs
2017/18	13
2018/19	10
2019/20	12
2020/21	17
2021/22	22

**Notices of Violation (NOVs)**

Once a complaint is received, Code Compliance Department management will dispatch its officers to investigate. Time permitting, Code Compliance Officers will similarly perform their own additional investigations.

The OIG Sanitation Tax Auditor also periodically conducts unannounced site visits of Miami Beach addresses issued to any of nine identified Building permits typically associated with the need for roll-off services involving storage and removal of construction and demolition debris and/or bulky waste. The identified Building permits generally include Building – Commercial, Building – Condominium, Pool – Commercial, Pool- Residential, and Roofing – Commercial. This correlation with the usage of roll-off containers was verified in subsequent audits conducted by the OIG Sanitation Tax Auditor. If the contractor is deemed non-compliant, the City Code Compliance Department is then requested to further investigate and issue any warranted NOVs.

The table below shows repeated annual increases in the number of NOVs issued during the most recent five fiscal year period, excluding a small decrease in FY 2018/19. More specifically, a

1,506.67% (30 – 482 = 452/30) increase was calculated by comparing the number of NOV's issued during the 2021/22 fiscal year with the 2017/18 fiscal year.

Issued NOV's *	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22
Demolish Roll-Off - 001s **	N/A	N/A	N/A	1	6
Garbage Haulers Identification - 003S **	N/A	N/A	N/A	3	161
Permit – 001S	11	7	31	83	296
Roll-Off-001S	19	16	34	15	19
<b>Total</b>	<b>30</b>	<b>23</b>	<b>65</b>	<b>102</b>	<b>482</b>

Source: EnerGov Database.

- \* NOV's issued for:
  - a. Demolish Roll-Off – 001s means that the contractor failed to use a roll-off container for the removal of construction and demolition debris and bulky waste.
  - b. Garbage Haulers Identification – 003S means that the roll-off containers did not contain the required identification information.
  - c. Permit – 001S means that the roll-offs were placed without receiving the required permit from the City Sanitation Division.
  - d. Roll-Off – 001S means that the roll-off container was overflowing as it contained too much material.
- \*\* These two NOV's were previously non-existent and were recently created by Code Compliance Department management due to inquiries raised by the OIG Sanitation Tax Auditor.

Typically, each of these issued NOV's will result in compliance, as well as the levying of an associated fine ranging from \$100 to \$1,000. However, the corresponding cited property owner does have the ability to appeal the NOV to the Special Masters for adjudication.

### Completed Audit Report Summaries

The OIG Sanitation Tax Auditor completed four audit reports during the 2021/22 fiscal year, whose findings are summarized below. It is important to note that the OIG's ability to issue subpoenas to non-responsive and/or non-compliant contractors has been invaluable in the completion of some of the below audits. Any collected assessments represent additional revenues to the City that would not have been received if these audits had not been performed. Furthermore, the audited contractors are typically remitting more monies prospectively with their monthly roll-off permit fee filings to the City Finance Department as they are educated by OIG staff on the taxability of Miami Beach related transactions.

1. OIG No. 21-26  
Ojito Waste Systems, Inc. Roll-Off Fee Revenues Audit

A site visit conducted by the OIG Sanitation Tax Auditor found roll-off containers placed by Ojito Waste Systems, Inc., but the contractor had not filed the required Roll-Off Permit Fee Returns with the City. The subsequent examination of the contractor provided records determined that the City was due \$59,706.13 including penalties and interest for the January 1, 2017 through December 31, 2020 audit period. In addition, the contractor began filing and remitting future monthly roll-off permit fees due to the City, which equaled \$25,366.65 for the period of January 2021 through October 2021.

Ojito Waste Systems, Inc. failed to notify the Finance Department's Licensing Section that it started conducting roll-off services in Miami Beach in January 2017, which was approximately 2 ½ years prior to obtaining its 2018/19 fiscal year business tax receipt on May 8, 2019. Also, the contractor improperly received its 2020/21 fiscal year BTR despite not paying an outstanding Code Compliance issued violation.

The contractor also did not timely submit its required lists of accounts as required by City Code Section 90-278(3). They were promptly provided upon request, and accurately



reconciled with positive confirmation letters returned to the OIG by Miami Beach customers.

2. OIG No. 21 – 43  
Sanitation Field Observations Report

The OIG Sanitation Tax Auditor performed numerous unannounced field observations of various Miami Beach properties, believed to have utilized roll-off services from May 20, 2021 through July 15, 2021, to determine whether contractors associated with these jobs had obtained valid business tax receipts, acquired the required Building and/or Roll-off permits, and filed Roll-off Permit Fee Returns with the City. Any identified apparent deficiencies observed were promptly forwarded to the Code Compliance Department for review and issuance of any warranted Notices of Violations (NOVs). As a result, the following occurred:

- Code Compliance Enforcement Officers issued 76 NOVs to non-compliant contractors ranging from \$100 to \$1,000 and totaling \$35,400.
- All County Waste, Inc. received NOVs and paid \$1,558 to obtain its 2020/21 and 2021/22 BTRs, remitted \$5,165.22 in roll-off fees related to July 2021 through September 2021 when they were previously not remitting any monies to the City.
- A recycling contractor, Medley Metal Recycling LLC, was identified that was not remitting any required reports to the City. Pending the completion of a future audit, the contractor may also owe roll-off permit fees.
- Riteway Systems, Inc. was non-compliant and paid \$754.00 to obtain its 2021/22 BTRs and will be subsequently audited to determine if any roll-off permit fees are due to the City.

In addition, the report included related recommendations focused on improving the enforcement process and strengthening the City Code.

3. OIG No. 22-09  
Pronto Waste Service, Inc. Roll-off Fee Revenues Audit

After the issuance of two subpoenas, the unresponsive roll-off contractor furnished the needed records for examination to the OIG. In sum, the contractor had unreported gross receipts resulting in the levying of a \$70,894.31 assessment (including penalties and interest) and \$4,765.69 in associated audit costs. In addition, the Code Compliance Department issued retroactive NOVs to eight Miami Beach serviced properties where the required permits were not obtained from the Sanitation Division. Also, the contractor did not timely remit any roll-off permit fees due during the audit period, so \$714.67 in interest and penalties were levied.

4. OIG No. 22-12  
Trash Be Gone, Inc. Roll-off Fee Revenues Audit

The contractor filed six Roll-Off Permit Fee Returns and remitted \$1,494.00 to the City Finance Department during the June 1, 2017 through August 31, 2021 audit period. Examination of the furnished records determined that the contractor owed \$57,612.24 in unpaid roll-off fees (including penalties and interest) and another \$2,992.11 in associated audit costs. As the audit was concluding, the contractor remitted \$4,560.88 in permit fees due for fees due outside of the audit period during the months of September 2021 through March 2022.

The Code Compliance Department also issued retroactive NOVs to 23 Miami Beach serviced properties where the required permits were not obtained. Lastly, the contractor



did not timely remit any roll-off permit fees due during the audit period, so \$247.50 in interest and penalties were levied.

As a result of an on-going roll-off permit fee revenue audit, one contractor remitted \$183,008 to the City. In addition, the OIG is currently collaborating with the Public Works Department, Code Compliance Department, and Office of the City Attorney on revising the City Code related to roll-offs, recycling, and related Sanitation issues.

### **City Ordinance No. 2021-4456**

As a result of the OIG's September 2, 2021 issuance of its Roll-Off Permit Process Review report (OIG No. 21-17), the City Commission approved the following summarized revisions of the City Code in Ordinance No. 2021-4456, effective December 18, 2021:

1. Contractors are to pay an annual permit fee of \$1,000 to cover the City's annual administrative and processing costs.
2. No permits for roll-off containers, dumpsters, or portable containers shall be issued by the Sanitation Division to a contractor unless it is compliant and has obtained a BTR, paid the annual permit fee, and shows proof of insurance.
3. Each contractor must deliver a true and correct monthly report of gross receipts to the City Finance Department for each month, regardless of whether any work was performed within the City during the previous month. A penalty set forth in Appendix A of the City Code will be applied against any contractors failing to timely submit its monthly report.

To date, nineteen contractors remitted annual permit fees to the City Finance Department during the 2021/22 fiscal year. Also, the OIG Sanitation Tax Auditor has been charging late filing penalties, when applicable, in its audits.

### **Roll-Off Permit Fee Revenues, Excluding Audit and Annual Permit Fee Revenues**

As a result of the increased collaboration among OIG, Code Compliance, and Finance Department staff, and the stronger emphasis placed on compliance and education of the contractor, Sanitation related revenues have increased accordingly, as shown throughout this report.

Previous non-compliant contractors are currently remitting higher roll-off permit fees pursuant to City Code. For example, after removing any revenues stemming from audits and the \$1,000 annual permit fee, the OIG Sanitation Tax Auditor calculated that 2021/22 fiscal year roll-off permit fee revenues increased 9.39% from the 2017/18 fiscal year. The following table shows the corresponding revised roll-off permit fee revenues for each of the five most recent fiscal years.

	<b>FY 2017/18</b>	<b>FY 2018/19</b>	<b>FY 2019/20 *</b>	<b>FY 2020/21 *</b>	<b>FY 2021/22</b>
Roll-Off Permit Fees	\$966,093.71	\$1,022,848.13	\$901,061.30	\$796,477.97	\$1,056,820.95

Source: Munis Database, the City's enterprise resource planning system.

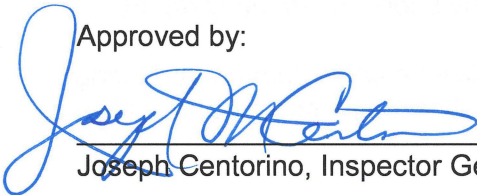
\* The OIG believes that the reported decline in revenues during FY 2019/20 and 2020/21 was related to the impacts of the COVID-19 pandemic.

**Conclusion**

Increased enforcement of the Sanitation related provisions in the City Code, including those in Ordinance No. 2021-4456, have resulted in greater contractor compliance and significant increases in Sanitation revenues. The additional Sanitation revenues collected related to increased enforcement of BTRs, NOVs, audits, etc. resulted in the City receiving additional monies, that although due, would otherwise most likely not have been received. Furthermore, audited contractors are receiving guidance on the taxability of prospective Miami Beach transactions, which has resulted in more accurate monthly roll-off permit fee filings and remittances.


Despite the progress made through the collaboration of OIG, Code Compliance, and Finance Department staff, there is still more work to be done. For example, discussions are ongoing with the City Attorney's Office and the City Administration regarding recommended revisions to the City Code related to simplifying the permit fee calculations, reducing ambiguities and/or loopholes, clearly defining its applicability to demolitions and the usage of dump trucks when roll-off containers are not used, and facilitating the enforceability of its provisions to all contractors operating in Miami Beach. The OIG looks forward to the future in which contractors are more compliant with established City regulations, and scofflaws are more readily identified and brought into compliance sooner, to help prevent unfair competitive advantages in the marketplace.

Approved by:


  
Joseph Centorino, Inspector General

10/19/2022  
Date

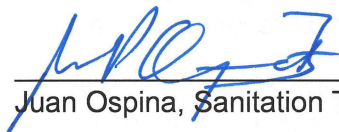
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