

# 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 Fifth Avenue Business Improvement District**

*MH06-128A*

**January 29, 2007**



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 responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office has audited the financial and operating practices of the Fifth Avenue Business Improvement District (BID).

BIDs are public-private sector partnerships in which property and business owners of the defined area elect to make a collective contribution to the maintenance and development of their commercial district. We audit private organizations under contract with the City, such as this BID, to ensure that they provide required services and have adequate internal controls over their funds.

The results of our audit, which are presented in this report, have been discussed with the Fifth Avenue BID officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

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](mailto:audit@comptroller.nyc.gov) or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in black ink, appearing to read "William C. Thompson, Jr.", written in a cursive style.

William C. Thompson, Jr.  
WCT/ec

**Report:** MH06-128A  
**Filed:** January 29, 2007

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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  
Fifth Avenue Business Improvement District**

**MH06-128A**

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**AUDIT REPORT IN BRIEF**

This audit determined whether the Fifth Avenue Business Improvement District (BID) has provided the services called for in its District Plan; evaluated the adequacy of the Fifth Avenue BID's internal controls over its funds and operations; and assessed the Fifth Avenue BID's compliance with key terms in its contract with the Department of Small Business Services. The scope of the audit was Fiscal Years 2005 and 2006.

The Fifth Avenue BID was established in 1993 and provides services for the area of Fifth Avenue beginning at the north side of 46th Street, extending north to the south side of East 61st Street; excluding Rockefeller Center, but including 57th Street from Madison Avenue to Avenue of the Americas. As required by the BID legislation, the majority of the Fifth Avenue BID Board of Directors consists of property owners and commercial and residential tenants within the district. In Fiscal Year 2005, the Fifth Avenue BID reported revenues of \$2,138,666 and expenditures of \$2,178,438. Most of the expenditures related to salaried employees who provided enhanced sanitation and security services.

**Audit Findings and Conclusions**

The Fifth Avenue BID has generally provided the supplemental services as required in its District Plan. The Fifth Avenue 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.

The Fifth Avenue BID has adequate controls over its funds and operations. It maintained adequate segregation of duties, and the transactions we reviewed appeared to be ordinary, reasonable, and adequately supported.

Our interviews with the Fifth Avenue Board members revealed that communication between the BID and themselves is excellent. However, communication between the BID and its

members needs improvement. Our satisfaction survey showed that only 54 percent of the respondents felt that the Fifth Avenue BID publicized its annual meeting, 37 percent of respondents did not know when the annual meetings were held, and 16 percent did not even know that the BID existed.

### **Audit Recommendations**

Based on our findings, we make one recommendation: The Fifth Avenue BID should enhance its efforts to promote the BID among its members, increase awareness of its programs, and notify members about coming events and meetings.

### **Agency Response**

Fifth Avenue BID officials generally agreed with the audit's findings and recommendation.

## INTRODUCTION

### **Background**

In 1981 and 1982, legislation was passed in New York State and New York City, permitting property owners to define and self-fund Business Improvement Districts (BIDs). BIDs are public-private sector partnerships in which property and business owners of the defined area elect to make a collective contribution to the maintenance and development of their commercial district.

BIDs are funded by special assessments levied against property owners within the district. The assessments are billed and collected by the City and returned to the BID. These moneys are used to enhance the district by purchasing services supplemental to the services already provided by the City. These services can include, but are not limited to, the following:

- 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 DSBS 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.

According to DSBS, there are 53 BIDs operating in the City, with combined BID assessments totaling \$72 million. The majority of these districts have modest budgets: the annual operating budgets of 34 districts are each less than \$500,000. Six districts have annual budgets ranging from \$500,000 to \$1,000,000, and 13 districts have annual budgets exceeding \$1,000,000. Measured by revenue from assessments, the Fifth Avenue BID was the 7th largest of the 53 districts in New York City in 2006.

The Fifth Avenue Business Improvement District, the subject of this audit, was established in 1993. BID services are provided for the area of Fifth Avenue beginning at the north side of 46th Street, extending north to the south side of East 61st Street; excluding Rockefeller Center, but including 57th Street from Madison Avenue to Avenue of the Americas. As required by the BID legislation, the majority of the Fifth Avenue BID Board of Directors consists of property owners and commercial and residential tenants within the district. The Board also includes representatives from Manhattan Community Board 5 and three members—one each appointed by the New York City Council, the New York City Comptroller, and the Manhattan Borough President.

The Fifth Avenue BID's most recent contract with DSBS was signed in July 2002 for a period covering July 1, 2002 to June 30, 2007. This contract incorporates the agreements between the Fifth Avenue BID and the City regarding requirements for its supplemental services and capital improvements.

As required of all City BIDs, the Fifth Avenue BID presented to the City Council and the Office of the Mayor a District Plan detailing the proposed services and improvements for the district, how these services and improvements would be implemented, and the total anticipated annual expenditures.

As shown in Table I, in Fiscal Year 2005, the Fifth Avenue BID reported revenues of \$2,138,666 and expenditures of \$2,178,438. Most of the expenditures related to salaried employees who provided enhanced sanitation and security services.

**Table I**  
Fifth Avenue BID Revenue and Expenses for Fiscal Year 2005

Support and Revenue	
Assessment Revenue	\$2,126,766
Interest Income	\$11,900
<b>Total Support and Revenue</b>	<b>\$2,138,666</b>
Expenses	
Program Expenses:	
Salaries and Benefits	\$1,914,404
Sanitation	\$34,936
Security	\$34,730
<b>Total Program Expenses</b>	<b>\$1,984,070</b>
Management and general	\$194,368
<b>Total Expenses</b>	<b>\$2,178,438</b>

**Objectives**

The objectives of this audit were to:

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

## **Scope and Methodology**

The scope of our audit was Fiscal Years 2005 and 2006. To assess internal controls, we compared policies, procedures, and practices to internal control standards set forth in the Comptroller's Directives #11, "Cash Accountability and Control," and the Fifth Avenue BID contract with DSBS. To assess contract compliance, we reviewed the July 2002 contract, the most current contract between the Fifth Avenue BID and DSBS. We also interviewed office personnel, BID officials, and members of the Board of Directors.

We reviewed the District Plan to identify the declared objectives of the Fifth Avenue 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 from June 15, 2006, to August 19, 2006, and observed sanitation and security personnel on the job.

To assess the level of satisfaction with the services provided by the BID, we conducted a survey of the property owners and businesses within the district. We mailed out 320 surveys in July 2006 and received 58 responses.

The minutes of the Board of Director meetings from March 2004 through June 2006 were reviewed to assess corporate governance and obtain an understanding of the issues that the Board addresses.

We conducted the following procedures to evaluate the adequacy of controls over the Fifth Avenue BID's funds. We reviewed the Fifth Avenue BID's certified financial statements for Fiscal Years 2003, 2004, and 2005 (the statements for Fiscal Year 2006 were not available at the time audit fieldwork was being conducted). Cash receipts, bank statements, and the general ledger for Fiscal Year 2005 were reviewed to determine whether all assessment and cash receipts were deposited in the bank and recorded.

We randomly selected the first quarter of Fiscal Year 2005, July through September, and reviewed the general ledger and all cash disbursements for that period. To determine whether all purchases were appropriate, we examined all cash disbursements for the months of July 2004 through September 2004, including supporting receipts, invoices, and other related documents.

We judgmentally selected April 2006 and reviewed the payroll transactions for that month. The employee timecards and payroll registers for that period were tested to determine whether the payments were accurate and adequately supported. In addition, we reviewed the employee leave balances for the same period to determine whether the time records were accurate.

To determine whether the BID has adequate controls over its inventory, we randomly selected 50 items from a June 2, 2006 inventory list of 509 items and conducted a physical inventory.



### **Independence Disclosure**

The Comptroller is a member of the Board of Directors of the Fifth Avenue 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 Fifth Avenue BID specify that the Comptroller be a member of the Board. The Comptroller participates on the Board of the Fifth Avenue 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.

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.

### **Discussion of Audit Results**

The matters covered in this report were discussed with Fifth Avenue BID officials during and at the conclusion of this audit. A preliminary draft report was sent to Fifth Avenue BID officials on October 27, 2006, and discussed at an exit conference held on November 6, 2006. On November 28, 2006, we submitted a draft report to Fifth Avenue BID officials with a request for comments. We received a written response from Fifth Avenue BID officials on December 8, 2006. In their response, the officials generally agreed with the audit's findings and recommendation.

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

## **FINDINGS AND RECOMMENDATIONS**

The Fifth Avenue BID has generally provided the supplemental services as required in its District Plan. The Fifth Avenue 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.

The Fifth Avenue BID has adequate controls over its funds and operations. It maintained adequate segregation of duties, and the transactions we reviewed appeared to be ordinary, reasonable, and adequately supported.

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

### **The BID Provides the Services Called for in Its District Plan**

The Fifth Avenue 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 "enjoyment and protection of the public, and the promotion and enhancement" of the district, namely:

- A supplementary security presence throughout the district.
- A sanitation program to sweep sidewalks, curbs, and gutters, and empty litter receptacles.
- Administration of the district by a salaried staff.

In July 2006, we sent out satisfaction surveys to the property owners and businesses within the district. We mailed out 320 surveys, which asked questions relating to the performance of the security and sanitation services, communication, and the overall performance of the Fifth Avenue BID. We received responses from 58 members, an 18 percent response rate. The majority of the district members who responded, 45 or 77.5 percent, gave the BID a fair to excellent rating for overall performance. Of the remaining 13 members, 9 members (15.5%) responded that they were not aware of the BID and 4 members (7%) did not respond to the question. (See Appendix for a copy of survey questionnaire and results.)

### **Security Services**

The Fifth Avenue BID supplements the New York City Police Department (NYPD) service with 21 Community Safety Officers (CSOs), plus four CSO supervisors. The CSOs are divided into four squads that work for a total of 36 to 38 hours per week. They are on duty seven days a week from 8:00 a.m. to 8:00 p.m. The officers are equipped with two-way radios that enable them to communicate quickly with the BID Public Safety Office. The CSOs patrol the district and provide a security presence that deters illegal activities, monitors illegal sidewalk vendors, responds to emergencies, and provides assistance to tourists and shoppers. According

to the Fifth Avenue BID Annual Report to DSBS dated May 2006, the CSOs respond to more than 200,000 requests for assistance from tourists and shoppers each year. The Fifth Avenue BID spent \$938,356 in Fiscal Year 2005 to provide security services—43 percent of its total expenditures for the fiscal year.

The BID falls into the boundaries of the Midtown North, 19th, and Central Park Precincts of the NYPD. In its Annual Report, the Fifth Avenue BID reported an average reduction of 95 percent in crime in all three precincts compared to the twelve-month period just prior to the BID's creation in 1993. According to the satisfaction survey we conducted, 45 members (77%) of the district responded that the security services were fair to excellent. Of the remaining 13 respondents, 1 (2%) responded that security services were poor, 11 (19%) were not aware of the security services, and 1 (2%) did not respond to the question. (See Appendix.) During our walkthrough of the district, we observed the presence of the security officers at various posts along Fifth Avenue.

### **Sanitation Services**

The Fifth Avenue BID supplements the Department of Sanitation services with a Clean Team consisting of eight workers and three supervisors. The Clean Team workers patrol the district seven days a week, from 5:30 a.m. to 6:00 p.m., in three different shifts. The Fifth Avenue BID spent \$318,185 in Fiscal Year 2005 to provide sanitation services—15 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 snow, and removing graffiti.

According to the May 2005 Annual Report, there is a significant difference between conditions before the Clean Team began operating to conditions after it operated. Previously, trash receptacles were overflowing by 11:30 a.m. Today, the Clean Team fills an average of more than 5,000 trash bags each month in order to keep up with the abundant refuse and to prevent trash receptacles from overflowing.

Eighty-four percent, or 49 respondents, rated the sanitation services as fair to excellent. Of the remaining 9 respondents, 8 (14%) were not aware of the sanitation services and 1 (2%) did not respond to the question. (See Appendix.) We also conducted unannounced spot checks of the district and observed BID sanitation personnel on their designated rounds. The streets and sidewalks all appeared clean and the trash receptacles were not overflowing with trash.

### **The BID Generally Complied with Key Terms of Its Contract with DSBS**

The Fifth Avenue BID generally complied with the key provisions of its contract with DSBS. The Fifth Avenue BID maintained complete and accurate records, submitted annual reports to DSBS, and had its annual financial statements certified by an independent accountant. The Fifth Avenue BID also complied with the procurement procedures of its contract with

DSBS. The contract between DSBS and the Fifth Avenue BID states that when awarding contracts, the BID should choose the lowest responsible bidder from at least three responsible and competitive bidders. We reviewed the only Request for Proposal and contract the Fifth Avenue BID had for Fiscal Year 2006 and determined that the BID complied with the procurement procedures of the DSBS contract.

### **Corporate Governance**

Each BID is governed by a Board of Directors that is elected by the members of the district. According to the bylaws of the Fifth Avenue BID, the Board of Directors is responsible for the overall management of the business of the BID. The Board of Directors has a fiduciary responsibility to the BID and hires the management that administers the BID on a day-to-day basis. The chief executive officer for the Fifth Avenue BID is its president, 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 president, 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 and delegate to them the authority to take action on specific matters. The Fifth Avenue BID Board members created two committees—a Finance and Audit Committee and a Nominations Committee—to help manage the specific operations of the BID.

We reviewed the board and committee minutes to determine the topics discussed and decisions approved by the board. For the period March 2004 to June 2006, the Fifth Avenue BID conducted three board meetings and two Finance Committee meetings. The Nomination Committee did not have any written minutes, but reports of its decisions were included in the minutes of two board meetings.

Based on our review, we found that the Fifth Avenue BID is in compliance with its bylaws regarding the responsibility of the Board of Directors and the overall management of the BID.

### **Internal Controls**

Our audit evaluated the adequacy and effectiveness of the Fifth Avenue BID internal controls and accountability over the expenditures of its funds. The Fifth Avenue BID maintained adequate accountability over its receipts and disbursements, had an adequate segregation of duties, and properly recorded and authorized transactions. The transactions that we reviewed appeared to be ordinary, reasonable, and adequately supported.

We reviewed the cash receipts, bank statements and general ledger to determine whether all assessment and cash receipts were deposited in the bank and recorded. During Fiscal Year 2005, the Fifth Avenue BID had 17 transactions of cash receipts totaling \$2,141,311. We determined that all 17 receipts were deposited in the bank and recorded in the cash receipts journal and general ledger.

### **Expenditures**

We examined all cash disbursements made by the Fifth Avenue BID from July 1, 2004, through September 30, 2004. During that period, the BID issued 122 checks for purchases valued at \$121,891. The BID maintained the invoices and/or receipts from the vendors for these purchases. We determined that the invoices were approved for payment and that all checks were signed and listed on the bank statements, general ledger, and cash disbursements journal.

### **Inventory Controls**

The Fifth Avenue BID has adequate controls over its inventory and maintains a complete inventory list of all its equipment. On September 12 and 13, 2006, we conducted a physical inventory of the random sample of 50 items to verify the whereabouts of these items. We were able to find 44 items (88%). Of the six items that were not found, four were in the repair shop at the time of our physical inventory. The remaining two items were two microphones, which, according to the manufacturer, had no value.

### **Payroll and Timekeeping**

The Fifth Avenue BID employs 41 salaried full-time and part-time staff to administer the supplemental services within the district. They include the president of the BID, executive vice president, vice president, 8 supervisors, secretary, 21 CSOs, and 8 Clean Team members. The vice presidents, supervisors, and office staff use log books to record their time worked, while the sanitation and security personnel use punch cards to clock in and clock out every day. The work week is Monday to Sunday, and the employees get paid weekly on Thursdays. The employees are also required to submit written request for any leave time.

Our review of payroll transactions for the month of April 2006, and related employee timecards, log books, and payroll registers as well as leave balances of all the employees determined that the Fifth Avenue BID employees were accurately paid for the time worked in April 2006 and the employee leave records were accurate.

### **Communication with BIDs Members Needs Improvement**

The Fifth Avenue BID is generally providing the required supplemental services and has improved the image of the district. However, the BID is not keeping its members adequately informed of its activities.

Our interviews with the Fifth Avenue Board members revealed that communication between the BID and themselves is excellent. However, communication between the BID and its members is deficient. Our satisfaction survey showed that only 54 percent of the respondents felt that the Fifth Avenue BID publicized its annual meeting and 37 percent of respondents did not know when the annual meetings were held. Nine respondents, 16 percent, stated that they did not even know that the BID existed. It is important for the BID to communicate with its members because the BID is providing services that directly affect each member of the district. Members should be informed about the Fifth Avenue BID, its mission and programs, and should know how to contact the BID if necessary.

### **Recommendation**

1. The Fifth Avenue BID should enhance its efforts to promote the BID among its members, increase awareness of its programs, and notify members about coming events and meetings.

***Fifth Avenue BID Response:*** “The Fifth Avenue BID agrees that it can improve its communication with its general membership. When the Comptroller’s Office began this audit, this BID was in the process of updating its contact list. This year we have experienced a relatively high turnover of property owners and store managers. . . .

“Notwithstanding this turnover, we were pleased to see that 84% of the respondents noted above were familiar with one or more of our programs. We were also pleased that of the 49 respondents who rated our sanitation service, 96% rated us good to excellent while only 4% rated us fair; there were no poor ratings for this service.

“The Fifth Avenue BID will continue to update its contact lists and will be conducting an in depth outreach over the next six weeks.”

**THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER**

The New York City Comptroller's Office is currently conducting a review of the Fifth Avenue Business Improvement District. We understand that you are a property owner, tenant, or business owner within the BID district. Please answer the following questions concerning the BID and feel free to include any additional comments you may have.

Please return the completed questionnaire in the enclosed self-addressed stamped envelope or fax to (212) 669-8391. We ask that you please respond no later than August 4, 2006. Thank You!!

Business Name: \_\_\_\_\_ Telephone: (\_\_\_\_\_) \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Contact: \_\_\_\_\_

**Satisfaction Questionnaire**

**Please place an X in the box that applies.**

How do you feel the BID is performing in the following areas:

	Excellent	Good	Fair	Poor	Not Aware	No Response		
1. Security services	19(33%)	20(34%)	6(10%)	1(2%)	11(19%)	1(2%)		
2. Sanitation services	25(43%)	22(38%)	2(3%)	0(0%)	8(14%)	1(2%)		
3. Have you ever tried to contact BID management?				Yes <input type="text" value="21"/>	No <input type="text" value="35"/>			
If yes, were you satisfied with the BID's response?				Yes <input type="text" value="21"/>	No <input type="text" value="0"/>			
4. Are you aware of when the BID's Annual Meetings are to be held?				Yes <input type="text" value="36(63%)"/>	No <input type="text" value="21(37%)"/>			
5. Do you think the Annual Meetings are well publicized?				Yes <input type="text" value="29(54%)"/>	No <input type="text" value="25(46%)"/>			
6. Does the BID inform you of decisions made at its meetings?				Yes <input type="text" value="22(40%)"/>	No <input type="text" value="33(60%)"/>			
7. How does the BID communicate with you?				Telephone <input type="text" value="17"/>	Mail <input type="text" value="22"/>	E-mail <input type="text" value="6"/>	Never <input type="text" value="15"/>	Other <input type="text" value="11"/>
8. Overall performance	20(34%)	13(22%)	12(21%)	0(0%)	9(16%)	4(7%)		

*The 5<sup>th</sup> Avenue*  
**Business Improvement District**

Tom Cusick  
President

Dec. 7, 2006

Hon. John Graham  
Deputy Comptroller  
Audits, Accountancy & Contracts  
1 Center Street  
New York, NY 10007-2341

Re: Draft Audit

Dear Deputy Comptroller Graham:

I have reviewed the Draft Audit Report that you sent to me on Nov. 28, 2006 and I am happy to respond to the one recommendation at the end of the report. I would appreciate it if the following response could be added after your recommendation:

The Fifth Avenue BID agrees that it can improve its communication with its general membership. When the Comptroller's Office began this audit, this BID was in the process of updating its contact list. This year we have experienced a relatively high turnover of property owners and store managers. In an Aug. 9, 2006 New York Times article, for example, a Cushman & Wakefield executive remarked that "It's unusual for five buildings to trade within a six-month period on the same block . . ." The article tightly focused on the BID's West 57th Street block between Fifth and Avenue of the Americas.

Notwithstanding this turnover, we were pleased to see that 84% of the respondents noted above were familiar with one or more of our programs. We were also pleased that of the 49 respondents who rated our sanitation service, 96% rated us good to excellent while only 4% rated us fair; there were no poor ratings for this service.

The Fifth Avenue BID will continue to update its contact lists and will be conducting an in depth outreach over the next six weeks.

Thanks to you and your staff for your cooperation throughout this process.

Sincerely,



Tom Cusick  
President