

INSTRUCTIONS FOR COMPLETION OF FORM 1295

INTRODUCTION

The TCISD is required to comply with House Bill 1295, which amended the Texas Government Code by adding Section 2252.908, Disclosure of Interested Parties. Section 2252.908 prohibits TCISD from entering into a contract resulting from any contract (CSP/RFP/RFQ or purchase order) with a business entity unless the business entity submits a Disclosure of Interested Parties (Form 1295) to the District at the time business entity submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Texas Ethics Commission (<https://www.ethics.state.tx.us/tec/1295-Info.htm>).

DEFINITIONS

In order to clarify some of the terms you'll find in this document, the following terms have been defined:

- Business Entity includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or non-profit entity. The term does not include a governmental entity or state agency.
- Contract includes an amended, extended or renewed contract.
- Controlling Interest means: 1) an ownership interest or participating interest in a business by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; 2) membership on the board of directors or other governing body of a business of which the board or other governing body is composed of not more than 10 members; or 3) service as an officer of a business that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.
- Interested Party means a person who 1) has a controlling interest in a business entity with whom TCISD contracts; or 2) 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.
- Intermediary for purposes of this rule, means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who: 1) receives compensation from the business entity for the person's participation; 2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and 3) is not an employee of the business entity.

WHO DOES THIS APPLY TO? (§46.1. APPLICATION)

- (a) This chapter applies to section 2252.908 of the Government Code.
- (b) Section 2252.908 of the Government Code applies only to a contract of a governmental entity or state agency entered into after December 31, 2015, that meets either of the following conditions: 1) The contract requires an action or vote by the governing body of the entity or agency; OR 2) The value of the contract is at least \$1 million.
- (c) A contract does not require an action or vote by the governing body of a governmental entity or state agency if: 1) The governing body has legal authority to delegate to its staff the authority to execute the contract; 2) The governing body has delegated to its staff the authority to execute the contract; and 3) The governing body does not participate in the selection of the business entity with which the contract is entered into.

WHAT TYPE OF CONTRACTS ARE EXEMPT FROM THE FORM 1295 FILING REQUIREMENT?

A completed Form 1295 is not required for:

- (a) a sponsored research contract of an institution of higher education;
- (b) an interagency contract of a state agency or an institution of higher education;
- (c) a contract related to health and human services if:
 - the value of the contract cannot be determined at the time the contract is executed; and
 - any qualified vendor is eligible for the contract;
- (d) a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;
- (e) a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code; or
- (f) a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.

FORM 1295 (\$46.5. DISCLOSURE OF INTERESTED PARTIES FORM)

- (a) A disclosure of interested parties form required by section 2252.908 of the Government Code must be filed on an electronic form prescribed by the commission that contains the following:
 - 1) The name of the business entity filing the form and the city, state, and country of the business entity's place of business;
 - 2) The name of the governmental entity or state agency that is a party to the contract for which the form is being filed;
 - 3) The name of each interested party and the city, state, and country of the place of business of each interested party;
 - 4) The identification number used by the governmental entity or state agency to track or identify the contract for which the form is being filed and a short description of the goods or services used by the governmental entity or state agency provided under the contract; and
 - 5) An indication of whether each interested party has a controlling interest in the business entity, is an intermediary in the contract for which the disclosure is being filed, or both.
- (b) The certification of filing and the completed disclosure of interested parties form generated by the commission's electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted to the governmental entity or state agency that is the party to the contract for which the form is being filed
- (c) A governmental entity or state agency that receives a completed disclosure of interested parties form and certification of filing shall notify the commission, in an electronic format prescribed by the commission, of the receipt of those documents not later than the 30th day after the date the contract for which the form was filed binds all parties to the contract.
- (d) The commission shall make each disclosure of interested parties form filed with the commission under section 2252.908(f) of the Government Code available to the public on the commission's Internet website not later than the seventh business day after the date the commission receives the notice required under subsection (c) of this section.

VENDOR INSTRUCTIONS (4-STEPS)

As a "business entity," all vendors must electronically complete the Texas Ethics Commission's Form 1295, which can be found at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

1. All vendors must complete Form 1295, even if no interested parties exist
2. Print a copy of the completed form (*ensure it has a computer-generated certification number in the "Office Use Only" box*)
3. Have an authorized agent of the business entity sign the form
4. The completed Form 1295 with certification of filing, must be filed with TCISD by attaching the form to the proposal or contract being provided to the District