

INSTRUCTIONS FOR DISCLOSURE BY NON-ELECTED STATE EMPLOYEE UNDER G.L. c. 268A, § 6

FINANCIAL INTEREST IN A PARTICULAR MATTER

WHEN TO USE THE § 6 DISCLOSURE FORM

You are an **appointed or non-elected state employee**, as defined by G.L. c. 268A, § 1(q). **Your duties require you to participate in a particular matter**, or you **may wish to participate** in the 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 must file a **§ 6 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 must file a **§ 6 Determination** indicating whether you, another employee, or your appointing authority will perform your duties with respect to the particular matter. **You may not participate unless your appointing authority files a written determination allowing you to do so.**

If your duties as a state employee otherwise would not require you to participate in the particular matter, you may abstain and do not have to file a § 6 disclosure. You may need to inform your appointing authority or agency that you will not participate.

PARTICIPATION IN A PARTICULAR MATTER

In the 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 state 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 § 6 DISCLOSURE AND DETERMINATION

For the state employee

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

For the appointing authority

The § 6 Determination gives you three choices about who should perform an employee's duties when the employee cannot participate in a particular matter because of a financial interest. **Check off one of the three choices listed. File the completed Disclosure and Determination with the State Ethics Commission.** Provide a copy of the completed Disclosure and Determination to the employee. Keep a copy of it 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.