

# **Item IV: The Corporation's Code of Ethics:**

**Item (a): Chairmen's Conflict of Interest  
Policy**

**Item (b): Code of Conduct for the Directors**

**Item (c): Ethics and Conflict of Interest  
Guidelines for Employees**

**Item IV (a):**

**Chairmen's Conflict  
of Interest Policy**

**FOR INFORMATION**

February 15, 2007

TO: The Directors

FROM: Patrick Foye  
Daniel Gundersen

SUBJECT: Chairmen's Conflict of Interest Policy

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In furtherance of Governor Spitzer's efforts to restore integrity and public confidence in the operations of New York State government, Patrick Foye, the Chairman of the New York State Urban Development Corporation, doing business as Empire State Development Corporation ("ESDC" or the "Corporation"), and Daniel Gundersen, Chairman of the Upstate Empire State Development Corporation ("Upstate ESDC") are committed to adhering to a conflict of interest policy that goes beyond what is required in the Public Officers Law and ESDC's Conflict of Interest Guidelines for Directors. The following constitutes the Conflict of Interest Policy that the two Chairmen have agreed to adhere to.

The Chairmen agree that they will not engage in any of the following activities:

1. The purchase, directly or indirectly, of any real estate in NYS that is not used as a personal residence.
2. Investing, directly or indirectly, with any person or entity that does business with ESDC or State.
3. Investing in initial public offerings (IPOs).
4. Investing in hedge funds or private equity funds (except each Chairman may continue to hold investments held prior to January 1, 2006).

The Chairmen agree that they each will take the following actions:

1. Submit all our expense reports for review by Chair of ESDC's Audit Committee.
2. List any stock purchases or sales by either Chairman on ESDC website within 20 days of the transaction.
3. Grant investment discretion over private ownership interests to a third party to the extent practicable.
4. Grant irrevocable voting power over all interests in private entities to a third party.
5. Provide a list of family members to Corporation Directors to ensure family members are not lobbyists or seeking to do business with ESDC or the State, or seeking employment with ESDC or the State. As of today, no family member of either of us is a lobbyist, has done business with ESDC, is seeking to do business with ESDC or the State, or is seeking employment with ESDC or the State.
6. Comply with Governor Spitzer's Executive Order No. 3 on lobbying by Administration officials, regardless of applicability to Corporation personnel.
7. (In the case of Patrick Foye,) recuse himself from any matter involving United Way of Long Island or AIMCO, a publicly traded real estate investment trust.

**Item IV (b):**

**Code of Conduct for  
the Directors**



New York State  
Urban Development  
Corporation

1515 Broadway  
New York, NY 10036-8960  
212/930-9000

FOR CONSIDERATION

August 14, 1991

TO: The Directors

FROM: Vincent Tese

SUBJECT: Code of Conduct

REQUEST  
FOR: Adoption of Code of Conduct for the New York  
State Urban Development Corporation Directors

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Background

The Ethics in Government Act (the "Act"), Chapter 813 of the Laws of 1987, was signed into law by Governor Cuomo on August 7, 1987. The Act is intended to eliminate abuse and corruption in State government and to increase public trust and confidence in civil servants and public institutions through the prevention of favoritism, undue influence and abuses of a public position. Effective January 1, 1989, the Act substantially amended the restrictions on the business and professional activities of most State officers and employees and required extensive annual financial disclosure be made by those in policy making positions. Although thorough in its reach, directors of public benefit corporations, at least one member of which is appointed by the Governor and who are compensated only on a per diem basis, were not covered by the primary conflict of interest provisions of the law. Recognizing this lapse, the Ethics Commission promulgated Regulation 932.5, which required such public benefit corporations to adopt a code of ethical conduct covering conflicts of interest and business and professional activities, including outside activities, of their directors both during and after service with such public benefit corporation.

On June 13, 1991, an earlier version of the Code of Conduct was presented to and discussed by the Directors. Subsequent revisions and discussions followed the June meeting, resulting in a combination of the originally proposed Code of Conduct and modifications suggested by the Directors. The revised Code of Conduct is attached.

Requested Action

The Directors are requested to adopt the attached Code of Conduct to govern their activities both during and after their service as UDC directors.

Recommendation

Based on the foregoing, I recommend of the approval of the above requested action.

Attachments

Resolution

Exhibit A - Code of Conduct for the New York State Urban Development Corporation Directors

Exhibit B - Ethics in Government Act, Chapter 813 of the Laws of 1987

0204D

**NOTE: Exhibit B was intentionally omitted. Please see McKinney's Consolidated Laws of New York: Public Officers Law §73 for the codified version of this Act.**

August 14, 1991

NEW YORK STATE URBAN DEVELOPMENT CORPORATION -  
Authorization to Adopt a Code of Conduct for the New  
York State Urban Development Corporation Directors

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WHEREAS, the Ethics Commission, by regulation, has required public benefit corporations whose directors are subject to §73-a of the Public Officers Law but are not subject to §73 by virtue of their uncompensated or per diem compensation status to adopt a code of ethical conduct covering conflicts of interest and business and professional activities, including outside activities, of such directors both during and after service with such public benefit corporation; and

WHEREAS, the UDC Directors are subject to §73-a of the Public Officers Law but are not subject to §73 by virtue of their uncompensated or per diem compensation status; and

WHEREAS, the Directors desire to comply with the Regulations of the Ethics Commission; and

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Code of Conduct for the New York State Urban Development Corporation Directors, a copy of which is attached hereto, hereby is adopted and ordered filed in the records of the Corporation ("Adopted Code of Conduct for the New York State Urban Development Corporation Directors").

\* \* \*

0204D



Exhibit A

CODE OF CONDUCT  
FOR  
THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION DIRECTORS

1. This Code of Conduct applies to the directors ("Directors") of the New York State Urban Development Corporation ("UDC"). This Code of Conduct may be amended by majority vote of the Directors.

2. In addition to the requirements of Sections 73(3), 73-a and 74 of the Public Officers Law, Directors shall comply with the following specific rules governing conflicts of interest and outside activities:

a. No member or firm or association of which the Director is a part, or corporation, ten percent or more of the stock of which is owned or controlled directly or indirectly by such Director, shall sell any goods or services having a value in excess of twenty-five dollars to UDC or any subsidiary of UDC unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding.

b. No Director shall, directly or indirectly, solicit, accept, or receive any gift having a value of seventy-five dollars or more (\$75.00) whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form whatsoever, under circumstances in which it could be reasonably inferred that the gift was intended to influence the Director or could reasonably be expected to influence the Director in the performance of his or her official duties as a Director, or was intended as a reward for any official action on the Director's part.

c. No Director, other than in the proper discharge of his or her official duties, or firm or association in which the Director is a part, shall receive, directly or indirectly, or enter into any agreement, express or implied, for any compensation, in whatever form, for the appearance or rendition of services by him or herself or another in relation to any case, proceeding, application or other matter before UDC or any subsidiary of UDC.

d. No Director shall, within a period of two years after ceasing to be a director of UDC, appear or practice before UDC or any subsidiary of UDC or receive any compensation for any services rendered by such Director on behalf of any person, firm, corporation, or association in relation to any matter before UDC or any subsidiary of UDC.

e. No Director, after ceasing to be a director of UDC, shall appear, practice, communicate or otherwise render services before UDC, or any subsidiary of UDC, or receive any compensation for services rendered by such Director on behalf of any person, firm, corporation or other entity with respect to any case, proceeding, application or transaction in which such Director was directly concerned and in which the Director personally participated during the period of service or which was under the Directors' active consideration during said period of service.

f. Notwithstanding the above, no Director should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in actual, potential, or apparent conflict with the proper discharge of the Director's duties. The Director shall be under an ongoing obligation to disclose any actual, potential, or apparent conflict of interest and shall take appropriate steps to eliminate or abate the conflict, including recusal.

g. A Director should perform the duties of his or her office impartially and diligently. A Director should disqualify him or herself in any matter in which the Director's impartiality might be reasonably questioned.

**Item IV (c):**

**Ethics and Conflict of  
Interest Guidelines  
for Employees**

**PLEASE READ PAGES 1 THROUGH 8,  
THEN SIGN THE LAST PAGE**

**Anita W. Laremont**  
Senior Vice President - Legal  
and General Counsel

**MEMORANDUM**

**TO:** All ESDC and Subsidiary and Affiliate Employees  
**FROM:** Anita W. Laremont *awl*  
**DATE:** March 12, 2003  
**SUBJECT:** Ethics and Conflict of Interest Guidelines

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Attached are Ethics and Conflict of Interest Guidelines that supplement the Public Officers Law and have been adopted to govern the actions of all ESDC employees, as well as, the employees of all ESDC subsidiaries and affiliates – i.e., all persons on the payroll of such entities. These Guidelines were previously distributed in October 1992 and have not been revised since that time.

The Guidelines are in some instances more restrictive than the underlying statutory provisions. Certain violations of the Public Officers Law may subject you to criminal and civil penalties. A violation of these Guidelines may subject you to discipline and possibly discharge.

If you have any questions about these Guidelines or about any provision of the Public Officers Law, please contact me.

Attachment

## **ETHICS GUIDELINES FOR ALL ESDC EMPLOYEES**

These guidelines are intended to apply to all ESDC employees and to employees of ESDC subsidiaries. Any questions as to the applicability of a guideline to a particular employee should be directed to the ESDC General Counsel.

### **I. Guidelines of General Application**

1. No ESDC employee shall have any interest, financial or otherwise, direct or indirect, or engage in any activity, or incur any nature, which is in conflict with the proper discharge of his or her duties in the public interest, whether such conflict be real or apparent, existing or potential.

2. Each ESDC employee shall pursue a course of conduct which will avoid encouraging the public to assume or believe that he or she is likely to engage in acts of violation of his or her trust.

3. No ESDC employee shall use his or her position to secure unwarranted privileges or exemptions for himself or herself or another.

4. No ESDC employee shall disclose or use to further his or her personal interest or the interest of another, information acquired by him or her during the course of his or her official duties, which is not public knowledge or information, including the purchase or sale of property or securities.

5. No ESDC employee shall have any direct or indirect financial interests that conflict with his or her responsibilities to ESDC; or any financial interest, direct or indirect, in any entity or business that has or is expected to have a substantial business relationship with ESDC.

6. In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates these guidelines shall be subject to discipline, suspension or termination from ESDC.

### **II. Issues Arising During Course of Employment**

1. No ESDC employee shall receive, or agree to receive, compensation for services in connection with any case, proceeding, application, or other matter before any State agency, if the compensation is dependent or contingent on action by the State agency.

2. No ESDC employee shall receive, or agree to receive, directly or indirectly, any compensation for appearances or services by himself or another against the interest of ESDC or the State.

exercised in making such investments where the employee is privy to information by reason of his or her employment activities that is not public information at the time of his or her investment. Investments in bond funds, which may include ESDC bonds in their portfolio, are permitted. See generally, Section I, ¶4, above.

#### IV. Honoraria and Travel Reimbursement

“Honorarium” shall mean

(i) a payment, fee or other compensation to an employee for services rendered by the employee which are not related to the employee’s official duties, which payment, fee or other compensation is made as a gratuity, or as an award or honor, e. g., for delivering a speech, writing or authorizing an article or publication or attending a meeting or conference, and

(ii) a payment, whether to a lodging site or a provider of transportation, for travel expenses made to or on behalf of an employee, or reimbursement made to the employee for travel expenses incurred, for such services rendered by an employee not related to the employee’s official duties.

“Honorarium” shall not mean

(i) a travel payment in the form of a gift from a relative; or

(ii) a payment in lieu of an honorarium made to ESDC or the State or a travel payment provided by non-governmental sources for activities related to an employee’s appropriate or authorized outside employment.

1. No ESDC employee shall accept an honorarium or travel reimbursement from an entity or person other than ESDC unless participation in the event for which the honorarium or travel reimbursement is offered and acceptance of the honorarium or travel reimbursement have been approved in writing by the ESDC Chief Operating Officer, in advance of acceptance of the invitation. In considering whether such approval will be granted, the ESDC Chief Operating Officer will consider whether the entity or individual offering the honorarium or travel reimbursement is an individual who or an organization which:

(i) does business with or has contracts with either ESDC or a ESDC employee in his or her official capacity on behalf of the ESDC;

(ii) attempts to influence either ESDC or the individual in his or her official capacity on behalf of ESDC;

(iii) is involved in litigation against ESDC; or

(iv) has received or applied for funds from ESDC during the previous calendar year, up to the date of the proposed receipt of the honorarium.

## V. Limitations on Outside Activities of ESDC Employees

### A. All ESDC Employees

1. No ESDC employee who is classified as an exempt employee\* may engage in any private employment, profession or business or other activity from which more than \$1,000 annual compensation is received or anticipated without obtaining prior written approval from the ESDC Chief Operating Officer. ESDC employees who have been designated as policy makers are further governed by the guidelines set forth in Section V. B., below.

2. Any ESDC employee who becomes a declared candidate for a full-time elected position must resign his or her employment with ESDC. The resignation must be effective at the point when active fund-raising commences and, in all events, must be effective before the date of filing to put oneself on the ballot.

3. Regardless of whether it is a compensated position, no ESDC employee may hold public office or other public employment without prior notice being given to the ESDC Chief Operating Officer. This notice provision is intended to insure that all appropriate steps are taken both by the employee and by ESDC to avoid any appearance of impropriety that might be created by the outside activity. For these purposes, term "public office or other public employment" shall be broadly construed to include, *inter alia*, service on public advisory boards, community boards, business improvement districts. ESDC employees who have been designated as policy-makers are further subject to the guidelines in Section V. B., below.

4. Except for employees designated as policy makers, a ESDC employee may not be a candidate for elected office which would be a part time position or serve as an officer of any political party or political organization, including political clubs, or serve as a member of a political party committee including political party district leader, or serve as a member of a national committee of a political party while on the ESDC payroll without the prior written approval from the ESDC Chief Operating Officer. The ESDC Chief Operating Officer may only approve such activities if there is a written opinion by the General Counsel that there is no likely conflict between the proper and effective discharge of the individual's duties and responsibilities at ESDC and those of the public office of political office being pursued.

5. No ESDC employee may use his or her official ESDC title in advertisements or other publicity for charitable causes unless all other participants will be using their titles in the publicity materials and there is a clear notation next to the ESDC employee's name and title that the title is being used for identification purposes only.

### B. Policy-Makers

1. ESDC employees designated as policy-makers are prohibited from serving as officers of any political party or political organization, including political clubs, and from serving as members of a political party district leader, and from serving as a member of a national committee of a political party.

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\* "Exempt employees" are employees who are paid a straight salary, *i.e.*, they do not qualify for overtime pay.

VI. Issues Arising After Termination From ESDC

1. No person who has been a ESDC employee shall, within two years after the termination of such employment, appear or practice before ESDC or any subsidiary of ESDC or receive any compensation for services rendered by such former employee in relation to any case, proceeding or application before ESDC or any subsidiary of ESDC.

2. All former ESDC employees shall be permanently barred from appearing or practicing before any State agency or receiving compensation for any services rendered on any matter in which he or she was personally involved as a ESDC employee or which was under his or her direct supervision.



EMPIRE STATE DEVELOPMENT CORPORATION

Employee Statement of Interest and Activities\*

I have received and read the Memorandum from \_\_\_\_\_ entitled "Ethics and Conflict of Interest Guidelines," dated March 12, 2003 (the "Memorandum").

In consideration of the agreement of ESDC to employ me, or to continue my employment, as the case may be, I hereby agree to comply fully with each and every applicable provision of law described in the Memorandum, both during the period of my employment by ESDC and thereafter to the extent that those provisions apply to my conduct after termination of my employment at ESDC.

I have no financial interest in nor am I engaged in any activities which the law, as summarized in the Memorandum, prohibits and/or requires to be reported; nor have I accepted any payments, gifts or things of value from anyone doing business with ESDC, except: (check applicable box)

\_\_\_\_\_ None

\_\_\_\_\_ As stated below:

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Department, if a Current Employee)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)