

Department of Public Administrator

George J. Lambert
Public Administrator

Marguerite Holmes
Deputy Public Administrator

12407

June 22, 2010

To: Board of Acquisition and Contract

From: Kevin Plunkett
Deputy County Executive

George Lambert
Public Administrator

Re: Authority to enter into a tri-party custodial agreement with TD Bank N.A. and The Bank of New York Mellon in order to invest funds being held by the Westchester County Public Administrator.

The Westchester County Public Administrator (the "Public Administrator") administers estates that would otherwise remain unadministered. Section 164.31 of the Westchester County Charter states that "[t]here shall be a Public Administrator, appointed in the manner and to serve as now provided by law, and who shall, except where inconsistent with the provisions of this act, have and exercise all the powers and duties imposed on him by law." The Public Administrator performs his duties pursuant to Article 12 of the New York Surrogate's Court Procedure Act ("SCPA"). Among his duties are the protection of the decedent's property from waste, loss or theft; the making of appropriate burial arrangements when no close relative is available to make the decisions; conducting thorough investigations to discover all assets; liquidating assets at public sale or distributing assets to heirs; paying the decedent's bills and taxes; and locating persons entitled to inherit from the estate and ensure that the legal distributees receive their inheritance. The Public Administrator handles estates in several instances, including but not limited to, the following: (i) when no one else is available to handle the estate; (ii) whenever there are no known heirs; or (iii) when the executor or administrator of an estate becomes ill, dies, is convicted of a felony or is otherwise disqualified from administering an estate and no one else is available. Upon the settlement of the estate, the Public Administrator

shall receive payment for his expenses and shall also be entitled to receive commissions as set by the Surrogate's Court. Such payments are then paid over to the County's general fund.

Any funds collected by the Public Administrator while performing his duties are deposited in various depository banks in conformance with the Investment Policy for the County of Westchester ("Investment Policy"), which requires that the depository banks collateralize such deposits. Pursuant to the Investment Policy, eligible securities that are used to collateralize the deposits in a depository bank are required to be held by a third party custodian bank.

On April 9, 2009, your Honorable Board authorized the County to enter into depository and tri-party custodian agreements with a number of depository banks and their respective custodian banks for the deposit and collateralization of funds collected by the Westchester County Public Administrator. Among these authorized agreements was an agreement with TD Bank N.A. (as depository bank) and Brown Brothers Harriman (as custodian bank). The agreement was subsequently executed. TD Bank N.A. has informed the County that as of June 30, 2010, it will no longer be using Brown Brothers Harriman as its custodian bank but instead will utilize The Bank of New York Mellon. Accordingly, attached hereto is a resolution which will authorize the County to enter into an agreement with TD Bank N.A. and The Bank of New York Mellon in order to invest funds being held by the Westchester County Public Administrator.

This agreement serves a valid public purpose in that it enables the Public Administrator to comply with the requirements of the County Investment Policy. The goal of this agreement is to ensure adequate and safe collateralization of funds being held by the Public Administrator, who will receive regular statements for these accounts in order to monitor the banks' performance.

This procurement is exempt from the operation of the Westchester County Procurement Policy pursuant to Section 3(a) xx.

I recommend approval of the attached proposed resolution.

KP/GL/rpc

APPROVED BOARD OF ACQUISITION & CONTRACTS - 15-2010 - JOANNE HERA SECRETARY

RESOLUTION

Upon a communication from the Deputy County Executive and the Public Administrator, be it hereby

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into depository and tri-party custodian agreement with the following depository bank and their respective custodian bank for the deposit and collateralization of funds collected by the Westchester County Public Administrator:

Depository

- TD Bank N.A.

Custodian

- Bank of New York Mellon

and be it further

RESOLVED, that the agreements will commence upon execution by all parties, will be terminable by any of the parties upon written notice and will be at no cost to the County; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to implement this Resolution.

APPROVED BOARD OF ACQUISITION & CONTRACT - 11-15-2010 - JUDY VIEIRA, SECRETARY