

## 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](mailto:requestadvice@massmail.state.ma.us).**