

# **Brooklyn Defender Services**

Independent Auditor's Report and Financial Statements

June 30, 2019



# Brooklyn Defender Services

June 30, 2019

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## Independent Auditor's Report

Board of Directors  
Brooklyn Defender Services  
Brooklyn, New York

We have audited the accompanying financial statements of Brooklyn Defender Services., which comprise the statement of financial position as of June 30, 2019, and the related statements of activities, functional expenses and cash flows for the year then ended, and the related notes to the financial statements.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes 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.

### ***Auditor's Responsibility***

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements 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 the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Brooklyn Defender Services as of June 30, 2019, 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.

**Emphasis of Matters**

As described in *Note 1* to the financial statements, in 2019 Brooklyn Defender Services adopted ASU 2016-14, *Not-for-Profit Entities (Topic 958): Presentation of Financial Statements of Not-for-Profit Entities*. Our opinion is not modified with respect to these matters.

*BKD, LLP*

New York, New York  
March 10, 2020

**Brooklyn Defender Services**  
**Statement of Financial Position**  
**June 30, 2019**

**Assets**

Cash	\$ 671,271
Government contracts receivable, current	9,829,253
Prepaid expenses and security deposits	921,787
Property and equipment, net	<u>1,321,768</u>
Total assets	<u><u>\$ 12,744,079</u></u>

**Liabilities and Net Assets**

**Liabilities**

Accounts payable and accrued expenses	\$ 2,175,909
Accrued vacations payable	1,286,409
Line of credit	2,500,000
Deferred rent	2,380,303
Deferred revenue	<u>415,889</u>
Total liabilities	<u>8,758,510</u>

**Net Assets**

Without donor restrictions	3,413,580
With donor restrictions	<u>571,989</u>
Total net assets	<u>3,985,569</u>
Total liabilities and net assets	<u><u>\$ 12,744,079</u></u>

**Brooklyn Defender Services**  
**Statement of Activities**  
**Year Ended June 30, 2019**

	Without Donor Restrictions	With Donor Restrictions	Total
<b>Revenues</b>			
Government contracts	\$ 47,526,346	\$ -	\$ 47,526,346
Contributions	696,354	871,193	1,567,547
Special events			
Revenues	\$ 66,600		
Direct costs	(37,407)		
Net assets released from restriction	383,862	(383,862)	-
Total revenues	48,635,755	487,331	49,123,086
<b>Expenses</b>			
Program services			
Criminal Defense	27,862,386	-	27,862,386
Immigration	3,732,139	-	3,732,139
Family Defense	9,692,170	-	9,692,170
Civil	1,744,151	-	1,744,151
Youth and Communities	668,230	-	668,230
Young New Yorkers	381,580	-	381,580
Total program services	44,080,656	-	44,080,656
Supporting services			
Management and general	4,405,974	-	4,405,974
Fundraising	55,925	-	55,925
Total expenses	48,542,555	-	48,542,555
<b>Change in Net Assets</b>	93,200	487,331	580,531
<b>Net Assets, Beginning of Year</b>	3,320,380	84,658	3,405,038
<b>Net Assets, End of Year</b>	\$ 3,413,580	\$ 571,989	\$ 3,985,569

# Brooklyn Defender Services

## Statement of Functional Expenses

### Year Ended June 30, 2019

	Program Services						Supporting Services			Total
	Criminal Defense	Immigration	Family Defense	Civil	Youth and Communities	Young New Yorkers	Management and General	Fundraising	Direct Costs of Special Events	
<b>Salaries and Related Expenses</b>										
Salaries	\$ 17,206,449	\$ 2,136,973	\$ 5,863,648	\$ 1,120,599	\$ 444,067	\$ 168,309	\$ 2,046,114	\$ -	\$ -	\$ 28,986,159
Payroll taxes and employer benefits	5,952,008	739,216	2,028,339	387,634	153,610	58,221	707,786	-	-	10,026,814
Total salaries and related expenses	23,158,457	2,876,189	7,891,987	1,508,233	597,677	226,530	36,239,073	-	-	39,012,973
<b>Other Costs</b>										
Professional fees	404,163	212,108	223,763	8,676	1,538	87,534	937,782	693,081	51,000	744,081
Occupancy	2,327,058	314,802	866,856	143,044	43,618	25,750	3,721,128	277,724	-	277,724
Repairs and maintenance	595,126	67,784	233,270	19,793	3,833	-	919,808	103,480	-	103,480
Office supplies	441,438	55,902	154,475	18,304	6,406	34,845	711,590	93,145	2,995	96,140
Communication	327,262	44,484	123,240	20,329	6,145	3,116	524,576	34,757	-	34,757
Insurance	96,428	13,184	35,731	6,071	1,996	283	133,693	18,316	-	18,316
Venues and entertainment	-	-	-	-	-	-	-	-	-	-
Depreciation and amortization	121,153	16,173	41,998	7,538	2,896	-	189,778	20,485	242	37,407
Miscellaneous expense (including \$23,801 of interest expense)	391,281	131,513	120,850	12,143	4,119	3,522	663,428	411,086	1,688	412,774
Total other costs	4,703,929	855,950	1,800,183	235,918	70,553	155,050	7,821,583	1,652,074	55,925	1,745,406
Total expenses	27,862,386	3,732,139	9,692,170	1,744,151	668,230	381,580	44,080,656	4,405,974	55,925	49,992,306
Less direct costs of special events	-	-	-	-	-	-	-	-	(37,407)	(37,407)
Total expenses reported by function on the statement of activities	\$ 27,862,386	\$ 3,732,139	\$ 9,692,170	\$ 1,744,151	\$ 668,230	\$ 381,580	\$ 44,080,656	\$ 4,405,974	\$ 55,925	\$ 49,954,899
										\$ 48,542,555

**Brooklyn Defender Services**  
**Statement of Cash Flows**  
**Year Ended June 30, 2019**

<b>Operating Activities</b>	
Change in net assets	\$ 580,531
Items not requiring (providing) operating cash flows	
Depreciation and amortization	210,505
Changes in	
Government contracts receivable	(4,339,261)
Prepaid expenses and security deposits	(311,283)
Accounts payable and accrued expenses	348,613
Accrued vacations payable	278,955
Deferred revenue	415,889
Deferred rent	<u>594,467</u>
Net cash used in operating activities	<u>(2,221,584)</u>
<b>Investing Activities</b>	
Purchase of fixed assets	<u>(216,659)</u>
Net cash used in investing activities	<u>(216,659)</u>
<b>Financing Activities</b>	
Repayment of the line of credit	(4,500,000)
Drawdown on line of credit	<u>4,000,000</u>
Net cash used in financing activities	<u>(500,000)</u>
<b>Net Change in Cash</b>	(2,938,243)
<b>Cash, Beginning of Year</b>	<u>3,609,514</u>
<b>Cash, End of Year</b>	<u><u>\$ 671,271</u></u>
<b>Supplemental Cash Flows Information</b>	
Cash paid for interest	\$ 42,243



**Brooklyn Defender Services**  
**Notes to Financial Statements**  
**June 30, 2019**

**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 in criminal matters without cost to indigent people arrested in Brooklyn, NY. During the current year, the Organization represented approximately 29,000 clients. Its primary source of revenues is government contracts (city and state) for indigent defense.

***Use of Estimates***

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America 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, 2019, the Organization's cash accounts exceeded federally insured limits by approximately \$970,000. 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.

***Allowance for Doubtful Accounts***

The Organization determines whether an allowance for uncollectibles 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, 2019, the Organization had no allowance for doubtful accounts.

**Brooklyn Defender Services**  
**Notes to Financial Statements**  
**June 30, 2019**

***Property and Equipment***

Property and equipment acquisitions are stated at cost, less accumulated depreciation and amortization. Depreciation 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, 2019.

***Deferred Rent/Rent Expense***

Rent is recognized on the straight-line basis over the term of the lease. Deferred rent is recognized for the 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, 2019**

**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:

<b>Nature of the Gift</b>	<b>Value Recognized</b>
<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 statements 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 with donor restrictions and then released from restriction.

# **Brooklyn Defender Services**

## **Notes to Financial Statements**

### **June 30, 2019**

#### ***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.

#### ***Change in Accounting Principles***

##### **Presentation of Financial Statements of Not-for-Profit Entities**

On July 1, 2018, the Organization adopted Accounting Standards Update (ASU) 2016-14, *Not-for-Profit Entities* (Topic 958): *Presentation of Financial Statements of Not-for-Profit Entities*. A summary of the changes is as follows:

##### **Statement of Financial Position**

- The statement of financial position distinguishes between two new classes of net assets—those with donor-imposed restrictions and those without. This is a change from the previously required three classes of net assets—unrestricted, temporarily restricted and permanently restricted.

##### **Statement of Activities and Functional Expenses**

- Expenses are reported by both nature and function in one location.

##### **Notes to the Financial Statements**

- Enhanced quantitative and qualitative disclosures provide additional information useful in assessing liquidity and cash flows available to meet operating expenses for one year from the date of the statement of financial position.

This change had no impact on previously reported total change in net assets.

**Brooklyn Defender Services**  
**Notes to Financial Statements**  
**June 30, 2019**

**Note 2: Fixed Assets**

	<b>Cost</b>	<b>Accumulated Depreciation and Amortization</b>	<b>Net</b>
Equipment and furniture	\$ 941,966	\$ 818,618	\$ 123,348
Leasehold improvements	2,266,339	1,067,919	1,198,420
	\$ 3,208,305	\$ 1,886,537	\$ 1,321,768

**Note 3: Leased Facilities**

The Organization leases space for its administrative office and program services at 177 Livingston Street, 180 Livingston Street, 195 Montague Street as well as 566 Livonia Street. Rent expense for the year ended June 30, 2019 was \$3,491,592. The leases expire at different periods through January 2030.

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

2019-2020	\$ 4,030,128
2020-2021	4,136,966
2021-2022	4,246,862
2022-2023	4,359,907
2023-2024	4,501,703
Thereafter	18,128,137
Total minimum lease payments	\$ 39,403,703

**Note 4: Line of Credit**

The Organization has a \$5,000,000 revolving line of credit expiring in March 2020. At June 30, 2019, there was \$2,500,000 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 5.50 percent at June 30, 2019.

**Note 5: Pension**

The Organization has a profit-sharing pension plan which covers all full-time employees. Under the terms of the plan, participants are eligible for a lump-sum payment upon reaching age 65 with at least one year of service. Pension expense for 2019 was \$1,441,679.

**Brooklyn Defender Services**  
**Notes to Financial Statements**  
**June 30, 2019**

**Note 6: 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	
Public Defender Training	\$ 200,000
Education	120,480
Justice Catalyst Project	60,000
Immigrant Litigation	37,500
Veteran's Assistance	30,000
Immigration Advocacy	25,000
Immigrant - Fee Relief	24,886
Family Support Initiative	23,750
Youth Advocacy	20,833
We Have Rights	11,675
Right to Counsel	11,198
Veterans Social Work	6,667
	<hr/>
	\$ 571,989
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***Net Assets Released from Restrictions***

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

Satisfaction or purpose restrictions	
Youth Advocacy	\$ 50,000
While They Wait	44,793
Education	42,500
Immigration	41,503
Immigrant Litigation	37,500
Family Support Initiative	26,750
Trafficking	25,000
Housing Relocation	25,000
Veteran's Assistance	22,500
Immigrant - Fee Relief	21,150
Fine & Fees Advocacy	13,833
Veterans Social Work	13,333
Incarcerated Parents	12,500
Know Your Rights	7,500
	<hr/>
	\$ 383,862
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**Brooklyn Defender Services**  
**Notes to Financial Statements**  
**June 30, 2019**

**Note 7: Significant Estimates and Concentrations**

**Revenues**

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

**Cash**

The Organization's cash balances exceeded federally insured limits by approximately \$970,000 at fiscal year-end.

**Note 8: 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, 2019, comprise the following:

Financial assets		
Cash	\$	671,271
Accounts receivable		<u>9,829,253</u>
Total financial assets		10,500,524
Donor-imposed restrictions		
Funds with donor restrictions		<u>(571,989)</u>
Financial assets available to meet cash needs for general expenditures within one year	\$	<u><u>9,928,535</u></u>

The Organization manages its liquidity and reserves the 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 9: Subsequent Events**

Subsequent events have been evaluated through March 10, 2020, which is the date the financial statements were available to be issued.

# Brooklyn Defender Services

## Notes to Financial Statements

### June 30, 2019

#### **Note 10: Future Change in Accounting Principle**

##### ***Revenue Recognition***

The Financial Accounting Standards Board (FASB) amended its standards related to revenue recognition. This amendment replaces all existing revenue recognition guidance and provides a single, comprehensive revenue recognition model for all contracts with customers. The guidance provides a five-step analysis of transactions to determine when and how revenue is recognized. Other major provisions include capitalization of certain contract costs, consideration of the time value of money in the transaction price and allowing estimates of variable consideration to be recognized before contingencies are resolved in certain circumstances. The amendment also requires additional disclosure about the nature, amount, timing and uncertainty of revenue and cash flows arising from customer contracts, including significant judgments and changes in those judgments and assets recognized from costs incurred to fulfill a contract. The standard allows either full or modified retrospective adoption effective for annual periods beginning after December 15, 2018 for nonpublic entities and any interim periods within annual reporting periods that begin after December 15, 2019 for nonpublic entities. The Organization is in the process of evaluating the impact the amendment will have on the financial statements.

##### ***Accounting for Grants and Contributions***

FASB amended its standards related to contributions received and contributions made. The amendment clarifies existing guidance on determining whether a transaction with a resource provider, *e.g.*, the receipt of funds under a government grant or contract, is a contribution or an exchange transaction. The guidance requires all organizations to evaluate whether the resource provider is receiving commensurate value in a transfer of assets transaction, and whether contributions are conditional or unconditional. If commensurate value is received by the resource provider, the transaction would be accounted for as an exchange transaction by applying Topic 606, *Revenue from Contracts with Customers*, or other topics. The standard clarifies that a resource provider is not synonymous with the general public. Indirect benefit received by the public as a result of the assets transferred is not equivalent to commensurate value received by the resource provider. If commensurate value is not received by the resource provider, *i.e.*, the transaction is non exchange, the recipient organization would record the transaction as a contribution under Topic 958 and determine whether the contribution is conditional or unconditional.



**Brooklyn Defender Services**  
**Notes to Financial Statements**  
**June 30, 2019**

***Accounting for Leases***

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 statements of financial position as both a right-of-use asset and a liability. The standard has two types of leases for statements 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, 2019. A board decision was reached by FASB to delay the effective date of Topic 842 by one year for nonpublic entities (*i.e.*, fiscal year beginning after December 15, 2020). The Organization is evaluating the impact the standard will have on the financial statements; however, the standard is expected to have a material impact on the financial statements due to the recognition of additional assets and liabilities for operating leases.