



**New York State Office of the State Comptroller**

Thomas P. DiNapoli

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Division of State Government Accountability

# **Selected Aspects of Discretionary Spending**

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## **Battery Park City Authority**

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# Executive Summary

## Purpose

To determine whether Battery Park City Authority discretionary spending was appropriate and necessary. Our audit covers the Authority's two fiscal years ended October 31, 2011.

## Background

The Battery Park City Authority (Authority) was created in 1968 with the enactment of Title 12 of the Public Authorities Law to address "substandard, insanitary, deteriorated and deteriorating conditions" on the lower West side of Manhattan. The Authority was charged with the duty "to plan, create, coordinate and maintain a balanced community of commercial, residential, retail, and park space within its designated 92-acre site." To accomplish this mission, the Authority incurs direct costs for specific program purposes and it incurs indirect or "discretionary costs" that support overall objectives.

During our audit period, the Authority had an annual operating budget of about \$57 million. We identified a total of at least \$1,639,710 which was discretionary in nature for the two years ended October 2011. Each public authority should have formal policies and procedures specifying the types of discretionary costs that are appropriate and the dollar thresholds, supporting documentation and formal approvals that are necessary to be accountable for such costs.

In November 2012, the Public Authority Budget Office (ABO) issued guidance stating that boards of directors and authority management have an obligation to authorize the expenditure of funds only for purposes that relate to and support the mission of the authority. The guidance also states that the fiduciary duty of the board includes adopting policies that safeguard assets and resources of the authority and protect against the use of funds for purposes that do not advance its core purpose and objectives. The ABO added that it is particularly important for the board to develop policy on the proper use of authority discretionary funds that clarifies for all employees what would and would not be appropriate expenditures.

Also, on October 9, 2007 the New York State Attorney General issued Opinion 2007-F4 which pertained to the Long Island Power Authority (LIPA) and stated that the legality of LIPA expenditures for charitable contributions and sponsorship depends on whether the expenditures directly relate to a power, duty or purpose of LIPA. We maintain that this same standard would hold true for the Authority which made charitable contributions totaling about \$1 million during our audit period.

## Key Findings

- The Authority lacked written policies and procedures clarifying what constituted appropriate discretionary spending and specifying permissible dollar thresholds, necessary justifications, and required formal approvals and supporting documentation. The absence of such internal controls increases the risk that not all Authority discretionary spending is necessary and appropriate for the mission of the Authority. In fact, we questioned the appropriateness of most of the Authority discretionary spending that we sampled during the audit.
- We sampled 69 discretionary expenditures totaling \$112,132 and we questioned 53 totaling

\$100,700 because these transactions did not appear necessary, were not clearly related to the purpose of the Authority, were not properly approved and/or were not adequately supported with documentation.

- Included in the expenditures that we took exception to were payments totaling \$61,800 for charitable contributions to various not-for-profit organizations. In these instances, the Authority lacked documentation to show how it determined which organizations to select for donations, how contributing to such organization was related to or supported the Authority's mission and why the donated amounts were appropriate. Our follow up showed that the Authority made payments totaling \$1.05 million for the audit period (See Exhibit) for charitable donations.

## **Key Recommendations**

- Establish written policies and procedures for discretionary spending including definitions of such costs and necessary justifications, dollar thresholds, formal approvals and supporting documentation.
- Establish a formal framework to govern contributions to outside entities and discontinue such spending unless it can be clearly established how such spending aligns with the Authority's mission, purpose, duties and authority.
- Develop budgeting and recordkeeping practices that permit management and the Board to identify, plan and monitor discretionary spending.

**State of New York**  
**Office of the State Comptroller**

**Division of State Government Accountability**

December 10, 2013

Mr. Dennis Mehiel  
Chair  
Hugh L. Carey Battery Park City Authority  
One World Financial Center  
New York, NY 10281-1097

Dear Mr. Mehiel:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of *Selected Aspects of Discretionary Spending*. This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller*  
*Division of State Government Accountability*

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

## Background

Certain public authority costs pertain directly to the operating purpose of the entity. For example, a transportation authority expense to pay for fleet maintenance is an operating cost. However, a public authority may also incur “discretionary” costs to pay for expenses that indirectly support the primary operating purpose. For example, discretionary costs may include expenses for travel and entertainment, employee professional development, and sponsorship of community events. As with operating costs, discretionary costs must relate to the mission of the public authority. Each public authority should have formal policies and procedures specifying the types of discretionary costs that are appropriate and the dollar thresholds, supporting documentation and formal approvals that are necessary to be accountable for such costs.

These requirements are affirmed by guidance issued by the New York State Authorities Budget Office (ABO) in November 2012 which states that boards of directors and authority management have an obligation to authorize the expenditure of funds only for purposes that relate to and support the mission of the authority. The fiduciary duty of the board includes adopting policies that safeguard the assets and resources of the authority and protect against the use of funds for purposes that do not advance its core purpose and objectives. It is particularly important for the board to develop a policy on the proper use of authority discretionary funds that clarifies for all employees what would and would not be considered appropriate expenditures. This guidance is also consistent with Opinion #2007-F4 which was issued by the New York State Attorney General on October 2, 2007 to the Long Island Power Authority (LIPA) and which determined that the legality of LIPA payments for charitable contributions and sponsorship depends on whether the expenditures directly relate to a power, duty or purpose of LIPA. In the event, however, that a financial contribution does not directly relate to one of LIPA’s powers, duties or purposes, then the expenditure would fall outside of LIPA’s authority to give.

Based on our examination of Authority spending for the audit period, we estimated that the Authority spent at least \$1,639,710 that was discretionary in nature. However, the Authority did not have practices and recordkeeping requirements to specifically categorize its discretionary spending such that an exact amount of such spending could be determined.

To determine if Authority discretionary costs were necessary and appropriate, properly approved and adequately supported with documentation, we examined 69 payments for discretionary costs totaling \$112,132 for the two fiscal years ended October 31, 2011. The payments pertained to the six categories of discretionary costs as shown in the following table.

Category	Number of Payments	Amount
Contributions	9	\$61,800
Community Events	14	20,868
Employee Professional Development	18	14,438
Food and Beverages	12	3,594
Travel and Entertainment	9	2,540
Miscellaneous	7	8,892
<b>Total</b>	<b>69</b>	<b>\$112,132</b>

## Audit Findings and Recommendations

We took no exception with \$11,432 of discretionary costs (10.2 percent) pertaining to 16 payments for travel and entertainment and miscellaneous items. However, as discussed in the following sections of this report, we took exception with 53 payments totaling \$100,700 (89.8 percent) pertaining to contributions/sponsorships, community events, employee development and food and beverage because the purchases were unrelated to the duty or purpose of the Authority, were not properly approved and/or were not adequately documented.

### Contributions

For the two years ended October 31, 2011, the Authority contributed \$1.05 million to various not-for-profit organizations. (See Exhibit) We examined nine payments for contributions totaling to \$61,800 as shown in the following table.

<b>Entity</b>	<b>Amount of Contribution</b>
Ameny Seminar	\$ 3,000
Battery Park City Neighbors' Association	4,500
Lower Manhattan Cultural Council	6,000
Asian Women in Business	6,000
Poets House, Inc	2,500
I.S. 89 PTA	1,800
Museum of Jewish Heritage	9,000
The Skyscraper Museum	9,000
Tribeca Film Festival	20,000
<b>Total:</b>	<b>\$61,800</b>

We found that the Authority had no written policies and procedures governing these contributions, and none of the nine contributions were adequately supported with documentation. For example, there was no documentation to support how these payments were consistent with the purpose of the Authority or supported its mission, how the dollar amounts were justified or why these entities in particular were selected. While the Authority does obtain Board approval for its budget for contributions to outside entities, the budget was modified in 2011 without Board approval. In this regard, two organizations (World Hunger Action Center and IHN Sponsorship) were eliminated from the budget and one organization (RiverKeeper) had its contribution reduced. These changes totaled \$20,000 and this amount was then reallocated as a contribution to another entity (Tribeca Film Festival) that was not part of the original Board approved budget. Also, three board members had personally contributed to the same not-for-profit organizations (Lower Manhattan Cultural Council, Poets House and Skyscraper Museum) that were funded by the Authority and one individual made a donation while he was on the Board. These circumstances may call into question the propriety of Authority contributions and suggests that there may have been a lapse in the Authority's process of presenting budgets to the Board for review and approval. We further question whether the charitable spending meets the legality requirements specified in the Attorney General's 2007 Opinion.

Also, our findings are consistent with those presented by the New York State Inspector General in a November 2010 report entitled "*Investigation of the Battery Park City Authority*." The report stated that the Authority should not be making contributions to organizations that appear to be outside the scope and mission of the Authority and, accordingly, are unauthorized by law. The Inspector General's report concluded that the amounts spent were inconsistent with a civic purpose, especially in times of fiscal crisis. Nevertheless, our audit shows that the Authority continued to contribute to five of the six organizations (Asian Women in Business, Creative Time, Jamaica Business Resources Center, Lower Manhattan Cultural Council, and Public Art Fund, Inc.) that the Inspector General's report took exception with. The total amount contributed to these five organizations was \$20,850 and \$18,000 for the fiscal years ended October 31, 2010 and October 31, 2011, respectively.

We conclude that the Authority needs to establish a formal framework to govern contributions to outside entities and should discontinue such spending unless it can be clearly established how such spending aligns with the Authority's mission, purposes, duties and authority.

## Community Events

The Authority spent \$487,441 on the annual "River to River" festival for the two years ended October 31, 2011. The costs included performer fees, equipment rentals and catering. The lump sum cost of this event was covered in the Board approved budget and approved contracts were in place as appropriate. We examined 14 festival payments totaling \$20,868 and noted that eight totaling \$2,143 were for refreshments for the contracted talent. However, the corresponding contracts did not establish dollar limits for refreshments and we were unable to determine whether these costs were reasonable. According to Authority officials, the costs are a customary part of the festival. We also examined six payments totaling \$18,725 for talent and other costs such as equipment rentals and noted that there was no documentation showing how the vendors and their related fees had been determined.

If the Authority continues to support the festival, the basis for vendor selections and fees should be documented and budget limits on refreshments for talent should be established.

## Employee Professional Development

We reviewed 18 payments totaling \$14,438 that pertained to employee professional development and we noted the following:

- Seven payments totaling \$1,182 were for employee professional memberships, including \$418 for an employee's membership fees for the New York State Society of Certified Public Accountants and \$215 for another employee's semi-annual Bar Dues. According to the New York State Authorities Budget Office's November 2012 opinion, such expenses would be an inappropriate use of public authority funds.
- Ten payments totaling \$12,981 were for training costs. For example, the Authority paid \$3,600 for 10 sessions of "Wellness in the Workplace" attended by Parks Enforcement

Police. While the Authority contract with New York City provides for the services of these Police and indicates that supplemental training will be provided for the assigned officers, the Authority did not document why this particular training was appropriate. Also, the Authority paid \$1,800 for 17 staff to attend CPR training. However, only 13 staff attended this training, resulting in a \$400 waste of funds. Authority officials did not have any documentation to establish how the 17 staff were selected, why four staff did not take the training or how this training served the Authority mission.

- The Authority paid \$275 for an examination fee.

It is questionable whether these transactions support the mission of the Authority. Therefore, the Authority should address employee professional development as part of an overall framework for guiding discretionary spending.

## Food Purchases

The Authority spent funds on food without documenting that the costs were necessary for achieving the Authority mission. In addition, there was no policy and procedure pertaining to discretionary costs for food.

We examined 12 Authority payments for food totaling \$3,594. Generally, these food purchases were preapproved. However, according to an opinion released by the New York State Authorities Budget Office in November 2012, meal costs must be incurred through participation in activities that are integral to meeting the core public purpose of the Authority and must be documented and within reasonable cost thresholds. We found that four of the sampled payments totaling \$892 were associated with sponsored meetings with community members and officials and appeared in keeping with the Authority's purpose. However, there was no documentation to support that the costs were reasonable. There were six payments totaling \$1,466 for items such as coffee and tea. The Authority subsequently stopped this practice. The remaining two payments totaling \$1,236 were for an event we deemed appropriate for the Authority.

## Recommendations

1. Establish written policies and procedures for discretionary spending including definitions of cost and necessary justifications, cost thresholds, formal approvals and supporting documentation.

(Authority officials replied to our draft audit report that they agree with our recommendation and have taken action to implement it. The Authority utilizes a "zero based" budget methodology requiring that proposed expenditures be justified as necessary with appropriate support documentation and approval by the President. A proposed request for a budgeted expenditure will not be included in the budget without a full explanation of its necessity to the Authority's operations/mission and a cost justification. In addition, a new policy governing the use of discretionary funds has been developed by staff and was reviewed at a joint meeting of the Board's Governance and Audit and Finance Committees on September 24, 2013.)

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2. Establish a formal framework to govern contributions to outside entities and discontinue such spending unless it can be clearly established how such spending aligns with the Authority's mission, purpose, duties and authority.

(Authority officials replied to our draft audit report that they agree with our recommendation and have taken action to implement it. As a result of new State law guidance on contributions, the Authority had its Board revisit the Contributions Policy and the Authority's use, in general, of discretionary funds for charitable contribution purposes. Such a review is consistent with the Authority's plan to discontinue all charitable contributions, sponsorships and memberships to non-governmental organizations. Information regarding the Contributions Policy was circulated to the Members of the Board for their information in advance of the joint meeting of the Governance and Audit and Finance Committees that was held on September 24, 2013.

3. Develop budgeting and recordkeeping practices that permit management and the Board to identify, plan, and monitor discretionary spending.

(Authority officials replied to our draft audit report that they agree with our recommendation and have taken corrective action as detailed in the response to Recommendation 1.)

## Audit Scope and Methodology

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We audited whether discretionary spending by the Authority was appropriate and was incurred for official business. Our audit covers the period November 1, 2009 through October 31, 2011.

To accomplish our objective, we reviewed policies, procedures and guidelines related to submitting and paying discretionary expenditures and we interviewed Authority officials. We identified six areas of discretionary expenditures that were at a higher risk for inappropriate or questionable payments. For each of these areas, we selected a judgmental sample of payments, focusing on those that were the most risky due to factors such as those which had a high dollar value or occurred frequently. We reviewed the supporting documentation for a sample of 69 payments, totaling \$112,132 over two fiscal years.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational

independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

## Authority

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The audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

## Reporting Requirements

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A draft copy of this report was provided to Battery Park City Authority officials for their comment and review. Their comments were considered in preparing this final report and are included in their entirety at the end of this report.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Battery Park City Authority shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

## Contributors to This Report

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**Carmen Maldonado**, Audit Director

**Robert Mehrhoff**, Audit Manager

**Myron Goldmeer**, Audit Supervisor

**Elizabeth McNiff**, Examiner-in-Charge

**Dana Bitterman**, Staff Examiner

# Exhibit

## Schedule of Community Relations Contributions

	2010	2011
100 Hispanic Women Bus. Group	\$2,000	
Assoc. for Minority Ethnic NY	6,500	\$5,000
Amer Institute of Architect	2,500	2,000
Asian Women in Business	6,000	5,000
Association for a Better New York-Tables	8,160	1,230
Association for a Better New York-Dues	5,000	5,000
Black and Hispanic Caucus	5,000	
BMCC Scholarship Fund	5,000	5,000
BPC Neighbors & Parents Assoc.	4,500	
Caribbean Amer Chamber of Commerce	2,500	2,000
Church Street School of Arts	5,000	2,500
Competitive Edge Conference	20,000	11,990
Creative Time	2,000	
Downtown Green Fair	1,800	
Downtown Little League	1,800	1,800
Downtown Lower Man. Assoc	5,000	5,000
Downtown Soccer League	1,800	1,800
Earth Day NY	2,500	
Environmental Business Assoc	250	
Friends of Hudson River Park	5,000	11,500
Fund NY - Reg. Alliance	15,000	10,000
Historic Hudson Valley	10,500	
I.S. 89 PTA	1,800	1,800
IHM Sponsorship	50,000	
Jamaica Business Resources Center	6,000	5,000
Lower Manhattan Cultural Council	6,000	5,000
Lower Manhattan Marketing Assoc	200	200
M/WBE Green Workshop	7,500	
M/WBE Leadership	7,500	
M/WBE Task Force/Green Workshops	9,000	
NYS Hispanic Chamber of Commerce		1,500
Man. Hispanic Chambers of Commerce	5,500	
Manhattan Youth League	1,800	
Martin Luther King Observance	5,000	
Museum of Jewish Heritage	10,000	10,000
National 9/11 Memorial & Museum	10,000	2,000
National Hisp. Business Group	6,000	5,000
National Parks of NY Harbor Conserv.	5,000	

Nat'l Assoc. of Minority Contractors	6,500	5,000
New York Building Congress	10,000	6,195
New York Building Congress	5,000	5,000
New York Harbor Sailing Found.	5,000	
New Yorkers for Parks	3,000	2,000
New York Downtown Hospital		2,500
Open House NY	3,500	2,500
Poets House	15,000	7,500
Professional Women in Const	10,000	5,000
Public Art Fund, Inc	850	1,000
RiverKeeper	15,000	2,000
Somos El Futuro	5,000	
Stuyvesant High School	6,000	
The Battery Conservancy	50,000	40,000
The Skyscraper Museum	10,000	10,000
U.S. Green Building council	5,000	5,000
USGBC	100	
World Hunger Action Center	10,000	
P.S. 276 PTA		1,800
Tribeca Film Festival		20,000
Manhattan Youth Program		224,563
Other contributions, sponsorships, & diversity	<u>201,841</u>	<u>1,000</u>
<b>Total</b>	<b><u>\$610,901</u></b>	<b><u>\$441,378</u></b>

# Agency Comments

September 25, 2013

Ms. Carmen Maldonado  
 Audit Director  
 State of New York  
 Office of the State Comptroller  
 Division of State Government Accountability  
 110 State Street, 11<sup>th</sup> Floor  
 Albany, New Y 12236



Dear Ms. Maldonado:

In response to the New York State Comptroller's draft audit report, "Selected Aspects of Discretionary Spending," Report # 2012-S-158 (the "Report"), received July 26, 2013, which covered the Battery Park City Authority's (the "Authority") operating expenses for the two fiscal years ended October 31, 2010 and 2011, the Authority has outlined below specific actions taken that address the constructive key recommendations suggested in the Report.

The Authority has reduced its discretionary spending over the last several years. Notwithstanding significant increases in non-discretionary spending, such as pension, post retirement medical costs, utilities, insurance, etc., the Authority's total operating budgets for recent fiscal years October 31, 2012 and 2013 have been the lowest operating budgets in the last decade. The Authority's decreasing operating budgets, low cost of capital and increasing revenues all contribute to its "AAA" credit rating.

In reviewing the Report, the Authority found some inaccuracies. To point out one specifically, the Report states: "During our audit period, the Authority had an annual operating budget of about \$123 million." The Authority's approved operating budgets for the audited fiscal years October 31, 2011 and 2010 were \$28.4 and \$28.7 million, respectively.

The Report's key recommendations are based on expenditures for fiscal periods that ended two years ago. Since then, the Authority has adopted policies, procedures and practices consistent with the Authorities Budget Office (ABO) guidelines issued in November 2012, which was after the close of the audit period.

The key recommendations in your Report are outlined and addressed below:

- 1) "Establish written policies and procedures for discretionary spending including definitions of such costs and necessary justifications, dollar thresholds, formal approvals and supporting documentation."

**Response:** The Authority utilizes a "zero based" budget methodology requiring that proposed expenditures be justified as necessary with appropriate support documentation and approval by the President. A proposed request for a budgeted expenditure will not be included in the budget without a full explanation of its necessity to the Authority's operations/mission and a cost justification. The detailed line item departmental budgets are presented to the Members of the Board (the "Board") for approval, together with a "budget to actual" variance analysis of the prior fiscal period. Budget changes to budgeted line items year over year are also presented to the Board as part of this packet. Internal controls are in place to ensure the appropriateness of the expenditures within the board approved budget amounts, and that all payments are approved by management with authorization limits designated by the Board. Department heads are required to review and certify that their quarterly department budgets and the "budget to actual" variance reports are reviewed

Andrew Cuomo, GOVERNOR, STATE OF NEW YORK  
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\*  
 Comment

\*The report was revised based on information in the Authority's response.

quarterly with the Controller, CFO, Internal Control Officer, and the President. Furthermore, a new policy governing the use of discretionary funds has been developed by staff and was reviewed at a joint meeting of the Board's Governance and Audit and Finance Committees on September 24, 2013.

- 2) "Establish a formal framework to govern contributions to outside entities and discontinue such spending unless it can be clearly established how such spending aligns with the Authority's mission, purpose, duties and authority."

**Response:** In order to promote transparency with regard to contributions to non-governmental organizations, the Authority has formally codified and published internal standards that are used to determine whether a proposed contribution is appropriate.

On September 14, 2010, the Authority's Board approved a policy regarding contributions to non-governmental organizations (the "Contributions Policy"), which has been followed since adoption (copy attached). Pursuant to the Contributions Policy, detailed line item budgets listing contributions to outside entities are submitted to the Board with the annual budget for approval. All related expenditures are subject to the same budgetary controls and interim review procedures enumerated in response #1 above.

Almost two years have elapsed since the Contributions Policy was adopted, during which time new State law guidance on contributions has been issued. As a result, the Authority believes it is prudent to have the Board revisit the Contributions Policy and the Authority's use, in general, of discretionary funds for charitable contribution purposes. Such a review is consistent with the Authority's plan to discontinue all charitable contributions, sponsorships and memberships to non-governmental organizations. Information regarding the Contributions Policy was circulated to the Members of the Board for their information in advance of the joint meeting of the Governance and Audit and Finance Committees that was held on September 24, 2013.

- 3) "Develop budgeting and recordkeeping practices that permit management and the Board to identify, plan and monitor discretionary spending."

**Response:** The budgetary control and accounting practices are consistent with the procedures described in response #1 above. Each department has a detailed budget report descriptive of each type of expense. The budget reports list all payments made within each account, the dollar amount, nature of expense and payee. On a quarterly basis, the expenses are reviewed by the President, Controller, Internal Control Officer, CFO and respective department heads against the approved budget.

The Authority appreciates the recommendations and guidance provided by your office as it continues to revise, refine and improve accountability and transparency for all expenditures. We invite representatives of the Office of the State Comptroller to present your final report that includes our responses directly to the Authority's Audit and Finance Committee.

We look forward to working together with you in the future.

Sincerely,  
  
Karl Koenig  
Controller

**POLICY GOVERNING THE USE OF DISCRETIONARY FUNDS  
AND CERTAIN ORGANIZATION PROPERTY**

**I. POLICY PURPOSE.**

The purpose of the Policy Governing the Use of Discretionary Funds and Certain Organization Property (this “Policy”) is to: (a) establish general guidelines regarding the proper uses of certain resources of the Battery Park City Authority (“BPCA”) and the Battery Park City Parks Conservancy (“BPCPC”) (collectively, the “Organization”); (b) assist employees of the Organization (each an “Employee” and collectively, the “Employees”) in understanding their responsibilities regarding the purposes for which such resources can and cannot be utilized; and (c) assist in the preparation of the documentation necessary to substantiate permitted uses of Organization resources, all in a manner consistent with the New York State Public Integrity Reform Act of 2011, as amended, and the New York State Authorities Budget Office’s related “Recommended Governance Practice.”

**II. DEFINITIONS.**

For purposes of this Policy, the following terms shall have the following meanings:

- (a) “Allowable Expense” means any expense that:
  - i. Is permitted under law;
  - ii. Is reasonably necessary to promote the public purposes and mission for which the Organization was established;
  - iii. Is primarily to benefit the Organization and not to confer a personal benefit on any Employee or any other private individual or entity;
  - iv. Is not extravagant or unreasonable as to amount;
  - v. Is not a Prohibited Expense, as defined hereafter; and
  - vi. Is incurred in accordance with the requirements established under this Policy.
- (b) “Discretionary Funds” are funds belonging to the Organization that are: (i) not restricted as to use by any statute, trust indenture, bond resolution, management agreement, or other legal or policy limitation, including, but not limited to, a restricted gift; and (ii) may be expended for any Allowable Expense.
- (c) “External Conferences” shall mean seminars, workshops/training sessions or similar events sponsored or organized by parties other than the Organization

and to which Employees and other individuals or organizations are invited and expected to attend.

- (d) “Internal Conferences” shall mean seminars, workshops/training sessions or similar events sponsored or organized by the Organization that are expected to be attended only by Employees or by Employees and other individuals or organizations.
- (e) “Prohibited Expense” shall include an expenditure for any of the following purposes:
  - i. The purchase of tobacco or alcohol;
  - ii. The provision of free or discounted services by the Organization for the personal use of current or former Board Members, Employees or their relatives;
  - iii. Celebrations, parties, flowers or other gifts that do not further the public purpose or mission of the Organization but are primarily for the personal benefit of Employees, their relatives and friends or any other private individual or entity;
  - iv. Charitable donations, contributions, grants;
  - v. Non-State sponsored events;
  - vi. The personal use of Organization mobile or electronic devices, except as otherwise permitted by Section VII of this Policy;
  - vii. Postage of holiday cards, invitations or expressions of sympathy to Employees or their family members;
  - viii. Professional dues, license fees, continuing education and/or accreditation classes and courses for Employees; and
  - ix. Food, beverages or other refreshments for Employees and those doing business with the Organization, except as otherwise provided in Sections V and VI of this Policy.

### **III. GENERAL GUIDANCE ON EXPENDITURES.**

- (a) Discretionary Funds may be expended only for an Allowable Expense in accordance with the provisions of this Policy. Organization funds that are not Discretionary Funds (“Non-Discretionary Funds”) shall be expended only for those purposes permitted by statute, trust indenture, bond resolution,

management agreement or other legal instrument governing the expenditure of such Non-Discretionary Funds.

- (b) All expenditures of Discretionary Funds shall be properly authorized, documented and paid in accordance with the Organization's applicable policies and procedures, including but not limited to the Budget Controls established by the Finance Department. A copy of the Budget Controls is attached to this Policy for informational purposes. The documentation supporting the request shall show the type and purpose of the expense, the amount of the expense and the date on which it was incurred.
- (c) All Employees who request or approve an expenditure of Discretionary Funds shall be responsible for reviewing the expenditure for compliance with this Policy. Employees may be held personally responsible and required to reimburse the Organization for expenditures incurred by the Organization in violation of this Policy.

#### **IV. TRAVEL EXPENDITURES.**

- (a) Discretionary Funds may be used to reimburse Employees for reasonable, actual and necessary authorized travel expenses incurred while in travel status on behalf of the Organization in the performance of their official duties for hotel or motel lodging, meals, and incidental expenses using the same principles and reimbursement rates referenced in the regulations of the New York State Comptroller governing reimbursement of travel expenses for State employees (see, 2 NYCRR Part 8).
- (b) Employees are permitted to attend External Conferences for which the cost will exceed the per diem rates otherwise authorized under paragraph (a) of this Section if: (1) such attendance is determined to be an Allowable Expense; and (2) the President determines in advance that the Employee's attendance at the External Conference is in furtherance of the mission and public purpose of the Organization and is appropriate and necessary under the circumstances.

#### **V. POLICY REGARDING NON- TRAVEL MEAL ALLOWANCE.**

- (a) Non-travel meal allowances are permitted for Employees working overtime in accordance with the terms set forth in the Employee Handbook.
- (b) Each receipt submitted for reimbursement for such non-travel meal allowance must be itemized by the vendor/restaurant that provided the goods or services, and must be accompanied by the supervisor's written statement that the Employee's overtime was duly authorized.

**VI. EXPENDITURES FOR INTERNAL CONFERENCES AND OTHER PURPOSES.**

- (a) The Organization is permitted to expend Discretionary Funds for Internal Conferences that are determined to be an Allowable Expense. For an Internal Conference to be an Allowable Expense, in addition to satisfying the criteria in Section II(a) of this Policy, there must be a formal agenda and invitation for the Internal Conference and the Organization must reasonably expect that the Internal Conference will be widely attended by Employees or other individuals or entities not affiliated with the Organization. Board meetings or routine staff meetings do not constitute Internal Conferences. The costs of any expenditure for an Internal Conference must be approved in advance by the President.
- (b) Nothing in this Policy shall be construed to prevent the Organization or its Employees from expending Discretionary Funds for any other purpose which the Board or the President reasonably and in good faith determine to be for an Allowable Expense provided that: (i) such expense is not expressly precluded by the provisions of this Policy; (ii) the expenditure is reasonably necessary to promote the public purpose and mission for which the Organization was established; (iii) the expenditure is authorized and approved in accordance with the applicable procurement policies and procedures established by the Organization; and (iv) all necessary documentation supporting the expenditure is provided to the Finance Department.

**VII. LIMITATIONS ON THE USE OF MOBILE AND/OR ELECTRONIC DEVICES.**

The Organization shall provide cell phones, smartphones and other mobile or electronic devices to Employees only when it has determined that there is a substantial business reason to do so. Such mobile or electronic devices shall be used only by the Employee to whom they are assigned and shall only be used in furtherance of the Organization's business. While incidental personal use of the Organization-owned mobile or electronic devices is permitted, Employees shall reimburse the Organization for any additional charge (downloads, messages, etc.) which the Organization incurs as a result of such personal use.

**VIII. LIMITATIONS ON THE USE OF ORGANIZATION VEHICLES.**

BPCA shall not own, assign or otherwise make available to Employees, vehicles for temporary or permanent use.

BPCPC may use, assign and make available to Employees, vehicles for use on a temporary basis in accordance with its Vehicle Use Policy. The following provisions supplement, but do not supersede, BPCPC's Vehicle Use Policy:

- (a) A BPCPC vehicle assigned to an Employee shall be operated and used solely for BPCPC's purposes, as set forth in the Vehicle Use Policy, and shall be operated and used only by the Employee to whom the vehicle is assigned for proper BPCPC purposes. Any operator must have a valid New York State driver's license unless otherwise approved by the Senior Vice President of Human Resources and operate the vehicle in full compliance with all New York State and other applicable laws. Eligible drivers deemed by a supervisor to be at fault in the operation of a vehicle will be personally responsible for any fines, fees, legal penalties and personal legal costs resulting from the receipt of tickets and citations received while operating, using, parking or in possession of a vehicle owned by BPCPC.
- (b) No Employee shall be assigned a BPCPC-owned vehicle for his or her personal, permanent or exclusive use.

**IX. CONFLICT.**

In the event this Policy conflicts with any other policy adopted by the Organization, including but not limited to the Employee Handbook, this Policy shall govern unless otherwise stated herein.

**X. EFFECTIVE DATE.**

This Policy shall take effect immediately.

**XI. LEGAL AUTHORITY.**

This Policy is promulgated pursuant to the By-Laws of the Organization as well as the Public Integrity Reform Act of 2011 as amended.

**XII. REVIEW.**

This Policy shall be reviewed and amended as necessary, but in no event, later than July 2015.

**BUDGET CONTROLS OVER DISCRETIONARY SPENDING**  
**QUARTERLY BUDGET TO ACTUAL REVIEW**

**BCPA**

Quarterly budget to actual expenditure reports shall be reviewed by department heads and signed-off on for appropriateness and proper classification in accordance with the procedures set forth herein.

Within two business days following the end of each quarter of each fiscal year, the Finance Department will run and save the following fiscal year and fiscal quarter reports for each department on the M Drive (see path M:\Finance Forms\Quarter End Budget Reports):

- (a) Budget to actual report; and
- (b) Detailed support report.

Upon notification of a deadline to submit sign-offs from the Finance Department, each department shall comply with the following procedures:

- Review and confirm that all expenses incurred and committed are appropriate and properly classified, including discretionary funds;
- Submit all adjustments/reclasses to the Finance Department via email (using the reclass form provided on the M Drive); and
- Sign and submit the Quarterly Budget Review Form (located in the *Blank Approval Form* folder on the M Drive) to the Finance Department and send a copy of the Form via email to [bpcabudget@bpcan.y.gov](mailto:bpcabudget@bpcan.y.gov) to be saved in the applicable department's *Signed Approval Form* folder.
- **Capital Expenses** – Departments with budgeted or incurred costs for capital expense items must review the *Capital* folder (the capital budget report will only be saved in this folder) and sign the approval form to confirm review of the capital report.

Upon submission of the sign-offs from each department, the Finance Department shall schedule departmental meetings with the President, Chief Financial Officer, Controller, Internal Control Officer and the head of the respective department to review each budget on a line-by-line basis. All variances as well as future budget modifications which may be needed will be discussed at this meeting.

**Year-End Budget Process (Zero Based Budgeting Approach)**

During the 3rd Quarter of each fiscal year, BPCA shall start the process of creating BPCA's operating budget for the next fiscal year through the Finance Department's review of the budgets to actual expenditures with each department. The new fiscal year's operating budget worksheet shall contain the prior year's budget, actual expenditures to date, overage/underage of budget, percentage of budget used, as well as the proposed new fiscal year's budget with the projected change from the prior fiscal year's budget in dollars and percentage amounts. All proposed expenditures shall be analyzed and verified, as necessary, on a line-by-line basis.

The Finance Department shall schedule budget meetings with the President, the Internal Control Officer and each departmental head to review the proposed fiscal year budget and proposed expenditure on a line-by-line basis. Upon completion of the budget meetings, which shall continue until all open items are resolved, the department head shall prepare and submit to the Finance Department a budget package in summary format.

Upon receipt of all budget packages, the Finance Department shall prepare a budget package for presentation to the Board, for its review and approval, including the following exhibits:

- 1) BPCA's operating budget summary;
- 2) BPCA's revenue cash flow projections;
- 3) A proposed detailed line item departmental operating budget for the new fiscal year with year to date actual expenditures and variance reports to the current fiscal year;
- 4) BPCA's capital budget;
- 5) BPCA's five year budget projections; and
- 6) BPCA's contribution list.

The budget package shall be distributed to the members of the Board for review and approval.

#### **BPCPC**

Quarterly budget to actual expenditure reports shall be reviewed by department heads and signed-off on for appropriateness and proper classification in accordance with the procedures set forth herein.

BPCPC's Finance Department shall run and save the following reports by the 7th business day after the end of each quarter in separate department folders located on the R Drive by Fiscal Year and Fiscal Quarter:

- (a) Budget to actual report; and
- (b) Detailed support report.

Upon notification of a deadline to submit sign-offs from the BPCPC Finance Department, each department head shall comply with the following procedures:

- Review and confirm that all expenses incurred and committed are appropriate and properly classified, including discretionary funds;
- Submit all adjustments/reclasses to the BPCPC Finance Department via email (using the reclass form provided in the R Drive); and
- Sign and submit the Quarterly Budget Review Form (located in the *Blank Approval Form* folder on the R Drive) to the BPCPC Finance Department and send a copy via e-mail to [budget@bpccparks.org](mailto:budget@bpccparks.org) to be saved in the applicable department's folder.

- **Capital Expenses** – Departments with budgeted or incurred costs for capital items must review the *Capital* folder (the capital budget report will only be saved in this folder) and sign the approval form to confirm review of the capital report.

Upon submission of the sign-offs, the BPCPC Finance Department shall schedule meetings with the Executive Director, Director of Administration & Finance, and the head of the respective departments for a preliminary review of the expense status and their variances. A subsequent meeting will be held with the President, Treasurer, Executive Director, and Director of Administration & Finance for a review of each budget on a line-by-line basis. All variances as well as future budget modifications which may be needed will be discussed at that time.

#### **Year-End Budget Process (Zero Based Budgeting Approach)**

During the 3rd Quarter of each fiscal year, BPCPC shall start the process of creating BPCPC's operating budget for the next fiscal year through the BPCPC Finance Department's review of budgets to actual expenditures with each department. The new fiscal year's operating budget worksheet shall contain the prior year's budget, actual expenditures to date, overage /underage of budget, percentage of budget used, as well as the proposed new fiscal year's budget with the projected change from the prior fiscal year's budget in dollars. All proposed expenditures shall be analyzed and verified, as necessary, on a line-by-line basis.

The BPCPC Finance Department shall schedule budget meetings with the Executive Director, and each department head to determine the budgetary needs for the following fiscal year. Budget meetings with the President, Treasurer, Executive Director, and the Director of Administration & Finance will be held to review the proposed fiscal year's budget and proposed expenditures on a line-by-line basis. Upon completion of the budget meetings, which shall continue until all open items are resolved, the BPCPC Finance Department shall prepare a budget package in summary format.

The BPCPC Finance Department's budget package shall be prepared for presentation to the Board, for its review and approval, including the following exhibits:

- 1) An operating budget summary;
- 2) BPCPC's revenue cash flow projections;
- 3) A proposed detailed line item departmental operating budget for the new fiscal year with year to date actual expenditures and variance reports of the current fiscal year; and
- 4) BPCPC's capital budget.