

New York City Conflicts of Interest Board

Notice of Adoption of Rules

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY CONFLICTS OF INTEREST BOARD by Sections 1043 and 2603 of the New York City Charter and Section 12-110(b)(3)(a)(4) of the New York City Administrative Code that the Conflicts of Interest Board has amended Section 4-04 of Chapter 4 of Title 53 of the Rules of the City of New York to update its rule defining the category of public servants required to file an annual disclosure report because their duties involve the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions and applications for zoning changes, variances and special permits.

The proposed Rules were published in the City Record on June 20, 2025, and a public hearing was held on July 22, 2025. After consideration of the written comments received, the Conflicts of Interest Board now adopts the following Rules.

STATEMENT OF BASIS AND PURPOSE

The City's Annual Disclosure Law, found in New York City Administrative Code § 12-110, requires certain public servants to file publicly available annual disclosure reports with the Board in which they must disclose their private financial interests. One such group of public servants is described in Admin. Code § 12-110(b)(3)(a)(4), which requires the filing of an annual disclosure report by:

Each officer or employee of the city whose duties at any time during the preceding calendar year involved the negotiation, authorization or approval of contracts, leases, franchises, revocable consents, concessions and applications for zoning changes, variances and special permits, as defined by rule of the board and as annually determined by his or her agency head, subject to review by the board.

In 2004, the Board adopted a rule to define this category of filers, commonly known as "contract filers." In the 20 years since, the Board has found that the rule has not

provided enough clarity to facilitate the identification of public servants whose City job duties make them sufficiently involved in the City matters identified in the Administrative Code such that they should be required to make their private financial interests available for public inspection in an annual disclosure report.

The Board repeals Board Rules § 4-04 and replaces it with a new rule to define “contract filers” with more particularity. In the new rule, the Board aims to accomplish two goals. First, the rule limits the category of “contract filers” to public servants who have worked on the City matters enumerated in Admin. Code § 12-110(b)(3)(a)(4). To this end, subdivision (a) references the City laws, policies, and rules that apply specifically to those City matters. Subdivision (b) excludes matters that may fall under the legal term “contracts” but are not sufficiently similar to the City matters enumerated in the Administrative Code. For example, the rule excludes as-of-right development certifications, the acceptance of gifts to the City, and the settlement of legal claims against the City. Subdivision (b) also excludes micropurchases, as defined by the City’s Procurement Policy Board (“PPB”) Rules. The PPB sets by rule a micropurchase limit for contracts which, due to the small amount of City funds expended, are excluded from the PPB Rules’ competition requirements. The Board’s rule mirrors the PPB Rules and similarly excludes micropurchases from triggering the filing requirement. As such, public servants who have worked only on matters listed in subdivision (b) would not be a “contract filer.”

Second, the rule tailors the conduct that requires a public servant to file more closely to the “negotiation, authorization, or approval” standard in Admin. Code § 12-110(b)(3)(a)(4). In addition to identifying specific City titles where the job duties inexorably

include the “negotiation, authorization, or approval” of contracts, subdivision (a) describes conduct where public servants make significant decisions in accordance with the processes governing the “negotiation, authorization, or approval” of the enumerated City matters. By contrast, subdivision (c) excludes conduct that does not rise to the threshold of “negotiation, authorization, or approval,” such that public servants would not be required to publicly disclose their private financial interests for performing that work. In particular, the rule excludes from the category of “contract filers” those who solely develop general policies, provide legal advice, make recommendations, or perform clerical tasks.

In changing this rule, the Board recognizes that some City agencies have designated public servants as “contract filers” with a concern that the designated public servant could potentially engage in conduct that violates the City’s conflicts of interest law, such as by accepting a kickback from a vendor from whom a micropurchase is made. However, the possibility that a public servant could engage in conduct that violates the City’s conflicts of interest law is not a sufficient threshold for requiring the filing of an annual disclosure report; otherwise, every public servant, all of whom are subject to the City’s conflicts of interest law, should be required to file. Instead, the Administrative Code designates specific, defined categories of public servants who are required to file, such as elected officials, policymakers, and high-level managers. The “contract filer” designation should be similarly targeted to capture only those public servants whose City duties warrant the type of public incursion into their private finances that the filing of an annual disclosure report necessitates.

Text of Adopted Board Rules

New material is underlined.

Section 4-04 of chapter 4 of Title 53 of the Rules of the City of New York, which defines the category of public servants required to file annual financial disclosure reports on the basis of their involvement with contracts, leases, franchises, revocable consents, concessions or applications for zoning changes, variances or special permits, is REPEALED and new section 4-04 is added, to read as follows:

§ 4-04 Contract Filers.

(a) Public servants required to file an annual disclosure report pursuant to Administrative Code § 12-110(b)(3)(a)(4) include, but are not limited to, those who during the preceding calendar year held the title of agency chief contracting officer, deputy agency chief contracting officer, chief financial officer, or chief operations officer or who, except as provided in subdivisions (b) or (c) of this section, did one or more of the following:

(1) **Procurement or Concessions.** Pursuant to Procurement Policy Board Rules, Franchise and Concession Review Committee Rules, or other similar City or State law, policy, or rule:

- (i) Conducted a presolicitation review to define the existing market for the goods, services, or construction required, estimate the expected cost, or determine the most appropriate method of procurement;
- (ii) Was substantially involved in determining the material specifications of an invitation for bids, request for proposals, or other similar solicitation method for goods, services, construction, or a concession;

- (iii) Approved an invitation for bids, request for proposals, or other similar solicitation method for goods, services, construction, or a concession;
 - (iv) Evaluated a bid or proposal, including but not limited to serving on a selection committee; or
 - (v) Negotiated or approved: a contract, including its material terms; contract amendment; change order; task order; modification; renewal; or buy-against contract.
 - (2) **Franchises.** Pursuant to Charter § 363, or other similar City or State law, policy, or rule, approved a franchise authorizing resolution or agreement.
 - (3) **Real Property Leases.** Pursuant to Charter § 381 or § 384 or other similar City or State law, policy, or rule, negotiated or approved the purchase, lease, or sale of real property.
 - (4) **Revocable Consents.** Pursuant to Charter § 364 or other City or State law, policy, or rule:
 - (i) Determined that a petition for a revocable consent could proceed in compliance with applicable requirements; or
 - (ii) Approved a revocable consent plan or agreement.
 - (5) **Zoning.** Pursuant to the Uniform Land Use Review Procedure, approved an application for a change to the zoning resolution, a variance, or a special permit.
- (b) The following matters shall not be considered “contracts, leases, franchises, revocable consents, concessions” or “applications for zoning changes, variances and special permits” within the meaning of Administrative Code § 12-

110(b)(3)(a)(4):

(1) Procurements under the micropurchase limit, such as retail goods purchased with a City-issued Purchasing Card;

(2) Certification that an as-of-right development satisfies zoning regulations;

(3) Acceptance of gifts to the City; or

(4) Settlement of legal claims against the City.

(c) Public servants, other than those identified by title in subdivision (a), are not required to file an annual disclosure report pursuant to Administrative Code § 12-110(b)(3)(a)(4) if the only work they performed on contracts, procurement, concessions, franchises, real property leases, revocable consents, or zoning during the preceding calendar year was that they:

(1) Developed general policies, rules, or regulations;

(2) Provided legal advice without negotiating or determining a contract's substantive content, including by ensuring that the content of the contract is implemented in a valid legal agreement or by incorporating an agency's standard contract terms and conditions;

(3) Recommended a contract be awarded without any involvement in the conduct identified in subdivision (a); or

(4) Performed ministerial tasks, including clerical tasks such as typing, filing, or distributing materials.