
Note: The Texas Economic Development Act, Tax Code Chapter 313, Subchapters B and C, expired on December 31, 2022.

A limitation on appraised value approved before the expiration continues in effect according to the law as it existed immediately before its expiration, and the law is continued in effect for purposes of the limitation on appraised value.

Texas Economic Development Act

Purpose

These provisions outline the procedures the District shall use for accepting, reviewing, and considering applications and amendments to applications and/or agreements, and, when necessary, enforcing agreements made under the Texas Economic Development Act, as set forth in Chapter 313 of the Texas Tax Code.

Definitions

In addition to the definitions set out in CCGB(LEGAL), the following phrases, words, and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Act” shall mean the Texas Economic Development Act, as set forth in Chapter 313 of the Texas Tax Code.

“Application Fee” shall mean the nonrefundable application fee, pursuant to the application fee schedule, to be paid to the District by an applicant, determined in accordance with this policy, to cover the District’s costs incurred in the processing and consideration of the application.

“Application amendment fee” shall mean the nonrefundable fee required of an applicant or agreement holder seeking to amend an application or agreement at any time after the comptroller has issued an economic impact analysis on the application pursuant to 34 Administrative Code 9.1055(d).

“Application review period” shall mean the period of time during which the Board is required to consider the application. The application review period shall begin on the day the application is filed with the District and shall expire on the 151st day after the application is filed with the District, unless the application review period is extended prior to the expiration of the application review period, in which case the application review period shall include any such extension. The Board delegates to the Superintendent authority to extend the time period for reviewing the application consistent with 34 Administrative Code 9.1054(d).

“Appraisal district” shall mean each appraisal district that appraises property proposed to be subject to a limitation on appraised value.

“Comptroller” shall mean the comptroller of public accounts of the state of Texas.

“Comptroller’s rules” shall mean those rules adopted by the comptroller set forth at 34 Administrative Code, Subchapter F.

“Initial board review” shall mean the initial presentment to the District’s Board, at which the Board will determine whether to consider the application and determine whether it should be forwarded to the comptroller for the execution of the comptroller’s review and certification processes. Board action to consider an application after conducting its initial review does not commit the District in any way to the ultimate approval or enforcement of an agreement.

**Filing an Application
with the District**

The applicant shall submit to the Superintendent three copies of each application filed under this policy. The Superintendent shall acknowledge in writing the date of the receipt of the application and application fee.

Applications shall be considered for acceptance by the Board only after the District’s receipt of the application fee established by the Board.

The completed application shall be made available to the public as required under the Texas Public Information Act. Information submitted to the District in connection with the application shall be presumed to be public information unless the applicant clearly identifies such as confidential and proprietary information.

**Amending an
Application**

An application may be amended by an applicant at any time. In the event that an amended application is filed at any time after the comptroller has issued an economic impact analysis on the application pursuant to 34 Administrative Code 9.1055(d), or to request waiver of the job requirements at any time after submittal of the original application, the applicant must submit an application amendment fee together with the proposed amended application. The Superintendent is delegated the authority to accept an amended application. Upon receipt of an amended application or supplemental information, the Superintendent shall review and forward the material to the comptroller and to each applicable appraisal district.

**Application Fee
Schedule**

The Board finds that the application review process is complex, and the complexity is greater for larger projects, and the following application fee schedule represents the anticipated necessary or reasonable cost to the District of reviewing, processing, and acting on an application:

1. \$75,000 for projects valued at less than \$500,000,000 in total anticipated investment;

2. \$100,000 for projects valued from \$500,000,001 to \$1,000,000,000 in total anticipated investment;
3. \$150,000 for projects valued over \$1,000,000,000 in total anticipated investment.

The application fee shall not be refundable except in the event that the application is denied after an initial Board review, as defined in this policy.

The application fee does not include any amount charged by the comptroller's office for its economic impact study, if such a fee is charged.

Application
Amendment Fee

In the event that an applicant or agreement holder seeks to amend an application or agreement at any time after the comptroller has issued an economic impact analysis on the application pursuant to 34 Administrative Code 9.1055, an application amendment fee of no less than \$25,000 and no greater than \$65,000 shall be charged. The amendment fee shall take into account the nature of the amendment and the actual time and expense required to evaluate, review, and process that amendment.

Agreement
Assignment Fee

In the event that an applicant or agreement holder seeks to assign an agreement to another entity at any time, an agreement assignment fee of \$5,000 shall be charged.

Limitation Amount

The minimum limitation amount shall be that amount set forth under Tax Code 313.027(b). However, after initial review of an application, the District may specify a greater limitation amount, as permitted under Tax Code 313.027(c).

**Processing an
Application**

Before Initial Board
Review

Upon receipt of the application in the form and format required by the comptroller [see CCGB(LEGAL) at Required Contents and Format] and the application fee, the Superintendent shall take the following actions:

1. Accept the submission of the application and send to the applicant written confirmation of receipt of the application and application fee.
2. Identify appropriate attorneys and consultants to assist the Board in completing the application review process, and schedule at the first available Board meeting, for which notice can be posted in accordance with the Texas Open Meetings Act, Board consideration of the application for initial Board review, in accordance with this policy, and Board action to retain such attorneys and consultants.

3. Ensure that conflict of interest disclosures are obtained and posted, as appropriate, in conformance with Local Government Code 171.002 (trustee interest in business entity or real property), Local Government Code 176.003 (trustee income, gifts to trustee or superintendent), Texas Local Government Code 176.006, House Bill 1295 (disclosure of interested parties), and BBFA(LEGAL).

Initial Board Review

Following the submission of an application by the applicant, the Board should conduct an initial review of the application at the first available Board meeting scheduled in accordance with the Texas Open Meetings Act. At the initial review, the Board may consider either a written or oral presentation concerning the application.

If, after the initial review, the Board is of the opinion that the application is not in the best interests of the District, the Board shall reject the application and shall return the application fee, in full, to the applicant.

As a part of conducting the initial Board review, each Trustee and the Superintendent shall be requested to publicly affirm the absence of a conflict of interest with the applicant in accordance with the provisions of BBFA(LOCAL). Thereafter, on an annual basis, each Trustee and the Superintendent shall as a part of his or her annual conflict of interest comply with disclosure requirements and list any business relationship with an applicant on the disclosure form.

Once the Board has accepted an application for consideration at the initial review, the Superintendent shall be expressly delegated the authority to accept, on behalf of the Board and the District, any amended or supplemental application submitted by the applicant for the same project prior to the comptroller's issuance of an economic impact analysis on the application pursuant to 34 Administrative Code 9.1055(d).

After Initial Board Review

After the initial board review, if the Board determines to proceed with consideration of the application, and the District has received the application fee, the Superintendent shall:

1. Review the application and require the applicant, as necessary, to submit additional and/or supplementary information, including the completion of all schedules required by the comptroller's rules.
2. Determine whether the application is sufficient and direct the applicant to immediately correct deficiencies, if any.
3. File with the comptroller, in the form and format required by the comptroller, the application and all required schedules,

and documentation; proof of payment of the application fee; and written notice certifying the application review start date. The notice certifying the application review start date shall be in compliance with Acting on Completed Application in CCGB(LEGAL).

4. Accept on behalf of the Board any amendments or supplements submitted by the applicant and transmit copies to the comptroller.
5. Within 20 days of receipt of a request from the comptroller, forward to the comptroller and the appraisal district any amended or supplemental application or any other information necessary to complete the comptroller's application recommendation or economic impact study.
6. Direct the District's webmaster to create a link from the District's website to the location on the comptroller's website where copies of applications under the Act are posted.
7. Ensure that the applicant and the District's consultants conduct all required analyses to properly protect the District's financial interests and provide all required supplemental information necessary to assist the staffs of the comptroller and the Texas Education Agency (TEA) with the analyses required by the Act and the comptroller's rules.
8. Not later than 151 days after the application review start date, present to the Board an agreement for final approval or a request from the applicant for an extension of the application review period.
9. In the event of a Board action to approve an extension for final action on the application, forward to the comptroller, the applicant, and each applicable appraisal district within seven days a notice of the extension.
10. Ensure that the District and the comptroller have been given draft copies of the agreement at least ten days prior to the meeting at which the Board is scheduled to consider final approval of an agreement.
11. Upon completion of Board action, if any, on the application, ensure that all required information is transmitted to the comptroller, the applicant, and each applicable appraisal district.
12. Ensure that the applicant makes all required post-approval submissions to the comptroller, or any other applicable state agency, and to the District within the required deadlines.

13. Make reasonable inquiry, when called for by the agreement, and issue a certification of the date upon which commercial operations begin at the site of the project.
14. Ensure that the District makes timely responses to requests by the comptroller or state auditor for data or records when the state auditor is conducting an audit of any agreement adopted by the District.

District Consultants

Upon retention by the Board, the District's consultants, including legal counsel, shall review the application to ensure that the application documents and any other required reports include all information required by the comptroller's rules or by 34 Administrative Code 9.1054. The consultants shall simultaneously begin an analysis of the impact on District finances, any legal implications of the application, development of an appropriate revenue protection agreement, and evaluate the analyses from the comptroller and TEA on receipt.

The consultants shall be paid for their services from the application fee. The consultants shall complete their analysis within sufficient time for it to be considered by the Board in its final determination on the application.

Board Action on Application

Completed applications shall be considered for approval by the Board only after completion of the comptroller's economic impact analysis and the school facilities impact analysis required by the Act.

Public Hearing

The Board's final determination of the application shall be made only after a public hearing at which the Superintendent, the District's consultants, the applicant, and members of the public shall have a reasonable opportunity to present their views on the proposed application.

The comptroller's certification shall be publicly disclosed at the public hearing.

The public hearing shall be scheduled at such a time that allows the Board to approve or disapprove an application before the 151st day after the application was filed with the District, unless the Superintendent or Board has previously granted an extension of this deadline.

Findings of Fact

Prior to final approval of an agreement, the Board shall deliberate and adopt such findings of fact regarding the application as are required by law, and in compliance with CCGB(LEGAL).

Adoption of Agreement

After considering the comptroller's certification and economic impact report, the information supplied by the District's consultants,

the reports and recommendations of other state agencies, and input received at the public hearing, the Board shall consider and may adopt an agreement that complies with all legal requirements, [see CCGB(LEGAL)], with the applicant, which agreement shall provide for protection from and/or compensation for any financial risks undertaken by the District in accepting the application.

If the comptroller has not certified the application, no action may be taken.

Any agreement adopted by the Board under Tax Code Chapter 313 must disclose all consideration promised in conjunction with the application and/or the limitation agreement.

**Waiver of Job
Creation
Requirement**

The Board may waive the new jobs creation requirement in accordance with Waiver of New Job Creation in CCGB(LEGAL).

If the applicant seeks a job waiver, the applicant shall submit to the District as part of the application or an amended application a separate, clearly marked set of documentation on which the applicant intends to rely to demonstrate that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility by the applicant.

If such a request is made other than at the time of the original application, the Board shall charge an application amendment fee, in accordance with Application Amendment Fee, above.

**Enforcement
Proceedings**

In the event that the Superintendent determines that an agreement holder has committed a material breach of the agreement with the District, the Superintendent shall provide the applicant with written notice of the facts the Superintendent believes to have caused the material breach of the agreement, as well as the cure proposed by the District, if a cure is possible.

Not later than the 90th day after sending such a notice, the Superintendent shall schedule a Board hearing, at which the agreement holder shall be given the opportunity to present to the Board any facts or arguments showing that it is not in material breach of its obligations under the agreement or that it has cured or undertaken to cure any such material breach.

After hearing from both sides, the Board shall make findings as to whether a material breach of the agreement has occurred, the date such breach occurred, if any, and whether or not any such breach has been cured. After making its determination regarding an alleged breach, the Board shall notify the agreement holder in writing of its determination.

In the event that the Board determines that such a breach has occurred and has not been cured, the Board may commence enforcement proceedings.

**Applicant Reporting
Obligations**

During the course of its Chapter 313 agreement with the District, the agreement holder shall designate a responsible party to the District, who shall be the primary contact person for the agreement holder. The agreement holder shall be responsible for timely making any and all reports, including but not limited to the comptroller's annual eligibility report and the biennial progress report, that are or may be required under the provisions of law or administrative regulation and that may be required to be submitted by the applicant to the comptroller under provisions of Tax Code 313. 032. The agreement holder shall forward to the District a copy of all such required reports or certifications contemporaneously with the filing thereof. The obligation to make all such required filings shall be a material obligation of the agreement.

An agreement holder shall keep the District updated with any changes in the following information:

1. Changes of the authorized representative(s);
2. Changes to the location and contact information for the approved applicant, including all members of the combined group participating in the limitation agreement;
3. Copies of any assignments of the agreement and contact information for authorized representatives of any assignees;
4. All required comptroller reports;
5. Required updates to vendor conflict of interest disclosure forms; and
6. Any other significant developments concerning the project's operations affecting the agreement.

**Superintendent
Responsibilities
After Agreement**

During the term of any agreement, the Superintendent shall ensure that all calculations, reporting, and other requirements under the agreement and Chapter 313 are completed by the District and the agreement holder. The Superintendent is authorized to engage, as desired or necessary, one or more consultants to timely fulfill the requirements. Any fees for the consultants shall be reimbursed to the District by the applicant, or, in the alternative, the consultant may send an invoice for such fees directly to the agreement holder, with a copy and proof of timely payment to be provided to the District by the agreement holder.

**Other Parties'
Access to
Information**

The Superintendent shall provide to the applicant and the District's consultants a copy of the economic impact evaluation and the facilities impact study upon receipt thereof.

The Superintendent shall direct the District's consultants to provide backup data and underlying calculations in the event that an agreement holder requests such information in connection with the calculation of any tax credit, hold harmless payment, supplemental payment or other payment charged to the agreement holder on the basis of calculations made by the consultant on the District's behalf.

**Substantive
Documents**

Unless claimed by the applicant to be confidential, the following substantive documents shall be available for public inspection:

- All sections of any application;
- All reports presented to the Board by its consultants, after presentation to the Board; and
- All resolutions, findings of fact, agreements, and any other documents adopted by the Board.

All documents required by comptroller's rules or by state law to be filed with the state of Texas shall be submitted to the comptroller within seven days of adoption.

**Applicant's Claim of
Information
Confidentiality**

If the applicant, at the time of submitting an application or any amendment or supplement thereto, requests that all or parts of the documents not be posted on the Internet and not be otherwise publicly released, then such request shall be submitted in writing, and shall comply with the requirements of CCGB(LEGAL).

Foreign Trade Zone

In the event that the District is requested to indicate its support or "non-opposition" to a proffered application to the foreign trade zones board concerning the creation of a new foreign trade zone or the expansion of an existing foreign trade zone, in accordance with the provisions of 19 U.S.C. 810(e) that is within the territorial boundaries of the District, the Board may require the proponent or operator of the foreign trade zone to enter into an agreement outlining financial and/or other appropriate terms relating to the District's support for the foreign trade zone request.

In negotiating such agreement, the District may engage attorneys and/or appropriate consultants to advise them in the review of the foreign trade zone application. The foreign trade zone proponent or operator shall reimburse the District for all necessary and reasonable legal, consulting, or other professional fees incurred by the District in connection with review of the foreign trade zone request and the negotiation and drafting of an appropriate agreement.