

Memorandum



CITY OF DALLAS
(Report No. A18-002)

DATE: November 3, 2017

TO: Honorable Mayor and Members of the City Council

SUBJECT: Audit of MuniServices, LLC Contract Related to the Verification of Sales / Use Tax Receipts and Associated Fees¹

In Fiscal Year (FY) 2017, the Office of the City Auditor (Office) verified \$814,270 in sales tax receipts collections that MuniServices, LLC (Consultant) identified as owed to the City of Dallas (City) from businesses operating in the City. The Office also verified the accuracy of \$241,244 in Consultant invoices received for the period October 1, 2016 through September 30, 2017 for payment of the Consultant's percentage of the amount collected under the contingent fee contract arrangement with the City (see Attachment I). (Note: The Consultant invoices are not paid until the Office verifies that the City has received the additional sales / use taxes).

In 2010, the Office, in conjunction with City management, sought proposals for sales / use tax compliance review services. The City entered into a three-year contract with the Consultant to identify businesses operating in the City that are not properly collecting and / or reporting sales / use taxes. The contract ended on September 7, 2013; however, two one-year renewal options were approved by the City Council on August 14, 2013 and August 13, 2014, respectively, extending the contract term through September 7, 2015. The contract is currently in its final Completion Period that ends on July 7, 2018 (see Attachment I).

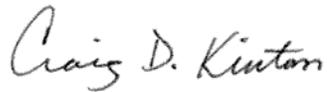
Through a variety of means, the Consultant identifies businesses operating in the City that are not properly collecting and / or reporting sales / use taxes. Then,

¹ We conducted an *Audit of MuniServices, LLC Contract Related to the Verification of Sales / Use Tax Receipts and Associated Fees* under the authority of the City Charter, Chapter IX, Section 3. This audit was part of our Fiscal Years (FY) 2010 through FY 2017 Audit Plans approved by the City Council. This performance audit was conducted 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 objective was to determine whether the fees associated with MuniServices identification of incorrectly remitted sales / use tax for FY 2017 were accurate and supported by the Texas State Comptroller of Public Accounts (Comptroller). We obtained Comptroller quarterly sales tax data and compared it to the data submitted by MuniServices. We also recalculated the fees based upon the contract provisions.

the Consultant works directly with the identified businesses to achieve voluntary tax compliance by assisting the businesses with tax code interpretations and preparation of amended tax returns. If businesses do not voluntarily comply, referrals are made to the State Comptroller requesting audit assistance to achieve compliance.

If you have any questions, please contact Carol A. Smith, First Assistant City Auditor, at 214-670-4517 or me at 214-670-3222.

Sincerely,

A handwritten signature in cursive script that reads "Craig D. Kinton".

Craig D. Kinton
City Auditor

Attachment

C: T.C. Broadnax, City Manager
M. Elizabeth Reich, Chief Financial Officer

Background

In October 2008, the Office of the City Auditor (Office) issued an *Audit of City of Dallas Businesses Remitting Sales Tax to Other Municipalities* (Report No. A09-001). This report identified 72 businesses located within the City of Dallas (City) that might be incorrectly remitting sales tax to other municipalities. These businesses were referred to the Texas State Comptroller of Public Accounts (Comptroller) for evaluation. (Note: State regulation restricts the City's access to the sales tax amount paid by individual businesses so the potential monetary impact could not be determined by the Office). The Comptroller researched the 72 businesses and determined that: (1) twenty-one were incorrectly remitting sales tax to other cities and approximately \$50,000 in sales tax was reallocated to the City; and, (2) fifty-one would not have sales tax reallocated to the City for various valid reasons.

The Office continued evaluating whether businesses located within the City are correctly remitting sales tax by working with the City Manager's Office to contract with MuniServices, LLC (Consultant) to provide on-going sales / use tax compliance review services. The Office validates the additional sales / use tax collected and associated contingency based fees quarterly.

MuniServices Contract

On September 8, 2010, the City entered into a contract with the Consultant to complete a tax-compliance review related to sales / use taxes and provide recovery services for unpaid sales / use taxes on a contingent fee basis. The contract ended on September 7, 2013; however, the second of three one-year renewal options were approved by the City Council on August 13, 2014 extending the contract term through September 7, 2015. At the end of the second contract extension, the City extended the contract for four months through an Administrative Action. On January 8, 2016, the contract went into a six-month Correction Period. The contract is currently in its final Completion Period which started on July 8, 2016 and will end on July 7, 2018.

The City initially agreed to pay the Consultant a contingent fee of 30 percent of the sales / use tax revenue received by the City from correction of taxpayer reporting errors detected and documented by the Consultant. On March 31, 2011, the contingent fee was reduced to 25 percent and retroactively applied to fees previously paid to MuniServices through September 7, 2013. The initial contingent fee of 30 percent was reinstated when the contract term was extended

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on August 14, 2013 and remained effective when the contract term was extended on August 13, 2014.

Table I below shows a summary of the sales tax collections and associated fees paid to MuniServices in Fiscal Year 2017.

Table 1

Summary of Sales Tax Collections and Associated Fees						
Invoice Date	Total Sales Tax Allocations	Fee Percentage		Fee to MuniServices	Net Allocation to the City	
		25	30			
12/30/2016	\$ 347,678	\$ 59,564	\$ 288,114	\$ 101,325	\$ 246,353	
03/30/2017	172,345	1,176	171,169	51,645	120,700	
06/29/2017	189,357	0	189,357	56,807	132,550	
09/29/2017	104,890	0	104,890	31,467	73,423	
Totals	\$ 814,270	\$ 60,740	\$ 753,530	\$ 241,244	\$ 573,026	

Note: The allocations for "Fee Percentage" amounts, "Fee to MuniServices", and "Net Allocation to the City" were rounded to the nearest dollar.