

New York City Department of Small Business Services

Selected Aspects of Supporting Small Businesses

Report 2020-N-10 | October 2022

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objectives

To determine whether the New York City Department of Small Business Services properly administered the Employee Retention Grant program. We also examined whether SBS implemented the recommendations in the Small Business First Report. The audit covered the period from July 2018 to July 2021.

About the Program

The New York City Department of Small Business Services' (SBS) mission is to help “unlock economic potential and create economic security for all New Yorkers by connecting New Yorkers to good jobs, creating stronger businesses, and building thriving neighborhoods across the five boroughs.”

During the COVID-19 pandemic, SBS initiated the Employee Retention Grant (ERG) program to assist businesses and non-profit organizations across all five boroughs in retaining employees. Businesses with up to four employees that had a decline in revenue of at least 25% were eligible to receive a grant covering 40% of their payroll for 2 months, up to a maximum of \$27,000. Businesses that received grants were required to sign an affidavit certifying that they would retain their employees for at least 2 months after receiving payment. The ERG application period was open from March 17, 2020 to April 3, 2020 – SBS received 8,005 applications and distributed 3,411 grants totaling nearly \$25 million.

Several years prior, in July 2014, New York City (City or NYC) launched Small Business First, a combined initiative between the Mayor's Office of Operations and SBS to help small businesses start, operate, and thrive. In 2015, a companion report, Small Business First (SB1), was issued and included 30 recommendations intended to make the City easier for small businesses to operate in by, among other things, making regulations less burdensome to navigate and eliminating and consolidating licenses and permits. SB1 also recommended the development of a comprehensive online business portal with access to customized information and online transactions. To accomplish its goals, SBS partnered with several City agencies and also worked closely with small business owners, advocates, neighborhood and community leaders, and elected officials to solicit ideas about how best to help small businesses.

Subsequently, in 2017, the City Council passed Local Laws 2017-209 and 2017-210, which required SBS to prepare and disseminate a survey to small business owners, the results of which would be used to create a comprehensive workforce development plan to address their needs.

More recently, in a continued effort to assist small businesses, six City agencies were tasked with reviewing regulations with the goal of reducing fine schedules and allowing for cure periods (grace periods) or warnings for first-time violations. The resulting Small Business Forward report was released on May 15, 2022. We note that Small Business Forward intends to expand upon the NYC Business Portal, which was established as a result of SB1, to allow businesses to execute and track all interactions with the City in real time as well as receive information distributed by City agencies, such as updates on the law and renewal notices.

Key Findings

Despite expending nearly \$25 million, SBS did not follow up on the effectiveness of the ERG program by determining whether businesses that received grants retained their employees for at least 2 months, as required.

Further, 4,594 applicants were rejected (3,113) or denied (1,481). According to SBS, 3,113 were rejected because their applications were incomplete and missing required documentation. However, SBS did not have any documentation supporting the rejection of these applications. In the absence of this documentation, SBS missed an opportunity to learn what caused the rejections and how to avoid a similar result in other programs.

There was also inadequate oversight of eligibility and grant amounts, with grants issued to businesses that were not eligible or did not submit documentation proving their eligibility as well as grants paid for incorrect amounts. For example, SBS paid \$24,984 to an ineligible international business with revenues of \$2.4 million – awarding this business a grant meant that an eligible small business may not have received a grant. The procedures also stated the number of payroll periods required to be documented; however, out of our sample of 53 businesses that received grants, three did not provide all of the required documentation. Further, some eligible businesses received higher amounts than they were entitled to under the program, with 14 of 53 businesses being overpaid a total of \$71,106.

The ERG awards were skewed toward Manhattan businesses, where 52% of all the grants and 62% of the funds were awarded, while the other four boroughs combined received only 48% of the awards and 38% of the funds. There was also a higher percentage of grant applications accepted in Manhattan than for any other borough.

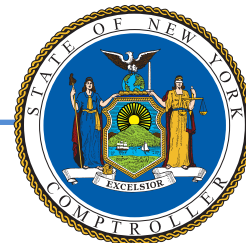
Additionally, our review of SB1 found that SBS implemented 19 of the 30 recommendations in the report, partially implemented eight recommendations, and did not implement three recommendations. The recommendations that were not implemented or partially implemented were intended to make it easier for businesses to access streamlined information with coordinated services and support and to reduce the burden imposed by complex regulations and fines. For example, SB1 recommended a more flexible adjudication process by introducing remote hearing options; however, as of July 2021, SBS indicated that these options are still being explored. These recommendations, in some cases, have been carried forward by the new administration.

We also determined that, in accordance with Local Law 2017-210, SBS did conduct a survey of small business owners to identify their needs and concerns. However, SBS did not use the results of its survey to create a comprehensive workforce development plan to address these needs, in accordance with the requirements of Local Law 2017-209. This means it did not contain strategies to specifically address workforce development needs and skills necessary to fill small business jobs.

Key Recommendations

- Implement controls to ensure only eligible businesses participate in grant programs and that grant amounts are correct.
- Work with applicable City agencies to ensure that all initiatives in the SB1 report are implemented, and maintain formal records to support the results or document why these initiatives will not be implemented.

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- Prepare a comprehensive workforce development plan, in accordance with Local Law 2017-209, that includes specific actions to address the needs identified by small businesses in the Local Law 2017-210 survey.



Office of the New York State Comptroller Division of State Government Accountability

October 20, 2022

Kevin D. Kim
Commissioner
New York City Department of Small Business Services
1 Liberty Street
New York, NY 10006

Dear Commissioner Kim:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the New York City Department of Small Business Services entitled *Selected Aspects of Supporting Small Businesses*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article III, Section 33 of the General Municipal Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Terms	Description	Identifier
DOB	New York City Department of Buildings	<i>Agency</i>
DOHMH	New York City Department of Health and Mental Hygiene	<i>Agency</i>
DOT	New York City Department of Transportation	<i>Agency</i>
ERG	Employee Retention Grant	<i>Key Term</i>
FDNY	New York City Fire Department	<i>Agency</i>
SBS	New York City Department of Small Business Services	<i>Auditee</i>
SB1	Small Business First report	<i>Key Term</i>

Background

The New York City Department of Small Business Services' (SBS) mission is to help “unlock economic potential and create economic security for all New Yorkers by connecting New Yorkers to good jobs, creating stronger businesses, and building thriving neighborhoods across the five boroughs.” SBS’ function is to aid small businesses through programs designed to facilitate operations, ease financial burdens, provide assistance with compliance, and, in the case of possible violations, help businesses through the adjudications process.

During the COVID-19 pandemic, SBS initiated the Employee Retention Grant (ERG) program to assist businesses in retaining employees. Businesses with up to four employees that had a decline in revenue of at least 25% were eligible to receive a grant covering 40% of their payroll for 2 months, up to a maximum of \$27,000. Businesses that received grants were required to sign an affidavit certifying that they would retain their employees for at least 2 months after receiving payment. The ERG application period was open from March 17, 2020 to April 3, 2020, with SBS receiving 8,005 applications and distributing 3,411 grants totaling nearly \$25 million. The program was available to New York City (City, or NYC) businesses and non-profit organizations located in the five boroughs.

In addition to the 3,411 grants awarded, there were 4,594 applicants that were rejected or denied. According to SBS, 3,113 were rejected because their applications were incomplete and additional documentation was not submitted within the required time frame, and 1,481 applicants were denied because they did not meet the eligibility requirements.

Several years prior, in July 2014, the City launched Small Business First, a combined initiative between the Mayor’s Office of Operations and SBS to help small businesses start, operate, and thrive. In 2015, the companion report – Small Business First (SB1) – was issued and included 30 recommendations intended to make the City easier for small businesses to operate in. This was to be accomplished by, among other things, making regulations less burdensome to navigate, eliminating and consolidating licenses and permits, providing educational information, and creating a consolidated process for hearings and adjudications, including online or telephone options. SB1 also recommended the development of a comprehensive online business portal with access to customized information and online transactions (completing applications, making payments). As part of its continuous assistance to small businesses, SBS has the role of a facilitator to ensure that the recommendations outlined in the Mayor’s SB1 initiative are implemented.

To accomplish its goals, SBS partnered with City agencies including the Department of Buildings (DOB), Department of Health and Mental Hygiene (DOHMH), Department of Sanitation, New York City Fire Department (FDNY), and Office of Administrative Trials and Hearings. The City also worked closely with small business owners, advocates, neighborhood and community leaders, and elected officials to solicit ideas about how best to help small businesses. More than 600 unique comments and ideas were received detailing the specific needs of small business across the five boroughs. SB1 established a Small Business Advisory Board to

address the feedback from small business owners on their needs as well as to provide feedback on proposals from the City agencies.

Subsequently, in 2017, the City Council passed Local Laws 2017-209 and 2017-210, which required SBS to prepare and disseminate a survey to small business owners to collect information from small businesses, including but not limited to, hiring needs, workforce development needs, barriers to growth, and the need for additional tools and resources. The results of this survey would then be used to create a comprehensive workforce development plan to address their needs.

More recently, in a continued effort to assist small businesses, an Executive Order was passed to continue to reform existing business regulations and ensure local small businesses face fewer needless fines and penalties. Six City agencies were tasked with reviewing regulations with the goal of reducing fine schedules and allowing for cure periods (grace periods) or warnings for first-time violations. The resulting Small Business Forward report was released on May 15, 2022. We note that Small Business Forward intends to expand upon the NYC Business Portal, which was established as a result of SB1, to allow businesses to execute and track all interactions with the City in real time as well receive information distributed by City agencies, such as updates on the law and renewal notices. The report also establishes an Inter-Agency Working Group to review agency submissions and oversee the ensuing regulatory reform process. Implementing many of the recommendations requires amendments to the Rules of the City of New York, Administrative Code, or New York State Law, and the estimated date of completion is May 1, 2023.

Audit Findings and Recommendations

Despite expending nearly \$25 million, SBS did not follow up on the effectiveness of the ERG program, which was intended to enable businesses to retain employees during the period of disruptions caused by the COVID-19 pandemic. Each business was required to sign an affidavit certifying that their employees would be retained for 2 months after payment; however, SBS did not follow up to determine whether employees were retained.

Out of the 8,005 applicants to the ERG program, 3,411 grants were awarded, and 4,594 applicants were rejected (3,113) or denied (1,481). According to SBS, 3,113 were rejected because their applications were incomplete, and the business owner did not provide the required documents after two notices from SBS. However, SBS did not have any documentation supporting the rejection of these applications. In the absence of this documentation, SBS missed an opportunity to learn what caused the rejections and how to avoid a similar result in other programs.

Further, there was inadequate oversight of eligibility for the ERG program, with grants issued to businesses that did not meet the eligibility requirements or did not submit documentation proving their eligibility. For example, SBS paid \$24,984 to an ineligible international business with revenues of \$2.4 million; SBS' decision to give this business a grant means that an eligible small business may not have received a grant it really needed. Additionally, some eligible businesses received higher amounts than they were entitled to under the program. We sampled 53 businesses that received \$471,174 in grants and found that 14 of them were overpaid a total of \$71,106.

We found that the grant awards were skewed toward Manhattan businesses, where 52% of all the grants and 62% of the funds were awarded, while the other four boroughs combined received only 48% of the awards and 38% of the funds. There was also a higher percentage of grant applications accepted in Manhattan, where 49% of applicants received grants, while for the other boroughs the number of applicants receiving awards ranged between 30% and 40%.

Additionally, our review of SB1 found that while SBS took actions to implement the recommendations in the SB1 report – such as holding community educational events, simplifying materials, and making materials available in multiple languages – there were other areas where the implementation of recommendations could not be documented or supported, such as creating one-stop hearing centers for regulatory issues and implementing more streamlined regulatory processes at DOB. Overall, we determined that SBS implemented 19 of the 30 recommendations in the SB1 report, partially implemented eight recommendations, and did not implement three recommendations. These recommendations, in some cases, have been carried forward by the new administration.

We also determined that, in accordance with Local Law 2017-210, SBS did conduct a survey of small business owners to identify their needs and concerns. However, SBS did not use the results of its survey to create a comprehensive workforce development plan to address these needs, in accordance with the requirements of Local Law 2017-209.

Employee Retention Grant Program

During the COVID-19 pandemic, SBS initiated the ERG program to assist businesses in retaining employees. Businesses with up to four employees that had a decline in revenue of at least 25% were eligible to receive a grant covering 40% of their payroll for 2 months, up to a maximum of \$27,000. Businesses that received grants were required to sign an affidavit certifying that they would retain their employees for at least 2 months after receiving payment. The ERG application period was open from March 17, 2020 to April 3, 2020, with SBS receiving 8,005 applications and distributing 3,411 grants totaling nearly \$25 million. The program was available to City businesses and non-profit organizations located in the five boroughs.

SBS did not assess the effectiveness of the program. Despite each business signing the affidavit regarding retention of its employees, SBS did not follow up to determine whether employees were actually retained, as required, following issuance of the grants.

Out of the 8,005 applicants to the ERG program, 3,411 grants were awarded, and 4,594 applicants were rejected (3,113) or denied (1,481). According to SBS, 3,113 were rejected because their applications were incomplete, and the business owner did not provide the required documents after two notices from SBS. However, SBS did not have any documentation supporting the rejection of these applications. In the absence of this documentation, SBS missed an opportunity to learn what caused the rejections and how to avoid a similar result in other programs.

We sampled 53 grants, consisting of a random sample of 50 grants from the population of 3,411 businesses that were awarded grants and a judgmental sample of three of 55 businesses that received the maximum amount of \$27,000. We reviewed the documentation submitted by the applicants to SBS to determine whether they met the eligibility requirements and whether the grant amounts were correctly calculated. These documents included verification of number of employees, revenues, and payroll. The procedures stated the number of payroll periods required to be documented; however, three of the 53 businesses we sampled did not provide this documentation. We also determined that one business was underpaid \$1,421, and 14 businesses were overpaid a total of \$71,106.

Inadequate oversight of program eligibility resulted in overpayments to businesses that did not meet the eligibility requirements or did not submit documentation proving their eligibility, as shown in the following cases:

- \$24,984 to an ineligible international business with revenues of \$2.4 million that functions as a partnership with partners in New York, California, Texas, and New South Wales, Australia.
- \$13,714 to a business that was ineligible because it had more than four employees. We noted that the business submitted an affidavit that it had four employees.

- \$9,865 to one business that was made because SBS improperly included retroactive payments outside the payroll period covered by the ERG requirements.
- \$9,619 to one business where, in response to our preliminary findings, SBS acknowledged the number of employees “could not be determined” from the documents submitted by the business.
- \$3,832 to a business that erroneously included non-wage items in the amounts submitted as payroll.

SBS’ decision to give grants to these businesses means that other eligible small businesses may not have received a grant.

We selected a random sample of 50 of the 4,594 denied and rejected applications (36 rejected and 14 denied). The 14 denied applications were due to the business having no employees, having more than four employees, or having less than a 25% reduction in revenues due to the pandemic. SBS did not maintain documentation for rejected applications, and in the absence of any information about the type of records businesses did not provide or whether the businesses received notices that their applications were incomplete, SBS cannot learn what caused the rejections and how to avoid a similar result in other programs.

ERG Award Distribution

We first mapped applications submitted by borough to look at the number of applications that were submitted, those that resulted in grants, and those that were rejected or denied (see Table 1). The percentage of grants awarded for each borough ranged from 30% to 49%, with almost half of all businesses in Manhattan that applied receiving grants. On the other hand, the Bronx and Staten Island had the lowest application rates and, consequently, the lowest dollar amounts granted, and they also had the highest percentage of applications that were rejected or denied.

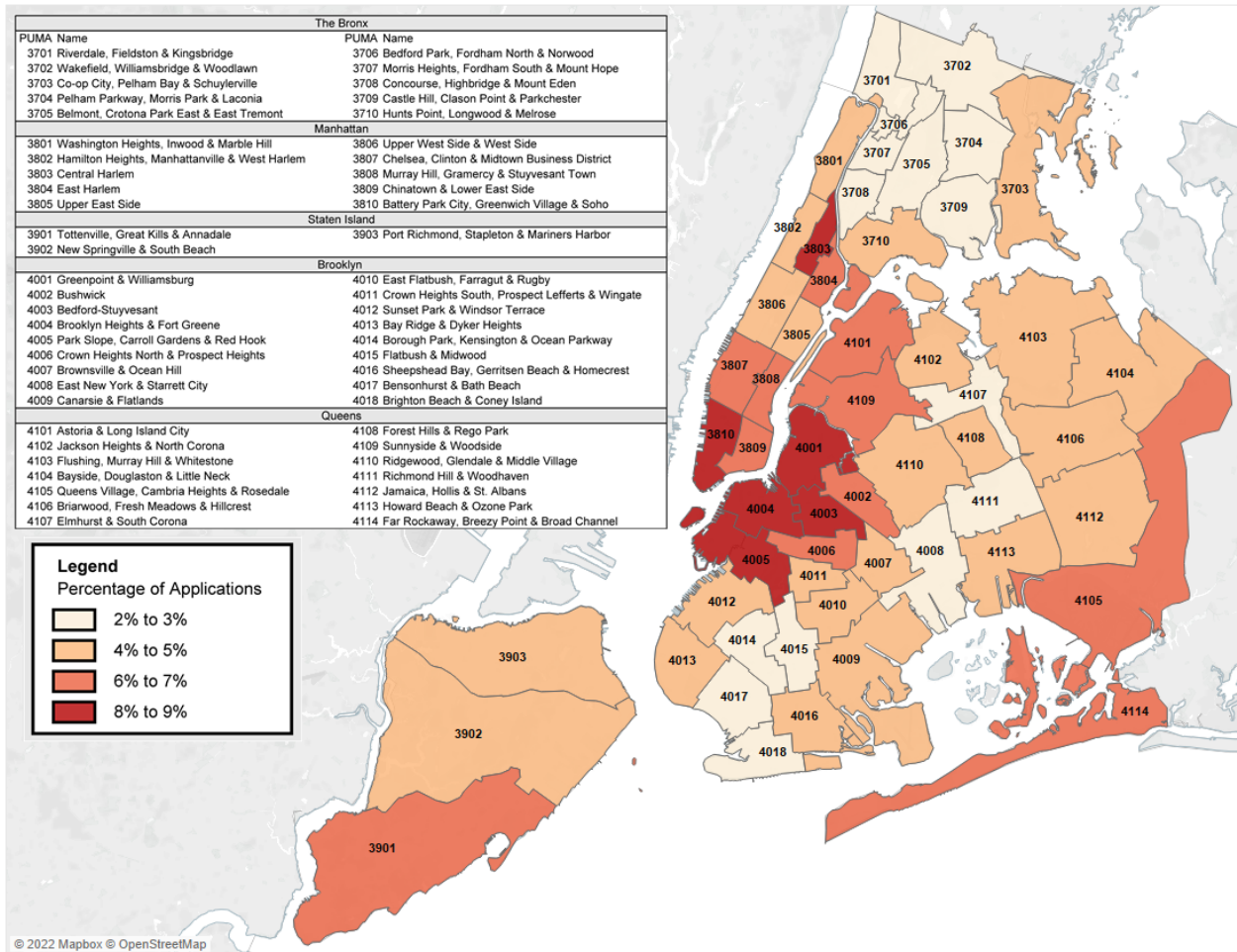
Table 1 – ERG Applications and Award Distribution by Borough

Borough	Number of Applications			Percent of Applicants Receiving Awards by Borough (B ÷ A)	Percent of Applications Rejected or Denied (C ÷ A)	Grant Amounts
	Total Number (A)	Number Awarded a Grant (B)	Number Rejected or Denied (C)			
Manhattan	3,677	1,784	1,893	49%	51%	\$15,390,464
Brooklyn	2,060	826	1,234	40%	60%	5,240,371
Queens	1,586	592	994	37%	63%	3,226,993
Staten Island	285	102	183	36%	64%	554,480
Bronx	352	107	245	30%	70%	513,995
Totals*	7,960	3,411	4,549			\$24,926,303

*There were another 45 businesses that applied that had addresses outside New York City.

The percentage of applications submitted show a wide variation by neighborhood, with the highest concentration in Manhattan, while certain areas of Queens, Brooklyn, and the Bronx had neighborhoods with very low application rates (see Figure 1).

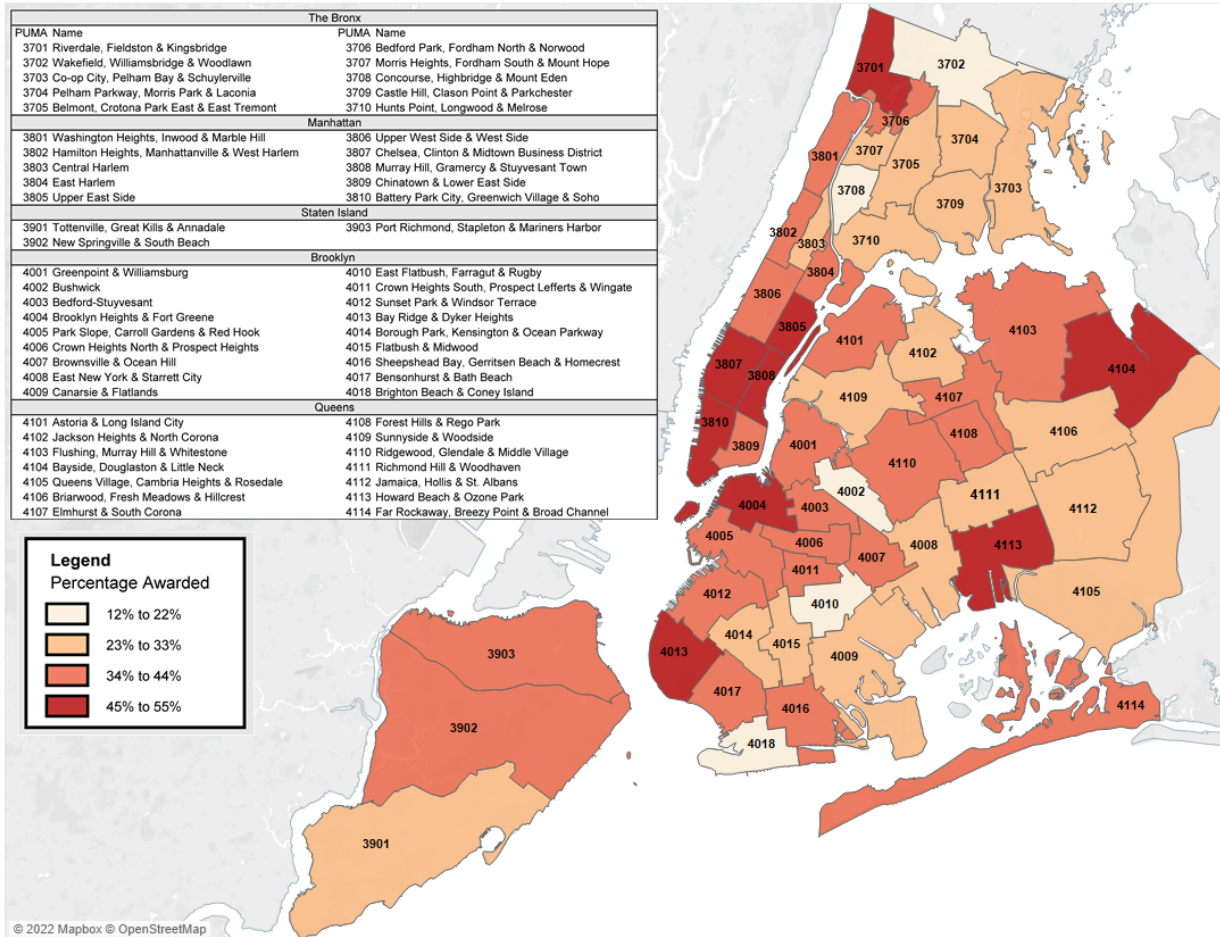
Figure 1 – Percentage of Applications Submitted by Neighborhood



Note: The data reflects the percentage of businesses applying per total businesses with less than five employees in each neighborhood. Total number of businesses taken from the NYC 2019 County Business Patterns from the U.S. Census Bureau. PUMA = Public Use Microdata Area.

We then mapped applications that were accepted and those that were rejected or denied by neighborhood to determine whether there were clusters of areas with lower acceptance rates. Our review of the percentage of applicants receiving grants reveals a wide variation by neighborhood (see Figure 2).

Figure 2 – Percentage of Applicants Receiving Grants by Neighborhood



Note: The map was created using Public Use Microdata Areas (PUMAs), which are statistical areas designated by the U.S. Census Bureau.

In addition to the two prior figures, Figure 3 presents a 3-D alternative by ZIP code and borough, which also shows that Manhattan received the bulk of the awards.

Figure 3 – Grant Amounts Awarded by ZIP Code and Borough



Note: A rectangle with no coloring in the middle indicates the ZIP code did not receive any awards.

SBS should be recognized for implementing the ERG program during the pandemic and successfully awarding grants to help small businesses stay afloat. However, SBS should have taken a more active role in monitoring which neighborhoods applied for the grants. By doing so, SBS may have observed that some businesses were not applying for grants. There were also areas where SBS should have had better oversight of businesses that received funds to ensure only eligible businesses received grants and that they were made for the correct amount.

Small Business First Report

SB1 addressed various ways of assisting small businesses within the City in four categories (see Table 2). Of the SB1 report's 30 recommendations, we determined that SBS implemented 19 recommendations, partially implemented eight recommendations, and did not implement three recommendations. Table 2 presents the status of these latter 11 recommendations.

Table 2 – Status of SB1 Recommendations Partially or Not Implemented

Recommendation	Status	Determination
<i>Provide Clear Information With Coordinated Services and Support – Recommendations 1-8</i>		
3: Engage entrepreneurs in developing online services for businesses	Not Implemented	SBS advised us that one way of engaging entrepreneurs is a “Hackathon” where participants compete by developing products that would assist small businesses navigate City requirements. However, no documentation was provided to show what online services were developed.
5: Provide individual support to business owners with client managers	Partially Implemented	SBS provided data pertaining to the number of intakes performed between July 2, 2018 and November 18, 2020, but it did not provide the business location or details of the types of services provided.
<i>Help Businesses Understand and Comply With City Regulations – Recommendations 9-13</i>		
10: Provide proactive support to businesses needing education	Partially Implemented	SBS stated that it compiled and analyzed data from other City agencies to identify target neighborhoods that could benefit from additional outreach and education. SBS has designated business education days where inspectors visit small businesses to provide information and answer questions to help business owners to understand regulations to lower the number of violations. SBS did not provide records to document the analysis of data.
11: Provide better customer service at all levels	Partially Implemented	SBS stated that it facilitated the creation of a citywide customer service training course offered through the Department of Citywide Administrative Services. We independently determined that DOB, DOHMH, and the NYPD have a customer service line. Additionally, DOHMH conducts an annual survey and has received feedback from industries such as food and safety. However, SBS did not provide documentation to support that the recommendation was fully implemented.
12: Create one-stop hearing centers for businesses’ regulatory issues	Partially Implemented	No documentation was provided that SBS’ one-stop business centers afford an easier process for business owners to access the nearest location instead of going to the region where their business is located.
13: Provide a more flexible adjudication process by expanding alternative hearing options	Partially Implemented	SBS stated that options for remote adjudications are still being explored. We interviewed three City agencies and found that one had updated its adjudication process, and the other two stated that work had been done to support the efforts to change the process.

Reduce the Burden Imposed by Complex Regulations and Fines – Recommendations 14-25

17: Make it easier for gyms and health clubs to open in New York City	Partially Implemented	SBS stated that it helped improve gyms by creating suggestions to soundproof gyms and the reverberation of floors, which were accepted by DOB and the Department of City Planning. DOB issued a bulletin in which it clarified zoning requirements for yoga studios and similar facilities to ease the process. SBS provided a copy of the DOB bulletin but nothing else in the way of documentation.
21: Streamline Department of Buildings' process for determinations	Not Implemented	We were told that the determination process, which includes both construction code and zoning code determinations, was streamlined and is outlined on DOB's website. However, SBS did not provide a before and after description of the process, which would have shown how it was streamlined. We independently obtained the website for 2016 and 2021 and did not see any difference for items such as construction and zoning determination.
22: Streamline and standardize the process for obtaining a Department of Buildings' Letter of No Objection (LNO)	Partially Implemented	SBS described the use of an LNO as a statement of accepted use of a facility, which is accepted by various government agencies in lieu of a Certificate of Occupancy (CO). While not a substitute for a CO, an LNO can facilitate occupancy and use of the premises in those instances where a CO is not available or if the building has a different use than what is listed in its CO. DOB provided a guide, created in January 2017, describing the function of an LNO and how it streamlines the process. SBS stated that it worked with DOB to expedite obtaining a CO and decrease the wait period, which previously was 3-6 months. However, the documents provided did not include a before and after description of the process to show how it streamlined and shortened the wait time.
24: Create a sidewalk shed notification system at the Department of Transportation	Not Implemented	The documentation provided states DOT and SBS agreed that, in lieu of creating an additional DOT permit, an alternative approach was to be created. It was also agreed that DOB would send DOT monthly reports of DOB permits issued for new installations of sidewalk sheds. DOT provided the list of sidewalk shed permits for February 2017. Additionally, we weren't able to find any publicly available information online attesting to the implementation of this recommendation.

<i>Ensure Equal Access for All Business Owners – Recommendations 26-30</i>		
26: Train community groups to assist local businesses	Partially Implemented	SBS officials stated there are various means of training community groups including educational events, tool kits, and information available to community-based organizations (CBOs). SBS provided a list of courses that were offered to CBOs to demonstrate training sessions were provided to participants between November 2, 2017 and May 4, 2021. However, the documents did not contain any details about the type of educational training provided.

Workforce Development Plan

In 2017, the City Council passed Local Laws 2017-209 and 2017-210, which required SBS to prepare and disseminate a survey to collect information from small businesses, including but not limited to hiring needs, workforce development needs, issues that small businesses are experiencing such as barriers to growth, and the need for additional tools and resources. The results of this survey would then be used to create a comprehensive workforce development plan to address their needs.

SBS conducted the survey in August 2018 and issued a report in June 2019. The executive summary states that, due to the limited data set, the survey sample was not representative of the City’s business population, so the findings presented are not weighted to be representative of the population of the City’s small businesses. Although the survey revealed challenges – labor shortages, rules and regulations, and finding the right person for the job – it did not provide a comprehensive workforce development plan to address the primary needs identified, as required by Local Law 2017-209. SBS officials claim the survey report included the plan because they offer free services to meet the needs of small businesses; however, the report also states that approximately 50% of the respondents have not used SBS’ services. SBS indicated it will aim to increase awareness of its services and build on newly launched programs to increase its offerings on topics identified by small businesses.

SBS’ survey results fall short of a workforce development plan. As per Local Law 2017-209, a plan could include the following elements: 1) strategies to address the hiring needs of small businesses; 2) information specific to addressing workforce development needs and skills necessary to fill small business jobs; 3) identification of and addressing issues that small businesses are experiencing, such as barriers to growth; and 4) information on tools and resources that may assist small businesses. The report did not provide a road map on what SBS will do to address small businesses start, grow, and remain in business. SBS officials advised us that the document was submitted to the City Council, as required by the Local Law, but did not provide documentation that they did so.

Recommendations

1. Implement controls to ensure only eligible businesses participate in grant programs and that grant amounts are correct.
2. Work with applicable City agencies to ensure that all initiatives in the SB1 report for which the other agencies are responsible are implemented or provide documentation showing that these initiatives have been implemented; prepare and maintain formal records supporting all results or document why these initiatives will not be implemented.
3. Take action to implement SB1 recommendations that are directly addressed to SBS, such as implementation of community-based training, or provide documentation showing that these initiatives have been implemented or document why these initiatives will not be implemented.
4. Maintain an active role in surveying local businesses and address their needs and improve services.
5. Prepare a comprehensive workforce development plan, in accordance with Local Law 2017-209, that includes specific actions to address the needs identified by small businesses in the Local Law 2017-210 survey.

Audit Scope, Objectives, and Methodology

The objectives of the audit were to determine whether SBS properly administered the ERG program; and whether SBS implemented the recommendations in SB1. The audit covered the period from July 2018 to July 2021.

To accomplish our objectives and assess related internal controls, we reviewed the 30 recommendations in SB1, interviewed SBS officials, and representatives from five city agencies (DOB, DOHMH, Department of Sanitation, FDNY, and Office of Administrative Trials and Hearings) to assess the implementation status of the recommendations. We also reviewed the documents provided to support the actions taken action by SBS to implement the SB1 recommendations.

We selected a random sample of 50 grants from the population of 3,411. We also selected an additional judgmental sample of three of the 55 grants receiving the \$27,000 maximum amount. We reviewed the documentation submitted by the applicants to SBS to determine whether they met the eligibility requirements and whether the grant amounts were correct. These documents included affidavits signed by the business owner for the number of employees, revenues reported, cancelled checks, bank statements, and payrolls. In addition, we selected a random sample of 50 of the 4,549 denied and rejected applications (36 rejected and 14 denied) to obtain the reasons SBS determined these businesses would not receive a grant. Our samples were not meant to be projected.

As part of audit procedures, the audit team used Geographic Information Systems (GIS) software for geographic analysis. As part of the geographic analysis, we developed visualizations (see Figures 1, 2, and 3) to improve understanding of our report. Colors were selected from <https://colorbrewer2.org/> by Cynthia A. Brewer, Geography, Pennsylvania State University.

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Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article III, Section 33 of the General Municipal Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Reporting Requirements

We provided a draft copy of this report to SBS officials for their review and comment. Their comments were considered in preparing this final report.

In response to the draft report, SBS officials stated that all of the recommendations in the SB1 report were implemented. However, they provided no additional supporting documentation, although auditors had previously explained that such documentation was necessary to support that action was taken. We again reviewed all the material that was previously submitted in conjunction with their response. However, no significant changes were made as requested supporting documentation was not provided to substantiate SBS' statements. For example, SBS indicates that it implemented a recommendation that would make it easier for gyms and health clubs to open in NYC. However, instead of documenting what actions SBS had taken to implement the change, SBS simply stated that the initiative was incorporated into zoning changes. This information was previously provided, and despite requests for additional support, it was not provided. Our responses addressing certain SBS remarks are included in our State Comptroller's Comments, embedded within SBS' response.

Within 180 days after final release of this report, we request the Commissioner of the New York City Department of Small Business Services report to the State Comptroller advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

Agency Comments and State Comptroller's Comments



THE CITY OF NEW YORK
DEPARTMENT OF SMALL BUSINESS SERVICES

To: Carmen Maldonado, Office of the New York State Comptroller
From: Ismail Mohammed, Assistant Commissioner Department of Small Business Services
CC: Kevin Kim, Commissioner; Jackie Mallon, First Deputy Commissioner; Michael Silver, Senior Policy Advisor
Re: Response to Draft Report, Selected Aspects of Supporting Small Businesses
Date: September 12, 2022

Dear Carmen,

The following is the Department of Small Business Services' (SBS) response to the Office of the New York State Comptroller's (OSC) draft report Selected Aspects of Supporting Small Businesses. Since the report has stated its conclusions more than once, these responses are applicable to the entire report.

Page 2: The report states: "According to SBS, 3,113 [applicants] were rejected because their applications were incomplete and missing required documentation. However, SBS did not have any documentation supporting the rejection of these applications."

- SBS does not agree with this conclusion. SBS retains the documentation that rejected applicants submitted. By definition a rejected application did not include the complete set of documents required to determine if a grant could be awarded.

State Comptroller's Comment – At a meeting on March 16, 2022, SBS officials stated to auditors that cases were rejected because they did not have sufficient documentation but staff did not document in Dynamics/Customer Relationship Management, the system of record, which documents were missing. Thus, SBS did not document the reason businesses were rejected and therefore cannot easily analyze trends and assess patterns in the data unless they review all rejected applications again. Moreover, when asked whether businesses were sent notices that their application was incomplete, SBS officials stated that denied cases (business is not eligible) may have "autogenerated emails" but did not provide any.

Page 2: The report states: "There was also inadequate oversight of eligibility and grant amounts, with grants issued to businesses that were not eligible or did not submit documentation proving their eligibility as well as grants paid for incorrect amounts. For example, SBS paid \$24,984 to an ineligible international business with revenues of \$2.4 million – awarding this business a grant meant that an eligible small business may not have received a grant."



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- SBS does not agree with this conclusion. There is no evidence to suggest the “international business” applicant was ineligible based on the documentation it submitted.

State Comptroller’s Comment – SBS states that there is no documentation to support the business was ineligible; however, the files included a copy of the tax return showing that the business was an international business. The ERG program is only for New York City businesses.

- Furthermore, all eligible applicants that submitted before the deadline of April 3, 2020 were funded.

Page 2: The report states: “Further, some eligible businesses received higher amounts than they were entitled to under the program, with 15 of 53 businesses being overpaid a total of \$77,663.”

- SBS agrees in part with this conclusion but has determined that from the sample indicated, only 7 businesses were overpaid a total of \$6,429. See appendix for details on these 7 awards.

State Comptroller’s Comment – In response to the draft report, SBS stated that it agrees in part with the audit findings, but disagreed with the amount overpaid and the number of businesses overpaid. We re-examined the documents and made one adjustment – modifying the final amount to \$71,106 and the number of businesses to 14.

Page 2: The report states: “Additionally, our review of SB1 found that SBS implemented 18 of the 30 recommendations in the SB1 report, partially implemented seven recommendations, and did not implement five recommendations.”

- SBS does not agree with this conclusion. SBS has implemented all 30 recommendations, please reference the previously shared memos describing how they were implemented. See appendix for details on those that OSC suggests are not implemented or partially implemented.

State Comptroller’s Comment – As stated in our report, SBS did not provide documentation to support it implemented all 30 recommendations in SB1.

Page 2: The report states: “However, SBS did not use the results of its survey to create a comprehensive workforce development plan to address these needs, in accordance with the requirements of Local Law 2017-209.”

- SBS does not agree with this conclusion. The data collected by businesses outlined a variety of needs, all of which are met by the services that SBS offered and still offers today. As a result, the plan was to continue delivery of these services.

State Comptroller’s Comment – SBS replied that the “plan” was to “continue delivery of these services.” However, the report states, “An analysis of top respondent needs revealed that many of the challenges are addressed via free services offered by SBS. However, approximately 50% of respondents had not used SBS services.” At a minimum, SBS should have a plan to determine why almost half of the small businesses have not used its “free” services.



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Page 7: The report states: “Several years prior, in July 2014, the City launched Small Business First, a combined initiative between the Mayor’s Office of Operations and SBS to help small businesses start, operate, and thrive.”

- SBS notes that the participating regulatory agencies should also be listed here as part of the launch of the initiative.

State Comptroller’s Comment – The SB1 report does not mention any “participating regulatory agencies” as part of the initiative.

Page 11-14: The report discusses the ERG Award Distribution.

- SBS notes and reiterates that applications were awarded on a first come, first served basis.
- It is not clear why OSC is suggesting that SBS could have monitored the neighborhoods of applicants since at this point in the pandemic (March 2020) there was no data related to the impact of COVID-19 by geography.



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APPENDIX

Overpayments for Employee Retention Grants

- Sample 11: an overpayment of \$28.60 is calculated because SBS believes that more than 8 weeks of payroll was used to calculate the grant.
- Sample 16: SBS agrees with the overpayment of \$63.36.
- Sample 31: an overpayment of \$2,165.20 is calculated because the payroll costs included retained earnings for owners. SBS believes the retained earnings were not removed from the grant calculation but should have been removed.
- Sample 4: An overpayment of \$960.60 is calculated because SBS believes more than 8 weeks of payroll was used to calculate the grant.
- Sample 5: An overpayment of \$2,471.80 is calculated because SBS believes a third employee's payroll was used to calculate the grant. Only two employees were included in the attestation by the employer.
- Sample 6: An overpayment of \$380.00 is calculated because SBS believes more than 8 weeks of payroll was used to calculate the grant.
- Sample 9: An overpayment of \$360.00 is calculated because SBS believes that numbers used in the verified payroll amount used to calculate the grant (verified payroll should have been \$3494.15 and \$4394.15 was used instead) were transposed.

Small Business First

Recommendation 3, Engage Entrepreneurs in Developing Online Services for Businesses:

SBS leveraged a design challenge hosted by technology educational institution General Assembly. SBS served as a client for the General Assembly students who created prototype designs for City's online business requirements questionnaire.

In addition, SBS participated in the "Hackathon" meeting that occurred on July 8, 2015. SBS applied lessons learned from the design challenge to future events engaging tech entrepreneurs. As result, the best practices and lessons learned were utilized in the development of the business portal.

State Comptroller's Comment – SBS provided the agenda for the Hackathon as support of its participation; however, it did not provide any documentation of "best practices and lessons learned engaging entrepreneurs" and how they were utilized in the development of the business portal. In addition, the response refers to "Tomorrow Partners," a firm that the New York City Department of Information, Technology, and Telecommunications engaged as part of its partnership with SBS. However, this is new information that was not provided to the auditors during field work or in response to the preliminary findings.



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Finally, SBS in partnership with the New York City Department of Information, Technology and Telecommunications engaged Tomorrow Partners, a firm that specializes in Human-Centered design, to solicit direct feedback from a range of small businesses to design the NYC Business portal (see attached reports). SBS considers recommendation #3 to be fully implemented.

Recommendation 5, Provide Individual Support to Business Owners with Client Managers:

SBS has previously forwarded a list of client intakes for the reporting period demonstrating the volume of activity for the service. OSC did not at the time request specific data regarding business location or parameters of service delivery. An additional report from the CRM system used by the Advocacy service during the reporting period inclusive of client address will be provided. SBS considers recommendation #5 to be fully implemented.

State Comptroller's Comment – SBS supplied a file with the businesses that were provided services; however, the information was incomplete. Per SBS, it may have been lost during the migration from Salesforce to Dynamics. In the absence of information about the businesses receiving "individual support" or "proactive support to businesses needing education," we concluded Recommendations 5 and 10 are partially implemented.

Recommendation 10, Provide Proactive Support to Businesses Needing Education:

SBS deploys Small Business Advocates and Compliance Advisors provide targeted educational efforts to businesses and commercial corridors in NYC. SBS considers recommendation #10 to be fully implemented.

State Comptroller's Comment – SBS supplied a file with the businesses that were provided services; however, the information was incomplete. Per SBS, it may have been lost during the migration from Salesforce to Dynamics. In the absence of information about the businesses receiving "individual support" or "proactive support to businesses needing education," we concluded Recommendations 5 and 10 are partially implemented.

Recommendation 12, Create One-Stop Hearing Centers for Business Regulatory Issues:

In order to make the adjudication process easier to navigate, OATH created One-Stop Hearing Centers across the five boroughs that could handle cases from multiple agencies at one site.

For some time, the majority of OATH hearings have been conducted over the phone and not in person. OATH's online and telephonic Help Center ([Help Center - OATH \(nyc.gov\)](https://www.oath.nyc.gov/help-center)) has helped to establish more uniform and clear procedures, which was also an important component of recommendations 12. SBS considers recommendation #12 to be fully implemented.

State Comptroller's Comment – Based on SBS' response to the draft, we changed the status of Recommendations 12 and 13 to partially implemented and Recommendation 25 to implemented.



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Recommendation 13, Provide a More Flexible Adjudication Process by Expanding Alternative Hearing Options:

As OSC states one agency has expanded the options available to businesses owners which implies that this recommendation has been fully implemented. SBS considers recommendation #13 to be fully implemented.

State Comptroller's Comment – Based on SBS' response to the draft, we changed the status of Recommendations 12 and 13 to partially implemented and Recommendation 25 to implemented.

Recommendation 17, Make it Easier for Gyms and Health Clubs to Open in New York City:

This initiative was first implemented in Harlem and the required zoning changes were planned to be completed as the City rezoned relevant areas. It was not intended to be a sweeping City wide change but to be incorporated in a structured manner into DCP zoning which was the determined the most efficient way. SBS considers recommendation #17 to be fully implemented.

State Comptroller's Comment – In response to the draft report, SBS provided an explanation of the zoning changes. We considered this in rating the recommendation as partially implemented. However, SBS did not provide any additional information that would merit a change to implemented.

Recommendation 21, Streamline and Standardize the Process for Obtaining a Department of Buildings' Letter of No Objection:

Per the close out memo, DOB incorporated technology solutions such as the electronic submission of requests and the communication of decisions (previously done by paper) into the determination process enabling business owners to gain plan approvals, obtain permits, and begin construction at a swifter pace, reducing the burden on business owners. SBS considers recommendation #21 to be fully implemented.

State Comptroller's Comment – The close out memorandum dated February 3, 2017 states there is a plan to move from paper to electronic submissions. It also states that SBS and MOO will continue to monitor progress of the conversion. This memo was provided to us April 30, 2021, with no further updates about what DOB has done since the first memorandum.

Recommendation 24, Create a Sidewalk Shed Notification System at the Department of Transportation:

Per the close out memo, to increase the clarity of permit requirements and applicant compliance, commitment #24 establishes a twice-yearly informational notification from DOT to sidewalk shed permit



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applicants. The notification provides information on construction permits that may be required in concurrence with a DOB sidewalk shed permit. To facilitate the notifications, DOB will share a monthly list of sidewalk shed permit applicants with DOT, with fields including mailing address, email address (where available), and location of the shed, among others. Moreover, the notices will be available at the DOT permitting offices in each of the five boroughs. To assume that lack of a public notice found online is not a reason to assume that this was not implemented. SBS considers recommendation #24 to be fully implemented.

State Comptroller's Comment – In response to the draft report, SBS did not provide any additional information to support that DOB continued to send monthly listings to DOT. Moreover, the SB1 report states that a sidewalk shed notification system will be created at DOT to increase coordination with DOB. However, we did not receive any information about such a system.

Recommendation 25:

This is considered fully implemented because a new framework/protocol was created and moved all DOT permits on-line. SBS considers recommendation #25 to be fully implemented.

State Comptroller's Comment – Based on SBS' response to the draft, we changed the status of Recommendations 12 and 13 to partially implemented and Recommendation 25 to implemented.

Recommendation 26:

SBS described the types of trainings provided to CBOs in meetings with OSC and we provided the courses for the training, tool kits, the handouts on extreme weather events, access to capital are the details of training. SBS considers recommendation #26 to be fully implemented.

State Comptroller's Comment – SBS provided a close out memorandum stating what was planned to address the recommendation. Contrary to SBS' response, we were not provided any of the items listed.

Contributors to Report

Executive Team

Andrea C. Miller - *Executive Deputy Comptroller*

Tina Kim - *Deputy Comptroller*

Ken Shulman - *Assistant Comptroller*

Audit Team

Carmen Maldonado - *Audit Director*

Abe Fish - *Audit Manager*

Christine Chu - *Audit Supervisor*

Daniel Bortas - *Examiner-in-Charge*

Elijah Kim - *Senior Examiner*

Madelin Vasquez - *Senior Examiner*

Misty Baldeo - *Staff Examiner*

Italyia Circelli - *Mapping Analyst*

James Thompson - *Mapping Analyst*

Kelly Traynor - *Senior Editor*

Contact Information

(518) 474-3271

StateGovernmentAccountability@osc.ny.gov

Office of the New York State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236



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