

Frequently Asked Questions (FAQ)

Question: How do we handle an annual renewal when the bulk of the work is completed at the end of the period?

Answer: Although the majority of the work will not be completed until the end of the term, the form is still required. While they might be on track, they are not meeting the goal at the time that we are reviewing the renewal. In this instance, the review process will likely move quickly.

Question: Is there an anticipated desired timeline from the point of receiving the form to the point of concluding the review?

Answer: This depends greatly upon whether the documentation accompanying the BEP Renewal Request Form is sufficient at the time it is received. If there are no questions, the review should be completed within a few days. If extensive collaboration is required, it could take several weeks.

Question: If federal funds are applicable, does it need to be the majority of the funding source in order to be omitted from the waiver process?

Answer: The BEP Act provides, "'State contracts'" means all contracts entered into by the State, any agency or department thereof, or any public institution of higher education, including community college districts, regardless of the source of the funds with which the contracts are paid, which are not subject to federal reimbursement." [30 ILCS 575/2(5)] Any procurements that are 100% federally funded or 100% reimbursed to the state from the federal government, are exempt from BEP goals. If a procurement contains both federal and state dollars, a BEP goal is required if the contract exceeds \$100,000. The goal would be calculated on the total value of the contract. 100% federal and/or a DBE goal on the procurement prohibit a BEP goal on the contract.

Question: One of the renewal factors displayed is regarding changing market conditions. What kinds of events would prompt a review of market conditions and what do the universities need in terms of documentation to address potential adjustments?

Answer: This will be determined on a case-by-case basis.

Question: What happens when the CPO does not concur?

Answer: This means that, based on the information that was submitted, the CPO does not believe that a renewal should be granted. In this situation, there will likely be extensive collaboration with the University to determine next steps. However, if additional information is subsequently submitted, it will definitely be reconsidered.

Question: What is the need for submitting the form for a contract that is a multi-year construction project if the construction work is ongoing and will hardly ever meet the goal until the project is over?

Answer: Most construction projects don't have renewal clauses so there wouldn't be a need to complete the form.

Question: The form is not needed to be sent over 6 months prior?

Answer: The BEP Act requires Universities to, "review renewals at least 6 months prior to renewal to allow adequate time to rebid if it is determined that the prime contractor has not demonstrated good faith efforts towards meeting the contract goal." [30 ILCS 575/8i(d)] CPO Notice 2021.01 advises the Universities to consider taking a look at renewals 1 year in advance.

Question: Is the completed and approved waiver form attached to the renewal in the Bulletin?

Answer: No, the approved waiver form will only be published on the CPO's website as required by Public Act 101-657.

Question: Is the form only used for initial and renewals where there is failure to perform, not all renewals?

Answer: Regarding the initial term, the University decides whether to use the form because it is not mandatory. Regarding the renewal term, the form is required where the vendor failed to meet its BEP goal commitment in whole or in part.

Question: Posting is being required by the SPO?

Answer: Posting of the waiver to the CPO's website is required by Public Act 101-657.

Question: If there was no BEP goal on the award, is the form required for renewals?

Answer: No. The form is only required when the vendor agreed to a BEP goal during the initial award but failed to meet that goal.

Question: What is required to satisfy the publication of a renewal on the Bulletin when the goal is met?

Answer: If the BEP goal agreed to during the initial award was met, the form is not required.

Question: If the commitment is not made and the form is denied, is the contract terminated with no way to renew in the future?

Answer: If a vendor fails to meet the BEP goal agreed to in the initial term, the BEP Act states that they may be found in breach of the contract. One remedy for a vendor's breach of contract is contract termination. However, if a vendor is able to provide documentation that supports a good faith effort, contract termination can be avoided. However, if a piece of information was excluded from the justification on the original form, we will reconsider once provided with the additional justification. If no additional information is presented, then the renewal option won't be allowed. The current term won't be terminated.

Question: According to the BEP Act, we need to ask vendors if they can add a goal if there was no goal originally. If they say no, they cannot add a goal, do we handle this the way we are currently handling it?

Answer: Yes.

Question: If, during an initial award, a vendor is granted a waiver and the university asks for participation at the renewal stage and the vendor again requests a waiver, is the form required again?

Answer: If the vendor does not agree to a BEP goal at the initial award, this form is not required.

Question: If there is a goal assigned at a renewal, is the form required?

Answer: If there was no goal on the procurement during the initial term and the university and vendor agree to a goal at renewal #1, including a completed utilization plan, a form would be required if that vendor did not meet their commitment during that period. In other words, if the vendor does not meet their commitment during renewal #1, then the form would be required during the renewal #2 review.

Question: A bid 4 years ago had no BEP requirements, and now there is a renewal. Does the form need to be completed?

Answer: No.

Question: If you do not receive this form, how will the CPO know that it is required? Will the SPO request it when approving all renewals?

Answer: The SPO will inquire if the vendor met their BEP commitments, as outlined in the utilization plan. The form would be required if the vendor is not meeting their commitment at the time of the renewal review.

Question: For those new to this whole process, how do we know if a vendor did not meet the required goal? Do we receive a notification or some sort of list?

Answer: The university will be required to determine whether the vendor has met the required goal.

Question: If there is a solicitation initially set-up with 3, 1-year renewals, is it acceptable for the university to renew all 3 renewals at the same time? In other words, can the vendor exercise all 3 renewals at once?

Answer: If the procurement agreement between the University and the vendor allows the vendor to exercise more than one renewal at one time, this is allowed and is a University business decision.

Question: If the form is not required, then do I still have to approve a waiver for the renewal if the vendor does not add a goal?

Answer: No.

Question: When do we have to do a new form? What should we tell our staff about the initial award? How will the form be posted? Does the university have to post it to the Bulletin? If so, public or internal?

Answer: No one has to use the form for the initial term, and the SPOs do not need to be involved. CPO-HE created the box just to make it an option. The form will only be required if the commitment is not met at the point of renewal. Currently, BEP waivers are posted to the CPO-HE website. There is currently no requirement to post to the Bulletin. This will be communicated to the SPOs since every university does things differently.

Question: Does the CPO have to sign off on the initial award?

Answer: No. Once the initial award box is checked, only the university signature is required.

Question: Can another check box be added so that a vendor can show the goal percentage at the time of renewal? For example, can a third check box be added where a vendor can show that they are trying to meet the goal – so that it is showing that an attempt is being made – not all or nothing? The 21.2 version of the BEP U-Plan seems to have language that is more professional.

Answer: The CPO will take this under consideration.