

GUIDELINES OF THE NEW YORK STATE  
HOUSING FINANCE AGENCY  
FOR THE SALE AND REPORTING OF NEW YORK STATE  
HOUSING FINANCE AGENCY BONDS  
(as amended through April 5, 2007)

ARTICLE I

STATEMENT OF PURPOSE

101. The provisions set forth below (the "Guidelines") have been developed and are adopted to provide the New York State Housing Finance Agency (the "Agency") with an administrative framework for conducting its bond sales. These Guidelines reflect and incorporate policies and practices that the Agency has followed. It is anticipated that the Guidelines will be amended from time to time to reflect the evolution of municipal finance practices. The Guidelines have also been developed pursuant to the provisions of Subdivision 2(c) of Section 47-e of the Private Housing Finance Law, as amended by Chapter 215 of the laws of 1990, and shall be reviewed and approved by the Members at least annually.

ARTICLE II

DEFINITION OF TERMS

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

"Act" shall mean Section 47-e of the New York State Housing Finance Law, as amended by Chapter 215 of the laws of 1990.

"Agency" shall mean the New York State Housing Finance Agency.

"Executive Director" shall mean the Executive Director of the Agency.

"Members" shall mean the Members of the Agency.

"Minority Business Enterprise" shall have the meaning given in the Guidelines of the Agency Establishing Standards for the Use, Award, Monitoring and Reporting of Procurement Contracts (the "Procurement Guidelines").

"Women-Owned Business Enterprise" shall have the meaning given in the Agency's Procurement Guidelines.

### ARTICLE III

#### SELECTION OF METHOD OF SALE

301. Upon authorization of a bond issue by the Members of the Agency, the Executive Director or a designee shall select a method of sale from among the following:

a. **Public Competitive Sale.** When a particular bond issue is standardized and routine such that the specifics of the issue can be easily described in a public notice to bidders and for which the most important factor is the ultimate price of the issue, bids may be solicited from the public. The sale of bonds shall be advertised in a manner determined by the Executive Director or a designee to provide adequate notice for the most practical and efficient sale.

b. **Public Negotiated Sale.** Bonds may be sold at public negotiated sale, upon the determination of the Executive Director or a designee, when the bond issue represents a new financing program; includes complex security, structuring, or other factors that require extensive explanation to potential purchasers of the bond; or has such other features as require extensive pre-marketing efforts in order to achieve a cost-effective sale. In addition, the use of public negotiated sale is appropriate during periods of instability or uncertainty in the financial markets. In the case of a public negotiated sale, managing underwriters shall be selected in accordance with Article IV of these Guidelines.

c. **Private Placement.** Where the size of a bond issue or other considerations would make it impractical or not cost effective to offer the bonds for sale to more than a limited number of ultimate purchasers, the Executive Director or a designee may select a private placement sale, with the selection of the purchaser or placement agent for the bonds to be made in accordance with Article IV of these Guidelines.

## ARTICLE IV

### SELECTION OF MANAGING UNDERWRITERS AND PRIVATE PLACEMENT AGENTS

401. Methods of Selecting Managing Underwriters and Private Placement Agents. At the time the Members authorize the issuance of bonds by the Agency, the Members shall delegate to the Executive Director the authority to select managing underwriters or private placement agents for such sale of bonds. The following general procedures shall be followed:

(1) Establishment of Pre-qualified Panel. It is the policy of the Agency to assure the widest possible solicitation of qualified underwriting firms. From time to time the Executive Director or a designee shall issue a Request for Statements of Qualifications from investment banking firms with experience in the structuring and marketing of tax-exempt and taxable bonds for housing finance and related programs. The Executive Director or a designee shall establish one or more committees to evaluate the responses to the Agency's Request. Said committee(s) shall evaluate the firms submitting responses based on appropriate criteria, and shall make recommendations in writing to the Executive Director. The criteria used in evaluating each underwriting firm may include, but need not be limited to, (a) the firm's financial strength or net capital, (b) the firm's presence in New York, (c) the firm's ability to support the Agency's bond issues, (d) the firm's ethical standards and practices, and (e) the firm's compliance with the equal opportunity/affirmative action policies of the Agency. The Executive Director or a designee shall compile a qualified list of potential managing underwriters after reviewing the recommendations of the evaluating committee(s). The Executive Director shall document in writing the reasons for any disagreement with said recommendations. The qualified list of underwriters prepared by the Executive Director shall be subject to review and approval by the Members.

(2) Requests for Proposals for Specific Financings. As appropriate in connection with the development and marketing of a specific bond issue, the Executive Director or a designee may issue a Request for Proposals to firms on the pre-qualified panel of managing underwriters to solicit specific ideas and recommendations with respect to a specific bond issue.

(3) Selection of Managing Underwriters for Public Negotiated Sales. The Executive Director shall select managing underwriters for a specific bond issue to be sold through public negotiated sale, generally taking into account the following factors: (a) inclusion on the pre-qualified panel; (b) responses to a Request for Proposals, if any; (c) recommendations by the project developer or other beneficiary of the bond sale; (d) support provided to the Agency through the general marketing of Agency bonds and/or assistance in the development of new financing programs; (e) an evaluation of any conflict of interest, impropriety or appearance of impropriety; and (f) such other factors that are deemed relevant to the particular bond issue.

(4) Selection of Private Placement Agent. Where it has been determined by the Executive Director or a designee that a private placement is the appropriate method of sale, the Executive Director shall select a placement agent generally taking into account the factors described in (3) above, as well as particular expertise and experience of effectuating a private placement in a cost-effective manner.

(5) Ethical Considerations. It is the policy of the Agency to expect the highest ethical standards from its underwriters. The Members and the Executive Director or a designee shall implement appropriate measures to promote the highest ethical standards and practices in the underwriting of every Agency bond issue. The Executive Director or a designee shall notify the Members if he or she has reason to believe that any firm on the Agency's list of qualified potential managing underwriters has engaged in conduct that may be inconsistent with the Agency's best interests, and shall indicate the reasons therefor. The Members may remove any firm from the Agency's list of qualified potential managing underwriters for such period as they determine to be appropriate upon a determination by the Members (which may be based upon a finding by another administrative or judicial body or such other facts and circumstances as they deem appropriate) that said firm has engaged in conduct inconsistent with the Agency's best interests, whether or not such conduct involves the underwriting of an Agency bond issue.

402. Promotion of Minority and Women-Owned Business Enterprises. It is the goal of the Agency to, among other things, promote and assist participation by Minority and Women-Owned Business Enterprises in the underwriting of the Agency's bonds. This goal shall be considered in the selection of managing underwriters and private placement agents as described in Subsection 401 above.

It is also the Agency's goal to select as managing underwriters or private placement agents those investment banking firms that have evidenced compliance with the laws of the State of New York prohibiting discrimination in employment. The Agency recognizes that this goal may be achieved by selecting as managing underwriters or private placement agents those firms that have demonstrated that they do not discriminate in employment. Accordingly, the Executive Director or a designee shall request from investment banking firms such information on employment policies and practices as is necessary to assess such firms' compliance with relevant laws and policies on equal employment opportunity and affirmative action.

## ARTICLE V

### REPORTS ON BOND SALES

501. Quarterly Reports; Annual Report. The Agency shall, on a quarterly basis, prepare and approve a bond sale report which shall include the Agency's Bond Sale Guidelines, amendments to such guidelines since the last Agency report, and if necessary, an explanation of the Bond Sale

Guidelines and the results of any sale during such period, including, but not limited to, the underwriter's discount and net interest costs of bonds (and shall include current comparable market net interest cost data) sold during the reporting period. Such bond sale report shall also identify which of the Agency's bond sales were conducted as public sales and which were conducted as private sales and of those, which were taxable, and describe the participation of minority and women-owned business enterprise firms in such sales. Such report shall also include the names of the senior managing underwriters or placement agent, and shall indicate the percentage of bond issues during such period for which any one senior managing underwriter or placement agent has performed as senior managing underwriter or placement agent. The quarterly reports may be part of any report that the Agency is required to make.

In addition to quarterly reports, the Agency, after approval by its Members, shall annually submit its bond sale report as required by statute, which shall incorporate the material included in its quarterly reports.

Copies of the annual bond sale report shall also be available to the public upon reasonable request at the Agency's main office.

## ARTICLE VI

### MISCELLANEOUS PROVISIONS

601. Powers of Amendment. Any modification or amendment of these Guidelines may be made by a Resolution adopted at any duly constituted Members' meeting; provided, however, that no such modification or amendment shall abrogate the rights and duties of existing Agency contracts, the terms of which were established pursuant to these Guidelines; and further provided that the Chairman or Executive Director may make non-material changes in these Guidelines.

602. No Recourse Under these Guidelines. No provision of these Guidelines shall be the basis for any claim based on these Guidelines against any Member, officer or employee of the Agency or the Agency itself. Furthermore, notwithstanding the provisions of these Guidelines, once the Members have authorized the issuance of bonds, these Guidelines shall not be construed to restrict in any way the issuance of such bonds.

603. Effect upon Existing Agency Contracts. These Guidelines shall not abrogate the rights and duties of Agency contracts with third parties executed prior to the effective date of these Guidelines.

604. Inability to Act. In any case where action by the Chairman of the Agency is required under these Guidelines, if the Chairman is absent or unable to act as required for any reason (including, without limitation, an actual or potential conflict of interest), the Vice-Chairman of the Agency (or, in his or her absence or inability to act, the senior Member appointed by the Governor

with the advice and consent of the Senate who is able to act) may act in the place and stead of the Chairman.

605. Designee. Any reference in these Guidelines to a "designee" shall mean a person designated by the Executive Director as a designee of the Executive Director.