



CITY COUNCIL AGENDA FORM

Meeting Date: July 11, 2022
Prepared by: David Merryman
Department: FIRE Department

Agenda item: [Redacted]
Reviewed by: _____

AGENDA ITEM DESCRIPTION:

Discussion possible action relating to authorizing the posting of an RFP for Emergency Medical Billing

ATTACHMENTS FOR REFERENCE

- 1. RFP attached for review

STAFF BRIEFING:

The La Marque Fire department has to transition to a new report management software and in order to streamline our reporting and improve EMS collections we have drafted an RFP for billing services to compare our current contract with we have been in since 2015 to current rates and efforts available on market currently.

HISTORY:

The La Marque Fire department currently utilizes R1 an EMS billing and software company. The current company is based in Florida and uses automated billing practices and has been under contract since 2015 when a 3 year with 2 automatic 1 year renewals was signed and In 2020 the same was signed by city manager at time. That contract expires Jan of 2023.

TARGET IMPLEMENTATION: October 1st , 2022

SIGNIFICANT ACTION DATES:

RFP posted July 13th, 2022
Pre proposal Conference July 18th, 2022 10:00 a.m.
Deadline for Questions July 20th, 2022 2:00 p.m.
Submittal deadline July 27th, 2022 10:00 a.m.

Cost Details:	
Budgeted	
Actual Bid	
Estimated	



CITY COUNCIL AGENDA FORM

ACTION:

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| <input type="checkbox"/> Ordinance | <input type="checkbox"/> Resolution |
| <input type="checkbox"/> Special Presentation | <input type="checkbox"/> Proclamation |
| <input type="checkbox"/> Finance Report | <input type="checkbox"/> Public Hearing |
| <input checked="" type="checkbox"/> Other -
Authorization to execute contract | |
| <input checked="" type="checkbox"/> Mark if this item does not conflict with any Resolution, Ordinance or City Charter, policies, procedures | |

Expenditure	
Acct. Name(s)	
Line Item #	
Other Funding	N/A

STAFF'S RECOMMENDATION:

Authorize the staff to put out RFP for EMS Billing services

FISCAL IMPACT: none at this time



City of La Marque Fire Department

REQUEST FOR PROPOSAL

Proposal Reference Number: RFP# 22-02

Project Title: Emergency Medical Service Billing and Collections

Proposal Closing Date: 10:00 A.M.(CST), Thursday, July 27, 2022

No Proposals submitted after the above deadline will be accepted.



KEY EVENTS SCHEDULE

PROJECT NAME:

Emergency Medical Billing and Collections

ISSUANCE OF RFP

July 13, 2022

**PRE-PROPOSAL
CONFERENCE:**

10:00 A.M (CST), Monday, July 18, 2022

Via zoom:

<https://us06web.zoom.us/j/83044324912?pwd=NUNJYzVaQVFwdlNNbHAyMXczZ1Q1QT09>

There will be registration at the pre-proposal meeting. The pre-proposal conference will allow all Proposers an opportunity to ask representatives relevant questions and clarify provisions of this RFP.

DEADLINE FOR QUESTIONS

2:00 P.M (CST), Wednesday, July 20, 2022

All questions will be answered in the form of an addendum, after the question deadline. All questions related to this RFP are to be directed to the following link: [Upload Questions Here](#)

SUBMITTAL DEADLINE:

10:00 A.M (CST), Wednesday, July 27, 2022

SUBMITAL REQUIREMENT:

Electronic submittals required
[Upload Submittal Here](#)

TERM OF SERVICE/PROJECT:

A three (3) year agreement with an option to automatically renew for two (2) additional years in one (1) year increments

**City of La Marque
Council Award**

A final determination will be made at a future City of La Marque Council meeting. City of La Marque reserves the right to reject any and all request for proposals and waive any and all formalities and conditions.



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CITY OF La Marque
REQUEST FOR PROPOSALS #2022-02
EMERGENCY MEDICAL SERVICE BILLING And COLLECTIONS

A. INTRODUCTION

1. The City's primary objective with regard to EMS billing and collection of fees is to maintain the highest standard of service and professionalism in communications with the public while maximizing net revenue to the city. The City intends to select a Billing agency experienced in field data billing software and hardware, EMS billing and collections.
2. Proposals are invited from all interested and qualified companies (Proposers) to provide billing and collection services for EMS fees charged to individuals for services rendered. Specifically, the City is soliciting proposals for the services of a Contractor to bill and collect all fees incurred after the award of the RFP.
3. The successful Contractor will assume complete responsibility for their own billing system, including all necessary equipment, training, and technical support; and for receiving and translating transport records from the City's system into collectible accounts. This process includes locating and billing EMS service recipients, individual and/or third-party clients, filing and collecting from Medicare/Medicaid, private insurance claims and receiving and processing payments (including prompt notification to the City regarding refunding of duplicate payments or overpayments).

The contract will also require reporting delinquent accounts to the city; resolving fee-related inquiries and complaints from EMS users, negotiating payment plans and reporting all such activity to the City with the necessary supporting documents.

B. BACKGROUND (CURRENT OPERATIONS)

1. EMS CALL DATA

The City's EMS calls for service are shown in the Table below:

EMS CALL DATA	
YEAR	EMS CALLS
2021	3,503
2020	2,722

On average, 60% of all calls result in transport to the nearest hospital. The department transports to any of four (4) area hospitals: HCA Clear Lake, HCA Mainland, UTMB-Clear Lake and UTMB Galveston.

The La Marque Fire department averages two hundred ninety-one (291) billable calls per month.

2. FISCAL YEAR

The City's Fiscal Year (FY) is October 1st through September 30th of the following year.



3. DEMOGRAPHICS

DEMOGRAPHIC CRITERIA		PAYOR MIX
2021 Estimated Population	18,861	
Median Age	39 years	
Median Income	\$50,464	
Mean Income	\$68,953	
Residents in Poverty (15.54%)	2,811	Medicaid
Residents over 65 years of age (14%)	2,547	Medicare + Supplemental
# Residents with private or public insurance	14,587	Insurance
# Residents without insurance (22.66%)	4,273	Private Pay

Data retained from [La Marque, Texas Population 2022 \(Demographics, Maps, Graphs\) \(worldpopulationreview.com\)](https://www.worldpopulationreview.com/cities-profile/la-marque-texas)

4. ADOPTED BILLING CHARGE MASTER

Basic Life Support Transport (BLS)	\$1,450
Advanced Life Support Level 1 (ALS 1)	\$1,450
Advanced Life Support Level 2 (ALS 2)	\$1,450
BLS Disposables – Flat Rate	\$ 000
ALS Disposables – Flat Rate	\$ 000
Oxygen	\$ 000
Treat – No Transport	\$ 250
Ground Mileage/Per Mile	\$ 18

C. SCOPE OF SERVICES

1. The City desires to contract with a qualified Texas based firm to provide emergency medical transport billing and collection services, providing a systematic and standardized recovery process for services. The City desires a seamless method for cost recovery to serve its citizens and staff as well as insurance providers.
2. The Proposer will perform analysis of the field data and submit reports as required by this RFP.
3. Data collected will be available to the City of La Marque for review, correction and quality assurance purposes via the internet.
4. The City requires all services necessary to bill and recover fees be provided in a professional, non-aggressive manner, protecting confidential information and acting in a respectful manner to all parties involved. Additionally, all records, tracking and reporting must be reliable, detailed and accurate.
5. The length of this contact shall be for 3 years with the option of two (1) year extensions.

D. GENERAL REQUIREMENTS

1. The City prefers a Proposer with significant EMS billing/collection experience and is capable of face- to-face meetings when desired.
2. The Proposer will be NEMSIS III (National EMS Information System) Gold Compliant.
3. The successful Proposer must currently have a software interface with the ePCR Company and must have significant experience and knowledge of the data transfer with the respondent’s billing software.
4. The successful Proposer shall accept receipt of the patient data necessary for billing. The data will come from an ePCR system compatible with ESO Solutions. It is an option that the Proposer provide hardware and software for the field collection of EMS patient and billing data, and that the Proposing Agency shall receive this information via secure internet connections in order to increase the speed and efficiency of fee processing and claims submittal.



5. The successful Proposer will be furnished with the EMS chart summaries electronically.
6. The successful Proposer will provide a continual review of Medicare, Medicaid, and insurance company policies, procedures, and changes and immediately incorporate new requirements or changes into the collection effort while making appropriate recommendations to maximize recoveries for the City.
7. The successful Proposer will adhere to and implement current privacy standards of Health Insurance Portability and Accountability Act (HIPAA) requirements; follow national electronic data interchange (EDI) standards; and use national standard codes, such as, Healthcare Common Procedural Coding System (HCPCS), and Current Procedural terminology (CPT).
8. The successful Proposer will comply with all requirements of the Texas EMS and trauma Registries and comply with all requirements and rules of the Texas Data Reporting Requirements. (Health and Safety Code, Title 2, Chapter 92, Subchapter A and Texas Administrative Code, Title 25, Part 1, Chapter 103)
9. The successful Proposer will ensure that personnel handling the City of La Marque account are certified in ICD-10-PCS coding.
10. Ability to allow agency access to patient account status, filing dates, insurance payment data information in real time on-line access.
11. The successful Proposer must be prepared with a seven (7) day notice to allow the City to conduct a complete on-site financial/process review audit.

E. EVALUATION CRITERIA

The City has established specific, weighted criteria for selection. This section presents the evaluation criteria, description, and the relative weight assigned to each (100 points maximum).

1. ABILITY TO PERFORM REQUIRED SERVICES – 40 POINTS

- Strong working knowledge of billing practices, opportunities and/or challenges in the State of Texas
- Experience in EMS billing and collections

2. UNIQUE FEATURES OR FUNCTIONS OF YOUR PROPOSAL – 20 POINTS

3. QUALITY OF REFERENCES – 10 POINTS

4. FEES – 25 POINTS

5. OVERALL RESPONSIVENESS TO RFP/QUALITY OF PROPOSAL – 5 POINTS

- The responses by the Proposer shall follow the outline as noted in Section G., Items 1-33.

F. EVALUATION PROCESS

Each proposal will be reviewed, evaluated, and scored as part of the formal selection process. Each proposal will be reviewed independently based solely on the merits of the proposal. All proposals will be evaluated based on product reliability and ease of use, reference checks, and all federal and state compliance issues. The City will not award this proposal based solely on financial considerations; All components will be considered.

G. PROPOSAL RESPONSE

In order to be considered responsive, the Proposer shall submit with their proposal such documentation as is necessary or required to attest to the company's capabilities and qualifications to perform the work as specified and all aspects of this contract in a competent and expeditious manner. Such documentation shall consist of no less than the following:



1. Provide a brief profile of your company to include but not limited to personnel, years involved in the industry, other areas of expertise, and Texas EMS provider customers with the size of their service.
2. Provide your specific experience in billing ambulance fees, including any information on billing for other similar governmental agencies. Include your length of time in the ambulance billing business.
3. Provide your service offering, benefits, and specific knowledge related to Texas-based EMS billing and electronic patient records.
4. Describe how you currently submit claims electronically to Medicare, Medicaid, and major private insurance companies.
5. How many bills does your company per year generate?
6. What is your turnaround time to process a bill for Medicare, Medicaid, self-pay or private insurance?
7. Discuss your quality assurance process and those firm processes that you feel generate increased collections.
8. Describe your process for evaluating and addressing outstanding accounts receivables from previous years, and anticipated outcomes and typical best practice results from your process.
9. What methods do you use to communicate with the provider?
10. Can customized reports be created based on specific criteria?
11. Describe your process to stay current on Medicare/Medicaid changes.
12. Describe the City's capabilities to see financial data in real time, including the ability to allow the city access to patient account status and other similar information in real time online access.
13. Describe how are you currently compliant with HIPAA and identify theft protection?
14. Explain the process if an ePCR is missing information such as patient's demographics, insurance, MOT, PCS, and other related information needed to submit a bill.
15. How do you handle any discrepancies noted in an ePCR?
16. Describe the policies and commitments you have in place to comply with all Federal and State laws governing insurance billing requirements.
17. Describe your policy and commitment toward providing superior customer service, including training and monitoring of your employees' performance.
18. Describe the training and certifications that are required for insurance coders in your company.
19. Do you provide support during normal business hours by phone and/or on-line? What are your hours of operation?
20. How many account representatives, coders and/or supervisors will be dedicated specifically to City accounts?
21. Describe the process used when your office receives a request for records by a lawyer or private citizen.
22. Has your company been the subject of an investigation and found guilty in a fraud or abuse case? If yes, what was the outcome?



23. Have you provided billing services for a company that has been found guilty in a fraud or abuse case? If yes, what was the outcome?
24. Describe the process for remitting collections to the City and a typical schedule per month for submitting those collections.
25. Describe how a patient's credit card transaction is secure from fraudulent activity.
26. Do you have Cyber Liability and Data Breach Response Declarations of Coverage? If so, what are your limits?
27. Describe your policy and commitment toward providing superior customer service; including training and monitoring of your employees' performance.
28. Describe how customer payments are received and how disbursements are to be handled.
29. Describe any network/Internet connectivity and bandwidth requirements including any special software requirements.
29. Describe how data is backed up and how the backups are tested (recovery testing).
30. Detail your technical support capabilities and response times to problems.
31. Do you have Errors and Omissions Liability Insurance coverage? If so, describe your coverage limits?
32. What is your General Liability coverage per occurrence?

33. FEES/PRICING

Please include details for the pricing model offered as well as a projection of revenue generated for three (3) years and provide basis and assumptions.

34. REFERENCES

A minimum of three (3) references must be submitted with each bid.





ATTACHMENT A

TERMS AND CONDITIONS

MULTIPLE CONTRACTORS

The City reserves the right to make a single award or multiple awards, whichever are in the best interest of the City. In compliance with 2 CFR 200.321(b)(3), the City will consider dividing the total project requirements into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises. In compliance with 2 CFR 200.321(b)(4), the City will consider establishing alternate delivery schedules to encourage participation by small and minority businesses, and women's business enterprises.

DOCUMENTATION

Respondent shall provide with this response all documentation required by this RFP. Failure to provide this information may result in rejection of proposal.

TAX EXEMPTION

The city is not liable to respondent for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. The City's Tax Exemption Certificate will be furnished by the City on request of the respondent.

DISCUSSIONS

Formal or informal communication involving an oral or written exchange of information for the primary purpose of obtaining information essential for determining the acceptability of a proposal may occur. Any discussions of this nature are only intended to clarify the City's understanding of submissions.

EVALUATION PROCESS

City staff may choose to meet with representatives of top-rated proposals. Any additional information requested shall be considered as part of the proposal and evaluated as such. The City reserves the right to negotiate a best and final offer with the selected vendor. Vendors will be chosen according to **Texas Local Government Code 252.043 (h)**. *If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible Proposer whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals.*

After receipt of the proposals, City of La Marque will evaluate the proposals based upon the evaluation criteria set forth in the Request for Proposal. The City has at its sole discretion, the ability to negotiate with the respondent determined to be the highest ranked after completion of the evaluations.

COSTS TO SUBMIT

The City of La Marque will not be liable for any costs incurred by any respondent in preparation of a submittal in response to this request, in conduct of a presentation, or any other activities related to the response of this RFP.



INSURANCE REQUIREMENTS

Proposer shall maintain, at his sole cost, at all times while performing work hereunder, the insurance and bond coverage set forth below with companies satisfactory to the Owner with full policy limits applying, but not less than stated. A certificate evidencing the required insurance and specifically citing the indemnification provision set forth in the Agreement shall be delivered to the Owner within fifteen (15) days that Notice to Proceed has been accepted by Proposer.

- A. **WORKER'S COMPENSATION INSURANCE** as required by laws and regulations applicable to and covering employees of Contract engaged in the performance of the work under this agreement with a limit of not less than \$1,000,000.00;
- B. **EMPLOYERS LIABILITY INSURANCE** protecting Proposer against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of not less than \$100,000.00.
- C. **COMPREHENSIVE GENERAL LIABILITY INSURANCE** including products/completed operation with limits of liability of not less than: Bodily Injury \$1,000,000.00 per each person, \$1,000,000.00 per each occurrence/\$2,000,000.00 aggregate; Property Damage \$1,000,000.00 per each occurrence.
- D. **EXCESS LIABILITY INSURANCE** Comprehensive general Liability, Comprehensive Automobile Liability and coverages afforded by the policies above, with the minimum limits of \$5,000,000.00 excess of specified limits;
- E. **PERFORMANCE BOND AND PAYMENT BOND, IF REQUIRED**, furnished as guaranty of the faithful performance of the work and for the protection of the claimants for labor and material, each in the full amount of the Contract price, executed by a surety company or surety companies authorized to execute surety bonds under and in accordance with the laws of the State of Texas.

ADDENDA

Any interpretations, corrections or changes to this Request for Proposal and specifications will be made by addendum. Sole issuing authority of addendum shall be vested in the City of La Marque city secretary. Any changes to specifications will be made in writing and posted on the City's website at: <https://www.ci.la-marque.tx.us/Bids.aspx>. Respondents shall acknowledge receipt of all addenda on the Bidder Certification/Addendum Acknowledgement form found within this document.

LATE PROPOSALS

Proposals received by the city after the submission deadline will not be considered void and unacceptable. City of La Marque is not responsible for lateness or non-delivery of mail, carrier, etc. The date/time stamp at the City Secretary's Office, City of La Marque, City Hall, shall be the official time of receipt.

ALTERING PROPOSALS

Proposals cannot be altered or amended after submission deadline. Any alterations or amendments made before opening time and must be initialed by the signer of the proposal, guaranteeing authenticity.

AWARD

The City has the right to award a contract upon the conditions, terms and specifications contained in a proposal submitted to the City for a period of up to ninety (90) days following the date specified for the opening of proposals.

BECAUSE THE CITY IS A GOVERNMENTAL ENTITY THAT MUST FOLLOW STATE AND FEDERAL LAWS AND HAS AN OBLIGATION TO PROTECT ITS TAXPAYERS, THE CITY REQUIRES THAT CERTAIN TERMS BE INCLUDED IN THE CONTRACT THAT RESULTS FROM THIS SOLICITATION. YOUR RESPONSE TO THIS SOLICITATION IS AN OFFER TO CONTRACT WITH THE CITY BASED



ON THE TERMS, CONDITIONS, AND SPECIFICATIONS CONTAINED IN THIS SOLICITATION. IF ANY OF THE MANDATORY CONTRACT TERMS ARE UNACCEPTABLE TO YOU, PLEASE DO NOT RESPOND TO THIS SOLICITATION.

CONFLICTING PROVISIONS

The contract consists only of the City prepared contract and any additional City or respondent contract documents incorporated by reference as a part of the contract. If a conflict or inconsistency exists between the City prepared contract and a document incorporated by reference, the City prepared contract controls. If a conflict or inconsistency exists between an additional contract or document incorporated by reference, the City's additional contract document takes precedence over the respondent's additional contract document.

PAYMENT PROVISIONS

The City's payments under the contract, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251, Texas Government Code.

INDEMNIFICATION

It is understood that any resulting contract executed will contain the following language:

It is further agreed that the firm (separately and collectively the "Indemnitee") shall indemnify, hold harmless, and defend the City, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the firm under this contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Firm, or any third party.

CONFIDENTIALITY

Proposals made in response to this RFP may contain technical, financial or other data whose public disclosure could cause substantial injury to the Proposer's competitive position or constitute a trade secret. Information will not be released to the public unless a Public Information Act request is received by the City and the Texas Attorney General rules it to be released or a court orders disclosure. If a Public Information Act request is received by the City after the contract has been awarded, the City will make a good faith attempt to notify you that proprietary information may be subject to Section 552.110 of the Texas Government Code.

GOVERNING LAW AND VENUE

Texas law governs this contract and any lawsuit on this contract must be filed in a court that has jurisdiction in Galveston County, Texas.

CONFLICT OF INTEREST

No public official shall have interest in this contract accept in accordance with Vernon's Texas Codes Annotated, Local Government Code Title 5, Subtitle C, Chapter 171



ETHICS

The respondent shall not offer or accept gifts or anything of value or enter into any business arrangement with any employee, official or agent of City of La Marque. More than one proposal on any one contract from a respondent or individual under different names shall be grounds for rejection of all proposals in which the respondent or individual has an interest. One or all proposals will be rejected if there is any reason to believe that collusion exists between respondents.

Respondents must make every effort to comply Chapter 176 of the Texas Local Government Code. Chapter 176 mandates the public disclosure of certain information concerning persons doing business or seeking to do business with the City of La Marque, including affiliations and business and financial relationships such persons may have with City of La Marque officers.

By doing business or seeking to do business with the City of La Marque, including submitting a response to this Request for Proposals, you acknowledge that you have been notified of the requirements of Chapter 176 of the Texas Local Government Code and you are representing that you are in compliance with them.

Conflict of Interest Questionnaire found within this document must be completed and turned in with each proposal.





ATTACHMENT B TEXAS GOVERNMENT CODE REQUIREMENTS

TEXAS GOVERNMENT CODE, CHAPTER 2252

By submission of a bid, the bidder represents that, to the extent this bid form constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, solely for the purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, neither the bidder, nor any wholly owned subsidiary majority-owned subsidiary, parent company or affiliate of the Bidder is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code.

TEXAS GOVERNMENT CODE, CHAPTER 2271

By submission of a bid, the bidder represents and verifies that, to the extent this bid form constitutes a contract for goods or services within the meaning of Section 2271.002 of the Texas Government Code, solely for purposes of compliance with Chapter 2271 of the Texas Government Code, and subject to applicable federal law, including without limitation, 50 U.S.C. Section 4607, neither the bidder, nor any wholly owned subsidiary, majority -owned subsidiary, parent company or affiliate of the bidder: (1) boycotts Israel, or (ii) will boycott Israel through the term of the contract the subject of this bid, which shall begin as of the time accepted by the City and shall end as of the end of the termination of the contract the subject of this bid. The terms "boycotts Israel" as used in this paragraph have the meanings assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code.





CERTIFICATE OF INTERESTED PARTIES (Form 1295)

In 2015, the Texas Legislature adopted [House Bill 1295](#). The Texas Government Code §2252.908, and the rules issued by the Texas Ethics Commission found in Title 1, Sections 46.1, 46.3 and 46.5 of the Texas Administrative Code, require a business entity to submit a completed Form 1295 to the City before the City may enter into a contract with that business entity. 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 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 law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.**

Form 1295 must be completed online. The form is available from the Texas Ethics Commission by accessing the following web address:

<https://www.ethics.state.tx.us/filinginfo/1295/>

Print the completed Form 1295 showing the Certification Number and Date Filed in the Certification of Filing box at the upper right corner. The person filing the 1295 needs to complete an "unsworn declaration".

The following definitions found in the statute and Texas Ethics Commission rules may be helpful in completing Form 1295.

"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.

"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) serves 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.

"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. Subsection (c) of this section does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

"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.



The law has been amended beginning January 1, 2018. A completed Form 1295 is not required for:

- A sponsored research contract of an institution of higher education
- An interagency contract of a state agency or an institution of higher education
- 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;
- A contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity
- A contract with an electric utility, as that term is defined by Section 31.002, Utilities Code; or
- A contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.

