

**No Discounts or
Split Payments**

Discount or split payment options shall not be provided for the payment of property taxes in the District.

**Texas Economic
Development Act**

Purpose

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

Definitions

As used in this policy, 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.

“Agreement” shall mean a written contract between the District and the applicant, which creates, implements, and governs the terms of a limitation on the appraised value for District maintenance and operations ad valorem property tax purposes on an entity’s qualified property, that complies with Chapter 313 of the Texas Tax Code, and which is consistent with Section 313.027 of the Texas Tax Code.

“Agreement holder” shall mean an entity that has executed an agreement with the District.

“Applicant” shall mean a business entity, including an “affiliated group” that is subject to taxation under Tax Code 171.001, that applies to the District for a limitation on the appraised value of qualified property in a reinvestment zone under the Act.

“Application” shall mean a completed Application for Appraised Value Limitation on Qualified Property on a form adopted by the Comptroller and containing all information required at 34 Administrative Code §9.1053 together with all supporting schedules and documentation, and shall include any application amendment or application supplement filed by the applicant.

“Application fee” shall mean the nonrefundable application fee 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 im-

pact analysis on the application pursuant to 34 Texas Administrative Code §9.1055(d).

“Application review period” shall mean the period 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 Texas Administrative Code §9.1054(d).

“Application review start date” shall mean the later date of either the date on which the District issues its written notice that an applicant has submitted a completed application or the date on which the comptroller issues its written notice that an applicant has submitted a completed application.

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

“Board” shall mean the Board of Trustees of the Era Independent School District.

“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.

“Deferral” shall mean a forward adjustment of the date upon which the qualifying time period, as defined by Texas Tax Code 313.021(4), begins.

“District” shall mean the Era Independent School District.

“Initial Board Review” shall mean the initial presentment to the District’s Board of Trustees, 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 of an Agreement.

“Substantive document” shall mean a document or other information or data in electronic media that includes or transmits information or data significant to an application, the evaluation or consideration of such an application, or to the agreement or implementation of an agreement for limitation of appraised value pursuant to Chapter 313 of the Texas Tax Code. The meaning shall include, but not be limited to: any application requesting a limitation on appraised value and any amendments or supplements;

any economic impact evaluation made in connection with an application; any agreement between the applicant and the District and any subsequent amendments or assignments; any District written finding or report filed with the comptroller as required under this subchapter; and any application requesting school tax credits under Tax Code, 313.103.

Presenting the Application

The applicant shall file with 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.

Upon receipt of the Application, the Superintendent shall require the Applicant or its authorized representative to complete and file with the Superintendent, a fully executed vendor conflict of interest questionnaire. Texas Ethics Commission Form CIQ.

Applications shall be considered for final approval by the Board only after the District's receipt of the application fee established by the Board and after completion of the economic analysis and the school facilities impact analysis required by the Act.

Applications submitted without the application fee shall be held by the Superintendent until satisfactory arrangements have been made for the payment of the application fee. The Superintendent's determination of whether satisfactory arrangements have been made for the payment of the application fee shall be final.

The actual application submitted to the District shall not be considered to be public information until eight days before the date of the public hearing held in accordance with this policy. At that time, 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 prior to its release.

Amending an Application

An application may be amended by an applicant at any time prior to the Board's final action on the application. 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 Texas 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 of Schools is delegated the authority to accept an amended application prior to the comptroller's issuance of an economic impact analysis. An amendment submitted after the comptroller has issued an economic impact analysis must be approved by Board action. 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.

**Standard
Application Fee**

The standard application fee shall be \$75,000 and shall not be refundable except:

1. For large project fees after the initial tender, as set forth in this policy; or
2. 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.

**Large Project
Application Fee**

For each application for an appraised value limitation on qualified property for which the qualified investment exceeds \$500,000,000, the Board may, at its discretion, set an application fee higher than the standard application fee, if in the opinion of the Board, an analysis of the application is of such complexity so as to require a higher fee. An applicant proposing a qualified investment in excess of \$500,000,000 in value shall initially tender an application fee of \$75,000. In the event that the Board sets a higher fee, the applicant shall be entitled to withdraw its application and its application fee if the applicant disagrees with the higher fee set by the Board.

**Application
Amendment Fee**

In the event that an applicant or agreement holder seeks to amend an application or an agreement at any time after the comptroller has issued a certificate on the application pursuant to 34 Texas Administrative Code §9.1055(d), an Application Amendment Fee of \$25,000 shall be charged.

**Processing the
Application**

Upon receipt of the application and the application fee, the Superintendent shall take the following actions:

1. Accept the filing of the application, and send to the applicant written confirmation of receipt of the application and application fee.
2. Identify appropriate consultants to assist the Board in completing the application review process, and schedule Board action to retain such consultants.
3. Ensure that conflict of interest disclosures are obtained and posted, as appropriate, in conformance with Texas Local Government Code §171.002 (trustee interest in business entity or real property), Texas Local Government Code §176.003 (trustee income, gifts to trustee or superintendent); Texas Local Government Code §176.006; and House Bill 1295 (disclosure of interested parties).

If, after Initial Review, the Board determines to proceed with consideration of the Application and the District has received the Application Fee, the Superintendent shall

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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, after the initial Board review, whether the application is sufficient, and direct the applicant to immediately correct deficiencies, if any.
3. File with the comptroller in the following formats copies of the application and all required schedules and documentation; proof of payment of the application fee; and written notice certifying the application review start date:
 - One original hard copy in a three-ring binder with tabs separating each section of the documents; and
 - An electronically digitized copy, formatted in searchable PDF format.

The notice certifying the application review start date shall include:

- The date on which the application was received;
 - The date on which the Board decided to consider the application;
 - The date on which the District determined that the application was complete;
 - A request that the comptroller provide an economic impact evaluation; and
 - All other information relating to consideration of the application, as prepared by the District's consultants to meet the requirements of 34 Texas Administrative Code §9.1054.
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 Web site to the location on the comptroller's Web site 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 as-

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sist 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 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 applicant makes all required post-approval submissions to the District and to the comptroller or any other applicable state agency within the required deadlines.
15. 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.

Initial Board Review

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 District Policy BBFA (Local) [see, also BBFA (Exhibit)].

Once the Board has accepted an application for consideration after 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 Texas Administrative Code §9.1055(d).

**Consulting
Services**

Upon retention by the Board, the District's consultants 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 when the reports become available, the studies from the comptroller's office and TEA.

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.

**Contents of
Application Transmittal
to
Comptroller**

If after the Initial Review, the Board has determined to proceed with consideration of the Application and the District has received the Application Fee, the Superintendent shall forward the Application to the Comptroller the Superintendent's transmittal shall include:

1. The complete application along with all required schedules and exhibits.
2. A fully executed copy of the Applicant's completed conflict of interest form.
3. The date on which the Application was received;
4. The date on which the Board decided to consider the application;
5. The date on which the District determined that the Application was complete;
6. A request that the Comptroller provide an economic impact evaluation and a certificate of the project's eligibility;
7. All other information relating to the consideration of the Application, as prepared by the District's consultants to meet the requirements of 34 Tex. Admin Code § 9.1054.

**Copies to
Appraisal District**

Contemporaneously with the filing of the Application and supporting materials with the Comptroller, the Superintendent shall furnish a complete copy of the Application and its supporting documentation to the County Appraisal District with jurisdiction over the project location.

Superintendent's Duties After Completion of Initial Board Review

Once the Board has accepted an Application for consideration after the Initial Board Review, the Superintendent, pursuant to Tex. Educ. Code § 11.201(15), is expressly delegated the authority to act on behalf of the Board as follows:

1. Review the Application, including Schedules A-D and all other supporting documentation for completeness; and require the Applicant, as necessary, to submit additional and/or supplementary information.

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2. Accept on behalf of the Board and the District any Amended, Supplemental Application, or any other required documentation, submitted by the Applicant for the same project.
3. Determine whether the Application or any amended or supplemental submissions made by Applicant are sufficient, and direct the Applicant to immediately correct any deficiencies.
4. 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 Certification or economic impact study.
5. Direct the District's webmaster to create a link from the District's website to the location on the Texas Comptroller's website where copies of applications under the Act are posted.
6. 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, as applicable, the Texas Education Agency (TEA); the Texas Workforce Commission, and the Texas Economic Development and Tourism Office with the analyses required by the rules adopted by the respective agencies.
7. Pursuant to Tex. Tax Code § 313.025(b), exercise the Board's authority to consider and agree, to the extent authorized by law or regulation, to an extension of time in which to take action on the Application.
8. Not later than 150 days after the Application Review Start Date, present to the Board an Agreement for final approval or action upon a request from the Applicant for an extension of the Application Review Period.
9. In the event of the Superintendent's or Board's 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, notice of the extension.
10. Ensure that the District and the Comptroller are provided draft copies of the Agreement at least twenty (20) days prior to the meeting at which the Board is scheduled to consider final approval of an Agreement.

**Final Board Approval
Required**

Applications shall be considered for final approval by the Board only after receipt by the District of the Application Fee established by the Board; after the completion of the economic and the school facilities impact analyses required by the Act, and after completion of all of the procedural steps set forth below.

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 so as to enable 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.

Board 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, including but not limited to findings:

1. As to each criterion listed in Tax Code 313.026;
2. As to each criterion required by Tax Code 313.025(f-1), if applicable;
3. That the information in the application is true and correct;
4. That the applicant is eligible for the limitation on the appraised value of the entity's qualified property; and
5. That making a determination granting the application is in the best interest of the District and the state.

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 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 Chapter 313 of the Texas Tax Code must disclose all consideration promised in conjunction with the application and/or the limitation agreement.

No agreement adopted by the Board under Chapter 313 of the Texas Tax Code may provide for supplemental payments to the District in excess of those authorized by state law.

Substantive Documents

Unless claimed by the applicant to be confidential, the following shall be considered to be substantive documents and defined in this policy and shall be available for public inspection:

1. All sections of any application;
2. Applicant's Conflict of Interest Questionnaire;
3. All reports presented to the Board by its consultants, after presentation to the Board; and
4. All resolutions, findings of fact, agreements, and any other documents adopted by the Board.

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

**Applicant's Claim
of Information
Confidentiality**

At the time of submitting an application or any amendment or supplement thereto, an applicant may request that all or parts of the documents not be posted on the Internet and not be otherwise publicly released. In order to make such a request, the applicant shall submit a written request that:

1. Specifically lists each document or portion of a document and each entry in any form prescribed by the comptroller that the applicant contends is confidential;
2. Identifies specific, detailed reasons why the applicant believes each item listed should be considered confidential and identifies any relevant legal authority in support of the request;
3. Segregates the documents that are subject to the request from the other documents not subject to the request but submitted with the application; and
4. Clearly designates each document subject to the request as "confidential."

**Waiver of Jobs
Requirement**

At the time of the original application, or at any other time during the course of a Chapter 313 agreement, the Board may waive the new jobs creation requirement of Section 313.021(2) (A) (iv) (b) or 313.051(b) of the Texas Tax Code and may approve an application if the Board makes a finding that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility described in the application.

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.

In the event that such a request is made other than at the time of the original application, the Board shall charge an application amendment fee.

**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 60th 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 or not 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 cause the agreement holder to be notified in writing of the 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 Section 313.032 of the Texas Tax Code. All Applicants that apply after January 1, 2015 and receive a four-digit Comptroller Application number must also complete Form 50-825 Job Creation Compliance Report. 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,

Any other significant developments concerning the project's operations affecting the Agreement.

**District Reporting
Obligations**

If the comptroller requests information reasonably necessary to complete the recommendation or economic impact evaluations, the Superintendent shall provide the requested information within 20 working days from the date of the request. The Superintendent may request an extension of time, not to exceed ten working days, to provide to the comptroller the additional information.

**Superintendent
Responsibilities/
Delegation**

During the entire term of any Agreement, the Superintendent shall:

1. Ensure that all reporting requirements under Chapter 313 are being met in a timely fashion by the District and the Applicant. The Superintendent is authorized to delegate this function to outside consultants; however, any fees for the consultants shall be reimbursed to the District by the Applicant.
2. Ensure that all required information is transmitted to the Comptroller, the Applicant, and each Appraisal District with appraisal jurisdiction over the land upon which the project will be built.
3. Determine, as of the end of the Qualifying Time Period, whether Applicant has made a Qualifying Investment in the Project.
4. Verify date, reported by Applicant, upon which commercial operations at the project site have commenced.
5. Ensure that the Applicant makes all required post-approval submissions to the Comptroller or any other State Agency and the District within the required deadlines.
6. Ensure the District make timely response to requests for data or records made by the State Auditor in conducting an audit of any Agreement adopted by the District.

**Board's
Post-Agreement
Responsibilities**

During the course of any Agreement, the Board shall:

1. Ensure that all reporting requirements under Chapter 313 are being met in a timely fashion by the District and the Applicant.
2. Promptly resolve any disputes which require Board resolution under any Agreement.
3. Receive evidence make a finding as to whether Applicant has made the required Qualified Investment during the Qualifying Time Period.
4. In cases where Applicant has elected to commence the tax limitation period after the commencement of commercial operations at the project site, receive evidence make a finding as to the actual date of the commencement of such commercial operations.
5. Ensure District make timely response to requests for data or records made by the State Auditor in conducting an audit of any Agreement adopted by the District.

**Applicant's
Post-Agreement Re-
sponsibilities**

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

6. Changes of the authorized representative(s);
7. Changes to the location and contact information for the approved applicant, including all members of the combined group participating in the limitation agreement;

8. Copies of any assignments of the Agreement and contact information for authorized representatives of any assignees;
9. All required Comptroller Reports;
10. Required updates to Vendor Conflict of Interest Disclosure forms; and,

Any other significant developments concerning the project's operations affecting the Agreement.

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 consultant 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.

Tax Credits

Only those applicants that have submitted an application for an appraised value limitation prior to January 1, 2014 are eligible for tax credits. An applicant who meets this and all other requirements of Chapter 313 of the Texas Tax Code and the agreement shall become eligible to receive tax credits under Chapter 313.

An applicant who seeks tax credits under the Act shall file with the District a completed and signed comptroller's tax credit application form. The submission shall not be earlier than the date the property taxes are paid for the last year of the qualifying time period. The Comptroller's form shall be accompanied by a tax receipt from the District's tax collector showing full payment of District ad valorem taxes on the qualified property for each year of the qualifying time period.

For tax year 2015, the District shall begin processing the applicant's tax credit request after the applicant has paid all ad valorem taxes due to the District as levied in each year of the qualifying time period, as defined by law.

For tax years beginning with Tax Year 2016 and thereafter, the Superintendent shall issue, on behalf of the District an Annual Chapter 313 Tax Credit Certificate to the District's Tax Collector, certifying the amount of tax credit, calculated in accordance with the provisions of Texas Tax Code Chapter 313, Subchapter D, as that Subchapter existed on the date upon which the Original Agreement was approved by the Board. The Superintendent's Annual Chapter 313 Tax Credit Certificate shall include, at a minimum, the following:

1. The maximum allowable tax credit eligible to be paid on the Qualified Property for the applicable tax year,
2. The taxes which would have been due on the Qualified Property under the terms of the Agreement, but before the tax credit is applied for the applicable tax year.

3. The amount of the tax credit actually earned by Applicant for the Applicable tax year.

The amount of taxes due to be paid by Applicant on the Qualified property after the application of the tax credit.

**Tax Credit
Application
Requirements**

An applicant who seeks tax credits under the Act shall file with the District a completed and signed comptroller's tax credit application form. The submission shall not be earlier than the date the property taxes are paid for the last year of the qualifying time period. The comptroller's form shall be accompanied by a tax receipt from the District's tax collector showing full payment of District ad valorem taxes on the qualified property for each year of the qualifying time period.

**Applicant
Information
Updates**

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

1. Changes of an authorized representative;
2. Changes to the location and contact information for the approved applicant, including all members of the combined group participating in the limitation agreement; and

Copies of any assignments of the agreement and contact information for authorized representatives of any assignees.