

Memorandum



CITY OF DALLAS
(Report No. A19-003)

DATE: December 7, 2018

TO: Honorable Mayor and Members of the City Council

SUBJECT: Audit of MuniServices, LLC Contract – Summary of Sales/Use Tax Receipts and Associated Fees¹

On September 8, 2010, the City of Dallas (City) entered into a contract with MuniServices, LLC (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. Since contract inception (see Table I in Attachment I), the Office of the City Auditor has verified a total of:

- \$6,171,795 in sales/use tax receipts collections the Consultant identified as owed to the City [\$121,890 of these collections related to Fiscal Year (FY) 2018]
- \$1,649,221 in Consultant invoices for payment of the Consultant's percentage of the amount collected under the contingent fee² contract arrangement with the City (\$35,449 of these invoices related to FY 2018)

Through a variety of means, the Consultant identified businesses operating in the City that were not properly collecting and/or reporting sales/use tax. Then, the Consultant worked 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 did not voluntarily comply, referrals were made to the Texas State Comptroller of Public Accounts requesting audit assistance to achieve compliance.

The contract, including a six-month Correction Period and a two-year Completion Period, ended in July 2018 (see Attachment I). A new vendor, TexasCityServices, LLC, was selected starting January 1, 2017 to continue providing sales/use tax services to the City. Please see *Audit of TexasCityServices, LLC Contract Related to the Verification of Sales/Use Tax*

¹ These audits were conducted under the authority of the City Charter, Chapter IX, Section 3 and were part of our Fiscal Years (FYs) 2010 through 2018 Audit Plans approved by the City Council. These performance audits were 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. The audit objective was to determine whether the fees associated with MuniServices, LLC's (Consultant) identification of incorrectly remitted sales/use tax for FYs 2011 through 2018 were accurate and supported by the Texas State Comptroller (Comptroller). We obtained Comptroller quarterly sales/use tax data and compared it to the data submitted by the Consultant. We also recalculated the fees based upon the contract provisions.

² The Consultant invoices were not paid until the Office of the City Auditor verified that the City received the additional sales/use tax in sales tax receipts collections.

Receipts and Associated Fees, Report No. A19-004 for a summary of the sales/use tax collections and associated fees related to the new contract.

Should you have any questions or need additional information, please contact Theresa Hampden, Interim First Assistant City Auditor, at 214-670-4968 or by email at theresa.hampden@dallascityhall.com. You may also contact me at 214-670-4517 or by email at carol.smith@dallascityhall.com.

Sincerely,



Carol A. Smith, CPA, CIA, CFE, CFF
Interim City Auditor

Attachment

- C: T.C. Broadnax, City Manager
- Christopher J. Caso, Interim City Attorney
- Kimberly Bizer Tolbert, Chief of Staff
- M. Elizabeth Reich, Chief Financial Officer
- Jack Ireland, Director – Office of Budget

ATTACHMENT I

Background

In October 2008, the Office of the City Auditor 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/use tax to other municipalities. These businesses were referred to the Texas State Comptroller of Public Accounts (Comptroller) for evaluation.³ The Comptroller researched the 72 businesses and determined that: (1) twenty-one were incorrectly remitting sales/use tax to other cities and approximately \$50,000 in sales/use tax was reallocated to the City; and, (2) fifty-one would not have sales/use tax reallocated to the City for various valid reasons.

The Office of the City Auditor continued evaluating whether businesses located within the City were correctly remitting sales/use 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 of the City Auditor validated the additional sales/use tax collected and associated contingency based fees quarterly.

MuniServices Contract

On September 8, 2010, the City entered into a three-year 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 ended on September 7, 2013 and was renewed for two one-year extensions. At the end of the second-year extension, the City extended the contract for four months through an Administrative Action and officially opted not to renew the contract on January 7, 2016. The contract then went into a six-month Correction Period and a two-year Completion Period that ended on July 7, 2018 which allowed the Consultant to continue to process unpaid sales/use tax for businesses the Consultant had identified prior to January 7, 2016.

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

³ State regulation restricts the City of Dallas's access to the sales/use tax amount paid by individual businesses, so the potential monetary impact could not be determined by the Office of the City Auditor.

Audit of MuniServices, LLC Contract – Summary 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 in Fiscal Years 2011 through 2018.

Table I

Summary of Sales/Use Tax Collections and Associated Fees

Fiscal Year	Total Sales/Use Tax Allocations	Fee Percent ¹		Fee to ¹ MuniServices	Net Allocation ¹ to the City
		25	30		
2011 and 2012 ²	\$ 783,512	\$ 783,512	\$ 0	\$ 195,878	\$ 587,634
2013	902,218	902,218	0	225,555	676,663
2014	1,792,993	1,657,325	135,668	455,032	1,337,961
2015	742,449	351,868	390,581	205,141	537,308
2016	1,014,463	268,344	746,120	290,922	723,541
2017	814,270	60,740	753,530	241,244	573,026
2018 ³	121,890	22,352	99,538	35,449	86,441
Totals	\$ 6,171,795	\$ 4,046,359	\$ 2,125,437	\$ 1,649,221	\$ 4,522,574

Notes: ¹ The allocations, "Fee Percent" amounts, "Fee to MuniServices" and "Net Allocation to the City" were rounded to the nearest dollar.

² Due to a \$136 allocation adjustment, the Fiscal Years 2011 and 2012 sales/use tax allocations was higher than the amounts reported in the *Audit of MuniServices, LLC Contract Related to the Verification of Sales/Use Tax Receipts and Associated Fees* (Report No. A13-005) issued on February 1, 2013.

³ A separate report that included a summary of sales/use tax collection and the associated Consultant fees was issued for each of the fiscal years shown above except Fiscal Year 2018.