

FORM 1295: CERTIFICATE OF INTERESTED PARTIES DISCLOSURE

Overview:

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that *a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295)* to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

1. When is a Form 1295 required? RICK TEST

- The contract is valued at \$1 million or more and executed on or after September 1, 2017; OR
- The governing body of the entity requires an action or vote before the contract or amendment is signed; OR
- Form 1295 was not initially filed, and an amendment increased the value of the contract to \$1 million or more;

2. What is an Interested Party?

It is important to note that there are very few instances that a business will not have any interested parties.

An **interested party** is defined in the Texas Government Code as: a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

3. What are some examples of Interested Parties?

For example, Joe is filling out a Form 1295 for his company's contract with a governmental entity. Joe owns 50% of the company and his wife, Jane, owns 50% of the company. They have no officers or board members. Joe would list both his name and his wife's name as controlling interests.

Joe also hired a lawyer to help facilitate his company's contract with the governmental entity. Joe paid the lawyer a fee, the lawyer contacted the governmental entity, and the lawyer is not Joe's employee. Joe would list the lawyer as an intermediary.

4. Does Form 1295 have to be filed even if there is no interested party?

Yes. Form 1295 must be filed even if the business entity determines that there are no interested parties. In that case, Form 1295 will indicate that there is no interested party.

5. Exemptions from this requirement:

- An interagency or interlocal contract with a state agency, government entity, or an institution of higher education;
- Open enrollment contracts or any contract with no specified budget or contract value;
- Contracts with publicly traded business entities, including a wholly owned subsidiary of the business entity; and
- Contracts with electric and gas utilities as defined in the Utilities Code.

6. Procedure:

- Business entity logs into the TEC website and electronically files and submits Form 1295.
- Business entity emails a signed copy of the submitted form to NCTCOG.
- Procurement logs in to the TEC website and acknowledges Form 1295 not later than the 30th day after the date the contract binds all parties to the contract.
- Procurement saves the acknowledged form in the procurement file and sends a copy to end user department and/or department accountant.