

AUDIT REPORT



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
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Audit Report on the Financial and Operating Practices of the Fulton Mall Special Assessment District

MG03-062A

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

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Financial and Operating Practices of the
Fulton Mall Special Assessment District**

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AUDIT REPORT IN BRIEF

This audit of the Fulton Mall Special Assessment District (SAD) covered the organization's provision of services, compliance with its City contract, and adequacy of internal controls over funds and operations. The Fulton Mall SAD was created under State law in 1976. It is funded by special assessments levied against district property owners that are collected by the City and returned to the SAD. These moneys are used to enhance and promote the district by purchasing services and improvements supplemental to services already provided by the City. The City Department of Business Services (DBS) supervises and oversees the Fulton Mall SAD.

Audit Findings and Conclusions

The Fulton Mall SAD has provided supplemental services and special events as required in its District Plan. The SAD maintains complete and accurate financial records, submits annual reports to DBS, and has its annual financial statements certified by an independent certified public accountant, as required by its DBS contract. However, the SAD poorly managed its funds, had weaknesses in corporate governance, maintained no timekeeping records and had weaknesses in internal controls. Specifically, the Fulton Mall SAD:

- Has been operating at a loss for four of the last five years. As a result SAD expenditures exceeded revenues in Fiscal Years 1998, 1999, 2000, and 2001.
- Made 52 disbursements, in Fiscal Year 2001, totaling \$35,932 that did not appear to fulfill the purpose of the SAD.
- Has funds on deposit that are not covered by FDIC insurance.
- Has weaknesses in corporate governance. On several occasions the former Executive Director acted without approval of the Board members.

- Has no written personnel policies, does not maintain daily time records for its employees, and does not keep track of employees' leave balances.
- Has inadequate segregation of duties.
- Does not maintain an inventory listing of its equipment.

Audit Recommendations

To address these issues, we make 17 recommendations. Among them, we recommend that the Fulton Mall SAD:

- Better manage SAD funds and expenditures to ensure that expenditures do not continue to exceed revenues and budgets.
- Place its funds in collateralized accounts.
- Develop written personnel procedures that clearly detail personnel policies and employment benefits.
- Maintain an accurate daily time-record system for its staff that includes daily attendance, annual and sick leave use, and tardiness.
- Maintain a log of employee annual and sick leave balances.
- Ensure that the functions of processing, recording, and reviewing transactions are divided between two or more employees, or implement other compensating controls.
- Maintain inventory records and perform physical inventories periodically.

In addition, we recommend that the Fulton Mall SAD Board:

- Ensure that they are well aware of and informed about all SAD activities, regardless of how much authority they give the SAD management.
- Monitor the SAD's rate of spending.

Fulton Mall SAD Response

Fulton Mall SAD officials responded that they are in the process of hiring a new Executive Director, who would be responsible for instituting procedures relating to five of the 17 audit recommendations. SAD officials generally agreed with the remaining 12 audit recommendations.

INTRODUCTION

Background

New York City has three Special Assessment Districts (SADs) and 41 Business Improvement Districts (BIDs). All of these districts assess property owners and tenants in specific geographic areas and use the funds collected to improve the districts. SADs, established in the 1970s, preceded BIDs. The creation of each SAD required separate State legislation, whereas all BIDs were created under one sweeping State law. SADs are very similar in operation to BIDs and generally offer similar services, which include supplemental sanitation, security, marketing and promotion, and capital improvements.

The Fulton Mall SAD, the focus of this audit, was created in 1976 by Chapter 911 of the Laws of New York State. Chapter 911 states that the supplemental services provided by the Fulton Mall SAD may include cleaning, painting and maintenance of street furniture; sweeping and cleaning the mall; security and promotional activities; recreational and cultural activities; and any other services that will enhance the safety, convenience, cleanliness, or attractiveness of the mall.

In 1981, the New York State Legislature passed legislation allowing cities to independently establish BIDs. In 1982 Local Law 2 was passed, which authorized the creation of BIDs in New York City. Since the passage of this legislation, no additional SADs have been created, and the original SADs have been grouped with the BIDs. In the following paragraphs, requirements relating to both SADs and BIDs will be referred to collectively as BID requirements.

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.

The Mayor's Office and the City Council approve the formation of all BIDs, and the Department of Business Services (DBS) supervises and oversees the BIDs. The BIDs must sign a renewable contract with DBS and submit to DBS 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 over \$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. The majority of these districts have modest budgets: the annual operating budgets of 29 districts are each less than \$500,000 (16 of those are less than \$200,000). Six districts have annual budgets ranging between \$500,000 and \$1,000,000, and nine districts have annual budgets exceeding \$1,000,000. Measured by revenue from assessments, the Fulton Mall SAD was the 9th largest of the 44 districts in New York City in January 2002.

The Fulton Mall is the retail center of downtown Brooklyn. It comprises nine short blocks between Adams Street and Flatbush Avenue and one block off Dekalb Avenue. The Fulton Mall SAD has 200-plus stores and is considered one of the largest business districts in New York City. The majority of the Fulton Mall SAD Board of Directors consists of property owners and commercial tenants within the district. The Board also includes three members: one each appointed by the Mayor, the Comptroller, and the Brooklyn Borough President.

As required of all City BIDs, the Fulton Mall SAD 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 annual expenditures anticipated. To implement the District Plan, the Fulton Mall SAD entered into a contract with DBS on October 6, 1977. This contract represents an agreement between the Fulton Mall SAD and the City regarding requirements for its supplemental services and capital improvements.

As shown in Table I, in Fiscal Year 2001, the Fulton Mall SAD had revenues of \$1,458,830 and expenditures of \$1,559,560, the difference of \$100,730 coming from surplus funds from prior years.

TABLE I
Fulton Mall SAD Revenue and Expenses for Fiscal Year 2001

Support and Revenue	
Unrestricted:	
Assessment Revenue	\$1,192,156
User Rights for Permits for Sidewalk Cafes	24,185
Contributions	0
Grant	200,000
Interest Income	17,103
Temporarily Restricted:	
User rights for Permits for Sidewalk Cafes	19,190
Interest Income	6,196
Total Support and Revenues	\$1,458,830
Expenses	
Program Expenses:	
Security	394,817
Sanitation	265,726
Public Improvements	364,996
Marketing and promotion	223,715
Other Mall operations	71,536
Total Program Expenses	1,320,790
Management and general	238,770
Total Expenses	\$1,559,560

Objectives

The objectives of this audit were to:

- Determine whether the SAD has provided the services called for in its District Plan;
- Assess SAD compliance with key terms in its contract with the Department of Business Services; and
- Evaluate the adequacy of the SAD internal controls over its funds and operations.

Scope and Methodology

The scope of our audit for the Fulton Mall SAD was Fiscal Year 2001. To assess compliance, we reviewed the current contract between the SAD and DBS, which was renewed on December 17, 1997. We interviewed members of the Board of Directors, the Vice President and Director of Finance and Administration, and the independent accountant. We reviewed the District Plan to determine declared objectives of the Fulton Mall SAD and the services and programs it proposed to accomplish those objectives. To gain an overview of its sanitation program, we toured the district and observed personnel on the job.

To familiarize ourselves with work done by the SAD and with various issues in the district, we reviewed the minutes of meetings of the Board of Directors and various committees from Fiscal Year 1999 through June 2002. For Fiscal Year 2001, we reviewed assessment receipts, cash disbursements, and the general ledger. We examined all 597 cash disbursements (excluding payroll) totaling \$1,659,138, including related receipts, invoices, and other supporting documents. In addition, we reviewed the certified financial statements and related Management Letters for Fiscal Years 1999 through 2001. To determine whether the SAD received the products or services paid for, we reviewed the Fiscal Year 2001 contracts, invoices, and 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 SAD contract with DBS. To assess the level of satisfaction with the services provided by the SAD, in October 2002, we conducted a door-to-door survey of 27 business and property owners in the district.

Independence Disclosure

The Comptroller is a member of the Board of Directors of the Fulton Mall SAD. The Comptroller maintains this position pursuant to Chapter 911 of the Laws of New York 1976, which requires that the Comptroller, as the City's chief fiscal officer, be a member of the board of directors. The Comptroller sits on the Board of the Fulton Mall SAD through a designee. The bylaws of the Fulton Mall SAD specify that the Board have nine members, including the Comptroller. The Comptroller's designee was not involved in the planning or conducting of this audit, or in writing or reviewing the audit report.

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

Fulton Mall SAD Response

The matters covered in this report were discussed with officials from the Fulton Mall SAD during and at the conclusion of this audit. A preliminary draft report was sent to Fulton Mall SAD officials on January 10, 2003, and was discussed at an exit conference on January 21, 2003. We

submitted a draft report to SAD officials on January 27, 2003, with a request for comments. We received a written response from SAD officials on February 10, 2003. The response stated that Fulton Mall SAD is in the process of hiring a new Executive Director, who would be responsible for implementing five of the 17 audit recommendations. The officials generally agreed with the remaining 12 recommendations. In his response, the Fulton Mall SAD Chairman further stated:

“The Fulton Mall Improvement Association would like to thank the Comptroller’s Office for their extensive audit review of the Association. We also would like to thank your staff for their courtesy, patience and professionalism. It was a pleasure working with them.”

The full text of the Fulton Mall SAD comments is included as an addendum to this report.

OFFICE OF THE COMPTROLLER
CITY OF NEW YORK

Date Filed: February 28, 2003

FINDINGS AND RECOMMENDATIONS

The SAD has provided supplemental services and special events as required in its District Plan. The SAD maintains complete and accurate financial records, submits annual reports to DBS, and has its annual financial statements certified by an independent certified public accountant, as required by its contract with DBS.

However, the SAD did not comply with DBS fiscal management guidelines regarding budgetary control. The SAD expenditures exceeded budgets in Fiscal Years 1998, 1999, 2000 and 2001. As a result of its excessive spending, the SAD opened a \$300,000 line of credit with an interest rate of prime plus one percent per year. The excess spending also forced the SAD to cancel its contract with Park Avenue Security. In addition, the SAD had uninsured deposits, weaknesses in corporate governance, inadequate segregation of duties, and inadequate safeguarding of assets.

Survey Indicates General Satisfaction With Services Provided by the SAD

The Fulton Mall SAD provides most of the services proposed in its District Plan. The SAD District Plan set forth a series of proposed services, including:

- Repair and maintenance of the sidewalks, and maintenance of traffic lights, standard regulatory signs, and public utilities.
- Sidewalk cleaning and snow removal, replacement of light bulbs, maintenance of trees and planters, graffiti removal, and repair and replacement of damaged street furniture.
- Employment of its own personnel to supplement City police operating in the vicinity.
- General management of the Mall, handling its maintenance and establishing the rules for its day-to-day operation.

To determine the level of satisfaction with the services in the district, we reviewed a survey conducted by the SAD in March 2002. According to SAD officials, the SAD sent 197 survey questionnaires to property and business owners in the district, but received a very low response to the survey. Therefore, we decided to conduct our own door-to-door survey of 27 business owners in the district. Seventeen participants (63%) to our survey responded that they had never received a survey form from the SAD in the past. (See Appendix I for a listing of questions and a summary of responses obtained from our survey questionnaires.)

Sanitation Services

The Fulton Mall SAD supplements City sanitation services seven days a week through its contract with Atlantic Maintenance Corporation. From Monday through Saturday, one sanitation

supervisor and six street cleaning personnel patrol the district from 6:00 a.m. to 7:00 p.m. in split shifts. On Sundays, one supervisor and four cleaning personnel patrol the district from 8:00 a.m. to 4:00 p.m. The duties of sanitation personnel include sweeping and cleaning sidewalks and gutters, removing snow, bagging litter, emptying trash receptacles, maintaining light poles and repairing loose bricks on the sidewalk. The SAD spent \$265,726 in Fiscal Year 2001 to provide sanitation services to the district. This was 17 percent of its total 2001 expenditures.

The SAD 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” rates the level of cleanliness of most streets in districts throughout the City and is issued quarterly by the Mayor’s Office of Operations. For the quarter ending December 2001, 100 percent of the district’s streets and 97.6 percent of its sidewalks were rated “acceptably clean.” Our review of the district’s scorecard for each quarter since July 1998 found that the ratings fluctuated from quarter to quarter—the percentage of streets and sidewalks rated as “acceptably clean” increased or decreased each quarter. However, overall the ratings have been positive and indicate that there is a greater percentage of streets and sidewalks classified as “acceptably clean” than the percentage classified as “filthy.”

We also conducted unannounced spot-checks of the district and observed sanitation personnel on their designated rounds. The streets and sidewalks all appeared satisfactory.

Furthermore, the majority of the participants responding to our survey questionnaire felt that the sanitation program has contributed to a cleaner district:

- 23 participants (85%) responded that the area within the Mall is cleaner because of the SAD.
- 24 participants (89%) responded that they are satisfied with the sanitation provided by the SAD.

Security Services

During Fiscal Year 2001, the Fulton Mall SAD provided security services through a contract with Park Avenue Security. City police service was supplemented with 15 security officers and two in-house security supervisors. The security officers patrolled the district 24 hours a day, seven days a week. The contractor oversaw and administered the services and submitted invoices to the SAD along with documentation verifying the number of hours worked by its employees. The SAD spent \$394,817 in Fiscal Year 2001 to provide security services to the district. This was 25 percent of its total 2001 expenditures. In January 2002, the SAD ended its contract with Park Avenue Security to provide security services. Since we conducted a door-to-door survey in October 2002, the participant responses reflect the security that was in place at that time.

Of the 27 participants responding to our questions regarding security:

- 16 participants (59%) responded that the area within the district is safer; however,

- 8 participants (30%) responded that they are not satisfied with the security provided by the Fulton Mall SAD; and 10 participants (37%) do not have an opinion on this question.

At the exit conference, Fulton Mall SAD officials stated that the SAD entered into a new contract for security services in November 2002, with Bowles Corporate Services. Between November 2002 and January 2, 2003, Bowles provided four security officers working split shifts. After January 2, 2003, the SAD retained one security officer working various shifts to complement the shifts of the two security supervisors.

Advertising, Marketing, and Promotion

The advertising and promotional activities of the Fulton Mall SAD are designed to promote the area through special events, marketing programs, and advertising opportunities. These activities include newsletters (issued two or three times a year); decorative banners on the light poles; and ads in various publications like the Brooklyn Visitors Guide.

The SAD also sponsors various activities throughout the year. From July to August 2001 during lunch hour every Tuesday, there was a Summer Jazz Festival at Albee Square. During November and December, the SAD participated with the Borough President in a turkey and toy giveaway. For Christmas there was a tree-lighting ceremony at Albee Square, and decorative lights were placed along the district. In the spring, the SAD hosted an Easter Parade of Hats. In Fiscal Year 2001, the SAD spent \$223,715 for marketing and promotion, 14 percent of its total 2001 expenditures.

The following responses were received from the 27 participants of our survey questionnaire:

- 21 participants (78%) responded that they are aware of the additional events and activities (Easter Parade, landscaping, Christmas tree lighting) sponsored by the SAD.
- 17 participants (63%) responded that they are satisfied with these special events and activities sponsored by the SAD.
- 15 participants (56%) responded that the SAD has been successful promoting the district.

To promote the district and to define and give a sense of community to the area, the SAD has embarked on several public improvements. These improvements include:

- Landscaping and tree maintenance to keep the Mall trees, flowers, and greenery attractive and healthy.
- Installation of banners with the SAD logo on light posts throughout the Mall.
- Installment of three archways at the three entrances to the Mall: at Fulton Street and Adams Street, at Fulton Street and Flatbush Avenue, and at Flatbush Avenue Extension and DeKalb Avenue. Each archway has a replica of one of three bridges that cross from Manhattan into Brooklyn (the Manhattan, Brooklyn, and Williamsburg bridges).

In Fiscal Year 2001, the SAD spent \$364,996 for public improvements, 23 percent of its total 2001 expenditures. This amount included \$162,345 for the archway projects. The expenses for the archway projects totaled \$314,978 over Fiscal Years 1999, 2000, and 2001. The SAD expected to receive a \$150,000 grant from DBS to help fund this project. However, the SAD never received the grant money from DBS because all of the approvals required to erect the archways, specifically those from the Art Commission, were not obtained.

The majority of the respondents to the survey questionnaire felt that the public improvements are pleasing:

- 24 participants (89%) responded that they are satisfied with the three archways installed by the Fulton Mall SAD.

Recommendation

1. The Fulton Mall SAD should elicit participation from its district members by establishing mechanisms such as door-to-door surveys. This would give its members an opportunity to express any concerns they have regarding SAD activities.

SAD Response: “The Fulton Mall is in the process of hiring a new Executive Director. The new Executive Director will establish new mechanisms for door-to-door surveys.”

Poor Fiscal Management of Funds

The SAD has been operating at a loss for four of the last five years. As a result SAD expenditures exceeded revenues in Fiscal Years 1998, 1999, 2000, and 2001. Table II below shows the actual revenues, actual expenses, and change in net assets for each year.

TABLE II
Revenues, Expenses, and Change in Net Assets for Fiscal Years 1998 through 2002

Fiscal Year	Actual Revenue	Actual Expenses	Change in Net Assets	Net Assets Beginning of Year	Net Assets End of Year
1998	\$1,327,532	\$1,402,531	(\$74,999)	\$794,631	\$719,632
1999	\$1,319,976	\$1,642,705	(\$322,729)	\$719,632	\$396,903
2000	\$1,277,751	\$1,401,072	(\$123,321)	\$396,903	\$273,582
2001	\$1,458,830	\$1,559,560	(\$100,730)	\$273,582	\$172,852
2002	\$1,265,048	\$1,244,892	\$20,156	\$172,852	\$193,008

As can be seen in Table II, from Fiscal Years 1998 through 2001, expenditures consistently exceeded revenues. This resulted in a decrease in net assets from \$719,632 in Fiscal

Year 1998 to \$172,852 in Fiscal Year 2001. In addition, for each of these years, expenditures exceeded budgeted amounts. For Fiscal Years 1998 through 2001, actual expenditures exceeded the budgeted expenditures by \$160,178, \$233,230, \$153,044, and \$270,601 respectively.

The DBS document, *Establishing and Operating a Business Improvement District: A Step-by-Step Guide* (the Guide) states, "To ensure the public's trust and deliver the services deserved by property owners, BID Managers, with the knowledge and support of their respective Boards, should budget and spend responsibly." It also states that BIDs may consider a range of financial mechanisms, including the prudent build-up of a reserve to insure fiscal responsibility.

As a result of its excessive spending, in Fiscal Year 2000, the SAD opened a \$300,000 line of credit with interest of prime plus one percent per year. This was in addition to a \$100,000 line of credit (at prime plus one and a half percent interest per year) that the SAD opened in Fiscal Year 1999. The excess spending also forced the SAD to cancel its contract with Park Avenue Security during Fiscal Year 2002. If the SAD continues this pattern of spending, it will deplete its net assets, and it will not have enough funds to cover its yearly expenses. Unless the SAD spending patterns are monitored, its overspending is likely to continue.

A budget is a planning and control tool used by business managers to aid the coordination of the various activities and functions of their organizations. It can help to control waste of resources. The Fulton Mall SAD Board should ensure that SAD administrators adhere to DBS fiscal management guidelines that require its approval of spending in excess of the SAD budget.

Questionable Expenditures

The SAD made 597 disbursements (excluding payroll) totaling \$1,659,138 in Fiscal Year 2001, and 52 disbursements totaling \$35,932 were spent on items that do not appear to fulfill the purpose of the SAD. The purchases in question included payments for an annual awards dinner, flowers, breakfast and lunch meetings, and miscellaneous food expenses. The main purpose of SAD funds is to purchase supplemental services such as maintenance, sanitation, security, promotions, and special events. These expenditures were not made to purchase supplemental services.

For example, the SAD sponsored an Annual Awards Dinner to honor members of the 84th police precinct for their efforts and support of the downtown community. The questionable expenditures included \$21,120 spent for rental space, dinner, table centerpieces, musical entertainment, and a master of ceremonies. Other questionable expenditures were \$2,100 for breakfast for the SAD annual meeting as well as numerous other payments for other lunches and dinners. Other payments totaling \$1,093 were made to a nearby restaurant, which appeared to be blanket payments to cover food expenses for the former Executive Director.

In light of the fact that the SAD had to discontinue security services during Fiscal Year 2002 because of lack of funds, and because the SAD expenditures exceeded budgets the prior three fiscal years, the SAD should have made more prudent decisions on how it spent its funds. BIDs and SADs are designed solely to serve and benefit the district in which they operate, and

none of the purchases mentioned above were necessary for the SAD to carry out its District Plan. Although the former Executive Director approved the invoices for payment, all checks (with the exception of one) were signed by two Board members. It is not clear why the Board continued to allow the SAD to pay for the former Executive Director's meals and other questionable items.

It is imperative that the Fulton Mall SAD Board of Directors, who represent the SAD members, participate in and agree with all funding decisions. Without the active involvement of the Board members in Fulton Mall SAD decisions, there is no guarantee that the assessments collected from SAD businesses and property owners are spent appropriately, in accordance with the SAD needs or on programs that benefit the SAD area.

The Executive Director resigned in June 2002, about the same time that news articles were published stating that the Fulton Mall SAD inappropriately overspent on capital projects. The SAD is in the process of hiring a new Executive Director. The Board of Directors should allocate appropriate control to the future Executive Director, but since they still retain responsibility of the SAD, they should ensure that they are fully aware and well informed of all SAD activities.

Reduction in Security Services

As mentioned previously, in January 2002, the Fulton Mall SAD ended its contract with Park Avenue Security for the provision of security services. From December 1999 through January 2002, the SAD contracted with Park Avenue Security to supply 15 security officers to patrol the district 24 hours a day, seven days a week. When the contract ended, the SAD continued to employ two in-house security supervisors.

In addition to security personnel, the SAD spent a total of \$110,150 in Fiscal Year 2000 to implement additional security measures in the district. The SAD spent \$94,700 to install closed circuit television cameras along the Mall and \$15,450 to upgrade the security booth; the monitors for the closed circuit television were placed in the security booth.

The SAD terminated its contract with Park Avenue Security in January 2002 citing the lack of funds as the cause. Spending beyond its budget has been an ongoing problem for the SAD, as noted earlier in this report. The May 6, 1999, minutes of the Board of Directors meeting stated that the SAD was over budget for the year and that there would be a reduction in security services. Nevertheless, in the following fiscal year, the SAD still spent \$193,960 on capital improvements including \$23,810 to install a sound system throughout the Mall, \$60,000 to install the Mall archways, and the \$110,150 to increase security measures.

It appears that the intent of the SAD was to upgrade and increase security, but that it was derailed by a lack of funds. Currently, the two in-house security supervisors still employed by the SAD watch the Mall through the camera monitors installed in the security booth. However, the two security supervisors are posted at the booth for only a few hours each day. Anyone passing by the booth can see when it is not occupied, since a portion of the booth is encased in glass. Therefore, there are periods when no one is viewing the television monitors and the SAD no longer has security officers patrolling the district.

Some Fulton Mall SAD members are concerned with the level of security in the district. During our survey, eight participants (30%) responded that they are not satisfied with the security provided by the SAD. Seven of these participants commented that there needs to be more security, and some mentioned frequent robberies at their stores and groups of high school students fighting in the streets.

At the exit conference, Fulton Mall SAD officials stated that the SAD entered into a new contract for security services in November 2002, with Bowles Corporate Services. Between November 2002 and January 2, 2003, Bowles provided four security officers working two shifts. After January 2, 2003, the SAD retained one security officer working various shifts to complement the shifts of the two security supervisors. SAD officials stated that they will wait until a new Executive Director is hired to decide on the level of security that the SAD will provide in the future.

Uninsured Deposits

The financial statements reported that the Fulton Mall SAD had funds on deposit that were not covered by FDIC insurance. FDIC regulations provide that each custodian of public money in a depository be separately insured for \$100,000. The SAD had balances that exceeded \$100,000 and were therefore uninsured. The portion of the SAD balances that were uninsured were \$293,752 in 1998, \$115,269 in 1999, \$183,871 in 2000, and \$26,936 in 2001. The amounts not covered by FDIC insurance were the equivalent of 41 percent, 29 percent, 67 percent, and 15 percent respectively of the SAD 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. Although the funds fluctuate from year to year, in 1998 and 2000 a large amount of SAD funds were unprotected. When deposits of public money exceed the recognized deposit insurance limit, a request can be made that the depository pledge eligible collateral to secure the uninsured amount. The SAD should ensure that deposits exceeding \$100,000 are placed in collateralized accounts.

Recommendations

The Fulton Mall SAD should:

2. Better manage SAD funds and expenditures to ensure that expenditures do not continue to exceed revenues and budgets, as this may result in depleting SAD net assets.

SAD Response: “As noticed in table 2, the Fulton Mall had a net profit for the year ended 2002. The results of operations for the six months ended December 2002, resulted in a profit of \$63,000. While FY2000 and 2001 indicated a loss, we never received the \$150,000 grant from DBS which would have resulted in a profit. In the future, Fulton Mall will continue to ensure that it will not overspend beyond its budget.”

Auditor Comment: The Fulton Mall SAD did have a net profit at the end of Fiscal Year 2002. However, its expenditures of \$1,244,892 went over the \$1,212,200 amount budgeted for the same year. The SAD, therefore, overspent its budget by \$32,692. Regarding the losses sustained in previous fiscal years, these losses totaled \$224,051 for Fiscal Years 2000 and 2001 combined. So, even if the \$150,000 grant had been received from DBS, the SAD still would have had a loss of \$74,501 over those two fiscal years.

3. Consider increasing the level of security by contracting with a new security company or hiring its own security personnel to meet the needs of the SAD.

SAD Response: “ The Fulton Mall is in the process of hiring a new Executive Director. It is expected that the new Director outlines a security plan.”

4. Place its funds in collateralized accounts.

SAD Response: “During FY2002 & 2001, Fulton Mall only had approximately 13% of its cash accounts uncollateralized. In the future, we will attempt to minimize this risk.”

Weaknesses in Corporate Governance

The Fulton Mall SAD has weaknesses in its corporate governance. Our review of the minutes of the Board meetings indicated that on several occasions, the former SAD Executive Director acted without the votes or approval of the Board members. Without Board approval, purchases of major items or services were made (e.g., a truck for garbage removal, installation of a web site, and installation of a sound system throughout the Mall). In addition, the minutes did not show that a Board vote had been taken before the SAD entered into a contract with a new telephone company. There was no evidence to show that the former Executive Director sought the Board’s approval before he acted.

Another example that indicated the Board was not fully aware of SAD activities involved the archways that were installed at the SAD boundaries. The total cost of the archways was \$314,978, and the SAD expected to receive a \$150,000 grant from DBS to help fund this project. The former Executive Director told the Board members at more than one meeting that the archway project would be partially funded by the City. The funding was contingent on receiving approval from the appropriate agencies, such as the Art Commission and the Department of Transportation. The former Executive Director stated that he only needed to file some paperwork in order to get the Art Commission’s approval. However, he did not fully inform the Board of the steps required to receive all the necessary approvals. The SAD did not receive the approval of the Art Commission, DBS did not award the grant, and the SAD had to fund the entire archway project.

In addition, the Fulton Mall SAD managed its funds poorly. SAD expenditures exceeded budgets in Fiscal Years 1998, 1999, 2000, and 2001. The Board of Directors approved the SAD plan to obtain a \$300,000 line of credit to help with its cash flow problems. However, we did not

see any discussion in the Board minutes regarding control of the SAD spending patterns to ensure that the SAD remains financially solvent.

The Board's key responsibilities are to set policies for SAD operations and to oversee the advancement of the District Plan. The Executive Director, as the chief executive officer of the corporation, has the responsibility for the general management of the affairs of the SAD and carries out the resolutions of the Board of Directors. The Board and its members are responsible and accountable for the activities of the SAD, no matter how much authority it has delegated to staff or committees. Therefore, the Board members should be fully aware of all activities of the SAD and its management.

Recommendations

The Fulton Mall SAD Board members should:

5. Ensure that they are aware of and well informed about all SAD activities, regardless of how much authority they give the SAD management.

SAD Response: "Fulton Mall is in the process of restructuring its board of directors which will facilitate communication with the new Executive Director."

6. Monitor the SAD's rate of spending.

SAD Response: "The new board of directors will monitor the Fulton Mall rate of spending."

Lack of Control over Employee Time

The Fulton Mall SAD lacks control over time worked by employees. The SAD does not have written personnel procedures although required in the DBS Guide. The SAD does not maintain daily time records for its employees, and does not keep track of employees' leave balances. Consequently, we were unable to determine the number of hours that these employees worked, the number of annual and sick leave days the employees are entitled to, and whether sick and annual leave were appropriately accrued or deducted from the employees' balances.

The SAD currently employs four full-time employees and one part-time employee. The DBS Guide states, "BIDs with three or more full-time employees should develop written personnel policies to describe in detail personnel policies and employment benefits." These policies should establish work rules governing time and attendance, and employment benefits, including holiday and vacation leaves, personal and sick leaves, maternity leave, and jury duty. The procedures should also establish an employee grievance and resolution procedure and termination procedure. The Fulton Mall SAD has no timekeeping regulations or guidelines for its employees.

Section 4.1 of Comptroller's Directive #13 states, "a fundamental timekeeping principle is the requirement that the attendance, absence and tardiness of every employee be recorded

promptly on a daily basis. Time and attendance must be recorded for all employees.” Good business practice dictates that an organization should keep track of the daily time worked by all employees.

The lack of a daily time recording system and lack of annual and sick leave balances prevents SAD management from verifying the time worked by employees and determining the leave balances of any employee. Without this information, SAD management is unable to determine whether an employee who asks for leave time is actually entitled to the time. The lack of records could also cause problems if an employee resigns and requests payment for unused annual or sick time.

Recommendations

The Fulton Mall SAD should:

7. Develop written personnel procedures that clearly detail personnel policies and employment benefits. These procedures should be distributed to all employees.

SAD Response: “The Fulton Mall is in the process of hiring a new Executive Director and he/she will be responsible for personnel procedures.”

8. Maintain an accurate daily time-record system for its staff that includes daily attendance, annual and sick leave use, and tardiness.

SAD Response: “In the future, Fulton Mall will attempt to record daily attendances.”

9. Maintain a log of employee annual and sick leave balances.

SAD Response: “While the Fulton Mall maintains annual and sick leave balances, we will attempt to properly report leave balances.”

Auditor Comment: The Fulton Mall SAD does not maintain annual and sick leave balances for its employees; it maintains only a list of annual and sick leave use. In the absence of leave balance records, we were unable to determine whether employee use of annual and sick leave was actually—and accurately—deducted from the employees’ leave balances. In addition, in the absence of a time record system, we were unable to determine whether all employee use of annual and sick leave was actually recorded. It is important that the Fulton Mall SAD maintain a time record system and a log of employee annual and sick leave balances.

SAD Noncompliance with Certain Terms of Its Contract, DBS Guidelines, and District Plan

The SAD maintains complete and accurate financial records, submits annual reports to DBS, and has its annual financial statements certified by an independent certified public

accountant. However, the SAD does not comply with the procurement procedures of its contract.

Noncompliance with Procurement Guidelines

Since the SAD has no written procurement procedures, we used the DBS Guide along with the contract to identify the procurement guidelines that the SAD should follow. The DBS Guide states, “To foster competition and ensure fair and equitable purchases of goods and services, and to assure outreach to all . . . BID procurement procedures should, at a minimum, describe in detail procurement authority and responsibility, contract solicitation and award process.”

The Guide also states that competitive bidding is the preferred method of contractor selection and that bids from at least three vendors should be solicited. The contract between DBS and the SAD states that when awarding contracts, the SAD should choose the lowest responsible bidder from at least three competitive bidders. We reviewed all eight of the SAD contracts and found that three bids were not solicited for four of the eight contracts awarded in Fiscal Year 2001. For three of these four contracts, the SAD only solicited one bid and for one contract no bids were solicited. Additionally, two of the eight contracts we reviewed had neither the signature of the SAD Chairperson or former Executive Director nor that of the contractor, and in three instances, the SAD did not even enter into a formal contract, and had only a signed proposal or an invoice. The Guide states that the Chairperson or Executive Director must sign all contracts. Table III, lists the contracts for which bids were not solicited and that were not properly signed.

TABLE III
Contracts Lacking Bids or Not Properly Signed

Description of Service	Amount	Bid Status	Contract Status
Sanitation	\$246,500	Only 1 bid received	Contract had no signatures
Holiday decorations	\$89,125	No bids received	Contract on file
Horticulturist	\$19,074	Only 1 bid received	Proposal only, no formal contract
Maintenance of trees	\$20,144	Only 1 bid received	Proposal only, no formal contract
Security	\$254,176	Three bids received	Contract had no signatures
Website	\$25,000	Three bids received	Invoice only, no formal contract

Recommendations

The Fulton Mall SAD should:

10. Prepare written procurement procedures.

SAD Response: “The new Executive Director will be responsible for setting up procurement procedures.”

11. Solicit bids from at least three qualified vendors before entering into a contract.

SAD Response: “The new Executive Director will be responsible for soliciting three (3) bids.”

12. Ensure that contracts are properly signed by the SAD Chairperson or President and the contractor.

SAD Response: “The Fulton Mall will attempt to ensure that all contracts are properly signed.”

Internal Controls Can Be Improved

Inadequate Segregation of Duties

The Vice President is specifically responsible for most bookkeeping operations. She records all accounting transactions, prepares checks for payment, prepares bank deposits, takes the deposits to the bank, and prepares bank reconciliations. This lack of segregation of duties increases the possibility of inefficiencies, errors, and irregularities. Checks must be signed by two of four Executive Committee members.

Comptroller’s Directive #1 on internal controls states, “To minimize the possibility of inefficiency, errors, and fraud, responsibility for a sequence of related operations should be divided among two or more persons.” Furthermore, the Directive states, “In essence, key duties and responsibilities in authorizing, processing, recording, reviewing transactions and safeguarding assets should be separated among individuals.” We believe that good internal control practices would dictate conforming to this Directive to the greatest extent possible.

Given that Fiscal Year 2001 expenditures amounted to more than \$1.5 million, it is in the SAD’s best interest to ensure that the responsibilities for a sequence of related functions, such as processing, recording, and reviewing transactions, are explicitly divided among different employees. Since the SAD currently has four full-time employees and one part-time employee, a better segregation of duties can be established. Regardless of how the SAD improves its segregation of duties, an officer of the Board (e.g., the Treasurer) or the Chairman of the Finance Committee should review and monitor the financial transactions of the SAD.

Inadequate Safeguarding of Assets

The Fiscal Year 2001 financial statements recorded \$148,801 in property and equipment. However, the SAD does not maintain an inventory listing of its equipment, which should include items such as: computers, printers, telephones, cellular phones, office furniture, and the trash receptacles on the street corners.

When equipment is not accounted for, thefts may occur and go undetected, equipment may be disposed of improperly, and duplicate equipment may be purchased unnecessarily. Therefore, it is important for the SAD to account for all of its equipment on an inventory list.

Internal control standards require that inventory should be protected from unauthorized use or removal, and that property should be properly controlled. Additionally, Comptroller's Directive #1 states that accurate and complete inventory records should be maintained for all assets, and physical inventories should be conducted.

Recommendations

The Fulton Mall SAD should:

13. Ensure that the functions of processing, recording, and reviewing of transactions are divided between two or more employees, or implement other compensating controls.

SAD Response: "Fulton Mall will attempt to segregate some duties. However, due to the small administrative staff, it is not practical to segregate all duties within your recommendation."

14. Maintain inventory records and perform physical inventories periodically.

SAD Response: "In the future, Fulton Mall will attempt to inventory its equipment. However, the office is equipped for total personnel of five (5) people, which does not require an extensive amount of equipment."

Discrepancies in SAD Disbursements

During our review of the Fiscal Year 2001 SAD disbursements, we found some discrepancies. We reviewed 597 disbursements (excluding payroll) that totaled \$1,659,138. Three percent of disbursements had discrepancies, as follows:

- 14 disbursements totaling \$31,962 were not properly approved before payments were made;
- 5 disbursements totaling \$1,590 had no supporting receipts or invoices; and

- One check in the amount of \$300 did not receive the required signatures before being issued.

The contract between DBS and the SAD requires that the SAD maintain complete and accurate records including bills and receipts. The SAD should ensure that all invoices are approved before payments are made, that all checks issued have supporting documentation, and that all checks are signed before being issued.

Recommendations

The Fulton Mall SAD should:

15. Ensure that all checks issued have supporting documentation.

SAD Response: “Fulton Mall agrees with the recommendation and will attempt to ensure that all checks have supporting documentation.”

16. Approve all invoices before payments are made.

SAD Response: “Fulton Mall agrees with the recommendation and will attempt to approve all invoices before payments are made.”

17. Ensure that checks are signed before being issued.

SAD Response: “Fulton Mall agrees with the recommendation and will attempt to ensure that checks are signed before being issued.”

FULTON MALL SPECIAL ASSESSMENT DISTRICT
Questionnaire to Determine Participant Satisfaction

	YES	NO	NO OPINION
1. In your opinion, is the area within the Fulton Mall SAD cleaner since the formation of the SAD?	<u>23 (85%)</u>	<u>2 (7%)</u>	<u>2 (7%)</u>
2. Are you satisfied with the sanitation provided by the SAD?	<u>24 (89%)</u>	<u>2 (7%)</u>	<u>1 (4%)</u>
3. Would you like the SAD to provide increased sanitation services?	<u>8 (30%)</u>	<u>17 (63%)</u>	<u>2 (7%)</u>
4. In your opinion, has the SAD reduced graffiti and illegal posters from walls, street signs, and light poles?	<u>20 (74%)</u>	<u>4 (15%)</u>	<u>3 (11%)</u>
5. In your opinion, is the area within the Fulton Mall SAD safer?	<u>16 (59%)</u>	<u>9 (33%)</u>	<u>2 (7%)</u>
6. Are you satisfied with the security provided by the SAD?	<u>9 (33%)</u>	<u>8 (30%)</u>	<u>10 (37%)</u>
7. Are you satisfied with the CCTV cameras, the security booth, and the sound system that was installed along the Mall?	<u>17 (63 %)</u>	<u>6 (22%)</u>	<u>4 (15%)</u>
8. Are you satisfied with the three Archways that were installed by the Fulton Mall SAD?	<u>24 (89%)</u>	<u>1 (4%)</u>	<u>2 (7%)</u>
9. Are you aware of the additional special activities/events sponsored by the SAD each year, such as the tree lighting, landscaping, and Easter Parade?	<u>21 (78%)</u>	<u>4 (15%)</u>	<u>2 (7%)</u>
10. Are you satisfied with the special activities/events sponsored by the SAD?	<u>17 (63%)</u>	<u>2 (7%)</u>	<u>8 (30%)</u>
11. In your opinion, has the SAD been successful in attracting new businesses to the area?	<u>19 (70%)</u>	<u>4 (15%)</u>	<u>4 (15%)</u>
12. In your opinion, has the SAD been successful in retaining business in the district?	<u>24 (89%)</u>	<u>0 (0%)</u>	<u>3 (11%)</u>
13. Are you satisfied with the SAD's management?	<u>17 (63%)</u>	<u>0 (0%)</u>	<u>10 (37%)</u>
14. In your opinion has the SAD been successful at promoting the district?	<u>15 (56%)</u>	<u>6 (22%)</u>	<u>6 (22%)</u>

APPENDIX 1
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	YES	NO	NO OPINION
15. Based on your contact with the SAD's management has it always conducted itself with the appropriate level of professionalism?	<u>13 (48%)</u>	<u>1 (4%)</u>	<u>13(48%)</u>
16. In your opinion, does the SAD provide you with sufficient information regarding its services?	<u>14 (52%)</u>	<u>11 (41%)</u>	<u>2 (7%)</u>
17. Are you satisfied with the services provided by the SAD?	<u>25 (93%)</u>	<u>1 (4%)</u>	<u>1 (4%)</u>
18. In your opinion, are there adequate opportunities to participate on the various committees formed by the SAD?	<u>10 (37%)</u>	<u>5 (19%)</u>	<u>12 44%</u>
19. Have you ever made a complaint to the SAD?	<u>4 (15%)</u>	<u>22 (81%)</u>	<u>1 (4%)</u>
If yes, to whom did you report it to?			
Was the matter resolved?	<u>1 (25%)</u>	<u>2 (50%)</u>	<u>1 (25%)</u>
Did the SAD seem to be concerned about the complaint?	<u>1 (25%)</u>	<u>2 (50%)</u>	<u>1 (25%)</u>
20. In your opinion, is the assessment amount reasonable with regards to the services provided?	<u>10 (37%)</u>	<u>3 (11%)</u>	<u>14 52%</u>
21. Did you receive any survey forms from the SAD in the past?	<u>7 (26%)</u>	<u>17 (63%)</u>	<u>3 (11%)</u>
22. Approximately how many did you receive?			
23. Are there any problems/issues that you would like to bring to the SAD's attention?	<u>4 (15%)</u>	<u>19 (70%)</u>	<u>4 (15%)</u>



FULTON MALL IMPROVEMENT ASSOCIATION, INC.
356 Fulton Street, Brooklyn, New York 11201

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fax: 718.852.5120

February 7, 2003

Greg Brooks
Office of the Comptroller
1 Centre Street
New York, New York 10007-2341

Dear Mr. Brooks:

The Fulton Mall Improvement Association would like to thank the Comptroller's Office for their extensive audit review of the Association. We also would like to thank your staff for their courtesy, patience and professionalism. It was a pleasure working with them.

Listed below are the responses to all of the comptroller's office recommendations:

1. The Fulton Mall SAD should elicit participation from its district members by establishing mechanisms such as door-to-door surveys. This would give its members an opportunity to express any concerns they have regarding SAD activities.

The Fulton Mall is in the process of hiring a new Executive Director. The new Executive Director will establish new mechanisms for door-to-door surveys.

2. Better manage SAD funds and expenditures to ensure that expenditures do not continue to exceed revenues and budgets, as they may result in depleting SAD net assets.

As noticed in table 2, the Fulton Mall had a net profit for the year ended 2002. The results of operations for the six months ended December 2002, resulted in a profit of \$63,000. While FY2000 & 2001 indicated a loss, we never received the \$150,000 grant from DBS which would have resulted in a profit. In the future, Fulton Mall will continue to ensure that it will not overspend beyond its budget.

3. Consider increasing the level of security by contracting with a new security company or hiring its own security personnel to meet the needs of the SAD.

The Fulton Mall is in the process of hiring a new Executive Director. It is expected that the new Director outlines a security plan.

4. Place its funds in collateralized accounts.

During FY2002 & 2001, Fulton Mall only had approximately 13% of its cash accounts uncollateralized. In the future, we will attempt to minimize this risk.

5. Ensure that they are aware of and well informed about all SAD activities, regardless of how much authority they give the SAD management.

Fulton Mall is in the process of restructuring its board of directors which will facilitate communication with the new Executive Director.

6. Monitor the SAD's rate of spending.

The new board of directors will monitor the Fulton Mall rate of spending.

7. Development written personnel procedures that clearly detail personnel policies and employment benefits. These procedures should be distributed to all employees.

The Fulton Mall is in the process of hiring a new Executive Director and he/she will be responsible for personnel procedures.

8. Maintain an accurate daily time-record system for its staff that includes daily attendance, annual and sick leave use, and tardiness.

In the future, Fulton Mall will attempt to record daily attendances.

9. Maintain a log of employee annual and sick leave balances.

While the Fulton Mall maintains annual and sick leave balances, we will attempt to properly report leave balances.

10. Prepare written procurement procedures.

The new Executive Director will be responsible for setting up procurement procedures.

11. Solicit bids from at least three qualified vendors before entering into a contract.

The new Executive Director will be responsible for soliciting three(3) bids.

12. Ensure that contracts are properly signed by the SAD Chairperson or President and the contractor.

The Fulton Mall will attempt to ensure that all contracts are properly signed.

13. Ensure that the functions of processing, recording and reviewing of transactions are divided between two or more employees, or implement other compensating controls.

Fulton Mall will attempt to segregate some duties. However, due to the small administrative staff, it is not practical to segregate all duties within your recommendation.

14. Maintain inventory records and perform physical inventories periodically.

In the future, Fulton Mall will attempt to inventory its equipment. However, the office is equipped for total personnel of five(5) people, which does not require an extensive amount of equipment.

15. Ensure that all checks issued have supporting documentation.

Fulton Mall agrees with the recommendation and will attempt to ensure that all checks have supporting documentation.

16. Approve all invoices before payments are made.

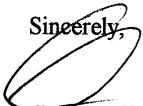
Fulton Mall agrees with the recommendation and will attempt to approve all invoices before payments are made.

17. Ensure that checks are signed before being issued.

Fulton Mall agrees with the recommendation and will attempt to ensure that checks are signed before being issued.

The Fulton Mall Board of Directors, Executive Director and Department Small of Business Services will be working together on all of these recommendations.

Sincerely,


George Silva
Chairman