

Chairperson Teager called the meeting to order at 6:00 P.M.

ROLL CALL:

Members Present - Michael Teager, Chairperson
Teresa Funk, Vice-Chairperson
Anna Garvey
Lawrence Kavanaugh, Jr.
Kayla Leonard
Jon Minear, Deputy Town Attorney

Absent - None

MINUTES TO BE APPROVED

Motion by Chairperson Teager, seconded by Mr. Kavanaugh, to approve Minutes of the February 9, 2022, meeting.

Ayes: All

Noes: None

Motion Carried

PUBLIC COMMENTS

No public comments were received.

COMMUNICATIONS

Update to Independent Contractor Form

Chairperson Teager stated there have been many questions raised regarding completion of the form and with guidance from Town Attorney Trapp, it has been determined that any vendor and/or contractor except for government entities that are covered by an inter-municipal agreement would need to complete the form and believes this is also Erie County's practice. This would apply to public, private, individually held companies going forward.

Chairperson Teager referred to the attached revised Annual Statement of Disclosure for Vendors & Independent Contractors and requested the board members input on the following:

- Would the information be applicable to the current or previous year
- Should the form be submitted "prior to" or "upon" the town signing a contract with the party

Vice-Chairperson Funk questioned if the form could be included in anything going out to bid. Chairperson Teager stated he believed it could and would prefer that it would be included. Chairperson Teager asked Deputy Attorney Minear if the Town Board would have the final say on the form the Ethics Board approves at this meeting. Mr. Minear confirmed the Town Board could adopt it, adopt it with changes, or dismiss it and request a new version. Mr. Minear stated the use of either "prior to" or "upon" is fine, and it is up to the Ethics Board if language should be added regarding the form's inclusion with bid packages or if the form is just provided to the department putting the bid package together.

Mr. Kavanaugh stated if the purpose is to identify any conflict of interest, it should happen before a contract is

signed. Mr. Kavanaugh referred to comments Chairperson Teager made regarding personal and confidential information and does not believe the form requests that type of information. Chairperson Teager concurred and stated Erie County's disclosure form is much more thorough and expansive. Mr. Minear agreed the information is not confidential and the form is not unique, and many levels of government use disclosure forms. Chairperson Teager stated his intention is that the form would be submitted before any work commences and does not foresee calling emergency meetings to review them. Mr. Minear agree and stated if an issue is discovered the Ethics Board can bring it to the Town Board's attention for review.

Secretary Martin asked if all vendors need to submit the form annually, could the form be a Statement of Disclosure, and after a certain monetary threshold the company would be required to submit annually. Chairperson Teager stated Town Attorney Trapp indicated every contractor and vendor should complete the form annually with the only exception being other government entities. Mr. Minear also agreed and stated potential conflicts could arise over the course of the contract.

Chairperson Teager stated if the revised form is approved, he would not anticipate requiring entities that have already submitted a disclosure in 2022 to re-submit one and asked the board members if they felt the form reflects the previous or past calendar year. Chairperson Teager stated his opinion is that it reflects the present year. Ms. Garvey stated it currently reflects the current year and if it is changed to previous year, it would be a change. Chairperson Teager confirmed this and explained Mr. Trapp had explained the Erie County forms are for the previous year. Ms. Garvey stated she is also in favor of leaving it to reflect the current year.

Chairperson Teager asked for thoughts on the wording of "prior to" or "upon" signing a contract. Mr. Kavanaugh stated he prefers prior to. Ms. Funk stated she agrees with prior to.

Motion by Chairperson Teager, seconded by Ms. Leonard, to approve the updated and revised version of the current Independent Contractor Form to now be known as the Vendor and Independent Contractor Form for all contractors for the Town of West Seneca with the changes as highlighted.

Ayes: All

Noes: None

Motion Carried
APPENDICES

Motion by Chairperson Teager, seconded by Mr. Kavanaugh, to amend the language as follows:

1. Top of Page One, change from Previous to Current Calendar Year
2. Under Instructions, "shall complete this form prior to signing a contract"
3. Remove the highlights

Ayes: All

Noes: None

Motion Carried

Motion by Chairperson Teager, seconded by Ms. Leonard, to approve the form as amended with changes.

Ayes: All

Noes: None

Motion Carried

Chairperson Teager questioned Mr. Minear about the language that should be used when taking the revised form to the Town Board. Mr. Minear stated verbiage such as this is the form we would like to use; it was voted on and approved after weeks of work.

Update to Ethics Code

Chairperson Teager referred to the second attachment on the agenda with a portion of the Ethics Code and noted his changes in red:

1. §13-5. Disclosure Statements, C. Any "independent contractor hired by, or vendor entering into a contract with,"
2. "Exceptions for completing the annual disclosure form are as follows: (1) A government entity doing business with the Town as part of an intermunicipal agreement.
3. Proposed Definitions to add under §13-2. Definitions and word usage: "Independent Contractor – A person or entity performing work for the Town as a contractor and receiving nonemployee compensation." and "Vendor – A person or entity selling goods or services to the Town under the terms of a contract."

Mr. Kavanaugh and Ms. Funk both stated they agree with the inclusions.

Chairperson Teager asked Mr. Minear for his opinion on the wording. Mr. Minear stated he does not have any change to the wording but questioned if there were any other exceptions that should be added. Chairperson Teager referred to a previous discussion about dollar amount thresholds possibly being implemented, but after communications with Mr. Trapp, thresholds were not going to be utilized. Mr. Minear asked Chairperson Teager where he obtained the definitions for Independent Contractor and Vendor. Chairperson Teager stated he researched legal definitions and used his own words. Mr. Minear stated Mr. Teager does not need to worry about plagiarizing when it comes to legal definitions and if there is a clear definition that exists it should be used, but with that said, Mr. Minear approves the wording as is.

Ms. Leonard questioned the use of "Independent" Contractor as opposed to simply "Contractor." Chairperson Teager stated the current wording in the Ethics Code states this, and if an update is made to all contractors and vendors then "independent" would not be needed. Mr. Kavanaugh stated there is an employment status that is defined as "independent contractor," generally an individual that receives a 1099, not subject to social security and does not receive a W2, the town is not their employer.

Motion by Chairperson Teager, seconded by Ms. Leonard, to approve the updates to the Ethics Code as follows:

1. §13-5. Disclosure Statements, C. Any "independent contractor hired by, or vendor entering into a contract with,"
2. "Exceptions for completing the annual disclosure form are as follows: (1) A government entity doing business with the Town as part of an intermunicipal agreement.
3. Proposed Definitions to add under §13-2. Definitions and word usage: "Independent Contractor – A person or entity performing work for the Town as a contractor and receiving nonemployee compensation." and "Vendor – A person or entity selling goods or services to the Town under the terms of a contract."

Ayes: All

Noes: None

Motion Carried
APPENDICES

EXECUTIVE SESSION

Motion by Chairperson Teager, seconded by Mr. Kavanaugh, to enter into executive session to review disclosure forms, as they pertain to past employment history, future employment plans, employment history of a corporation or limited liability company, and/or matters that may lead to the employment, demotion, discipline, suspension, dismissal, or removal of a particular person or business entity.

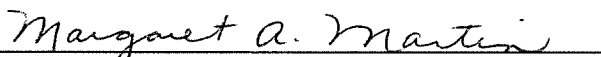
Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Chairperson Teager, seconded by Ms. Garvey, to adjourn the meeting at 6:55 P.M.



Margaret A. Martin

Deputy Town Clerk/Secretary to the Ethics Board

TOWN OF WEST SENECA



ANNUAL STATEMENT OF DISCLOSURE FOR VENDORS & INDEPENDENT CONTRACTORS

FOR PREVIOUS CALENDAR YEAR: _____

The purpose of this Annual Statement of Disclosure is to identify potential conflicts of interest before such conflicts occur. Completion of this form is required as per the Town of West Seneca's Ethics Code §13-5 C. In answering the questions on this Annual Statement of Disclosure, the following definitions are critical:

1. Interest, as used in this Annual Statement of Disclosure, is defined as follows:
 - A. Providing goods, influence, investment, property or service(s) to any person, business or entity for which compensation or benefit is expected or received; or
 - B. Holding ownership, title or right, individually¹ or with others, to real property, within the Town of West Seneca.
2. Contract, as used in this Annual Statement of Disclosure, shall be defined in accordance with the Standard English usage.

INSTRUCTIONS:

All individuals who have an ownership interest in a business entity, including, but not limited to, a corporation, limited liability company, partnership, sole proprietorship, or any other business entity organized under the laws of New York State, or authorized to do business in New York State, shall complete this form prior to [or upon?] signing a contract or entering into an arrangement with the Town to provide goods or services.

For both independent contractors and vendors, subsequent disclosures are to be completed annually.

¹ For the purpose of this section an individual shall be deemed to have an ownership interest when he or she individually maintains any ownership interest in real property, or (a) is an officer or director of a business entity that owns any interest in real property, or (b) owns or controls stock of a corporate or business entity that owns any interest in real property, or (c) is a member of a partnership or limited liability company, which maintains any ownership interest in real property.

FILL OUT COMPLETELY:

BUSINESS ENTITY NAME: _____

BUSINESS ENTITY ADDRESS: _____ NY _____
(Street Address) (Town) (Zip Code)

TYPE OF ENTITY (select one):

Corporation LLP Sole proprietor
 LLC Partnership

YOUR NAME:

(Last) _____ (First) _____ (Middle initial) _____

ADDRESS: _____ NY _____
(Street Address) (Town) (Zip Code)

PHONE: _____ EMAIL: _____

POSITION HELD*: Check all below that apply to you

(*Skip if a sole proprietor.)

Officer Manager Sales Rep./Employee
 Director Member Shareholder
 Other

OWNERSHIP INTEREST (yes or no; if yes, what percentage)²: _____

COMPENSATION INTEREST (yes or no)³: _____

TOWN DEPARTMENT YOU PRIMARILY SERVE: _____

PLEASE DESCRIBE THE PRODUCTS OR SERVICES YOU ARE PROVIDING, OR PROPOSING TO PROVIDE, TO THE TOWN: _____

IS THE PRODUCT OR SERVICE SUBJECT TO A BID (yes or no)?: _____

WHAT IS THE APPROXIMATE VALUE OF THE PRODUCT OR SERVICE OVER THE NEXT 12 MONTHS? _____

² Ownership Interest, includes, but is not limited to, the ownership of stock, membership units, silent partner, an ownership of a right to vote, or any other ownership interest, monetary or nonmonetary where one would receive a benefit from such business.

³ Compensation Interest, includes, but is not limited to, one's compensation, monetary or nonmonetary, being contingent, in whole or in part (e.g., commission, bonus, etc.), upon executing a business arrangement with the Town.

Please list any real property in the Town of West Seneca where you, as an individual⁴ (including a personal residence), own or hold any ownership interest⁵:

Please list any relatives employed by the Town of West Seneca or appointed to serve on a committee or board in the Town of West Seneca:

<u>Relative Name</u>	<u>Relationship</u>	<u>Position Held</u>

Relative – A spouse, parent, stepparent, sibling, step-sibling, sibling's spouse, child, stepchild, uncle, aunt, nephew, niece or household member of a Town official, officer or employee and individuals having any of these relationships to the spouse of the Town official, officer or employee.

Please answer the following questions.

1. Have you, your spouse/partner or relatives had any interest in any business or entity doing business with the Town currently or within the past twelve (12) months?

Yes: _____ No: _____

2. Have you, your spouse/partner or relatives had any interest in any contract made or executed with the Town of West Seneca within the past twelve (12) months?

Yes: _____ No: _____

If you answered yes to either of these 2 questions, describe the nature of the interest. Please attach an additional page if necessary.

⁴ For the purpose of this section an individual shall be deemed to have an ownership interest when he or she individually maintains any ownership interest in real property, or (a) is an officer or director of a business entity that owns any interest in real property, or (b) owns or controls stock of a corporate or business entity that owns any interest in real property, or (c) is a member of a partnership or limited liability company, which maintains any ownership interest in real property.

⁵ See footnote 2 above.

List any position held in any other business, association or not-for-profit organization held by you, your spouse/partner or relatives that has or could in the future transact business with the Town of West Seneca.

Business Name	Person Name	Nature of Business

During the current year, if there are any changes in your answers to anything on this form, you must file an amended Annual Statement of Disclosure with the Town Clerk within thirty (30) days of such change.

I HEREBY CERTIFY THAT THE INFORMATION I HAVE PROVIDED IN THIS ANNUAL STATEMENT OF DISCLOSURE IS TRUE, CORRECT, AND COMPLETE. I HAVE REVIEWED THE CURRENT CODE OF ETHICS FOR THE TOWN OF WEST SENECA.

(Signature)

Date: _____

(Print Name)

(Return this form to the Town Clerk)

Current Language:

§ 13-5. Disclosure Statements

[...]

C. Any independent contractors hired by the Town to perform any work for the Town shall be required to file annual disclosure statements by March 31 of each year in a form set forth in Exhibit "B" attached hereto.

Proposed Starting Point for Revision:

C. Any **independent contractor hired by, or vendor entering into a contract with,** the Town to perform any work for the Town shall be required to file annual disclosure statements by March 31 of each year in a form set forth in Exhibit "B" attached hereto.

Exceptions for completing the annual disclosure form are as follows:

(1) A government entity doing business with the Town as part of an intermunicipal agreement.

Proposed Definitions to Add to WS Ethics Code § 13-2. Definitions and word usage.:

INDEPENDENT CONTRACTOR – A person or entity performing work for the Town as a contractor and receiving nonemployee compensation.

VENDOR – A person or entity selling goods or services to the Town under the terms of a contract.