

# 1. 2006 New York Code - Investments Of Funds By Public Authorities And Public Benefit Corporations; General Provisions.

§ 2925. Investments of funds by public authorities and public benefit corporations; general provisions. 1. Every public authority and every public benefit corporation whether or not such corporation is otherwise governed by this chapter, (such entities to be hereinafter in this title referred to as "corporation") shall by resolution adopt comprehensive investment guidelines which detail the corporation's operative policy and instructions to officers and staff regarding the investing, monitoring and reporting of funds of the corporation. The investment guidelines approved by the corporation shall be annually reviewed and approved by the corporation.

2. Funds of the corporation, for purposes of this title, shall consist of all moneys and other financial resources available for investment by the corporation on its own behalf or on behalf of any other entity or individual.

3. The investment guidelines approved by the corporation shall include, but not be limited to the following:

(a) A detailed list of the permitted investments of the corporation, which shall be consistent with the appropriate provisions of law relating to the corporation and any additional requirements pursuant to any contract with bondholders and noteholders.

(b) Procedures and provisions to fully secure the corporation's financial interest in investments; provided that the guidelines may include a description of the circumstances under which the corporation's financial interest in investments may be less than fully secured.

(c) A requirement that the corporation shall enter into written contracts pursuant to which investments are made, unless the corporation shall by resolution determine that a written contract is not practical or that there is not a regular business practice of written contracts with respect to a specific investment or transaction, in which case the corporation shall adopt procedures covering such investment or transaction. Such contracts and procedures shall include provisions:

(i) deemed necessary and sufficient to secure in a satisfactory manner the corporation's financial interest in each investment;

(ii) covering the use, type and amount of collateral or insurance for each investment;

(iii) establishing a method for valuation of collateral, and procedures for monitoring the valuation of such collateral on a regular basis;

(iv) for the monitoring, control, deposit and retention of investments and collateral which shall include, in the case of a repurchase agreement, a requirement that the obligations purchased be physically delivered for retention to the corporation or its agent (which shall not be an agent of the party with whom the corporation enters into such repurchase agreement), unless such obligations are issued in book-entry form, in which case the corporation shall take such other action as may be necessary to obtain title to or a perfected security interest in such obligations.

(d) Standards for the diversification of investments, including diversification with respect to types of investments and firms with which the corporation transacts business.

(e) Standards for the qualification of investment bankers, brokers, agents, dealers and other investment advisers and agents which transact

business with the corporation, such as criteria covering quality, reliability, experience, capitalization, size and any other factors that, in the judgment of the corporation, make a firm qualified to transact business with the corporation.

(f) Provisions for reporting on the investments of the corporation, including provisions for an annual independent audit of all investments, the results of which shall be available to the board at the time the annual review and approval of investment guidelines is conducted by the corporation.

4. Each corporation shall have the power from time to time to amend such investment guidelines in accordance with the provisions of this title.

5. Each corporation shall direct the preparation and filing with the board of quarterly reports, or reports covering such other period as may be approved by the corporation, from a designated officer or employee regarding any new investments, the inventory of existing investments, and the selection of investment bankers, brokers, agents, dealers or auditors.

6. Each corporation shall annually prepare and approve an investment report which shall include the investment guidelines, as specified in subdivision three of this section, amendments to such guidelines since the last investment report, an explanation of the investment guidelines and amendments, the results of the annual independent audit, the investment income record of the corporation and a list of the total fees, commissions or other charges paid to each investment banker, broker, agent, dealer and adviser rendering investment associated services to the corporation since the last investment report. Such investment report may be a part of any other annual report that the corporation is required to make.

7. (a) Each corporation, a majority of the members of which consist of persons appointed by the governor or who serve as members by virtue of holding a civil office of the state, or a combination thereof, shall annually submit its investment report to the division of the budget and copies thereof to the department of audit and control, the senate finance committee and the assembly ways and means committee.

(b) Each corporation, other than a corporation included under paragraph (a) of this subdivision, shall annually submit its investment report to the chief executive officer and chief fiscal officer of each municipality for the benefit of which it was created and to the department of audit and control.

(c) Each corporation shall make available to the public copies of its investment report upon reasonable request therefor.

8. Nothing contained in this section shall be deemed to alter, affect the validity of, modify the terms of or impair any contract, agreement or investment of funds made or entered into in violation of, or without compliance with, the provisions of this title.

## Cohoes Industrial Development Agency

### INVESTMENT POLICY

**SECTION 1. PURPOSE.** The purpose of this document is to establish guidelines for the prudent investment of the Cohoes Industrial Development Agency's funds that are consistent with the laws of the State of New York.

**CONTROLLING LEGISLATION.** PAL § 2824(e) requires the Cohoes IDA to establish a written policy concerning the investments and delegation of management and investment functions of the Cohoes IDA. This Policy is intended to be consistent with and shall be construed in accordance with the PAL, and in the event of any inconsistency between this Policy and the provisions of the statute, the statutory provision shall control and be followed to the fullest extent by the Cohoes IDA.

**SECTION 2. DEFINITIONS.** As used herein, the following terms shall have the meaning set forth below.

a. **"Cohoes IDA"** shall mean the Cohoes Industrial Development Agency.

b. **"Board"** shall mean the Board of Directors of the Cohoes IDA.

c. **"Executive Director"** shall mean the Executive Director of the Cohoes IDA.

d. **"Donor"** shall mean the person who grants or transfers property to the Cohoes IDA pursuant to a gift instrument, or a person designated in the applicable Gift instrument to act in the place of the donor, but does not otherwise include the person's executors, heirs, successors, assigns, transferees, or distributees.

e. **"Gift Instrument"** shall mean a record or records, including any solicitation by the Cohoes IDA, under which property is granted to, transferred to, or held by the Cohoes IDA as an institutional fund.

f. **"Institutional Fund"** shall mean any fund held by the Cohoes IDA, including but not limited to an endowment fund, but shall not include (1) program related assets (an asset held by the institution that is not for investment under the terms of a gift instrument, but primarily to accomplish a programmatic purpose of the institution; (2) a fund held for the Cohoes IDA by a trustee that is not the Cohoes IDA or (3) a fund in which a beneficiary that is not the Cohoes IDA has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

g. **"PAL"** shall mean the New York Public Authorities Law.

### SECTION 3. INVESTMENTS OF THE COHOES IDA.

a. **Funds to Be Invested.** To the extent the Cohoes IDA has funds beyond that which are necessary to meet current obligations or for disbursement otherwise required, such funds shall from time to time be invested in acceptable investment instruments. The Cohoes IDA may also establish an endowment fund with any gift or asset restricted as such, and such endowment fund may then be invested in acceptable investment instruments.

b. **Investment Goals.** The following objectives, listed in order of priority, shall be followed in the investing of such funds:

- i. To provide a level of liquidity to insure the availability of funds for payment to meet obligations of the Corporation or for disbursement otherwise required.
- ii. To minimize the amount of funds uninvested.
- iii. To minimize the risk of any potential loss or devaluation of funds invested.
- iv. To earn a maximum rate of return on funds invested, within the limitations as to types of investments permitted under this policy and applicable law.
- v. To sustain the perpetual existence of the Cohoes IDA.

c. **Acceptable Investment Instruments.** Acceptable investment instruments for the investment of funds are as follows:

- i. Certificates of Deposit issued by a bank or trust company authorized to do business in New York State, provided however, that such Certificates of Deposit shall be payable within such time as the proceeds shall be needed to meet expenditures for which such monies were obtained, and provided further that such certificates of deposit be secured in the same manner as provided for securing deposits of public funds by Subdivision 3 of Section 10 of the New York General Municipal Law.
- ii. Time Deposit Accounts in a bank or trust company authorized to do business in New York State, provided however, that such Time Deposit Accounts shall be payable within such time as the proceeds shall be needed to meet expenditures for which such monies were obtained and provided further that such time deposit accounts be secured in the same manner as is provided for securing deposits of public funds by Subdivision 3 of Section 10 of the New York General Municipal Law.

- iii. Obligations of agencies of the federal government if principal and interest is guaranteed by the United States.
- iv. Obligations of the State of New York.
- v. any other investment instrument approved by the Cohoes IDA Board of Directors.

d. **Timing of Investments.**

- i. The Executive Director shall maintain a portfolio of all investments. Investments shall generally mature or otherwise be available for sale or redemption without penalty at such times as funds invested are required for payment to meet obligations of the Cohoes IDA, or are otherwise required for disbursement.

e. **Collateral Requirements.**

- i. Certificate of Deposits and Time Deposit Accounts shall be fully secured to the maximum amount set by the Federal Deposit Insurance Corporation.
- ii. Certificate of Deposits and Time Deposit Accounts with principal value in excess of the amount insured by the Federal Deposit Insurance Corporation, shall be fully secured by eligible securities as that term is defined in Section 10 of the General Municipal Law having in the aggregate a market value at least equal to the aggregate amount of the deposits and Third Party Custodial Agreements shall be entered into with the deposit institution.
- iii. Collateral shall be delivered to and held by the Cohoes IDA as part of the investment portfolio or be delivered to a custodial bank or trust company with which the Cohoes IDA has a Custodial Agreement. Said Custodial Institution shall provide written confirmation to the Cohoes IDA of the obligations held in such institutions as collateral for investments of the Cohoes IDA.

f. **Custodial Institutions.** The Executive Director or the Chairman shall from time to time, if necessary, enter into contracts with banks or trust companies licensed to do business in New York State to act as custodian of funds owned by the Cohoes IDA or of funds pledged as collateral for certificates of deposit or time deposit accounts. Custodians must be member banks of the Federal Reserve Bank or maintain accounts with member banks. A custodial contract shall not be entered into for holding of an investment with the same party from which such investment

instrument was acquired without approval of the Cohoes IDA. A custodial contract may be entered into with the Trust Department of the seller of the investment instrument provided that the Trust Department is a separate corporate entity. At the request of the Cohoes IDA custodial institutions shall verify collateral held on behalf of the Cohoes IDA as property or as collateral for an investment instrument.

g. **Financial Strength of Institutions.** The Executive Director shall maintain a list of approved investment firms which may serve as trustee, custodian, or broker-dealer. The financial statements of investment firms with which the Cohoes IDA transacts investment business, as set forth in the annual reports of such institutions, shall be reviewed annually by the Cohoes IDA to determine the financial strength and/or credit worthiness of the institution. The Chairman of the Cohoes IDA shall report the results of such review in the Cohoes IDA's annual investment report.

h. **Competition for Acquisition and Sale of Investment Instruments.**

i. The Cohoes IDA shall endeavor to ensure competition amongst interested and eligible institutions for the acquisition or sale of investment instruments and shall make every reasonable effort to solicit by telephone or other electronic device at least three quotations for every investment transaction except for interim investment instruments which may from time to time be necessary to conduct normal day to day business operations of the Cohoes IDA.

ii. The Executive Director or the Chairman shall maintain a file of any confirmations, correspondence, or statements which support investment activity.

i. **Diversification.** It is the policy of the Cohoes IDA to monitor the diversification of its investments by financial institution, investment instrument, and maturity and to include annual reports of such diversification levels in the Cohoes IDA's annual investment report. A maximum of approximately 50% of all investments may be held in a single financial institution.

j. Investment Committee: The Cohoes IDA Board shall delegate the Authority to manage and invest institutional funds to an Investment Committee that shall be responsible for the overall stewardship of Institutional assets and investment management services.

**SECTION 4. STANDARD OF CONDUCT IN MANAGING AND INVESTING AN INSTITUTIONAL FUND.**

**a. General Principles.**

i. Any investment of an Institutional Fund shall be specifically authorized by an action of the Board.

ii. Subject to the intent of a donor expressed in a Gift Instrument, the Cohoes IDA in managing and investing an Institutional Fund, shall consider the purposes of the Cohoes IDA and the purposes of the Institutional Fund. The Board shall act to manage and invest any Institutional Fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

iii. In managing and investing an Institutional Fund, the Cohoes IDA may incur only costs that are appropriate and reasonable in relation to the assets, the purpose of the institution, and the skills available to the institution and shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

**b. Reliance on Third Parties.** In managing an Institutional Fund, Board members, when acting in good faith, may rely on information, opinions, reports or statements including financial statements and other financial data, in each case prepared or presented by: (1) one or more officers or employees of the Cohoes IDA, whom the Member believes to be reliable and competent in the matters presented, and (2) Persons as to matters which the Member believes to be within such person's professional or expert competence. Members shall not be considered to be acting in good faith if they have knowledge concerning the matter in question that would cause such reliance to be unwarranted.

**c. Pooling of Funds.** The Cohoes IDA may pool two or more Institutional Funds for the purposes of management, and investment.

**d. Limitation on Profits.** The Cohoes IDA shall conduct no activities for pecuniary profit or financial gain, except to the extent that such activity supports its other lawful activities then being conducted. All profit need not be currently expended for such purposes; however such profit making activities and the profits resulting therefrom must be reasonably related to the requirements of the Cohoes IDA's activities as they are conducted at the time that the profit making activity occurs.

**e. General Rules.** Except as otherwise provided for in a Gift Instrument:

i. **Managing Factors.** In managing and investing an Institutional Fund, the Cohoes IDA must consider the following factors, if relevant: 1)

general economic conditions; 2) the possible effect of inflation or deflation; 3) the expected tax consequences, if any, of investment decisions or strategies; 4) the role that each investment or course of action plays within the overall investment portfolio of the fund; 5) the expected total return from income and the appreciation of investments; 6) other resources of the Cohoes IDA; 7) the needs of the institution and the fund to make distributions and to preserve capital; and 8) an asset's special relationship or special value, if any, to the purposes of the institution.

ii. Decisions. Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the Institutional Fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the Cohoes IDA.

iii. Diversification. The Cohoes IDA shall diversify the investments of an Institutional Fund unless the Cohoes IDA prudently determines that, because of special circumstances, the purposes of the fund are better served without diversification. The Cohoes IDA shall review a decision not to diversify as frequently as circumstances require, but at least annually.

iv. Retention or disposal of fund property. Within a reasonable time after receiving Institutional Fund property, the Cohoes IDA shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the Institutional Fund into compliance with the purposes, terms, and distribution requirements of the Cohoes IDA as necessary to meet other circumstances of the Cohoes IDA and the requirements of Article 5-A of the N-PCL.

**SECTION 5. REPORT TO BE PROVIDED.** The Executive Director or the Chairman shall annually prepare an investment report which includes an explanation of the investment policy and amendments, the results of any audit, the investment income records of the Cohoes IDA and a list of the total fees, commissions or other charges to be paid to each investment banker, broker, agent, dealer, and adviser rendering investment associated services to the Cohoes IDA since the last investment report.