

Brooklyn Defender Services

Independent Auditor's Report and Financial Statements

June 30, 2022



Brooklyn Defender Services

June 30, 2022

Contents

Independent Auditor's Report.....	1
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Financial Statements

Statement of Financial Position.....	3
Statement of Activities	4
Statement of Functional Expenses.....	5
Statement of Cash Flows	6
Notes to Financial Statements	7



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Independent Auditor's Report

Board of Directors
Brooklyn Defender Services
Brooklyn, New York

Opinion

We have audited the financial statements of Brooklyn Defender Services, which comprise the statement of financial position as of June 30, 2022, and the related statements of activities, functional expenses, and cash flows for the year then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of Brooklyn Defender Services as of June 30, 2022, and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the "Auditor's Responsibilities for the Audit of the Financial Statements" section of our report. We are required to be independent of Brooklyn Defender Services and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Brooklyn Defender Services' ability to continue as a going concern within one year after the date that these financial statements are available to be issued.

Board of Directors
Brooklyn Defender Services
Page 2

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Brooklyn Defender Services' internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Brooklyn Defender Services' ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

FORVIS,LLP

New York, New York
August 1, 2023

Brooklyn Defender Services
Statement of Financial Position
June 30, 2022

Assets

Cash	\$ 1,404,440
Government contracts receivable, current	18,436,348
Prepaid expenses, other receivables, and security deposits	1,097,543
Property and equipment, net	<u>740,909</u>
Total assets	<u><u>\$ 21,679,240</u></u>

Liabilities and Net Assets**Liabilities**

Accounts payable and accrued expenses	\$ 3,231,381
Accrued vacations payable	2,402,982
Line of credit	7,500,000
Loans payable	8,840,898
Deferred rent	3,309,389
Deferred revenue	<u>47,500</u>
Total liabilities	<u>25,332,150</u>

Net Assets (Deficit)

Without donor restrictions	(3,757,314)
With donor restrictions	<u>104,404</u>
Total net assets (deficit)	<u>(3,652,910)</u>
Total liabilities and net assets	<u><u>\$ 21,679,240</u></u>

Brooklyn Defender Services
Statement of Activities
Year Ended June 30, 2022

	Without Donor Restrictions	With Donor Restrictions	Total
Revenues			
Government contracts	\$ 67,357,735	\$ -	\$ 67,357,735
Contributions	584,402	186,362	770,764
Other income	1,372	-	1,372
Net assets released from restriction	428,942	(428,942)	-
	<u>68,372,451</u>	<u>(242,580)</u>	<u>68,129,871</u>
Total revenues			
Expenses			
Program services			
Criminal Defense	43,653,762	-	43,653,762
Family Defense	10,717,304	-	10,717,304
Immigration	6,153,136	-	6,153,136
Civil	1,882,101	-	1,882,101
Young New Yorkers	416,188	-	416,188
	<u>62,822,491</u>	<u>-</u>	<u>62,822,491</u>
Total program services			
Supporting services			
Management and general	9,436,402	-	9,436,402
Fundraising	339,984	-	339,984
	<u>72,598,877</u>	<u>-</u>	<u>72,598,877</u>
Total expenses			
Change in Net Assets	(4,226,426)	(242,580)	(4,469,006)
Net Assets, Beginning of Year	<u>469,112</u>	<u>346,984</u>	<u>816,096</u>
Net Assets (deficit), End of Year	<u>\$ (3,757,314)</u>	<u>\$ 104,404</u>	<u>\$ (3,652,910)</u>

Brooklyn Defender Services

Statement of Functional Expenses

Year Ended June 30, 2022

	Program Services					Supporting Services				Total
	Criminal Defense	Family Defense	Immigration	Civil	Young New Yorkers	Total	Management and General	Fundraising	Total	
Salaries and Related Expenses										
Salaries	\$ 28,486,235	\$ 7,008,456	\$ 3,885,267	\$ 1,257,645	\$ -	\$ 40,637,603	\$ 5,001,931	\$ -	\$ 5,001,931	\$ 45,639,534
Payroll taxes and employee benefits	8,395,660	2,065,581	1,145,093	370,662	-	11,976,996	1,474,204	-	1,474,204	13,451,200
Total salaries and related expenses	<u>36,881,895</u>	<u>9,074,037</u>	<u>5,030,360</u>	<u>1,628,307</u>	<u>-</u>	<u>52,614,599</u>	<u>6,476,135</u>	<u>-</u>	<u>6,476,135</u>	<u>59,090,734</u>
Other Costs										
Professional fees	1,145,878	291,846	287,436	30,928	-	1,756,088	1,019,883	325,563	1,345,446	3,101,534
Occupancy	2,920,048	755,973	407,986	124,338	-	4,208,345	912,387	-	912,387	5,120,732
Repairs and maintenance	1,074,193	223,196	133,581	31,005	-	1,461,975	307,063	-	307,063	1,769,038
Office supplies	572,533	132,221	80,222	23,506	-	808,482	94,866	11,399	106,265	914,747
Communication	571,584	140,475	83,235	25,392	-	820,686	136,855	-	136,855	957,541
Grants	-	-	-	-	416,188	416,188	-	-	-	416,188
Insurance	74,146	18,315	10,852	3,415	-	106,728	113,309	-	113,309	220,037
Depreciation and amortization	143,174	35,141	20,216	6,191	-	204,722	32,648	-	32,648	237,370
Miscellaneous expense (including \$234,776 of interest expense)	270,311	46,100	99,248	9,019	-	424,678	343,256	3,022	346,278	770,956
Total other costs	<u>6,771,867</u>	<u>1,643,267</u>	<u>1,122,776</u>	<u>253,794</u>	<u>416,188</u>	<u>10,207,892</u>	<u>2,960,267</u>	<u>339,984</u>	<u>3,300,251</u>	<u>13,508,143</u>
Total expenses reported by function on the statement of activities	<u>\$ 43,653,762</u>	<u>\$ 10,717,304</u>	<u>\$ 6,153,136</u>	<u>\$ 1,882,101</u>	<u>\$ 416,188</u>	<u>\$ 62,822,491</u>	<u>\$ 9,436,402</u>	<u>\$ 339,984</u>	<u>\$ 9,776,386</u>	<u>\$ 72,598,877</u>

Brooklyn Defender Services

Statement of Cash Flows

Year Ended June 30, 2022

Operating Activities	
Change in net assets	\$ (4,469,006)
Items not requiring (providing) operating cash flows	
Depreciation and amortization	237,370
Changes in	
Government contracts receivable	2,362,553
Prepaid expenses, other receivables, and security deposits	164,615
Accounts payable and accrued expenses	(666,883)
Accrued vacations payable	56,236
Deferred revenue	(351,365)
Deferred rent	<u>213,217</u>
Net cash used in operating activities	<u>(2,453,263)</u>
Investing Activities	
Purchase of property and equipment	<u>(37,943)</u>
Net cash used in investing activities	<u>(37,943)</u>
Financing Activities	
Repayment of the line of credit	(9,900,000)
Drawdown on line of credit	9,900,000
Proceeds from loans	2,750,000
Repayment of loans	<u>(3,500,000)</u>
Net cash used in financing activities	<u>(750,000)</u>
Net Change in Cash	(3,241,206)
Cash, Beginning of Year	<u>4,645,646</u>
Cash, End of Year	<u><u>\$ 1,404,440</u></u>
Supplemental Cash Flows Information	
Cash paid for interest	\$ 234,776

Brooklyn Defender Services

Notes to Financial Statements

June 30, 2022

Note 1: Nature of Operations and Summary of Significant Accounting Policies

Nature of Operations

Brooklyn Defender Services (the Organization) was incorporated on March 22, 1996 under the laws of the State of New York.

The Organization is a not-for-profit organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and is a publicly supported organization as described in Section 509. The Organization commenced operations on June 1, 1996. The Organization provides legal services without cost to indigent people. During the current year, the Organization represented approximately 33,000 clients. Its primary source of revenues is government contracts (city and state) for indigent defense.

The Organization was a fiscal sponsor for Young New Yorkers. Young New Yorkers, Inc. became a not-for-profit organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. Young New Yorkers, Inc. started activities as a standalone organization in fiscal year 2021. During 2022, the Organization transferred \$416,188 to Young New Yorkers, Inc. which has been recognized as a grant expense.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash

At June 30, 2022, the Organization's cash accounts exceeded federally insured limits by approximately \$1,620,000. Management believes that credit risk related to these accounts is minimal.

Government Contract Revenue, Receivables, and Advances

Revenues from government contracts are recognized when reimbursable expenses are incurred or when performance goals are met under the terms of the contract. Contract revenues are subject to audit by the contracting agencies. No provision for any disallowances is reflected in the financial statements, since management does not anticipate any material adjustments. Revenue and receivables are recorded when earned. Advances are recorded for any deposits received but not earned.

Brooklyn Defender Services

Notes to Financial Statements

June 30, 2022

Allowance for Doubtful Accounts

The Organization determines whether an allowance for uncollectible accounts should be provided for contracts receivable. Such estimates are based on management's assessment of the aged basis of its contracts, current economic conditions, subsequent receipts, and historical information. Contracts receivable are written off against the allowance for doubtful accounts when all reasonable collection efforts have been exhausted. As of June 30, 2022, the Organization had no allowance for doubtful accounts.

Property and Equipment

Property and equipment acquisitions over \$5,000 are stated at cost, less accumulated depreciation and amortization. Depreciation and amortization is charged to expense on the straight-line basis over the estimated useful life of each asset.

The estimated useful lives for each major depreciable classification of property and equipment are as follows:

Furniture and equipment	5–20 years
Leasehold improvements	10 years

Long-Lived Asset Impairment

The Organization evaluates the recoverability of the carrying value of long-lived assets whenever events or circumstances indicate the carrying amount may not be recoverable. If a long-lived asset is tested for recoverability and the undiscounted estimated future cash flows expected to result from the use and eventual disposition of the asset is less than the carrying amount of the asset, the asset cost is adjusted to fair value and an impairment loss is recognized as the amount by which the carrying amount of a long-lived asset exceeds its fair value. No asset impairment was recognized during the year ended June 30, 2022.

Deferred Rent/Rent Expense

Rent is recognized on the straight-line basis over the term of the lease. Deferred rent is recognized for the accumulated difference between the rent expense and the cash paid by the Organization.

Net Assets

Net assets, revenues, gains, and losses are classified based on the existence or absence of donor restrictions.

Net assets without donor restrictions are available for use in general operations and not subject to donor restrictions.

Net assets with donor restrictions are subject to donor-imposed restrictions. Some donor-imposed restrictions are temporary in nature, such as those that will be met by the passage of time or other events specified by the donor.

Brooklyn Defender Services

Notes to Financial Statements

June 30, 2022

Contributions

Contributions are provided to the Organization either with or without restrictions placed on the gift by the donor. Revenues and net assets are separately reported to reflect the nature of those gifts – with or without donor restrictions. The value recorded for each contribution is recognized as follows:

Nature of the Gift	Value Recognized
<i>Conditional gifts, with or without restriction</i>	
Gifts that depend on the Organization overcoming a donor-imposed barrier to be entitled to the funds	Not recognized until the gift becomes unconditional, <i>i.e.</i> , the donor-imposed barrier is met
<i>Unconditional gifts, with or without restriction</i>	
Received at date of gift – cash and other assets	Fair value
Received at date of gift – property, equipment, and long-lived assets	Estimated fair value
Expected to be collected within one year	Net realizable value
Collected in future years	Initially reported at fair value determined using the discounted present value of estimated future cash flows technique

In addition to the amount initially recognized, revenue for unconditional gifts to be collected in future years is also recognized each year as the present-value discount is amortized using the level-yield method.

When a donor-stipulated time restriction ends or purpose restriction is accomplished, net assets with donor restrictions are reclassified to net assets without donor restrictions and reported in the statement of activities as net assets released from restrictions. Absent explicit donor stipulations for the period of time that long-lived assets must be held, expirations of restrictions for gifts of land, buildings, equipment and other long-lived assets are reported when those assets are placed in service.

Gifts and investment income that are originally restricted by the donor and for which the restriction is met in the same time period are recorded as revenue with donor restrictions and then released from restriction.

Conditional contributions and investment income having donor stipulations which are satisfied in the period the gift is received and the investment income is earned are recorded as revenue without donor restrictions.

Brooklyn Defender Services

Notes to Financial Statements

June 30, 2022

Functional Allocation of Expenses

The costs of supporting the various programs and other activities have been summarized on a functional basis in the statement of activities. Certain costs have been allocated among the program, management and general, and fundraising categories based on the direct charge method as well as other methods.

Income Taxes

The Organization is exempt from income taxes under Section 501 of the Internal Revenue Code and a similar provision of state law. However, the Organization is subject to federal income tax on any unrelated business taxable income.

The Organization files tax returns in the U.S. federal jurisdiction.

Note 2: Grant Reimbursements Receivable and Future Commitments

The Organization receives its grant support through periodic claims filed with the respective funding sources, not to exceed a limit specified in the grant agreements. Since the financial statements of the Organization are prepared on the accrual basis, all portions of the grants not yet received as of June 30, 2022 where the Organization has an unconditional right to payment have been recorded as receivables. The following are the grant commitments that extend beyond June 30, 2022:

Grant	Term	Grant Amount	Earned or Forfeited Through 2022	Funding Available
MOCJ - Criminal defense services New York State Unified Court	07/01/2021 - 06/30/2023	\$ 86,286,305	\$ 44,748,971	\$ 41,537,334
System - Civil legal services	01/01/2021 - 01/31/2026	8,137,081	656,908	7,480,173
Other grants	07/01/2019 - 06/30/2023	923,039	698,250	224,789
Total		<u>\$ 95,346,425</u>	<u>\$ 46,104,129</u>	<u>\$ 49,242,296</u>

The grant agreements include certain clauses that allow them to be terminated in whole or in part by the granting agency as well as the Organization.

Brooklyn Defender Services

Notes to Financial Statements

June 30, 2022

Note 3: Property and Equipment

Property and equipment at June 30, 2022 consist of:

	Cost	Accumulated Depreciation and Amortization	Net
Equipment and furniture	\$ 1,005,679	\$ 886,325	\$ 119,354
Leasehold improvements	2,304,282	1,682,727	621,555
	\$ 3,309,961	\$ 2,569,052	\$ 740,909

Note 4: Leased Facilities

The Organization leases space for its administrative office and program services at various locations. Rent expense for the year ended June 30, 2022 was \$4,436,566. The leases expire at different periods through December 2034.

The minimum annual rental payments over the next five years and thereafter are as follows:

2022-2023	\$ 4,804,736
2023-2024	4,963,833
2024-2025	4,545,237
2025-2026	4,446,679
2026-2027	4,222,578
Thereafter	19,722,228
Total minimum lease payments	\$ 42,705,291

Note 5: Line of Credit

The Organization has a \$7,500,000 revolving line of credit expiring in September 2023. At June 30, 2022, there was \$7,500,000 borrowed against this line. The line is collateralized by substantially all of the Organization's assets. Interest varies with the bank's prime rate, which was 6.25% at June 30, 2022.

Brooklyn Defender Services

Notes to Financial Statements

June 30, 2022

Note 6: Loans Payable

On March 27, 2021, President Trump signed into law the *Coronavirus Aid, Relief, and Economic Security Act*. On January 25, 2021, The Organization received a loan in the amount of \$8,840,898 pursuant to the Paycheck Protection Program (PPP). The Organization has elected to account for the funding as a loan in accordance with Accounting Standards Codification (ASC) Topic 470, *Debt*. The loan is due five years from the date of the first disbursement under the loan and has a fixed interest rate of 1% per year. Any forgiveness of the loan will be recognized as a gain in the financial statements in the period the debt is legally released. PPP loans are subject to audit and acceptance by the U.S. Department of Treasury, Small Business Administration (SBA), or lender; as a result of such audit, adjustments could be required to any gain recognized.

During October 2021, the Organization received an emergency loan of \$2,750,000, interest free, from the fund to cover operating expenses pending receipt of funds from the New York City Mayor's Office of Criminal Justice. This loan was satisfied in November 2021 when the Organization received an advance on their grant contract.

Annual maturities of loan payable as of June 30, 2022 are:

2023	\$	2,495,275
2024		2,436,920
2025		2,461,531
2026		<u>1,447,172</u>
	\$	<u><u>8,840,898</u></u>

Subsequent to year-end, on July 27, 2023, the SBA approved partial forgiveness of the PPP loan for the amount of \$5,534,246. The remaining balance of the loan of \$3,306,652 is to be repaid over 29 months with equal principal and interest payments. The loan bears interest at 1% with final payment due on January 25, 2026. The annual maturities of the remaining balance of the loan payable are:

2024	\$	1,157,209
2025		1,404,947
2026		<u>744,496</u>
	\$	<u><u>3,306,652</u></u>

Note 7: Pension

The Organization has a contributory-defined contribution 403(b) plan which covers all full-time employees. The employees can contribute up to the maximum allowed by the Internal Revenue Code. The amount contributed by the sponsor is within the Organization's discretion. On termination of service due to death, disability, or retirement, participants are eligible for a lump-sum payment or annual installments over a 10-year period based on the vested amounts as per plan document. Pension expense for 2022 was \$1,957,939.

Brooklyn Defender Services
Notes to Financial Statements
June 30, 2022

Note 8: Net Assets

Net Assets With Donor Restrictions

Net assets with donor restrictions at June 30 are restricted for the following purposes:

Subject to expenditure for specified purpose	
COVID-19 Response Fund	\$ 1,000
Client Services	40,187
Civil Legal Advocacy	6,937
Education	10,000
Immigrant - Fee Relief	4,319
Immigrant Support	23,263
Veterans Assistance	7,500
Right to Counsel	11,198
	<u>11,198</u>
	<u>\$ 104,404</u>

Net Assets Released from Restrictions

Net assets were released from donor restrictions by incurring expenses satisfying the restricted purposes specified by donors:

Satisfaction of time restrictions	<u>\$ 190,000</u>
Satisfaction of purpose restrictions	
Affordable Housing	35,000
COVID-19 Response Fund	32,424
Client Services	71,953
Education	25,000
Public Defender Training	26,830
Veterans Assistance	22,500
Immigrant Support	21,235
Know Your Rights	4,000
	<u>238,942</u>
	<u>\$ 428,942</u>

Brooklyn Defender Services

Notes to Financial Statements

June 30, 2022

Note 9: Change in Net Assets

The Organization had a negative change of net assets of \$4,469,006 as of June 30, 2022. A significant portion of this deficit relates to certain expenses that were funded with the cash proceeds of the Federal Small Business Administration PPP obtained on January 25, 2021 (*Note 6*), which has not yet been recognized as revenue. The Organization has received partial forgiveness subsequent to the end of the year which will be recognized in net assets in fiscal year 2024.

Note 10: Significant Estimates and Concentrations

Revenues

The Organization is dependent primarily on the City and State of New York for revenues and receivables.

Note 11: Liquidity and Availability

Financial assets available for general expenditure, that is, without donor or other restrictions limiting their use, within one year of June 30, 2022, comprise the following:

Financial assets	
Cash	\$ 1,404,440
Accounts receivable	<u>18,436,348</u>
Total financial assets	19,840,788
Donor-imposed restrictions	
Funds with donor restrictions	<u>(104,404)</u>
Financial assets available to meet cash needs for general expenditures within one year	<u>\$ 19,736,384</u>

The Organization manages its liquidity and reserves following three guiding principles: operating within a prudent range of financial soundness and stability, maintaining adequate liquid assets to fund near-term operating needs, and maintaining sufficient reserves to provide reasonable assurance that long-term obligations will be discharged.

Note 12: Subsequent Events

Subsequent events have been evaluated through August 1, 2023, which is the date the financial statements were available to be issued.

As mentioned in *Note 6*, the SBA approved partial forgiveness of the PPP loan for the amount of \$5,534,246.

Brooklyn Defender Services
Notes to Financial Statements
June 30, 2022

Note 13: Future Changes in Accounting Principles

Accounting for Leases

The Financial Accounting Standards Board (FASB) amended its standard related to the accounting for leases. Under the new standard, lessees will now be required to recognize substantially all leases on the statement of financial position as both a right-of-use asset and a liability. The standard has two types of leases for statement of activities recognition purposes: operating leases and finance leases. Operating leases will result in the recognition of a single lease expense on a straight-line basis over the lease term similar to the treatment for operating leases under existing standards. Finance leases will result in an accelerated expense similar to the accounting for capital leases under existing standards. The determination of lease classification as operating or finance will be done in a manner similar to existing standards. The new standard also contains amended guidance regarding the identification of embedded leases in service contracts and the identification of lease and nonlease components in an arrangement. The new standard is effective for annual periods beginning after December 15, 2022 for nonpublic entities and any interim periods within annual reporting periods that begin after December 15, 2022. The Organization is evaluating the effect the standard will have on the financial statements; however, the standard is expected to have a material effect on the financial statements due to the recognition of additional assets and liabilities for operating leases.