

## INSTRUCTIONS FOR DISCLOSURE BY MUNICIPAL EMPLOYEE UNDER G.L. c. 268A, § 20(b)

### FINANCIAL INTEREST IN A MUNICIPAL CONTRACT

#### SUMMARY

You are a municipal employee. You wish to have a financial interest, directly or indirectly, in a contract made by a municipal agency other than the one you serve. To be eligible for an exemption under § 20(b) of the conflict of interest law, you must meet certain requirements, explained below, and you must file a § 20(b) disclosure with the city or town clerk. If the contract is for your personal services, you must get a written certification from the head of the agency that makes the contract and written approval of the exemption from the city council, board of aldermen, board of selectmen or town council.

#### WHEN TO USE THE § 20(b) DISCLOSURE FORM

You are either an **elected or non-elected municipal employee**, as defined by G.L. c. 268A, § 1(g). Section 20 of the conflict of interest law prohibits you from having a **financial interest, directly or indirectly, in a contract made by a municipal agency of the same city or town that you serve**. This financial interest may be:

- A **non-elected, compensated municipal position**, or
- A direct financial interest in a **contract between a municipal agency and you**; or
- An indirect financial interest in a municipal contract – in other words, you have a **financial stake in a contract or transaction between a municipal agency and someone else**, such as a company or organization.

You may be eligible for an **exemption under § 20(b)**, however, that will allow you to have such a financial interest in a municipal contract. To use a § 20(b) exemption, you must be able to meet the following requirements:

- 1) The municipal agency that you serve as a municipal employee (“your Municipal Agency”) is **not the same municipal agency** that makes the contract in which you have a financial interest (“the contracting agency”) – you are not already employed by the contracting agency;
- 2) Your Municipal Agency **does not regulate** the activities of the contracting agency;
- 3) In your position as a municipal employee, you **do not participate in or have official responsibility for** the activities of the contracting agency; and
- 4) The municipal contract was made after **public notice** (i.e., the city or town advertised the opportunity so members of the public could apply or compete for it) or through **competitive bidding**.

If you can meet all of these requirements, you must complete a **§ 20(b) disclosure** that fully discloses your interest and the interests of your immediate family in the municipal contract and file it with the city or town clerk.

#### **PERSONAL SERVICES CONTRACTS**

There are additional requirements if you have a financial interest in a **contract for personal services**, i.e., you will **work directly for a municipal agency** as an employee, independent contractor, consultant, etc. In that case, it must be true that:

- 1) the services will be provided **outside your normal working hours** as a municipal employee;
- 2) the services are **not required as part of your regular duties as a municipal employee**; and
- 3) you are compensated for your services under the personal services contract for **not more than 500 hours** during a calendar year;

For a personal services contract, you must complete a **§ 20(b) disclosure**, and

- a. the **head of the contracting agency** must make a **written certification** that no employee of that agency is available to perform those services as part of their regular duties, and
- b. you must get **approval of the exemption from the city council, board of aldermen, board of selectmen or town council; and**
- c. your Disclosure, showing the necessary certification and approval, **must be filed with the city or town clerk.**

## **FINANCIAL INTEREST IN A MUNICIPAL CONTRACT**

A **financial interest** in a contract may be **direct or indirect, large or small, positive or negative** – a gain or a loss, a benefit or an obligation. Section 20 does not prohibit you from having a financial interest in a municipal contract by owning less than 1% of the stock of a corporation.

**Examples** of financial interests in a municipal contract are:

- You have a **non-elected, compensated municipal employee position** -- this is a **personal services contract** if you work directly for a municipal agency.
- **A municipal agency has a contract with you.**
- **You have a financial stake in a contract or transaction between a municipal agency and another person or an entity**, such as a company or organization.
- You work for a company or organization that has a contract with a municipal agency other than the one you serve as a municipal employee, and you are a **“key employee”** because the **contract identifies you by name or otherwise makes it clear that the city or town has contracted for your services in particular.**

## **KEEPING OR ADDING A FINANCIAL INTEREST IN A MUNICIPAL CONTRACT**

Depending on the circumstances, you may use a **§ 20(b) disclosure** to report the following facts:

- You **ALREADY HAD** a financial interest in a municipal contract **BEFORE** you became a municipal employee, and you will continue to **KEEP** it, **OR**
- You already are a municipal employee, and you will **ADD** a **NEW** financial interest in a municipal contract.

The disclosure form indicates when **ELECTED** and **NON-ELECTED** municipal employees can use a § 20(b) exemption to **KEEP** or **ADD** financial interests in municipal contracts of the types listed above.

**IF YOU ALREADY HAVE MORE THAN ONE MUNICIPAL EMPLOYEE POSITION, PLEASE CALL THE STATE ETHICS COMMISSION FOR ADVICE ABOUT § 20(b).**

## **FILING THE § 20(b) DISCLOSURE**

In the disclosure, enter information about your municipal employee position at the top of the form.

Enter information about the financial interest in a municipal contract in the next parts of the form.

- Answer questions in **BOX # 1** if you are an **ELECTED municipal employee.**
- Answer questions in **BOX # 2** if you are a **NON-ELECTED municipal employee.**

**Not a personal services contract -**

If the financial interest that you are reporting is **NOT a personal services contract**, complete and sign the disclosure and **file it with the city or town clerk**.

**Personal services contract -**

If the financial interest that you are reporting is a **PERSONAL SERVICES CONTRACT** with a municipal agency, a **Certification** at the end of the disclosure form must be signed by the head of the municipal agency which is hiring you. **Submit your completed Disclosure and the blank Certification form to the head of the contracting agency**. The head of the contracting agency should complete the Certification and provide you with a copy.

Next, submit the disclosure to the **city council, board of aldermen, board of selectmen or town council** for approval. Once approved, **the Disclosure must be filed with the city or town clerk**.

**WHO DOES NOT NEED TO USE A § 20(b) DISCLOSURE**

If your position has been designated as a **special municipal employee** position by the city council or board of selectmen, you may be able to use exemptions under **§ 20(c), § 20(d) or 930 CMR 6.13** instead of § 20(b).

If you are **adding an uncompensated municipal position**, use the exemption under **930 CMR 6.02**.

**If you need advice about completing the disclosure, please call the Attorney of the Day at (617) 371-9500 or e-mail the State Ethics Commission at [opinions@eth.state.ma.us](mailto:opinions@eth.state.ma.us).**

**DISCLOSURE BY MUNICIPAL EMPLOYEE  
OF FINANCIAL INTEREST IN A MUNICIPAL CONTRACT  
AS REQUIRED BY G. L. c. 268A, § 20(b)**

<b>MUNICIPAL EMPLOYEE INFORMATION</b>	
Name of municipal employee:	
Title/ Position	
<b>Fill in this box if it applies to you.</b>	If you are a municipal employee because a municipal agency has contracted with your company or organization, please provide the name and address of the company or organization.
Agency/ Department	
Agency Address	
Office phone:	
Office e-mail:	
	Check one: <input type="checkbox"/> Elected            or <input type="checkbox"/> Non-elected
Starting date as a municipal employee.	
<p><b>BOX # 1</b></p> <p>Select either STATEMENT #1 or STATEMENT #2.</p> <p>Write an X beside your financial interest.</p>	<p><b>ELECTED MUNICIPAL EMPLOYEE</b></p> <p>I am an elected municipal employee.</p> <p><input type="checkbox"/> <b>STATEMENT #1:</b> I had one of the following financial interests in a contract made by a municipal agency before I was elected to my municipal employee position. I will continue to have this financial interest in a municipal contract. <b>OR</b></p> <p><input type="checkbox"/> <b>STATEMENT #2:</b> I will have a new financial interest in a contract made by a municipal agency.</p> <p><b>My financial interest in a municipal contract is:</b></p> <p><input type="checkbox"/> I have a non-elected, compensated municipal employee position.</p> <p><input type="checkbox"/> A municipal agency has a contract with me.</p> <p><input type="checkbox"/> I have a financial benefit or obligation because of a contract that a municipal agency has with another person or an entity, such as a company or organization.</p> <p><input type="checkbox"/> I work for a company or organization that has a contract with a municipal agency, and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the city or town has contracted for my services in particular.</p>
<p><b>BOX # 2</b></p> <p>Select either STATEMENT #1 or STATEMENT #2.</p>	<p><b>NON-ELECTED, COMPENSATED MUNICIPAL EMPLOYEE</b></p> <p>I am a non-elected municipal employee.</p> <p><input type="checkbox"/> <b>STATEMENT # 1:</b> I had one of the following financial interests in a contract made by a municipal agency before I took a position as a non-elected municipal employee. I will continue to have this financial interest in a municipal contract.</p>

<p><b>Write an X beside your financial interest.</b></p>	<p><b>My financial interest in a municipal contract is:</b></p> <p><input type="checkbox"/> A municipal agency has a contract with me, but not an employment contract.</p> <p><input type="checkbox"/> I have a financial benefit or obligation because of a contract that a municipal agency has with another person or an entity, such as a company or organization.</p> <p>-- OR --</p> <p><input type="checkbox"/> <b>STATEMENT # 2:</b> I will have a new financial interest in a contract made by a municipal agency.</p> <p><b>My financial interest in a municipal contract is:</b></p> <p><input type="checkbox"/> I have a non-elected, compensated municipal employee position.</p> <p><input type="checkbox"/> A municipal agency has a contract with me.</p> <p><input type="checkbox"/> I have a financial benefit or obligation because of a contract that a municipal agency has with another person or an entity, such as a company or organization.</p> <p><input type="checkbox"/> I work for a company or organization that has a contract with a municipal agency, and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the city or town has contracted for my services in particular.</p>
<p><b>FINANCIAL INTEREST IN A MUNICIPAL CONTRACT</b></p>	
<p>Name and address of municipal agency that made the contract</p>	
<p><b>Please put in an X to confirm these facts.</b></p>	<p><b>"My Municipal Agency"</b> is the municipal agency that I serve as a municipal employee.</p> <p>The <b>"contracting agency"</b> is the municipal agency that made the contract.</p> <p><input type="checkbox"/> My Municipal Agency is not the contracting agency.</p> <p><input type="checkbox"/> My Municipal Agency does not regulate the activities of the contracting agency.</p> <p><input type="checkbox"/> In my work for my Municipal Agency, I do not participate in or have official responsibility for any of the activities of the contracting agency.</p> <p><input type="checkbox"/> The contract was made after public notice or through competitive bidding.</p>
<p><b>FILL IN THIS BOX OR THE BOX BELOW</b></p>	<p><b>ANSWER THE QUESTION IN THIS BOX IF THE CONTRACT IS BETWEEN THE CITY OR TOWN AND YOU.</b></p> <p>- Please explain what the contract is for.</p>
<p><b>FILL IN THIS BOX OR THE BOX ABOVE</b></p>	<p><b>ANSWER THE QUESTIONS IN THIS BOX IF THE CONTRACT IS BETWEEN THE CITY OR TOWN AND ANOTHER PERSON OR ENTITY.</b></p> <p>- Please identify the person or entity that has the contract with the municipal agency.</p> <p>- What is your relationship to the person or entity?</p> <p>- What is the contract for?</p>

What is your financial interest in the municipal contract?	- Please explain the financial interest and include the dollar amount if you know it.
Date when you acquired a financial interest	
What is the financial interest of your immediate family?	- Please explain the financial interest and include the dollar amount if you know it.
Date when your immediate family acquired a financial interest	
<b>Write an X to confirm each statement.</b>	<p><b>FOR A CONTRACT FOR PERSONAL SERVICES –</b></p> <p><b>Answer the questions in this box ONLY if you will have a contract for personal services with a municipal agency (i.e., you will do work directly for the contracting agency).</b></p> <p>I will have a contract with a municipal agency to provide personal services.</p> <p><input type="checkbox"/> The services will be provided outside my normal working hours as a municipal employee.</p> <p><input type="checkbox"/> The services are not required as part of my regular duties as a municipal employee.</p> <p><input type="checkbox"/> For these services, I will be compensated for not more than 500 hours during a calendar year.</p>
Employee signature:	
Date:	

Attach additional pages if necessary.

NOT A PERSONAL SERVICES CONTRACT -- File disclosure with the city or town clerk.

**SEE CERTIFICATION AND APPROVAL REQUIRED FOR PERSONAL SERVICES CONTRACTS, BELOW.**