

**INSTRUCTIONS FOR DISCLOSURE BY SPECIAL MUNICIPAL EMPLOYEE
UNDER G. L. c. 268A, § 20(d)**

FINANCIAL INTEREST IN A MUNICIPAL CONTRACT

SUMMARY

You are a special municipal employee, as described below. You wish to have a financial interest, directly or indirectly, in a contract made by a municipal agency of the same city or town which you already serve'. You participate in or have official responsibility for the activities of the municipal agency that made the contract. To be eligible for an exemption under § 20(d) of the conflict of interest law, you must fill out a § 20(d) disclosure, and the city council, aldermen, selectmen or town council must approve the exemption. The approved disclosure must be filed with the city or town clerk.

WHO CAN USE A § 20(d) DISCLOSURE

You are an **elected or non-elected special municipal employee**, as defined by G.L. c. 268A, § 1(n).

- You are a **selectman in a town with a population of fewer than 10,000 people**; OR
- You are **NOT a mayor, alderman or city councilor**, and the **city council or board of aldermen (if there is no city council) or board of selectmen has expressly classified your position as a special municipal employee position** because:
 - You serve in a municipal position for which **no compensation** is provided; OR
 - You receive **compensation for fewer than 800 hours in the preceding 365-day period**; OR
 - By classification by your municipal agency or by the terms of a contract or the conditions of your employment, you are **permitted to have personal or private employment during normal working hours**, and disclosure of such classification or permission has been filed with the city or town clerk.

You also are a **special municipal employee** if:

- A **municipal agency has made a contract with the company or organization where you work**, and
 - o You are a **“key employee”** because the contract names you or makes it clear **the municipal has contracted for your services in particular**; AND
 - o The contract states that you are a **special municipal employee** or indicates that you meet one of the eligibility requirements above.

If you need advice about whether you are a special municipal employee, please contact the State Ethics Commission.

WHEN TO USE THE § 20(d) DISCLOSURE FORM

Section 20 of the conflict of interest law prohibits you from having a **financial interest, directly or indirectly, in a contract made by an agency of the same city or town which 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 able to use an **exemption under § 20(d)**, however, to keep or add such a financial interest in a municipal contract.

You must use a § 20(d) exemption if the contract is with the **same municipal agency** which you already serve.

You also must use a § 20(d) exemption if, in your position as a special municipal employee, **you participate in or have official responsibility for the activities of the municipal agency that made the contract in which you have a financial interest.**

You will need approval of the exemption from the city council, aldermen, selectmen or town council.

FINANCIAL INTEREST IN A MUNICIPAL CONTRACT

A financial interest 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 the contract identifies you by name or otherwise makes it clear that the municipal has contracted for your services in particular – you are a **“key employee.”**

KEEPING OR ADDING A FINANCIAL INTEREST IN A MUNICIPAL CONTRACT

Depending on the circumstances, you may use a **§ 20(d) 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(d) exemption to KEEP or ADD** a financial interest in a municipal contract of the types listed above.

WHO SHOULD NOT USE A § 20(d) DISCLOSURE

If you are **ADDING** an elected or appointed **uncompensated** special municipal employee position, use an **exemption under 930 CMR 6.02** instead of § 20(d).

If you are a special municipal employee because you work for a company and provide professional or legal services under a contract with a City agency, you may be able to use 930 CMR 6.13 to work on a second contract with the same City agency.

If as a special municipal employee, you do not participate in or have official responsibility for the activities of the contracting agency, you may be able to use an exemption under § 20(c).

FILING A § 20(d) DISCLOSURE

In the disclosure, enter information about your **special 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 special municipal employee**.
- Answer questions in **BOX # 2** if you are a **NON-ELECTED special municipal employee**.

Complete and sign the disclosure form and submit it to the **city council, board of aldermen (if there is no city council), board of selectmen, town council or district prudential committee for approval**. File the approved disclosure with the **city or town clerk**.

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 requestadvice@massmail.state.ma.us.

Form revised August 2015