



**Joseph M. Centorino**, Inspector General

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

DATE: December 5, 2024  
AUDIT: Custom Pool Systems LLC Roll-off Fee Revenues Audit  
OIG No.: 24-29  
PERIOD: January 1, 2019, through April 30, 2022

This report stems from an audit performed of the permit fees charged, collected, and remitted by Custom Pool Systems LLC. to the City Finance Department from the January 1, 2019, through the April 30, 2022, audit period. The City of Miami Beach Office of the Inspector General (OIG) Sanitation Tax Auditor examined the contractor's compliance with selected provisions in the City Code, including obtaining annual business tax receipts (BTR) and filing required reports. The performance of City staff responsible for monitoring Custom Pool Systems LLC. and the processing of all payments received from the contractor was also examined.

On August 7, 2021, a notice of violation (SV2021-15228) was issued. Consequently, OIG staff sent an initial audit letter to the contractor on May 18, 2022. The contractor obtained a BTR for the fiscal year 2021 on September 1, 2021. The audit was conducted using the best available information provided to the OIG Sanitation Tax Auditor. Custom Pool Systems LLC is a pool contractor specializing in luxury pool designs, motorized pool covers, and motorized pool floors, as seen on its website: Custom Pool Systems – High-End Pool Design & Construction. The business has been operating since 2015, as shown in records kept by the Division of Corporations at the Florida Department of State.

## **INTRODUCTION**

A roll-off is defined as a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle. Contractors use these containers to collect and dispose of construction and demolition debris and/or large quantities of trash and/or bulky waste, but not garbage or commercial refuse. Bulky waste represents large items of household refuse, such as appliances, furniture, accumulations from major tree cutbacks, large crates, and like articles, while commercial refuse consists of all solid waste produced by commercial establishments.

Roll-off container and grapple service contractors operating in Miami Beach are required to follow the terms outlined in the City Code, which include the monthly remittance of permit fees equal to the City Commission approved rate, 18% from the beginning of the audit period through October 5, 2019, and 20% for the remainder of the audit period, multiplied by the total gross receipts for each contractor's City operations. City Code Section 90-221 defines gross receipts as all fees collected

by the contractor (whether wholly or partially collected) for solid waste collection and disposal within the City, excluding any taxes and gross receipts from servicing roll-off and portable containers.

City Code Section 90-278(3) requires that each roll-off container and grapple service contractor provide the City Manager with a current list of the names and addresses of each account upon its initial application. Upon any application for renewal of its permit, each contractor must provide the frequency of service, the permit number and capacity of each roll-off container or dumpster for each account, and the address serviced by each roll-off container or dumpster. This list of accounts is typically submitted concurrently with the monthly report to the Finance Department. It is an essential document to verify the accuracy of the contractor's filings during the audit process. Section 90-193 addresses the need to obtain permits for all accounts serviced in the City.

City Code Section 90-278(4) requires that monthly reports, accompanied by payment of any owed permit fees, be submitted to the City's Finance Department by all authorized contractors at the end of the month after the month in which the gross receipts were generated. Any unpaid fees that are not timely received are subject to penalties of 10% per month up to a maximum of 50%, plus the highest legal rate of interest permitted by law on the amount of the fee, exclusive of penalties, from the date the permit fee first became delinquent until paid.

When the contractor's annual gross receipts reported to the City are greater than \$200,000, the contractor must deliver to the City Finance Department a statement of annual gross receipts generated for the preceding fiscal year prepared by an independent Certified Public Accountant. These statements of annual gross receipts are to be remitted within sixty days following the close of the roll-off or grapple service contractor's fiscal year pursuant to City Code Section 90-278(4).

## **PURPOSE**

The purpose of this audit was to determine whether:

- Tested contractor filings were complete and accurate,
- Corresponding remittances were correctly calculated
- Related filings and monies due were timely received and correctly recorded by the City
- The contractor was compliant with other examined City Code sections.

## **SCOPE**

1. Determine whether the contractor maintained sufficient records to verify whether its tested permit fee billings were correct and whether its corresponding Miami Beach gross receipts were accurately computed based on the monthly fees submitted to the City.
2. Determine whether the contractor submitted its tested monthly reports of gross receipts on time and remitted full payment of any related fees due to the City. If not, determine if the appropriate penalties and interest charges were levied pursuant to City Code Section 90-278(6)(a-d).
3. Determine whether the contractor obtained its required annual BTRs in a timely manner during the audit period.
4. Determine whether tested monthly permit fee payments remitted were accurately recorded in the City Financial System.
- 5.

## **RESOLUTION 2023-32654 APPROVAL**

On June 28, 2023, the City enacted Resolution 2023-32654, which imposed specific limitations on the types of containers required to be reported when used for the removal of construction and demolition debris. Under this Resolution, only debris removed using specific non-wheeled metal containers was to be reported, effectively exempting contractors using alternative methods such as wheeled containers, dump trucks, and grapple services from reporting and paying related fees, although the fees generated by these methods were subject to regulation under the City Code, based on legal opinions received by the OIG from the City Attorney's Office.

The 2023 Resolution limiting the scope of sanitation permit fees was based on the equipment used, not on the nature of the transaction, i.e., removal of construction and/or demolition debris, has significantly diminished the City's ability to collect sanitation fees from contractors based on roll-off gross receipts. This has resulted in a decline in revenue generated from these services and weakened City oversight of debris removal contractors.

## **LEGAL GUIDANCE RECEIVED**

Following an OIG request for clarification, the Office of the City Attorney sent an email on September 1, 2023, affirming that Resolution 2023-32654 applied to all OIG audits that had not been completed by that date. Consequently, the Resolution's scope was expanded to include not only future audits but also those already in progress.

## **RESOLUTION'S POTENTIAL CONSEQUENCES**

The following impacts were expected to result from the enactment of Resolution 2023-32654 and consequent legal opinion:

- Contractors not using "conventional" roll-off containers could gain a temporary competitive advantage because their methods of debris removal were excluded from the definition of taxable roll-off services.
- It created a likelihood that more contractors would shift toward using equipment that is not subject to the changed taxation guidelines in order to avoid collecting and paying permit fees to the City.
- There would be fewer BTRs issued for roll-off activities, reducing the City's ability to regulate and oversee these processes.
- As the Sanitation Division primarily relies on service fees for funding, the anticipated decline in fee collections could lead to increased fees for its customers.
- The Sanitation Division could face staffing reductions due to the lost revenue.

## **AUDIT CONCLUSION**

After reviewing Custom Pool Systems, LLC's provided documentation, it was determined that the contractor did not use non-wheeled metal containers as defined by the City Code and required per Resolution 2023-32654. Therefore, it could not be assessed based on the then existing City of Miami Beach Code sections 90-221 and 90-278.

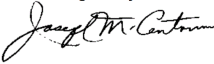
## UPDATE ON SANITATION ORDINANCE

On November 20, 2024, the Mayor and City Commission unanimously approved an ordinance sponsored by Commissioner Tanya Bhatt amending Sections 90-276 – 90-278 of the City Code, which clarifies the circumstances under which a roll-off permit (and payment of the percentage of gross receipts) is required from those individuals and entities engaged in demolition and/or removal of construction debris and/or bulky waste in the City and providing limited exemptions from obtaining a roll-off permit.

## RESPONSES

The draft report was sent to the affected parties on October 14, 2024, for their review and comments, in accordance with Section 2-256(h) of the City of Miami Beach Code, The OIG did not receive any comments from the affected parties.

Respectfully submitted,

DocuSigned by:  
  
D0FADB7F4F92431...

12/5/2024 | 11:19 AM EST

Joseph M. Centorino, Inspector General

Date

DocuSigned by:  
  
9F50E112B55E49B...

12/5/2024 | 11:56 AM EST

Norman Blaiotta, Chief Auditor

Date

cc: Eric Carpenter, City Manager  
Bradford Kaine, Interim Public Works Department Director  
Jason Greene, Chief Financial Officer  
Ricardo J. Dopico, City Attorney  
Cesar Cortes, Manager, Custom Pool Systems LLC

OFFICE OF THE INSPECTOR GENERAL, City of Miami Beach  
1130 Washington Avenue, 6<sup>th</sup> Floor, Miami Beach, FL 33139  
Tel: 305.673.7020 • **Hotline: 786.897.1111**  
Email: [CityofMiamiBeachOIG@miamibeachfl.gov](mailto:CityofMiamiBeachOIG@miamibeachfl.gov)  
Website: [www.mbinspectorgeneral.com](http://www.mbinspectorgeneral.com)