Performance Audit
Video Service Provider Fees
Time Warner Cable

September 2011

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City Auditor's Office

City of Kansas City, Missouri

06-2010

September 21, 2011

Honorable Mayor and Members of the City Council:

This performance audit of video service provider fees was initiated by the city auditor pursuant to Article II, Section 216 of the city charter. This report is the first in a series of audits designed to determine whether video service providers remit fees for all Kansas City, Missouri, subscribers.

Time Warner Cable has not paid Kansas City the video service provider fees for 93 subscribers because the account locations were incorrectly coded as being located in other jurisdictions. We estimate that Time Warner Cable owes the city approximately $15,100 based on the underpayment of video service provider fees paid for the period December 2007 through June 2011.

We also identified weaknesses in the city's oversight of video service provider fees resulting in non-payment and interest not being paid on late payments. We make recommendations to ensure fees and interest are collected more timely.

We shared a draft of this report with the director of finance on August 25, 2011. His response is appended. We would like to thank staff in the city's Finance and Information Technology departments and Time Warner Cable staff for their assistance. The audit team for this project was Renata Matos, Joyce Patton, and Nancy Hunt.

Gary L. White
City Auditor

Video Service Provider Fees – Time Warner

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Introduction

Objectives

We conducted this audit of video service provider fees under the authority of Article II, Section 216 of the Charter of Kansas City, Missouri, which establishes the Office of the City Auditor and outlines the city auditor's primary duties.

A performance audit provides assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria. Performance audits provide objective analysis so that management and those charged with governance and oversight can use the information to improve program performance and operations, reduce costs, facilitate decision making, and contribute to public accountability.[1]

This is the first in a series of audits evaluating whether companies are remitting all video service provider fees owed to the city. This audit examines Time Warner Cable.

This report is designed to answer the following question:

- Is Time Warner Cable remitting video service provider fees for all subscribers inside the Kansas City, Missouri, city limits?

Scope and Methodology

This audit focuses on whether Time Warner Cable is remitting video service provider fees for all subscribers inside the Kansas City, Missouri, city limits. Our audit methods included:

- Reviewing the Missouri statutes pertaining to video service provider fees to obtain an understanding of the city's authority in collecting these fees.

[1] Comptroller General of the United States, *Government Auditing Standards* (Washington, DC: U.S. Government Printing Office, 2007), p. 17.

- Interviewing city Finance Department personnel to obtain an understanding of what data the Revenue Division audits.

- Identifying zip codes containing or contiguous to Kansas City, Missouri, in order to develop a data request for service providers.

- Requesting Time Warner subscriber information for service addresses within or contiguous to Kansas City, Missouri, in order to identify Kansas City addresses that have been coded by Time Warner as being located in other jurisdictions.

- Providing service addresses to Information Technology Department staff for geo-coding and identification of Kansas City, Missouri, subscriber locations.

- Verifying that subscriber addresses identified by the Information Technology Department as Kansas City, were located within the city.

- Estimating the potential financial recovery of unpaid video service provider fees.

We conducted this performance audit 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. No information was omitted from this report because it was deemed privileged or confidential.

Background

Video Service Provider Fees

Until 2007, the city regulated cable television companies through Chapter 19 of the Kansas City Code of Ordinances. This chapter provided the basic local regulatory framework for all providers of cable television services within the city.

In 2007, the Missouri legislature passed the 2007 Video Services Providers Act. This act superseded the city's regulatory framework. Under the act, any entity seeking to provide video service in Missouri,

through facilities located at least in part in the public right-of-way, must have a video service authorization from the state.

Video service provider fees may be assessed on companies operating in the city that provide video services through cable or internet technology. Chapter 67 of the Missouri Revised Statutes permits the city to charge a video service provider fee to each company operating in the city. Kansas City assesses the maximum fee allowed by state and federal law, which is five percent of the company's gross revenue. Video service providers pay fees quarterly. Fee payments are due on the last day of the first month following each calendar quarter.

Video service providers' records may contain incorrect information regarding the city where the subscriber is located. Errors in subscriber address information can result in the city not receiving the revenues to which it is entitled.

Chapter 67 of the Missouri Revised Statutes permits the city to audit video service providers to ensure the city is collecting all of the fee revenue due. The statute, however, limits the city to one audit/information request per calendar year for each video service provider. The act also prohibits jurisdictions from contracting for contingency fee audits of cable revenues.

Currently, four video service providers operate in Kansas City, Missouri: Time Warner Cable, SureWest, Comcast, and AT&T. This audit focuses on Time Warner. We combined our request with the Finance Department's request for financial audit information. The request was made December 2, 2009. We received the data from Time Warner on January 12, 2011.

Findings and Recommendations

Summary

Time Warner Cable miscoded 93 subscribers located within the city limits of Kansas City, Missouri. As a result, these subscriber locations were not coded as being located in Kansas City, Missouri, and the related video service provider fees were not paid to the city. Time Warner owes the city approximately $15,100 for the period December 2007 through June 2011. The director of finance should take the steps necessary to collect this revenue.

During the audit we also found that the Revenue Division of the Finance Department did not monitor video service payments from the providers and mistakenly believed that the city's automated revenue system calculated interest for late payments. The director of finance should monitor the receipt of video service provider fee payments.

Time Warner Remitted Fees for Most, But Not All, Kansas City Subscribers

Time Warner Cable did not pay the video service provider fees on only 93 subscribers located inside the city limits. The fees were not paid because the subscriber locations were not coded as being within Kansas City. We estimate that approximately $15,100 is due the city for incorrectly coded accounts.

Few Accounts Miscoded

We identified 93 subscriber locations within the city limits for which the city was not being paid the video service provider fee. Time Warner Cable provided account information for subscribers who had local accounts during July 2010 through December 2010.[2] We obtained the assistance of the city's GIS analyst in identifying subscriber addresses that were located within the city limits, but for which the city was not receiving the fee. City Auditor's Office staff verified all incorrectly coded locations. Most of the incorrectly coded locations were clustered along jurisdictional boundaries.

[2] In December 2009, we requested account information for the period January 1, 2006 through September 30, 2009, but Time Warner Cable provided information only for the period July 2010 through December 2010.

Approximately $15,100 Owed to the City

Time Warner owes the city an estimated $15,100 from incorrectly coded accounts. The 93 accounts we identified for the July through December 2010 period represented an error rate of .087 percent. Since Time Warner did not provide revenues and fees by subscriber, we applied this error rate to the video service provider fees paid for the period December 2007 through June 2011 to estimate the fees due the city.[3] Based on our analysis, Time Warner owes the city approximately $15,100 for the period.

We provided the city's Revenue Division and Time Warner Cable with the account numbers of the incorrectly coded accounts and our estimate of related fees. To ensure the city receives the revenues to which it is entitled, the director of finance should collect the amount due from Time Warner Cable.

Controls over Fee Payments Should Be Strengthened

During the course of our audit work, we noted weaknesses in the Revenue Division's oversight of video service provider fee collections. The division does not monitor payments by individual video service provider and was unaware the city's automated revenue system was not charging interest for late payments.

Revenue Did Not Monitor Video Service Providers Payments

Revenue Division staff told us they did not monitor video service provider fee payments by individual provider. Based on the city's automated revenue system (ARS) data, we identified four quarters in which a video service provider did not submit fee payments. We estimate that this provider owed approximately $4,100. The Revenue Division subsequently began an audit of this provider.

[3] We based our calculation of fees due on the date two years prior (December 2007) to the date of our request (December 2009) through the end of the most recent quarterly reporting period (June 2011).

Interest Not Charged on Late Filings

Until recently, Revenue staff had not been charging interest on late filings by video service providers. Staff initially believed that video service provider fee bills generated by the city's automated revenue system would automatically calculate interest charges when the provider did not pay on time. Further investigation by the division found the system could not calculate this interest. Since then, Revenue Division staff has manually billed Time Warner for $17,081 in interest for late filings of video service provider fees.

The director of finance should monitor receipt of video service provider quarterly payments to ensure the city receives what is due.

Recommendations

1. The director of finance should collect the amount due from Time Warner Cable for incorrectly coded Kansas City, Missouri, accounts.

2. The director of finance should ensure video service providers' quarterly payments are received.

Appendix A

Finance Director's Response

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KANSAS CITY
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Finance Department
Director's Office

RECEIVED
SEP 14 2011
CITY AUDITOR'S OFFICE

DATE: September 15, 2011

TO: Gary L. White, City Auditor

FROM: Randall J. Landes, Director of Finance

RE: Response to Report on Video Service Provider Fees – Time Warner Cable

The following is a response to your request for comments on the draft report of the video service provider fees audit.

Recommendation 1: *The director of finance should collect the amount due from Time Warner Cable for incorrectly coded Kansas City, Missouri accounts.*

Agree. Staff has implemented this recommendation by billing Time Warner for the full amount of the detected underreporting. The case is currently estimated to be closed by October 31, 2011.

Recommendation 2: *The director of finance should ensure video service providers' quarterly payments are received.*

Agree. Staff has implemented this recommendation by instituting a monitoring procedure for Time Warner's quarterly payments since the beginning of 2011. In addition, staff is currently in negotiations with Time Warner's transactional tax manager to set up automatic ACH transfers for their quarterly tax payments to ensure future payments are received timely. Finally, staff is also working with Time Warner's tax staff to train them on proper completion of the City's tax returns.

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