

**March 5, 2025 – Open Meeting Matter**  
January 8, 2025 – Open Meeting Matter

To: The Board

From: Katherine J. Miller *KJM*  
Christopher M. Hammer *cmh*

Date: February 26, 2025

Re: Proposed Amendments to Board Rules § 4-04: Contract Filers

At its January 2025 Open Meeting, the Board considered proposed amendments to repeal and replace Board Rules § 4-04, which defines the category of “contract filers” under the City’s Annual Disclosure Law. The Board directed Staff to revise the proposed rule to make more explicit that public servants whose duties are limited to making recommendations about a contract do not fall within the category of “contract filers.” Additionally, the Board and Staff discussed the rationale for excluding public servants whose duties are limited to micropurchases from the category of “contract filers.”

Given the Board’s discussion, Staff returns with revisions that Staff believes more clearly reflect the goals of the new rule. First, Staff revised the proposed Statement of Basis and Purpose to explain that the rule aims to limit the category of “contract filers” to public servants in two key ways: to those (1) who worked on the City matters enumerated in the Annual Disclosure Law; and (2) whose conduct on those matters closely adheres to the “negotiation, authorization, or approval” standard in the Annual Disclosure Law. Second, Staff revised the structure of proposed Board Rules § 4-04 to include one paragraph listing matters that are not “contracts” within the meaning of Annual Disclosure Law § 12-110(b)(3)(a)(4) and a separate paragraph listing conduct that, by itself, does not trigger the filing requirement. Once that restructuring was complete, Staff added § 4-

04(c)(3) as directed by the Board to exclude recommendations and made one substantive change by adding § 4-04(b)(4) to exclude settlements of legal claims against the City from being considered a “contract” under the rule. Finally, Staff revised the Statement of Basis and Purpose to include the rationale for excluding micropurchases.

Attached are the following:

1. Staff’s memorandum for the January 2025 Open Meeting (**Exhibit 1**);
2. Minutes of the January 2025 Open Meeting (**Exhibit 2**);
3. Draft Notice of Public Hearing and Opportunity to Comment for Board Rules § 4-04, tracked to the version considered by the Board at its January 2025 Open Meeting (**Exhibit 3**); and
4. Draft Notice of Public Hearing and Opportunity to Comment for Board Rules § 4-04 (**Exhibit 4**).

Staff recommends that the Board approve the revised Notice of Public Hearing and Opportunity to Comment. With the Board’s approval, Staff will formally submit the proposed Board Rules § 4-04 to the New York City Law Department and the Mayor’s Office of Operations for review and approval as required by the City Administrative Procedure Act prior to publication in the *City Record* and the holding of a public hearing. See Charter § 1043(d). Thereafter, Staff will return to the Board with any substantive revisions requested by the Law Department or the Mayor’s Office of Operations or, if there are none, schedule a public hearing.

**January 8, 2025 – Open Meeting Matter**

To: The Board

From: Christopher M. Hammer  
Katherine J. Miller

*CML*  
*KJM*

Date: January 2, 2025

Re: Proposed Amendments to Board Rules § 4-04: Contract Filers

Staff proposes that the Board repeal and replace Board Rules § 4-04, which interprets the “contract filer” requirement in the City’s Annual Disclosure Law. The current rule is attached as **Exhibit 1**; the draft proposed replacement is attached as **Exhibit 2**.

**BACKGROUND**

While most public servants are required to file an annual disclosure report because of their high-level positions, the Annual Disclosure Law also requires public servants of all levels to file an annual disclosure report if their duties included specific kinds of decision-making regarding City contracts or other significant matters. Specifically, Administrative Code § 12-110(b)(3)(a)(4) requires the filing of an annual disclosure report where the public servant was involved, during the preceding year, in “the negotiation, authorization or approval of contracts, leases, franchises, revocable consents, concessions and applications for zoning changes, variances and special permits.”<sup>1</sup> Public servants required to file annual disclosure reports under this Section have become known as “contract filers.”

---

<sup>1</sup> Administrative Code § 12-110(b)(3)(a)(4) states in full: “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.”

The proposed changes to the contract filer rule arose out of the Board's recent experiences in deciding public servants' appeals of their designations as contract filers. In COIB Case No. 2022-552 (**Exhibit 3**), the Board concluded that an Assistant General Counsel is not a contract filer by virtue of communicating settlement offers to opposing parties because the attorney did not negotiate or determine the substantive content of the resulting settlements and the settlement offer had to be authorized by the attorney's agency supervisor, the New York City Law Department, and the Office of the New York City Comptroller. Similarly, in COIB Case No. 2023-431 (**Exhibit 4**), the Board determined that a different Assistant General Counsel is not a contract filer by virtue of performing a legal review of a contract to ensure that a contract is a valid legal agreement that accurately reflects the terms negotiated, authorized, and approved by others.

In considering these appeals, the Board looked to Board Rules § 4-04 and found that it lacked clarity to assist it, particularly in circumstances where agency counsel is performing legal work that, while necessary to ensure the proper resolution of the matter, does not involve its "negotiation, authorization, or approval." Where the rule does not provide the Board with clarity to resolve appeals, it does not provide agencies with clarity in designating contract filers. Thus, as a result of these experiences, Board Staff is proposing changes to the rule that would assist the Board in determining appeals of agency designations of contract filers and assist City agencies in designating their employees as contract filers.

### **ANALYSIS**

Staff's approach in drafting the new rule was to return to the specific conduct identified in the Annual Disclosure Law that triggers the requirement to file as a contract filer. Additionally, because many of the public servants required to file annual disclosure

reports as contract filers are not high-level public servants, Staff sought to balance the proposed rule's impact on the privacy concerns of middle- and lower-level public servants with the need for transparency where a public servant's duties could lead to significant conflicts of interest. The draft rule endeavors to define in a more targeted way what it means to have duties that involve "negotiation, authorization, or approval" of contracts and the other matters listed in the Annual Disclosure Law. In drafting the proposed rule, Staff engaged in an extensive review of relevant City policies and laws pertaining to procurement, concessions, franchises, real property leases, revocable consents, and zoning and consulted with agency personnel who are familiar with these processes.

By looking to adhere more closely to the language in the Annual Disclosure Law, the draft rule would make some substantive changes to the existing rule. First, the existing rule requires a public servant who "determines the content of or promulgates City procurement policies, rules, or regulations" (Board Rules § 4-04(a)(7)) to be designated as a contract filer, even if they do not negotiate, authorize, or approve any individual contracts or other matters. Under proposed Board Rules § 4-04(b)(1), public servants who develop general policies, rules, or regulations would not be required to file based on those duties alone, although they may be required to file under different provisions of the Annual Disclosure Law, such as by being designated as a policymaker or by holding an M4-level managerial position.

Second, under proposed Board Rules § 4-04(b)(4), decision-making with respect to procurements under the micropurchase limit, including retail goods purchased with a City-issued Purchasing Card, would not trigger the requirement to file as a contract filer. This amendment would reflect a change in policy; in COIB Case No. 2019-156 (**Exhibit 5**), the Board required a Conservation Easement Manager to file as a contract filer

because his duties involved identifying and contracting with a vendor entering into a micropurchase contract with a vendor. While the existing rule has the benefit of drawing a bright line, the proposed rule would focus on instances where the City engages in the formal contracting process and thus limit its scope to those decisionmakers whose duties might be impacted by significant conflicts of interest.

Finally, the draft rule addresses the circumstances of the two appeals identified above by clarifying that a public servant is not a contract filer where their work in connection with contracts is limited to ensuring that the substantive content negotiated by other agency employees was implemented in a valid legal agreement. Another issue arising in COIB Case No. 2023-431 involved the drafting of a gift agreement between the City and a donor. Since gift agreements do not involve the expenditure of City funds, Staff proposes in § 4-04(b)(6) to codify that participation in these matters does not, by itself, require a public servant to file an annual disclosure report as a contract filer.

### **CONCLUSION**

With the Board's approval, Staff will formally submit the proposed Board Rules § 4-04 to the New York City Law Department and the Mayor's Office of Operations for review and approval as required by the City Administrative Procedure Act prior to publication in the *City Record* and the holding of a public hearing. See Charter Section 1043(d). Thereafter, we will come back to the Board with any substantive revisions requested by the Law Department or Office of Operations or, if there are none, schedule a public hearing.

## Minutes of the Open Meeting of the New York City Conflicts of Interest Board

**Date:** January 8, 2025

**Present:**

Board Members: Chair Milton L. Williams Jr. and Members Wayne G. Hawley, Ifeoma Ike, Amy E. Millard, and Georgia M. Pestana

Board Staff: Anita Armstrong, Ethan A. Carrier, Christopher M. Hammer, Carolyn Lisa Miller, Katherine J. Miller, Yasong Niu, Jeffrey Tremblay, Florence Watson, Katherine J. Weall, Maryann White, and Clare Wiseman

Guests: None

---

The open meeting was called to order by the Chair at approximately 9:44 a.m.

Staff introduced a draft proposal to repeal and replace Board Rules § 4-04 regarding contract filers and opened the meeting to comments from the Board.

Board Member Hawley identified two edits to the wording of paragraph (b)(2):

- On p. 5, line 22, replace “the contract’s” with “a contract’s”
- On p. 5, line 23, replace “a contract” with “the contract”

Board Member Pestana expressed concern about removing duties related to micropurchases as triggering the requirement to file an annual disclosure report given recent allegations involving kickbacks on micropurchases. Board Members Hawley and Millard noted that annual disclosure reporting is not the mechanism for identifying criminal conduct such as kickbacks. The Board determined to proceed without changing the draft proposal.

Board Member Pestana stated that she thought the draft proposal should more clearly exclude public servants who recommend that a decisionmaker take action on a contract or other matter from the category of contract filer. The Board directed Staff to draft a revised proposal to address this issue.

The open meeting was adjourned at approximately 10:02 a.m.

Respectfully submitted,  
Christopher M. Hammer  
Recording Secretary

1 **New York City Conflicts of Interest Board**

2 **Notice of Public Hearing and Opportunity to Comment on Proposed Rules**  
3 **Regarding Contract Filers**

4 **What are we proposing?** The Conflicts of Interest Board is proposing to amend its rule  
5 concerning annual disclosure filers whose duties involve the negotiation, authorization, or  
6 approval of contracts, leases, franchises, revocable consents, concessions and  
7 applications for zoning changes, variances and special permits.

8 **When and where is the hearing?** The Conflicts of Interest Board will hold a public  
9 hearing on the proposed rule. The public hearing will take place at [time] on [date]. The  
10 hearing will be at [TBD].

11 This location has the following accessibility option(s) available: [TBD].

12 **How do I comment on the proposed rules?** Anyone can comment on the proposed  
13 rules by:

- 14 • **Website.** You can submit comments to the Conflicts of Interest Board through the  
15 NYC Rules website at <http://rules.cityofnewyork.us>.
- 16 • **Email.** You can email comments to [rules@coib.nyc.gov](mailto:rules@coib.nyc.gov).
- 17 • **By speaking at the hearing.** Anyone who wants to comment on the proposed  
18 rule at the public hearing must sign up to speak. You can sign up before the hearing  
19 by contacting the Conflicts of Interest Board by telephone at [phone number] or by  
20 email at [email]. You can also sign up in the hearing room before the hearing  
21 begins on [date]. You can speak for up to three minutes.

22 **Is there a deadline to submit comments?** Yes, you must submit written comments by  
23 [date].

24 **Do you need assistance to participate in the hearing?** You must tell us if you need a  
25 reasonable accommodation of a disability at the hearing, including if you need a sign  
26 language interpreter. You can advise us by telephone at [phone number] or by email at  
27 [email]. You must tell us by [date].

28 **Can I review the comments made on the proposed rules?** You can review the  
29 comments made online on the proposed rules by going to the website at  
30 <http://rules.cityofnewyork.us/>. Copies of all comments submitted online, copies of all  
31 written comments, and a summary of oral comments concerning the proposed rule will  
32 be available to the public on the Conflicts of Interest Board's website  
33 ([https://www1.nyc.gov/site/coib/public-documents/open-meetings-and-public-](https://www1.nyc.gov/site/coib/public-documents/open-meetings-and-public-hearings.page)  
34 [hearings.page](https://www1.nyc.gov/site/coib/public-documents/open-meetings-and-public-hearings.page)) as soon as practicable.



1 **What authorizes the Conflicts of Interest Board to make this rule?** Sections 1043  
2 and 2603 of the City Charter and Section 12-110(b)(3)(a)(4) of the Administrative Code  
3 authorize the Conflicts of Interest Board to make this proposed rule. This proposed rule  
4 was included in the Conflicts of Interest Board’s regulatory agenda for this Fiscal Year.

5 **Where can I find the Conflicts of Interest Board rules?** The Conflicts of Interest Board  
6 Rules are in title 53 of the Rules of the City of New York.

7 **What rules govern the rulemaking process?** The Conflicts of Interest Board must meet  
8 the requirements of Section 1043 of the City Charter when creating or changing rules.  
9 This notice is made according to the requirements of Section 1043 of the City Charter.

10 **Statement of Basis and Purpose**

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

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

22 In 2004, the Board adopted a rule to define this category of ~~filer~~filers, commonly  
23 known as “contract filers.” In the 20 years since, the Board has found that ~~its “contract~~  
24 ~~filer”~~the rule has not provided enough clarity to facilitate the identification of  
25 ~~employees~~public servants whose City job duties make them sufficiently involved in the  
26 City matters identified in the Administrative Code such that they should be required to

1 ~~make~~ their private financial interests ~~should be~~ available for public inspection in ~~an~~ annual  
2 disclosure reports. ~~In drafting the proposed rule, the Board looked to the specific conduct~~  
3 ~~—“negotiation, authorization, or approval”—of contracts and other similar City matters~~  
4 ~~enumerated in the Annual Disclosure Law to ensure that only those whose duties are~~  
5 ~~sufficiently significant to lead to a conflict of interest are required to share their private~~  
6 ~~financial interests in a public.~~

7 ~~The Board proposes to repeal the existing Board Rules § 4-04 and replace it with~~  
8 ~~a new rule. Proposed paragraph (a) would define with much greater specificity when a~~  
9 ~~public servant’s work meets the requirements of Admin. Code § 12-110(b)(3)(a)(4), by~~  
10 ~~describing the job duties with increased precision and detail and by referencing applicable~~  
11 ~~City rules and processes. This paragraph would operate in harmony with proposed~~  
12 ~~paragraph (b), which would identify tasks that do not, by themselves, meet the~~  
13 ~~requirements of Admin. Code § 12-110(b)(3)(a)(4). For instance, the Board proposes to~~  
14 ~~clarify that a public servant who provides legal advice to their agency regarding a contract,~~  
15 ~~such as by ensuring its legality or that it contains the agency’s standard contract terms~~  
16 ~~and conditions, is not required to file pursuant to Admin. Code § 12-110(b)(3)(a)(4)~~  
17 ~~because that work does not constitute “negotiation, authorization, or approval” of~~  
18 ~~contracts.~~

19 ~~In addition to these clarifications, the Board proposes one substantive change to~~  
20 ~~the category of contract filers. Under existing Board Rules § 4-04(a)(7), a public servant~~  
21 ~~who determines the content of City procurement policies, rules, or regulations is required~~  
22 ~~to file pursuant to Admin. Code § 12-110(b)(3)(a)(4). Under proposed Board Rules § 4-~~  
23 ~~04(b)(1), that public servant would not be required to file, since involvement in the~~

1 ~~development of general policies does not constitute “negotiation, authorization, or~~  
2 ~~approval” of contracts.~~

3 The Board proposes to repeal Board Rules § 4-04 and replace it with a new rule  
4 to define “contract filers” with more particularity. In drafting the proposed rule, the Board  
5 sought to accomplish two goals. First, the proposed rule seeks to limit the category of  
6 “contract filers” to public servants who have worked on the City matters enumerated in  
7 Admin. Code § 12-110(b)(3)(a)(4). To this end, proposed paragraph (a) references the  
8 City laws, policies, and rules that apply specifically to those City matters. Paragraph (b)  
9 excludes matters that may fall under the legal term “contracts” but are not sufficiently  
10 similar to the City matters enumerated in the Administrative Code. For example, the  
11 proposed rule excludes certain as-of-right development certifications, the acceptance of  
12 gifts to the City, and the settlement of legal claims against the City. Proposed paragraph  
13 (b) also excludes procurements under the City’s micropurchase limit, such as items  
14 purchased with a City-issued credit card. It is the Board’s view that, on balance, the  
15 relatively small amount of City funds spent by a public servant on a micropurchase does  
16 not merit by itself the disclosure of the public servant’s private financial interests in a  
17 publicly available report, especially given the number of public servants who have  
18 authority to use City-issued credit cards or otherwise make micropurchases. As such,  
19 public servants who have worked only on matters listed in proposed paragraph (b) would  
20 not be a “contract filer.”

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

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

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

1 **Text of Proposed Rule**

2 New material is underlined.

3 Section 4-04 of Chapter 4 of Title 53 of the Rules of the City of New York is  
4 REPEALED and new Section 4-04 is added to read as follows:

5 **§ 4-04 Contract Filers.**

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

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

15 (i) Conducted a presolicitation review to define the existing market for the  
16 goods, services, or construction required, estimate the expected cost, or  
17 determine the most appropriate method of procurement;

18 (ii) Was substantially involved in determining the material specifications of an  
19 invitation for bids, request for proposals, or other similar solicitation method  
20 for goods, services, construction, or a concession;

21 (iii) Approved an invitation for bids, request for proposals, or other similar  
22 solicitation method for goods, services, construction, or a concession;

23 (iv) Evaluated a bid or proposal, including but not limited to serving on a

1           selection committee; or

2           (v) Negotiated or approved: a contract, including its material terms; contract  
3           amendment; change order; task order; modification; renewal; or buy-  
4           against contract.

5           (2) **Franchises.** Pursuant to Charter § 363, or other similar City or State law,  
6           policy, or rule, approved a franchise authorizing resolution or agreement.

7           (3) **Real Property Leases.** Pursuant to Charter § 381 or § 384 or other similar City  
8           or State law, policy, or rule, negotiated or approved the purchase, lease, or sale  
9           of real property.

10          (4) **Revocable Consents.** Pursuant to Charter § 364 or other City or State law,  
11          policy, or rule:

12          (i) Determined that a petition for a revocable consent could proceed in  
13          compliance with applicable requirements; or

14          (ii) Approved a revocable consent plan or agreement.

15          (5) **Zoning.** Pursuant to the Uniform Land Use Review Procedure, approved an  
16          application for a change to the zoning resolution, a variance, or a special  
17          permit.

18          (b) The following matters shall not be considered “contracts, leases, franchises,  
19          revocable consents, concessions” or “applications for zoning changes, variances  
20          and special permits” within the meaning of Administrative Code § 12-  
21          110(b)(3)(a)(4):

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

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

2 (3) Acceptance of gifts to the City; or

3 (4) Settlement of legal claims against the City.

4 ~~(b)~~(c) Public servants, other than those identified by title in paragraph (a), are not  
5 required to file an annual disclosure report pursuant to Administrative Code § 12-  
6 110(b)(3)(a)(4) if the only work they performed on ~~contracts, procurement~~~~or,~~  
7 concessions, franchises, real property leases, revocable consents, or zoning  
8 during the preceding calendar year was that they:

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

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

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

16 (4)

17 ~~(3)~~ Performed ministerial tasks, including clerical tasks such as typing, filing, or  
18 distributing materials;

19 ~~(4)~~ Participated in procurements under the micropurchase limit, such as retail  
20 goods purchased with a City-issued Purchasing Card;

21 ~~(5)~~ Participated in the certification that an as-of-right development satisfies zoning  
22 regulations; or

23 ~~(6)~~ Participated in the acceptance of gifts to the City..

## New York City Conflicts of Interest Board

### Notice of Public Hearing and Opportunity to Comment on Proposed Rules Regarding Contract Filers

**What are we proposing?** The Conflicts of Interest Board is proposing to amend its rule concerning annual disclosure filers whose duties involve the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions and applications for zoning changes, variances and special permits.

**When and where is the hearing?** The Conflicts of Interest Board will hold a public hearing on the proposed rule. The public hearing will take place at [time] on [date]. The hearing will be at [TBD].

This location has the following accessibility option(s) available: [TBD].

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Conflicts of Interest Board through the NYC Rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [rules@coib.nyc.gov](mailto:rules@coib.nyc.gov).
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by contacting the Conflicts of Interest Board by telephone at [phone number] or by email at [email]. You can also sign up in the hearing room before the hearing begins on [date]. You can speak for up to three minutes.

**Is there a deadline to submit comments?** Yes, you must submit written comments by [date].

**Do you need assistance to participate in the hearing?** You must tell us if you need a reasonable accommodation of a disability at the hearing, including if you need a sign language interpreter. You can advise us by telephone at [phone number] or by email at [email]. You must tell us by [date].

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. Copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public on the Conflicts of Interest Board's website (<https://www1.nyc.gov/site/coib/public-documents/open-meetings-and-public-hearings.page>) as soon as practicable.



1 **What authorizes the Conflicts of Interest Board to make this rule?** Sections 1043  
2 and 2603 of the City Charter and Section 12-110(b)(3)(a)(4) of the Administrative Code  
3 authorize the Conflicts of Interest Board to make this proposed rule. This proposed rule  
4 was included in the Conflicts of Interest Board’s regulatory agenda for this Fiscal Year.

5 **Where can I find the Conflicts of Interest Board rules?** The Conflicts of Interest  
6 Board Rules are in title 53 of the Rules of the City of New York.

7 **What rules govern the rulemaking process?** The Conflicts of Interest Board must  
8 meet the requirements of Section 1043 of the City Charter when creating or changing  
9 rules. This notice is made according to the requirements of Section 1043 of the City  
10 Charter.

11 **Statement of Basis and Purpose**

12 The City’s Annual Disclosure Law, found in New York City Administrative Code  
13 § 12-110, requires certain public servants to file publicly available annual disclosure  
14 reports with the Board in which they must disclose their private financial interests. One  
15 such group of public servants is described in Admin. Code § 12-110(b)(3)(a)(4), which  
16 requires the filing of an annual disclosure report by:

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

23 In 2004, the Board adopted a rule to define this category of filers, commonly  
24 known as “contract filers.” In the 20 years since, the Board has found that the rule has  
25 not provided enough clarity to facilitate the identification of public servants whose City  
26 job duties make them sufficiently involved in the City matters identified in the

1 Administrative Code such that they should be required to make their private financial  
2 interests available for public inspection in an annual disclosure report.

3 The Board proposes to repeal Board Rules § 4-04 and replace it with a new rule  
4 to define “contract filers” with more particularity. In drafting the proposed rule, the Board  
5 sought to accomplish two goals. First, the proposed rule seeks to limit the category of  
6 “contract filers” to public servants who have worked on the City matters enumerated in  
7 Admin. Code § 12-110(b)(3)(a)(4). To this end, proposed paragraph (a) references the  
8 City laws, policies, and rules that apply specifically to those City matters. Paragraph (b)  
9 excludes matters that may fall under the legal term “contracts” but are not sufficiently  
10 similar to the City matters enumerated in the Administrative Code. For example, the  
11 proposed rule excludes certain as-of-right development certifications, the acceptance of  
12 gifts to the City, and the settlement of legal claims against the City. Proposed paragraph  
13 (b) also excludes procurements under the City’s micropurchase limit, such as items  
14 purchased with a City-issued credit card. It is the Board’s view that, on balance, the  
15 relatively small amount of City funds spent by a public servant on a micropurchase does  
16 not merit by itself the disclosure of the public servant’s private financial interests in a  
17 publicly available report, especially given the number of public servants who have  
18 authority to use City-issued credit cards or otherwise make micropurchases. As such,  
19 public servants who have worked only on matters listed in proposed paragraph (b)  
20 would not be a “contract filer.”

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

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

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

23

1 **Text of Proposed Rule**

2 New material is underlined.

3 Section 4-04 of Chapter 4 of Title 53 of the Rules of the City of New York is  
4 REPEALED and new Section 4-04 is added to read as follows:

5 **§ 4-04 Contract Filers.**

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

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

15 (i) Conducted a presolicitation review to define the existing market for the  
16 goods, services, or construction required, estimate the expected cost, or  
17 determine the most appropriate method of procurement;

18 (ii) Was substantially involved in determining the material specifications of an  
19 invitation for bids, request for proposals, or other similar solicitation  
20 method for goods, services, construction, or a concession;

21 (iii) Approved an invitation for bids, request for proposals, or other similar  
22 solicitation method for goods, services, construction, or a concession;

23 (iv) Evaluated a bid or proposal, including but not limited to serving on a

1           selection committee; or

2           (v) Negotiated or approved: a contract, including its material terms; contract  
3           amendment; change order; task order; modification; renewal; or buy-  
4           against contract.

5           (2) **Franchises.** Pursuant to Charter § 363, or other similar City or State law,  
6           policy, or rule, approved a franchise authorizing resolution or agreement.

7           (3) **Real Property Leases.** Pursuant to Charter § 381 or § 384 or other similar  
8           City or State law, policy, or rule, negotiated or approved the purchase, lease,  
9           or sale of real property.

10          (4) **Revocable Consents.** Pursuant to Charter § 364 or other City or State law,  
11          policy, or rule:

12           (i) Determined that a petition for a revocable consent could proceed in  
13           compliance with applicable requirements; or

14           (ii) Approved a revocable consent plan or agreement.

15          (5) **Zoning.** Pursuant to the Uniform Land Use Review Procedure, approved an  
16          application for a change to the zoning resolution, a variance, or a special  
17          permit.

18          (b) The following matters shall not be considered “contracts, leases, franchises,  
19          revocable consents, concessions” or “applications for zoning changes, variances  
20          and special permits” within the meaning of Administrative Code § 12-  
21          110(b)(3)(a)(4):

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

- 1           (2) Certification that an as-of-right development satisfies zoning regulations;  
2           (3) Acceptance of gifts to the City; or  
3           (4) Settlement of legal claims against the City.
- 4       (c) Public servants, other than those identified by title in paragraph (a), are not  
5       required to file an annual disclosure report pursuant to Administrative Code § 12-  
6       110(b)(3)(a)(4) if the only work they performed on contracts, procurement,  
7       concessions, franchises, real property leases, revocable consents, or zoning  
8       during the preceding calendar year was that they:
- 9           (1) Developed general policies, rules, or regulations;  
10          (2) Provided legal advice without negotiating or determining a contract's  
11          substantive content, including by ensuring that the content of the contract is  
12          implemented in a valid legal agreement or by incorporating an agency's  
13          standard contract terms and conditions;
- 14          (3) Recommended a contract be awarded without any involvement in the conduct  
15          identified in paragraph (a); or
- 16          (4) Performed ministerial tasks, including clerical tasks such as typing, filing, or  
17          distributing materials.