

Memorandum



CITY OF DALLAS
(Report No. A13-005)

DATE: February 1, 2013

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

The Office of the City Auditor (Office) has verified \$783,376 in sales/use tax receipts collections that MuniServices, LLC (Consultant) identified as owed to the City of Dallas (City) from businesses operating in the City. The Office has also verified the accuracy of \$195,844 in Consultant invoices received since contract inception through September 30, 2012 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 tax).

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 tax.

The Consultant, through various methods, identifies businesses operating in the City that are not properly collecting and/or reporting sales/use tax. The Consultant then works directly with the identified businesses in an attempt to achieve voluntary tax compliance by assisting the businesses with tax code interpretations and preparation of amended tax returns. If the identified

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 Year 2010 Audit Plan 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 objectives were to verify that the sales/use tax receipts identified by the Consultant are accurate and supported by the Texas State Comptroller of Public Accounts (Texas State Comptroller) and the associated fees paid were proper. We obtained Texas State Comptroller's quarterly sales/use tax data and compared it to the data submitted by the Consultant. We also recalculated the Consultant's fees based upon the contract provisions.

businesses do not voluntarily comply, referrals are made to the Texas State Comptroller requesting audit assistance to achieve compliance.

We would like to acknowledge the cooperation received throughout this audit from the Consultant, the Texas State Comptroller, and City management. If you have any questions, please contact me at 214-670-3222 or Carol Smith, First Assistant City Auditor, at 214-670-4517.

Sincerely,

A handwritten signature in black ink that reads "Craig D. Kinton". The signature is written in a cursive, flowing style.

Craig D. Kinton
City Auditor

Attachment

C: Mary K. Suhm, City Manager
A.C. Gonzalez, First Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Jack Ireland, Director – Office of Financial Services

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 (Texas State 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 Texas State 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/use tax by working with the City Manager's Office to contract with MuniServices, LLC (Consultant) to provide a sales/use tax compliance review. 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 tax and provide recovery services for unpaid sales/use tax on a contingent fee basis. The contract ends on September 7, 2013; however, the contract includes renewal options.

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.

An Audit of MuniServices, LLC Contract Related to the Verification of Sales/Use Tax Receipts and Associated Fees

Table I below shows a summary of the sales/use tax collections and associated fees paid to MuniServices since the inception of the contract.

Table 1

Summary of Sales/Use Tax Collections and Associated Fees				
Invoice Date	Total Sales/Use Tax Allocations	Fee %	Fee to MuniServices	Net Allocation to the City
03/31/2011	\$ 774		\$ 232	\$ 542
06/30/2011	1,037		311	726
09/30/2011	177,072		53,122	123,951
12/27/2011	39,522		936 *	38,585
03/30/2012	52,363		13,091	39,272
06/29/2012	296,997		74,249	222,748
09/30/2012	215,611		53,903	161,708
Totals	\$ 783,376	25 %	\$ 195,844	\$ 587,532

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

* The calculation amount was reduced as a result of a credit which reduced the prior three quarters fee to 25 percent from 30 percent (\$9,880 fee less \$8,944 credit = \$936).