

AUDIT REPORT



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Financial and Operating Practices of the 14th Street-Union Square Business Improvement District

MH03-172A

DECEMBER 22, 2003



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, § 93, of the New York City Charter, my office has examined the financial and operating practices of the 14th Street-Union Square Business Improvement District.

The results of our audit, which are presented in this report, have been discussed with BID officials, and their comments have been considered in the preparation of this report.

Audits such as this provide a means of ensuring that the BIDs are providing the services they are required to deliver to their districts and that they have adequate internal controls over their funds.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-8945.

Very truly yours,

William C. Thompson, Jr.

William C. Thompson, Jr.

Report: MH03-172A
Filed: December 22, 2003

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

**Audit Report on the
Financial and Operating Practices of the
14th Street-Union Square Business Improvement District**

MH03-172A

AUDIT REPORT IN BRIEF

This audit of the 14th Street-Union Square Business Improvement District (Union Square BID) covered the organization's provision of services, compliance with its City contract, and adequacy of internal controls over funds and operations. The Union Square BID is funded by special assessments levied against district property owners and uses these moneys to enhance and promote the district. The City Department of Small Business Services (DSBS) supervises and oversees the Union Square BID.

Audit Findings and Conclusions

The Union Square BID provided supplemental services, such as sanitation, security, and marketing and promotion, as called for in its District Plan. The BID generally complied with the key provisions of its contract with DSBS. The BID maintained complete and accurate records, submitted annual reports to DSBS, and had its annual financial statements certified by an independent certified public accountant. The BID also complied with the procurement procedures of its contract with DSBS.

In addition, the BID maintained adequate accountability over its receipts and disbursements, had adequate segregation of duties, and properly recorded and authorized transactions. However, there was a weakness in the BID's corporate governance regarding the lack of sub-committee meeting minutes and a weakness in the BID's internal control system concerning uninsured deposits. In addition, the BID did not maintain daily time records for its salaried staff.

Audit Recommendations

To address these issues, we make three recommendations, namely, that the Union Square BID should:

- Record and prepare minutes of all Board sub-committee meetings, in accordance with its bylaws and DSBS contract.
- Place its funds in collateralized accounts.
- Require its salaried staff to submit weekly timesheets.

Union Square BID Response

The matters covered in this report were discussed with Union Square BID officials during and at the conclusion of this audit. A preliminary draft report was sent to Union Square BID officials on October 17, 2003, and was discussed at an exit conference on October 30, 2003. We submitted a draft report to Union Square BID officials on November 7, 2003, with a request for comments. We received a written response from BID officials on November 24, 2003. The BID generally agreed with our findings and observations.

INTRODUCTION

Background

In 1981, the New York State Legislature passed legislation allowing cities to independently 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 used for improvements within the geographic area (the district). In 1982, New York City passed Local Law 2, which authorized the creation of BIDs in the City. The 14th Street-Union Square Business Improvement District (Union Square BID), the subject of this audit, was established in July 1984.

BIDs are funded by special assessments levied against properties within the district. BID assessments are collected by the City and returned to the BID. These moneys are used to enhance and promote the district by purchasing services and improvements supplemental to the services already provided by the City. 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.

The Mayor's Office and the City Council approve the formation of all BIDs, and the Department of Small Business Services (DSBS) supervises and oversees the BIDs. The BIDs must sign a contract with DSBS¹ and submit to DSBS budgets and audited financial reports each year.

BIDs must also submit audited financial statements to the New York City Audit Committee for review, based on a schedule determined by the City Comptroller. BIDs with budgets in excess of \$1 million a year are reviewed by the Committee every year; BIDs with budgets between \$500,000 and \$1 million are reviewed every two years; and BIDs with budgets under \$500,000 are reviewed every three years.

BIDs have become increasingly important for raising funds for capital improvements and service enhancements. According to DSBS, there are 44 BIDs operating in the City, with combined BID assessments totaling \$61 million. The majority of these districts have modest budgets: the annual operating budgets of 28 districts are each less than \$500,000 (14 of those are less than

¹ BID contracts with DSBS are renewable every two to five years, depending on the performance of the BID.

\$200,000). Four districts have annual budgets ranging between \$500,000 and \$1,000,000, and 12 districts have annual budgets exceeding \$1,000,000. Measured by revenue from assessments, the Union Square BID was the 11th largest of the 44 districts in New York City in 2003.

As required by the BID legislation, the majority of the Union Square BID Board of Directors consists of property owners and commercial and residential tenants within the district. The Board also includes representatives from Manhattan Community Boards 2, 3, 5, and 6 and three members—one each appointed by the Mayor, the Comptroller, and the Manhattan Borough President. BID services are provided for the area of 14th Street from First Avenue to Sixth Avenue and the area in and around Union Square Park. However, there is a possibility of future expansion of the BID district.²

As required of all City BIDs, the Union Square BID presented to the City Council and the Office of the Mayor a District Plan detailing the proposed improvements for the district, how the improvements would be implemented, and the total anticipated annual expenditures. The BID's most recent contract with DSBS was signed in August 2003. This contract incorporates the agreements between the BID and the City regarding requirements for its supplemental services and capital improvements.

The BID shares office facilities and employees with the 14th Street Union Square Local Development Corporation (LDC). The 14th Street LDC is a corporation organized for the purpose of providing economic rehabilitation and preservation services to the Union Square area.³ The BID's Executive Director, Deputy Director, Director of Finance, Director of Public Affairs, Office Manager, and Director of Economic Development work for both the BID and the 14th Street LDC. Their salaries are split equally between the two organizations. All salaries are paid by the BID, and the 14th Street LDC reimburses the BID for its portion of the salaries.

As shown in Table I, in Fiscal Year 2002, the Union Square BID reported revenues of \$1,007,588 and expenditures of \$1,047,899, the difference of \$40,311 coming from surplus funds from prior years.

² According to the BID's 2002 Annual Report, the BID is exploring the possibility of expanding the BID district in response to repeated requests from neighboring property owners and merchants. The BID is proposing to extend its boundaries further west along 14th Street, from 6th to 7th Avenues, to expand north to 20th Street, and to include Irving Place and 6th Avenue from 14th Street to 20th Street.

³ The 14th Street LDC has a separate board of directors, sources of income, and operational activities.

Table I
Union Square BID Revenue and Expenses for Fiscal Year 2002

Support and Revenue	
Assessment Revenue	\$915,000
Contributions In-Kind*	\$70,000
Program Service Revenue	\$7,872
Interest Income	\$14,716
Total Support and Revenue	\$1,007,588
Expenses	
Program Expenses:	
Sanitation	\$374,827
Security	\$406,688
Program Initiatives	\$23,326
Promotion	\$66,415
Total Program Expenses	\$871,256
Management and general	\$176,643
Total Expenses	\$1,047,899

* Consolidated Edison of New York provided the BID free office space, utilities, printing and other services.

Objectives

The objectives of this audit were to:

- determine whether the Union Square BID has provided the services called for in its District Plan;
- assess the Union Square BID's compliance with key terms in its contract with the Department of Small Business Services; and
- evaluate the adequacy of the Union Square BID's internal controls over its funds and operations.

Scope and Methodology

The scope of our audit was Fiscal Year 2003. To assess compliance, we reviewed the Fiscal Year 2003 contract between the BID and DSBS. We interviewed members of the Board of Directors, the President, Secretary, and Co-Treasurer. We reviewed the District Plan to identify the declared objectives of the Union Square BID and the services and programs it proposed to accomplish those objectives. To gain an overview of its sanitation and security programs, we toured the district and observed sanitation and security personnel on the job.

We reviewed the minutes of the Board of Director meetings from January 2000 through April 2003 to familiarize ourselves with work performed by the BID and with various issues in the district. Using a random number table, we randomly selected the month of September 2002 and reviewed assessment receipts, cash disbursements, and the general ledger. We examined all cash disbursements for the month of September 2002, including related receipts, invoices, and other supporting documents. In addition, we reviewed the certified financial statements for Fiscal Years 2000 through 2002.

In addition, we reviewed the payroll transactions for the month of September 2002. We were unable to reconcile the payroll amounts with the entries made in the general ledger. BID officials informed us that Paychex (the company that prepares the payroll) made errors when calculating the September payroll. We therefore randomly selected another month, March 2003, for payroll review. We were able to reconcile the March 2003 payroll with the amounts that were entered into the general ledger.

To determine whether the BID received the products and services paid for, we reviewed the terms of the Fiscal Year 2003 contracts, the invoices, and the canceled checks.

To assess internal controls, we compared policies, procedures, and practices to internal control standards set forth in the New York City Comptroller's Directives and the BID contract with DSBS. To assess the level of satisfaction with the services provided by the BID, we reviewed responses received by the BID for a survey it sent to its district members during March and April 2003.

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 audit responsibilities of the City Comptroller as set forth in Chapter 5, § 93, of the New York City Charter.

Independence Disclosure

The Comptroller is a member of the Board of Directors of the Union Square BID. The Comptroller maintains this position pursuant to New York State General Municipal Law §980-m, which requires that the Comptroller, as the City's chief fiscal officer, be a member of the board of directors of any City BID. Accordingly, the bylaws of the Union Square BID specify that the Comptroller be a member of the Board. The Comptroller participates on the Board of the Union Square BID through a designee. The Comptroller's designee was not involved in planning or conducting this audit, or in writing or reviewing the audit report.

Discussion of Audit Results

The matters covered in this report were discussed with Union Square BID officials during and at the conclusion of this audit. A preliminary draft report was sent to Union Square BID officials on October 17, 2003, and was discussed at an exit conference on October 30, 2003. We submitted a draft report to Union Square BID officials on November 7, 2003, with a request for

comments. We received a written response from BID officials on November 24, 2003. The BID generally agreed with our findings and recommendations. In her response, the Union Square BID Executive Director stated:

“While your audit report confirms our commitment to excellence and service to our district, we are happy to consider your recommendations and findings as we continue to improve our operations.”

The full text of the Union Square BID response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

The Union Square BID generally provided supplemental services and special events as required in its District Plan. The BID complied with key terms of its DSBS contract: it maintained complete and accurate financial records, submitted annual reports to DSBS, and had its annual financial statements certified by an independent certified public accountant. Concerning internal controls, the BID maintained adequate segregation of duties, and the transactions we reviewed appeared to be ordinary and reasonable. However, there was a weakness in the BID's internal controls relating to uninsured deposits. In addition, there was a weakness in the area of the Board governance. We found the Board does not have any minutes of meetings of the five board committees—Finance, Fund Raising, Park, Quality of Life, and Economic Development—as required by its bylaws and contract with DSBS. Absent minutes, we were unable to determine the topics discussed and recommendations made by any of the BID's five sub-committees.

The following sections of this report discuss our findings in more detail.

The BID Provides the Services Called For in Its District Plan

The Union Square BID provides the services called for in its District Plan. The BID's District Plan set forth a series of proposed services aimed at the "promotion and enhancement" of the District, namely:

- A sanitation program to sweep sidewalks, curbs, and gutters, maintain street furniture, and remove graffiti.
- A supplementary security presence throughout the district.
- A marketing and promotion program to promote the district to outside neighborhoods through advertising and brochures.
- Administration of the district by a salaried staff.

During March and April 2003, the Union Square BID sent out surveys to members of its district, as required by its DSBS contract. The BID sent out 1,062 surveys, which asked a wide range of questions related to living in and operating a business in the community. The BID received responses from 170 members, a 16 percent response rate. The district members gave the BID a high rating for quality and level of service.

Sanitation Services

The Union Square BID supplements City sanitation services with sanitation workers who patrol the district seven days a week. During the winter months, the BID has seven sanitation workers and one supervisor who patrol the district from 7:00 a.m. to 7:00 p.m. During the

summer months, eight sanitation workers and one supervisor patrol the district from 7:00 a.m. to 9:00 p.m. The BID performs this service through a contract with Atlantic Maintenance. The BID spent \$374,827 in Fiscal Year 2002 to provide sanitation services—36 percent of its total expenditures for the fiscal year.

The duties of the sanitation personnel include sweeping sidewalks and gutters, bagging litter, emptying trash receptacles, removing graffiti, posters, and stickers from parking signs and traffic equipment, and painting lamp posts, fire alarm boxes, parking sign poles, and fire hydrants.

BID efforts to improve cleanliness in the district through supplemental street sweeping and litter pick-up operations have had a positive effect on the area, according to Project Scorecard. Project Scorecard is a quarterly report issued by the Mayor's Office of Operations that rates the level of cleanliness of most City streets. For the quarter ending March 2003, 90 percent of the district's streets and 100 percent of its sidewalks were rated "acceptably clean." Our review of the district's scorecard for each quarter since April 1999 found that the ratings fluctuated from quarter to quarter. However, overall the ratings have been positive and indicate that there is a greater percentage of streets and sidewalks classified as "acceptably clean".

Ninety-two percent of the BID survey respondents said they witnessed the work of the BID's sanitation crew. Furthermore, we conducted unannounced spot checks of the district and observed sanitation personnel on their designated rounds. The streets and sidewalks all appeared clean.

Security Services

The Union Square BID supplements City police service with eight security officers. The security officers operate on two tours of duty, which allows for security coverage of the district from 8:00 a.m. to 8:00 p.m. The security officers patrol the district and provide a security presence that deters illegal activities, provides outreach to the homeless, monitors illegal sidewalk vendors, and responds to emergencies. The officers are equipped with two-way radios that enable them to communicate quickly with the BID Public Safety Office. The BID spent \$406,688 in Fiscal Year 2002 to provide security services—39 percent of its total expenditures for the fiscal year.

The BID falls into the boundaries of the 6th, 9th, and 13th Precincts of the New York City Police Department. In its Fiscal Year 2002 Annual Report, the BID reported an average reduction of 66 percent in crime in all three precincts over the past ten years. According to the BID member survey, the BID Public Safety Officers have provided a direct service to more than 66 percent of all survey respondents.

Marketing and Promotion

The BID, along with the LDC, hosts cultural events in Union Square Park, including:

- Harvest in the Square - brings together residents and restaurant aficionados to sample the signature dishes of the neighborhood's top chefs.
- Summer in the Square - a free weekly performance series of dance, music, and children's book readings.
- Manhattan Short Film Festival - the BID helps to facilitate and assist in a free screening that showcases the work of the world's best makers of short film in Union Square Park.

In addition, the BID has created several publications to promote the neighborhood, such as a theater and restaurant guide, quarterly newsletters, annual report magazines, and promotional flyers. The BID also informs the community of BID events through brochures, promotional announcements, and its Web site. The BID spent \$66,415 in Fiscal Year 2002 to provide marketing and promotion—six percent of its total expenditures for the year.

The BID Generally Complied with Key Terms of its Contract with DSBS

The BID generally complied with the key provisions of its contract with DSBS. The BID maintains complete and accurate records, submits annual reports to DSBS, and has its annual financial statements certified by an independent accountant. The BID also complied with the procurement procedures of its contract with DSBS. The contract between DSBS and the BID states that when awarding contracts, the BID should choose the lowest responsible bidder from at least three competitive bidders. We reviewed all three contracts for Fiscal Year 2003 and determined that the BID complied with the procurement procedures of the DSBS contract. As mentioned previously, the BID provides supplemental services, such as sanitation, security, and marketing and promotion, as proposed in its contract with DSBS.

Weakness in Corporate Governance

The bylaws of the Union Square BID require that it be managed by a Board of Directors that is responsible for the overall management of the business of the BID. The chief executive officer for the Union Square BID is its executive director, who is hired by the Board and has authority to direct and supervise the everyday activities of BID employees.

Under the bylaws, the Board is responsible for the activities of the BID, regardless of how much authority the Board delegates to the executive director, staff, or any committee. 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 the BID management.

At its discretion, the Board may create standing committees. The Union Square Board members created five sub-committees—an Economic Development Committee, a Finance Committee, a Parks Committee, a Fund Raising Committee, and a Quality of Life Committee—to help manage the specific operations of the BID. According to the Director of Finance, these sub-committees hold meetings that are in addition to those of the Joint Executive Committee⁴ and the Board of Directors.

We reviewed the minutes of 10 board meetings and 12 Joint Executive Committee meetings held between January 2000 to April 2003 to determine the topics discussed and decisions approved by the board. However, we were unable to determine the topics discussed and recommendations made by any of the BID’s five sub-committees, because the minutes of the meetings were not recorded. According to the Director of Finance, each sub-committee meets at least once a year or on an as-needed basis. However, we have no proof to validate this statement.

The BID bylaws require that a committee “keep minutes of its meetings and report the same to the Board.” In addition, the DSBS contract states that the BID should maintain complete and accurate records including minutes of all meetings of the BID and its committees. Therefore, the BID is in violation of its own bylaws and contract with DSBS, with regards to sub-committee meeting minutes. It is important that Board members be fully informed of all discussions and recommendations that take place at sub-committee meetings.

Recommendation

1. The Union Square BID should record and prepare minutes of all Board sub-committee meetings, in accordance with its bylaws and DSBS contract.

BID Response: “Even though subcommittees do not formally approve actions and rather only provide recommendations to the Board of Directors for their approval, the BID will prepare and maintain subcommittee minutes for all meetings.”

Internal Controls

Our audit evaluated the adequacy and effectiveness of the BID internal controls and accountability over the expenditures of its funds. The transactions that we reviewed appeared to be ordinary and reasonable.

The objectives of an internal control system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management authorization, and are properly recorded.

⁴ The Joint Executive Committee consists of both BID and 14th Street LDC board members.

The BID maintained adequate accountability over its receipts and disbursements, had an adequate segregation of duties, and properly recorded and authorized transactions. However, we found a weakness in the BID internal control system concerning the safeguarding of assets.

Uninsured Deposits

The BID had dollar amounts on deposit that were not covered by FDIC insurance. FDIC insurance covers up to \$100,000 in deposits for each banking institution; any balance exceeding \$100,000 is not insured. FDIC regulations provide that the custodian of public money in a depository be insured for each additional \$100,000 on deposit. The BID had balances that exceeded \$100,000 and were uninsured. The portion of the BID balances that were uninsured was \$150,956 in 1999, \$262,599 in 2000, \$219,747 in 2001, and \$172,277 in 2002.⁵ These amounts were the equivalent of 50 percent, 65 percent, 56 percent, and 49 percent respectively of the BID net assets at the end of each fiscal year.

In the event of a bank failure, federal deposit insurance protects deposits that are payable in the United States. A large amount of BID funds are unprotected. When deposits of public money exceed the recognized deposit insurance limit, a request can be made that the depositing entity pledge eligible collateral to secure the uninsured amount. The BID should ensure that deposits exceeding \$100,000 are placed in collateralized accounts.

Recommendation

2. The Union Square BID should place its funds in collateralized accounts.

BID Response: “Our finance committee is in the process of reviewing our investment policy regarding excess cash balances. In the future we hope to minimize FDIC insurance exposure.”

Timekeeping

The BID does not maintain daily time records for its salaried staff. Time records are maintained for non-salaried employees only, which include security personnel and interns. Consequently, we were unable to determine the number of hours the salaried staff worked.

Without a daily time record, there was no way to determine whether the salaried employees’ leave balances were accurately adjusted. A daily time recording system substantiates the accuracy of annual and sick leave use. Section 4.1 of Comptroller’s Directive #13 states, “A fundamental timekeeping principle is that attendance, absence and tardiness be recorded promptly on a daily basis. Time and attendance must be recorded for all employees, including managerial and non-managerial salaried staff, and those who are paid on a daily or hourly basis.”

⁵ These uninsured amounts were also listed in the BID’s financial statements.

Recommendation

3. The Union Square BID should require its salaried staff to submit weekly timesheets.

BID Response: “The BID will take this recommendation under advisement and analyze current timekeeping practices.”



Business Improvement District

New York State's
First BID

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gabbegroup
Joseph F. Porrima, Vice President
New School University
Norman Buchbinder, Treasurer
Buchbinder & Warren
Lynne Brown, Secretary
New York University

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Department of Business Services
Debra Willmore
Barnes & Noble Bookstores, Inc.

STAFF

Karen H. Shaw
Executive Director
Christina Brown
Deputy Director

Addendum

Page 1 of 2

November 21, 2003

Mr. Greg Brooks
Deputy Comptroller
The City of New York
Office of the Comptroller
One Centre Street
New York, NY 10007-2341

Re: Audit Number MH03-172A

Dear Mr. Brooks,

Thank you for sending us the Draft Audit Report on the Financial and Operating Practices of the 14th Street-Union Square Business Improvement District. We appreciate the time and effort expended by your staff in preparing their helpful and useful comments. Their professionalism and courtesy during this process were greatly appreciated over the last six months.

We are pleased that your findings indicate the BID conducts its operations successfully and in compliance with the key terms in its contract with the Department of Small Business Services. Even though we are not a City Agency and rather are governed by our Board of Directors and By-Laws, we appreciate the highlighting of good practices and potential areas of improvement. While your audit report confirms our commitment to excellence and service to our district, we are happy to consider your recommendations and findings as we continue to improve our operations.

In general, we agree with the auditors' findings and observations. Below are brief comments to specific recommendations in the order they appear in the report.

Recommendation: The Union Square BID should record and prepare minutes of all Board subcommittee meetings, in accordance with its bylaws and the DSBS contract.

Even though subcommittees do not formally approve actions and rather only provide recommendations to the Board of Directors for their approval, the BID will prepare and maintain subcommittee minutes for all meetings.

14TH STREET-UNION SQUARE BUSINESS IMPROVEMENT DISTRICT

4 Irving Place, Room 1148-S, New York, NY 10003 212.460.1200 / Fax: 212.420.8670 www.unionsquarenyc.org

Recommendation: The Union Square BID should place its funds in collateralized accounts.

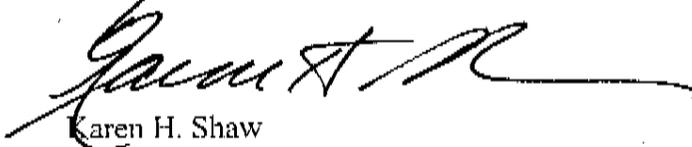
Our Finance Committee is in the process of reviewing our investment policy regarding excess cash balances. In the future we hope to minimize FDIC insurance exposure.

Recommendation: The Union Square BID should require its salaried staff to submit weekly timesheets.

The BID will take this recommendation under advisement and analyze current timekeeping practices.

Thank you again for the courtesy and professionalism you maintained during our entire audit period. We look forward to receiving the final draft from you.

Yours sincerely,



Karen H. Shaw
Executive Director

Cc: James Gabbe, President
Lynne Brown, Vice President
Eric Petterson, Secretary
Eric Seiler, Co-Treasurer
Norman Buchbinder, Co-Treasurer
George Glatter, Department of Small Business Services