

COMPLIANCE PROCEDURES WITH FORM 1295
Revised January 18, 2018

In 2015, the Texas Legislature adopted HB 1295 which added Section 2252.908 to the Texas Government Code. The Texas Ethics Commission has adopted rules to implement the requirements of HB 1295. Beginning January 1, 2016, a “**business entity**” that:

- (1) enters into a contract/agreement which must be **approved by the Waco City Council**
- (2) for **services, goods or other property** (including acquisition of real property)
- (3) to be **used** by the City of Waco

is required to complete a Certificate of Interested Parties Form 1295 on the Texas Ethics Commission website. HB 1295 applies to all contracts approved by the Council **except**:

- Sale of tax foreclosed property or city owned property to an individual
- General resolution authorizing expenditure for acquisition of project easements that are not approving a specific easement with a specific business entity
- Property encroachment agreements with an individual
- Business grants
- Tax abatements
- Grant agreements
- WDMEC agreements
- Interlocal agreement or agreement with another governmental entity
- **Contracts with electric utility**
- **Contract with gas utility**
- **Contract with publicly traded business entity, including a wholly owned subsidiary of the business entity**

"Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. It includes for-profit and non-profit entities. A contract with an individual is not a contract with a business entity.

The requirement to complete Form 1295 does not apply to a contract awarded prior to January 1, 2016, unless that contract is amended, extended, or renewed and that change in the contract requires a Form 1295.

The requirement for a Form 1295 can apply to a contract change (amendment, extension, renewal, etc.). If a Form 1295 was not filed for the original contract, a Form 1295 is required if the changed contract requires an action or vote by the City Council. If a Form 1295 was filed for the original contract, then a Form 1295 is required for the changed contract if (a) there is a change to the information contained in the Form 1295 that was filed or (b) the contract requires an action or vote by the City Council.

To fulfill the requirements for Form 1295, the following procedures will be implemented for approval of an original contract:

1. If a contract requires Council approval, the department creates an agenda item in Minute Traq for Council approval.
2. The agenda is finalized for the Council meeting and posted the Friday before a Tuesday Council meeting.
3. Each resolution or ordinance receives a number that consists of the year and an item number -- for example, 2016-029. This agenda number is the **City contract tracking number** which needs to be given to the business entity with which the City is contracting.
 - a. The business entity needs the City's contract identification number (i.e., the agenda number) to complete the Texas Ethics Commission form online. The RFB or RFP number is not the tracking number. The Purchase Order number is not the tracking number.
4. Using the notice form created by Legal, the department which originated the Minute Traq item (or Purchasing if it is responsible for circulating the contracts for signature, e.g., Public Works construction contracts) will notify the business entity that is to be awarded the contract and that the Form 1295 must be completed on the Texas Ethics Commission website.
 - a. If a written contract is to be executed, that department will also send the contract for execution to the business entity.
 - b. On the notice form, the department enters the City's contract tracking number along with the name and address at the City where the business entity is to send the Form 1295. The department should also show the date by which it needs to Form 1295.
 - c. The business entity needs to complete and print Form 1295, which will include a certification number issued by Ethics Commission on the upper right side.
5. An authorized agent of the business entity must execute the printed Form 1295.
6. The business entity must send the notarized Form 1295 (which has the Ethics Commission certification number in the upper right corner) to the City department.
 - a. The notarized Form 1295 can be sent by fax, scan and email, US Mail, or delivery to the City of Waco.
 - b. If a written contract is being executed, the contracts executed by the business entity will be returned to the department.
 - c. When the department receives the Form 1295, it shall look at Box 2 on the form to see if the name of governmental entity is correct, i.e., it says City of Waco. If the name is not correct, contact the business entity to tell them that a new form will be needed that has the correct name of the governmental entity.
7. The department will forward the Form 1295 (with the Ethics Commission certification) to:

- a. **Purchasing** if the contract will be formed through issuance of a Purchase Order only, rather than executing a written contract, or Purchasing is circulating the contract documents for execution (such as on large construction projects); or
 - b. **Legal** with the executed written contract.
 - i. If the contract includes a signature line for the department director, the director shall execute prior to sending to Legal.
 - ii. If the contract includes a signature line for the Risk Manager, the contract (along with the Form 1295 with certification) shall be sent to the Risk Manager, who will forward to Legal after signing.
- 8. Purchasing will not issue the Purchase Order until the City has received the signed Form 1295.**
9. Once the Form 1295 reaches either Purchasing or Legal (whichever applies):
- a. Purchasing accesses the Ethics Commission website to use the electronic system to acknowledge receipt of the Form 1295 to the Commission. [Purchasing shall write in the date and initial the Form at top right to show the acknowledgement has been entered. *If the contract tracking number on the Form 1295 is incorrect, Purchasing shall write the correct number on the form.*]
 - i. If Purchasing circulates the written contract for execution, Purchasing will enter the Form 1295 acknowledgement and forward the contract and Form 1295 to Legal. [Purchasing should write in the date and initial the Form at top right to show the acknowledgement has been entered. *If the contract tracking number on the Form 1295 is incorrect, Purchasing shall write the correct number on the form.*]
 - b. Legal accesses the Texas Ethics Commission website to use the electronic system to notify the Commission of receipt of the Form 1295. [Legal should write in the date and initial the form at top right to show acknowledgement entered. *If the contract tracking number on the Form 1295 is incorrect, Legal shall write the correct number on the form.*]
10. The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after the date the city receives the Form 1295.
11. Once the Form 1295 acknowledgment is completed by either Purchasing or Legal, the Form 1295 shall be sent to the City Secretary's Office for filing.
- a. **Provided the date of birth information of the declarant is masked**, Purchasing may scan the Form 1295 to retain a copy with Purchasing Order.

CONTRACT CHANGES

To fulfill the requirements for Form 1295, the following procedures will be implemented for approval for an amendment, extension, renewal, etc., to a contract:

- A. If the amendment, extension, renewal, etc., to a contract **requires Council approval**, then follow the procedures set out in steps 1 to 11 above related to an original contract. Unless the contract is excepted from the Form 1295 requirement, Council action will require a new Form 1295.

- B. If the amendment, extension, renewal, etc., does not require Council approval, **but the original contract required Council approval and a Form 1295, the department must send the prior Form 1295 to the business entity and ask if any of the information on the form has changed.** A notice form has been created to notify the contractor/vendor of the need to review the Form 1295 information.
 - (i) **If any information on the prior Form 1295 has changed, a new Form 1295 is required** even though the actual contract change does not require Council action. The procedures starting at 4.c. above must be followed to have the contractor/vendor complete a new Form 1295 and send that new Form 1295 to the City.
 - (a) Once the new Form 1295 is received, send it to Purchasing, unless the department is working with Legal to prepare a written contract amendment, extension, renewal, etc. for execution by the contractor/vendor and the City. Either Purchasing or Legal will acknowledge on the Texas Ethics Commission website and forward the Form 1295 to the City Secretary's Office.
 - (ii) If the information on the prior Form 1295 is still correct (i.e., no changes), the contractor/vendor should sign the bottom of the notice form and return the notice form to the City.
 - (a) When the notice form is received with the contractor/vendor's signature indicating there are no changes to the Form 1295, send that form to Purchasing, who will forward to the City Secretary's Office.