

CODE OF ETHICAL CONDUCT FOR OFFICERS AND EMPLOYEES

*(As adopted by resolution of the New York State Affordable
Housing Corporation on June 15, 2006)*

The following attached materials are assembled for purposes of codification thereof to constitute the “Code of Ethical Conduct for Officers and Employees” and consist of: 1.) Documents that directly prescribe standards of conduct, 2.) Documents reflecting practices that the Corporation Members are directing continue substantially as they have existed to date, 3.) the Members’ reaffirmation that §§73, 73-a and 74 of the Public Officers Law are applicable to the Officers and employees of the Corporation and that such employees and Officers are expected to abide by the same, and a direction that the Corporation shall be administered to assure compliance with those sections.

Documents Prescriptive of Ethical Conduct.

1. HFA Employee Code of Conduct for Corporation Employees.
2. Employee Code of Conduct applicable to Officers and Management Confidential Employees and others as specified therein.
3. Sexual Harassment Prevention Policy.
4. Prohibition of Illegal Discrimination in the Workplace Policy.
5. Agency Policy: Drug and Alcohol Free Workplace.
6. Information Systems Policies.

Documents Reflecting Corporation Practices to Ensure Proper Employee Conduct Which the Corporation Members Direct Shall Continue Substantially as Before.

7. Memo furnished to new “Policy Maker” employees and recirculated periodically (approximately annually) to such employees with respect to required approval of “Outside Activities of Policy Makers”.
8. Memo respecting “Ethics Act: Receipt of Honoraria” to which all employees must respond annually in connection with reporting of Honoraria under State Ethics Law.
9. Distributed Prescription for compliance with Executive Order No. 127 requirements and the “Lobbying Law Amendments” in effect with the enactment of Chapter 595 of the laws of 2005.
10. “Campaign Activities” memorandum with respect to participation in political campaign process.
11. Memorandum with respect to “Avoidance of Recommendations with respect to professionals doing business with the Agency.

Members Reaffirmation and Directive with Respect To §§73, 73-a and 74 of the Public Officers Law.

- In adopting this “Code of Ethical Conduct for Officers and Employees” the Members have:
1. Reaffirmed that §§73, 73-a and 74 of the Public Officers Law (the same are attached together with a restatement of §74 as it apply Corporation employees) apply to the Officers and employees of the Corporation.
 2. Reaffirmed that such employees and Officers are expected to abide by the same.
 3. Directed that the Corporation shall be administered to assure compliance with those sections.

***DOCUMENTS PRESCRIPTIVE
OF ETHICAL CONDUCT***

**1. New York State Housing Finance Agency
Employee Code of Conduct**

The following “Employee Code of Conduct” is intended to govern the conduct of all officers, non-unionized employees, interns and temporary employees of the Agency at all times while engaged in the Agency’s business whether or not such business is being conducted in an Agency workplace. Unionized employees are subject to the policies and procedures governing conduct set forth in the Agency’s employee handbook and the following “Employee Code of Conduct” to the extent that it is not inconsistent with those policies and procedures.

Employee Code of Conduct

It is the responsibility of each employee to maintain a professional work environment at all times when present at any of the Agency’s facilities or otherwise engaged in the conduct of the Agency’s business. Employees are expected to consistently exercise the highest level of professionalism and to exhibit the highest ethical standards. All employees are expected, at a minimum, to consistently perform at a satisfactory level in their position.

Employees are required to treat all other employees with dignity and respect and always to conduct themselves in a courteous and professional manner at all times. Employees are never to harass or verbally abuse other employees or those with whom the Agency does business including, without limitation, vendors, service representatives and the general public. Employees are required to adhere to all policies adopted by the Agency and carry out the reasonable directives of their supervisors.

The Agency maintains a professional work environment. Employees must dress in a manner appropriate for the conduct of the Agency’s business. Outlandish or overly casual attire is prohibited. Smoking is prohibited in all enclosed areas of the Agency. Personal use of communication and information systems must be minimized.

Employees are prohibited from taping work-related conversations, whether such conversations are by telephone, in person or by any medium without the written permission of the Agency’s Counsel.

Certain types of conduct may result in disciplinary action against the employee up to and including termination from employment. This type of conduct includes, but is not limited to, the following:

1. Insubordination defined as refusing to follow the reasonable direction of the supervisor, defiance of or disrespect for the authority of a supervisor or other representative of management, or refusal or failure to follow Agency rules, procedures or regulations;
2. Poor or unsatisfactory work performance including, but not limited to, lack of productivity or poor quality work;

3. Fighting, instigating a fight, threatening violence, disruptive behavior, harassment or verbally abusing co-workers, supervisors, managers or those with whom the Agency does business;
4. Use of or possession of illegal drugs, alcohol or other controlled substances on Agency property or being under the influence of same at work;
5. Possession of firearms or other weapons on Agency property;
6. Abuse or misuse of Agency property or equipment including, but not limited to, the Agency's information or communication systems;
7. Theft or attempted theft of Agency property, information (proprietary or otherwise) or time or the property of another employee or removing or attempting to remove Agency property or information from the premises without proper authorization;
8. Falsification of pre-employment documents or any other misleading information on documents or records including but not limited to timesheets;
9. Providing false information in an official Agency investigation or inquiry or willfully failing to cooperate with such investigation;
10. Any actions that cause or contribute to an unsafe condition or health hazard or any lack of due and proper care that may affect the employee, fellow employees or others;
11. Violations of any laws, rules, regulations, rulings or alike governing the conduct of public employees and/or public officers;
12. Non-compliance with all conflict-of-interest and ethics laws, rules, regulations, rulings or alike applicable to Agency employees including, but not limited to, the appearance of impropriety;
13. Any illegal or unethical behavior, whether in the course of the employee's employment or not, that creates potential liability to the Agency by continuing to employ the employee or which projects an unfavorable image of the Agency to the public;
14. Unauthorized use of the Agency's names, stationeries and/or logos for any purpose outside its normal course of business;
15. Unauthorized use of an employee's Agency title, position or stationery for the purpose of or in furtherance of personal business or beliefs.

16. Conviction of a crime that creates potential liability to the Agency if the Agency continues to employ the convicted employee or which projects an unfavorable image of the Agency to the public;
17. Unauthorized dissemination of information in violation of Agency policy and procedures including, without limitation, those pertaining to outside contacts;
18. All forms of illegal discrimination are prohibited. Sexual Harassment and/or other illegal discriminatory acts including, but not limited to, creating or contributing to a hostile work environment. All employees have the right to a work environment free from illegal intimidation and harassment. Sexual harassment of Agency employees or others with whom the Agencies does business, or engaging in acts of illegal discrimination is prohibited. The Agency prohibits any form of illegal physical, verbal or visual harassment. Employees who are found to have sexually harassed others; conducted themselves in an sexually improper manner; engaged in any form of illegal discrimination; or otherwise violated the Agency's policies and procedures prohibiting sexual harassment and discrimination in the workplace will be subject to strict discipline, up to and including discharge from employment;
19. Unauthorized absence from work;
20. Excessive absenteeism;
21. Excessive tardiness;

**2. Employee Code Of Conduct Applicable to
Officers and Management Confidential
Employees and others as specified therein.**

The following “Employee Code of Conduct” is intended to govern the conduct of all officers, non-unionized employees, interns and temporary employees of the Agency at all times while engaged in the Agency’s business whether or not such business is being conducted in an Agency workplace. Unionized employees are subject to existing policies, practices and procedures governing employee conduct, including, but not limited to, those set forth in the Agency’s employee handbook and the following “Employee Code of Conduct” to the extent that it is not inconsistent with those practices, policies and procedures.

Employee Code of Conduct

It is the responsibility of each employee to maintain a professional work environment at all times when present at any of the Agency’s facilities or otherwise engaged in the conduct of the Agency’s business. Employees are expected to consistently exercise the highest level of professionalism and to exhibit the highest ethical standards. All employees are expected, at a minimum, to consistently perform at a satisfactory level in their position.

Employees are required to treat all other employees with dignity and respect and always to conduct themselves in a courteous and professional manner at all times. Employees are never to harass or verbally abuse other employees or those with whom the Agency does business including, without limitation, vendors, service representatives and the general public. Employees are required to adhere to all policies adopted by the Agency and carry out the reasonable directives of their supervisors.

In recognition of the fact that time and attendance is a fundamental underpinning of any professional organization, it is the policy of the Agency that all employees, including the Chief Executive and Senior Management, adhere to the “NYS Department of Civil Service Rules of Attendance and Leave, the State “Time and Attendance Supervisor/Certifier’s Guide” and the Agency’s own time and attendance procedures. It is required that all employees timely submit properly executed true and accurate timesheets that fully account for all absences or time away from work during the normal workday and that all such time, including lateness, is properly charged to appropriate leave accruals in accordance with established Agency policies, rules, regulations and procedures governing the use of leave accruals.

The Agency maintains a professional work environment. Employees must dress in a manner appropriate for the conduct of the Agency’s business. Outlandish or overly casual attire is prohibited. Smoking is prohibited in all enclosed areas of the Agency. Personal use of communication and information systems must be minimized.

Employees are prohibited from taping work-related conversations, whether such conversations are by telephone, in person or by any medium without the written permission of the Agency’s Counsel.

Sexual harassment and/or other illegal discriminatory acts including, but not limited to, creating or contributing to a hostile work environment are expressly prohibited. All employees have the right to a work environment free from illegal intimidation and harassment. The Agency prohibits any form of illegal physical, verbal or visual harassment. Employees who are found to have sexually harassed others; conducted themselves in a sexually improper manner; engaged in any form of illegal discrimination; or otherwise violated the Agency's policies and procedures prohibiting sexual harassment and other forms of illegal discrimination in the workplace will be subject to strict discipline, up to and including discharge from employment.

Certain other types of conduct may result in disciplinary action against the employee up to and including termination from employment. This type of conduct includes, but is not limited to, the following:

1. Insubordination defined as refusing to follow the reasonable direction of the supervisor, defiance of or disrespect for the authority of a supervisor or other representative of management, or refusal or failure to follow Agency rules, procedures or regulations;
2. Poor or unsatisfactory work performance including, but not limited to, lack of productivity or poor quality work;
3. Fighting, instigating a fight, threatening violence, disruptive behavior, harassment or verbally abusing co-workers, supervisors, managers or those with whom the Agency does business;
4. Use of or possession of illegal drugs, alcohol or other controlled substances on Agency property or being under the influence of same at work;
5. Possession of firearms or other weapons on Agency property;
6. Abuse or misuse of Agency property or equipment including, but not limited to, the Agency's information or communication systems;
7. Theft or attempted theft of Agency property, information (proprietary or otherwise) or time or the property of another employee or removing or attempting to remove Agency property or information from the premises without proper authorization;
8. Falsification of pre-employment documents or any other misleading information on documents or records including but not limited to timesheets;
9. Providing false information in an official Agency investigation or inquiry or willfully failing to cooperate with such investigation;

10. Any actions that cause or contribute to an unsafe condition or health hazard or any lack of due and proper care that may affect the employee, fellow employees or others;
11. Violations of any laws, rules, regulations, rulings or alike governing the conduct of public employees and/or public officers;
12. Non-compliance with all conflict-of-interest and ethics laws, rules, regulations, rulings or alike applicable to Agency employees including, but not limited to, the appearance of impropriety;
13. Any illegal or unethical behavior, whether in the course of the employee's employment or not, that creates potential liability to the Agency by continuing to employ the employee or which projects an unfavorable image of the Agency to the public;
14. Unauthorized use of the Agency's names, stationeries and/or logos for any purpose outside its normal course of business;
15. Unauthorized use of an employee's Agency title, position or stationery for the purpose of or in furtherance of personal business or beliefs.
16. Conviction of a crime that creates potential liability to the Agency if the Agency continues to employ the convicted employee or which projects an unfavorable image of the Agency to the public;
17. Unauthorized dissemination of information in violation of Agency policy and procedures including, without limitation, those pertaining to outside contacts;
18. Unauthorized absence from work;
19. Excessive absenteeism;
20. Excessive tardiness.

3. Sexual Harassment Prevention Policy

SEXUAL HARASSMENT POLICY

It is the policy of the New York State Housing Finance Agency, its subsidiary, the Affordable Housing Corporation and all of its affiliated agencies (collectively the "Agency") to provide its employees with a work environment that is free from all forms of sexual harassment in the workplace. Conduct constituting sexual harassment is illegal and has potentially serious social and emotional impact on victims of such conduct.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

the conduct has the purpose or effect of unreasonably interfering with an affected person's work performance, or creating an intimidating, hostile or offensive work environment.

It is the responsibility of all Agency employees to strictly adhere to and enforce the Agency's prohibition of sexual harassment in the workplace. It is also the responsibility of supervisory personnel to be aware of and sensitive to conditions, situations or circumstances, which, left unresolved, could potentially rise to the level of sexual harassment in the workplace, and to take appropriate remedial action to appropriately address these conditions as soon as possible.

The Agency will not tolerate any form of sexual harassment, and the Agency's prohibition of sexual harassment will be strictly enforced. Sexual harassment is a form of serious employee misconduct, and appropriate disciplinary action, potentially including dismissal from employment, will be taken against individuals determined to have engaged in this type of conduct. In addition, appropriate administrative or disciplinary action may be taken against supervisory personnel who fail to timely report such conduct to the Agency after receipt of a complaint from one of their employees.

Agency employees who believe that they or another Agency employee are being subjected to any form of sexual harassment should immediately report the incident to the Agency. Employees who believe that incidents of sexual harassment may be occurring can report such incidents to the Agency, free from retaliation, by informing their immediate supervisor, the Personnel Director, the Senior Personnel Administrator, or any member of Agency management with the title of Assistant Vice President or higher. If the complaint concerns an employee's supervisor, the Agency may be notified via the Personnel Director or any member of management outside the employee's department. Allegations of sexual harassment may be made by an employee either orally or in writing. Supervisory or managerial personnel receiving a complaint of sexual harassment, whether orally or in writing, should report the claim to the Agency's Personnel Director as soon as possible.

Any Agency employee who has been subjected to sexual harassment in the workplace has rights of redress at the Agency. Any Agency employees who believe that they have been subject to such harassment are strongly encouraged to report the facts and circumstances of the sexual harassment as soon as possible after its occurrence. The Agency takes all complaints of sexual harassment very seriously and will promptly and fully investigate all complaints of sexual

harassment which are brought to its attention. The investigation may include interviewing the parties and any potential witnesses and reviewing documentary or physical evidence. Employees desiring to provide information may be requested to provide a written statement, but will not be required to do so. Any employee possessing information about sexual harassment in the workplace, whether directed at the employee herself or himself, or directed at a co-worker, is encouraged to make any such information known to the Agency. Employees who do not wish to participate in an interview will not be required to do so. Each investigation, as well as any interviews required as part of an investigation, will be conducted in a manner that ensures as much confidentiality as possible. No employee complaining of sexual harassment or providing information concerning incidents of sexual harassment will be the subject of any adverse personnel action or retaliation. At the request of the employee furnishing information, female or male interviewers, as the case may be, can be arranged by the Agency.

The Agency will take all appropriate action to prevent sexual harassment from occurring in the workplace and will take all necessary steps to ensure that any established occurrence of sexual harassment has permanently ceased and will not reoccur in the future. These may include a number of remedial actions including, but not limited to, appropriate administrative action or pursuing disciplinary action against any employee engaging in conduct violating the Agency's prohibition on sexual harassment in the workplace.

In addition to the employee's right to file a complaint of sexual harassment with the Agency under this procedure, employees also have the right, separate and apart from the Agency's policies and procedures concerning sexual harassment claims, to file claims of sexual harassment under Title VII of the Civil Rights Act. Employees seeking to file a claim of sexual harassment under Title VII may contact the New York State Division of Human Rights ("NYSDHR"), the local office of the federal Equal Employment Opportunity Commission ("EEOC"), or a private attorney for guidance concerning his or her rights under Title VII.

Employees having any questions concerning the Agency's strict prohibition against sexual harassment in the workplace or the procedures described in this policy are encouraged to direct any such questions to the Personnel Director or the Equal Opportunity Officer.

4. Prohibition of Illegal Discrimination in the Workplace Policy

PROHIBITION ON ILLEGAL DISCRIMINATION IN THE WORKPLACE

It is the policy of the New York State Housing Finance Agency, the Affordable Housing Corporation, the State of New York Mortgage Agency and its respective subsidiaries and affiliates (collectively the “Agency”) to provide their respective employees with a work environment that is free from all forms of illegal discrimination in the workplace. Illegal discrimination is a violation of federal, state and local law and has potentially serious social and emotional impact on victims of such conduct.

It is a violation of law and this policy to fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual with respect to his/her compensation, terms, conditions or privileges of employment because of the individual’s actual or perceived age, race, creed, color, national origin, religion, gender, sex, sexual orientation, disability, military status, predisposing genetic characteristics, marital status or alienage or citizen status.

It is also a violation of law and this policy for any employee employed by the Agency to engage in conduct that requires employees to work in a discriminatorily hostile or abusive environment. A hostile work environment is one in which the workplace is permeated with discriminatory intimidation, ridicule and insult that is sufficiently severe or pervasive to alter the conditions of the victim’s employment.

It is the responsibility of all Agency employees to strictly adhere to and enforce the Agency’s prohibition on illegal discrimination in the workplace. It is also the responsibility of supervisory personnel to be aware of and sensitive to conditions, situations or circumstances, which, if left unresolved, could potentially rise to the level of illegal discrimination in the workplace, and to take appropriate remedial action to appropriately address these conditions as soon as possible.

The Agency will not tolerate any form of illegal discrimination, and the Agency’s prohibition on illegal discrimination will be strictly enforced. Engaging in illegal discrimination is a form of serious employee misconduct, and appropriate disciplinary action, potentially including dismissal from employment, will be taken against individuals determined to have engaged in this type of conduct. In addition, appropriate administrative or disciplinary action may be taken against supervisory personnel who fail to timely report such conduct to the Agency after receipt of a complaint from one of their employees.

Employees who believe that they or another employee are being subjected to any form of illegal discrimination should immediately report the incident to the Agency. Employees who believe that illegal discrimination may be occurring can report such

incidents to the Agency, free from retaliation or reprisal, by informing their immediate supervisor, the Director of Human Resources, the Deputy Director of Human Resources or any member of Agency management with the title of Assistant Vice President or higher. If the complaint concerns an employee's supervisor, the Agency may be notified via the Director of Human Resources or any member of management with the title of Assistant Vice President or higher outside the employee's department. Allegations of discrimination may be made by an employee either orally or in writing. Supervisory or managerial personnel receiving a complaint of illegal harassment, whether orally or in writing, should report the claim to the Agency's Director of Human Resources as soon as possible.

Any Agency employee who has been subjected to illegal discrimination in the workplace has rights of redress at the Agency. Any Agency employees who believe that they have been subject to illegal discrimination are strongly encouraged to report the facts and circumstances of the illegal discrimination as soon as possible after its occurrence. The Agency takes all complaints of illegal discrimination very seriously and will promptly and fully investigate all complaints of illegal discrimination which are brought to its attention. The investigation may include interviewing the parties and any potential witnesses and reviewing documentary or physical evidence. Employees desiring to provide information may be requested to provide a written statement, but will not be required to do so. Any employee possessing information about illegal discrimination in the workplace, whether directed at the employee herself or himself, or directed at a co-worker, is encouraged to make any such information known to the Agency. Employees who do not wish to participate in an interview will not be required to do so. No employee complaining of illegal discrimination or providing information concerning incidents of illegal discrimination will be the subject of any adverse personnel action or retaliation.

In addition to the employee's right to file a complaint of illegal discrimination with the Agency under this procedure, Agency employees also have the right, separate and apart from the Agency's policies and procedures concerning illegal discrimination claims, to file claims of illegal discrimination under federal, state and/or local law. Employees seeking to file a claim of illegal discrimination under these laws may contact the New York State Division of Human Rights ("NYSDHR"), the local office of the federal Equal Employment Opportunity Commission ("EEOC"), or a private attorney for guidance concerning their rights.

The Agency will take all appropriate action to prevent illegal discrimination from occurring in the workplace and will take all necessary steps to ensure that any established occurrence of illegal discrimination has permanently ceased and will not reoccur in the future. These may include a number of remedial actions including, but not limited to, appropriate administrative action or pursuing disciplinary action against any employee engaging in conduct violating the Agency's prohibition on illegal discrimination in the workplace.

Employees having any questions concerning the Agency's prohibition against illegal discrimination in the workplace or the procedures described in this policy and procedure are encouraged to direct any such questions to the Director of Human Resources or the Equal Opportunity Officer.

This policy and procedure shall apply to all employees, part-time employees, seasonal employees, temporary employees, officers, Members and interns of the Agency and the term "employee", for the purposes of this policy and procedures, shall include all of the foregoing positions.

5. Agency Policy: Drug and Alcohol Free Workplace

INTER-OFFICE MEMORANDUM

TO: All Staff

FROM: Michael Dalley 

SUBJECT: Agency Policy: A Drug and Alcohol Free Work Place

DATE: January 6, 2005

The Federal Drug Work Place Act of 1988 mandates that recipients of Federal Funds provide a Drug Free Work Place. In addition, current State policy prohibits the use of or impairment from alcohol while on the job. The Agencies will, as part of a Drug-Alcohol Awareness Program, provide employees upon request with information pertaining to Drug & Alcohol related problems.

It is the policy of the New York State Housing Finance Agency and the State of New York Mortgage Agency that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is strictly prohibited in Agency work places. This prohibition includes operating Agency vehicles under the influence of alcohol or a controlled substance, while either on or off duty. Possession or consumption of alcohol is also prohibited in Agency work places except when in connection with appropriately authorized scheduled activities. Actions will be taken against employees for violation of these prohibitions.

Employees of the Housing Finance Agency and the State of New York Mortgage Agency will be subject to criminal, civil, and disciplinary penalties for the use, distribution, sale, attempt to sell, possession or purchase of a controlled substance while at the work place or while performing work related duties.

An employee who is judged, based upon a reasonable suspicion, to be unable to perform his or her duties as a result of a disability, which may be caused by alcohol or a controlled substance, may be required to undergo medical examinations to ascertain the cause of the disability.

In accordance with the Federal Drug Law, employees, **as a condition of their employment**, are required to abide by the terms of this policy and to notify the Human Resources Director of any criminal drug statute conviction for a violation occurring in the work place or at a work site, no later than five days after such conviction. Under Federal Law, this requirement of notification is a condition of the Agencies eligibility to receive substantial amounts of Federal assistance in the form of grants. The notification procedure relates only to conviction not arrests. Employees should be aware that Federal Law requires the Agencies to report such convictions to the Federal Agency providing funds within ten (10) days of receiving notice of such convictions.

Within 30 calendar days of receiving such notice, the Agency must take appropriate personnel action against such an employee, up to and including termination; or by requiring such employee

to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate bodies.

This policy reflects a combination of both State and Federal requirements applicable to the Agencies.

6. Information Systems Policies

**New York State Housing Finance Agency
State of New York Mortgage Agency
New York State Affordable Housing Corporation**

INFORMATION SYSTEMS

POLICIES

August 21, 2000

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND POLICY STATEMENT CONCERNING USE OF AGENCIES' INFORMATION SYSTEMS RESOURCES	3
II. BUSINESS AND PERSONAL USE OF AGENCIES' INFORMATION SYSTEMS RESOURCES	4
A. Business Purpose	4
B. Personal Use By Employees	4
III. COMMUNICATIONS	5
A. Generally	5
B. E-mail Policy	5
C. Unauthorized Third Party Communications Using The Agencies' Information Systems Resources	6
D. Internet Use By Employees	6
IV. SYSTEM CARE AND SECURITY	7
A. Protection And Care Of Equipment	7
B. User ID And Passwords	7
C. Portable Equipment	8
D. Remote Access	8
E. Software	9
1. Agencies' Oversight	9
2. Licensing/Copyright Protection	9
3. Agencies' Owned Software	10
F. Agencies' Data	10
V. IMPROPER CONDUCT	10
VI. AGENCIES' MONITORING OF EMPLOYEE USE AND CONDUCT	12
Attachment A - Agencies' E-mail Policy	

I. INTRODUCTION AND POLICY STATEMENT CONCERNING USE OF AGENCIES' INFORMATION SYSTEMS RESOURCES.

The Agencies' information systems resources ("Information Systems Resources") are the exclusive property of the Agencies, and are made available to employees as a tool in conducting the Agencies' business. The New York State Housing Finance Agency, New York State Affordable Housing Corporation, and The State of New York Mortgage Agency ("Agencies/Agency") depend on their information systems to carry out their missions. The purpose of these Policies is to ensure that the integrity of the Agencies' Information Systems Resources is maintained at all times, and that they are properly used by the Agencies' staff.

These Policies also have the purpose of placing all employees on notice that use of the Agencies' information systems is not private and is subject to monitoring by authorized Agencies' personnel and agents. Failure to adhere to these Policies can result in disciplinary action up to, and including, discharge from employment. Abuse-free, smooth and efficient information systems can only be achieved with the full cooperation of the entire Agencies' staff.

The Agencies' Information Systems Resources are administered and supervised by the Chief Operating Officer of the Agencies. The Management Information Systems ("MIS") Unit maintains all of the Agencies' information systems except the telephones, facsimile machines and voicemail, which are maintained by the Facilities Management and Administrative Services Unit ("Facilities Management"). The MIS Unit maintains only the Agencies' information systems and does not assist employees with their own personal computer equipment and software.

These Policies may be revised and supplemented on an as needed basis as determined by the Agencies.

These Policies apply to all Information Systems Resources in use at the Agencies. Information Systems Resources include, but are not necessarily limited to:

- **hardware** - Computer, communication and other electronic equipment used for the processing, communication or storage of data. This includes, but is not necessarily limited to, PCs, file servers, printers, tape drives, scanning equipment, facsimile machines, photocopiers, telephones, portable computing equipment (laptop computers, hand-held computers, etc.), pagers, modems and two-way radios.
- **software** - Programs, programming languages, instructions, or routines, which are used to perform work on a computer and to electronically input, access, process and retrieve information. This includes, but is not limited to, software that is purchased, licensed, or developed in-house.
- **data** - Data is any kind of information. It includes, but is not limited to, information that is stored on or accessible through a computer or electronic device and can take the form of records, numeric, textual, video or graphical material. Data includes, but is not necessarily limited to, word-processing files, spreadsheet files, database files, audio

files, pictorial video files, animation files, calendar files,, the Agencies' Web sites, faxes and voicemail messages.

- **storage media** - Storage media are any devices utilized to electronically store data. Storage media include, but are not necessarily limited to, fixed disk drives, removable disk drives, tapes, memory, back-up devices, CDs, and diskettes.
- **e-mail** - Written, graphical, audio, video or other information messages transmitted through electronic means. This includes, but is not limited to, messages sent and received by the Agencies' in-house e-mail system, which is GroupWise, as well as all messages sent and received over the Internet or via any other electronic communications medium.
- **information services** - Information services are any paid or unpaid services that provide information and are accessed through electronic means. They include, but are not necessarily limited to, the Internet, LRS, Lexis/Nexis, Westlaw, Telerate and alike.
- **Internet services** - Access to the World Wide Web through the use of electronic means.
- **computer network** - The hardware, software, data, storage media and services.

II. BUSINESS AND PERSONAL USE OF AGENCIES' INFORMATION SYSTEMS RESOURCES.

A. Business Purpose.

The Agencies' Information Systems Resources are to be utilized by employees to conduct the Agencies' business. Non-business use of the Information Systems Resources is expressly prohibited, except as specifically provided in these Policies. All employees must consistently exercise sound judgment in the use of the Agencies' Information Systems Resources, and must consistently use them for all purposes in a responsible, professional, ethical, and lawful manner. When employees are logged into the Agencies' Information Systems Resources from any location, employees are specifically prohibited from engaging in any communications or activities that violate these Policies or are improper or inappropriate. Employee use of the Agencies' Information Systems Resources, both for business and personal use, is conditional and a privilege, not a right. The Agencies expressly reserve the right, in their sole discretion, to determine employees' eligibility to utilize the Agencies' Information Systems Resources, or any part thereof, as well as the nature and extent of their utilization. The Agencies further reserve the right, in their sole discretion, to revoke or modify employees' usage privileges at any time.

B. Personal Use By Employees.

Personal use of the Agencies' Information Systems Resources is any use other than use for the Agencies' business. Personal use of the Agencies' Information Systems Resources is permitted only on a limited basis and never during working time. Such conditional personal use is accorded to employees by the Agencies as a privilege and accommodation, and is subordinate and subject to all business use

and the needs of the Agencies. Personal use can be revoked at will at any time by the Agencies. Personal use of the Agencies' Information Systems Resources, except the telephone system and voicemail (discussed below), must be authorized in advance by the employee's Department Head both as to time and usage. Personal use of Information Systems Resources cannot interfere with the Agencies' ability to conduct its business, and cannot violate other rules, regulations, policies and procedures governing employee conduct in the workplace. Personal use must be in strict accordance with these Policies and additional rules and procedures established by the Chief Operating Officer, the Chief Technology Officer, and the employee's Department Head; must not interfere with productivity or constitute a nuisance or distraction to the orderly conduct of the Agencies' business; cannot consume significant system resources or storage capacity; involve large file transfers; or otherwise materially deplete system resources. No personal data of any nature whatsoever shall be saved or otherwise stored in any manner on the Agencies' equipment, except as specifically authorized in advance by the employee's Department Head.

Personal use of the Agencies' telephone system and voicemail should be kept to a minimum and restricted to lunchtime and breaks wherever possible. Reimbursement is required for such things as personal long-distance telephone calls and fax usage. The Agencies may monitor telephone usage for both excessive personal usage and compliance with these Policies.

III. COMMUNICATIONS.

A. Generally.

These Policies cover all communications transmitted or received electronically over or through the Agencies' Information Systems Resources, including but not limited to, computers, telephones, and facsimile machines. Employees are reminded that communications transmitted electronically are also covered by all other Agencies' policies and procedures that apply to the content of the communications in general, including but not limited to, sexual harassment policies, e-mail policy, external communications procedures, prohibitions on political use and unauthorized use of the Agencies' name. Communications and transmissions, the content of which violate these other policies and procedures, constitute improper use of the Agencies' Information Systems Resources.

B. E-mail Policy.

The Agencies' e-mail policy, as originally distributed on October 11, 1996 and clarified on November 9, 1998, is set forth in its entirety in Attachment A of these Policies. The Agencies' e-mail policy remains in full force and effect. Violations of the Agencies' e-mail policy also violate these Policies.

C. Unauthorized Third Party Communications Using The Agencies' Information Systems Resources.

Electronic communications to third parties (other than those third parties with whom an employee does business in the ordinary course of legitimate Agencies' business) via the Agencies' Information Systems Resources, including but not limited to e-mails and instant messages, may also be covered by the Agencies' external communications and legislator and public official contacts policies. These policies are maintained in the Legal Department, which should be consulted concerning external or other third party communications utilizing the Agencies' information systems, including Internet and e-mail communications. Transmissions of electronic communications, the content of which violate these other policies and procedures, constitute improper use of the Agencies' Information Systems Resources.

D. Internet Use By Employees.

The Internet is a powerful communications tool and a valuable source of information relating to the Agencies' business. Access to the Internet is afforded to certain employees in order to conduct the Agencies' business. Time spent on the Internet for any personal use during work-time is prohibited. Non-business personal use of the Internet is strictly limited to breaks and lunch periods with the prior approval of the Department Head. The Agencies monitor Internet access and use of its equipment for compliance with these Policies.

Employees are prohibited from utilizing the Agencies' Internet access for the purpose of engaging in business other than that of the Agencies. Such prohibited use includes, but is not limited to, security trading, active investment activity, shopping, or any other business for personal profit. Employees are expressly prohibited from visiting inappropriate sites such as sexually graphic, lewd, lascivious or pornographic sites; sites which promote or involve hatred, violence or discrimination; sites permitting sounding off in public forums; inappropriate newsgroups; any sites having a political affiliation or subject matter in furtherance of a political position; chat rooms or any other site the visiting of which is inconsistent with proper and professional public employee conduct at work. Internet usage is no different from any other work functions and is subject to all other Agencies' rules, regulations, policies and procedures governing employee conduct.

The Internet is a worldwide network of computers that contains millions of pages of information. Users are cautioned that many of these pages include offensive, sexually explicit, and other inappropriate material. Users accessing the Internet for personal use do so at their own risk. The Agencies are not responsible for any material viewed or downloaded by users of the Internet.

Information sent or received over the Internet is not confidential or secure. In addition to the Agencies' monitoring of Internet traffic, there are a variety of ways an Internet communication can be disclosed to people other than the intended recipient.

IV. SYSTEM CARE AND SECURITY.

A. Protection And Care Of Equipment.

Damage to equipment causes disruption to the Agencies' business, the employee and the MIS technical support staff. The Agencies require that all employees take the following precautions:

- Keep food and drink away from computers and other equipment.
- Use care in handling portable storage media (diskettes, etc.) and other portable equipment.
- Take reasonable measures to keep equipment clean and dust free.

B. User ID And Passwords.

The Agencies' Information Systems Resources require that each user have one or more User IDs. Typically, each User ID is associated with individual passwords. Separate User IDs are used to access the Agencies' overall computer network as well as individual components on the network. The User ID provides functional access to software that is specifically based on each User ID. The misuse of a User ID may constitute forgery and misrepresentation. Improper conduct includes, but is not limited to, the following:

- Allowing an unauthorized individual, including but not limited to anyone not employed by the Agencies, access to a User ID and password.
- Sharing a User ID or password with another staff member unless authorized in advance, in writing, by the Chief Technology Officer.
- Using another user's ID or password even if the individual has neglected to safeguard his or her User ID and password.

Employees are responsible for maintaining the security and secrecy of their individual passwords. Employee misconduct or negligence in maintaining the security and secrecy of passwords may result in disciplinary action up to and including termination from employment. Passwords should never be written down and stored in a location that is accessible to others. The Agencies' computer network will require that each user change his or her sign-on password every 90 days. Other specialized passwords must also be changed on a periodic basis. Alphanumeric passwords should be used rather than passwords that are exclusively numbers or letters. The MIS Unit will notify users when certain specialized passwords must be changed. Failure to cooperate fully with MIS in changing the password may result in denial of access.

Occasionally, due to an error, a user may have access to a system or directory for which the user is not authorized. When this occurs, it is the user's responsibility to inform MIS management immediately so that corrective action may be taken.

There are additional precautions that each user should take in order to secure access to his or her PC. These precautions include:

- Using a password protected screen saver on the PC at all times. The screen saver should be set to activate after five minutes.
- Signing off all application systems and shutting down the PC each night when leaving the office. Each user must also sign off from all systems and log out of the network when the computer is unattended or not going to be used for an extended period of time during the day.

C. Portable Equipment.

Portable computer equipment, cellular telephones, hand-held computers, two-way radios and other business equipment are issued by the Agencies to employees who have obtained the prior written approval of the Department Head and the Chief Technology Officer for short-term use of computer equipment (i.e. overnight or the weekend); the Department Head and the Vice President of Facilities Management for short-term use of other portable equipment (i.e. cellular phones); and the Department Head and the Chief Operating Officer for long-term use of any portable equipment. All portable equipment must be returned in a timely manner. Once issued to an employee, portable equipment is the sole responsibility of the employee until returned to the custody of the Agencies. Employees issued portable equipment are responsible for the safety of the equipment and may be held liable for the cost of repair or replacement due to the employee's negligence. To avoid such liability:

- the user must ensure that all portable equipment (i.e., laptop computers, portable printers, cellular telephones, cameras, two-way radios, etc.) is placed in a secure area where the opportunities for theft are minimized;
- the user must keep confidential data and programs stored on diskettes, CDs and other storage media in a secure location where the opportunities for theft are minimized;
- the user must ensure that only authorized Agencies personnel have access to portable equipment and media;
- the user must take such other actions that are reasonably necessary to ensure that the equipment and media are not damaged, stolen or destroyed.

D. Remote Access.

Remote access of the Agencies' voicemail is available to all employees. Remote access of all other of the Agencies' Information Systems Resources is available to certain employees on a restricted basis, and only with the express written permission of the Department Head and the Chief Technology Officer. Unauthorized accessing of Agencies' Information Systems Resources through communication lines or otherwise is expressly prohibited.

E. Software.

1. Agencies' Oversight.

Only software purchased or otherwise obtained by the Agencies is to be installed on the Agencies' equipment, except as otherwise provided in these Policies. Employees are prohibited from incorporating software from any sources whatsoever outside the Agencies into the Agencies' Information Systems Resources without the express approval of the Department Head and the Chief Technology Officer. This includes, but is not limited to, personal software, business-related software belonging to the employee, games, programs, software downloaded from the Internet and screen savers. In the event authorization is obtained for software installation on Agencies' equipment, a member of the MIS Unit must complete the installation. Any software installed on the Agencies' equipment in violation of these Policies may be removed by the Agencies without notice. Properly authorized software that creates system problems or is used by an employee in a manner that violates these Policies or is otherwise inappropriate may also be removed by the Agencies without notice.

Employees are prohibited from copying Agencies-developed or licensed software from one computer to another without the prior written authorization of the Chief Technology Officer. Employees shall not in any manner alter or otherwise modify the network configurations, settings, preferences, set-up or overall operation of any Agencies' software, except as permitted by the Chief Technology Officer.

The Agencies' Information Systems Resources, or any part thereof, shall not be removed from the Agencies unless they are being used to conduct Agencies business and their removal has been authorized in advance in writing by the Chief Technology Officer.

2. Licensing/Copyright Protection.

The Agency's use or purchase/acquisition of hardware and software is conditioned on acceptance and agreement of licensing agreements and provisions of copyright laws. Licensing agreement(s) and or laws, which all computer users must adhere to, are found directly on the equipment or in accompanying software or hardware manuals. Material subject to licensing agreement(s) and/or copyright laws may be found on the Internet. Licensing agreement(s) and/or copyright laws generally prohibit the copying of programs for use on other computer installations. It is prudent to treat all software and other third party material as subject to agreement on use and/or copyright. All employee usage of the Agencies' Information Systems Resources shall be in strict accordance with applicable licensing agreements and copyright protections, and employees shall not engage in any conduct that creates liability to the Agencies for breach of these agreements or violations of law.

Certain software manuals may be borrowed from the Agencies' resource library for limited periods of time. Employees wishing to use the manuals should contact the MIS Help Desk.

3. Agencies' Owned Software.

Any software developed by an Agencies' employee through the use or means of the Agencies' Information Systems Resources is the exclusive property of the Agencies and is not to be sold or given to any person or organization without the prior written authorization of the Agencies' Chief Operating Officer.

F. Agencies' Data.

Except as otherwise determined by the Chief Technology Officer, all data owned by the Agencies or produced or generated by an employee on Agencies' equipment shall be stored on the centralized computer network. No such data is permitted to reside exclusively on the user's PC or individual data storage media without prior authorization from the Chief Technology Officer. Upon separation from Agencies' service or transfer to another assignment within the Agencies, employees shall not move or transfer any of the Agencies' data without the authorization of the Department Head and the Chief Technology Officer.

V. IMPROPER CONDUCT.

Improper conduct with respect to employee use of the Agencies' Information Systems Resources is strictly prohibited. Improper conduct includes, but is not limited to, the following:

- Using the Agencies' Information Systems Resources for personal use of any kind during working time or without the prior approval of the Department Head;
- Failure to adhere to the usage rules established by these Policies, the usage rules established by the Department Head, the Chief Technology Officer and the Chief Operating Officer;
- Utilizing the Agencies' Information Systems Resources for an unauthorized, unlawful or improper purpose, or a purpose prohibited by Agencies' rules, regulations, policies and procedures;
- Engaging in improper, illegal, fraudulent or malicious conduct, or using Agencies' Information Systems Resources in the commission of a crime;
- Utilizing the Agencies' Information Systems Resources to disparage the Agencies in any way or harm their reputations;
- Abusing or harassing another employee through the use of the Agencies' Information Systems Resources;
- Sending, receiving, storing, browsing or viewing material that is improper, illegal, discriminatory, harassing, defamatory, obscene or in any manner inappropriate or inconsistent with the professional standards of the Agencies;
- Visiting Web sites which are, in the sole opinion of the Agencies, inappropriate;
- Visiting and or participating in Web sites which promote or involve hatred, violence, discrimination or are sexually explicit, pornographic or the like;

- Knowingly accepting or using software, including but not limited to unlicensed software, or data which has been obtained by illegal or improper means;
- Unauthorized copying of software owned by or licensed to the Agencies;
- Obtaining, providing or using another employee's password without explicit authorization of the Department Head and the Chief Technology Officer;
- Installing software of any kind, including but not limited to screen savers, on the Agencies' computer network without the express written authorization of the Department Head and the Chief Technology Officer;
- Modifying any network configurations without the prior written approval of the Chief Technology Officer;
- Storing, saving or otherwise retaining on the Agencies' Information Systems Resources any personal data or information;
- Attempting to test, circumvent, or defeat security, firewalls, auditing systems, or protective features of the Agencies' Information Systems Resources or those of any other organization;
- Attempting to remove, modify, tamper with, damage, sabotage, vandalize or disrupt in any way the operation of the Agencies' Information Systems Resources including but not limited to, computer equipment, data communications equipment or data communications lines;
- Using the Agencies' Information Systems Resources for dissemination or storage of commercial or personal advertisements, solicitations, promotions, destructive programs (viruses or self-replicating codes), political material, or any other unauthorized use, including the unauthorized dissemination of any Agencies' information including but not limited to, trade secrets, confidential or proprietary material, e-mail addresses, and staff lists;
- Misusing, or using without proper authorization from the Department Head, paid information services such as Lexis/Nexis and other paid information services;
- Modifying or attempting to modify software developed by or licensed to the Agencies without prior written authorization of the Chief Technology Officer;
- Unauthorized attempts to access, remove, copy or modify data files, databases, directories or software programs;
- Removing Information Systems Resources computer equipment, or any part thereof, from the Agencies' premises without prior written authorization from the Chief Technology Officer;
- Utilizing Agencies' Information Systems Resources for the purpose of engaging in business other than the Agencies' business. This includes, but is not limited to, securities trading and other activity for personal profit;
- Using Real Player, Microsoft Video Clips or any other Internet-based audio and video

services for purposes other than the Agencies' business;

- Unauthorized transmission of personal instant messages or other communications not relating to the Agencies' business;
- Violations of the Agencies' e-mail policy;
- Bulk e-mailing, faxing, voice mailing or other electronic communication not authorized by the Department Head;
- Electronic transmissions of messages including, but not limited to, e-mails or instant messages that violate the Agencies' policies and procedures governing external communications;
- Requesting the Agencies' Information Systems Resources including, but not limited to, technical assistance from MIS technicians under false pretenses or requesting MIS assistance with respect to an employee's personal computer equipment or software.

Any violation of these Policies (as amended from time to time) as well as additional rules and regulations governing usage established by Department Heads, the Chief Technology Officer or the Chief Operating Officer may result in the suspension from use of the Agencies' Information Systems Resources, and disciplinary action, up to and including termination from employment. Employees are encouraged to report suspected misconduct and/or inappropriate computer use to the Personnel Unit.

VI. AGENCIES' MONITORING OF EMPLOYEE USE AND CONDUCT.

Any and all data stored on or transmitted through the Agencies' Information Systems Resources are not private and are the exclusive property of the Agencies. All data stored on or transmitted through the Agencies' Information Systems Resources is expressly subject to monitoring, review, reading and analyzing by authorized Agencies' management and its agents. This includes data stored on any medium or in any format of the Information Systems Resources including, but not limited to, fixed disk drives, removable disk drives, CDs, magnetic tape and diskette, e-mails and voicemails. This also includes data stored or retrievable from any Agencies' location including, but not limited to, network file servers, the user's desktop PC, and portable computing equipment (laptops, etc.), or information transmitted or sent through the Internet. Any activity engaged in by an employee on an Agencies' computer, using Agencies' software, or through Agencies' access lines, including the Internet and communication lines, is subject to monitoring and review by the Agencies to the full extent permitted by law and in accordance with Agencies' policies and procedures. Employees have no expectation of privacy in any computer-related activities, and the MIS Unit conducts periodic reviews of computer activities and files stored on the system. Telephone communications may be monitored for business use to ensure good service, or based upon a reasonable suspicion of misconduct.

Attachment A

**NEW YORK STATE
HOUSING FINANCE AGENCY**

**STATE OF NEW YORK
MORTGAGE AGENCY**

Inter-Office Correspondence

To: Agency Staff
From: Ralph J. Madalena  **Date:** November 9, 1998
Subject: Use of Agencies' E-mail System

Staff is reminded that the Agencies' e-mail system is for the purpose of conducting the Agencies' business and carrying out employees' work related duties; it is not for personal use. Messages on the Agencies' e-mail system or other information on the Agencies' computers are not private and are subject to inspection and monitoring by the Agencies at any time. You should be aware that the Agencies' MIS Department possesses the capability to monitor intra-agency e-mail, as well as incoming and outgoing transmissions. The MIS Department monitors e-mail transmissions where suspicion of abuse or violation of the Agencies' e-mail policy is determined to exist. Any use of the e-mail system or materials with content which is illegal, violates standing Agency policies, is disruptive, inappropriate or offensive is not permitted.

Recent monitoring of the Agencies' e-mail system by the MIS Department has revealed some apparent misunderstandings and/or violations by employees of the Agencies' e-mail policy. For purposes of clarification and the avoidance of future problems, a copy of the Agencies' e-mail policy is attached. Please read it carefully and adhere to it so as to avoid the many and potentially serious consequences of violating the Agencies' policy concerning e-mail use. Employees are specifically cautioned that, as clearly stated in the attached policy, violations may result in disciplinary action.

You will note that the policy provides procedures for disseminating messages that are not strictly work-related, such as announcements and lost and found information. Please adhere to those procedures.

Also, for the protection of everyone and for the sake of a proper working environment, everyone should be conscious of the propriety of any and all messages they send *or receive* on the e-mail system whether such messages are in furtherance of the Agencies' business or pertain to non-work related matters. Employees are expected to immediately report any inappropriate messages received to the MIS Department.

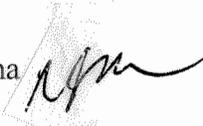
Finally, employees are reminded that the Agencies' e-mail system, including the listings of e-mail addresses of its employees, are the property of the Agency and such e-mail addresses are not to be provided to any person, entity or organization without the prior express written approval of the Chief Operating Officer.

**NEW YORK STATE
HOUSING FINANCE AGENCY**

**STATE OF NEW YORK
MORTGAGE AGENCY**

Inter-Office Correspondence

To: All Staff

From: Ralph J. Madalena  Date: October 11, 1996

Subject: Agency Policy with respect to use of electronic mail.

Transmitted herewith for your attention is the Agencies' electronic mail ("e-mail") policy. This policy incorporates and more fully expresses previously applicable practice and procedures as well as incorporating a number of technical updates.

There are certain aspects of the policy which need to be highlighted as follows.

The Agencies' e-mail system is for the purpose of conducting the Agencies' business and carrying out employees' work related duties; it is not for personal use. Employees should refrain from sending information of a personal nature on the e-mail system. Unauthorized use of the Agencies' systems may be subject to disciplinary proceedings.

Messages on the e-mail system or other information on the Agencies' computers are *not private* and are subject to inspection and monitoring by the Agencies at any time, and the same may be subject to further disclosure as determined by the Agencies.

You will note that the policy provides procedures for disseminating messages which are not strictly work related such as birth announcements and lost and found information. Please adhere to those procedures.

In addition, you are reminded that the Agencies have bulletin boards available for personal messages located in both cafeterias.

New York State Housing Finance Agency State Of New York Mortgage Agency

Electronic Mail Policy

Purpose and Goals

Electronic mail ("e-mail") is one of HFA's and SONYMA's core internal and external communication methods for conducting the business of the Agencies. The e-mail software presently in use at the Agencies is called GroupWise. The purpose of this policy is to ensure that e-mail systems used by Agency staff support Agency business functions to their fullest capacity. This policy advises staff and management of their responsibilities and provides guidance in managing information communicated by e-mail.

Access to E-mail Service

E-mail service is provided to all HFA/SONYMA staff upon their start of employment at the Agency. To request any changes to e-mail access, prepare an MIS Access Request form and forward it to MIS. To obtain an Access Request form, call the MIS Help Desk (ext. 767).

Use of E-mail

E-mail service, like other means of communication is to be used to support Agency business. Staff may use e-mail to communicate informally with others in the Agency with respect to the matters of Agency business so long as the communication meets professional standards of conduct. Staff may use e-mail to communicate outside of the Agency when such communications are related to legitimate business activities and are within their job assignments or responsibilities. When using the e-mail system for any such permitted purpose employees should avoid transmission of offensive and unprofessional communications, including but not limited to; those of an ethnic or racial nature, off-taste comments about others or matters such as sex, characterizations which could be considered defamatory, or the like.

Staff **may not use** e-mail for illegal, disruptive, unethical or unprofessional activities or for personal gain or for any purpose that would jeopardize the legitimate interests of the State. Unauthorized use of the Agencies' system or use of the system for other than Agency purposes may be subject to disciplinary proceedings.

Privacy and Access

E-mail messages are **not** personal and private. E-mail system administrators will **not** routinely monitor individual staff member's e-mail and will generally take reasonable precautions to protect the privacy of e-mail from co-workers. However, department managers and technical staff may access an employee's e-mail for various reasons, including but not limited to:

- for a legitimate business purpose (e.g., the need to access information when an employee is absent for an extended period of time);
- to diagnose and resolve technical problems involving system hardware, software, or communications; and/or
- to investigate possible misuse of e-mail or other matters when a reasonable suspicion of abuse exists or in conjunction with an approved investigation.

Except as provided above, staff members are prohibited from accessing other user's e-mail without that user's permission. E-mail messages sent or received in conjunction with Agency business may:

- be releasable to the public under the Freedom of Information Law;
- require special measures to comply with the Personal Privacy Protection Law.

Everyone should be aware that all e-mail messages may be subject to discovery proceedings in legal actions.

Security

E-mail security is a joint responsibility of Agency technical staff and e-mail users. Users must take all reasonable precautions, including safeguarding and changing passwords (if used), to prevent unauthorized use.

Management and Retention of E-mail Communications

- Applicable to all e-mail messages and attachments:

Since e-mail is a communications system, messages should not be retained for extended periods of time. Users should remove all e-mail communications in a timely fashion. If a user needs to retain information in an e-mail message for an extended period, he or she should transfer it from the e-mail system to an appropriate electronic or other filing system (such as WordPerfect). Although GroupWise has a file folder system, that system is **not** an appropriate permanent filing system for this purpose. Unlike WordPerfect files, individual messages stored in GroupWise folders cannot now be restored from Agency backup tapes. If an individual message is inadvertently deleted from GroupWise, it can be recovered from the GroupWise "trashbin" for 30 days. After that it is purged from the system.

- Applicable to **records** communicated via e-mail:

E-mail created in the normal course of official business and retained as evidence of official policies, actions, decisions or transactions are records subject to records management requirements under the appropriate statutes and specific program requirements.

Examples of messages sent by e-mail that typically are **records** include:

- policies and directives,
- correspondence or memoranda related to official business,
- work schedules and assignments,
- agendas and minutes of meetings,
- drafts of documents that are circulated for comment or approval,
- any document that initiates, authorizes or completes a business transaction,
- final reports or recommendations.

Some examples of messages that **typically do not constitute records** are:

- informal messages and announcements,
- copies or extracts of documents distributed for convenience or reference,
- phone message slips,
- announcements of social events (which should be properly disseminated in accordance with this policy as provided further herein).

Record Retention

Records communicated using e-mail need to be identified, managed, protected, and retained as long as they are needed to meet operational, legal, audit, research or other requirements. Records needed to support program functions should be retained, managed and accessible in an existing filing system **outside the e-mail system** in accordance with the department's standard practices (e.g., a department standard might be to save all board related documents in a shared WordPerfect directory under a standardized name).

Users should:

- dispose of copies of records in e-mail after they have been filed in a record keeping system;
- delete records of transitory or little value that are not normally retained in record keeping systems as evidence of Agency activity.

Roles and Responsibilities

Agency senior management will ensure that policies are implemented by the departments. **Department managers** will develop and/or publicize record keeping practices in their area of responsibility including the routing, format, and filing of records communicated via e-mail. They will also train staff in the appropriate use of e-mail.

MIS network administrators are responsible for e-mail security, backup, and changes to the overall network e-mail system.

Dissemination of Non-business Communications

There are times when there is information of a personal nature which generally affects a large number of employees and which may require a wide dissemination; announcements of births, deaths, marriages, the appearance of an Agency employee in a news event, solicitations, and the like. Such information, if deemed appropriate by the Agency, may be distributed to Agency employees at large through the "Bulletin List" on the e-mail system **after approval by the Agencies' Personnel Department to whom you are directed to submit the information for review.** Reminder: If you want to be deleted from the "Bulletin List" mailing list you should contact MIS.

The e-mail is also sometimes used for lost-and-found purposes. If you would like an e-mail message disseminated for lost-and-found purposes, **please contact the Facilities and Administrative Services Department which administers the Agencies' Lost-and Found.**

If there is an Agency related social event, birthday party, bridal shower, Holiday party or similar event, about which you would like to issue information **please contact the Chief Operating Officer or designee for permission to use Agency e-mail for such specific purpose.**

All e-mail users should:

- Be courteous and follow accepted standards of etiquette.
- Protect others' privacy and confidentiality.
- Consider organizational access before sending, filing, or destroying e-mail messages.
- Protect their passwords (if used).
- Remove informal messages, transient records, and reference copies in a timely manner.
- Comply with Agency and department policies, procedures, and standards.

Policy Review and Update

The Vice President of MIS unit will periodically review and update this policy as new technologies and organizational changes are planned and implemented. Questions concerning this policy should be directed to the Vice President of MIS.

***DOCUMENTS REFLECTING
AGENCY PRACTICES TO
ENSURE PROPER EMPLOYEE
CONDUCT***

7. Memo Furnished to new “Policy Maker” employees and recirculated periodically (approximately annually) to such employees with respect to required approval of “Outside Activities of Policy Makers”

NEW YORK STATE
HOUSING FINANCE AGENCY

STATE OF NEW YORK
MORTGAGE AGENCY

Inter-Office Correspondence

To: Attached Distribution
From: Justin E. Driscoll  **Date:** June 2, 2005
Subject: Outside Activities of Policy Makers

Note: It is the Agencies' practice to periodically remind personnel of their obligation with respect to outside activities.

Even if you are not engaged in any outside activity, under the Agencies' procedures, you are required to affirmatively certify such fact to the Agency.

In order to comply with the Agencies' policies regarding outside activities, you are requested to submit to me the items described below by June 13, 2005.

ADVISORY

You have been designated as a *Policy Maker* by the Agency for purposes of the State Ethics Law. As such, you are *prohibited* from engaging in certain outside activities and you are permitted to engage in certain other outside activities only after such activities have been approved by the Agency and, in certain instances, the State Ethics Commission. See 19 NYCRR Part 932 *et seq.* Upon changes which affect your outside activities status including any changes in your responsibilities here at the Agency, it is *your responsibility* to immediately notify the Agency.

Part I of this memorandum lists and describes prohibited outside activities.

Part II of this memorandum lists and describes outside activities which may be undertaken only after approval.

Part III of this memorandum describes Agency procedures for the approval of outside activities.

Please note that even if you are not engaged in any outside activity, that fact must be reported under the Agencies' procedures. You are required to affirmatively certify such fact to the Agency as described herein.

PART I: PROHIBITIONS.

1. Under New York State law, the following political activities are ***prohibited***.
Serving as:
 - a. an Officer of any political party or organization;
 - b. a Member of any Political Party Committee;
 - c. a Political Party District Leader; or
 - d. a Member of the National Committee of a Political Party.
2. You are ***prohibited*** from engaging in ***any*** activity which interferes or conflicts with your official Agency responsibilities.

PART II: ACTIVITIES REQUIRING APPROVALS.

You may engage in the following activities only after ***approval by the Agency***,¹ and in some cases, ***subsequent approval by the State Ethics Commission***.

1. Public or private employment, profession, business, or outside activity of any kind where the compensation is in excess of \$1,000 annually.
2. The holding of a public office (i.e., school board, zoning board, county legislature, or town council) even if no compensation is received.
3. Serving as a director or officer of a for-profit corporation or institution.
4. Any activity which, whether it directly interferes with or is in conflict with your official Agency responsibilities, raises any question of an appearance of impropriety or might engender public concern.

If you have any question about whether an activity is either prohibited or requires approval you should *consult* with me.

Supplying information about outside activities in your annual State Ethics Financial

¹ For illustrative purposes, attached is a list of activities that require Agency approval.

Disclosure Statement does not constitute obtaining approval and does not make a prohibited outside activity permissible.

Any outside activity approvals which may have been previously granted cease to be valid if your outside activity or your position and responsibilities at the Agencies change in any significant respect. If you are currently engaged in an outside activity which was previously approved by the Agencies please provide me with a copy of such approval. If you have any questions in this regard, you should *consult* with me.

Approval of an outside activity does not supersede the independent requirement applicable to all full-time employees of the Agencies that they are to devote themselves full-time during their assigned working hours to their Agency responsibilities.

Outside pursuits, such as writing articles for publication, teaching activities (including preparation therefor), participating in projects of continuing education, serving on professional committees and similar professional work shall must be done outside of regular working business hours unless undertaken with the express written authorization of the employee's supervisor, a copy of which is to be provided to the President and the Counsel and filed with the Personnel Office.

PART III: APPROVAL PROCEDURES.

Action if an approval is required.

If you are engaged in any outside activity requiring approval for which you do not have current and up-to-date approval, you should submit an outside activity approval request to me. I will review your request and make the appropriate recommendation to the President who will approve or disapprove such request on behalf of the Agency. Approved outside activity requests will be kept on file with the Personnel Office. Thereafter, you are required to update your outside activity request if either your outside activity or your position and responsibilities at the Agencies change in any significant respect. Again, if you have any questions in this regard, you should *consult* with me.

To make your request you should fill out and submit the applicable attached form to me **by June 13, 2005**:

1. **Form A:** Fill out and submit Form A if you believe that your outside activity may produce annual compensation of more than \$4,000.
2. **Form B:** Fill out and submit Form B if either: i) you believe that your outside activity will produce annual compensation which is equal to or less than \$4,000, or ii) there is any possibility that your outside activity could present the appearance of impropriety or might engender public concern (even if you are receiving no

compensation).

In each case, please provide (a) a copy of your "job duties and specifications" at the Agencies, and (b) a description of the outside activity (which might involve describing other job duties associated therewith). Unless accompanied by BOTH of these items, your outside activity request is not complete.

Depending on the outside activity, approval of the State Ethics Commission may also be required². If this is the case, if approved by the President, the Personnel Office will forward your approval request to the State Ethics Commission. (Please note that the Agency must approve your request prior to its submission to the State Ethics Commission. The Commission will not consider a request which has not been approved by the Agency.)

Action if no approval is required.

If you are engaged in any outside activity for which you have a current approval, please furnish me with a copy of such up-to-date approval together with your statement as to whether you believe there has been any significant change either with respect to your outside activity or Agency position and responsibilities since that approval was given.

Finally, if you are *not* engaged in any outside activity requiring approval please certify the same using "**Form C**" attached hereto and providing the same to me by **June 13, 2005**.

EXAMPLES OF OUTSIDE ACTIVITIES REQUIRING APPROVAL

1. If more than \$1,000 annual compensation is involved.
 - a. Acting as an executor, trustee or under a power-of-attorney.
 - b. Teaching.
 - c. Professional work such as accounting.
 - d. Writing articles.
 - e. Acting as a broker or receiving finder's fees.
 - f. Being on a board or part of a charitable endeavor.
 - g. Performing in a band or other performing act.
 - h. Selling art, handicrafts.
 - i. House painting, carpentry, etc.
 - j. Assisting a spouse or family member in a start-up business for which you are

² Those outside activities that must be referred to the State Ethics Commission include activities where: (a) the compensation is more than \$4,000 annually, (b) the activity involves serving as a director or officer of a profit motivated company or institution, or (c) the activity involves public employment or the holding of public office.

- both being paid.
- k. Renting out an apartment or apartments, even if such apartments are units within the building that provides the home you own, and even if after deducting associated expenses you are netting less than \$1,000 in profit. (i.e. use gross rent to determine whether the \$1,000 or \$4,000 annual threshold figure is exceeded.)
2. If less than \$1,000 annual compensation is involved.
 - a. Assisting a spouse or family member in a start-up business by serving as an officer or director of a newly formed company.
 - b. Serving as an officer or director for any other profit-motivated company.
 3. Even if no compensation is involved.
 - a. Providing volunteer assistance to a not-for-profit corporation, association or group, (such as a church, synagogue, or cultural institution with which you are affiliated), where there may be questions of involvement with Agency programs.
 - b. Assisting a spouse or family member in any venture where such family member or their associates will be appearing before the Agencies, or will be seeking business or funds from the Agencies or those agencies or firms with whom the Agencies have dealings.
 - c. Serving as a public official on a town council, school board, zoning board, or on the County Legislature.

FORM A

(more than \$4,000 in annual outside compensation)

STATE OF NEW YORK STATE ETHICS COMMISSION 39 Columbia Street Albany, NY 12207-2777

Outside Activity Request

NAME (LAST, FIRST, M.I.)

TITLE

STATE AGENCY

STATE AGENCY ADDRESS

HOME ADDRESS

All correspondence should be sent to my [] State Agency Address [] Home Address

This is a request for approval of:

[] the public office of: _____

[] private employment, engaging in a profession or business or other outside activity from which more than \$4,000 annual compensation would be received.

position and employer: _____

Does your private employment, profession, business or outside activity conduct any business with your employing state agency? [] YES [] NO

*If YES, attach a description of the activity.

[] my serving as a director or officer of a profit-making corporation or institution.

Corporation or institution name: _____

Does the corporation/institution conduct any business with your employing state agency? [] YES [] NO

*If YES, attach a description of the activity.

You MUST ATTACH a copy of your job duties and specifications to this request.

Signature X _____ Date _____

APPOINTING AUTHORITY CONSENT (MUST be completed by the appointing authority):

I give my consent to the above-stated outside activity, having determined that this request is appropriate, considering sections 73 and 74 of Public Officers Law, this agency's applicable policies, procedures or rules and regulations governing employee conduct, and other factors as (specify, if appropriate):

Multiple horizontal lines for providing details of the appointing authority's consent.

Authorized Signature X _____ Date _____

Title _____

FORM B

(between \$1,000 and \$4,000 in annual outside compensation)

STATE OF NEW YORK STATE ETHICS COMMISSION 39 Columbia Street Albany, NY 12207-2717

Outside Activity Request

NAME (LAST, FIRST, M.I.)

TITLE

STATE AGENCY

STATE AGENCY ADDRESS

HOME ADDRESS

All correspondence should be sent to my [] State Agency Address [] Home Address

This is a request for approval of:

[] the public office of: _____

[] private employment, engaging in a profession or business or other outside activity from which more than \$1,000 and less than \$4,000 annual compensation would be received.

position and employer: _____

Does your private employment, profession, business or outside activity conduct any business with your employing state agency? [] YES [] NO

*If YES, attach a description of the activity.

[] my serving as a director or officer of a profit-making corporation or institution.

Corporation or institution name: _____

Does the corporation/institution conduct any business with your employing state agency? [] YES [] NO

*If YES, attach a description of the activity.

• • • • •

You MUST ATTACH a copy of your job duties and specifications to this request.

Signature X _____ Date _____

APPOINTING AUTHORITY CONSENT (MUST be completed by the appointing authority):

I give my consent to the above-stated outside activity, having determined that this request is appropriate, considering sections 73 and 74, Public Officers Law, this agency's applicable policies, procedures or rules and regulations governing employee conduct, and other factors as (specify, if appropriate):

Multiple horizontal lines for providing details of consent.

Authorized Signature X _____ Date _____

Title _____

FORM C

No Outside Activity

Name: _____

Title: _____

Agency: _____

I hereby certify that I have received and read the Agencies' memorandum dated , entitled "Outside Activities of Policy Makers. I further certify that I am not engaged in any outside activity which requires the approval of the Agencies.

Signed: _____

Date: _____

8. Memo Respecting “Ethics Act: Receipt of Honoraria” to which all employees must respond annually in connection with reporting of Honoraria under State Ethics Law

**NEW YORK STATE
HOUSING FINANCE AGENCY**

**STATE OF NEW YORK
MORTGAGE AGENCY**

Inter-Office Correspondence

TO: Staff

FROM: Maria Berrios 

DATE: April 3, 2006

SUBJECT: Ethics Act: Receipt of Honoraria

The New York State Ethics Commission has issued regulations covering the Receipt of Honoraria (see 19 NYCRR § 930). The regulations apply to all Agency employees whether or not they have been designated policy makers for purposes of the State Ethics Law. Under the regulations, the receipt of certain honoraria is prohibited. Honoraria which is permissible to accept must be reported. In order to prevent problems from arising, it is recommended that employees always obtain Agency review and approval before accepting honoraria. Please note that employees are required to surrender honoraria they should not have accepted.

Definition of Honoraria. Honoraria consists of payments, gratuities or fees received for such things as making speeches or writing articles. In addition, honoraria would include receiving such payments, gratuities or fees in connection with receiving awards or honors. Honoraria may also include a payment to a lodging site or provider of transportation for travel expenses or reimbursement to the employee for travel expenses incurred for services rendered by the employee not related to the employee's official duties.

Prohibited Honoraria. The regulations *prohibit* the receipt of honoraria from any organization which has business with the Agencies or which is affected by Agency operations or which is involved in litigation adverse to the Agencies or which lobbies or attempts to influence the Agencies (a "Disqualified Source").

Permitted Honoraria. Honoraria which is permitted is honoraria received for service which is not a part of the duties of the position of the employee provided that: a) Agency personnel, equipment and time (including that of the employee) will not be used to prepare for delivery of a speech or to render services, b) the Agencies do not pay the travel expenses of the employee, c) the sole purpose of the travel was to perform the service for which honoraria was offered, and d) the service is not performed during the employee's work day or, if so, the employee must charge accrued

leave (other than sick leave).

Honoraria Reporting Requirements. *Employees who have received honoraria in the period from April 1, 2005 to April 1, 2006 must report all honoraria received to the Human Resources Department **no later than April 17, 2006.*** Employees are required to report the receipt of honoraria as provided herein whether or not they received prior Agency approval for the receipt thereof and whether or not the receipt of that honoraria was reported in the annual disclosure statement they may have filed with the Ethics Commission.

Non-Honoraria Reporting Requirements (Travel Reimbursement for Job-Related Activities). Conversely, please note that if payment or reimbursement of such travel expenses is made available for travel in relation to the employee's official duties (see 19 NYCRR § 930.6), making these payments *non-honoraria*, then three rules must be observed: a) no such payment or reimbursement must be accepted from a "Disqualified Source" as described above, b) the payment or reimbursement must be remitted to the Agencies if the Agencies are paying or reimbursing the employee for the same, and c) if the Agencies are not paying or reimbursing the employee for the same, the Agencies should nevertheless be approving these non-Agency funded travel reimbursements pursuant to the same procedures and standards the Agencies use to approve Agency funded travel reimbursement.

Pursuant to the regulations, the Agencies have the responsibility of filing all employee reports with the State Ethics Commission. Employees may be required to return a disapproved honorarium to the person or entity from whom it was received or turn it over to the Agencies or the State.

2005/2006 Annual Employee Honoraria Report forms are attached. If you have received any honoraria, please fill out the attached Form A and return it to Maria Berrios no later than **April 17, 2006.** If you have any questions concerning whether you have received any honoraria or if you feel you cannot execute the form as provided, please contact Michael D. D. White, the Agencies' Ethics Officer. **If you have received no honoraria during this period please execute and return the attached certification to that effect (Form B) by April 17, 2006.**

For your reference, please see the attachment provided by the State Ethics Commission entitled, "Commonly Asked Questions Concerning Honoraria."

Commonly Asked Questions Concerning Honoraria

1. Which of your employees are covered by the regulations?

All of your employees are covered irrespective of whether they have been designated as policymakers for the purpose of financial disclosure. See 930.2 (f).

2. How are employees to know about the honoraria reporting requirements?

Many State agencies send an annual notice to all employees reminding them of their obligation to seek approval of honoraria.

3. What is an honorarium?

An honorarium is generally a speaking fee or compensation received from writing an article, or reimbursement for travel expenses not related to official duties. See 930.2 ©).

4. Who has the responsibility for approving honoraria?

Agency heads or their designees are authorized by the Commission's regulations to approve an employee's request to receive honorarium. Agency heads must go to the Commission for honoraria approval.

5. What criteria are there for an agency to approve an employee's request to receive honorarium?

A. The honorarium must not be job related. For example, an employee who is responsible for responding to the public about certain aspects of the agency's regulations cannot accept an honorarium for giving a speech about the regulations.

B. The source of an honorarium cannot be a disqualified source; these are entities or individuals who are regulated by, negotiate with, appear before, lobby, in litigation with or applied for funds from your agency. See 930.3 (a)(1)(i)-(iv). Moreover, a disqualified source can not direct a third party to provide an employee honorarium.

6. What should you do if you are unsure of whether to approve an honorarium?

You should feel free to contact the Commission for assistance.

7. What is the reporting year?

April 1, 2005 - April 1, 2006

8. What happens if you have disapproved an employee's request to receive honoraria?

The report submitted to the Commission captures only honoraria approved by the agency. If you have disapproved an honorarium, but are otherwise concerned about the employee's activities, you should contact the Commission.

9. Are there any other reporting requirements?

For those employees who have been designated as policymakers or who earn in excess of the income threshold and are required to complete the financial disclosure statement, an honorarium received in excess of \$1000 must be reported on Question 13.

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
TOBACCO SETTLEMENT FINANCING CORPORATION

FORM A

ANNUAL HONORARIA REPORT FORM- HONORARIA RECEIVED¹
For Period From April 1, 2005 to April 1, 2006
(DATE DUE: April 17, 2006)

Employee Name: _____

Job Title: _____

Amount of honorarium: \$ _____ Date honorarium was received: _____
(Month/Day/Year)

Honoraria received: _____

Source of honorarium: _____

Place where service was performed: _____

Nature of service for which honorarium was received: _____

I hereby certify that:

1. I have received and read the Agencies' memorandum dated April 3, 2006, entitled "Ethics Act: Receipt of Honoraria." (Agency or Agencies refers to all Agencies referenced in the title to this form.)
2. The above provided information together with the other attached report sheets is an accurate and complete reporting of all honoraria I have received for the period set forth in this form.
3. The honorarium was not received from any organization which has business with the Agencies or which is affected by Agency operations or which is involved in litigation adverse to the Agencies or which lobbies or attempts to influence the Agencies.
4. The honorarium was received for service which is not a part of my duties or responsibilities as an employee or officer of the Agencies.
5. No Agency personnel, equipment and time (including that of the employee) was (or will be) used to prepare for delivery of a speech or to render services
6. The Agencies do not pay my travel expenses.
7. The sole purpose of the travel was to perform the service for which an honorarium was offered.
8. The service was not performed during my Agency work day or, if it was, I charged accrued leave (other than sick leave).

Employee Signature: _____ Date: _____

USE ONE FORM FOR EACH RECEIPT OF HONORARIUM
RETURN TO THE HUMAN RESOURCES DEPARTMENT

¹ If any Agency or Ethics Commission preapproval was obtained for the receipt of the honorarium reported as received herein, please feel free to reference and attach the pertinent documentation hereto.

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
TOBACCO SETTLEMENT FINANCING CORPORATION

FORM B

ANNUAL HONORARIA REPORT FORM- NO HONORARIA RECEIVED
For Period From April 1, 2005 To April 1, 2006
(DATE DUE: April 17, 2006)

Employee Name: _____

Job Title: _____

I hereby certify that I have received and read the Agencies' memorandum dated April 3, 2006, entitled "Ethics Act: Receipt of Honoraria." I further certify that I have not received any honoraria during the period April 1, 2005 to April 1, 2006.

I hereby further certify that I [check one]:

received travel-related reimbursement for job-related activities from any source outside the Agency in relation to my official duties during the period from April 1, 2005 to April 1, 2006.

did not receive travel-related reimbursement for job-related activities from any source outside the Agency in relation to my official duties during the period from April 1, 2005 to April 1, 2006.

Employee Signature: _____

Date: _____

..... RETURN TO THE HUMAN RESOURCES DEPARTMENT

9. Distributed Prescription for compliance with Executive Order No. 127 requirements and the “Lobbying Law Amendments” in effect with the enactment of Chapter 595 of the laws of 2005

All Agency employees are required to comply with the requirements of Executive Order Number 127 *Providing for Additional State Procurement Disclosure* ("EO 127") issued in 2003 by the Governor of the State of New York, and with the requirements set forth in Chapter 1 of the Laws of 2005 as amended by Chapter 596 of the Laws of 2005 (the "Lobbying Law Amendments").

EO 127

EO 127 increases disclosure requirements for persons and organizations contacting the Agency about certain procurement contracts. It requires the Agency to collect and record information from contractors seeking a procurement contract, and those who advocate on behalf of the contractors to influence procurement contracts.

In order to ensure that the Agency satisfies the requirements of EO 127, **all contractors and vendors, in connection with contracts to which EO 127 applies, are required to disclose in a designation filed with the Agency those *persons or organizations retained, employed or designated by the contractors or vendors to influence the procurement.*** The Agency is required to record any contacts by persons or organizations not previously designated by the contractor or vendor pursuant to the designations referenced above. **Any Agency employee who is contacted in an attempt to influence a procurement by a person NOT designated by a contractor or vendor under EO 127, is required to record such a contact, include it in the procurement record for such a procurement and provide the contact information to the Agency's Procurement Contract Officer. The list of persons designated by contractors and vendors under EO 127 is maintained by the Agency's Procurement Contract Officer.**

LOBBYING LAW AMENDMENTS

The Lobbying Law Amendments *require the Agency to designate specific Agency employees who are the only employees who can be contacted by outside parties attempting to influence an Agency procurement,* and to record any such contacts, either to those designated employees or to others not designated, between the time the Agency decides to undertake a procurement and the time the contract in connection with such a procurement is awarded (the "Restricted Period").

In order to ensure that the Agency satisfies the requirements of the Lobbying Law Amendments, for any contract made subject to the Lobbying Law Amendments, the Agency shall notify every potential contractor or vendor that the Agency has designated a Lobbying Reform Law Contact Officer who is the only Agency representative permitted to be contacted in an attempt to influence the procurement during the Restricted Period with respect to such Procurement. If any other Agency employees are contacted by outside parties during the Restricted Period in an attempt to influence the procurement, they are required to record those contacts and include them in the Procurement Record for that contract. **Any Agency employee who is contacted in an**

attempt to influence a procurement during the Restricted Period, is required to record such a contact, include it in the procurement record for such a procurement and provide the contact information to the Agency's Procurement Contract Officer.

**10. “Campaign Activities” memorandum
with respect to participation in political
campaign process**

**NEW YORK STATE
HOUSING FINANCE AGENCY**

**STATE OF NEW YORK
MORTGAGE AGENCY**

Inter-Office Correspondence

To: Staff

From: Justin E. Driscoll 

Date: January 17, 2006

Subject: Campaign Activities

As we are in the midst of the political campaign season, it is appropriate to remind everyone that, while free to participate in the political campaign process, Agency employees may engage in such activities only on their own time (even if that means using vacation time or arranging leaves of absence). There must be a clear delineation between political campaign activity and one's Agency position. Moreover, we caution Agency employees against utilizing their Agency titles in campaign literature.

Agency resources (including vehicles, offices, supplies, postage, photocopiers, computers and support staff) are for official Agency business and may not be used for other purposes, including political campaign activities. Solicitation of political contributions from subordinates is strictly prohibited, as is (with extremely limited exceptions), solicitation from those with whom Agency business is being conducted, or might be conducted. Furthermore, being a candidate for political office or volunteering for certain positions with campaigns can be a violation of the New York State Public Officers Law (§74) and/or the Federal Hatch Act (5 U.S.C.A. §1501). Care should be taken to avoid even appearances of impropriety or violations of the public trust.

Should you have any questions with respect to these issues please contact me, the New York State Ethics Commission ("Ethics Commission") at 1-800-87-ETHICS, or, with specific questions about the Hatch Act, the U.S. Office of Special Counsel at 1-800-85-HATCH. For your reference, attached hereto is Advisory Opinion No. 98-12 by the Ethics Commission, dated October 20, 1998, and the most recent guidelines by the Ethics Commission on this topic.

Attachments

1. Ethics Commission Advisory Opinion 98-12
2. Ethics Commission memo regarding New York State employees and political activity, October 1997

New York State Ethics Commission

Advisory Opinion No. 98-12

ISSUE -- Application of Public Officers Law §74 to State employees who work on political campaigns, including fundraising.

INTRODUCTION

The State Ethics Commission ("Commission") has been asked by a State employee who is the supervisor of several units whether he may work on the political campaign of a candidate for elected office and whether there are any restrictions on his engaging in political activities. While this opinion responds to that inquiry, it should be viewed as a guide to those State officers and employees who choose to participate in political activities.

Pursuant to the authority vested in it by Executive Law §94(15), the Commission renders its opinion that the State employee may work on political campaigns, but his activities are subject to certain restrictions arising from his obligation to avoid a conflict of interest or the appearance of a conflict in violation of Public Officers Law §74.

Specifically, the employee may not solicit funds from any individual or business entity (1) which currently has matters before him or before the units he supervises, (2) which he has substantial reason to believe will have matters before him or such units in the foreseeable future, or (3) which had matters before him or such units in the last twelve months; provided, however, that he may participate in mass mailings, even if some of the letters will reach individuals or business entities from which he otherwise could not solicit funds.¹ If an entity properly solicited by him makes a contribution and then has a matter before him or a unit he supervises, he should recuse himself if the matter arises within one year of the contribution, although the length of the period may vary depending upon the circumstances. Finally, the employee may not

¹ Throughout this opinion, the term "funds" includes in-kind contributions.

use his official title, position or authority in his fundraising efforts or solicit from subordinates in his units. Nor may he use State resources for political purposes, engage in political activities in a State office, or engage in such activities during business hours unless leave is taken.

APPLICABLE LAW

The State's Code of Ethics, contained in Public Officers Law §74, prohibits a State officer or employee from engaging in activities having a conflict of interest or the appearance of a conflict with respect to his or her public responsibilities. The rule regarding to conflicts of interest is provided in Public Officers Law §74(2):

No officer or employee of a state agency . . . should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

Following the rule with respect to conflicts of interest, Public Officers Law §74(3) provides standards of conduct which address actual as well as apparent conflicts of interest. Of relevance to this inquiry are the following:

(d) No officer or employee of a state agency . . . should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.

....

(f) An officer or employee of a state

agency . . . should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

....

(h) An officer or employee of a state agency . . . should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts in violation of his trust.

These provisions address not only actual conflicts of interests, but also conduct that gives the impression that a conflict exists. The law is intended to enhance the public's trust and confidence in government through the prevention of corruption, favoritism, undue influence and abuse of official position.

DISCUSSION

The Commission has not previously issued a formal opinion describing the political activities in which a State officer or employee may engage. This opinion, therefore, offers guidance on this important subject.²

The Commission has previously issued several

² This opinion is applicable to State officers and employees but not to statewide elected officials running for reelection. Such officials are in a unique position, as they both hold elected office and are simultaneously engaged in political activities. Their fundraising activities are subject to the Election Law.

Since unpaid and per diem members of public benefit corporations, authorities, boards, commissions and other multi-member bodies are State employees for purposes of Public Officers Law §74, this opinion applies to them as well. However, the Commission recognizes that the nature of their duties is different, and, therefore, that the application of the opinion may be different to reflect their distinctive ethical obligations. The Commission is available to offer advice based upon the specific responsibilities of these officials.

The opinion is based only on Public Officers Law §74. Some employees may have additional restrictions. For

opinions concerning State employees who desire to run for elective office. Significantly, it has held that Public Officers Law §74 should not be read to preclude State officers and employees who conduct business with the general public from participating in the political process (Advisory Opinion No. 92-16). It is the Commission's view that there is no fundamental prohibition which bars a State employee from being elected to and holding public office (Advisory Opinion No. 93-9). However, the Commission has recognized that there are instances when a State official's holding of an elected office may necessitate recusal from certain matters in order to avoid even the appearance of a conflict of interest. And in some unusual situations, where the conflict is direct, a State employee may be prohibited from seeking a particular elected office (See Advisory Opinion No. 92-16).

The Commission has addressed engaging in political activities other than running for office only by regulation. The Commission's regulations governing outside activities, found at 19 NYCRR Part 932, provide that an individual who is serving in a policymaking position may not serve as a member of any political party committee or as an officer of any political party or "political organization" (19 NYCRR Part 932.2). A "political organization" is defined to mean only an "organization that is affiliated with or subsidiary to a political party . . ." It does not include "campaign or fundraising committees" (19 NYCRR Part 932.1[f]).

Thus, the Commission has, in its regulations, considered the political activities of State employees, and has permitted all employees, whether or not policymakers, to engage in political campaigns, including fundraising. In short, there is no fundamental prohibition to a State employee's engaging in these activities.

This does not mean, however, that a State employee's political efforts are without restriction. The standards of Public Officers Law §74 remain applicable to an employee working on behalf of a candidate or in any other political endeavor.

example, the policy of the agency for which they work may contain additional restrictions; employees on federally funded lines are subject to the restrictions of the Hatch Act (5 U.S.C. §7323).

Advisory Opinion No. 97-28 considered the restrictions imposed on a State employee who wished to engage in charitable fundraising in his personal capacity. In that opinion, the Commission distinguished the employee's solicitation of funds from which he would personally receive no benefit from solicitations made for personal gain, which the Commission had prohibited in Advisory Opinion 94-16. It went on to describe the restrictions imposed in the context of a State employee's soliciting for charitable purposes.

Political solicitation has many of the same characteristics as charitable contributions.³ In both circumstances, the individual employee receives no direct personal benefit. In the charitable context, the solicitation is for an organization the employee wishes to support; in the political context, it is for an issue or a candidate that the employee wishes to support. However, there is a greater danger in the political context than in the charitable context that fundraising may raise suspicion among the public that the public servant may engage in acts in violation of his trust.

Advisory Opinion No. 97-28 provides some guidance in considering the matter of political fundraising. In that opinion, it was determined that the employee, whose State work involved handling specific cases, was barred from soliciting from those business entities or individuals where there were open pending cases in which he was involved. In addition, he was required to refrain from soliciting from those with whom he had dealings in the past year. To do so could create the appearance that he was using a relationship developed in his public position to seek a contribution, or that a contribution in such circumstances was a reward for his public activities.

Moreover, if an entity from which he accepted a contribution subsequently had a matter that came

³ In considering what constitutes a political "solicitation," the Commission looks to the federal definition, where the term means "to request or otherwise encourage donations or other support either through person-to-person contact or through the use of one's name or identity in correspondence or by permitting its use by others." (5 C.F.R. §2635.808.) As discussed below, however, our opinion, like federal law, does not bar participation in mass mailings (See footnote 6).

before him, he was required to recuse himself if the matter arose within one year of his acceptance of the contribution. This recusal requirement⁴ was intended to avoid the perception that the State employee's public actions were related to his receipt of a contribution. A one year period after the acceptance of a contribution was determined to be sufficient in most instances. However, the Commission noted that this period may be longer in certain circumstances.⁵

Finally, the Commission prohibited the State employee from using his official title, position or authority in his fundraising efforts and from soliciting from subordinates in his unit, thereby preventing him from his abusing his public position.

Since, as noted, the methods of charitable and political fundraising share many similarities, these are guidelines which should be followed by employees engaged in raising money for political purposes, including campaigns. How these guidelines are applied to various State employees will depend upon their positions and responsibilities.

In Advisory Opinion No. 97-28, the Commission was considering a State employee who had immediate oversight over specific cases. The employee who requested this opinion supervises several units.

While the Commission finds the principles set forth in Advisory Opinion No. 97-28 applicable to the political campaign arena, they will be applied differently depending upon the different level of responsibilities of the particular State employee involved.

The employee who requested Advisory Opinion No. 97-28 was prohibited from soliciting from any person or entity which had a matter pending before him. Where, as here, an employee is the supervisor of a unit or units, the prohibition extends as well to any person or entity that has a matter pending before the unit or units for which he is responsible. Such a matter is, at least, indirectly

⁴ After recusal, the State employee could play no role, nor could he discuss the matter with the individual to whom the matter is assigned.

⁵ For example, the Commission noted that the potential for conflict increases as the amount of the contribution increases.

before him, and his personal involvement is always a possibility.

For the same reasons, a State employee should refrain from soliciting a person or entity which he has substantial reason to believe will have dealings with him within the foreseeable future. Again, in the case of a supervisor, this restriction is extended when there is substantial reason to believe that a person or entity will have dealings with the unit or units under his supervision.

A State employee also should not solicit persons or entities that had dealings with him (or, if a supervisor, the unit or units he supervises) within the past twelve months. Such solicitations create an implication of the use of a relationship developed in his public position for political purposes. Furthermore, there is a risk that a contribution in such circumstances could be perceived as a reward for his public activities.

In prohibiting these solicitations, the Commission is addressing only the solicitations targeted to individuals or entities under the jurisdiction of the unit in which the employee works. The same conflicts do not arise when a State employee participates or allows his name to be used in an untargeted mass mailing, even if some of the mailed documents reach individuals or entities which had or have matters before him or his unit. Thus, his participation would be permissible.⁶

If a State employee has appropriately solicited a political contribution (other than by a mass mailing) from a person or entity and subsequently the person or entity has a matter before him or the unit or units he supervises, he must recuse himself from the matter. Any agency employees who would ordinarily report to him must report to a different supervisor. This recusal requirement is imposed for a reasonable period of time based

⁶ In determining what constitutes a permissible mass mailing, the Commission looks to the federal definition, found at 5 C.F.R. 2635.808, which describes this activity as: "[The] solicitation of funds through the media or through either oral remarks, or the contemporaneous dispatch of like items of mass-produced correspondence, if such remarks or correspondence are addressed to a group consisting of many persons, unless it is known to the employee that the solicitation is targeted at subordinates or at persons who are prohibited sources"

upon the circumstances. While a one year period was adopted in Advisory Opinion No. 97-28, the exact time period may vary depending on the extent of the contribution. A State employee facing this situation is urged to seek further advice.

In addition to the above restrictions, no State employee may use his official title, position or authority in any campaign activities, including untargeted mass mailings. No State resources of any type may be used in furtherance of these activities, including, but not limited to, telephones, office supplies, postage, photocopying machines, computers and support staff (See Advisory Opinion No. 93-9). Nor may campaign activities be conducted from a State office or during State business hours unless leave is taken. Finally, no State employee may solicit from subordinates, as this practice is strictly forbidden by Civil Service Law §107 (See also Election Law §17-158).

At all times the State employee shall avoid conduct which promotes the perception that his actions as a State employee may be influenced by his political activities.

CONCLUSION

The State employee, in working on the political campaign of a candidate for elective office, must observe the restrictions set forth in this opinion.

This opinion, until and unless amended or revoked, is binding on the Commission in any subsequent proceeding concerning the person who requested it and who acted in good faith, unless material facts were omitted or misstated by the person in the request for opinion or related supporting documentation.

All concur:

Paul L. Shechtman,

Chair

Evans V. Brewster

Henry G. Gossei

O. Peter Sherwood,

Members

Dated: October 20, 1998

New York State employees and political activity

State officers and employees are often interested in seeking elected political office or volunteering for political campaigns. However, in doing so, they must ensure that they do not violate the Law, including the code of ethics, contained in Public Officers Law §74. In general, State officers and employees are charged to pursue a course of conduct that will not raise suspicion among the public that they are likely to be engaged in acts in violation of the public trust.

For those planning to participate in campaigns, the following is offered as a guide to help candidates (although all of the items listed may not be applicable to those who currently hold a State office and are seeking re-election) and political workers avoid violations of law.

For candidates:

1. Consider whether the office sought might conflict with your State position. While a prospective candidate, you should seek an opinion from your employing agency and the State Ethics Commission. Should an incompatibility be found, you may be prohibited from seeking office.¹

2. Campaign on your own time. Depending on the amount of time you will devote to the campaign, you should discuss requesting a leave of absence with your supervisor.

3. Avoid using your State position to gain any special advantage over a political opponent.

4. Form a separate entity to receive campaign contributions. Take care in soliciting and accepting contributions. If they come from individuals or entities that do business with your agency, they might constitute illegal gifts or give rise to actual or apparent conflicts of interest.

5. Refrain from using any State resources to aid the campaign. This rule applies to telephones, office supplies, postage, photocopying machines, computers or support staff assistance.

6. Do not in any way indicate in your campaign literature or speeches that the State or your agency endorses your candidacy or positions. You may, however, use the name of your employing agency and description of your State position in a campaign biography.

¹ If you have been designated as a policymaker by your appointing authority and currently hold a non-State public office for which approval has not been obtained, you should seek such approval as soon as possible.

For others participating in campaigns:

1. You may serve on campaign or fundraising committees of political candidates, but must be careful not to create suspicion among the public that you are violating your public trust by improperly soliciting or accepting contributions from individuals or entities under your agency's jurisdiction. Questions about such contributions should be directed to the Ethics Commission, which has addressed some of these issues in Advisory Opinion No. 92-16.

2. Follow Civil Service Law §107. It protects State employees from discriminatory practices based on their political affiliations.

- Such employees' appointments, selections to or removals from office or their employment status may not be affected or influenced by political opinions or affiliations.

- Your State authority or official position may not be used to coerce, intimidate or otherwise influence other State employees to give money or service for any political purpose, to influence the political action of any person or entity, or to interfere with any election. A State officer or employee may not be compelled or induced to pay any political assessment or contribution.

- State offices may not be used for soliciting or collecting any political contributions.

3. Abide by Election Law §17-158. It prohibits those who hold public office—or those nominated or seeking a nomination—from corruptly using or promising to use, directly or indirectly, any official authority or influence to secure or help secure any office or public employment. Restrictions include making officers to procure any nomination or appointment for any public office.

4. Comply with the Hatch Act. If you are employed by the State and your principal employment is in connection with an activity that is financed in whole or in part by loans or grants made by the United States or a federal agency, you must not violate the Federal Hatch Act. This Act restricts the political activity of government employees to a greater degree than does State law. Opinions concerning the Hatch Act may be obtained from the U.S. Office of Special Counsel at 800-85-HATCH.

If you have any questions about the ethics law, contact the New York State Ethics Commission at 800-87-ETHICS or at 518-432-8207. The Commission interprets and enforces the ethics law as it pertains to State officers and employees of the executive branch of State government, public authorities, public benefit corporations, many State commissions, the State University of New York and the City University of New York.

11. Memorandum with respect to “Avoidance of Recommendations with respect to professionals doing business with the Agency”

**NEW YORK STATE
HOUSING FINANCE AGENCY**

**STATE OF NEW YORK
MORTGAGE AGENCY**

Inter-Office Correspondence

To: Staff
From: Justin E. Driscoll  **Date:** December 8, 2005
Subject: Avoidance of Recommendations with respect to professionals doing business with the Agency

The Agencies are instrumentalities of the State of New York created by State statute. As such, the rules that apply to the Agencies and the Agencies' staff are different from those which may pertain in private enterprise operations. One thing which all staff should bear in mind is the responsibility of the Agencies to observe the scrupulous standards of impartiality generally applicable to governmental agencies.

For this reason, all staff should refrain from recommending or otherwise commenting upon the relative qualifications, skills or proficiency of professionals with whom the Agencies do business. Specifically, you may find that people preparing to do business with the Agencies may ask you to comment upon or recommend professionals with whom the Agencies have had experience. If asked to comment or make recommendations with respect to any professionals such as financial consultants, tax credit syndicators, architects, lawyers, contractors, real estate consultants, appraisers or the like, you should refrain from doing so.

Notwithstanding the above, there may be times when you are aware of information about professionals with whom the Agency has done business which may not be appropriate to withhold. For example, we can inform those outside the Agency of the names of the underwriters or lawyers on the selection panels the Agencies have established. We may also be able to state when there is a formal bar which prevents the Agency from doing business with a firm or professional. Lastly, there may be situations where individuals make inquiry with respect to information to which they may be entitled under the State's Freedom of Information Law, such as asking for the names of all architects who have designed certain kinds of Agency projects. If these questionable situations arise you should contact me or Michael D. D. White, Vice President and Deputy Counsel, before responding to the inquiry.

***DOCUMENTS REGARDING
MEMBERS REAFFIRMATION
AND DIRECTIVE WITH
RESPECT TO §§73, 73-a and 74***

**12. Restatement of §74 of the Public Officers
Law as it applies to Corporation Employees**

**RESTATEMENT OF
PUBLIC OFFICERS LAW § 74
CODE OF ETHICS
APPLICABLE TO CORPORATION EMPLOYEES**

1. Rule with Respect to Conflicts of Interest. No Employees should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest. (As used herein, “Employee” of “Employees” shall refer to all employees and Officers of the Corporation, including all part-time, seasonal, employees on leave, and temporary employees hired directly by the Corporation.)

2. Standards.
 - a. No Employee should accept other employment which will impair his independence of judgment in the exercise of his official duties.
 - b. No Employee should accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
 - c. No Employee should disclose confidential information acquired by him in the course of his official duties nor use such information to further his personal interests.
 - d. No Employee should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
 - e. No Employee should engage in any transaction as representative or agent of the state with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
 - f. An Employee should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.
 - g. An Employee should abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

- h. An Employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.
 - i. No Employee nor any firm or association of which such Employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such Employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the state agency in which such officer or employee serves or is employed.
 - j. If any Employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he should file with the Secretary of State a written statement that he has such a financial interest in such activity which statement shall be open to public inspection.
3. Violations. In addition to any penalty contained in any other provision of law any such employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment in the manner provided by law.

The Corporation's *Code of Ethical Conduct For Officers and Employees*, when adopted, had incorporated therein attached copies of §§73, 73-a and 74 of the Public Officers Law. For your convenience, below please find links to §§73,73-a and 74 Public Officers Law found on the Ethics Commission web site.

<http://www.dos.state.ny.us/ethc/POL73.html>

<http://www.dos.state.ny.us/ethc/POL73a.html>

<http://www.dos.state.ny.us/ethc/POL74.html>