

INSTRUCTIONS FOR DISCLOSURE BY NON-ELECTED MUNICIPAL EMPLOYEE UNDER G.L. c. 268A, § 19

FINANCIAL INTEREST IN A PARTICULAR MATTER

WHEN TO USE THE § 19 DISCLOSURE FORM

You are an **appointed or non-elected municipal employee**, as defined by G.L. c. 268A, § 1(g). **Your duties as a municipal employee include participating in a particular matter. You may not participate in the matter** because one or more of the following individuals or entities listed below has a **financial interest in the matter**:

- **You;**
- **Your immediate family member** (you and your spouse, and each of your parents, children, brothers and sisters);
- Your **business partner**;
- A **business organization** for which you are serving as an **officer, director, trustee, partner or employee**;
- A **person or organization** with whom you are **negotiating or have made an arrangement about prospective employment**.

You may file a **§ 19 Disclosure** with your appointing authority describing the particular matter, your responsibilities in relation to it, and the financial interest that is preventing you from participating.

Your appointing authority has discretion to make a written **§ 19 Determination** that the financial interest you have identified is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from you as its employee. **You may not participate in the particular matter unless your appointing authority files a written Determination allowing you to do so.**

If you choose not to seek authorization to participate, and do not file a § 19 disclosure, you may need to inform your appointing authority or agency that you will not perform your duties as you usually would.

PARTICIPATION IN A PARTICULAR MATTER

In a § 19 disclosure, you must explain in what way you participate in a particular matter.

A **particular matter** is any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination or finding.

You are expected to **participate** through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise.

Explain in what way you are required to participate – e.g., reviewing a proposal, approving an application, deciding about a grant; making a recommendation about a budget, providing advice about a case, conducting an investigation, performing a task or taking an action – in relation to the particular matter.

FINANCIAL INTEREST

In the disclosure, you must explain the financial interest that prevents you from participating in a particular matter. You should include the dollar amount of the financial interest, if known.

A financial interest must be **direct and immediate or reasonably foreseeable** (and not remote, speculative or not sufficiently identifiable), and may be **large or small, positive or negative** – a gain or loss, a benefit or an obligation.

For example, a financial interest exists when the outcome of a particular matter may:

- Cause or prevent a **financial gain or loss**;
- Create or eliminate a **financial opportunity**;

- Determine who will make decisions affecting your or an immediate family member's **wages, hours or working conditions** as a municipal employee.

Abutters and Owners of Nearby Property: The following people are presumed to have a financial interest in a particular matter regarding real estate:

- An abutter;
- An abutter to an abutter within 300 feet of the property line;
- A person who may suffer an injury in fact which is different in kind or magnitude from that suffered by members of the general public.

Competitors: Your business interest will have a financial interest if the outcome of a particular matter would affect the financial interests of a competitor in a way that would likely decrease or increase your business or the business of your immediate family, your partner, or your private employer.

FILING THE § 19 DISCLOSURE AND DETERMINATION

For the municipal employee

Sign your completed Disclosure and submit it to your appointing authority.

For the appointing authority

You have received a § 19 Disclosure from a municipal employee who may not participate in a matter because of a financial interest in the matter. **You may make a written Determination** that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee. **You also may decide not to make this Determination.** If you make such a Determination, you should provide a copy to the employee. Keep a copy of the § 19 Disclosure as a public record.

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.