THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER

INTERNAL CONTROL AND ACCOUNTABILITY DIRECTIVES

DIRECTIVE 27 - FIDUCIARY ACCOUNTS - PROCEDURES FOR REQUESTING, CONTROLLING AND MONITORING

INTRODUCTION AND SUMMARY

Fiduciary Accounts, formally referred to as "Trust and Agency" accounts, are used to record financial resources held and administered, in a trust or agency capacity, by the City of New York. Most Fiduciary Accounts will be used to account for resources of certain types of "Fiduciary funds" in which the principal and income benefit individuals, private organizations or other non-City of New York governmental entities. The strictly custodial nature of the assets prohibits the use of Fiduciary funds in directly supporting any of the City of New York's own programs. Other Fiduciary Accounts will be used to account for "Permanent funds" in which the principal must remain intact, but the earnings of the Permanent funds may be used to support programs of the City of New York.

The *Government Accounting Standards Board* (GASB), the organization responsible for promulgating generally accepted accounting principles (GAAP) for governments, describes four specific types of Fiduciary funds in its *Statement No. 34, entitled "Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments"* (GASB 34*).* The four types of Fiduciary funds are:

1. Pension (and other employee benefit) trusts
2. Investment trusts
3. Private-purpose trusts

4. Agency

This Directive addresses Private-purpose trust funds and Agency funds and provides guidance for the overall accountability and control of these funds. Private-purpose trust funds are used to report all trust arrangements, other than pension and investment trusts, under which principal and income benefit individuals, private organizations, or other non-City of New York governmental entities. Agency funds are used to report assets that are being held in a purely custodial capacity for the benefit of individuals, private organizations or other non-City of New York governmental entities. Private-purpose trusts are distinguished from Agency funds generally by the existence of a trust agreement that affects the degree of management involvement with how the resources are used and the length of time that the resources are held in trust.

Although not a Fiduciary fund type as defined by GASB No. 34, the requirements of this Directive, also apply to Permanent funds. Permanent funds are used to report resources that are legally restricted to the extent that only earnings may be used to directly support the reporting government's programs. Permanent funds are used to account for arrangements similar to those commonly referred to as endowments. Because the earnings of Permanent funds are used to directly support a government's programs, Permanent funds are considered "Governmental funds" rather than Fiduciary funds under GASB No. 34. Examples of other Governmental funds are the General Fund and Capital Projects Fund.

This Directive is applicable to all new and existing Private-purpose trust, Permanent and Agency funds. Collectively, this Directive refers to these three types of funds as "Fiduciary Accounts".

This Directive also includes reporting requirements for all bank accounts or other financial assets held by an agency or its sub-units.

1.0 GENERAL INFORMATION

1.1 Organization

1.0 General Information
2.0 General Guidelines
3.0 Background
4.0 Internal Controls
5.0 Reporting Requirements
6.0 Establishing a Fiduciary Account
7.0 Agency Bank Accounts and Other Financial Assets

Appendix A: Request for Private-Purpose Trust, Permanent or Agency Fund
Appendix B: Agency Bank Accounts and Other Financial Assets

1.2 Effective Date

This Directive is effective immediately.

1.3 Assistance

Questions or comments concerning this Directive should be addressed to: The Office of the Comptroller, attention:, Directives/Policy Unit, Bureau of Accountancy, Municipal Building, One Centre Street, Room 200 South, New York, NY 10007, (212) 669-3675, e mail directives@comptroller.nyc.gov .

1.4 Comptroller Authority

This Directive is issued pursuant to the Comptroller's authority as established in Chapter 5, Section 93 of the New York City Charter. Fiduciary Accounts held by the City of New York are subject to periodic audit by the New York City Office of the Comptroller.

1.5. Internet Availability

An inventory of existing Comptroller's Internal Control and Accountability Directives, with download and print capability, are available on the Comptroller's website at: http://www.comptroller.nyc.gov.

2.0 GENERAL GUIDELINES

Fiduciary Accounts are used to account for assets held by the City of New York in a custodial capacity. All expenditures from Fiduciary Accounts must comply with applicable Federal, State and City rules and regulations and the Internal Control and Accountability Directives issued by the New York City Office of the Comptroller.

In accordance with GASB No. 34, Fiduciary Accounts that are by definition Private-purpose trust or Agency funds are used to report assets held in a trustee or agency capacity for others and cannot be used to support the City's own programs. Such funds may not be used to reduce the amount of resources the City would otherwise have to raise to fund its normal on-going expenditures. Any public or private grants or donations given to the City of New York for the purpose of supporting the City's own programs will not qualify as either a Private-purpose trust or Agency fund. Such bequests are considered public-purpose resources under GASB No. 34 and must be recorded in the General Fund.

Fiduciary Accounts that are by definition Permanent funds differ in that they are used to report resources that are legally restricted to the extent that only earnings, and not principal, are used to support the reporting government's programs.

Fiduciary Accounts should not be used to account for retainage withheld from contractors. Retainage should be accounted for using the retainage functionality of the City of New York's Financial Management Systems (FMS). In addition, the existence of a requirement to separately account for interest earned on resources received under a grant or award (such as an advance received under a federal awards program) would not in itself be a sufficient reason to account for that grant or award as a Fiduciary Account. Such interest should be accounted for by using separate accounting codes within FMS.

3.0 BACKGROUND

The New York City Office of the Comptroller, in conjunction with the Mayor's Office of Management and Budget (OMB), establishes Fiduciary Accounts in FMS upon request by a City agency or related entity (§6.0). Resources of Fiduciary Accounts are generally under the custodianship of the New York City Office of the Comptroller. The accounts are maintained and controlled by the City agency that requests their establishment. Once approval has been received for the request, from the New York City Office of the Comptroller, Bureau of Accountancy, the requesting agency will be notified by the Bureau of Accountancy of the detail fund number and accounting structure that have been established in FMS to account for the transactions of that unique account. The City agency will then be responsible for recording all cash receipts and disbursements in FMS as well as ensuring that all activity in the account is in compliance with the purpose for which it was created. Generally, the need for such an account arises upon the receipt of a donation or grant for a specific project that will continue for more than one year or for specific purposes prescribed by the donor. These accounts are not an integral part of the City's budgeting and appropriations process but do require the application of sound internal control mechanisms consistent with those in effect within The City of New York (§4.0).

4.0 INTERNAL CONTROLS

The Fiduciary Accounts are subject to the same internal controls applicable to those assets that are the property of New York City. The following internal control and other considerations are provided to assist the City agencies in ensuring the proper management of these assets.

4.1 Compliance with Comptroller's Directive #1 - Financial Integrity Statement

Agency Heads must ensure that this annual evaluation of an agency's fiscal integrity also encompasses all Fiduciary Accounts maintained by the Agency. Particular attention is required in the areas of authorized approval and certification signatories, segregation of duties, receipt and disbursement support documentation and proper inventory and reconciliation procedures.

4.2 Consistency with Stated Purpose

Care must be taken to ensure that all receipts and disbursements within the Fiduciary Account are consistent with the declared or intended purpose of the account and that there is no commingling of unassociated resources within the account. Agencies must further ensure that the purpose for which the resources in the account were provided is being fulfilled and that the progress of the related project is adequately monitored.

4.3 File Documentation

Agencies are required to maintain separate and complete files for each individual Fiduciary Account. The files should contain documentation supporting the creation of the account in addition to records supporting all cash receipts and disbursements and any other pertinent information. Complete files are essential to provide proper audit trails and must reconcile to the information maintained within FMS.

4.5 Interest Bearing Accounts

Normally, on interest bearing accounts, the principal and interest are accumulated in the same account. However, if the interest is not required, by agreement, to be used for the program, it should be remitted to the General Fund.

Where a trust or other agreement stipulates that the principal in a Fiduciary Account must remain intact and only the interest earnings may be expended, (i.e. a Permanent fund) the agency which set up the Fiduciary Account has the responsibility of ensuring that the principal remains untouched.

4.6 Arms-Length Relationship with Third-Party Organizations

Some agencies and community boards have established third-party organizations to handle private donations raised from interested individuals or entities. While the creation of these separate organizations may be acceptable in some situations, care must be exercised to ensure an arms-length relationship exists between the City and such entities and that the entities are not being utilized to supplement or bypass agency budgets or divert funds that rightfully should be reported as revenue in the General Fund.

Generally, any resources received from the sale of City goods or services, the use of City property and City resources and/or the receipt of donations to City employees for City business or programs are assets of the City of New York and must be accounted for in the General fund. Third party organizations, on the other hand, may only accept grants or donations that are specifically and clearly directed to them for their sole benefit and use.

It is important that an agency having dealings with its third-party organizations ensure that adequate internal controls are in place over the processing, recording and reporting of funds. The agency must prepare written guidelines for itself and its third-party organization clearly differentiating the activities and handling of donations, grants and expenditures by each. The agency should also ensure that third-party organizations comply with all applicable Federal, State and City regulations. If any questions exist on the propriety of the activities of a third party organization relating to the sponsor agency, the New York City Law Department, Office of the Corporation Counsel, should be contacted for advice and assistance.

4.7 Accounting Requirements

Fiduciary Accounts that are Private-purpose trust and Agency funds use the economic resources measurement focus and accrual basis of accounting.

Measurement focus is the term used to describe the types of transactions and events that are measured and reported in a fund's operating statement. The operating statements of trust funds focus on changes in economic resources, much like that in the private sector. Therefore, the operating statements should include all transactions and events that increase or decrease net assets, such as revenues, expenses, gains and losses.

The basis of accounting determines when a transaction or event is recognized in the funds operating statement. Funds that focus on total economic resources use the accrual basis of accounting which recognizes increases or decreases in economic resources as soon as the underlying event or transaction occurs. Revenues are recognized when earned (i.e., when all the conditions of the grant are satisfied or when the trust has a legal right to resources); and liabilities as incurred regardless of the timing of the cash inflows and outflows. Therefore, accruals are required for revenues earned but not received and liabilities incurred but not paid at year-end.

Permanent funds, which operate similarly to Governmental funds, use the current financial resources measurement focus. The operating statements of these funds should include all transactions and events that affect the fund's current financial resources even though they have no effect on net assets. Funds that focus on current financial resources use the modified basis of accounting. Revenues are recognized only if they are available within the period or soon enough afterwards to be used to pay liabilities of the current period. Revenues are only recognized to the degree that they are available to finance expenditures of the fiscal period. Liabilities are accrued and expenditures recognized when the fund incurs the liability.

Agency funds only report assets and liabilities; therefore, they do not have a measurement focus. They do, however, use the accrual basis of accounting to recognize

receivables and payables.

5.0 REPORTING REQUIREMENTS

The following agency reporting and certification requirements are being established in order to enhance the tracking, maintenance and control of Fiduciary Accounts.

5.1 Annual Certification of Fiduciary Accounts

Agencies that are maintaining Fiduciary Accounts must submit an annual certification for each individual account providing the following information.

1. Confirmation that the internal controls of the account have been evaluated on the basis of the checklist provided in the *Comptroller's Directive #1 - Financial Integrity*. The certification should indicate whether or not any material weaknesses were identified and, if so, what actions are being taken to rectify the situation.

2. Verification that the account remains active, that its original purpose continues to be achieved and that the balance remaining at the end of the most recent fiscal year is correct and continues to be required in its entirety and will continue to be required in its entirety in the foreseeable future.

The annual agency certification of each individual Fiduciary Account must be signed by the agency head (or authorized designee) and forwarded to the Assistant Comptroller for Accounting, Bureau of Accountancy, New York City Office of the Comptroller. This information must be submitted after the close of the fiscal year but no later than August 15th of the subsequent fiscal year as required by the *Audit Closing Instructions* issued by the Bureau of Accountancy, New York City Office of the Comptroller.

5.2 Identification and Reporting of Inactive Accounts

If an agency determines that a Fiduciary Account is no longer necessary and the account is no longer legally required, the agency should immediately recommend its closure to the Assistant Comptroller for Accounting, Bureau of Accountancy, New York City Office of the Comptroller. The closure proposal should provide the name and any remaining balance in the account, a confirmation that the remaining resources are no longer legally required to be held in a custodial account, the agency's recommendation as to the disposition of any remaining resources and any other pertinent information. All closing procedures must conform to the terms of the trust agreement, if specified. The agency head (or authorized designee) should sign this proposal.

6.0 ESTABLISHING A FIDUCIARY ACCOUNT

The following is a checklist of the required information that must be submitted for review by the New York City Office of the Comptroller and the Mayor's Office of Management and Budget when requesting the establishment of a new Fiduciary Account.

(1) The name of the requesting agency and the name and telephone number of the requesting contact.

(2) The name of the agency responsible for processing documents in FMS.

(3) The proposed name of the Fiduciary Account (thirty character limit).

(4) The purpose of the account and type of account (Private-purpose trust, Permanent or Agency fund).

(5) Reasons why this account should not be set up in the General Fund as a private grant.

(6) The sources and frequency of revenue. (one time contribution, ongoing, etc.)

(7) Nature of expenditures/expenses (direct payment to payee/vendors, etc.)

(8) Acknowledgement that the account's resources will be expended in accordance with all applicable Federal, State and City rules and regulations.

(9) Expected duration of the account.

(10) The name, addresses and telephone number of the individual responsible for reconciliation of the account.

(11) Attach copies of all support documentation establishing the account. (Signed agreements, contracts, Council resolutions, etc.)

(12) Certification by the agency head or authorized designee that the resources in the account will be expended in accordance with applicable Federal, State and City rules and regulations.

The attached *Appendix A, Request for Private-Purpose Trust, Permanent or Agency fund,* is provided for use by the agencies in this regard.

7.0 AGENCY BANK ACCOUNTS AND OTHER FINANCIAL ASSETS

The *Audit Closing Instructions,* issued by The New York City Office of the Comptroller, Bureau of Accountancy, requires agencies to provide to the New York City Office of the Comptroller a listing of all agency bank accounts. This information is required to be recorded in the City's financial statements. Presently, there are agencies or agency sub-units where financial assets are being held in custody for other individuals, private organizations or other non-City of New York governmental organizations but are not reported in accordance with the *Audit Closing Instructions*

The New York City Office of the Comptroller is requiring each agency to provide the following information for each individual bank account or other financial asset held by the agency.

(1) Name of reporting agency

(2) Type of financial asset

(3) Purpose for which asset is being held.

(4) Source of asset funds.

(5) Asset dollar value as of June 30 of the current fiscal year, as well as total receipts and total disbursements for the fiscal year then ended.

(6) Location of asset. Identify bank or financial institution.

(7) Account name and account number of record at bank or financial institution.

(8) If applicable, an explanation as to why this account is not included in the City's Financial Statements.

Agencies are required to submit this annual information for all bank accounts maintained during fiscal year 2003 by August 15, 2003. Future year reporting deadlines will be established in the annual *Audit Closing Instructions.*

The attached *Appendix B, Agency Bank Accounts and Other Financial Assets,* is provided as a guide in responding to this request.

Fiduciary Accounts
Request for
Private-Purpose Trust, Permanent or Agency Fund

Requesting NYC Agency: _____

Account Name: (*) _____
(thirty character limit)

☐ Private-Purpose Trust ☐ Agency Fund
☐ Permanent Fund (check one)

Account Purpose: _____
_____

Sources and Frequency of Revenue: _____
(one time contribution, ongoing, etc.)

Nature of Expenditures/Expenses: _____
(Payment to payees/vendors, etc.)

Estimated Annual Revenues:_____Expected Duration of Account: _____

Account Contact: _____
(Name, Title, Phone #)

NYC Agency Contact: _____
(Name, Title, Phone #)

Name of Agency Responsible for Processing FMS Documents: _____

Reasons why account should not be set up as Private grant in General Fund: _____
_____

Person Responsible for Account Reconciliation: _____
(name, address, telephone #)

I certify that the resources maintained in the requested account will be expended in accordance with applicable Federal, State and City rules and regulations.

_____
Signature

_____
Name & Title

_____
Date

(*) Copies of all Trust and Third Party agreements and/or Council resolutions must be attached.

Appendix A

Fiduciary Account
Agency Bank Accounts and Other Financial Assets

Reporting NYC Agency: _____

Type of Financial Asset: _____
(bank account, money market, etc.)

Purpose of Asset: _____

Source of Asset: _____
(one time contribution, ongoing, etc.)

Asset Value ($$$): _____
(June 30th balance)

Total Fiscal Year Receipts: _____

Total Fiscal Year Disbursements: _____

Location of Asset: _____
(identify bank, financial institution, etc)

Official Account Name, Account Number of Record: _____

If applicable, reasons why this account has not previously been included in the City's Financial Statements: _____
_____

Other Pertinent Comments: _____
_____
_____

Reported by:

_____
Signature & Date

_____
Name & Title

Appendix B