

**POLICY FOR THE USE OF AGENCY DISCRETIONARY FUNDS FOR
THE NEW YORK STATE HOUSING FINANCE AGENCY, STATE OF
NEW YORK MORTGAGE AGENCY, NEW YORK STATE
AFFORDABLE HOUSING CORPORATION, STATE OF NEW YORK
MUNICIPAL BOND BANK AGENCY, AND TOBACCO SETTLEMENT
FINANCING CORPORATION**

ARTICLE I

STATEMENT OF PURPOSE AND TITLE

101. This Policy is adopted pursuant to a recommendation by the Authorities Budget Office that Public Benefits Corporations should adopt governance policies that promote best practices in the areas of management and oversight of its operations. This Policy is adopted as the policy of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency, and Tobacco Settlement Financing Corporation (collectively hereinafter referred to as “Agencies”, or each individually as “Agency”).

102. The Agencies recognize their obligation to implement fundamental financial management controls with respect to the funds they receive for their operations, and that each Agency has a fiduciary duty to adopt policies that safeguard the assets and resources of such Agency and protect against the use of those funds for purposes that do not advance such Agency’s mission and objectives.

103. This Policy may be referred to as each Agency’s “Discretionary Funds Policy”.

ARTICLE II

DEFINITIONS

201. Definitions. The following terms shall, for the purposes of this Policy, have the following meanings unless the context shall clearly indicate some other meaning:

“Agency” or “Agencies” shall mean, either individually or collectively, each of the New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Affordable Housing Corporation, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation.

“Agency Staff” shall mean any officer or employee of the Agency or any employee of any other Agency that provides any services in any capacity, paid or unpaid, to the Agency. It shall not include any employee, officer or member of any independent contractor or consultant providing goods or services to the Agency.

“By-Laws” shall mean the By-Laws adopted by the Members or Directors of each Agency.

“Director(s)” shall mean the directors of each of the State of New York Mortgage Agency, State of New York Municipal Bond Bank Agency and Tobacco Settlement Financing Corporation, and collectively, the directors of all such Agencies.

“Discretionary Expenditure” shall mean an expenditure of the Agency that is made at the judgment of a Member or Director or Agency Staff person in the regular conduct of their duties in accordance with this Policy, and which is not required to be made pursuant to a statute, regulation, program requirement, or a directive of a duly authorized person or entity other than the Agency’s Members or Directors or Staff having jurisdiction over the Agency’s operations or programs.

“Discretionary Funds” shall mean those funds obtained by the Agency for its performance of services for a fee or from revenue from any other source that does not require the use of such revenue for a particular purpose. Funds passed through to the Agency, or appropriated or passed through to any other agency which, in turn, passes them through to the Agency, for the administrative purposes of a particular program will be considered Discretionary Funds if, although restricted to the purposes of such Program, are nonetheless available for the Agency’s use as it sees fit consistent with the Program’s purpose.

“Expenditure” shall mean a payment of Agency funds for goods or services.

“Fiscal Officer” shall mean either the Agency’s Chief Financial Officer or another member of Agency staff or management designated as such by the Chief Financial Officer or the Chief Executive Officer.

“Member(s)” shall mean the members of each of the New York State Housing Finance Agency and New York State Affordable Housing Corporation, and collectively, the members of both such Agencies.

“Officer” shall mean any person so defined in the By-Laws of the Agencies.

ARTICLE III

EXPENDITURES OF DISCRETIONARY FUNDS

301. Permitted Expenditures of Discretionary Funds.

(1) Discretionary Funds may be expended only in connection with the discharge of official duties of Agency Staff, or as directed by a resolution of the Members or Directors, or as directed by the Agency’s Fiscal Officer.

(2) Discretionary Expenditures may only be made in furtherance of the Agency’s mission and objectives, and only for expenditures that are reasonable and necessary.

(3) Generally, Discretionary Expenditures are subject to those costs approved in the Agency’s annual budget. However, the Agency’s Fiscal Officer is authorized to approve expenditures which are not included in that budget provided they are not considered material or if material are reported to the Members or Directors at a subsequent regularly scheduled meeting of the Members or Directors.

(4) All applicable statutes and regulations and other policies of the Agency must be adhered to as required when making Discretionary Expenditures. These include, but are not limited to, the State Finance Law, Public Authorities Law, Private Housing Finance

Law, the Agency's Procurement and Contract Guidelines, regulations of the State Comptroller, the State Director of the Budget and the Authorities Budget Office, the requirement to publish certain procurement opportunities in the New York State Contract Reporter, the requirement to post published procurement opportunities on the Agency's website, the requirement to bring contracts in excess of \$100,000 to the Members or Directors for approval by resolution, and the requirement to obtain the approval of the Agency's contracts in excess of \$1,000,000 that are either payable from state appropriation or entered into without competitive procedures from the Office of the State Comptroller.

(5) Expenses related to business travel incurred by a member of Agency Staff or management may be reimbursed when such travel is reasonable, necessary, and integral to meeting the mission of the Agency. All travel reimbursements shall be subject to the following requirements:

- a) Travel expenses are subject to and shall be incurred in accordance with the Agencies' Travel Policy, including any guidance as to reasonable amounts for such travel expenses provided therein.
- b) Before a Member or Director or member of Agency Staff or management incurs travel expenses that may be subject to reimbursement, such person shall engage in due diligence to obtain the lowest reasonable cost for such travel expenses.
- c) Travel reimbursements will only be made if pre-approved by the Department Head and the Chief Financial Officer. The reimbursement after travel is complete must be approved the Department Head.
- d) The nature and purpose of all travel expenses subject to reimbursement shall be documented.
- e) In order for any travel expense to be reimbursed, the Member or Director or member of Agency Staff or management who incurred the expense must provide a receipt documenting the amount of the expense.

(6) Discretionary Expenditures may be made for business meal costs that are incurred through participation in, or sponsorship of, activities integral to meeting the public purpose of the Agency ("Reimbursable Business Meal Costs"). All Reimbursable Business Meal Costs must be documented. All Reimbursable Business Meal Costs incurred during business travel are subject to applicable per diem rates for business travel meals.

(7) The Agency may purchase or lease and assign cell phones, laptop computers and vehicles to its staff for business use.

(8) All Discretionary Expenditures for non-personal services shall be made pursuant to the Agency's budget unless otherwise approved as set forth in Section 301 (1) of this Policy above.

(9) The Agency's management may determine that de minimis personal use of the Agency's assets and supplies by the Agency's staff may be permitted from time to time such as occasional use of phones, computers and copying machines.

302. Expenditures of Discretionary Funds Not Permitted.

(1) Discretionary Funds may not be expended for the following purposes:

- a) in support of the private or personal interests or benefit of the Members, Directors, management or staff of any Agency;
- b) to purchase food, beverages or other refreshments for the personal use of the Members or Directors, management or staff of any Agency, or for persons with whom the Agency conducts business, unless prior authorization is received as described in Section 301 (1) of this Policy, above;

- c) to purchase flowers and gifts for the Members or Directors, management or staff of any Agency;
- d) to subsidize or provide free use of Agency goods or services for the personal use of current or former Members or Directors, management or staff of any Agency;
- e) for celebrations of special occasions that do not directly relate to the purpose of the Agency, such as catering, summer picnics or other outings, office parties, holiday parties and retirement parties. However, nothing in this section shall prohibit Agency Staff from participating in these occasions at their own cost or from collecting personal contributions from among other participants to offset the costs of these occasions provided those funds are kept separate and apart from any Agency funds;
- f) for charitable contributions or sponsorships of events not associated with the Agency's mission;
- g) for purchases of alcohol or tobacco products;
- h) for membership dues in professional organizations on behalf of individual Agency Staff unless Agency management determines that such dues are primarily for the benefit of the Agency or the Agency requires such individual to participate in such organization;
- i) for renewal of professional licenses for Agency Staff unless management of the Agency determines that such licenses are for the benefit of the Agency or the Agency requires such individual to obtain such license;
- j) for personal use of authority vehicles unless it is in the Agency's best interests based on costs or staff time. All such permitted uses must be properly documented for tax purposes;
- k) for the costs of purchasing or mailing holiday cards, invitations or expressions of sympathy to current or former Agency staff or their families;
- l) to purchase or lease cell phones, computers or vehicles to assign to non-Agency staff; or
- m) any purpose which would cause a violation of the Agency's Ethics policies for Members or Directors or Agency Staff or management.

ARTICLE IV

EXCEPTIONS

401. The Members or Directors reserve the right to except any expenditure of Discretionary Funds from any of the policies enumerated herein on an individual or blanket basis, prospectively or retroactively. Such exception shall be made by resolution of the Members or Directors adopted at any duly constituted Members' or Directors' meeting.