Authorities Budget Office
Recommended Practice

This Recommended Governance Practice is intended for use by policymakers, and directors, officers and officials of state and local authorities. These bulletins are intended to promote best practices and encourage their consideration and incorporation into the management policies and oversight of public authorities.

Issue: Written Policies Governing the Use of Authority Discretionary Funds

Provisions: Section 2824(1)(b) of Public Authorities Law requires directors to understand, review and monitor the implementation of fundamental financial and management controls and the operating decisions of the authority.

Objectives: Boards of directors and authority management have an obligation to authorize the expenditure of funds only for purposes that relate to and support the mission of the authority. The fiduciary duty of the board includes adopting policies that safeguard the assets and resources of the authority and protect against the use of funds for purposes that do not advance its core purpose and objectives. It is particularly important for the board to develop a policy on the proper use of authority discretionary funds that clarifies for all employees what would and would not be considered appropriate expenditures.

Recommended Practice: Public authorities are governed by statute. In its legal opinion #2007-F4, the Office of the Attorney General determined that the expenditure of authority funds must relate directly to an enumerated power, duty or purpose of the authority. The funds of an authority may not be spent in support of the private or personal interests or to the benefit of directors, management or staff. Accordingly, the Authorities Budget Office recommends that all state and local authorities adopt written policies that specifically delineate the proper use of an authority's discretionary funds. This policy should address not only what constitutes a proper discretionary expenditure related to the mission and public purpose of the authority, but also address what would be considered an improper use of those funds.

For example, at the discretion of the board or management certain out-of-town business travel and travel-related expenses may be appropriate to advance the mission of an authority. While such an expense would be permissible under the authority's policy, the policy should also provide guidance as to reasonable amounts for such expenses and require that employees perform due diligence to obtain the lowest cost. The policy should also require prior approval of or authorization by an appropriate individual to ensure that such travel is reasonable and necessary. The policy should require documentation to justify the nature and purpose of such expenses, require the employee to provide receipts for

expenses and provide dollar thresholds for what will be considered reasonable (such as amounts allowed by federal GSA guidelines for travel expenses including per diems, government lodging rates and amounts for meals and other incidental expenses).

Certain meal costs also may be incurred through participation in, or sponsorship of, activities integral to meeting the core public purpose of the authority. Similar to appropriate travel expenses, eligible meal costs must be properly documented and reasonable cost thresholds established.

At the same time, the policy should explicitly outline the types of expenses for which the board will not give approval. This section should specifically note the impropriety of purchases using authority cash or credit that are personal in nature, that would benefit one or more staff of the authority rather than benefit those dependent on the authority's services, or are not necessary to advance the mission of the authority. Examples of inappropriate use of authority funds would include, but need not be limited to:

- Food, beverages, and other refreshments purchased for the personal use of directors, management or other employees, or by persons with whom the authority conducts business (unless prior authorization is received);
- Flowers and gifts for staff, directors or family members;
- Subsidized or free use of authority services for the personal use of current or former board members, staff, or family members of staff;
- Celebrations for special occasions that do not directly relate to the purpose of the authority, such as catering or decorations for summer picnics, office parties or holiday or retirement parties;
- Charitable contributions or sponsorships of events not associated with the authority's mission;
- Purchases of alcohol or tobacco products;
- Membership dues in professional organizations on behalf of employees;
- Renewal of professional licenses for staff;
- Personal use of authority vehicles, unless properly documented for tax purposes;
- Costs to purchase or mail holiday cards, invitations or expressions of sympathy to staff or families of authority staff; or
- Assignment of cell phones or vehicles to non-authority staff.

Absent specific statutory power, public authorities may not use public funds to purchase items considered personal expenses or that are intended to personally benefit an employee or director. Expenses such as those listed above do not advance a public purpose and should be considered personal in nature.