

HB 1295 Instructions for Certain Vendors/Grantees

Background: Effective January 1, 2016, state agencies, including the Texas Higher Education Coordinating Board (THECB), must comply with the “Disclosure of Interested Parties” requirement mandated by HB 1295, as implemented by the Texas Ethics Commission. THECB may not execute certain contracts/grants requiring approval of the Board Chair, Vice Chair, and Committee Chair until the vendors/grantees have presented a certificate disclosing interested parties. (Please see below in FAQs for further details regarding who will be required to present a certificate disclosing interested parties to THECB.)

If you are a vendor/grantee who must comply with the “Disclosure of Interested Parties” requirement, please begin by clicking on the Texas Ethics Commission (TEC) online portal to create a username and password. The portal and instructional video can be found at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

| CERTIFICATE OF INTERESTED PARTIES | | FORM 1295 | | |
|--|--------------------------|---|---------------------------------------|--------------|
| Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties. | | OFFICE USE ONLY | | |
| 1 Name of business entity filing form, and the city, state and country of the business entity's place of business. | | | | |
| 2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed. | | | | |
| 3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract. | | | | |
| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of Interest (check applicable) | |
| | | | Controlling | Intermediary |
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| 5 Check only if there is NO Interested Party. <input type="checkbox"/> | | | | |
| 6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct. | | | | |
| _____ Signature of authorized agent of contracting business entity | | | | |
| AFFIX NOTARY STAMP / SEAL ABOVE | | | | |
| Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office. | | | | |
| _____ Signature of officer administering oath | | _____ Printed name of officer administering oath | | |
| | | _____ Title of officer administering oath | | |
| ADD ADDITIONAL PAGES AS NECESSARY | | | | |

Log into the TEC portal and complete the “Certificate of Interested Parties” form.

1. Print
2. Sign
3. Notarize
4. Send THECB a copy of the notarized form

Definitions:

- (a) “Contract” includes an amended, extended, or renewed contract.
- (b) “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 nonprofit entity. The term does not include a governmental entity or state agency.
- (c) “Controlling interest” means:
- (1) an ownership interest or participating interest in a business entity 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 entity 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 entity 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.
- (d) “Interested party” means: (1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or (2) a person who actively participates in facilitating a contract or negotiating the terms of a contract with a governmental entity or state agency, including a broker, intermediary, adviser, or attorney for the business entity.
- (e) “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.

FAQs

Who will be required to present a certificate disclosing interested parties to THECB? For-profits, non-profits, and private institutions.

Who is not required to present a certificate disclosing interested parties to THECB? State agencies, universities, and community colleges.

Do vendors/grantees need to log on to the Texas Ethics Commission portal to complete the form? Yes. Texas Ethics Commission is using its online portal to track certificates. After THECB receives a notarized form, THECB staff will log on to the portal and verify we have received the certification.

What if a vendor/grantee is receiving multiple awards? THECB would need to collect one form for each contract/grant award. The TEC portal requires each certification form be coded with a contract number.

Who should be listed as having a “Controlling interest”?
(Also see “controlling interest” definition above)

- List all persons having more than 10% ownership in the business entity.
- If your governing body consists of 10 or less members, list all members.
- If your organization has four or fewer officers, list those officers.
- If your organization has four or more officers, list the four most highly compensated.

Please send your notarized form to contracts@theeb.state.tx.us.

For questions contact:

THECB Office of General Counsel

Contract Administration Department

(512) 427-6141