



Joseph M. Centorino, Inspector General

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

DATE: January 10, 2022
PROJECT: Sanitation Field Observations Report
OIG No. 21-43
PERIOD: May 20, 2021 through July 15, 2021

This report prepared by the City of Miami Beach Office of the Inspector General (OIG) Sanitation Tax Auditor conveys the results of unannounced field observations conducted of various Miami Beach properties from May 20, 2021 through July 15, 2021. The primary objective of these field observations was to determine whether the associated contractors had previously (1) obtained valid Business Tax Receipts or BTRs with the City, (2) acquired the required Building and/or Roll-off permits from the Building Department and Sanitation Division respectively, and (3) filed Roll-off Fee Returns with the Finance Department and submitted any monies due. Noted deficiencies were promptly reported to the City's Code Compliance Department, so that staff could investigate and issue any warranted violations to increase compliance with the requirements of City Code Section 90. The results of these field observations and any corrective actions subsequently taken by City staff are reported in the following paragraphs.

ROLL-OFF CONTRACTORS SELECTED REQUIREMENTS PURSUANT TO CITY CODE SECTION 90

City Code Section 90-2 defines a roll-off as, *"a container with a minimum capacity of ten cubic yards, designed to be transported by a motorized vehicle."* Roll-off containers are typically used to remove construction debris, including rock, metal, and other materials used in connection with a construction project or to remove large quantities of trash and bulky waste. Rubbish/trash is defined as, *"refuse accumulations of paper, excelsior, rags, wooden or paper boxes or containers, sweepings, and all other accumulations of a nature other than garbage, which are usual to housekeeping and to the operation of stores, offices, and other places of business; and any bottles, cans, or other containers, which, due to their ability to retain water may serve as breeding places for mosquitoes or other water-breeding insects. Rubbish/trash shall not include industrial waste."* Lastly, bulky waste means large items of household refuse, including, without limitation, appliances, furniture, accumulations from major tree cutbacks (exceeding ten inches in diameter and four feet in length), large crates, and like articles.

City Code Section 90-192 provides that franchise waste and roll-off contractors are required to obtain annual BTRs or may be subject to enforcement procedures and penalties. The Finance Department's Licensing Section invoices and issues BTRs upon satisfaction of the stated requirements.

Meanwhile, the Code Compliance Department is responsible for investigating possible City Code violators and issuing Notices of Violation (NOVs).

In addition, City Code Section 90-193 provides that a permit is to be obtained from the City for each roll-off and portable container placed in Miami Beach. Upon satisfying the designated requirements stated in City Code Section 90, the Sanitation Division is to issue roll-off permits to complying contractors.

Authorized roll-off contractors are also required to remit monthly roll-off fees, calculated by multiplying the City Commission approved roll-off percentage rate by its total applicable Miami Beach gross receipts. Any fees not timely paid are subject to penalties of 10% per month up to a maximum of 50% plus interest of 1% per month. Gross receipts are comprised of the entire amount of fees collected by the contractor (whether wholly or partially collected) for solid waste collection and disposal within the City including gross receipts from servicing roll-off and portable containers, exclusive of taxes.

Monthly reports are to be concurrently submitted to the City's Finance Department by the end of the subsequent month for gross receipts generated within Miami Beach during the previous month. For example, the report for August 2021 was due by September 30, 2021; the September 2021 report was due by October 31, 2021.

2020/21 FISCAL YEAR BUSINESS TAX RECEIPTS ISSUED TO ROLL-OFF CONTRACTORS

The EnerGov system, the City's licensing and permitting system, reported seven roll-off contractors having its BTRs in "pending" status and another six contractors in "active" status as of January 20, 2021. "Pending" status means that the BTR is not yet valid or active and is missing needed documentation and/or payment in full. The number of roll-off contractors frequently changes either upward, as new contractors abide by the City's guidelines and obtain their BTRs, or downward as contractors merge or stop conducting business in Miami Beach.

As the 2020/21 fiscal year was concluding, on September 28, 2021, the EnerGov system reported three roll-off contractors with BTRs in "pending" status, one in "closed" status and 16 in "active" status. Although three companies were still in pending status, the 166.67% increase $((16-6)/6)$ in roll-off contractors obtaining "active" BTRs is a significant improvement and is a result of diligence and increased enforcement by Code Compliance, Finance, Sanitation and OIG.

The Finance Department's Licensing Section is to timely notify the Code Compliance Department that any roll-off contractors have their 2020/21 fiscal year BTRs in "pending" status to help obtain compliance, or that they are subject to the stated enforcement procedures and penalties.

Time permitting, Code Compliance Department inspectors may also inspect designated areas for compliance without the prior receipt of a complaint, as when two NOVs (CC2021-11309 and SV2021-15228) were issued on August 7, 2021 to Custom Pool Systems LLC for not having obtained a valid BTR or roll-off permits. As of October 31, 2021, Custom Pool Systems LLC had paid the \$100.00 NOV issued related to not timely obtaining the required roll-off permit, and the \$984.75 due for its Miami Beach 2020/21 and 2021/22 fiscal year BTRs. The contractor appealed the \$1,000.00 NOV issued for operating in Miami Beach without a valid BTR and has not remitted the required 20% of its applicable gross receipts earned on September 2021 Miami Beach roll-off transactions.

FIELD OBSERVATIONS AND RESULTS

The OIG Sanitation Tax Auditor reviewed the EnerGov system for selected Building permits recently issued to various Miami Beach properties in which roll-off services may also be needed. With this information, field observations were conducted on 16 different occasions, starting on May 20, 2021, and ending on July 15, 2021, involving all geographical areas of Miami Beach, from South Pointe Drive to the City's northern boundaries. The auditor also concurrently drove through nearby neighborhoods, searching for construction sites and/or the usage of unreported roll-off containers.

Shortly after the conclusion of each day's field observations, the Sanitation Tax Auditor sent emails to Code Compliance Department management containing pictures and brief narratives of all observed activities where contractors did not appear compliant with the requirements of City Code Section 90. Typically, Code Compliance Enforcement Officers would visit the referenced locations within 24 hours to investigate, issue any warranted NOVs, and notify the OIG via email of its findings.

As a result of the OIG Sanitation Tax Auditor's emails, the Code Compliance Department issued 76 NOVs, as shown in Table 1 below, related to illegal disposal, not obtaining required BTRs, etc. for the identified business types. More specifically, each of these NOVs issued at 42 Miami Beach addresses, ranged between \$100.00 and \$1,000.00, and totaled \$35,400.00.

Table 1. Issued NOVs by category and business type

Issued NOVs	Business Type							Total
	Contractor	Demolition	Roll-Off	Roofing	Trucking	Owner	Recycling	
<i>Illegal Disposal</i>						1		1
<i>No BTRs</i>	11	1	12	4	1	1		30
<i>No Roll-off Permits</i>	14	1	19	5	1	3	1	44
<i>Blocking of the Public Rights-of-Way</i>	1							1
Total	26	2	31	9	2	5	1	76

The OIG Sanitation Tax Auditor's September 28, 2021, review of the EnerGov system regarding these 76 issued NOVs, as summarized in Table 2 below, found that 20 fines were paid, 5 had invoices pending (invoices issued by City departments other than the Code Compliance Department), and 12 NOVs were appealed.

Table 2. Issued NOVs by code status and business type

Code Status	Business Type							Total
	Contractor	Demolition	Roll-Off	Roofing	Trucking	Owner	Recycling	
<i>Appeal</i>	5		5	2				12
<i>Closed</i>						1		1
<i>Fine Owed</i>	12	1	9	2		2		26
<i>Fine Paid</i>	5		7	4	2	1	1	20
<i>Invoice Pending</i>			4			1		5

<i>Notice of Violation</i>				1				1
<i>Notice of Violation – Certified Mail</i>	3	1	2					6
<i>Notice of Violation – Reinspection</i>	1		4					5
Total	26	2	31	9	2	5	1	76

From the 42 addresses in which the NOVs were issued, four had not obtained Building permits according to the OIG’s October 2021 review of the EnerGov system, which is concerning because the Building Department’s permitting process regulates construction to ensure that it is performed in accordance with Florida Building Code standards. The remaining 38 addresses contained 85 issued Building permits as reported in Table 3 below. Although the primary associated Building permit types included Building - Residential (55), Pool - Residential (10) and Roofing - Residential (10); all seven permit types below have a correlation with roll-off usage, thereby reinforcing the conclusions reached in the OIG’s Roll-Off Permit Process Review report dated September 2, 2021 (OIG No. 21-17). Lastly, the primary work class associated with these NOVs were New (12 + 17 = 29), Alteration (2 + 1 + 9 = 12), Windows/Doors (12) and Marine (10).

Table 3. Permits from issued NOVs by Building permit type and work class

<i>Work Class</i>	Permit Type							Total
	Building – Comm.	Building - GDO License	Building – Res.	Pool – Comm	Pool – Res.	Roofing – Comm.	Roofing – Res.	
<i>Alteration</i>				1	1			2
<i>Alteration (w/ Phased)</i>	1							1
<i>Alteration (w/o Phased)</i>			9					9
<i>Concrete Restoration</i>	1							1
<i>Demolition</i>			4					4
<i>Doors</i>			1					1
<i>Fence</i>			3					3
<i>GDO License</i>		1						1
<i>Louvers</i>	1							1
<i>Marine</i>			10					10
<i>New</i>					9	1	2	12
<i>New (w/o Phased)</i>	1		16					17
<i>Railings</i>			1					1
<i>Re-Roof</i>						1	6	7
<i>Shoring</i>			1					1
<i>Waterproofing</i>							2	2
<i>Windows/Doors</i>	2		10					12
Total	6	1	55	1	10	2	10	85

The OIG’s previous Roll-Off Permit Process Review report also stated that the Code Compliance Department issued a total of five NOVs to contractors for not obtaining the required roll-off permits

during the 55-month period of January 1, 2016 through July 31, 2020.

More recently, the Code Compliance Department issued 82 NOVs under code number "Permit-001S" and 458 NOVs under code number "Business Tax Receipt -013C" during the 2020/21 fiscal year. The OIG Sanitation Tax Auditor's May 20, 2021 through July 15, 2021 conducted field observations resulted in the Code Compliance Department's issuance of 44 NOVs to contractors for failing to obtain the required roll-off permits under code number "Permit-001S", an additional 30 NOVs for not acquiring an "active" roll-off BTR under code number "Business Tax Receipt -013C", one NOV for illegal dumping under code number "Illegal dumping-003S" and one NOV related to blocking of the public right-of-way. As the Code Compliance Department is primarily complaint driven, and few people file complaints regarding roll-off activities; the OIG's field observations resulted in 53.65% (44 NOVs with OIG leads/82 total NOVs by Code Compliance) of Code NOVs under number "Permit-001S", and 6.55% (30 NOVs with OIG leads/458 total NOVs by Code Compliance) of Code NOVs under number "Business Tax Receipt -013C" issued during the 2020/21 fiscal year.

Several of these identified contractors were not filing the required monthly Roll-Off Fee Returns accompanied by payment of any permit fees due (currently 20% of the contractor's applicable Miami Beach gross revenues) to the City's Finance Department. As a result, the City is not collecting all the monies due from these roll-off contractors, which could be sizable depending on the number of applicable transactions involving Miami Beach customers. Although the OIG realizes that the Code Compliance Department has limited staffing, and is responsible for enforcing the entire City Code, the field observations highlighted in this report identify the need and benefits of heightened enforcement of the requirements of Section 90.

For example, after NOVs were issued to All County Waste, Inc. on June 1, 2021, the contractor paid \$1,558.00 to obtain its 2020/21 and 2021/22 fiscal years BTRs, remitted \$5,165.22 in roll-off fees to the City related to July, August, and September 2021 gross receipts, and most likely will continue to pay any amounts due going forward. In addition, the OIG Sanitation Tax Auditor is currently in the process of conducting an audit of All County Waste, Inc. to determine if any additional amounts, prior to July 2021, are due.

ADDITIONAL OBSERVATIONS

Four Code Compliance Department issued NOVs to two contractors (two each to Luke and Sons Construction, Inc., and Angelica Barnes) were appropriately listed separately in the EnerGov system. One of these NOVs, CC2021-10934, was issued because of the OIG Sanitation Tax Auditor's field observations.

It was subsequently determined that these four transactions were combined into one entry in the Munis system, the City's enterprise resource planning system that manages all the City's core functions, including financials, procurement, Human Resources, payroll, and revenues. This grouping of transactions makes it difficult to reconcile the EnerGov and Munis systems entries, which are not automatically linked, and to determine the status of the individual NOVs. The OIG verbally notified Finance Department management of this deficiency, and they responded that they had also recently become aware of this issue, and that it was resolved.

On July 15, 2021, Medley Metal Recycling LLC was cited (SV2021-15019) by the Code Compliance Department for not obtaining a roll-off permit in response to an OIG email. Medley Metal Recycling LLC has a BTR for recycling activities and had not filed any monthly Roll-Off Fee Returns, nor remitted any associated monies due to the City. Recycling transactions are exempt from taxation pursuant to City Code, and are not closely scrutinized by City staff, so there is a potential risk associated with the

misclassification of roll-off activities as recycling. Based on the issuance of SV2021-15019, OIG staff plan to conduct an audit of Medley Metal Recycling LLC.

In addition, City Code Section 90-308 states, *“Each recycling contractor shall deliver monthly to the city manager or his authorized designee, an accurate report regarding the nature and disposition and volume of recyclable materials collected by it from each account in the city. Upon request by the city manager or his authorized designee, each contractor shall also furnish the city with verifiable information regarding the method and place of final disposal or distribution of said materials.”* Neither the Finance Department nor the Public Works Department’s Sanitation Division provided the OIG with any recycling reports filed by Medley Metal Recycling LLC, so it was assumed that none were submitted. The absence of filed monthly reports makes it difficult for the City to know if it is because no recycling services were performed on Miami Beach during that period or if it was an oversight, intentional or otherwise.

Lastly, on October 5, 2021, the OIG Sanitation Tax Auditor performed an unannounced field observation at a North Bay Road address, when he noticed the placement of a roll-off container while driving to work. Upon receiving his subsequent email, the Code Compliance Department issued three NOVs (CC2021-11744, SV2021-15838 and SV2021-15839) to Riteway Systems Inc., later that same day. As a result, Riteway Systems Inc. paid \$754.00 and complied with all the other requirements needed to obtain its 2021/22 fiscal year BTR with the City on October 13, 2021.

OIG RECOMMENDATIONS

- Information Technology Department staff should develop a monthly report that automatically compares any of the identified issued Building permit types (Building - Commercial, Building – GDO License, Building - Residential, Pool - Commercial, Pool - Residential, Roofing – Commercial, Roofing – Residential, etc.) with the Roll-Off Permits Report data, so that any differences can be promptly investigated by the OIG Sanitation Tax Auditor and/or other designated City staff. If necessary, the Code Compliance Department should be notified to dispatch inspectors to the individual job sites to determine the contractor’s compliance with the requirements of City Code Section 90.
- The Building Department should be immediately notified of any NOVs issued to contractors for operating without a valid Building permit.
- Three Code Compliance Department inspectors, paid solely with Sanitation Department funds, should be assigned to exclusively cover areas as South (South Pointe Drive to 21st Street), Middle (21st Street north to 64th Street), and North (64th Street to the City’s northern boundaries) to determine compliance with the requirements of City Code Section 90.
- The City should pursue the enforcement actions stated in the City Code against any contractors that continually violate its provisions, and/or do not timely resolve any issued NOVs.
- The designated dollar amount of NOVs issued to contractors for using a roll-off without obtaining a permit seems too low (\$100.00) and should be increased to provide a sufficient deterrent to non-compliant contractors.
- Although substantiated recycling activities are currently exempt from taxation, contractors are required to comply with all the pertinent requirements of the City Code, including Section 90-308, or be subject to its disciplinary provisions. Furthermore, the OIG recommends that the City Code be revised to require recycling contractors to timely file monthly reports of claimed recycling transactions, even if they did not operate within Miami Beach during that period. If they do not comply, they should be promptly notified by the City. Also, late fees should be established and levied when the contractor does not timely file monthly reports by the

designated due date. This practice should help improve compliance by preventing inadvertent filing omissions and facilitating scrutiny by City staff and OIG auditors.

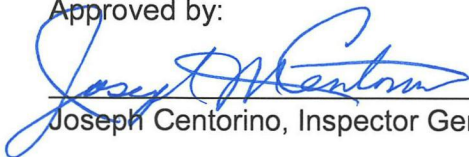
It is also recommended that contractors be required to retain sufficient supporting documentation, such as dump tickets, from claimed recyclable transactions to substantiate the claimed exemption. If complete supporting documentation is not timely produced upon request from the City, then the entire transaction may be considered taxable.

Sanitation Division/Public Works Department Response: As it relates to the item above, Sanitation is not equipped with sufficient staff to take on this additional responsibility. In addition, we are not aware of any local municipalities in Miami Dade County that are requiring haulers to submit these reports. Commercial recycling is a free and competitive market by State Statute and no city or county that we are aware of has an exclusive closed franchise in their jurisdiction. In addition, there is no requirement to mandate or requirement for private companies to provide these type of reports to cities as their contracts and clients are private. In addition, we do not believe we can require them to do this since there is no permit requirement by the city for this type of activity. The only requirement we have as it relates to recycling for multifamily, nine units or more and commercial is by Ordinance 2012-3768 which requires citywide recycling by all multifamily and commercial businesses.

- Finance Department staff should post the citation number on each payment included on an account to increase the traceability of the citation's permits.

Finance Department Response: The citation number is currently included on accounts in the EnerGov permitting system in a reference entity field that is easily searchable. In the Munis financial system, the citation number is partially reflected in a miscellaneous description field that is not easily searchable. The Finance Department will work with the Information Technology Department to make the entire citation number available in the Munis system and check if there is any way to make the miscellaneous description field more searchable within system constraints.

Approved by:


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01/10/2022
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01/10/2022
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