INSTRUCTIONS FOR DISCLOSURE BY SPECIAL STATE EMPLOYEE
UNDER G. L. c. 268A, § 7(d)

FINANCIAL INTEREST IN A STATE CONTRACT

SUMMARY

You are a special state employee, as described below. You wish to have a financial interest, directly or indirectly, in a contract made by a state agency. As a special state employee, you do NOT participate in or have official responsibility for the activities of the state agency that made the contract. To be eligible for an exemption under § 7(d) of the conflict of interest law, you must fill out a § 7(d) disclosure and file it with the State Ethics Commission.

WHO CAN USE A § 7(d) DISCLOSURE

You are an elected or non-elected special state employee, as defined by G.L. c. 268A, § 1(o), because:
- You serve in a state position for which no compensation is provided, OR
- You are not an elected official, and you received compensation for fewer than 800 hours in the preceding 365-day period; OR
- You are not an elected official, and by classification by your state 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 State Ethics Commission.

You also are a special state employee if:
- A state 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 state has contracted for your services in particular; AND
  o The contract states that you are a special state employee or indicates that you meet one of the eligibility requirements above.

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

WHEN TO USE THE § 7(d) DISCLOSURE FORM

Section 7 of the conflict of interest law prohibits you from having a financial interest, directly or indirectly, in a contract made by a state agency. This financial interest may be:
- A non-elected, compensated state position, or
- A direct financial interest in a contract between a state agency and you; or
- An indirect financial interest in a state contract – in other words, you have a financial stake in a contract or transaction between a state agency and someone else, such as a company or organization.

You may be able to use an exemption under § 7(d), however, to keep or add such a financial interest in a state contract. To use a § 7(d) exemption, It must be true that as a special state employee, you do not participate in or have official responsibility for the activities of the state agency that made the contract in which you have a financial interest. Otherwise, you may be able to use a § 7(e) exemption or 930 CMR 6.13.

FINANCIAL INTEREST IN A STATE 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 7 does not prohibit you from having a financial interest in a state contract by owning less than 1% of the stock of a corporation.
Examples of financial interests in a state contract are:

- You have a non-elected, compensated state employee position -- this is a personal services contract if you work directly for a state agency.

- A state agency has a contract with you.

- You have a financial stake in a contract or transaction between a state 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 state agency other than the one you serve as a state employee, and the contract identifies you by name or otherwise makes it clear that the state has contracted for your services in particular – you are a “key employee.”

KEEPING OR ADDING A FINANCIAL INTEREST IN A STATE CONTRACT

Depending on the circumstances, you may use a § 7(d) disclosure to report the following facts:

- You already had a financial interest in a state contract before you became a state employee, and you will continue to keep it, or

- You already are a state employee, and you will add a new financial interest in a state contract.

The disclosure form indicates when elected and non-elected state employees can use a § 7(d) exemption to keep or add a financial interest in a state contract of the types listed above.

WHO SHOULD NOT USE A § 7(d) DISCLOSURE

If you are adding an elected or appointed uncompensated special state employee position, use an exemption under 930 CMR 6.02 instead of § 7(d).

FILING A § 7(d) DISCLOSURE

In the disclosure, enter information about your special state employee position at the top of the form. Enter information about the financial interest in a state contract in the next parts of the form.

- Answer questions in BOX # 1 if you are an elected special state employee.

- Answer questions in BOX # 2 if you are a non-elected special state employee.

Complete and sign the disclosure form and file it with the State Ethics Commission. 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