

**FULTON COUNTY
INDUSTRIAL DEVELOPMENT
AGENCY**

POLICY MANUAL

**September 30, 2008
September 3, 2010 (Amended)
December 7, 2010 (Amended)
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FULTON COUNTY
INDUSTRIAL DEVELOPMENT
AGENCY

POLICIES

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 01: COMPENSATION & REIMBURSEMENT

Pursuant to and in accordance with Section 856 of the General Municipal Law (GML) of the State of New York, the members of the Board of the Fulton County Industrial Development Agency (the “Agency”) shall serve, without salary, at the pleasure of the Fulton County Board of Supervisors. Agency Board members may be reimbursed for reasonable expenses incurred in the performance of Agency duties with the prior approval of the Board.

Employees and agents of the Agency shall serve at the pleasure of the Board at such compensation levels as shall be approved by the Board from time to time. Employees and agents may be reimbursed for reasonable expenses incurred in the performance of Agency duties with the prior approval of the Board.

Board members shall not be compensated for rendering any service to the Agency in any capacity other than as a Board member unless such other compensation is reasonable and allowable under provision of Section 856 of the Act.

Adopted: September 30, 2008

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 02: ATTENDANCE

Fulton County Industrial Development Agency (Agency) Board members shall be available, as required, to perform the functions and duties of the Agency and as set forth in the Agency's Bylaws as may be amended from time to time by the Agency.

Agency Board members are expected to attend Board and Committee meetings. A violation of this Policy shall occur if:

1. A Board member has three (3) unexcused absences in a row. Unexcused means the Board member did not call/e-mail the Executive Director or Chairman reasonably ahead of a meeting to verify that the Board member could not attend the meeting.
2. A Board member misses one-third of the Agency meetings in a twelve (12) month period.

If a violation occurs, the Agency Chairman shall contact the Agency Board member to discuss the violation. The Chairman shall then present the information gathered at this meeting with the entire Agency Board. The Agency Board shall then determine the appropriate action to take.

Adopted: September 30, 2008

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 03: TRAVEL

1. Applicability:

This policy shall apply to all Agency Board members, officers and employees.

2. Approval of Travel:

All official travel by Agency Board members for which reimbursement shall be requested shall be approved by the Executive Director prior to said travel occurring.

All official travel by the Executive Director for which reimbursement shall be requested shall be approved by the Agency Chairman prior to said travel occurring.

3. Travel Expenses:

Agency Board members and the Executive Director may use their private vehicle for Agency business purposes if it is less expensive than renting a car, taking a taxi, using alternative transportation or if it saves time. The traveler will be reimbursed at a standard mileage reimbursement rate equal to the mileage rate promulgated by the Internal Revenue Service for business purposes.

Meals will be reimbursed at actual expense or a per diem rate, whichever is less. Lodging will be reimbursed at actual expenses.

Reimbursement for miscellaneous expenses shall be determined on a case by case basis. Mileage rates, per diem allowances and lodging caps will be established and from time to time amended by the Board. All determinations made pursuant to this section shall be made by the Executive Director. In the instance where such determinations regard the travel of the Executive Director, the Chairman shall make such determinations.

4. Reimbursement Procedure:

A travel expense voucher reporting all expenses pertaining to a particular trip shall be submitted to the Executive Director within 45 days of the end of the trip.

(a) Substantiation: The travel expense voucher shall include:

- (i) Date and time of departure from and return to the Agency or traveler's residence;
- (ii) Purpose of the travel or the nature of the Agency business benefit derived as a result of the travel;
- (iii) Whether or not the expenses incurred during the travel were pre-approved; and
- (iv) The amount of each expenditure, listed by date and location.

(b) Receipts: The original of the following receipts must be submitted along with the travel expense voucher:

- (i) All travel tickets (i.e. airline tickets, train tickets, rental car agreement, tolls, etc.);
- (ii) All meal receipts (i.e. signed credit card slips or payment stubs);
and
- (iii) All lodging receipts (i.e. hotel, motel receipts).

5. Final Approval:

The Executive Director or Agency Chairman shall review each travel expense voucher in order to ensure that the traveler has provided adequate substantiation and to determine whether the expenses listed therein are reasonable. The Executive Director or Agency Chairman may require additional substantiation and, if the Executive Director or Agency Chairman finds a particular expense to be unreasonably (either as to amount or purpose), the Executive Director or Agency Chairman may deny reimbursement of the expense or reduce the amount of the reimbursement for such expense.

Adopted: September 30, 2008

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY
TRAVEL REQUEST FORM

All travel requests shall be submitted to the Executive Director at least five (5) business days prior to the date(s) of travel.

Name: _____ **Date:** _____

Title: _____

Purpose/Justification for Travel: _____

Place (City & State): _____

Date(s) of Travel: _____

Mode of Transportation: _____

ANTICIPATED EXPENSES:

MILEAGE:

Personal Auto: _____ **Miles @ 58.5 cents per mile.....\$** _____

LODGING:

Number of Nights: _____ **@ Single Room Rate** _____ **.....\$** _____

MEALS:

Total Amount: _____ **\$** _____

REGISTRATION FEES: _____ **\$** _____

OTHER EXPENSES: _____ **\$** _____

TOTAL ANTICIPATED EXPENSES: _____ **\$** _____

It is understood that, in order to obtain reimbursements, receipts for all eligible expenditures must be turned in to the Executive Director.

Agency Member

Date

Executive Director

Date

Chairman of the Board

Date

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 04: CODE OF ETHICS

1. Introduction:

This Code of Ethics shall apply to all members, staff and other employees of the Fulton County Industrial Development Agency (AGENCY). These policies shall serve as a guide for official conduct and are intended to enhance the ethical and professional performance of the AGENCY’s directors and employees and to preserve public confidence in the AGENCY’s mission.

2. Responsibility of Members, Staff and Employees:

(i) Members, staff and employees shall perform their duties with transparency, without favor and refrain from engaging in outside matters of financial or personal interest, including other employment, that could impair independence of judgment, or prevent the proper exercise of one’s official duties.

(ii) Members, staff and employees shall not directly or indirectly, make, advise, or assist any person to make any financial investment based upon information available through the director’s or employee’s official position that could create any conflict between their public duties and interests and their private interests.

(iii) Members, staff and employees shall not accept or receive any gift in excess of seventy-five dollars (\$75), whether it be in the form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, thing or promise from any entity doing business with or before the AGENCY.

(iv) Members, staff and employees shall not use or attempt to use their official position with the AGENCY to secure unwarranted privileges for themselves, members of their family or others, including employment with the AGENCY or contracts for materials or services with the AGENCY.

(v) Members, staff and employees must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust.

- (vi) Members, staff and employees may not engage in any official transaction with an outside entity in which they have a direct or indirect financial interest that may reasonably conflict with the proper discharge of their official duties.
- (vii) Members, staff and employees shall manage all matters within the scope of the AGENCY's mission independent of any other affiliations or employment. Members, staff and employees employed by more than one government shall strive to fulfill their professional responsibility to the AGENCY without bias and shall support the AGENCY's mission to the fullest.
- (viii) Members, staff and employees shall not use AGENCY property or resources or disclose information acquired in the course of their official duties in a manner inconsistent with State or local law and the AGENCY's mission and goals.

3. Implementation of Code of Ethics:

- (a) This Code of Ethics shall be provided to all members, staff and employees upon commencement of employment or appointment and shall be reviewed annually by the Governance Committee.
- (b) The AGENCY may designate an Ethics Officer, who shall report to the AGENCY and shall have the following duties:
 - i. Counsel in confidence AGENCY members, staff and employees who seek advice about ethical behavior.
 - ii. Receive and investigate complaints about possible ethics violations.
 - iii. Dismiss complaints found to be without substance.
 - iv. Prepare an investigative report of their findings for action by the Executive Director or the board.
 - v. Record the receipt of gifts or gratuities of any kind received by the director or employee, who shall notify the Ethics Officer within 48 hours of receipt of such gifts and gratuities.

4. Penalties:

- (a) In addition to any penalty contained in any other provision of law, an AGENCY, members, staff or employee who knowingly and intentionally violates any of the provisions of this code may be removed in the manner provided for in law, rules or regulations.

5. Reporting Unethical Behavior:

- (a) AGENCY members, staff and employees are required to report possible unethical behavior by a member, staff or employee of the AGENCY to the Ethics Officer. Ethics complaints may be filed anonymously and are protected from retaliation by the policies adopted by the AGENCY.

Adopted: September 30, 2008

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 05: PROCUREMENT

SECTION 1. PURPOSE AND AUTHORITY. This Procurement Policy shall govern the procurement of goods and services paid for by the Agency for its own use and benefit. Goods and services shall be procured by the Agency in such a manner so as to assure the prudent and economic use of funds, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption.

SECTION 2. PROCUREMENT OF GOODS AND SERVICES. Each procurement by the Agency shall be supported by documentation. When an award is made to other than the lowest responsible party, the determination to make the award must be supported by documentation that justifies the award and documents how the award complies with this Policy and the provisions of Section 104-b of the New York General Municipal Law.

SECTION 3. PROCUREMENT METHOD. The following method of procurement shall be used when required by this Policy in order to achieve the highest quality and savings:

<u>Estimated Amount of Purchase</u>	<u>Method Required</u>
\$1,000 - \$1,999	3 verbal or written quotations
\$2,000 and above	3 written/fax quotations

Number of Proposals or Quotations. A good faith effort shall be made to obtain the required number of quotations. If the Agency is unable to obtain the required number of quotations, the Agency will document the attempt made at obtaining the quotations. In no event shall the failure to obtain the quotations prohibit the procurement.

Documentation. Documentation is required for each action taken in connection with each procurement. Documentation and an explanation are required whenever a contract is awarded to other than the lowest responsible bidder. This documentation will include an explanation of how the award will achieve savings or how the bidder was not acceptable. A determination that the bidder is not acceptable shall be made by Executive Director and Agency Counsel.

SECTION 4. CIRCUMSTANCES WHERE SOLICITATION OF ALTERNATIVE PROPOSALS AND QUOTATIONS ARE NOT IN THE BEST INTEREST OF THE AGENCY. Pursuant to Section 104-b(2)(f) of the General Municipal Law, this policy may contain circumstances when, or types of procurement for which, in the sole discretion of the members of the Agency, the solicitation of quotations will not be in the best interest of the Agency. In the following circumstances, it may not be in the best interest of the Agency to solicit quotations or document the basis for not accepting the lowest bid:

(A) Professional and Contracted Services: Professional services or services requiring special or technical skill, training or expertise. The individual, company or firm must be chosen based on accountability, reliability, responsibility, skill, conflict of interests, reputation, education and training, judgment, integrity, continuity of service and moral worth. Furthermore, certain professional services to be provided to the Agency, e.g., legal and accounting services, impact liability issues of the Agency and its members, including securities liability in circumstances where the Agency is issuing bonds. These qualifications and the concerns of the Agency regarding its liability and the liability of its members are not necessarily found or addressed in the individual, company or firm that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

In determining whether a service fits into this category, the Agency shall take into consideration the following guidelines:

- (a) whether the services are subject to state licensing or testing requirements;
- (b) whether substantial formal education or training and experience is a necessary prerequisite to the performance of the services.

Professional or technical services shall include but not be limited to the following: services of an attorney (including bond counsel); service of a physician; technical services of an architect, engineer or land surveyor; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing, or art work; management of Agency-owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing or pre-package software.

(B) Emergency Purchases pursuant to Section 103(4) of the General Municipal Law: Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the public. This section does not preclude alternate quotations if time permits.

(C) Goods or Services Under \$1,000. The time and documentation required to purchase through this Policy may be more costly than the item itself and would therefore not be in the best interests of the Agency. In addition, is it not likely that such minimal contracts would be awarded based on favoritism.

(D) Buy Local. Reasonable preference will be given to making purchase from Fulton County businesses.

SECTION 5. POLICY REVIEW. The statute requires that the Policy must be reviewed by the Agency annually. Any amendments will be approved by the Agency's Board of Directors.

Adopted: September 30, 2008

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 06: PROPERTY DISPOSITION

SECTION 1. DEFINITIONS

- A. “Dispose” or “disposal” shall mean transfer of title or any other beneficial interest in personal or real property in accordance with Section 2897 of the Public Authorities Law.

- B. “Property” shall mean personal property in excess of five thousand dollars (\$5,000) in value, and real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

SECTION 2. DUTIES

- A. The Agency shall:
 - 1. Maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control;
 - 2. periodically inventory such property to determine which property shall be disposed of;
 - 3. Produce a written report of such property in accordance with subsection B herewith; and
 - 4. Transfer or dispose of such property as promptly and practicably as possible in accordance with Section 3.

- B. The Agency shall:
 - 1. Publish, not less frequently than annually, a report listing all real property owned in fee by the Agency. Such report shall include a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the Agency and the name of the purchaser for all such property sold by the Agency during such period; and
 - 2. Shall deliver copies of such report to the Comptroller of the State of New York, the Director of the Budget of State of New York, the Commissioner of the New York State Office of General Services, New York State Legislature and the Authorities Budget Office (via distribution to the majority leader of the senate and the speaker of the assembly).

SECTION 3. TRANSFER OR DISPOSITION OF PROPERTY

- A. Supervision and Direction. Except as otherwise provided herein, the Executive Director shall have supervision and direction over the disposition and sale of property of the Agency. The Agency shall have the right to dispose of its property for any valid corporate purpose.
- B. Custody and Control. The custody and control of Agency property, pending its disposition, and the disposal of such property, shall be performed by the Agency.
- C. Method of Disposition. Unless otherwise permitted, the Agency shall dispose of property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Agency and/or contracting officer deems proper. The Agency may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, except in compliance with all applicable law, no disposition of real property, any interest in real property, shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction and provided further, that no disposition of any other property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar property, shall be made without a similar appraisal.
- D. Validity of Deed, Bill of Sale, Lease, or Other Instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the Agency, purporting to transfer title or any other interest in property of the Agency in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.
- E. Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.
1. Except as permitted by all applicable law, all disposals or contracts for disposal of property made or authorized by the Agency shall be made after publicly advertising for bids except as provided in subsection (iii) of this Section E.
 2. Whenever public advertising for bids is required under subsection (i) of this Section E:
 - (a) The advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on

such terms and conditions as shall permit full and free competition consistent with the value and nature of the property proposed for disposition;

- (b) All bids shall be publicly disclosed at the time and place stated in the advertisement; and
 - (c) The award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Agency, price and other factors considered; provided, that all bids may be rejected at the Agency's discretion.
3. Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (i) and (ii) of this Section E but subject to obtaining such competition as is feasible under the circumstances, if:
- (a) The personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significances, rarity or other quality of similar effect, that would tend to increase its value, or if the personal property is to be sold in such quantity that if it were disposed of under subsections (i) and (ii) of this Section E, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;
 - (b) The fair market value of the property does not exceed fifteen thousand dollars;
 - (c) Bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
 - (d) The disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;
 - (e) The disposal is for an amount less than the estimated fair market value of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property is intended to further the public health, safety or welfare or an economic development interest of the Agency, the state or a political subdivision (to include but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, or where the authority's enabling legislation permits or other economic development initiatives), the purpose and the terms of such disposal are documented in writing and approved by resolution of the board of the Agency; or

(f) Such action is otherwise authorized by law.

4. Disposal of property for less than fair market value:

(a) No asset owned, leased or otherwise in the control of a public authority may be sold, leased, or otherwise alienated for less than its fair market value except if:

1. The transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;
2. The purpose of the transfer is within the purpose, mission or governing statute of the public authority; or other than a governmental entity, which disposal would not be consistent with the authority's mission, purpose or governing statutes, such authority shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer shall be subject to denial by the governor, the senate, or the assembly. Denial by the governor shall take the form of a signed certification by the governor. Denial by either house of the legislature shall take the form of a resolution by such house. The governor and each house of the legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the legislature receives notification of a proposed transfer during the months of July through December, the legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the governor, senate, and assembly, the public authority may effectuate such transfer. Provided, however, that with respect to a below market transfer by a local authority that is not.

(b) In the event a below fair market value asset transfer is proposed, the following information must be provided to the authority board and the public:

1. A full description of the asset.
2. An appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the board;
3. A description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages and salaries of jobs created or

preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer.

4. A statement of the value to be received compared to the fair market value;
5. The names of any private parties participating in the transfer, and if different than the statement required by subparagraph.
6. Of this paragraph, a statement of the value to the private party; and
7. The names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

(c) Before approving the disposal of any property for less than fair market value, the board of authority shall consider the information described in paragraph b of this subdivision and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of such transfer.

5. An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:

1. Any personal property which has an estimated fair market value in excess of fifteen thousand dollars;
2. Any real property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses (3) and (4) of this subparagraph;
3. Any real property disposed of by lease if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars.
4. Any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.
5. Any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

(b) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under all applicable law not less than ninety (90) days in advance of such disposal, and a copy thereof shall be preserved in the files of the Agency making such disposal.

The Guidelines are subject to modification and amendment at the discretion of the Agency board and shall be filed annually with all local and state agencies as required under all applicable law.

Adopted: September 30, 2008
Revised: March 26, 2014

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 07: WHISTLEBLOWER PROTECTION

SECTION 1. PURPOSE

The Fulton County Industrial Development Agency (Agency) shall operate with the highest standards of conduct and ethics. The Agency shall investigate any suspected or alleged improper conduct by any Agency employee, agent or Board member.

SECTION 2. DEFINITIONS

Baseless Allegations: Allegations made with reckless disregard for their truth or falsity. Persons making such allegations may be subject to disciplinary action by the Agency, and/or legal claims by individuals accused of such conduct.

Improper Conduct: The act of wrongdoing, misconduct, malfeasance or other improper behavior by an employee, board member or agent of the Agency, including a deliberate act or failure to act with the intention of obtaining an unauthorized benefit. Examples of improper conduct include, but are not limited to:

- Forgery or alteration of documents;
- Unauthorized alteration or manipulation of computer files;
- Fraudulent financial reporting;
- Pursuit of a benefit or advantage in violation of the Agency’s Code of Ethics Policy;
- Misappropriation or misuse of the Agency’s resources, such as funds, supplies, or other assets;
- Authorizing or receiving compensation for goods not received or services not performed;
- Authorizing or receiving compensation for hours not worked; and
- The violation of any Law, Rule or Regulation.

Law, Rule or Regulation: Any duly enacted statute, or ordinance or any rule or regulation promulgated pursuant to any federal, state or local statute or ordinance.

Public Body: includes the following:

- The United States Congress, any state legislature, or any popularly-elected local governmental body, or any member or employee thereof;
- Any federal, state, or local judiciary, or any member or employee thereof, or any grand or petit jury; and
- Any federal, state, or local law enforcement agency, prosecutorial office, or police or peach office.

Retaliatory Personnel Action: The discharge, suspension or demotion of an employee, or other adverse employment action taken against the employee in the terms and conditions of employment, including but not limited to, threats of physical harm, loss of job, punitive work assignments, or impact on salary or fees.

Whistle-Blower: An employee, consultant or agent who informs the Executive Director or any Agency Board member, pursuant to the provisions of this policy about an alleged activity relating to the Agency which that person believes to be Improper Conduct.

SECTION 3. REPORTING IMPROPER CONDUCT

A person's concern of improper conduct by an Agency Board member, staff or agent shall be reported to the Executive Director. The Executive Director shall immediately report the alleged improper conduct to the Agency Chairman and Agency Counsel.

A person's concern of improper conduct by the Executive Director shall be reported to the Agency Chairman. The Agency Chairman shall immediately report the alleged improper conduct to Agency Counsel.

If a person determines that it will be difficult to report a concern of improper conduct to the Executive Director, the person should report said concern to a member of the Agency Board. The Board member receiving said concern shall immediately notify the Executive Director and Agency Counsel.

SECTION 4. INVESTIGATION

The Agency's Counsel shall conduct all investigations of improper conduct unless otherwise determined by the Agency Board. In such instance, the Agency Board shall, within forty-five (45) days of the receipt of a concern of improper conduct designate the person, entity or firm to conduct the investigation.

SECTION 5. WHISTLEBLOWER PROTECTION

The Agency will protect Whistle-Blowers pursuant to the guidelines set forth below.

- The Agency will use its best efforts to protect Whistle-Blowers against all Retaliatory Personnel Actions. Whistle-Blowing complaints will be handled with sensitivity, discretion and confidentiality to the extent allowed by the circumstances and the law. Generally, this means that Whistle-Blower complaints will only be shared with those who have a need to know so that the Agency can conduct an effective investigation, determine what action to take based on the results of any such investigation, and in appropriate cases, with law enforcement personnel. (Should disciplinary or legal action be taken against a person or persons as a result of a Whistle-Blower complain, such persons may also have right to know the identity of the Whistle-Blower.);

- Employees, board members, consultants and agents of the Agency may not engage in any Retaliatory Personnel Action against a Whistle-Blower for (i) disclosing or threatening to disclose to the Executive Officer or Board member, as applicable, any activity which that person believes to be Improper Conduct. Whistleblowers who believe that they have been the victim of a Retaliatory Personnel Action may file a written complaint with the Executive Director or Board member, as applicable. Any complaint of a Retaliatory Personnel Action will be promptly investigated and appropriate corrective measures taken if such allegations are substantiated. This protection from Retaliatory Personnel Action is not intended to prohibit supervisors from taking action, including disciplinary action, in the usual scope of their duties and based on valid performance-related factors;
- Agency Employees, Agency Board members, and agents of the Agency may not engage in any Retaliatory Personnel Action against a Whistle-Blower for (i) disclosing, or threatening to disclose to a Public Body any activity which that person believes to be Improper Conduct, or (ii) providing information to, or testifying before, any Public Body conducting an investigation, hearing or inquiry into any such Improper Conduct. Provided, however, that Whistle-Blowers who disclose or threaten to disclose any Improper Conduct to a Public Body are not covered under this policy unless he or she first brings the allegation of Improper Conduct to the attention of the Executive Director or Board member, as applicable, and has afforded the Agency a reasonable opportunity to correct and/or remedy such Improper Conduct; and
- Whistle-Blowers must be cautious to avoid Baseless Allegations.

SECTION 6. ACTIONS TO BE TAKEN

All relevant matters, including suspected but unproved allegations of Improper Conduct, will be reviewed and analyzed, with documentation of the receipt, retention, investigation and treatment of the complaint. Appropriate corrective action will be taken, if necessary, and findings will be communicated back to the reporting person, if appropriate. Investigations may warrant as determined by the Agency Board investigation by an independent person such as auditors and/or attorneys.

Adopted: September 30, 2008

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

**POLICY 08: EXTENSION OF CREDIT TO BOARD MEMBERS
AND STAFF**

No Fulton County Industrial Development Agency (Agency) Board member or staff shall directly or indirectly, including through any subsidiary, extend to maintain credit, arrange for the extension of credit or renew an extension of credit in the form of a personal loan to or for any Board member or staff of the Agency.

Adopted: September 30, 2008

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 09: CHECK WRITING

All checks issued by the Agency shall have two (2) signatories. One shall be by the Chief Financial Officer. The second shall be by a member of the Audit Committee. In the absence of the Chief Financial Officer, the second signature can be by another member of the Audit Committee.

Adopted: September 3, 2010
Revised: January 31, 2013

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 10: CREDIT CARD

No Fulton County Industrial Development Agency (Agency) Board member or staff shall be provided an Agency Credit Card.

Adopted: September 3, 2010

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

**POLICY 11: ANNUAL ASSESSMENT OF THE EFFECTIVENESS OF
INTERNAL CONTROLS**

1. BACKGROUND:

Section 2800(1)(a)(9) and Section 2800(2)(a)(8) of Public Authorities Law require all public authorities to complete an annual assessment of the effectiveness of their internal control structures and procedures.

2. INTENT:

The intent of the Fulton County Industrial Development Agency's (IDA) system of internal control shall be to:

- a) Promote effective and efficient operations so as to help the IDA carry out its mission.
- b) Provide reasonable assurance that the IDA's assets are safeguarded against inappropriate or unauthorized use.
- c) Promote the accuracy and reliability of accounting data and financial reporting to ensure transactions are executed in accordance with the IDA' Board's authorization and recorded properly in accounting records.
- d) Encourage adherence to the IDA Board's policies and procedures for conducting programs and operations.
- e) Ensure compliance with applicable laws and regulations.

This system of internal control includes performing an annual assessment to identify potential weaknesses in policies or procedures and to implement corrective actions.

This assessment shall identify significant weaknesses in controls, recognize emerging or inherent risks, and to enable early detection of existing or potential problems. If an internal control system is working effectively, the IDA Board will have a reasonable indication of the reliability of its operating practices and the accuracy of the information it is using to measure its activities and performance. Any deficiencies identified as a result of the assessment shall be addressed by the IDA Board.

3. IDA'S INTERNAL CONTROLS ASSESSMENT PLAN:

A. Define the IDA's Primary Functions:

1. Annually review the mission of the IDA and verify that its primary operating responsibilities, operations and functions that will help fulfill its mission.
2. Annually evaluate the IDA's written mission statement to ensure that it clearly defines the IDA's purpose.
3. Define IDA's objectives and ensure they are understood by IDA staff.
4. Review policies, procedures and guidelines to ensure that they guide IDA staff in the operations of the IDA and provide methods and procedures to assess the effectiveness of those functions.

B. Determine Risks:

1. Assess the internal and external risk exposure and associated vulnerability of each function of the IDA and assign a corresponding risk level (i.e. high, medium, or low).
2. If a risk is identified, the IDA Board shall determine how to best handle it by evaluating its significance, likelihood, and cause.
3. Based on the assigned risk levels, the IDA Board shall determine how frequently to review the controls in place for each function.

C. Review Existing Internal Control Systems in Place:

1. The IDA Board and staff shall annually review and be aware of the policies and practices in place to ensure that the IDA is effective and to address the risks that are relevant to the operation.

D. Assess the Extent to Which the Internal Control System is Effective:

1. The assessment of internal controls should be a structured and monitored process to identify and report any weaknesses of the internal control structure to the IDA Board.
2. This process should determine if the existing control structure and procedures are adequate, to then mitigate risk, minimize ineffectiveness and deter opportunities that could lead to the abuse of assets.
3. The assessment should provide the IDA Board with information as to whether the IDA's policies and operating practices were understood and executed properly, and whether they are adequate to protect the organization from waste, abuse, misconduct, or inefficiency.
4. This assessment shall be completed through a combination of inquiry and observation, a review of documents and records and by replicating transactions to test the sufficiency of the control system.

E. Take Corrective Action:

1. When a weakness is identified, a corrective action plan should be developed, adopted by the IDA Board and then monitored by the IDA Board to ensure that the vulnerability is addressed.

4. INTERNAL CONTROL CERTIFICATION:

A. Section 2800(2)(a)(8) of the Public Authorities Law:

1. To satisfy the requirement of Section 2800(2)(a)(8) of Public Authorities Law, the IDA shall incorporate, either within its annual report or as a separate document, a statement explaining that the authority has conducted a formal, documented process to assess the effectiveness of their internal control structure and procedures, and indicating whether or not the internal controls are adequate.
2. This statement should eventually be posted to the IDA's website.
3. The statement shall state:

The IDA Board of Directors has documented and assessed the internal control structure and procedures of the Fulton County Industrial Development Agency for the year ending [Month, Date, Year]. This assessment found the IDA's internal controls were determined to be adequate, and to the extent that deficiencies were identified, the IDA has developed corrective action plans to reduce any corresponding risk.

4. The IDA shall retain documentation to support the assessment of its internal controls.
5. If the IDA finds any deficiencies with the internal controls over its functions or operations, additional documentation should be maintained to demonstrate that the IDA has adopted corrective action plans to address these weaknesses.
6. This documentation should be made available upon request to the IDA's independent auditor or to ABO compliance review staff.

B. Public Authorities Reporting Information System (PARIS):

1. As part of the PARIS Annual Report tab, the IDA will be required to indicate whether or not they have prepared this assessment and to provide the URL link to the statement, if available.

Adopted: December 7, 2010

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 12: APPROVAL OF SUBLEASES

1. The IDA shall review and approve all subleases.
2. If a company leasing a building from the IDA desires to execute a sublease with a prospective tenant desiring to occupy a building or a portion of a building leased by the IDA to the Company, the Company shall obtain the IDA's approval prior to executing any sublease.
3. The Company shall file an Application for Sublease Approval and the required fee per the IDA's Fee Schedule with the IDA for all subleases the Company desires to enter into with a prospective tenant in a building or a portion of a building leased by the IDA to the Company.
4. The IDA shall review and approve all Applications for Sublease Approval prior to the Company executing all subleases.
5. The IDA shall sign all subleases to acknowledge and approve the form of the sublease but shall not be a signatory or party to the sublease.
6. The Company shall provide the IDA with a copy of all executed subleases.

Adopted: February 11, 2011

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 13: DISCRETIONARY FUNDS POLICY

1. Applicability and Purpose:

- a. This Discretionary Funds Policy shall apply to all Agency directors, officers and employees. The purpose of this Policy is to regulate the expenditure and use of Agency discretionary funds.

2. Definitions:

- a. Agency: Fulton County Industrial Development Agency
- b. Discretionary Funds: Funds, from any source, that may be allocated or expended at the discretion of the Agency directors and staff who have the authority to approve such spending.

3. Use of Discretionary Funds:

- a. Discretionary funds must be expended on uses that relate to an enumerated power, duty or purpose of the Agency.
- b. Discretionary funds shall be used to advance the Agency’s mission and public purposes.
- c. Discretionary funds shall not be used in a manner that primarily benefits an Agency director or staff.

4. Prior Approval:

- a. All expenditures of discretionary funds shall be approved by the Agency prior to the expenditure.

5. Guidance on Certain Expenditures:

- a. Membership Dues:
 - 1) Membership dues paid by the Agency to belong to a professional peer organization shall be a permissible use of discretionary funds.
 - 2) Individual membership costs for board Agency directors and staff to belong to a professional, social or fraternal organization whereby the membership is of the primary benefit to the individual rather than the Agency shall not be a permissible use of discretionary funds.
- b. Charitable Contributions & Sponsorships:
 - 1) The utilization of discretionary funds on such sponsorship or charitable contribution shall depend on whether the proposed expenditure relates to the powers, duty and purposes of the Agency and whether such expenditure will advance the Agency mission and public purpose.

- c. Food & Beverages:
 - 1) Food and beverages purchased during business travel as provided in the Agency's Policy No. 3: Travel, food and beverages purchased for or during the conduct of Agency business shall be a permissible use of discretionary funds.
 - 2) Food and beverages purchased when conducting Agency business shall be a permissible use of discretionary funds.
 - 3) Food and beverages purchased for the personal consumption of Agency directors and staff shall not be a permissible use of discretionary funds.
- d. Professional Training, Certification and Licensing:
 - 1) Paying the costs for Agency directors and staff to attend training to maintain certifications or licenses, or to attend professional conferences shall be a permissible use of discretionary funds.
- e. Marketing:
 - 1) Expenses incurred in the course of marketing the Fulton County region to new or prospective businesses and developing and maintaining relations with existing businesses and supporting partners in the furtherance of the Agency's mission shall be a permissible use of discretionary funds.

Adopted: June 6, 2013

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 14: UNIFORM TAX EXEMPTION POLICY

SECTION 1: PURPOSE AND AUTHORITY:

Pursuant to Section 874(4)(a) of Title One of Article 18-A of General Municipal Law (the “Act”), the Fulton County Industrial Development Agency is required to establish a Uniform Tax Exemption Policy applicable to the provision of any financial assistance of more than one hundred thousand dollars (\$100,000) to any project.

SECTION 2: DEFINITIONS:

“**Administrative Fee**” shall mean a charge imposed by the Agency to an Applicant for the administration of Project.

“**Affected Tax Jurisdiction**” means, with respect to a particular project, the City, Town, Village, County or School District in which a Project is located and will fail to receive real property tax payments that would otherwise be due with respect to such Project due to a Tax Exemption obtained by reason of involvement of the Agency in such Project. This does not include special taxing jurisdictions.

“**Agency**” or “**IDA**” shall mean the Fulton County Industrial Development Agency.

“**Agency Fee**” shall mean the normal charges imposed by the Agency to an Applicant or a Project occupant to compensate the Agency for the Agency’s participation in the Project. The term “Agency Fee” shall include not only the Agency’s normal Administrative Fee, but also may include:

- (a) Reimbursement of the Agency’s expenses, including but not limited to legal fees and publication fees.
- (b) Rent imposed by the Agency for use of the property of the Agency, and
- (c) Other similar charges imposed by the Agency.

“**Applicant**” shall mean an applicant for financial assistance.

“**County**” shall mean the County of Fulton.

“**PILOT**” or “**Payment in Lieu of Tax Agreement**” shall mean a written agreement between the Agency AND Applicant whereby the Applicant shall make payments to Affected Tax Jurisdictions.

“PILOT” or “Payment in Lieu of Tax” shall mean any payment made to any Affected Tax Jurisdiction equal to all or a portion of the real property taxes or other taxes which would have been levied by or on behalf of an Affected Tax Jurisdiction with respect to a project but for the tax exemption obtained by reason of the involvement of the Agency in such project. Such term shall not include Agency fees.

“Project” shall mean an activity which is undertaken by the Agency for the benefit of an Applicant which either (1) has been or will be financed by the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect thereto, or (2) is a straight lease transaction (as defined under Section 845(15) of the Act) which the Agency has determined to undertake, or (3) lease – lease back projects, or (4) sales tax only projects.

“Project Operator” or “Agent” shall mean the developer and/or beneficial user of a Project Facility as designated by the Agency.

“Tax Exemption” shall mean any financial assistance granted to a Project which is based upon all or a portion of the taxes which would otherwise be levied and assessed against a Project but for the involvement of the Agency, including but not limited to sales tax, mortgage recording tax and real property tax exemptions.

SECTION 3: GENERAL PROVISIONS:

a. General Policies:

1. The Agency may grant tax exemptions as hereinafter set forth to any Project which has been or will be:
 - (a) Assisted by the Agency pursuant to a straight lease transaction (as defined under Section 845(15) of the Act).
 - (b) Financed by the issuance of Agency bonds, notes or other evidences of indebtedness with respect thereto or
2. In order to receive any tax exemptions, a Project shall, in the sole judgment of the Agency, create a significant number of new or retained existing jobs.
3. No real property tax exemptions shall be granted to a Project that would result in the relocation of an industrial or manufacturing facility from one area of New York State to another, unless the relocation, closure or abandonment is, as determined by the Agency, necessary to enable the Project to maintain its competitive position within its industry.
4. Subject to the prior written approval by the IDA, tax exemptions may be transferable by the Project Operator only if the transferee of the Project retains the same or similar use of the Project within the same parameters of the original Project Operator.

b. Deviation Policy

1. The Agency reserves the right to deviate from any provision in this Uniform Tax Exemption Policy in special circumstances. In determining whether special circumstances exist to justify a deviation, the Agency may consider factors, which include but not be limited to the following:
 - a. The magnitude and/or importance of any permanent private sector job creation and/or retention of existing jobs related to the Project;
 - b. The impact of the Project on existing and proposed businesses and/or economic development projects;
 - c. The amount of private sector investment generated or likely to be generated by the Project;
 - d. Demonstrated public support/opposition for the Project;
 - e. The estimated value of the tax exemptions requested; and
 - f. The extent to which the proposed Project will provide needed services and/or revenues to Affected Tax Jurisdictions.
 - g. Other factors outlined in Section 874(4)(a) of the Act.
2. If the Agency is going to deviate from any provision of the Uniform Tax Exemption Policy, the Agency shall adopt a resolution that:
 - a. Identifies the deviation provided.
 - b. Identifies the reasons for the deviation.
 - c. Identifies such terms and conditions as the Agency shall deem just and proper.

c. Application:

1. No request for a tax exemption shall be considered by the Agency unless a Project Application, which includes an Application for Tax Exemption, is filed with the Agency on the forms prescribed by the Agency.
2. Such Application shall contain the information requested by the Agency, including a description of the proposed Project and of each tax exemption sought with respect to the Project, the estimated value of each tax exemption sought with respect to the Project, the proposed financial assistance being sought with respect to the Project, the estimated date of completion of the Project, and whether such financial assistance is consistent with this Policy.

SECTION 4: REAL PROPERTY TAX EXEMPTION:

a. General:

1. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, property owned by or under the jurisdiction, supervision or control of the Agency is exempt from real estate taxes, but not exempt from special assessments and special ad valorem levies.

2. It is the general policy of the Agency that, notwithstanding the foregoing, the Project Operator of every non-governmental Project shall be required to enter into a Payment In Lieu of Tax Agreement (“PILOT”) with the Agency, either separately or as part of the Project documents. Such PILOT Agreement shall require payment of PILOT payments in accordance with the provisions set forth in this Policy.
3. The project documents shall provide that, if the Agency and the Applicant and/or Project Operator have entered into a PILOT Agreement, the terms of the PILOT Agreement shall control the amount of PILOT payments until the expiration or sooner termination of such PILOT Agreement.

b. Filing Requirements:

1. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law as amended, no real property tax exemption shall be effective until a New York State Department of Taxation and Finance, Division of Equalization and Assessment Form EA-412-a (an “Exemption Form”) is filed with the assessor of each Affected Tax Jurisdiction.
2. The Agency will not file an Exemption Form with respect to the Project until a PILOT Agreement is executed and the Project documents stipulate that the Applicant and/or the Project Operator shall be required to make PILOT payments in such amounts as would result from taxes being levied on the Project by the Affected Taxing Jurisdictions as if the Project were not owned by or under the jurisdiction, supervision or control of the Agency.
3. Once an Exemption Form is filed with a particular Affected Tax Jurisdiction, the real property tax exemption for such project does not take effect until:
 - a) The next taxable status date for such Affected Tax Jurisdiction occurs subsequent to such filing.
 - b) An assessment roll for such Taxing Jurisdiction is finalized subsequent to such tax status date.
 - c) Such assessment roll becomes the basis for the preparation of a tax roll for such Affected Tax Jurisdiction, and
 - d) The tax year to which such tax roll relates commences.

c. Property Assessments:

1. It is the general policy of the Agency to have the City, Town or Village Assessor establish the assessed value of a Project owned by or under the jurisdiction, supervision or control of the Agency.
2. Commencing in the first taxable year after execution of the PILOT, the Assessor for the Affected Taxing Jurisdiction in which the Project is located shall assess the Project Facility in the same manner and using the same valuation method as other similar properties in the general area of the Project Facility.

3. The Project Operator shall be entitled to prompt written notice of the initial Assessed Value and of any change in the Assessed Value. If the Project Operator is dissatisfied with the amount of the Assessed Value of the Project Facility as initially established or as changed, the Project Operator shall have the right to contest the Assessed Value of the Project Facility made for the purposes of determining any payments due under the PILOT Agreement and to seek a refund of any such payments made.
4. The Project Operator's challenge to the Assessed Value of the Project Facility and its determination to seek a refund of any payments made hereunder shall be made in accordance with New York Real Property Tax Law.

d. Payment in Lieu of Tax (PILOT) Agreement:

1. The Agency shall make available to Project Operators or Applicants a PILOT Agreement modeled after Section 485-b of the New York State's Real Property Tax Law as shown below:

Tax Fiscal Year	Percentage of Exemption
1	50%
2	45%
3	40%
4	35%
5	30%
6	25%
7	20%
8	15%
9	10%
10	5%
11 and thereafter	0%

2. The Agency may grant enhanced Real Property Tax Exemptions on a case-by-case basis for projects expected to have significant economic impacts, in accordance with the Deviation Policy set forth herein
3. If a Project Operator or Applicant incurs a default, under the terms of a PILOT Agreement, the Project Operator shall be responsible to:
 - a) Reimburse all of the Agency's legal costs to pursue remedying the default.
 - b) Pay the Agency a \$1,000 fee for each default.
4. If a Project Operator or Applicant requests an early termination of a PILOT Agreement with the Agency, the Project Operator or Agent shall be responsible for issuing a payment to the Agency of \$1,000/year for each year the PILOT Agreement was in effect as well as the Agency's legal and other fees associated with processing a request for early termination..

e. Special District Taxes:

1. The Agency is not exempt from special assessment and special ad valorem levies. As a result, these amounts are not subject to tax exemptions by reason of ownership of the Project by the Agency.
2. The Project Operator shall be responsible for the payment of all special district taxes ad valorem levies imposed by all Affected Taxing Jurisdictions.

f. PILOT Payments:

1. Unless otherwise determined by resolution of the Agency, all PILOT payments payable to an Affected Tax Jurisdiction shall be paid directly to the Affected Tax Jurisdiction by the Project Operator/Agent within thirty (30) calendar days of the receipt of a PILOT invoice.
2. The Project Operator/Agent shall, upon submitting all PILOT payments to affected taxing jurisdictions, submit a copy of said payments along with the invoice from the affected taxing jurisdiction to the Agency.
3. If a PILOT payment is not received by an Affected Taxing Jurisdiction within thirty (30) calendar days of the receipt of a PILOT invoice, a late fee penalty of 2% per month shall be paid to the Affected Tax Jurisdictions for each month a payment is not made.

g. Reporting Requirements:

1. If the Agency grants a real estate tax exemption under this Section, the Project Operator/Agent shall be required to annually file, or cause to be filed, with both New York State or the Agency, reports regarding the number of people employed at the project site, the annual and/or hourly salary for all full and part-time employees and provide other information as may be required by New York State or the Agency.
2. The Agency shall annually send the Project Operator/Agent a report to complete and return requesting information for the Agency to utilize to monitor the project for compliance with all project requirements. The Project Operator/Agent shall complete and return this Annual Report within the timeframe stipulated by the Agency.

h. Enforcement:

1. An Affected Tax Jurisdiction which has not received a PILOT payment due to it under a PILOT Agreement may exercise its remedies under Section 874(6) of the Act or such other available remedies.
2. In addition, such Affected Tax Jurisdiction may petition the Agency to exercise whatever remedies that the Agency may have under the Project documents to enforce payment. If such Affected Tax Jurisdiction indemnifies the Agency and agrees to pay the Agency's costs incurred in connection therewith, the Agency may take action to enforce the PILOT Agreement.
3. If the Agency's approval of a particular Project is predicated upon achievement by the Project Operator/Agent of certain minimum goals, i.e. creating and/or maintaining certain minimum employment levels, the PILOT Agreement may provide for the reduction or elimination of PILOT benefits, if, in the sole judgment of the Agency, the Project has failed to fulfill such minimum requirements.

4. If the Applicant or Project Operator after reasonable notice, fails to comply with Project reporting required by the Agency including, but not limited to, annual verification of proper insurance coverage, employment reporting as required under the Act, the Agency may in its sole judgment terminate the PILOT Agreement and make no real estate tax exemption available.

i. Real Property Appraisals:

1. Since the policy of the Agency is to base the value of a Project for payment in lieu of tax purposes on a valuation of such Project performed by the local Assessor, normally a separate real property appraisal is not required. However, the Agency may require the submission of a real property appraisal if,
 - (i) The assessor of any particular Affected Tax Jurisdiction requires one, or
 - (ii) If the valuation of the Project for payment in lieu of tax purposes is based on a value determined by the Project Operator, rather than by an assessor for a Taxing Jurisdiction or by the Agency.
2. If the Agency requires the submission of a real property appraisal, such appraisal shall be prepared by an independent MAI certified appraiser acceptable to the Agency.
3. The Project Operator shall be responsible for paying for the cost of hiring said appraiser.

j. Recapturing Real Property Tax Exemptions:

1. Basis to Pursue Recapturing Benefits:
 1. It shall be the policy of the Agency to consider recapturing benefits (Financial Assistance) for a project if any of the following conditions apply:
 - 1) Sale or closure of the facility and departure of the company from the County of Fulton (Notwithstanding any of the terms set forth herein, this occurrence shall result in the immediate termination of Financial Assistance).
 - 2) Significant change in the use of the facility and/or the business activities of the company.
 - 3) Significant employment reductions not reflective of the company's (normal) business cycle and/or local and national economic conditions.
 - 4) Failure to comply with any periodic and/or annual reporting requirements of the Agency, State or Federal governmental agency.

- 5) Failure to meet or comply with specified Material Factors, as determined by the Agency at the time of the acceptance of the project for Financial Assistance and as set forth in the Inducement Resolution and/or Preliminary/Project Agreement. Material Factors may include but not be limited to the following (each project is not required to include all of the Material Factors listed below, as Material Factors are determined on a project-to-project basis)
- a) Create or Retain Jobs
If the company meets 85% of its projection, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored by annual reporting by the company to the Agency.
 - b) Private Sector Investment
If the company meets 85% of its total project cost, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored by the completion of an affidavit from the company to the Agency at the time of the project completion detailing the total project cost.
 - c) Local Labor Construction
If the company meets 85% of its estimated usage of local labor forces, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored on a one time basis by the completion of an affidavit from the company to the Agency at the time of the project completion detailing the usage of local labor forces.
 - d) Wage Rates
If the company meets 85% of its projection, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored by annual reporting by the company to the Agency.
 - e) Increased Property Value
If the company meets 85% of its projected increased total assessed value at the time of projection completion, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored on a one time basis by a review of the assessed value of the project facility upon completion of the project.

f) Increased Revenue to Local Taxing Jurisdictions

If the company meets 85% of its projected increased revenues, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored on by annual reporting by the company to the Agency of consisting of data relative to the revenues generated by the project.

[NOTE: Each project will not be required to include all the Material Factors listed above. The Agency shall determine for each project what Material Factors shall apply to each project.]

- 6) For a project that failed to comply with a material term or condition to use property or services in the manner required by any and all provisions of the agreements that the company has entered into with the Agency.

2. Recapturing Real Property Tax Benefits:

- a. For companies receiving real property tax abatements, the Agency's schedule for recapturing real property tax benefits shall be (applicable to the real property tax abatements) as follows:

Years 1-5 of PILOT: 100% of the real property tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Years 6-7 of PILOT: 75% of the real property tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Years 8-9 of PILOT: 50% of the real property tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Year 10 of PILOT: 25% of the real property tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Years 11+ of PILOT: 0% of the real property tax exemptions granted shall be repaid to the affected taxing jurisdictions.

- b. The recapture shall be applicable to the time periods above are from the effective date of the PILOT Agreement.
- c. Any real property tax exemptions recovered, recaptured, received or otherwise obtained shall be payable to the appropriate taxing jurisdictions, unless otherwise agreed to in writing by the taxing jurisdiction.

3. Recapture Procedures:

- a. In the event that the Agency determines that there exists a basis for recapture as set forth in paragraph j(1) herein, the Agency shall notify the company, in writing, that the Agency has determined that a basis exists for recapture. The company shall be given a reasonable timeframe within which to remedy the violation, such timeframe being commensurate to the violation.
- b. The company shall provide information and a written explanation as to why the violation has occurred or the Material factor has not been achieved, as the case may be.
- c. If requested by the Agency, the company shall make a presentation to the Agency concerning this default.
- d. Thereafter, the Agency may pursue recapturing pursuant to this Recapture Policy. Imposition of any recapture is at the sole discretion of the Agency and is reviewed/considered on a case by case basis.
- e. In lieu of imposing the above recapture penalties and for good cause shown by the company, the Agency, at its sole discretion, may make a determination to:
 - 1) Discontinue the Financial Assistance in its entirety, per the provisions set forth the in the Lease Agreement;
 - 2) Suspend the Financial Assistance for a specific stated period of time in order for the company to correct or comply with the material term or Material Factor being breached;
 - 3) In the case of real property taxes exemptions, modify the PILOT Agreement to decrease the exemption and increase the payments due for the remaining term of the PILOT Agreement.

SECTION 5: SALES TAX EXEMPTION:

a. General:

1. New York State law provides that purchases of tangible personal property by the Agency or by an agent of the Agency and purchases of tangible personal property by a contractor for incorporation into or improving, maintaining, servicing or repairing real property of the Agency are exempt from sales taxes.
2. Purchases of construction materials and project related equipment during initial construction and equipping of the Project Facility shall be made as agent for the Agency and are therefore afforded full exemption from all sales taxes.
3. A Project Operator/Agent's failure to complete the Project or close on a bond issuance within a timeframe set forth by the Agency or as such timeframe may be extended by the approval of the Agency, may require the repayment of all sales tax previously exempted. In the event that there be such a failure, the Agency may notify the New York State Department of Taxation and Finance of sales tax due.

b. Tax Exemption Period:

1. The Agency and Project Operator/Agent shall enter into a Sales Tax Exemption Agreement which shall include an expiration date to act as the Project Operator/Agent for the Agency, which shall be based upon the estimated completion date plus six (6) months to allow for possible delays and equipping.
2. Extension of the expiration date shall require formal approval of the Agency.

c. Percentage of Exemption:

1. The sales tax exemption shall be equal to one hundred percent (100%) of the sales taxes that would have been levied if the Project were not exempt by reason of the Agency's involvement in the Project.

d. Confirmation Letter:

1. The granting of a sales tax exemption by the Agency shall be confirmed by the execution by an authorized officer of the Agency of a Confirmation Letter by the Agency.
2. Each Confirmation Letter shall describe the scope and term of the sales tax exemption granted.

e. Required Filings:

1. The New York State Department of Taxation and Finance requires that proper forms and supporting materials be filed with a vendor to establish a purchaser's entitlement to a sales tax exemption.
2. It shall be the responsibility of the Project Operator/Agent to ensure that all required documentation shall be filed with each vendor to obtain any sales and use tax exemptions authorized by the Agency.

f. Required Reports and Records:

1. Pursuant to Section 874(9) of the Act, the Agency is required to file Form ST-60 with the New York State Department of Taxation and Finance within thirty (30) days of the date that the Agency designates a Project Operator/Agent to act as agent of the Agency.
2. Pursuant to Section 874(8) of the Act, the Project Operator/Agent shall be required to annually file with the New York State Department of Taxation and Finance Form ST-340 identifying the value of all sales and use tax exemptions claimed under the Act by the Project Operator/Agent, subcontractors and consultants thereof.
3. The Project Operator/Agent shall, concurrently upon filing Form ST-340 with the State, also file a copy with the Agency.
4. At the end of the Tax Exemption Period, the Project Operator/Agent shall prepare and submit to the Agency a report identifying:
 - a. All of the expenditures incurred on the project for which sales tax exemption benefits were received during the Tax Exemption Period.

- b. The total sales tax exemption benefits accrued during the Tax Exemption Period.

This report shall be filed with the Agency within 30 days of the end of the Tax Exemption Period.

g. Approving Resolutions and Project Documents:

1. All Agency approving resolutions and project documents shall include:
 - a. All provisions of Section 5 of this Uniform Tax Exemption Policy.
 - b. A statement stipulating that, as a Project Operator/Agent appointed by the IDA, it shall cooperate with the Agency when the Agency seeks to recapture sales tax benefits.
 - c. A statement stipulating that if a Project Operator/Agent fails to cooperate with the Agency, the Agency shall commence a legal action/proceeding to recapture unauthorized sales tax exemption benefits.
 - d. A statement stipulating to a Project Operator/Agent that:
 - 1) They shall be required to annually file with both the NYS Department of Taxation and Finance and the Agency a copy of Form ST-340 "Annual Report of Sales and Use Tax Exemptions Claimed by an Agent/Project Operator of an IDA."
 - 2) Form ST-340 shall be filed with both the NYS Department of Taxation and Finance and Agency by February 28th of each year.
 - 3) They will be required to file with the Agency, within 30 days of the end of the Tax Exemption Period, a report summarizing all expenditures incurred on the project for which sales tax exemption benefits were received and the total amount of sales tax benefits received during the Tax Exemption Period.
 - e. A statement stipulating to a Project Operator/Agent that their failure to file Form ST-340 by February 28th of each year could result in:
 - 1) The Project Operator/Agent losing their authority to act as an Agent/Operator of the Agency.
 - 2) The Project Operator/Agent losing sales tax benefits in subsequent years.

h. Recapturing Sales Tax Exemptions:

1. Pursuant to Section 875 of the Act, the Agency shall recapture unauthorized New York State and local sales and use tax benefits whenever the benefits were:
 - Not entitled or authorized to be taken;
 - In excess of the amounts authorized;
 - For unauthorized property or services; or
 - For property or services not used according to the terms of the project agreement with the Agency.
2. When the Agency determines that unauthorized sales tax exemption benefits were taken, the Agency shall notify the Project Operator/Agent, in writing, that:
 - a. Unauthorized sales tax benefits were taken by the Project Operator/Agent.
 - b. Identify the amount of unauthorized sales tax exemption benefits taken that is being recaptured.
 - c. Identify the date when the amount of unauthorized benefits shall be repaid to the Agency.

- d. The consequences for not repaying the unauthorized sales tax benefits.
3. The failure by a Project Operator/Agent to repay the Agency the unauthorized sales tax exemption benefits received shall be grounds for the New York State Tax Commissioner to assess and determine State sales and use taxes due from the Project Operator/Agent under article twenty-eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.
4. When the Agency recovers or recaptures unauthorized or excessive sales tax exemptions, the Agency shall, within thirty (30) days, remit said sales tax to the Commissioner of the NYS Department of Taxation and Finance using Form ST-65 IDA Report of Recaptured Sales and Use Tax Benefits.
5. The Agency shall:
 - a. Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
 - b. Report within thirty (30) days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimated amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).
 - c. The Agency shall file an annual report Form ST-62 with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York State sales and use tax exemptions.

SECTION 6: MORTGAGE RECORDING TAX EXEMPTION:

1. Mortgages executed by industrial development agencies in furtherance of their lawful activities are exempt from payment of the New York State Mortgage Recording Tax pursuant to General Municipal Law Section 874.
2. The general policy of the Agency shall be to impose no mortgage recording taxes on projects involving mortgages.

SECTION 7: REAL ESTATE TRANSFER TAX EXEMPTION:

1. Article 31 of the Tax Law provides for the imposition of a tax upon certain real estate transfers. Section 1405(b)(2) of the Tax Law provides that transfers into the Agency are exempt from such tax, and the New York State Department of Taxation and Finance has ruled that transfers of property by the Agency back to the same entity which transferred such property to the Agency are exempt from such tax.
2. The general policy of the Agency is to impose no tax upon any real estate transfers to or from the Agency.

SECTION 8: REVIEW OF POLICY:

1. The Agency shall on a regular and ongoing basis review this Uniform Tax Exemption Policy to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate.
2. In addition, the Executive Director shall continually review this Uniform Tax Exemption Policy and evaluate the internal control structure established to ensure compliance with the tax exemption policy. The Executive Director shall submit recommended changes to the Agency for approval.

SECTION 9: FEES:

1. All Project Operators and Applicants shall be responsible for paying to the Agency all fees as identified and described in the Agency's Fee Schedule, a copy of which is attached hereto and made a part of this Policy.

Adopted:	February 1994
Revised:	April 20, 1999
Revised:	August 23, 2012
Revised:	June 7, 2016
Revised:	April 9, 2019

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 15: INVESTMENT POLICY

1. Scope:

- a. This Investment Policy applies to all moneys and other financial resources available for investment on behalf of the Fulton County Industrial Development Agency (the "Agency").

2. Objectives:

- a. The primary objectives of the Agency's investment activities are, in priority order,
 - to conform with all applicable federal, state and other legal requirements (legal);
 - to adequately safeguard principal (safety);
 - to provide sufficient liquidity to meet all operating requirement (liquidity);
 - to obtain a reasonable rate of return (yield).

3. Delegation of Authority:

- a. The Agency's responsibility for administration of the investment program is delegated to the Chief Financial Officer (CFO) who shall administer the investment program consistent with these investment guidelines.

4. Prudence:

- a. All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Agency to act effectively.
- b. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudent discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.
- c. All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

5. Diversification:

- a. It is the policy of the Agency to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

6. Internal Controls:

- a. It is the policy of the Agency for all moneys collected by any officer or employee of the Agency be transferred to the CFO within five (5) days of receipt, or within the time period specified in law, whichever is shorter.
- b. The Agency is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.
- c. The Agency shall provide for an annual independent audit of its investment practices. This audit may be completed as a component of any other audit of the Agency provided that the audit complies with the requirements of this section. An audit under this section should be conducted in accordance with generally accepted government auditing standards and should detail:
 - The scope and objectives of the Agency's investments
 - Any material weaknesses found in the Agency's internal controls
 - A description of all non-compliance with the Agency's investment policies or other rules or regulations
 - A statement of positive assurance of compliance on the items tested and a statement of any material deficiency or finding, if any.

7. Designation of Depositories:

- a. The banks and trust companies authorized for the deposit of monies shall be designated at the Agency's annual meeting.

8. Collateralizing of Deposits:

- a. In accordance with the provisions of General Municipal Law, all deposits of the Agency, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:
 1. By a pledge of "eligible securities" with an aggregate "market value" as provided by GML '10, equal to the aggregate amount of deposits from the categories designated in Appendix A to the policy; or
 2. By an eligible "irrevocable letter of credit" issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements; or
 3. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon

interest, if any, executed by an insurance company authorized to do business in New York State, whose claims - paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

9. Safekeeping and Collateralization:

- a. Eligible securities used for collateralizing deposits shall be held by the depository bank or trust company subject to Security and Custodial Agreements.
- b. A Security Agreement shall provide that eligible securities are being pledged to secure Agency deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the Agency to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the Agency, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Agency or its depository bank or trust company.
- c. A Custodial Agreement shall provide that securities held by the bank or trust company, or agent of and custodian for, the Agency, will be kept separate and apart from the general assets of the depository bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The Agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The Agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. The Agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

10. Permitted Investments:

- a. As authorized by General Municipal Law, '11, the Agency authorizes the CFO to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:
 - Special time deposit accounts;
 - Certificates of deposit;
 - Obligations of the United States of America;
 - Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America;
 - Obligations of the State of New York;
 - Obligations issued pursuant to Local Finance Law '24.00 or '25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the Agency;
 - Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general State statutes governing such entities or whose specific enabling legislation authorizes such investments.

- Certificates of Participation (COPs) issued pursuant to GML '109-b.
 - Obligations of this local government, but only with any moneys in a reserve fund established pursuant to GML "6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6- k, 6-l, 6-m, and 6-n.
- b. All investment obligations shall be payable or redeemable at the option of the Agency within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Agency within two years of the date of purchase.

11. Authorized Financial Institutions and Dealers:

- a. The Agency shall designate financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments which can be made with any such financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy.
- b. Consolidated Report of Condition (Call Report) at the request of the Agency. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers.

12. Purchase of Investments:

- a. The Agency shall contract for the purchase of investments:
1. Directly, including through a Repurchase Agreement, from an authorized trading partner.
 2. By participation in a Cooperative Investment Program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the Agency.
 3. By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the Agency.
- b. All purchased obligations, unless registered or inscribed in the name of the Agency, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the Agency by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written Custodial Agreement as described in General Municipal Law Section 10.
- c. The Custodial Agreement shall provide that securities held by the bank or trust company, as agent of and custodian for, the Agency, will be kept separate any apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other

deposit or other liabilities. The Agreement shall describe how the custodian shall confirm the receipt and release of the securities.

- d. The Custodial Agreement shall include all provisions necessary to provide the Agency a perfected interest in the securities.

13. Repurchase Agreements:

- a. Repurchase Agreements are authorized subject to the following restrictions:
 - All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
 - Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
 - Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
 - No substitution of securities will be allowed.
 - The custodian shall be a party other than the trading partner.

Adopted: August 14, 2018

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

POLICY 16: SEXUAL HARASSMENT PREVENTION POLICY

The Fulton County Industrial Development Agency (“FCIDA”) is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of FCIDA’s commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with FCIDA. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

1. Policy:

- a. FCIDA’s policy applies to all employees, board members, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with FCIDA. In the remainder of this document, the term “employees” refers to this collective group.
- b. Sexual harassment will not be tolerated. Any employee covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
- c. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. FCIDA will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of FCIDA who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or the Chairman of the FCIDA. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
- d. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject FCIDA to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

harassment or who allow such behavior to continue, will be penalized for such misconduct.

- e. FCIDA will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. FCIDA will strive to keep the investigation confidential to the extent possible. Corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
- f. All employees are encouraged to report any harassment or behaviors that violate this policy. FCIDA will provide all employees a complaint form for employees to report harassment and file complaints.
- g. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to the Chairman of the FCIDA.
- h. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

2. What Is “Sexual Harassment”?

- a. Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.
- b. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:
 - Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
 - Such conduct is made either explicitly or implicitly a term or condition of employment; or
 - Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.
- c. A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually

explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

- d. Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.
- e. Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

3. Examples of sexual harassment

- a. The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:
 - Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
 - Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
 - Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
 - Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
 - Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
 - Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:

- Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;
- Sabotaging an individual’s work;
- Bullying, yelling, name-calling.

4. Who can be a target of sexual harassment?

- a. Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

5. Where can sexual harassment occur?

- a. Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

6. Retaliation

- a. Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).
- b. Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:
- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
 - testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
 - opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
 - reported that another employee has been sexually harassed; or
 - encouraged a fellow employee to report harassment.

- c. Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

7. Reporting Sexual Harassment

- a. Preventing sexual harassment is everyone's responsibility. FCIDA cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or the Chairman of the FCIDA. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or the Chairman of the Agency.
- b. Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.
- c. Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

8. Supervisory Responsibilities

- a. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Chairman of the FCIDA.
- b. In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers and the Chairman of the FCIDA will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.
- c. Supervisors and managers and the Chairman of the FCIDA will also be subject to discipline for engaging in any retaliation.

9. Complaint and Investigation of Sexual Harassment

- a. All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.
- b. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as

soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

- c. Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. FCIDA will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.
- d. While the process may vary from case to case, investigations should be done in accordance with the following steps:
 - Upon receipt of complaint, the Chairman of the Agency will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
 - If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
 - Request and review all relevant documents, including all electronic communications.
 - Interview all parties involved, including any relevant witnesses;
 - Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
 - Keep the written documentation and associated documents in a secure and confidential location.
 - Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
 - Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

10. Legal Protections And External Remedies

- a. Sexual harassment is not only prohibited by FCIDA but is also prohibited by state, federal, and, where applicable, local law.
- b. Aside from the internal process at FCIDA, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.
- c. In addition to those outlined below, employees in certain industries may have additional legal protections.

11. State Human Rights Law (HRL)

- a. The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.
- b. Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.
- c. Complaining internally to FCIDA does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.
- d. You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.
- e. DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.
- f. DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.
- g. Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded,

filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

12. Civil Rights Act of 1964

- a. The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.
- b. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.
- c. An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.
- d. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

13. Local Protections

- a. Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

14. Contact the Local Police Department

- a. If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

COMPLAINT FORM

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to your immediate supervisor or the Chairman of the FCIDA. Once you submit this form, your employer must follow its sexual harassment prevention policy and investigate any claims.

If you are more comfortable reporting verbally or in another manner, your employer is still required to follow its sexual prevention policy by investigating the claims as outlined in the aforementioned policy.

For additional resources, visit: ny.gov/programs/combatting-sexual-harassment-workplace

COMPLAINANT INFORMATION

Name:

Home Address:

Work Address:

Home Phone:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method (*check one*):

Phone: _____ Email: _____ Mail: _____

SUPERVISORY INFORMATION

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

COMPLAINT INFORMATION

1. Your complaint of sexual harassment is made against:

Name:

Title:

Work Address:

Work Phone:

Relationship to you (*check one*): Supervisor: _____ Subordinate: _____ Mail: _____ Other: _____

2. Please describe the conduct or incident(s) that is the basis of this complaint. Please use additional sheets of paper if necessary and attach any relevant documents or evidence, if any.

3. Date(s) sexual harassment occurred:

4. Is the sexual harassment continuing? Yes _____ No _____

5. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

6. *This question is optional, but may help the investigation.* Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____

Date:

Instructions for Employers

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention policy.

An investigation involves:

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for your decision along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.

Adopted: November 14, 2018

**N.Y.S.
AUTHORITY BUDGET OFFICE
POLICIES**