



NEW YORK CITY COMPTROLLER
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Audit Report on the Financial and Operating Practices of the Kingsbridge Business Improvement District

FK23-079A | January 9, 2024





THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

January 9, 2024

To the Residents of the City of New York,

My office has audited the Kingsbridge Business Improvement District (BID) to determine whether the BID provided supplemental services; ensured that expenses were reasonable, appropriate, adequately supported, and authorized; and complied with the terms of its contract with the Department of Small Business Services (SBS).

The audit found that the Kingsbridge BID provides supplemental services, including sanitation services, holiday lights and seasonal decorations, marketing and special events, and streetscape and beautification. However, the audit identified many concerning areas of non-compliance and evidence of poor management. Specifically, the Kingsbridge BID did not comply with laws and contract provisions, nor did it follow best practices related to conflicts of interest, timekeeping and personnel, procurement, member complaints and surveys, and sick and safe leave.

The audit recommends that the Kingsbridge BID collect Conflict of Interest forms and prohibit people with conflicts from influencing Board or Committee deliberations or votes, immediately implement and apply an anti-nepotism policy, require written job descriptions and conduct annual performance evaluations for all employees, require employees to record time and leave usage, verify hours and wages prior to payment, maintain a log of all complaints and resolutions, conduct regular satisfaction surveys, competitively procure goods and services, and update its procedures to comply with NYC sick and safe leave requirements.

The audit recommends that SBS consider the findings of the report when making future contracting decisions with the Kingsbridge BID, and give written notice to the BID of breaches of its contract. Additionally, for all BIDs, SBS should provide guidance, training, and information to Board members on non-profit governance and obligations under the NYC Sick and Safe Leave Law, require BIDs to implement anti-nepotism policies and best practices as part of their contract terms, and require BIDs to submit a list of all contracts detailing whether they were awarded competitively.

The results of the audit have been discussed with Kingsbridge BID and SBS officials and their comments have been considered in preparing this report. The BID's and SBS' complete written responses are attached to this report.

If you have any questions concerning this report, please email my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander".

Brad Lander
New York City Comptroller

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Audit Impact

Summary of Findings

The audit found that the Kingsbridge Business Improvement District (BID) provides supplemental services, including sanitation services, holiday lights and seasonal decorations, marketing and special events, and streetscape and beautification.

However, the audit identified many concerning areas of non-compliance and evidence of poor management. Specifically, the Kingsbridge BID did not comply with laws and contract provisions, nor did it follow best practices related to conflicts of interest, timekeeping and personnel, procurement, member complaints and surveys, and sick and safe leave.

Intended Benefits

This audit will ensure that BID resources are used effectively and efficiently to provide supplemental services to the district.

Introduction

Background

In 1981, New York City and State passed legislation permitting property owners to define and self-fund commercial districts known as BIDs. A BID is a nonprofit, public-private partnership through which property and business owners within a defined geographic area contribute to the maintenance, development, and promotion of their district. Special assessments paid by benefiting property owners fund BID operations.¹

The New York City Department of Small Business Services (SBS) is responsible for overseeing BIDs by serving as an advisor and resource for commercial districts interested in forming a BID, providing board representatives, monitoring organizational health, managing BID billing processes, and sharing best practices and interagency advocacy. The Office of the New York City Comptroller acts as an incorporator of the BID and participates as a voting member on the Kingsbridge BID's board.

When BIDs are initially proposed, the proposing organization provides SBS with a district plan, which outlines the formula used to calculate the special assessment, proposed services, and proposed operating budget.

Each BID is governed by a board of directors. Board members are divided into five classes consisting of: commercial property owners (Class A); commercial tenants (Class B); residential tenants (Class C); public official appointees (Class D); and other interested parties (Class E).² Board members are elected by BID members of their respective classes or are appointed by public officials.

In 2001, the City (via SBS) entered into a contract with the Kingsbridge BID, which is located in the northwest Bronx. The most recent contract between the Kingsbridge BID and SBS was for the five-year period from July 1, 2016 to June 30, 2021. The contract provided the City the option to renew for an additional five-year term. In June 2022, the City extended the contract under the same terms and conditions through June 30, 2023. A new contract term of five years began on July 1, 2023.

¹ The City of New York collects assessments from property owners and then disburses them to the BID.

² NYC Administrative Code § 25-414 states that the Board shall include “four members, one member appointed by each of the following: the mayor, the comptroller, the borough president of the borough in which the district is located and the council member representing the council district in which the proposed district is located, or if the proposed district is located in more than one council district, by the speaker of the city council after consultation with the council members representing the council districts in which the proposed district is located.”

Under the terms of the contract, the City collects and pays to the Kingsbridge BID assessments that are levied on real property within the district. In return, the Kingsbridge BID provides certain supplemental services and capital improvements within the district, including sanitation services, holiday lighting, marketing and special events, streetscape and beautification, and administrative services.

As with all BIDs, the Kingsbridge BID is governed by a board of directors. In addition, during the audit scope period, the Kingsbridge BID employed two part-time employees: an Executive Director and an Assistant Manager. The Executive Director was responsible for organizing, operating, and managing the day-to-day activities of the Kingsbridge BID.

According to the Kingsbridge BID’s Annual Report submitted to SBS for Fiscal Year 2022, the BID reported assessments and other revenue of \$331,211, and expenses of \$326,575, which included \$191,810 (58.7%) in program expenses and \$134,765 (41.3%) in general and administrative expenses. Please refer to Table I for a breakdown of expenses by dollar amount, and Chart I below for a breakdown of the percentage of the BID’s expenses by supplemental service category. Please refer to Figure I for a map of the district.

Table I: Breakdown of Kingsbridge BID Expenses by Dollar Amount

Category	Description	Amount
General and Administrative	Employee salaries and overhead costs such as rent, insurance, and utilities	\$134,765
Sanitation	Daily sidewalk sweeping, emptying trash baskets, and graffiti removal	\$112,882
Holiday Lighting	Holiday and seasonal decorations	\$32,875
Marketing and Special Events	Advertising, banners, calendars, shopping guides, and maps	\$28,438
Streetscape and Beautification	Landscaping and plantings	\$17,615
Total Expenses		\$326,575

Chart I: Percentage of Kingsbridge BID Expenses by Supplemental Service Category

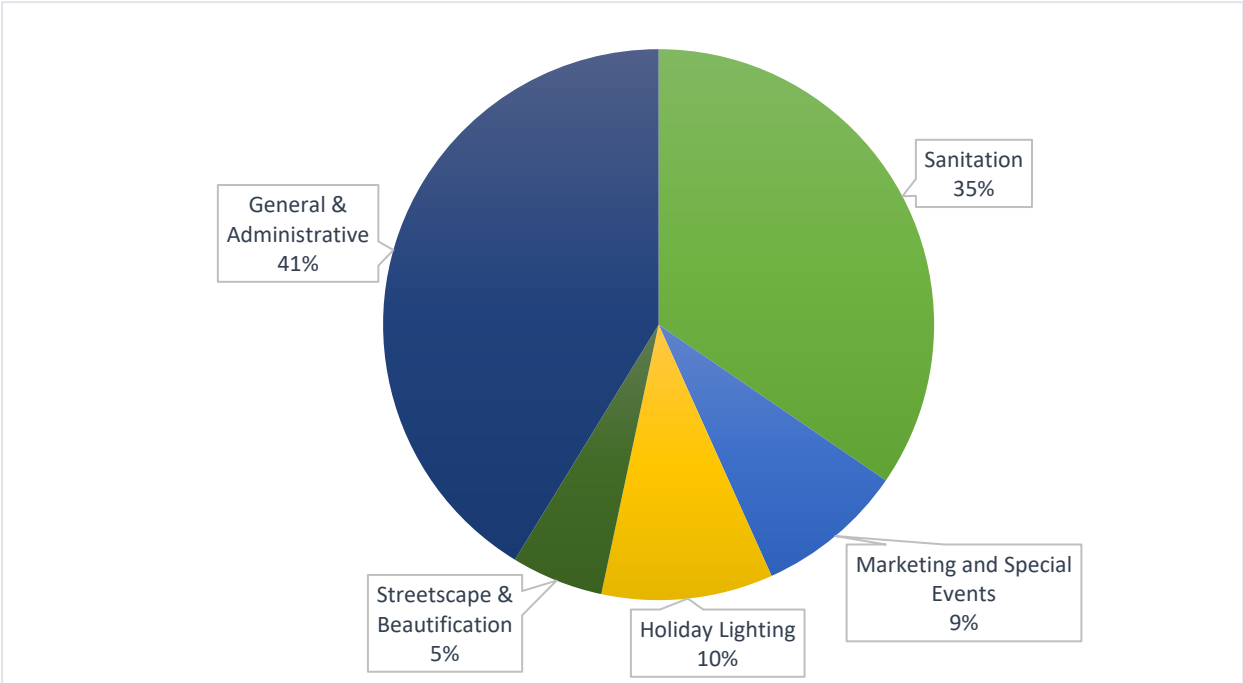
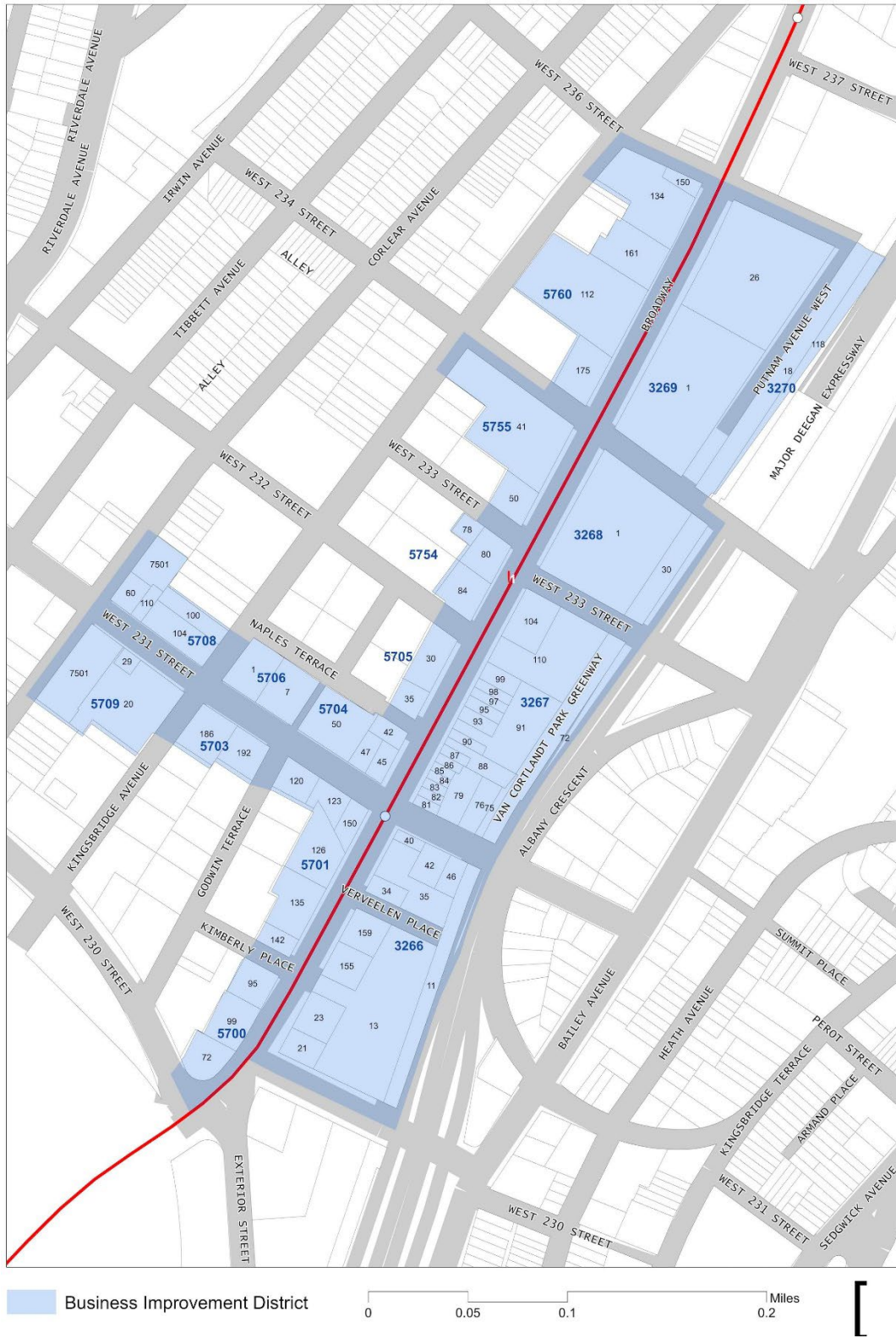


Figure I: Map of the Kingsbridge BID Boundaries



Objectives

The objectives of this audit were to determine whether the Kingsbridge BID: (1) provided supplemental services; (2) ensured that expenses were reasonable, appropriate, adequately supported, and authorized; and (3) complied with the terms of its contract with SBS.

Discussion of Audit Results with the Kingsbridge BID and SBS

The matters covered in this report were discussed with the Kingsbridge BID and SBS officials during and at the conclusion of this audit. An Exit Conference Summary was sent to the Kingsbridge BID and SBS and discussed with the Kingsbridge BID and SBS officials at an exit conference held on November 1, 2023. On November 16, 2023, we submitted a Draft Report to the Kingsbridge BID and SBS with a request for written comments.

We received a written response from the Kingsbridge BID on December 1, 2023. In its response, the BID agreed with 10 recommendations, and did not address two recommendations. We received a written response from SBS on December 5, 2023. In its response, SBS agreed with all six recommendations.

The Kingsbridge BID's and SBS' written responses have been fully considered and, where relevant, changes have been made to the report. The full texts of both responses are included as addenda to this report.

Detailed Findings

The audit found that the Kingsbridge BID provided supplemental services, including sanitation services, holiday lights and seasonal decorations, marketing and special events, and streetscape and beautification. However, the audit identified many concerning areas of non-compliance and evidence of poor management.

The Kingsbridge BID does not fully comply with the New York State Not-For-Profit Corporation Law (NPCL), as its contract requires. For example, the BID did not collect conflict of interest disclosure forms from all directors, officers, and key persons as required, and it also failed to implement anti-nepotism policies or best practices. In fact, the BID employs a mother and daughter as Executive Director and Assistant Manager. As the Executive Director, the mother played a role in hiring her daughter and supervised her work. She also participated in discussions regarding her daughter's compensation. Hiring her daughter constitutes nepotism and participating in compensation discussions and overseeing her work constitutes a serious conflict of interest.

The audit also found that the Kingsbridge BID did not ensure that personnel expenses—which accounted for 25.2% of expenses during Fiscal Year 2022—were reasonable, appropriate, adequately supported, or authorized. The BID did not require its employees to maintain timesheets, verify hours worked, approve wages prior to payment, or evaluate employee performance. The BID did not maintain a written job description detailing the Assistant Manager's responsibilities or maintain appropriate records of her work.

Lastly, the audit found that the BID did not ensure that other than personal services (OTPS) expenses were reasonably priced; did not comply with the contract requirements for maintaining a record of member complaints and surveying members; and did not comply with City Sick and Safe Leave Laws.

The Kingsbridge BID Does Not Comply with New York State NPCL Conflict of Interest Requirements

NPCL 715 states that the board shall adopt and oversee the implementation of and compliance with a conflict of interest (COI) policy to ensure that its directors, officers, and key persons act in the corporation's best interests and define the circumstances that constitute a conflict. Additionally, NPCL states that the COI policy must include procedures for directors, officers, and employees to disclose potential conflicts to the board. It must include procedures for the board to determine and document whether a conflict exists, as well as how conflicts, if identified, were resolved. The COI policy must also prohibit the person with the conflict from being present at, participating in, or improperly influencing board or committee deliberations, or voting on related matters.

Although the Kingsbridge BID's COI Policy includes procedures for disclosing and documenting potential conflicts of interest, the BID did not follow this process.

The COI Policy requires the BID's directors, officers, and key employees (Covered Persons) to annually complete a COI Disclosure Form that acknowledges their compliance with the BID's COI Policy and disclose any circumstances that may give rise to conflicts of interest. The BID's Executive Director was responsible for distributing and collecting COI Disclosure Forms.

However, the audit found that the Executive Director did not fulfill these responsibilities. Of the BID's 14 Covered Persons, four did not submit completed COI Disclosure Forms. This group included:

- The Board President and a Class A member, both of whom submitted incomplete forms missing disclosure sections; and
- The Executive Director and a Class A member, both of whom did not submit forms at all.

Further, the Executive Director only collected the forms; she did not submit them to the Audit Committee as required by NPCL. The BID's Executive Director told the auditors that virtual meetings have made it more difficult to get Board members to complete and return forms. The Executive Director was not aware that she was required to complete a form. Additionally, she claimed that she did not submit forms to the Board since there have not been any conflicts of interest.

After the auditors discussed these issues with the Kingsbridge BID, the auditors requested COI Disclosure Forms for Fiscal Year 2023. The BID collected forms for Covered Persons. On August 8, 2023, the Executive Director completed a form for the first time on which she disclosed that she has a "Significant Relationship" which "has the potential to become a Covered Transaction or give rise to a conflict of interest." The Executive Director did not disclose the exact nature of the relationship. However, it became known to the auditors that she is the mother of the Assistant Manager, her subordinate.

On August 24, 2023, the auditors asked the Audit Committee whether the Executive Director disclosed this potential conflict to the Board and, if so, whether the Board determined and documented whether a conflict exists and took any action. However, to date, the Audit Committee has not responded.

Since the Executive Director did not collect completed COI Disclosure Forms for all Covered Persons and submit them to the Audit Committee, the Board may not have been aware of potential conflicts of interest and may have allowed the Executive Director to improperly influence deliberations about her own daughter's compensation.

Specifically, the Executive Director was present at a Finance Committee Meeting held on March 3, 2023, and participated in deliberations regarding the Assistant Manager's (her daughter's) compensation. At this meeting, a Finance Committee member raised a question about the cost

of the Assistant Manager’s health insurance and alternate coverage. The Executive Director stated that “there was nothing to discuss, that after speaking to [a BID Director], [the BID Vice President] and [the Assistant Manager], it was decided that she remain with her current program.” Subsequently, the Finance Committee members did not further discuss or deliberate on this matter, and the BID continued to provide the Assistant Manager with the same level of benefits under the same plan.

The Executive Director should recuse herself from all deliberations and decisions about any financial transactions, including health benefits, related to her daughter, as this constitutes a conflict of interest for the BID.

After the audit team discussed these issues, the Kingsbridge BID stated that, although the Executive Director did not previously formally disclose her relationship with the Assistant Manager, the relationship was known to the Board. Additionally, the BID stated that the Executive Director’s and Assistant Manager’s combined compensation is on the lower end of the compensation of Executive Directors of similarly sized BIDs.

The Kingsbridge BID also stated that it has a contract with the City, is overseen by SBS, that SBS representatives sit on the Board, and they were aware that the Executive Director’s daughter was hired as the Assistant Manager. However, SBS did not provide the BID with guidance.

In response, SBS officials stated that the SBS representative is only one member of the Kingsbridge BID’s Board. Additionally, SBS officials stated that SBS previously provided the BID with guidance and would meet with the Board and connect the Board with legal resources to advise them on conflict-of-interest matters.

The Kingsbridge BID Does Not Have an Anti-Nepotism Policy or Follow Best Practices

The “Conflicts of Interest Policies Under the Not-for-Profit Corporation Law Guidance” document issued by the New York State Attorney General states that, in deciding what constitutes a conflict, the board may “define additional restrictions on transactions between a board member and the corporation, or between the nonprofit’s employees and third parties” such as an anti-nepotism policy. Further, the SBS “HR Policies and Procedures Checklist – Requirements and Best Practices” (SBS Best Practices) states that it is a best practice to have an anti-nepotism policy.

The *NYC Good Governance Blueprint: Best Practices, Resources, and Tools for Nonprofit Executive Leaders and Board Members* (the NYC Good Governance Blueprint) states that potential conflicts of interest include familial relationships between employees and organizations should prohibit employees from managing their relatives to ensure that decisions are made in the best interest of the organization. Additionally, the NYC Good Governance Blueprint states that organizations should have written job descriptions for all employees, conduct regular performance

evaluations, and establish clear policies and procedures for the consequences of both positive and negative performance.

Although the Kingsbridge BID's Bylaws state the COI Policy shall be amended from time to time to comply with all relevant changes to the law and promote best corporate practices, the Kingsbridge BID did not implement an anti-nepotism policy or follow best practices to ensure that decisions are made in the best interest of the BID. The Executive Director informed the auditors that the BID was unaware that it is considered best practice to have an anti-nepotism policy.

The Assistant Manager is the daughter of the Executive Director, and she was not hired through a competitive process. The Kingsbridge BID did not post the position and interview or consider other candidates prior to her appointment. The Executive Director played a role in hiring her daughter, participated in discussions about her benefits package, processed benefits payments, and supervised her work.

Additionally, the Kingsbridge BID did not provide the Assistant Manager with a written job description making clear her responsibilities and the limits of her authority. It did not evaluate either employee's performance.

Allowing nepotism to inform hiring, compensation, and other decisions can have harmful financial and operational consequences for an organization. There is heightened risk of not hiring the most qualified candidate and retaining or promoting unqualified individuals to key positions. Additionally, the risk of diminished employee accountability in performance and time-attendance can affect the BID's ability to meet its goals.

After the audit team raised these issues, the Kingsbridge BID expressed concerns as to how the BID could implement an anti-nepotism policy since it has only a two-person management team who need to coordinate their work. SBS officials stated that SBS would connect the Board with legal resources to advise them.

In its written response, the Kingsbridge BID stated that an anti-nepotism policy "was never brought up by SBS during the many years that the Executive Director's daughter worked for the BID. [The Assistant Manager] was present at most Board meetings and events since 2019 at which our SBS rep was also present."

The Kingsbridge BID Does Not Comply with Timekeeping Requirements

SBS Best Practices states that BIDs should establish policies regarding timesheets outlining how employees are to report their hours worked. The Procedures and Practices of the Kingsbridge District Management Association state that the workday is from 9am to 5pm and that employees

may earn compensatory time if they work evenings or weekends. Additionally, the procedures specify the amounts of vacation and other leave to which employees are entitled, and states that “verification of hours and approval for wages are to be signed by the District Manager for all staff. In the absence of the District Manager, an officer of the DMA [...] may approve these documents.”

The Kingsbridge BID’s two employees both worked part-time and generally split a 40-hour work week. However, the BID did not implement a policy that required its employees to record the dates, times, and hours worked, or leave usage. Additionally, the BID did not verify hours and approve wages for its two employees as required.

After the auditors discussed the finding with the BID, the Executive Director stated that its two employees are salaried and have never been required to track their time.

Since the Kingsbridge BID does not require its employees to record their time and attendance, or otherwise verify time worked, the Board cannot be sure that they work the required number of hours and only use leave to which they are entitled. The Kingsbridge BID may pay its employees for time they did not work or for charges against vacation and other leave balances to which they are not entitled. Additionally, this risk is heightened by the fact that the Executive Director is the mother of the Assistant Manager and supervises her work.

After the audit team discussed these issues, the Kingsbridge BID stated that there are SBS representatives on the Board and they were aware that the BID did not require its employees to report their hours worked on timesheets. However, SBS did not provide the BID with guidance.

The Kingsbridge BID Does Not Maintain a Log of Members’ Complaints

The SBS contract requires the Kingsbridge BID to maintain complete and accurate records on all its activities, including, but not limited to, a log of all complaints received by the BID, whether written or oral. However, the Kingsbridge BID does not maintain a log of complaints.

BID officials informed the auditors that the Assistant Manager is responsible for visiting businesses in the district and identifying and documenting issues and concerns. The Assistant Manager informed the auditors that she recorded complaints in a Microsoft Excel spreadsheet. However, this file included only a list of businesses located within the BID and did not include any information about complaints.

Additionally, the Executive Director and Assistant Manager stated that they maintain handwritten notes, take photographs, and report their observations to the Board in both manager reports and annual reports. However, these reports do not contain a list of complaints received by the BID.

Since the Kingsbridge BID does not maintain a formal complaint log, the BID does not have a centralized, comprehensive list of all issues and concerns affecting BID property owners,

merchants, and residents, and cannot ensure that all complaints are addressed. Additionally, the BID cannot systematically analyze complaint data to identify, prioritize, and address issues facing the district and communicate them to SBS, other City agencies, or 311.

After the audit team discussed these issues, the Kingsbridge BID stated that most of the complaints it receives pertain to illegal street vendors. The BID stated that it communicated those complaints to SBS, other City agencies, 311, and elected officials. However, there has been a change in enforcement and the City has not been responsive to the BID's complaints.

The Kingsbridge BID Does Not Regularly Survey Members

The SBS contract states that the BID shall conduct regular surveys of its members to determine levels of satisfaction and support for the BID, and solicit recommendations for possible changes to the supplemental services and capital improvements. Additionally, SBS' *BID Oversight Framework* states that BIDs are expected to formally survey merchants, visitors, and residents annually or throughout the year, and solicit feedback.

However, the Kingsbridge BID did not conduct annual or regular satisfaction surveys. The BID has not surveyed its members since February 2020, and that survey had a very low response rate—only 11 merchants and 5 property owners provided feedback.

After the auditors discussed this finding with the Kingsbridge BID, the Executive Director stated surveys were not performed due to the COVID-19 pandemic. Additionally, the Executive Director stated that, despite SBS' recommendation for regular annual surveys, the BID does not change enough annually to require a survey. The Executive Director believes that surveys should only be conducted every 3 to 5 years, and currently, there are no plans to conduct one.

Since the Kingsbridge BID does not regularly survey members—and has no plans to do so in future—the BID is unlikely to be aware of issues and trends, sources of dissatisfaction, or possibilities for improvement within the BID.

After the audit team discussed these issues, the Kingsbridge BID stated that the BID was in the process of adding a permanent survey to its website which will hopefully encourage more feedback. As of the date of this report, the BID's website includes surveys for BID members, (Merchants, Property Owners, and Residents), and includes ratings for services provided by the BID and a feedback section for general comments or suggestions.

The Kingsbridge BID Does Not Comply with Procurement Requirements

The SBS contract states that contracts for goods and services with a value of more than \$20,000 in any single fiscal year are to be awarded on a competitive basis to the maximum extent practical. If a contract is awarded on a non-competitive basis, the Board of Directors of the BID and SBS shall be notified prior to such award. The contract provides for exceptions to non-competitive selection which include the following circumstances, when:

- Only one source for the goods or services is reasonably available;
- Information obtained from a prior solicitation or market research indicates that all persons or firms that previously submitted proposals or are anticipated to submit proposals are not qualified, responsive, or responsible; and
- There is a limited number of vendors available and able to perform work.

Further, the Procedures and Practices of the Kingsbridge BID states that "contracts in the amount of \$5,000 or more must be approved by the Board of Directors and must be awarded following solicitation from at least three qualified firms where possible."

The Kingsbridge BID paid two vendors more than \$20,000 in Fiscal Year 2022 and did not competitively award contracts for those services or notify SBS prior to awarding them. Payments to those vendors totaled \$145,632—accounting for 61.4% of program costs.

Additionally, the Kingsbridge BID paid two vendors between \$5,000 and \$20,000 in Fiscal Year 2022 and did not solicit quotes from other qualified firms. Payments to those vendors totaled \$36,885—15.5% of program costs.

The Executive Director stated that the BID generally renewed existing contracts without soliciting competitive bids because they had established relationships, provided better service and pricing, or a limited pool of vendors existed. However, the BID did not recently conduct formal market research to determine whether there were opportunities for cost-savings or improved services, and it did not maintain supporting documentation to show that other vendors' costs were higher.

The BID violated the terms of its contract as it relates to procurement. Since the Kingsbridge BID did not competitively award contracts, the BID may not have obtained the best value in the interest of its members, and prices may not be reasonable.

After the audit team discussed these issues, the Kingsbridge BID stated that an SBS representative was present at all financial meetings and never raised the issue regarding non-competitive procurements. Additionally, the BID stated, "the Board is allowed to use the same vendor but are encouraged to monitor costs through using the RFP process."

As previously stated, while the contract provides for exceptions to non-competitive selection, the BID did not conduct market research and document that other vendors' costs were higher as required.

The Kingsbridge BID Does Not Comply with City Sick and Safe Leave Laws

The Rules of the City of New York state that every employer shall maintain written safe and sick time policies that must meet or exceed the requirements of the Earned Safe and Sick Time Act. At minimum, the policy must state the employer's policies regarding the use of safe and sick time, including any limitations or conditions the employer places on its use. Additionally, SBS Best Practices state that "every organization should have a written sick leave policy that meets or exceeds the legally required minimum sick and safe leave."

However, the Kingsbridge BID's written policy does not state that employees have the right to use safe and sick time. The Procedures and Practices of the Kingsbridge BID states that "payment for sick leave will be at the discretion of the District Manager and the President."

Kingsbridge BID officials stated they were unaware of the change in the law. They also stated that the Procedures and Practices of the Kingsbridge District Management Association were written more than 20 years ago and have not been updated since. This is also problematic; BID management should regularly review and update its policies and procedures. The process should include an evaluation of changes in legal requirements that potentially impact the BID's operation. In this instance, the Kingsbridge BID President and employees were not informed of their legal right to use sick and safe leave.

After the audit team discussed these issues, the Kingsbridge BID acknowledged that its policies and procedures need to be corrected and updated.

Recommendations

To address the above-mentioned findings, the auditors propose that the Kingsbridge BID:

1. Require the BID Secretary to ensure that all Covered Persons complete annual COI forms and submit completed forms to the Audit Committee.

BID's Response: The BID agreed stating that “[COI] forms will be more closely monitored.”

2. Ensure that the Board determines and documents whether conflicts exist and prohibits people with conflicts from being present at, participating in, or improperly influencing Board or Committee deliberation or votes.

BID's Response: The BID agreed with this recommendation stating that regular COI forms will be more closely monitored, and the Executive Director “will recuse herself from participating with the Finance Committee on financial discussions involving her daughter.”

3. Implement an anti-nepotism policy that addresses family or household members of BID employees being employed, serving as consultant or independent contractor. At minimum, the policy should prohibit employees or officers from being involved in any way in the recruiting, interviewing, hiring, compensating, supervising, evaluating, promoting, disciplining, or terminating of family or household members; the policy should also prohibit any involvement by the household or family member from participating in the procurement or contracting of any related parties.

BID's Response: The BID did not address whether it would implement this recommendation. The BID stated only that the Board should discuss an anti-nepotism policy at the next meeting “since the issue has been raised to resolve the issue of [the Assistant Manager's] employment.”

4. The Board should immediately apply the anti-nepotism policy referred to in #2 above to the familial relationship that exists between the Executive Director and Assistant Manager. The Executive Director should have no role in supervising, assessing performance, approving payments to or leave for the Assistant Manager. The Board should immediately draft and provide the Assistant Manager with a written job description detailing her day-to-day responsibilities and expectations, and the limits of her authority.

BID's Response: The BID did not address this recommendation, as noted under Recommendation 3.

5. Require written job descriptions for all employees and maintain them in personnel files.

BID's Response: The BID agreed with this recommendation stating that a Personnel Committee can work to resolve this issue.

6. Conduct annual performance evaluations for all employees and establish clear policies and procedures for the consequences of both positive and negative performance.

BID's Response: The BID agreed with this recommendation stating that a Personnel Committee can work to resolve this issue.

7. Require employees to record their arrival and departure times for each day worked, accrual of compensatory time, and charges against leave or compensatory time.

BID's Response: The BID agreed with this recommendation stating that “[t]ime sheets should be created for each employee.”

8. Verify employees' hours and approve wages prior to issuing payment.

BID's Response: The BID agreed with this recommendation stating that “a Board member should sign the time sheets so accountability is maintained.”

9. Maintain a log of all complaints received, track complaints and record actions taken and disposition, and systematically analyze complaint data to identify, prioritize, and address issues facing the district and communicate them to SBS, other City agencies, or 311.

BID's Response: The BID agreed with this recommendation stating that it “will begin to keep a database of all complaints and any resolution.”

10. Annually or more frequently survey members to determine the current level of satisfaction and support for the BID and solicit recommendations for possible changes to supplemental services and capital improvements.

BID's Response: The BID agreed with this recommendation and implemented it by posting a survey on its website.

11. Competitively procure goods and services to the maximum extent practical in accordance with its contract and internal policies and procedures and notify SBS of contracts which will be awarded on a non-competitive basis prior to award.

BID's Response: The BID agreed with this recommendation stating the Executive Director will notify the Finance Committee when contracts are coming up for renewal. The BID noted that a representative from SBS sits on the Finance Committee.

12. Update its Procedures and Practices to, at minimum, comply with New York State and New York City sick and safe leave requirements. Ensure periodic reviews of the BID's Procedures and Practices in future, including a review of applicable rules, regulations, and contract terms and conditions.

BID's Response: The BID agreed with this recommendation stating that it should select a committee to update the BID's Personnel Policies to adhere to current laws.

To address the above-mentioned findings, the auditors propose that SBS:

13. Consider the findings of this report when evaluating the Kingsbridge BID's performance and making future contracting decisions.

SBS' Response: SBS agreed with this recommendation stating it will take the suggested recommendations into consideration when renewing their contract with the Kingsbridge BID, which currently expires on June 30, 2028.

14. Give written notice to the Kingsbridge BID of any failure, violation, or breach of the material terms, covenants, or provisions of the contract and ensure that the BID cures issues cited in this report within a reasonable period.

SBS' Response: SBS agreed with this recommendation stating it will provide written notice to the management and board of the Kingsbridge BID and will develop an action plan for the BID to address compliance issues and to cure them within a reasonable period of time.

15. Provide guidance and training to Board members on non-profit governance.

SBS' Response: SBS agreed with the recommendation stating SBS staff provide BID board members and management with guidance and direction, present webinars, and provide access to a resource library of governance tools. Additionally, as of December 4, 2023, SBS will provide access to videos which provide detailed guidance on non-profit governance.

16. Require BIDs to implement anti-nepotism policies and best practices as part of their contract terms.

SBS' Response: SBS agreed with this recommendation stating that it will create a model anti-nepotism policy and will require this policy to be implemented in Fiscal Year 2025.

17. Require BIDs to submit a list of all contracts detailing whether they were awarded competitively as well as contract amounts, terms, and scope of services.

SBS' Response: SBS agreed with this recommendation stating that it plans to add additional information about the process of awarding contracts in its Fiscal Year 2024 Annual Report to SBS and will require BIDs to notify SBS beforehand of sole source procurements using a standardized memo.

18. Provide information to all BIDs concerning their obligations under the NYC Sick and Safe Leave Law.

SBS' Response: SBS agreed with this recommendation stating that it will discuss how best to implement additional guidance of the NYC Sick and Safe Leave Law. SBS stated that it currently makes a checklist available of HR policies and procedures and whether they are required by law or best practices to implement. SBS stated the checklist is updated annually and is made available to all BIDs.

Recommendations Follow-up

Follow-up will be conducted periodically to determine the implementation status of each recommendation contained in this report. Agency reported status updates are included in the Audit Recommendations Tracker available here: <https://comptroller.nyc.gov/services/for-the-public/audit/audit-recommendations-tracker/>

Scope and Methodology

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). GAGAS requires 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 within the context of our audit objective(s). This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The Comptroller is one of the four Class D Kingsbridge BID Board members by virtue of his office. The Class D Board members, in conjunction with the other Board members constitutes the BID Board. In accordance with the New York City Administrative Code Title 25, Chapter 4, §25-414(b), the Comptroller sits on the BID Board through a designated representative. Neither the Comptroller nor his representative on the BID Board was involved in the audit process.

The scope of this audit was July 1, 2021 through June 30, 2022.

To gain an understanding of the Kingsbridge BID's operations, the auditors reviewed the BID's contract with SBS, the BID's policies and procedures and by-laws, NPCL, the Rules of the City of New York, NYS Attorney General best practices for non-profits, NYC Good Governance Blueprint, and SBS guidance including best practices. The auditors also conducted walkthroughs of the BID's operations including Board structure and governance, receipt and accounting for City assessment and other income, budgeting, provision of supplemental services, personnel, payroll, and timekeeping procedures, and procurement. Additionally, the auditors reviewed the BID's IRS Form 990, audited financial statements, and annual report submitted to SBS.

To determine whether the Kingsbridge BID complied with NPCL and its policies and procedures, the auditors reviewed COI disclosure forms for 2022 and 2023 to determine whether all Covered Persons submitted forms as required. When conflicts were disclosed, the auditors reviewed general board and committee meeting minutes to check whether the Board determined whether a conflict exists, took action, and documented decisions. Additionally, the auditors reviewed the minutes to determine whether the Board prohibited interested persons from participating in or influencing discussion and deliberations.

The auditors also reviewed Board minutes to determine whether general board and committee meetings were held in accordance with the by-laws and documented.

To determine whether the Kingsbridge BID maintained a formal complaint log and regularly surveyed members as required by the contract, the auditors requested and reviewed a copy of the complaint log and the most recent survey and responses. The auditors also discussed the BID's practices for identifying and addressing member complaints.

Additionally, the auditors surveyed 254 BID members to rate their level of satisfaction with the BID's services and support for the BID, 20 members responded (7.9%).

The auditors stratified the Kingsbridge BID total vendor payments by the dollar thresholds stated in the BID's contract with SBS and its own internal policies and procedures. The auditors selected

a judgmental sample by randomly choosing two transactions per vendor in cases where the vendor had more than one payment, and selected the only payment made to vendors where one payment was made. The tested sample included 18 transactions from 10 separate vendors representing \$90,731, or 38.2% of all OTPS program costs.

To determine whether the Kingsbridge BID complied with its contract and internal procurement procedures, and whether its OTPS expenditures were reasonable, appropriate, adequately supported, and authorized, the auditors requested and reviewed procurement solicitations and responses, vendor selection, sole source justification memos and approvals, receipts, invoices, contracts, and payment documentation for our sampled vendors and payments.

The results of the above tests, while not projectable to their respective populations, provided a reasonable basis for auditors to evaluate whether the Kingsbridge BID's expenses were reasonable, appropriate, adequately supported, and authorized.



Dec. 1, 2023

Audit Report on the Financial and Operating Practices of the Kingsbridge Business Improvement District

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Andrew Williams
Williams Funeral Home

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M.J. Martin & Son, Inc.

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Michael McAndrews
Regency Centers

Secretary
Dr. Donald Spector
Cambridge Podiatry Center

Treasurer
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Martin & Kenneth Realty

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Executive Director

* * * *

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Resident Representative

Stewart Hackett
Robert E. Hill R/E

Joseph A. Santiago
Ponce Bank

Subarna Sengupta
Gaseteria/Malu Properties

Elected Officials

Hon. Eric Adams
NYC Mayor
Fred Leopold-Hooke

Hon. Brad Lander
NYC Comptroller
Greer Mayhew

Hon. Vanessa Gibson
Bronx Borough President
Marshall Strawbridge

Hon. Eric Dinowitz
NYC Council
TBD

District's Response

We concur that the audit found that the Kingsbridge BID has successfully provided supplemental services, including street sanitation, holiday lights and seasonal decorations, marketing and special events, and streetscape and beautification, for over twenty years under the direction of our board and founding executive director.

However, having found that we have provided these services, which are the stated lion's share of the responsibilities of the BID, any conclusion that we are in material breach of our contract with the City is spurious.

AEW



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The areas outlined by the report as preliminary findings, stating that the BID is guilty of poor management, noncompliance with NPCL, and fiscal irresponsibility and mismanagement, are not reasonable conclusions to draw from the findings of the audit or the successful operation of the BID for the term of its existence. The audit did identify areas where the BID's protocols can be updated or changed to be more aligned with the current evolution of the City's and State's current expectations. But findings of willful disregard, poor management, or the implication of possible corruption, are not reasonable accusations to make or conclusions to find based on a list of procedural shortcomings.

The genesis of the need for this audit was likely the City's outrage over the fact that the two direct employees of the BID are Mother and Daughter. This fact was never hidden from the City. The preliminary report goes on to impute the BID's handling of government funds with colorful graphs and tables. The audit should reflect that the BID has always spent the same or less on overhead,

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salaries and administration of services then all the other like sized City BID's. Any implication that a shortfall in administrative procedures equals mismanagement of funds is a false finding and should not be been made.

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Having read the report and gone through the process, we have identified the following changes that can be made to be in better compliance with today's standards. We outline our understanding of the stated concerns and proposed remedies in the following paragraphs.

Summary of recommendations by Comptroller's Office for Kingsbridge

- BID: 1) Correct Conflict of Interest problems.
- 2) Board ensures CofI is implemented.
- 3) Create an Anti-Nepotism policy.
- 4) Apply the Anti-Nepotism policy.
- 5) Create job descriptions.
- 6) Conduct annual performances reviews & consequences of reviews.
- 7) Require daily work sheets.
- 8) Verify hours before pay.
- 9) Maintain log of complaints.
- 10) Annually survey members.
- 11) Competitively procure goods & notify SBS of non-competitive prior to award.
- 12) Update Procedures & Practices to comply with NYS & NYC law.

ALW



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Summary of recommendations for SBS

- 1 3) Use this report when evaluating Kingsbridge.
- 14) Written notice of breaches of contract & prompt cure of issues.
- 15) Provide guidance to the Board on governance.
- 16) Require anti-nepotism and best practices in an SBS contract.
- 17) Require BIDS to list all contracts & details of each.
- 1 8) Provide all BIDS information on NYC Sick & Leave law.

Statement: (1&2) THE KINGSBRIDGE BID DOES NOT COMPLY WITH NYS NPCL CONFLICT OF INTEREST REQUIREMENTS.

Response:

The Audit Committee agrees that regular Conflict of Interest forms will be more closely monitored. Katherine will recuse herself from participating with the Finance Committee on financial discussions involving her daughter.

Statement: (3&4) THE KINGSBRIDGE BID DOES NOT HAVE AN ANTINEPOTISM POLICY OR FOLLOW BEST PRACTICES.

Response:

This policy was never brought up by SBS during the many years that the Executive Director's daughter worked for the BID. She was present at most Board meetings and events since 2019 at which our SBS rep was also present. The Board should discuss this at our next meeting since the issue has been raised to resolve the issue of Jennifer's employment. The rest of this paragraph is administrative. The BID agrees that our Personnel policies need updating; i.e., job descriptions, job evaluations etc.

Statement: (5&6) CREATE WRITTEN JOB DESCRIPTIONS AND CONDUCT ANNUAL PERFORMANC REVIEWS & CONSEQUENCES OF REVIEWS.

Response:

There is a job description for the E.D. and annual reviews had been done in the past. A Personnel Committee can work to correct the noted items.



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Statement: (7&8) THE KINGSBRIDGE BID DOES NOT COMPLY WITH TIMEKEEPING REQUIREMENTS & VERIFY HOURS BEFORE PAY.

Response:

SBS never mentioned time sheet requirements during the last 20 years. Historically Executives are not required to fill out time sheets as they are salaried employees. This is another administrative procedure. Time sheets should be created for each employee. Since the ED and the Asst Mgr. are related, a Board member should sign the time sheets so accountability is maintained.

Statement: (9) THE KINGSBRIDGE BID DOES NOT MAINTAIN A LOG OF MEMBERS' COMPLAINTS

Response:

The BID will begin to keep a database of all complaints and any resolution.

Statement: (10) THE KINGSBRIDGE BID DOES NOT REGULARLY SURVEY MEMBERS

Response:

SBS "best practices" suggests that a survey be done each year. In the past, Kingsbridge found this to be too difficult since it was done in-person or by mail. We have worked with our Webmaster and placed our survey permanently on our website.

ALL OF THE ABOVE ITEMS ARE ADMINISTRATIVE AND CAN BE EASILY RESOLVED.

Statement: (11) THE KINGSBRIDGE BID DOES NOT COMPLY WITH PROCURMENT REQUIREMENTS

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Response:

When contracts are approved by the Finance Committee and inserted in a budget that is approved by the full Board, representatives from the 4 elected officials receive the documents as do all the Board members. SBS sits on our Finance and Audit Committees and has ample time to see these expenditures so they are notified every time. In addition, SBS requires an Annual Survey which includes all current contracts over a certain amount and when the contracts expire. Never has SBS or our rep ever expressed a lack of knowledge about procurement.

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The BID does not always solicit RFPs for major contracts but this can be implemented by the Executive Director during a Finance meeting. The Executive Director will examine when contracts are coming up for renewal and notify the Finance Committee.

In addition, the By-Laws state that the BID may keep vendors that they have a relationship with but should look into using RFPs more often.
THIS DOES NOT MEAN KINGSBRIDGE IS IN VIOLATION OF ITS CONTRACT.

Statement: (12) THE KINGSBRIDGE DOES NOT COMPLY WITH CITY SICK AND SAFE LEAVE LAWS

Response:

Again, this is an administrative issue and a committee should be selected to update the BID's Personnel Policies to adhere to current laws.

Most of the recommendations listed above can be implemented by the office. Updating Personnel Policies and creating an anti-nepotism policy must be done by the Board of Directors.

Signature: *Andrew R. Williams* Date: 12/04/2023

Andrew R. Williams, President

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KEVIN D. KIM
COMMISSIONER

DATE: December 5, 2023

TO: Maura Hayes-Chaffe, Deputy Comptroller for Audit
Kolbein Netland, Audit Manager

CC: Kevin D. Kim, Commissioner, NYC Department of Small Business Services ("SBS")
Ismail Mohammed, Assistant Commissioner, Fiscal & Audit, SBS

FROM: Calvin T. Brown, PhD, Deputy Commissioner, SBS

RE: **Audit Report on the Financial and Operating Practices of the
Kingsbridge Business Improvement District ("BID")
FK23-079A**

Dear Deputy Comptroller Hayes-Chaffe:

We are in receipt of the draft Audit Report on the Financial and Operations Practices of the Kingsbridge Business Improvement District (FK23-079A). Below please find responses from the NYC Department of Small Business Services (SBS) to the Office of the Comptroller's recommendations:

Recommendation 13: *SBS should consider the findings of this report when evaluating the Kingsbridge BID's performance and making future contracting decisions.*

SBS Response: SBS is the oversight and support agency for District Management Associations ("DMAs") and is tasked with entering contracts with DMAs on behalf of the city for the operation of the business improvement districts. SBS will take the suggested recommendations into consideration when renewing our contract with the Kingsbridge DMA, which currently expires on June 30, 2028.

Recommendation 14: *SBS should give written notice to the Kingsbridge BID of its breach of contract and ensure that it cures issues cited in this report within a reasonable period of time.*

SBS Response: SBS's BID Support & Oversight Team will provide written notice to the management and board of the Kingsbridge DMA and will develop an action plan for the DMA to address the compliance issues outlined in the comptroller's audit report and to cure any non-compliance within a reasonable period of time.

Recommendation 15: *SBS should provide guidance and training to Board members on non-profit governance.*

SBS Response: DMA board members and management receive on-demand, specialized one-on-one help and direction from SBS's Support & Oversight and Capacity Building teams. Additionally, in just the past 2 years, we have partnered with Lawyers Alliance of New York to present three webinars: "*Legal Roles and Responsibilities of the Business Improvement District Board*" (November 3, 2022, and March 30, 2023) and "*Legal Roles and Responsibilities of the Nonprofit Board*" (September 21, 2023). SBS gives all BID staff continuous access to the BID Box, a resource library of governance tools. This includes recordings of previous webinars, templates for governance documents and checklists to assist with legal and regulatory compliance. As of December 4, 2023, all BIDs will be able to use "Board Boost" (a resource of 10 individual videos that provide



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COMMISSIONER

detailed guidance to BID boards related to non-profit governance), created in partnership with the Support Center for Nonprofit Management.

Recommendation 16: *SBS should require BIDs to implement anti-nepotism policies and best practices as part of their contract terms.*

SBS Response: SBS has partnered with Lawyers Alliance for New York to create a model anti-nepotism policy that we will require DMA board members and staff to sign in order to satisfy the audit requirements of their SBS contract (Section 6.03(b)). This requirement will go into effect in FY25.

It is important to note, however, our standard conflict of interest policy bars “Non-Participation and Review” by “Related Parties”. In addition, a review of the Kingsbridge board minutes for March 24, 2021, November 17, 2021, January 26, 2022, and April 6, 2022 reveals that Stephen Lee, the SBS board representative at that time, vehemently opposed the executive director’s daughter’s hiring on the grounds that it was nepotistic. This issue was elevated to the point where senior officials at SBS became engaged. These efforts resulted in the board’s decision to indefinitely table the appointment.

Recommendation 17: *SBS should require BIDs to submit a list of all contracts detailing whether they were awarded competitively as well as contract amounts, terms, and scope of service.*

SBS Response: BIDs must submit an annual report to SBS as part of their contract with the City. Per Section 4.02(a) of the contract, “for procurements of goods and services the value of which is \$20,000 or less in any single fiscal year, no competition is required...” However, the annual report requires the submission of information on any contracts over \$10,000 for the fiscal year, including when the board approved the procurement. SBS plans to add an additional section requesting information from BIDs about the process used to award contracts for FY24’s annual report. Furthermore, SBS will require BIDs that use sole source procurement to notify SBS beforehand by submitting a standardized Sole Source Procurement Memo detailing the exceptions used in accordance with Section 4.03(a) of the SBS Contract.

Recommendation 18: *Provide information to all BIDs concerning their obligations under the NYC Sick and Safe Leave Law.*

SBS Response: SBS currently makes available a checklist of HR policies and procedures and whether they are required by law or best practices to implement. This checklist is updated on an annual basis by the Lawyers Alliance for New York and made available to all DMAs. In addition, SBS will take the suggested recommendation into consideration and discuss how best to implement additional guidance about the NYC Sick and Safe Leave Law.

We look forward to continuing our partnership with the Comptroller’s office to support BIDs across the five boroughs. Please advise if you have any questions about incorporating these comments into your report.

Calvin T. Brown, PhD
Deputy Commissioner,
Neighborhood Development, SBS





NEW YORK CITY COMPTROLLER
BRAD LANDER

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