

Memorandum



CITY OF DALLAS
(Report No. A17-002)

DATE: November 11, 2016

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) 2016, the Office of the City Auditor (Office) verified \$1,014,463 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 also verified the accuracy of \$290,922 in Consultant invoices received for the period of October 1, 2015 through September 30, 2016 for payment of the Consultant's percentage of the amount collected under the contingent fee contract arrangement with the City (see Attachment I). Since the inception of the contract in 2010, the Consultant has identified a total of \$5,235,635 in sales / use tax receipts collections owed to the City. The City has received \$3,863,108 net of the Consultant's fees of \$1,372,527. (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 of the three 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

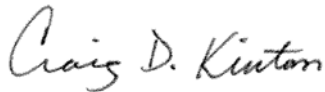
¹ We conducted an *Audit of MuniServices, LLC Contract Related to the Verification of Sales / Use Tax Receipts and Associated Fees* under the authority of the City Charter, Chapter IX, Section 3. This audit was part of our Fiscal Years 2010 through 2016 Audit Plans approved by the City Council. This 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 objectives were to determine whether the fees associated with MuniServices identification of incorrectly remitted sales / use tax for FY 2016 are accurate and supported by the 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.

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, 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 me at 214-670-3222 or Carol A. Smith, First Assistant City Auditor, at 214-670-4517.

Sincerely,

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

Craig D. Kinton
City Auditor

Attachment

C: A.C. Gonzalez, 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 was 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, City extended the contract for four months through an Administrative Action and officially terminated the contract on January 7, 2016.

The contract then went into a six-month Correction Period that began on January 8, 2016 and ended on July 7, 2016. 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

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fee of 30 percent was reinstated when the contract term was extended on August 14, 2013 and remained effective when the contract term was extended again on August 13, 2014.

Table I below shows a summary of the sales tax collections and associated fees paid to MuniServices in Fiscal Year 2016.

Table 1

Summary of Sales Tax Collections and Associated Fees

Invoice Date	Total Sales Tax Allocations	Fee Percent		Fee to MuniServices	Net Allocation to the City
		25	30		
12/31/2015	\$ 141,929	\$ 25,614	\$ 116,315	\$ 41,298	\$ 100,631
03/30/2016	305,082	8,829	296,253	91,083	213,999
06/30/2016	157,897	793	157,104	47,330	110,567
09/23/2016	409,555	233,106	176,448	111,211	298,344
Totals	\$ 1,014,463	\$ 268,344	\$ 746,120	\$ 290,922	\$ 723,541

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