*The City of New York*
*Office of the Comptroller*
*Bureau of Management Audit*

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**William C. Thompson, Jr.**
***Comptroller***

# Audit of the Internal Controls and Operating Practices of the Lower Eastside Business Improvement District (BID)

**MH02-113A**

***June 13, 2002***

*The City Of New York*
*Office of the Comptroller*
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## EXECUTIVE SUMMARY

### Background

The Lower Eastside Business District Improvement (the BID) entered into a contract with the New York City Department of Business Services (DBS) in January 1993. This contract represents an agreement between the BID and the City regarding requirements for supplemental services (e.g., security and sanitation) and capital improvements for the district. The BID represents more than 400 stores, restaurants, and historic sites in Southeastern Manhattan, bounded by East Houston Street (north), Canal Street (south), Allen Street (west), and Suffolk Street (east).

Financially, the BID is relatively small. Measured by revenue derived from assessments, it ranked 27th of all the 42 BIDs in New York City in Fiscal Year 2001, with assessments totaling $211,677. In addition, the BID rents on a monthly basis two parking lots from which it derives revenues. Assessments, parking lot revenues, and funding obtained by the BID through various grants provided for an operating budget of $476,327 in Fiscal Year 2001.

### Objectives, Scope, and Methodology

The audit objectives were to:

- Determine whether the BID has provided the services called for in its District Plan;
- Assess the BID's compliance with certain provisions of its contract with the Department of Business Services; and
- Evaluate the adequacy of the BID's internal controls over its funds and operations.

The audit scope period was Fiscal Year 2001. To meet the audit objectives, we interviewed the BID's Executive Director, President, and Certified Public Accountant (CPA). Among other documents, we reviewed the BID's District plan; its contract with DBS; and minutes of Board of Directors and Executive Committee meetings during Fiscal Year 2001.

To determine whether the BID effectively provided services called for in its District Plan, we toured the district on various occasions, making observations on street cleanliness, and conducted a door-to-door survey of 30 randomly selected businesses in the district. In addition, we reviewed samples of the BID's promotional materials and visited its web site (www.LowerEastsideNY.com).

To assess the BID's compliance with provisions of its contract with DBS, we determined whether funds were used for supplemental services that benefited the district and verified that receipts and disbursements were valid, accurately recorded, and accounted for. We reviewed the BID's financial transactions, related books and records pertaining to revenues and expenses in Fiscal Year 2001, and the BID's certified financial statements and annual report for Fiscal Year 2001.

To assess the BID's internal controls, we compared its procedures to internal control standards set forth in the New York City Comptroller's Directives, in its contract with DBS, and with DBS guidelines.

This audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the City Comptroller's audit responsibilities as set forth in Chapter 5, § 93, of the New York City Charter.

## Results in Brief

Since its formation in 1993, the BID has successfully provided supplemental sanitation, security, and graffiti-removal services to the district. As a result, the area covered by the BID is a cleaner and safer place today than it was in 1993. In addition, the BID has been successful in promoting the district. Its promotional services include quarterly newsletters, advertisements in local and major newspapers, radio advertisements, brochures, and shopping guides. The BID also provides free assistance to district business and property owners on topics ranging from obtaining financing to business expansion strategies. During Fiscal Year 2001, the BID spent 37 percent of its total expenditures to promote and advertise the district, eight percent of its total expenditures for sanitation, street cleaning, and graffiti-removal service, and five percent of its total expenditures for security services.

We conducted a door-to-door survey during December 2001 of 30 randomly selected district merchants to determine their level of satisfaction with the various services provided by the BID. Overall, the responses to our questions were positive. Appendix A of this report provides a complete listing of our survey questions and a summary of responses.

While the BID is in compliance with most provisions of the DBS contract, it had no documentation in its files to verify whether its contract for sanitation services, totaling $21,900, had been awarded through a competitive bid process. The Executive Director stated that this contract was in place prior to the time he was hired, in November 1999. Furthermore, even though the Executive Director stated that complaints to the BID from district merchants are addressed and resolved expeditiously, the BID did not maintain a log to record complaints dealing with security, sanitation, illegal street vendors, etc., as required by its contract with DBS.

Although the BID maintained adequate accountability over its receipts and disbursements, it has a number of internal control weaknesses, as follows:

- The BID bank records as of June 30, 2001, showed that $375,298 was on deposit in three separate banks. Of this amount, approximately, $224,000 (59.6%) was not covered by the Federal Deposit Insurance Corporation.

- The BID is not investing its cash reserve in a manner to maximize potential return. From June 2000 through July 2001, the BID maintained an average balance of $311,194 in its checking account. Based on our analysis of the BID's average monthly cash receipts of $39,907, the BID sufficiently covered its average monthly cash disbursements for expenses of $38,823. Therefore, the excess cash could be deposited in a higher-yielding bank account.

- The BID does not have adequate segregation of duties. The Executive Director is responsible for most of the bookkeeping, accounting, and purchasing functions. He records all accounting transactions, prepares checks for payment, prepares and records cash deposits, takes the deposits to the bank, prepares bank reconciliations, and orders and receives supplies.

- Although the number of voided or outstanding checks is not significant, the BID discarded five checks that were recorded as "void" on its cash disbursement transaction report. Furthermore, it has no written policies for tracking outstanding checks. As of June 30, 2001, three checks, in the amounts of $200, $200, and $300, remained outstanding for longer than six-months. Good accounting practices dictate that all checks be accounted for.

- The BID's invoices were not canceled or stamped "paid" after being paid. In an environment where the segregation of duties is limited, this would be a good control to prevent duplicate payments.

- The BID has not formally audited Central Parking's books and records to determine whether revenues and expenses are accurately reported. By conducting a formal audit of Central Parking, the BID could obtain reasonable assurance that Central Parking maintains adequate internal controls over cash, accurately reports gross revenues and operating expenses for the parking lot—and that the BID receives its fair share of Central Parking's income.

## Recommendations

The audit made 10 recommendations. The major ones are that the Lower Eastside BID should:

- Place deposits of funds exceeding $100,000 in collateralized accounts.

- Invest or deposit its excess reserve funds in low-risk, higher-interest-yielding accounts, to maximize interest revenue.

- Formally and periodically audit Central Parking's books and records to ensure that adequate controls are maintained over cash and that revenues and expenses are accurately reported.

## Lower Eastside BID Response

The matters covered in this report were discussed with BID officials during and at the conclusion of this audit. A preliminary draft report was sent to BID officials and was discussed at an exit conference held on April 16, 2002. On May 14, 2002 a draft report was issued to Lower Eastside BID officials with a request for comments. We received a written response from BID officials on May 30, 2002. The BID generally agreed with eight of the 10 recommendations made in this audit. However, it did not address the two recommendations (#2 and #4) that concern maintaining records of all bids solicited for individual contracts greater than $10,000 and placing deposits exceeding $100,000 in collateralized accounts. In its response, the BID implied that it is in compliance with contracting requirements and has taken alternative steps to safeguard its bank deposits exceeding $100,000.

The BID also stated: "Thank you for taking your time to review these points, and for conducting a thorough audit of our operations."

The full text of the BID's comments appears as an addendum to this report..

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*Audit Questionnaire Regarding Participant Satisfaction with Lower Eastside Business Improvement District (BID)*

*The City Of New York*
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# Audit of the Internal Controls and Operating Practices of the Lower Eastside Business Improvement District (BID)

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## INTRODUCTION

### Background

In 1981, the New York State Legislature passed legislation permitting municipalities throughout New York State to establish business improvement districts (BIDs). BIDs are geographic areas in which property owners and tenants band together to use a municipality's tax collection powers to assess themselves to create a fund to be used for improvements within the geographic area (the district). According to the State legislation (Article 19-A of the New York State General Municipal Law), BIDs may be formed:

> "(a) to provide for district improvements . . . which will restore or promote business activity in the district . . .;
>
> "(b) to provide for the operation and maintenance of any district improvement; [and]
>
> "(c) to provide for additional maintenance or other additional services required for the enjoyment and protection of the public and the promotion and enhancement of the district."

Pursuant to that legislation, the New York City Council passed Local Law 2 in January 1982, authorizing the creation of BIDs in New York City. This Local Law was incorporated into the City's Administrative Code as Chapter 4 of Title 25. Both the State and City laws permit the creation and define the specifications of BIDs.

BID assessments are collected by the City and then returned in their entirety to the BIDs. These moneys are used to purchase services and improvements supplemental to the services provided to the area by the City, and to enhance and promote the business district. By law, these services and improvements can include the following:

- capital improvements, such as lighting, sidewalk paving, pedestrian malls and walkways, tree plantings, signs, bus-stop shelters, and landscaping;
- enhanced sanitation services;
- enhanced security services for people and property within the district;
- promotional services to advertise activities within the district; and
- seasonal and holiday decorations and lighting.

BIDs must undergo a formal approval process through the Office of the Mayor and City Council. Each BID must present to the Office of the Mayor and the City Council a District Plan detailing the proposed improvements for the district, how the improvements will be implemented, and the total annual expenditures anticipated. All BIDs must sign contracts with the City agency that supervises and oversees all BIDs, the Department of Business Services (DBS). DBS is responsible for determining whether each BID is in compliance with its District Plan and its contract with DBS. The contract is subject to renewal every five years. Every BID is required to submit annual budgets and audited financial reports to DBS.

BIDs have become an increasingly important vehicle in New York City, as well as in other localities, for raising funds for capital improvements and for complementing the delivery of municipal services. As of June 30, 2001, there were 42 BIDs in New York City, with a total of $53 million in BID assessments. The majority of the existing BIDs are modest in scope; the annual operating budgets of 29 BIDs are each less than $500,000 (15 of those are less than $200,000). Another four BIDs have annual budgets ranging from $500,000 to $1 million. The annual budgets for the other nine BIDs exceed $1,000,000.

Financially, the Lower Eastside BID is relatively small. Measured by revenue derived from assessments, it ranked 27th of all the 42 BIDs in New York City in Fiscal Year 2001, with assessments totaling $211,677. The Lower Eastside District Management Association, Inc., (LESDMA) was incorporated in January 1992, as a not-for-profit corporation under the General Corporation law of the State of New York, for the purpose of coordinating the Lower Eastside BID. In January 1993, LESDMA entered into a contract with DBS. This contract represents an agreement between LESDMA (acting as the BID) and the City regarding requirements that the BID must follow in its provision of supplemental services (e.g., security and sanitation) and capital improvements for the district.[1] In addition, the BID rents on a monthly basis two parking lots from which it derives revenues. LESDMA's predecessor, the Lower East Side Businessmen's Association, Inc., originally leased the two lots in June 1977.

In accordance with BID legislation, the majority of the Lower Eastside BID's Board of Directors (the Board) are representatives of property owners and business owners within the district. The Board also includes a representative of residential tenants and ex-officio members

[1] Since the LESDMA in all cases represents the BID, the term BID is used throughout this report to denote both of them.

representing various elected officials, including the Mayor, the Comptroller, the City Council, and the Manhattan Borough President. The BID employs an Executive Director, who oversees the day-to-day operations, and three staff members who provide administrative and clerical support.

The Lower Eastside BID is located in the southeastern section of Manhattan. The district includes properties on the east side of Allen Street and both sides of Orchard Street from East Houston Street to Canal Street; properties fronting Delancey Street from Allen Street to Suffolk Street, properties fronting Grand Street from Forsyth to Ludlow; and the west side of Essex Street from Grand to Delancey Street. The district is home to more than 400 stores, restaurants, and historic sites that serve the local community as well as shoppers and visitors from throughout the City.

As shown in Table I, below, in Fiscal Year 2001, the BID had revenues of $476,327 and expenditures of $467,397.

**Table I**
**Lower Eastside BID Revenue and Expenditures**
**Fiscal Year 2001**

| Support and Revenue | Amount |
|---|---|
| Assessment Revenue | **$** 211,677 |
| Revenue from Parking Lot | 231,261 |
| Community Improvement Grants | 27,245 |
| Interest Income | 5,155 |
| Miscellaneous Income | 989 |
| **Total Support and Revenue** | **$476,327** |
| **Expenses** | |
| Sanitation, Street Cleaning & Graffiti-Removal Services | 36,923 |
| Security | 24,912 |
| Promotion, Advertising, Marketing & Public Relations | 174,025 |
| Economic Development & Fundraising | 17,150 |
| General & Administration | 190,461 |
| Holiday Lights | 10,420 |
| Parking Lot (Rental) | 7,606 |
| Grant Funds Disbursed to District Merchants | 5,900 |
| **Total Expenses** | **$467,397** |

Note: The amounts reflected in Table I are based on the Lower Eastside District Management Association's Fiscal Year 2001 financial statements

## Objectives

The objectives of this audit were to:

- Determine whether the BID has provided the services called for in its District Plan;
- Assess the BID's compliance with certain provisions of its contract with the Department of Business Services;
- Evaluate the adequacy of the BID's internal controls over its funds and operations.

## Scope and Methodology

The audit scope period was Fiscal Year 2001. To achieve our objectives and obtain an understanding of the operation and administration of the Lower Eastside BID, we interviewed the Executive Director, President, and Certified Public Accountant (CPA). We reviewed the minutes from Board of Directors and Executive Committee meetings held during Fiscal Year 2001. We also reviewed the BID's District Plan and its contract with DBS to identify the BID's declared objectives and the services and programs it proposed to accomplish those objectives.

To determine the extent of the BID's provision of supplemental sanitation, street cleaning, and graffiti-removal services, we toured the district on various occasions to observe the cleanliness of the streets and determine whether the district was graffiti-free. We also obtained and reviewed various samples of the BID's promotional materials, including newspaper advertisements, brochures, and newsletters, and reviewed the BID's website (www.LowerEastsideNY.com) to determine the extent of promotional activities carried out for the benefit of the district. Furthermore, to assess the level of satisfaction with the services provided by the BID, we conducted a door-to-door survey of thirty randomly selected businesses in the district.

To determine whether program funds were used for supplemental and program services for the benefit of the district and to ensure that the receipts and disbursements were valid, accurately recorded, and accounted for we reviewed the BID's financial transactions and related books and records for Fiscal Year 2001. We examined purchase orders, invoices, contracts, and related support documentation. We also examined cash receipts, cash disbursements, bank statements, canceled checks, deposit slips, assessment reports and other accounting records. Furthermore, we reviewed the BID's certified financial statements and annual report for Fiscal Year 2001. We also reviewed the BID's annual reports submitted to DBS, and verified its compliance with the submission of required reports.

To assess the BID's internal controls, we compared its procedures to internal control standards set forth in the New York City Comptroller's Directives and in its contract with DBS, and in the DBS guidelines.

Our audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS), and included tests of the records and other auditing procedures considered

necessary. This audit was performed in accordance with the City Comptroller's audit responsibilities as set forth in Chapter 5, § 93, of the New York City Charter.

## Lower Eastside BID Response

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The BID also stated: "Thank you for taking your time to review these points, and for conducting a thorough audit of our operations."

The full text of the BID's comments appears as an addendum to this report.

**NEW YORK CITY**
**OFFICE OF THE COMPTROLLER**
**Date Filed: June 13, 2002**

## FINDINGS AND RECOMMENDATIONS

### The BID has Contributed to the Improvement of the District

Since its formation in 1993, the BID has successfully provided supplemental sanitation, security, and graffiti-removal services to the district. As a result, the area covered by the BID is a cleaner and safer place today than it was in 1993. In addition, the BID has been successful in promoting the district.

Under the District Plan, the BID is to provide services aimed at promoting and enhancing the district, including, but not limited to, the following:

- Promotional services to attract shoppers to the district by using special publications, advertising in major and local newspapers and other media, and implementing special community events in the district.

- Sanitation services to sweep and clean sidewalks, curbs, and municipal parking lots, and maintenance of trash receptacles in the district.

- Parking maintenance and improvements of existing municipal, non-profit parking facilities.

- Additional services approved by the BID, including graffiti removal, light security, technical assistance for merchants and property owners, and district advocacy.

According to DBS guidelines "before the BID contract is renewed, the BID is required to conduct a survey of the BID members including property owners, and residents to review BID activities, evaluate the BID's effectiveness and visibility, and reassess its priorities." According to the Executive Director, the BID conducted a survey of its district merchants between March and August 2001 to gather information from district merchants (hours of operations, credit cards accepted, etc.) for updating the BID's shopping guide. The BID's survey did not assess the merchants' satisfaction with the services the BID provides to the district. Therefore, we conducted our own survey during December 2001 of 30 randomly selected district merchants to determine the level of satisfaction with the services the BID provides to the district. Overall, the responses to questions on the services provided by the BID were positive. Appendix A of this report provides a complete listing of our survey questions and a summary of responses.

### Promotional Activities within the District

The BID's advertising and promotional activities are designed to promote the district to residents and tourists, and to attract, retain, and expand business. These promotional services include quarterly newsletters, advertisements in local and major newspapers, radio advertisements, brochures, and shopping guides. In addition, the BID has a website (www.LowerEastSideNY.com) which is hosted by Citysearch. The website provides an updated

list of district merchants, historic sites, restaurants, etc. and links to many of the district's businesses and event pages. The BID obtained a $3,000 grant from Fleet Bank to offer matching grants of up to $300 to BID businesses that create or improve their websites. Furthermore, the BID provides free walking tours, special events, and free parking for customers to the district. During Fiscal Year 2001, the BID spent $174,025 (37.2% of total expenditures) to promote and advertise the district.

Regarding district merchants' satisfaction with the BID's promotional services, 15 of the 30 (50%) respondents in our survey believed that the BID has been successful in promoting the district, 6 (20%) did not believe that the BID was successful, and the remaining 9 (30%) had no opinion. A majority (60%) of respondents in our survey expressed satisfaction with special events and activities sponsored by the BID. However, 40 percent of the respondents did not believe that the BID had been successful in attracting new businesses to the district or successfully retaining businesses.

Individual respondents' comments on the BID's promotion and advertising of the district varied. For example, two respondents stated that advertising for the area should be improved and another stated that the BID should develop a better marketing approach to promote the area. In another example, two respondents stated that transportation to the area was an issue, along with insufficient parking for customers. One respondent stated that his business has suffered since the closing of the Grand Street subway station. Four others believed that the street fairs promoted by the BID hurt their businesses.

## Enhanced Sanitation and Graffiti-Removal Services

The BID provides supplemental sanitation, street cleaning, and graffiti-removal services to enhance the general cleanliness of the district. [2] During September 1998, the BID purchased a street-sweeping machine (the Green Machine) from Allied Sweepers, Inc., at a cost of $26,000. One sanitation worker provided through a contract between the BID and Atlantic Maintenance Corporation (Atlantic), operates the Green Machine. That sanitation worker works nine hours per day, six days per week, and is responsible for:

- sweeping and vacuuming sidewalks and curbs;
- collecting, bagging, and placing trash next to City trash receptacles for pickup by the Department of Sanitation;
- clearing snow from the catch basins and street intersections; and
- continuous removal of printed materials from lampposts, street furniture, street signs, and other public fixtures within the district.

[2] The Mayor's Office of Operations through its *Project Scorecard* program, rates the level of cleanliness of City streets every quarter. The streets within the Lower Eastside BID are not part of *Project Scorecard*.

The BID also contracted with Atlantic to remove graffiti. According to the Executive Director, the graffiti-removal team services the district twice monthly to clean or paint over storefronts, buildings, streetlights, and any street furniture defaced by vandals within district boundaries. BID personnel canvass the district throughout the week to ensure that the reported graffiti sites are cleaned and to observe the overall cleanliness of the district. Based on their observations, as well as complaints received from merchants, the BID provides Atlantic with a list of stores or other sites in the district recently defaced with graffiti so that it can do the required clean-up. During Fiscal Year 2001, the BID paid Atlantic a total of $36,923 (7.9% of total expenditures); $27,923 for sanitation and street-cleaning services and another $9,000 for graffiti-removal services.

Based on various observations of the Lower Eastside BID, along with the overall positive response of district merchant surveyed, the BID has been successful in providing sanitation, street cleaning, and graffiti-removal services to the district to ensure its overall cleanliness. During the audit, we toured the district and observed that the streets and sidewalks were generally clean and the area was graffiti-free. Ninety-three percent (93%) of the respondents to our survey expressed satisfaction with the BID's sanitation program and the cleanliness of the district. Seventy-three percent (73%) of the respondents believed that the BID's program has been successful in reducing graffiti. Overall, 90 percent (90%) of the respondents believed that the district has been cleaner since the Lower Eastside BID was formed in 1993.

## Enhanced Security Services

During Fiscal Year 2001, the BID supplemented New York City Police Department services with 40 hours of security service each week, through a contract with McRoberts Protective Agency, Inc. (McRoberts). In accordance with this agreement, McRoberts is responsible for providing two security officers, each working 20 hours per week concurrently, to patrol and protect the district.

McRoberts is responsible for compensating and supervising the security officers. It has full responsibility for all employer-related incidentals, such as worker compensation insurance, payroll taxes, uniforms, training, equipment, etc. McRoberts submits invoices to the BID each week for services rendered to the district, along with a daily verification sheet listing hours worked by each security officer and the daily security check-in log each officer keeps. During Fiscal Year 2001, the BID expended $24,912 for its security program. This represents 5.3 percent of its total expenditures.

According to the Executive Director, the uniformed security officers patrol the area Wednesday through Sunday during the late-afternoon and early evening shopping hours, and carry two-way radios that they can use to contact the police in case of emergency. The officers check-in at predesignated locations (stores) in the district each day and maintain logs of their rounds. At each of the check-in points, the security officer must have the storeowner note the time of the visit and initial the log-sheet. We reviewed the log sheets the contractor submitted with its invoice for security services for the week ended May 20, 2001, and determined that the log sheets were completed as required. However, we noted that the security officers visited the same stores each day throughout the week, without variation.

We discussed this matter with the Executive Director, who said there is no rotation of check-in locations. He stated that the security officers also follow the same route each day. At the exit conference on April 16, 2002, the Executive Director stated that the number of security guard check-in points had been increased. In addition, according to the Executive Director, the check-in points are rotated throughout the various security tour schedules. By increasing the check-in points as well as rotating their locations, the BID is better able to ensure that the entire area is patrolled and that merchants in the district are aware of the additional security services.

In addition to the security program, the BID reported in its Fiscal Year 2001 Annual Report that it meets regularly with local police officers and commanders to coordinate its security service and to discuss public safety issues in the district. Overall, the BID's security program appears to have helped make the district safer. According to NYPD crime statistics for the 7th Precinct, which covers the Lower Eastside BID, since 1993, there was a 62% decrease in crimes reported: 890 crimes reported in calendar year 2001, down from 2,324 crimes reported in calendar year 1993. Sixty percent of respondents to our survey believe that the district has been safer since the formation of the BID. However, only 37 percent of respondents were satisfied with the security services and 50 percent stated that they had never seen the McRoberts security officers.

## Enhanced Maintenance and Improvement of Existing Parking Facilities

On July 9, 1997, the BID entered into a contract with Central Parking System of New York, Inc., (Central Parking) to manage and operate two surface parking lots in the district. The BID rents the lots from the Department of Housing, Preservation, and Development (HPD). In accordance with the contract, Central Parking collects the gross receipts from its operation of the parking facility, pays operating expenses out of gross receipts and retains $2,000 plus 8.5 percent of the net income from the operation of the parking facility. The remainder of the net income is paid to the BID each month. During Fiscal Year 2001, the parking lot generated approximately $278,974 in net income of which the BID received $231,261 and Central Parking retained $47,713.

The contract also outlined $199,500 of recommended capital improvements for the two parking lots, including $100,000 for new asphalt paving, $19,500 for new lighting, $6,500 for steel attendant booths, and $5,200 for concrete islands. According to the contract, the BID has the sole discretion of deciding which, if any, of the recommended capital improvements will be performed and in what order. The BID is responsible for paying for the costs of any capital improvements undertaken.

Based on a review of BID documentation, we determined that between January 1999 and October 2001, the BID expended $28,127 in capital improvements on the parking lots, including $11,900 for lighting fixtures and refurbishing the parking lot booth, $8,119 for leveling and clearing the lot, and another $8,108 for fencing. In addition to these expenditures, the BID, with the assistance of local officials, was successful in arranging for the New York City Department of Transportation to pave the surface of the west parking lot, level the surface with gravel, and replace damaged fencing in both lots.

According to the Executive Director, the BID Board has slowly upgraded the condition of the lots over the years, but has made no significant capital improvements in them (as recommended by Central Parking) because of the open-ended term of the lease the BID has with HPD. The lease is automatically renewed for successive terms of one month, but can be canceled by either the City or the BID with 30 days written notice served upon one party by the other. [3]

## Assistance to Merchants in the District

As part of its program service goals, the BID provides free assistance to district business and property owners on topics ranging from obtaining financing to business expansion strategies. In addition, the BID serves as an advocate for merchants in the district who need assistance in negotiating with City and State agencies.

According to its annual report, in Fiscal Year 2001, as part of its ongoing district advocacy and economic development efforts, the BID was in the process of developing a collaborative project (the Fashion Incubator) to provide low-cost retail and work space for young designers in the district. During Fiscal Year 2001, the BID provided or supported a number of ongoing programs, including the following:

- Securing new businesses for vacant commercial space;
- Obtaining recognition for the Lower Eastside as a historic district so that property owners will be eligible for a 20 percent income tax credit for the cost of rehabilitating historically sensitive buildings;
- Contracting with the New York City Economic Development Corporation to promote current merchants and recruit new vendors to the Essex Street Vendors Market; and
- Securing a $2,500 grant from the Chase Manhattan Bank to upgrade the storefronts of district merchants.

## Recommendation

The BID should:

1. Periodically distribute questionnaires or surveys to its members and property owners to assess satisfaction with the continued operation of the BID.

***Lower Eastside BID Response*:** "We agree with your recommendation to distribute surveys to our members and in fact are currently in the process of doing so."

[3] According to the Executive Director, the BID attempted to secure a long-term lease on the parking lots, but was unable to so because the lots are part of an urban renewal area assembled by the City. For this reason, the City has kept the lease on a month-to-month basis.

## Corporate Governance

The bylaws of the Lower Eastside BID require that it be managed by a Board of Directors. The Board's key responsibilities are to set policies for BID operations and to oversee the advancement of the District Plan. At its discretion, the Board may create standing committees and delegate to them the authority to take action to address certain matters. The chief executive officer of the BID is the District Manager, who supervises the business of the BID and is subject to the control of the Board.

Under the law, the Board is responsible for the activities of the BID, regardless of the level of authority the Board delegates to the staff or to any committees. Thus, it is in the Board's best interest to be fully informed about the activities of the BID, as well as the activities of its management.

To ensure that the BID is operated in compliance with its bylaws, we reviewed the minutes of Board of Directors meetings, the annual meeting, and the annual report. We also interviewed the Executive Director and the Board President. Our analysis determined that during Fiscal Year 2001, the Board of Directors and Executive Officers met on a regular basis to discuss financial and programmatic issues related to the BID. We did not find any weaknesses in any of the areas that we reviewed, which were all related to the Board's oversight and management of the BID.

## Non-Compliance with DBS Guidelines

### Contract Bid Solicitation Documents Not on File

During fiscal 2001, the BID was a party to eight contracts for the performance of supplemental program services and consulting services. We determined that two of these contracts exceeded $10,000. The BID did not have documentation in its possession to show compliance with contract solicitation requirements as outlined in its contract with DBS. The contract for sanitation services totaled $21,900 and the contract for security services totaled $23,952. The BID's contract with Holly Kaye Associates for consulting services is month-to-month; however, the annual payout under the contract totals $13,200 ($1,100 per month).

To determine the extent of the BID's compliance with DBS procurement requirements for contracted services in the amount of $10,000 or more, we asked to review documentation that showed that vendor selection was based on a competitive bidding process, as required by DBS. The Executive Director provided us with copies of Requests for Proposals that had been issued in early 1999 for the performance of supplemental sanitation, security, and graffiti-removal services. With the exception of one proposal from Atlantic for graffiti-removal services (under $10,000), no other documentation provided to us showed compliance with contract solicitation requirements or justification for selecting a contractor from a single source.

According to the DBS contract, the BID may not subcontract for the performance of supplemental services, consultant services, or the construction of capital improvements in the

amount of $10,000 or more "unless the DMA selected the lowest, responsible bidder from at least three (3) responsible and competitive bidders." An exception can be made for the selection of a contractor from a single source if the DMA can justify this selection to the satisfaction of its Board of Directors. In addition, the contract requires that the DMA maintain records, such as minutes of all meeting, etc, and "other records and papers as the Commissioner of DBS or the Comptroller in writing may require to be maintained." DBS guidelines clearly state that all related contract solicitation correspondence should be documented and filed for future reference. Furthermore, all bids must be submitted in writing.

According to the Executive Director, the contracts were in place prior to the time he was hired in November 1999. Although he performed a thorough search of the BID's files, he was unable to find any documentation that showed that the contracts were awarded through a competitive bid process. Due to lack of support documentation, there is no assurance that the BID complied with DBS and contract procurement procedures.

At the exit conference on April 16, 2002, the Executive Director provided us with copies of proposals submitted by three separate vendors for the provision of supplemental security services. Based on our review of this documentation, the BID appropriately complied with DBS requirements for the selection of a security service vendor. However, no additional information was provided regarding the solicitation of the contract for sanitation services.

***Lower Eastside BID Response:*** "Regarding the provision of sanitation services, we provided bid documents and a response from the only contractor to respond. We have since uncovered a list of four contractors who were sent a copy of the request for proposals. According to the BID's prior executive director, the selected vendor was the only respondent among the four prospective bidders."

***Auditor Comments:*** Regarding the contracting for sanitation services, the BID provided us with copies of the September 1998 Request for Proposal it issued for such services and the contract between the BID and Atlantic for such services. However, the BID did not provide documentation, either during audit fieldwork or the post-exit conference period that reflected the BID's compliance with contract solicitation requirements (such as competitive bid proposals) or its justification for selecting a contractor from a single source for the provision of supplemental sanitation services.

## Recommendations

The BID should:

2. Maintain records of all bids solicited for individual contracts greater than $10,000 that provide service to the district. The BID should ensure that all contracts greater than $10,000 are awarded through the competitive bid process.

***Lower Eastside BID Response*:** The BID did not directly address this recommendation in its response. Instead, as discussed above, the BID responded to the audit findings and implied that it is in compliance with DBS requirements.

## The BID does not Maintain a Complaint Log

The Executive Director stated that whenever a district merchant or member lodges a complaint with the BID, the BID responds quickly to address and attempt to resolve the problem. However, the BID does not maintain a log to record such complaints, (i.e., complaints dealing with security, sanitation, illegal street vendors, etc.) as required by its contract with DBS. According to § 5.02 of the agreement, "the DMA (District Management Association) shall maintain . . . a log of all complaints issued against the DMA."

By maintaining a complaint log, the BID would be better able to track complaints, identify whether a particular problem exists, and take corrective action, if appropriate. As an example of some existing complaints, 15 (50%) of the 30 merchants we surveyed responded that they had never seen the security officers patrolling the district. Of these 15 respondents, 4 (13%) stated that they did not like the street festivals sponsored by the BID; and 3 (10%) felt that rents were too high in the district.

## Recommendations

The BID should:

3. Institute a complaint log to track and respond to complaints received from storeowners in the district.

***Lower Eastside BID Response*:** "The BID agrees with the recommendation that we keep a formal complaint log, and have in fact started one in response to this finding."

## Internal Control Weaknesses

In its broadest sense, an organization's internal control system consists of the policies and procedures established by management to provide reasonable assurance that the organization's objectives will be achieved. The main objectives of internal control in any organization include safeguarding assets, promoting efficiency in operations, enhancing the reliability and completeness of financial reporting, and minimizing the risk of misuse or abuse of the organization's resources

Good internal controls can provide management with reasonable, but not absolute, assurance that the organization's assets are safeguarded and transactions are executed appropriately. Good internal controls include authorization for transactions, completeness and accuracy of financial information, the physical safeguarding of assets, and segregation of duties.

Although the BID maintained adequate accountability over its receipts and disbursements, a number of weaknesses should be corrected. These weaknesses are discussed below:

## Inadequate Safeguarding of Assets

### *Uninsured Deposits*

The BID financial records for Fiscal Year ended June 30, 2001, reflected that there was a large amount of cash on deposit that was not covered by provisions of the Federal Deposit Insurance Corporation (FDIC). Specifically, the BID bank records at June 30, 2001, showed that $375,298 was on deposit in three separate banks. Of this amount, approximately, $224,000 (59.6%) was uninsured.

The FDIC insures any person's or entity's bank deposits—payable in the United States—in member banks up to $100,000 per institution in the event of the institution's financial failure. In general, a person's or an entity's total deposits exceeding $100,000 in a member institution are neither covered by the FDIC nor can the FDIC amount be increased. However, when deposits exceed the recognized deposit insurance limits, the depositor can ask the institution to pledge eligible collateral to secure the uninsured amount. To safeguard its liquid assets, the BID should ensure that deposits exceeding $100,000 are placed in collateralized accounts.

### *Low Interest Earnings on Reserve Funds*

Our review of the BID bank statements for the twelve-month period from June 2000 through July 2001 revealed that the BID maintained an average balance of $311,194 in its checking account. Furthermore, our analysis determined that the BID's average monthly cash receipts of $39,907 sufficiently covered its average monthly cash disbursements for expenses of $38,823. We discussed this matter with the Executive Director, who told us that pursuant to advice from both its accountant and DBS, the BID maintains a reserve fund in the amount of, at least, a full year of assessments ($200,000) "to cover 'rainy day' expenditures and ensure that the BID could continue to operate effectively."

In addition to its reserve funds being underinsured (discussed above), the BID is not investing its cash reserve in a manner to maximize potential return. Although the checking account is an interest-bearing account, the annual percentage yield is extremely low: 0.75 percent, compared to the 5.25 percent annual interest rate yielded on its Certificate of Deposit account. The BID should invest or deposit excess reserve funds, not required to cover its ordinary monthly expenses, in a higher interest accounts. Prior to the preliminary draft being issued, the Executive Director advised us that "the BID transferred $105,000 from its checking account into low-risk money market accounts, serving to diversify the BID's funds and to increase interest revenue."

## Insufficient Segregation of Duties

Segregation of duties is a primary internal control intended to prevent or decrease the risk of errors or irregularities, identify problems, and ensure that corrective action is taken. This is done by assuring that no single individual has control over all phases of a transaction. In other words, the recordkeeping function should be separated from the operational responsibility of that activity and from those who exercise physical control over the records.

The BID does not have adequate segregation of duties. The Executive Director is responsible for most of the bookkeeping, accounting, and purchasing functions. He records all accounting transactions, prepares checks for payments, prepares and records cash deposits, and prepares bank reconciliations. Although, two signatories—the Executive Director and an Officer of the Board—are required on each check drawn on the BID checking account, there was no evidence to ensure that anyone other than the Executive Director reviewed and verified vendor invoices. Our review of canceled checks for Fiscal Year 2001 verified that each check was indeed signed by the Executive Director and a Board Officer. However, there was no documentation reflecting that the Board officer who signed the checks had reviewed and validated the supporting payment vouchers or invoices.

Comptroller's Directive #1, *City Manager Financial Integrity Statement*, states, "To minimize the possibility of inefficiency, errors, and fraud, responsibility for a sequence of related operations should be divided among two or more persons." Furthermore, the Directive states: "in essence, key duties and responsibilities in authorizing, processing, recording, reviewing transactions and safeguarding assets should be separated among individuals. Although Comptroller's Directive #1 is not binding on the BID since it its not a City agency, we believe that good internal control practices would dictate conforming to this Directive to the greatest extent possible. Inadequate segregation of duties increases the possibility of inefficiencies, errors, and irregularities.

We recognize that the BID has limited staff and other resources that create difficulties with implementing adequate segregation of duties. Therefore, the Board should implement compensating controls and require frequent reviews and monitoring over all financial transactions by an officer of the Board or the Chairperson of the Finance Committee

## Some Weaknesses Found in the Cash Disbursement Process

Our review of the BID bank statements for Fiscal Year 2001 identified 8 out of 518 checks drawn on the account that had not cleared the bank. Further review of the cash disbursement transaction report for the same period reflected that five of those eight checks were recorded as "void." The remaining three checks had been drawn payable to an individual in the amounts of $200, $200, and $300, respectively. However, as of June 30, 2001, these three checks remained outstanding for greater than six-months. Although the number of voided or outstanding checks is not significant, good accounting practices dictate that all checks be accounted for.

Upon our request to review the five voided checks, we learned that the Executive Director did not (and does not) retain the voided checks. He stated that he destroyed and discarded the checks. Furthermore, the Executive Director stated that the BID does not have a written policy for tracking outstanding checks and ensuring that stop payments are placed on checks outstanding for a long period of time. He stated that this has not been a recurring problem; therefore, such a policy is unnecessary.

Comptroller's Directive #11 states: "Voided checks should be mutilated or marked 'void' and permanently preserved with the checkbook, in a separate file, or with the canceled checks returned from the bank. . . . Checks outstanding for more than six months should be canceled and stop payments issued." Although Comptroller's Directive #11 is not binding on the BID, since it is not a City agency, it would be in the best interests of the BID to retain all voided checks and to implement a policy to track and resolve outstanding checks.

An adequate system of internal controls requires management to develop, implement, and monitor procedures that will reasonably ensure that assets are safeguarded against misuse or illegal acts. Since cash is the asset most susceptible to misappropriation, the BID exposes itself to increased risk by failing to retain and track all void checks and resolve outstanding checks. Checks that are not properly voided could be stolen and illegally cashed.

### Invoices Are Not Canceled Upon Payment

Our review of various invoices paid by the Executive Director in Fiscal Year 2001 determined that the invoices were not canceled or stamped "paid" after being paid. Comptroller's Directive #1 recommends that paid invoices be canceled. Although Comptroller's Directive #1 is not binding on the BID since it is not a City agency, the Board should require that, at the time of payment, each invoice be clearly stamped or marked "paid," along with all supporting documentation (i.e., receiving slips, purchase orders, etc.). In addition, the payment check number, date of payment, and any other relevant information should be denoted on the invoice or payment voucher.

## Controls over Revenues from Parking Lot

As discussed earlier, on July 9, 1997, the BID entered into a contract with Central Parking to manage and operate two surface parking lots in the district that the BID rents from HPD. In accordance with the contract, Central Parking collects the gross receipts, generated by collecting parking fees, pays all operating expenses out of gross receipts, and retains $2,000 plus 8.5 percent of the net income from the operation of the parking facility. The remainder of the net income is paid to the BID each month. During Fiscal Year 2001, the parking lot generated approximately $278,974 in net income of which the BID received $231,261 and Central Parking retained $47,713.

The BID's Executive Director stated that Central Parking submits a monthly report detailing the previous month's gross revenues and operating expenses, along with copies of all supporting documentation (time sheets, utility bills, etc.). The Executive Director reviews these records each month for correctness. In addition, the Executive Director and the BID's CPA

analyze these records every three months to determine the accuracy of gross receipts reported by Central Parking.

Although the BID's monthly and quarterly reviews of Central Parking's monthly reports are an appropriate control, the BID has not formally audited Central Parking's books and records to determine whether revenues and expenses are accurately reported. By conducting a formal audit of Central Parking, the BID could obtain reasonable assurance that Central Parking maintains adequate internal controls over cash and accurately reports gross revenues and operating expenses for the parking lot—and that the BID receives its fair share of Central Parking's income.

## Recommendations

The BID should:

4. Place deposits of funds exceeding $100,000 in collateralized accounts.

***Lower Eastside BID Response*:** The BID did not address this recommendation directly. However, it stated that its cash reserve "is significantly lower than it was on June 30, 2001, and that we have further diversified our holdings.

5. Invest or deposit its excess reserve funds in low-risk, higher interest yielding accounts to maximize interest revenue.

***Lower Eastside BID Response*:** "The BID agrees with the recommendation that we should better generate interest income from funds not immediately needed, and have in turn reduced the amount held in the BID's checking account to a total that will cover operating costs."

6. Implement compensating controls, requiring that the Board member who is the second signatory on remittance checks also validate supporting payment vouchers or invoices submitted by the Executive Director with each check. The Board member should review all purchasing, receiving, and authorizing documents and verify all invoiced charges and extensions. The Board member should then sign the payment voucher to attest to this review.

***Lower Eastside BID Response*:** The BID agreed, stating: " In terms of segregation of duties, it is difficult for small BIDs without a dedicated bookkeeper to fully comply with this finding. However, in response a BID staff member has taken on preparing checks for payment and cutting of checks functions for the BID."

7. Ensure that all voided checks are marked "void" and kept on file with the bank statements and canceled checks for reconciliation purposes.

***Lower Eastside BID Response*:** The BID agreed with the recommendation, stating: "We now retain all voided checks (they were destroyed previously) as recommended."

8. Implement a policy requiring a monthly review of outstanding checks. Stop payments should be placed on checks outstanding for greater than six months or, have checks printed with the words "void after 180 days."

***Lower Eastside BID Response*:** The BID agreed with the recommendation, stating: "In terms of the BID's three outstanding checks (totaling $700), they were all issued to a single vendor. The BID has since written this vendor a letter indicting that the checks will be considered null and void unless we receive a written request stating otherwise."

9. Ensure that all invoices and support documentation are canceled and stamped or marked "paid" at the time a remittance check is drawn.

***Lower Eastside BID Response*:** The BID agreed with this recommendation.

10. Formally and periodically audit Central Parking's books and records to ensure that adequate controls are maintained over cash and that revenues and expenses are accurately reported.

***Lower Eastside BID Response*:** The BID agreed, stating: "The BID . . . will assign the BID's accountant with this task on a regular basis in the months to come."

# APPENDIX A

## *Audit Questionnaire Regarding Participant Satisfaction with Lower Eastside Business Improvement District (BID)*

| QUESTION | YES | | NO | | NO OPINION | |
|---|---|---|---|---|---|---|
| 1. In your opinion, is the area within the BID cleaner since the formation of the BID? | 27 | (94%) | 0 | (0%) | 3 | (6%) |
| 2. Are you satisfied with the sanitation provided by the BID? | 28 | (93%) | 0 | (0%) | 2 | (7%) |
| 3. Would you like to see the BID provide increased sanitation services? | 18 | (60%) | 3 | (10%) | 9 | (30%) |
| 4. In your opinion, has the BID reduced graffiti and illegal posters from walls, street signs and light post? | 22 | (73%) | 3 | (10%) | 5 | (17%) |
| 5. In your opinion, is the area within the Lower Eastside BID safer since the formation of the BID? | 18 | (60%) | 2 | (7%) | 10 | (33%) |
| 6. Are you satisfied with the security provided by the BID? | 11 | (37%) | 13 | (43%) | 6 | (20%) |
| 7. Are you aware of the promotional services sponsored by the BID each year, such as walking tours, shopping guides, radio and newspaper ads, discount coupons, free parking and color brochures? | 24 | (80%) | 5 | (17%) | 1 | (3%) |
| 8. Are you satisfied with the special events/activities sponsored by the BID? | 18 | (60%) | 7 | (23%) | 5 | (17%) |
| 9. In your opinion, has the BID been successful in attracting new businesses to the area? | 10 | (33%) | 12 | (40%) | 8 | (27%) |
| 10. In your opinion, has the BID been successful in retaining businesses in the district? | 12 | (40%) | 12 | (40%) | 6 | (20%) |
| 11. Are you satisfied with the BID's management? | 17 | (57%) | 5 | (17%) | 8 | (26%) |
| 12. In your opinion has the BID been successful at promoting the district? | 15 | (50%) | 6 | (20%) | 9 | (30%) |
| 13. Based upon your contact with the BID management has it always conducted itself with the appropriate level of professionalism? | 22 | (73%) | 2 | (7%) | 6 | (20%) |
| 14. In your opinion, does the BID provide you with sufficient information regarding the BID services? | 21 | (70%) | 7 | (23%) | 2 | (6%) |
| 15. Are you satisfied with the services provided by the BID? | 20 | (66%) | 5 | (17%) | 5 | (17%) |
| 16. In your opinion, are there adequate opportunities to participate on the various committees formed by the BID? | 15 | (50%) | 5 | (17%) | 10 | (33%) |
| 17. Have you ever made a complaint to the BID? | 8 | (27%) | 22 | (73%) | 0 | (0%) |
| 18. Was the matter resolved by the BID? | 4 | (50%) | 4 | (50%) | 0 | (0%) |
| 19. Did the BID seem concerned about the complaint? | 8 | (100%) | 0 | (0%) | 0 | (0%) |
| 20. In your opinion, is the assessment amount reasonable with regards to the services provided? | 15 | (50%) | 2 | (7%) | 13 | (43%) |

| | | | |
|---|---|---|---|
| 21. Have you made donations or contributions to the BID other than the assessments? | **6 (20%)** | **19 (63%)** | **5 (17%)** |
| 22. Are there any problems/issues that you like to bring to the BID's attention? | **11 (37%)** | **16 (53%)** | **3 (10%)** |

# ADDENDUM-Agency Response

May 29, 2002

Roger Liwer
Assistant Comptroller
NYC Comptroller Office
1 Centre Street
New York, NY 10007

Re: Lower East Side Business Improvement District Audit Comments

Dear Mr. Liwer:

I am writing in response to the draft audit your office completed regarding the Lower East Side Business Improvement District's (BID) internal controls and operating procedures. Based on our review, we would like to offer the following amended comments:

Executive Summary

- The BID agrees with the recommendation that we keep a formal complaint log, and have in fact started one in response to this finding.
- In response to your concern that BID funds are not covered by FDIC, we have indicated to your office that the BID's overall reserve is significantly lower than it was on June 30, 2001, and that we have further diversified our holdings.
- The BID agrees with the recommendation that we should better generate interest income from funds not immediately needed, and have in turn reduced the amount held in the BID's checking account to a total that will cover operating costs.
- In terms of segregation of duties, it is difficult for small BIDs without a dedicated bookkeeper to fully comply with this finding. However, in response a BID staff member has taken on preparing checks for payment and cutting of checks functions for the BID.
- In terms of the BID's three outstanding checks (totaling $700), they were all issued to a single vendor. The BID has since written this vendor a letter indicating that the checks will be considered null and void unless we a receive written request stating otherwise.
- The BID agrees with the recommendation that we formally audit Central Parking's books to assess the lot's operations, and will assign the BID's accountant with this task on a regular basis in the months to come.

Full Audit Text

- On page 10 we agree with your recommendation to distribute surveys to our members, and in fact are currently in the process of doing so.

LOWER EAST SIDE DISTRICT MANAGEMENT ASSOCIATION, INC.
LOWER EAST SIDE BUSINESS IMPROVEMENT DISTRICT
261 BROOME STREET • NEW YORK, NEW YORK 10002
PHONE: 212-226-9010 • FAX: 212-226-8161
WWW.LOWEREASTSIDENY.COM

## ADDENDUM-Agency Response

- On page 11, the BID did in fact provide documentation "to show compliance with contract solicitation requirements" for the security contract, unlike what is stated in the first paragraph under "contract bid solicitation documents not on file." In fact, in the third paragraph of page 12 the audit states that "the BID appropriately complied with DBS requirements for the selection of a security service vendor." Regarding the provision of sanitation services, we provided bid documents and a response from the only contractor to respond. We have since uncovered a list of four contractors who were sent a copy of the request for proposals. According to the BID's prior executive director, the selected vendor was the only respondent among the four prospective bidders. For your information Atlantic Maintenance, the selected contractor, provides sanitation services for numerous other BIDs and is deemed a responsible vendor.
- With regard to uninsured deposits, low interest earnings on reserve funds and insufficient segregation of duties referenced on pages 13-14, please see our earlier comments in response to these items raised in the executive summary.
- With regard to the cash disbursement process on page 15, we now retain all voided checks (they were destroyed previously) as recommended. Please reference our previous comments from the executive summary regarding outstanding checks.
- With regard to recommendations laid out on pages 16-17, the BID has already addressed items 4, 5 and 8 (regarding diversifying deposits of excess funds, generating higher interest revenue from excess funds, and addressing outstanding checks). Additionally, we agree to address items 6, 7, 9 and 10 (regarding the second signatory signing the payment voucher, keeping all voided checks, marking all invoices paid, and formally auditing Central Parking).

Thank you for taking your time to review these points, and for conducting a thorough audit of our operations. If you need any further information, please call me at (212) 226-9010.

Sincerely,

Andrew Flamm
Executive Director

Cc: BID Executive Board