

# City of Buffalo



**This form must be filed by:**

**January 31, 2011**

Code of Ethics  
Annual Disclosure Form and Instruction  
Booklet

**\*\* Important – Retain Booklet for future Reference**

## **INSTRUCTIONS ANNUAL DISCLOSURE STATEMENT**

### **PLEASE RETAIN THIS BOOKLET FOR FUTURE REFERENCE**

In 1998, the Annual Disclosure Statement was revised to simplify it and reduce the scope of required disclosures. The new form consists of nine questions for City employees and non-City employee board members to complete and three additional questions for City employees to answer. Many of these questions are recast from previous disclosure forms and the form proposed by the Temporary State Commission on Local Government Ethics.

#### **Purpose**

The annual disclosure statement and transactional disclosure statements provide the City, through the Board of Ethics, information about city officers and employees regarding their private financial interests that may influence or be perceived as influencing the actions of city officers and employees; to avoid potential conflicts of interest or other ethical concerns; facilitate consideration of these potential ethical problems before they arise; and minimize unwarranted suspicion. Code of Ethics § 12-1.

#### **Who Should File**

Pursuant to the Code of Ethics §§ 12-3, 12-5, the following persons are among those who must file annual and transactional disclosure statements:

- every City officer and employees designated by their department heads;
- every other person, paid or unpaid by the City, who holds elective office;
- a person in unclassified service, or is in the exempt class of the civil service; or
- a person authorized in the usual course of his or her duties to exercise a substantial degree of discretion in financial or regulatory transactions with private entities, including the negotiation, authorization or approval of contracts, the purchase, sale or rental of real property, goods and services, the obtaining of grants, money or loans or the adoption or repeal of any rule or regulation having the force and effect of law;
- members of a City board, agency (including those not-for-profit corporations with a majority of City officers or employees on their boards defined in section 12-2 as City agencies), commission, council or body, including City development agencies (such as the Buffalo Neighborhood Revitalization Corporation and the Buffalo Enterprise Renaissance Corporation). These instructions will referred to these persons collectively as "employees."

For example, an assessor or inspector must submit annual and transactional disclosure statements.

Certain agencies, such as the City Court of Buffalo, the Buffalo Sewer Authority, and the Buffalo Municipal Housing Authority, are exempted under the Code of Ethics unless their governing bodies adopt the City's Code of Ethics, Code of Ethics § 12-2. The Board of Ethics may grant temporary exceptions from these filings requirements to any employee.

### **How to File**

Filing is done by submitting a complete and accurate annual disclosure statement or transactional disclosure statement, on the forms attached to these instructions. If additional space is needed to answer any of the questions in either statement, provide the additional material on a separate sheet of paper, with the number of the question being answered. Only one annual disclosure statement is required for each employee, even if that employee serves on multiple committees, boards or commissions. **However, you must indicate all additional service on page 1 of the statement.**

### **When to File**

Annual disclosure statements must be filed by **January 30** of each year, this year on or before **Monday, January 31, 2011** (date set by the Board of Ethics), within 30 days of taking office, or within 30 days of any change in the status of the matters subject to disclosure. For example of disclosure of a change of matters, if an employee marries or gains a new child, that marriage and new child should be disclosed within 30 days of that event in a letter supplementing the filed annual statement, referencing the changed entry (here, the answer to 2), as well as information about the interests held by the new spouse or child. Department heads file annual disclosure forms within 30 days of their start, as well as their continuing obligations during their City employment to supplement any information filed in the annual disclosure and to file transactional disclosure statements. Transactional disclosure statements must be filed prior to entering into certain transactions or promptly after learning that a related party has entered into such a transaction.

### **Where to File**

Employees should submit completed annual disclosure statements and transactional disclosure statements with the City Clerk, who will file these statements with the Board of Ethics. Code of Ethics §§ 12-6, 12-7.

### **What Must be Disclosed in Statements**

Generally, the annual disclosure statement requires information about the employee, his or her close relatives (spouse, children, step-children, brother, sister, parent, or a person claimed as a dependent on the employee's latest state or federal income tax return).

Transactional disclosure statements, additionally, require information about the private interests of "related parties," defined in Code of Ethics § 12-5 as including the employee's spouse, child, parent, brother, sister, and those with whom the employee, spouse, child, parent, brother, sister has or intends to enter into an employment, professional, business or financial relationship. The transactional disclosure statement must disclose the transaction at issue and the employee's participation in the action prior to entering into the transaction.

**WARNING: Failure to file timely annual disclosure statements or transactional disclosure statements may subject the employee or officer to civil penalties, pursuant to Code of Ethics § 21-16, up to \$10,000 for each violation and/or disciplinary actions such as a warning, reprimand, suspension or termination of employment as may be determined in accordance with law.**

### **EXPLANATION OF ANNUAL DISCLOSURE STATEMENT**

Introductory: Answer all questions completely. "Not applicable" would be used if the employee did not have the item requested. Attach a separate sheet of paper with explanations of "not applicable" responses, indicating which question was not applicable. For example, if the employee has no interests in contracts, she would answer " 3. Not applicable" and report on a separate sheet "I have no interest in any contract involving the City of any municipal entity located within the City of Buffalo, and my close relatives do not have any similar interest."

Completed forms are subject to public disclosure pursuant to Freedom of Information Law and City of Buffalo Code Chapter 361, Article IV.

List the City position or positions held by the employee as of the date of the annual disclosure form, including all City boards and committees the employee is a member of. At the "Paid" and "Unpaid" entries, indicate whether the City position is paid or unpaid; if the employee holds multiple positions, indicate which of the positions are paid and which are unpaid. On the top of each subsequent page, write the employee's full name.

#### 1. Name and Address

Provide in the spaces indicated the employee's last name, first name and middle initial; the employee's title; department or agency; and both the department address and telephone number and the address of the employee's principal residence and telephone number. Merely furnishing a department address and telephone number is not sufficient and renders the statement incomplete and subject to penalty.

#### 2. Spouse and Children

Provide in the spaces indicated the name of the employee's spouse, and the names and ages of the employee's dependent children.

3. Interests in Contracts

Describe any interest in any contract involving the City or any municipal corporation within the City that the employee, the employee's spouse or close relative has.

**Remember that the employee must also disclose any transactions pursuant to Code of Ethics § 12-5 in which that employee or related parties (the employee's spouse; children, whether dependent or not; parents; brothers; sisters; or parties which have or intend to have relationships with the employee or the others listed) in transactional disclosure statements either prior to entering into the transaction or as soon as the employee learns of a proposed transaction by a related party.**

4. Political Parties

List the political organization or committee the employee serves an officer in the last five years.

5. Gift and Honorariums

List all of the gifts the employee or close relative received from a person or organization having regulatory or financial relationship with the City in excess of \$100 in the aggregate, except gifts from a relative. Gifts include cash, property, personal items, services, payments to third parties on behalf of the employee, loans, forgiveness of debts, honorarium, travel, entertainment, hospitality, tickets, financial transactions not available to the general public, and any other payment not reportable as "income". For example, a gift of Buffalo Bills, Buffalo Sabres hockey (especially suite and/or playoff tickets) or philharmonic tickets that have a retail value of over \$100 must be reported, as well as the aggregate of 2 or more hockey tickets each valued at \$50. The regulatory or financial relationship must be within the past 2 years or the next 2 years to be reportable.

An employee need not disclose normal hospitality or promotional materials that in the aggregate do not exceed \$100 and are not received in circumstances in which it might reasonably be inferred that they were given with the intention to influence the employee. For example, if an employee receives only a paperweight valued at \$10 from a contractor, the employee need not disclose this gift. If, however, that same contractor gave other items which, with the paperweight, total \$100 in gifts to that employee, the employee must report each gift, including the paperweight.

6. Real Estate

List the real properties within the City or within five miles of the City line owned by the employee or a close relative. Give the name of the owner, his or her relation to the employee, its address, and the type of investment. The value of the property need not be disclosed.

7. Your Employment or Business

Provide the name of your employer, the nature of its business, its type, and your relationship to that employer. For example, if a City board member was employed as a real state agency, the board member would report the name of the employer, the nature of the business (real estate agency), the type of business (partnership), and his position with the agency (for example, employee). Your income from this employment or business need not be disclosed.

8. Your Spouse's Employment or Business

Provide same information used to answer question 7 for the employee's spouse. For example, if an employee's spouse was employed as an art dealer, the employee would report that spouse's employer's name, the nature of the business (art dealer), the type of business (for example, corporation or partnership), and the spouse's relationship (employee). That spouse's income from that employment or business need not be disclosed.

9. Investments

List your or a close relative's interest in an entity which has had (or is expected to have) a financial or regulatory activity with the City. For example, if the employee owns 25% of a publicly traded contractor which has a bid on a public works project with the City must disclose that ownership interest. Another example, if the child of the employee owns 30% of a real estate company with residential rental properties in the City, then that interest has to be disclosed. Do not disclose personal savings or retirement accounts. Disclosure is by naming the person with the interest, their relationship to the employee, the name of the business entity in which that person has an interest, and the possible involvement of that entity with the City (such as contractor, regulated business, license). The value or size of the interest in the investments need not be disclosed.

### **City Employee Only Section**

In addition to the first nine questions explained above, City employees have to answer the following three questions. These City employees are defined to include:

- every City officer and employees designated by their department heads;
- every City elective official;
- a person in unclassified service, or is in the exempt class of the civil service; or
- a person authorized in the usual course of his or her duties to exercise a substantial degree of discretion in financial or regulatory transactions with private entities, including the negotiation, authorization or approval of contracts, the purchase, sale or rental of real property, goods and services, the obtaining of grants, money or loans or the adoption or repeal of any rule or regulation having the force and effect of law.

10. Other Financial Interests

a. Outside Employment.

Complete the indicated spaces for any outside employment earning the employee or a close relative \$1,000 per year or more. As example, if a City employee earned \$5,000 in one year as a car dealer, the employee would report her name, her position with the automobile dealership, its name and address, and whether that dealer was a state or local agency (here, not a state or local agency). Another example, if a City employee's daughter was a law clerk to a local state judge earning \$35,000 last year, the employee would again report for answer here the daughter's name, her position as law clerk, the name and address of the judge, that it was a state agency. The amount of income from the outside employment need not be disclosed.

b. Future Employment.

Disclose any contract, promise or other agreement between the employee and anyone else with respect to post-City service employment. For example, an assistant corporation counsel, approached by a law firm promising employment whenever she decides to leave the Department of Law, must disclose that offer.

c. Past Employment.

Disclose earnings over \$1,000 from previous jobs that are still being paid in year of this report. For example, a former commissioned salesperson, now an assessor, receives \$4,500 in old commissions while in City service, the assessor has to report the name and address of the former employer and a description as commission income. Another example, a commissioner retired from the military before joining the City and receives a federal pension; that commissioner must disclose the pension. The amount of earnings need not be disclosed.

11. Third-Party Reimbursement

Report the source and amount of any travel expense reimbursement from other sources for \$250 or over. For example, if an assistant corporation counsel travels to Orlando for a municipal law conference where the assistant will make a presentation and the event host pays for the assistant's airfare and hotel accommodations, that assistant should report the expenses of that trip and amount reimbursed.

**CAUTION: travel expenses assumed by a third-party without reimbursement, in other words free travel, must be reported as a gift or honorarium in question 5.**

## 12. Loans and Debts

Reports debts over \$5,000, except for retail accommodations which are available to the general public at the same terms *and* not extended in circumstances in which it might be reasonably inferred that they were extended with the intention to influence or reward the employee in relation to performance of that employee's duties. An example of such retail accommodations include primary mortgages, credit card charge accounts, home equity loans, and lines of credit.

Disclose, however, those retail accommodation, loans or debts that do not meet these criteria. For example, an employee need not disclose a normal credit card debt unrelated to employee's work. However, if the employee is involved in City transaction with Bank Y and Bank Y also issued employee home equity line of credit which is not otherwise available to the general public and is provided to the employee as a result of her City-related contact with Bank Y, that line of credit must be disclosed.

### **Supplementation and Amendment of this Annual Disclosure Statement**

The annual disclosure statement must be supplemented when the employee learns of a transaction or fact that should be disclosed in the annual statement. For example, if an assistant corporation counsel resides at one rented address and later purchases a new home and moves in after the filing deadline, the employee must amend and supplement his statement to reflect the new address as well as the new property interest (here, supplementing the answer to 1. and 6. and possibly 12. for the mortgage, if the mortgage was not a retail accommodation available to the general public).

**WARNING: Failure to file timely annual disclosure statements or transactional disclosure statements may subject the employee or officer to civil penalties, pursuant to Code of Ethics § 21-16, up to \$10,000 for each violation and/or disciplinary actions such as a warning, reprimand, suspension or termination of employment as may be determined in accordance with law.**

## INSTRUCTIONS

### **TRANSACTIONAL DISCLOSURE STATEMENT**

#### **What Must be Disclosed in Statement**

Transactional disclosure statements must be filed prior to entering into certain transactions or promptly after learning that a related party has entered into such a transaction.

Transactions requiring disclosure are:

- employment, professional, business or financial transactions,
- not normal retail purchases or credit transactions on the same terms as are available to the general public,

--with another party and that party has pending or is known by the employee to be considering or has had pending within the prior 12 months any financial or regulatory matter with a city agency, and  
--the employee or subordinate officer or employee has participated in so is authorized to participate in any official discretionary action affecting such matter.  
Code of Ethics § 12 5(B).

For example, an assessor is about to buy a house that is subject to reassessment by her subordinate. That assessor should disclose the house purchase and her actions, if any, regarding the reassessment by the subordinate prior to closing on the house.

Transaction disclosure statements may serve as a supplement or amendment to the annual disclosure statement. For example, travel expenses funded by a third party should be disclosed on a transactional disclosure statement. For convenience, a transaction disclosure form is attached in this booklet. This form need not be filed with an annual disclosure statement; the annual disclosure statement should reflect all applicable transactions as of the date of filing.

Transactional disclosure statements require information about the private interests of "related parties," defined in Code of Ethics § 12-5 as including the employee's spouse, child, parent, brother, sister, and those with whom the employee, spouse, child, parent, brother, sister has or intends to enter into an employment, professional, business or financial relationship. The transactional disclosure statement must disclose the transaction at issue and the employee's participation in the action prior to entering into the transaction. For example, if the 30-year-old son of a legislative assistant obtains a job with Bank X while that legislative assistant is involved with negotiations with Bank X for a loan to the City, the transaction of the son's new job should be disclosed as soon as that legislative assistant learns of that job. Another example, if a commissioner is taken to dinner by a contractor with the City, that commissioner must disclose this dinner as a professional transaction.

Use either the form provided, and adding pages when necessary to complete answers, or a separate letter furnishing all the information required from this form.

Date: give the date of the Transactional Disclosure Form.

Name: furnish the employee's full name.

Official Discretionary Action: state generally the discretionary action that may be subject to scrutiny due to the employee's private interest or transaction. For example, negotiating agreements for City.

Nature of Private Interest or Transaction: disclose private interest held by employee or transaction(s) the employee is about to enter into requiring disclosure. State the date the transaction was or is expected to be completed. For example, if an assessor acquires a house that is within his jurisdiction to assess, prior to closing the sale the assessor should disclose the purchase of the house.

Action to be Taken: discuss the action the employee has taken or intends to take regarding the property interest or transaction(s) just disclosed. In the earlier example, disclose that the contract for the house will be closed.

Name of Related Party and Relationship to Employee: name any related party (employee's spouse, child, parent, brother, sister, and those with whom the employee, spouse, child, parent, brother, sister has or intends to enter into an employment, professional, business or financial relationship) who has a private interest or is involved in a transaction that would require disclosure because it may affect the employee's discretionary judgment and their relationship to the employee. As an example, in the Bank X example provided above, the son's name and relationship with the employee would have to be disclosed.

Nature of Related Party's Private Interest or Transaction and Action to be Taken: as with the employee, disclose private interest held by the related party or transaction(s) that party is about to enter into requiring disclosure and discuss that party's action to be taken regarding that interest or transaction(s).

**WARNING: Failure to file timely transactional disclosure statements may subject the employee or officer to civil penalties, pursuant to Code of Ethics § 21-16, up to \$10,000 for each violation and/or disciplinary actions such as a warning, reprimand, suspension or termination of employment as may be determined in accordance with law.**

Transactional forms may be obtained from the City Clerk.