



Financial and Operating Practices of the 47th Street Business Improvement District

What questions did the audit look at?

- ▶ Did the 47th Street Business Improvement District (BID) and the Department of Small Business Services (SBS) implement recommendations made in a 2019 Comptroller's audit?

Why does it matter for New Yorkers?

In 2019, the Office of the Comptroller issued an audit of the 47th Street BID—a public-private partnership that covers a portion of Manhattan's West 47th Street between 5th and 6th Avenues, commonly known as the Diamond District. This audit found serious issues with governance and oversight and made 23 recommendations to the BID and four recommendations to SBS, which oversees the BID's contract. The follow-up audit found that the BID has partially implemented nine recommendations and did not implement 14 recommendations. SBS implemented two recommendations, partially implemented one, and did not implement another.

Additionally, the follow-up found several new concerning problems: most notably, issues with board governance, BID membership, and payments to its Executive Director. According to the 47th Street BID's Annual Report to SBS, fewer than 3% of businesses in the district are members of the BID. Also, the BID failed to monitor the attendance and leave of the Executive Director. In the end, the BID overpaid this executive almost \$33,000.

The follow-up also found that the BID did not seek or obtain approval from the City before allowing Netflix to film a project in the district. Netflix paid the BID more than \$100,000, which included a "donation" for filming and security. The auditors could not determine whether the BID reported all revenue associated with this agreement.

The initial audit in 2019 found serious governance issues with the 47th Street BID. The new findings indicate that these issues were not resolved, and have, in fact, gotten worse. In response, we have made 14 new recommendations to improve BID governance, compliance, and accountability. We recommend that SBS place the BID's assessments in escrow until the BID agrees to change its by-laws and leadership, and agrees to implement the audit's recommendations.

What changes did the agency commit to make following the audit?

- ▶ SBS agreed to work with the 47th Street BID to ensure that the BID follows New York State law, help oversee BID elections, and provide guidance on membership drives.
- ▶ SBS agreed to consult with the New York City Law Department and the Department of Finance and consider placing the BID's finances in escrow until a new contract is signed and the BID changes its by-laws and leadership, and agrees to implement the report's recommendations.

FOLLOW-UP AUDIT FINDINGS



The 47th Street BID did not implement 14 of 23 recommendations made by the auditors in 2019.



The BID's committee member appointments violate NYS law.



The BID's amended by-laws allow the Board Chair to centralize power over district operations.



Fewer than 3% of district businesses participate in the BID.



The BID allowed filming on City streets without informing or seeking approval from the City.



The BID paid the Executive Director almost \$33,000 for time not worked.



The BID did not require a subcontractor to submit required background information.



Initial Audit Recommendations – 47th Street BID		Status
1	Cease providing supplemental security services that do not principally benefit property within the District.	NOT IMPLEMENTED
2	Immediately seek reimbursement for security services that were incurred for Building 1.	PARTIALLY IMPLEMENTED
3	Separate the duties for administering the security program or implement compensating controls and update its policies and procedures.	NOT IMPLEMENTED
4	Monitor budgeted and actual expenditures to identify variances	NOT IMPLEMENTED
5	Ensure that the 47th Street BID Executive Director obtains the Board's approval for budget modifications.	NOT IMPLEMENTED
6	Ensure that its Annual Report includes narrative explanations for budget variances greater than 10 percent.	PARTIALLY IMPLEMENTED
7	Determine and document employee compensation in accordance with IRS regulations.	NOT IMPLEMENTED
8	Maintain records of employee attendance and time.	PARTIALLY IMPLEMENTED
9	Maintain records to show that personnel actions are properly approved.	NOT IMPLEMENTED
10	Monitor payroll transactions to ensure that they have been properly approved.	NOT IMPLEMENTED
11	Obtain a fidelity bond or insurance to protect the organization from embezzlement and other fraudulent acts.	NOT IMPLEMENTED
13	Independently review and monitor purchase and payment documentation.	NOT IMPLEMENTED
14	Competitively procure goods and services whenever possible.	NOT IMPLEMENTED
15	Maintain procurement documentation.	NOT IMPLEMENTED
16	Maintain copies of vendor contracts and invoices.	PARTIALLY IMPLEMENTED
17	Immediately adopt and oversee the implementation of a conflict of interest policy.	PARTIALLY IMPLEMENTED
18	Obtain annually and maintain conflict of interest disclosures for all directors, officers, and employees.	PARTIALLY IMPLEMENTED
19	Ensure that its directors, officers, and employees comply with the conflict of interest policy.	NOT IMPLEMENTED
20	Review member information to ensure that individuals are qualified for membership in each of their respective classes.	NOT IMPLEMENTED
21	Ensure that property owners who pay assessments comprise the majority of the Board.	NOT IMPLEMENTED
22	Immediately hold elections to fill the Board Vice Chairman and Vice President positions or, in the alternative, take required action to eliminate the positions.	PARTIALLY IMPLEMENTED
23	Maintain complete and accurate records of all Board and Board committee meetings.	PARTIALLY IMPLEMENTED
26	Immediately post on its website current information required by its contract.	PARTIALLY IMPLEMENTED

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Initial Audit Recommendations – SBS		Agency Response
12	Consider requiring BIDs to obtain fidelity bonds or insurance to protect them from embezzlement and other fraudulent acts.	IMPLEMENTED
24	Consider the findings of this report when evaluating the 47th Street BID's past performance and making future contracting decisions.	IMPLEMENTED
25	Give written notice to the 47th Street BID of its breach of contract and ensure that it cures issues cited in this report within a reasonable period of time.	NOT IMPLEMENTED
27	Review annual reports to ensure that BIDs include required budgetary and other requested information.	PARTIALLY IMPLEMENTED

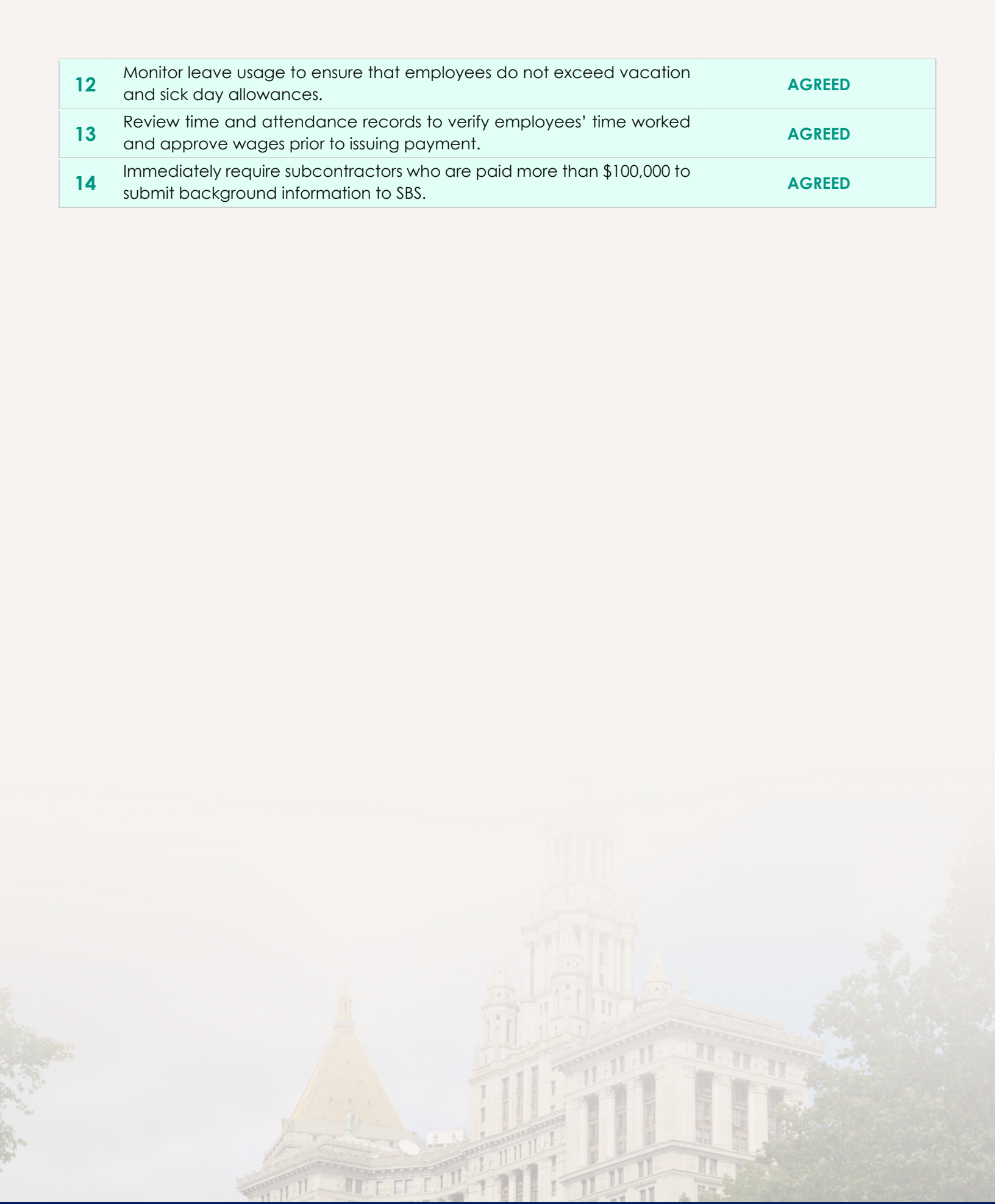
Follow-up Audit Recommendations – SBS		Agency Response
1	Instruct the Department of Finance to place the 47th Street BID's assessments in escrow until the BID signs a new contract, changes its by-laws and leadership, and agrees to a schedule to implement the audit's recommendations by March 31, 2025.	AGREED
2	Ensure that the 47th Street BID immediately appoints an Executive Committee in accordance with NPCL 712(a).	AGREED
3	Oversee the 47th Street BID's membership drive and elections of Directors and Officers.	AGREED
4	Consult with legal counsel to determine whether SBS, as an oversight body, is authorized under NPCL Section 602 to amend the 47th Street BID's by-laws	AGREED
5	Determine the total revenue associated with the Netflix agreement, coordinate with MOME to determine the consideration to be paid to the City, and deduct this amount from the 47th Street BID's assessments.	AGREED
6	Ensure that the 47th Street BID's security subcontractor submits required questionnaires and conducts background checks and determine whether proposed vendors are responsible.	AGREED

Follow-up Audit Recommendations – 47th Street BID		Agency Response
7	Consult with SBS and legal counsel and amend the by-laws to comply with NPCL and best practices.	AGREED
8	Cease its practice of allowing non-voting Directors to vote to elect Officers and conduct business.	AGREED
9	Undertake an annual membership drive to distribute information to all local property owners, and commercial and residential tenants, to inform them of their right to register as a member of the BID and to be eligible to vote for Board Directors and other BID matters.	DISAGREED
10	Recoup inappropriate payments, totaling \$32,846, made to the Executive Director for time not worked during Calendar Year 2022.	DISAGREED
11	Review the Executive Director's time and attendance records for Calendar Year 2023, determine whether the Executive Director took leave he was not entitled to, and if so, recoup additional payments for time not worked.	AGREED

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12	Monitor leave usage to ensure that employees do not exceed vacation and sick day allowances.	AGREED
13	Review time and attendance records to verify employees' time worked and approve wages prior to issuing payment.	AGREED
14	Immediately require subcontractors who are paid more than \$100,000 to submit background information to SBS.	AGREED



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