

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 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, Texas Tax Code, as amended.

“Agreement” shall mean a written agreement between the governing body of a school district and the approved applicant to implement a limitation on the appraised value for school district maintenance and operations ad valorem property tax purposes on an entity's qualified property, required by Texas Tax Code Section 313.027(d).

“Applicant” shall mean a business entity that has applied for a limitation on appraised value for school district maintenance and operations ad valorem property taxes on the entity's qualified property as provided by Texas Tax Code, Chapter 313.

“Application” shall mean a completed application for appraised value limitation on qualified property for school district maintenance and operations ad valorem taxes, as set out at 34 Texas Administrative Code (TAC) §9.1052(a)(1), together with all supporting schedules and documentation and such successor or additional forms as may be adopted by the Comptroller, along with all amendments or supplements to the Application filed by the Applicant.

“Application Amendment” means information submitted by an Applicant intended to be considered as part of or in support of the Application by replacing information that was previously submitted by 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 costs incurred by the District for processing and considering an application.

“Application Review Period” shall mean the period of time during which the Board will consider and approve or disapprove an Application. The application review period shall begin on the day the

Application accepted for consideration by the District, or upon notification from the Comptroller of a completed Application, whichever is later, and ends on the 151st day after such beginning date, unless the Application Review Period is extended by operation of this policy or Board action taken prior to the expiration date.

“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.

“Applicant Supplement” means information submitted by an Applicant intended to be considered as part of or in support of the Application that has not been previously submitted.

“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 United Independent School District.

“Comptroller” shall mean the Comptroller of Public Accounts of the State of Texas.

“Completed Application” means an Application in the form and number and containing all the information required pursuant to the Comptroller’s rules (relating to entity requesting agreement to limit appraised value) that has been determined by the District and the Comptroller to include all minimum requirements for consideration.

“Comptroller’s Rules” means those rules adopted by the Comptroller relating to the Act, as they currently exist or may hereafter be amended, which are set forth at 34 Texas Administrative Code, Subchapter F.

“District” shall mean the United Independent School District.

“Qualifying Time Period” means the period that begins on the date that the Board approves the Application and ends on December 31 of the second tax year that begins after that date; provided however, the Board and the Applicant may mutually agree, prior to the date the Application is approved by the Board, to defer the date on which the Qualifying Time Period for the project is to begin.

“Superintendent” means the Superintendent of the United Independent School District.

“Substantive Document” means a document or other information or data in electronic media determined by the Comptroller to sub-

stantially involve or include information or data significant to an Application, the evaluation or consideration of an Application, or the Agreement or implementation of an Agreement for limitation of appraised value pursuant to Tax Code, Chapter 313. The term includes, but is not 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 Applicant and District and any subsequent amendments or assignments, any District written finding or report filed with the Comptroller as required under the Comptroller's rules, and any completed Annual Eligibility Report (Form 50-772A) submitted to the Comptroller.

**FILING AN
APPLICATION**

Each Application filed under this policy shall be submitted to the Superintendent by the Applicant in both hard-copy and electronic format. The hard-copy Application must be placed in a three-ringed binder with tabs separating each section. The electronic Application must be provided in a searchable pdf format or transmitted electronically. Upon receipt of a complete and accurate Application that has been accepted by the Board for consideration and receipt of the full Application Fee, Superintendent shall provide Applicant written confirmation that the Application and Application Fee were received.

Completed Applications submitted with the appropriate Application Fee shall be considered for approval by the Board after the completion of the school finance analyses, the economic impact study (if any), and certification from the Comptroller, as required by the Act and Comptroller's Rules.

Incomplete Applications or Applications submitted without the complete Application Fee shall be held by the Superintendent until the Application is properly completed and/or the Application Fee has been paid. The Superintendent's determination of whether an Application is complete and/or satisfactory arrangements for payment of the Application Fee have been made shall be final.

Information the Applicant believes is confidential that is provided to the District in connection with an Application that describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the Application must be clearly marked as confidential, supported by legal authority and segregated in the Application from other information in order to be submitted to the Attorney General's office for a determination as to whether such information is confidential and not subject to public disclosure.

Other information in the custody of the District, Texas Education Agency, or Comptroller in connection with the Application, including information related to the economic impact of the project or the essential elements of eligibility under the Act, such as the nature and amount of the projected investment, employment, wages, and benefits, may not be considered confidential business information. Information in the custody of the District, Texas Education Agency, or Comptroller, if the Application is approved, is not confidential.

AMENDING AN
APPLICATION

An Applicant, subject to the Comptroller's Rules, may seek to amend the Application at any time prior to the Board's final action on the Application. If an Amended Application is filed within 60 days of the end of the Application Review Period, the Application Review Period, by operation of this Policy, shall be extended to the 61st day after the date on which the last Amended Application was filed, unless the Board takes specific action to extend the Application Review Period for a different length of time.

Upon receipt of any Amended Application or supplemental information, the Superintendent shall review and forward such material to the Comptroller and the Appraisal District.

STANDARD
APPLICATION FEE

The standard Application Fee is \$80,000 unless otherwise expressly set by the Board and is **nonrefundable** if the Board accepts the Application for consideration.

The Standard Application Fee does not include fees charged by the Comptroller's office for conducting an economic impact study and other analyses done in conjunction with possible certification of an Application, if any. Such a charge by the Comptroller may be considered an extenuating circumstance to support an additional Application Fee.

LARGE PROJECT
APPLICATION FEE

If an Application exceeds \$300,000,000 in qualified investment or if extenuating circumstances arise that require additional work and analysis on the part of the District, the District's legal counsel and/or consultants, the standard Application Fee may be increased, if the analysis or evaluation of the Application requires a higher fee. Applications in excess of \$300,000,000 in qualified investment shall initially require the Standard Application Fee, unless otherwise expressly set by the Board at the time the Application is accepted for consideration. In the event that the Board sets a higher fee, the Applicant may, if it disagrees with the higher fee set by the Board, withdraw its Application.

**INITIAL BOARD
REVIEW**

The Board shall initially consider acceptance of the Application as soon as practical after it has been filed with the Superintendent. At such time, the Board may consider the recommendation of the Superintendent and a written or oral presentation by the Applicant or other interested parties. If, after review of the Application, the Board determines that the Application is not in the best interest of the District, the Application shall be rejected. In the event that the Board rejects the Application, the Application Fee shall not be accepted and will be returned to the Applicant. If the Board accepts the Application for consideration, the Superintendent shall process the Application, including any amendments or supplements, as set out herein. If at the time the Board accepts an Application for consideration, the Board determines that the Standard Application Fee is not appropriate because the Application exceeds \$300,000,000 in qualified investment or other extenuating circumstances exist, it may set the Application Fee at the amount it determines to be appropriate.

**PROCESSING THE
APPLICATION**

Upon receipt of the completed Application and the Application Fee, the Superintendent shall take the following actions:

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. Confirm with each District official whether the District official is required to file a conflict of interest disclosure or substantial interest affidavit, as required by Texas Government Code, Chapter 171 and/or Chapter 176.
3. Send written confirmation of the Application and Application Fee to the Applicant, Comptroller, and the County Appraisal District. The written confirmation shall contain specific dates detailing when the Application was received, considered, and determined to be complete.
4. Upon acceptance of the Application for consideration, forward to the County Appraisal District and file with the Comptroller copies of the Application, required schedules, accompanying documentation, and proof of payment of the Application Fee, as required by the Act and Comptroller's Rules.
5. Request that the Comptroller provide to the District an economic impact evaluation and certify the Application.

6. Cause a link to be created on the District's Web site to the Comptroller's Web site where copies of the Economic Development Act applications are posted.
7. Work with the Applicant and the District's consultants so that all supplemental information is submitted to the Comptroller and TEA to assist with the analyses required by the Act and the Comptroller's Rules.
8. Work with the Applicant and District's consultants to ensure the District and Comptroller are provided copies of the proposed Agreement.
9. Work with the District's consultants so that upon any appropriate Board action relating to the Application, all required information will be transmitted to the Comptroller and to each applicable Appraisal District.
10. Confirm that the Applicant has made all required Agreement submissions to the Comptroller and the District.
11. Take all action necessary to assist the Board in its consideration of the Application, and take all other action to process the Application as may be required under the Act or the Comptroller's Rules.

**CONSULTING
SERVICES**

Upon receipt of an Application and the Application Fee, the Superintendent shall direct legal counsel to begin an analysis of the Application, the relevant legal issues concerning a limitation on appraised value, draft and negotiate a revenue protection Agreement with Applicant, and hire the necessary consultants to prepare, as needed, economic impact and school finance impact analyses for the District. Legal counsel and retained consultants shall be paid for their services from the Application Fee. The Superintendent and such consultants as are retained will complete their initial and final analyses within sufficient time to assist the Board with its initial review of the Application and its final determination to approve or reject the Application.

PUBLIC HEARING

A public hearing shall be conducted at a Board meeting in compliance with the Texas Open Meeting Act to allow the Board to receive information concerning the Application before making a final determination. The Superintendent, the District's consultants, the Applicant, and members of the public shall have a reasonable opportunity to present their views and information on the proposed

Application. The Board's final determination of the Application shall be made after 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 during the Application Review Period, unless an extension of this deadline has been previously granted by the operation of this policy or action of the Board.

In the event that the Comptroller does not certify the Application to be approved, no action shall be taken on the Application. After the public hearing and prior to approving the Application and any Agreement, the Board shall deliberate as to what findings of fact to make concerning the Application. The Board shall consider any proposed Agreement that provides for protection from or compensation for any financial risks undertaken by the District in approving the Application and entering into an Agreement.

FINDINGS OF FACT

After conducting a public hearing, the Board shall make specific written findings on those matters as required by either the Act and/or the Comptroller's Rules.

Upon completion, copies of the findings of fact and the Agreement between the District and the Applicant shall be sent to the Comptroller and Applicant and made available for public inspection.

ADOPTION OF AGREEMENT

After considering the Comptroller's certification, the economic impact evaluation, the school finance analysis, information provided to the District by its consultants, and any other information deemed relevant, the Board may approve the Application and enter into an Agreement. Such Agreement entered by the Board under the Act must disclose all consideration promised in conjunction with the Application and the limitation on qualified property provided under the Agreement, and may not require consideration of any kind that exceeds the limit on supplemental payments set by the Act.

WAIVER OF JOBS REQUIREMENT

The Board may waive the new jobs creation requirement under the Act 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.

In the event that 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.

**APPLICANT'S
REPORTING
OBLIGATIONS**

During the term of the Agreement with the District, if any, the Applicant shall timely make all reports required under applicable law and/or administrative regulation, including but not limited to the annual reports or certifications that the Applicant may be required to submit to the District as well as the Comptroller under the provisions of the Act and the Comptroller's Rules. The Applicant shall provide the District with a copy of all required reports or certifications contemporaneously with the filing thereof. The Applicant's obligation to make all required filings shall be a material obligation under the Agreement.

**DISTRICT'S
REPORTING
OBLIGATIONS**

Superintendent shall provide the Comptroller with all information reasonably necessary for the Comptroller to complete its recommendation and/or economic impact study.

**SUPERINTENDENT
RESPONSIBILITIES /
DELEGATION**

During the term of any Agreement, the Superintendent shall 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 paid by the District to the consultants shall be reimbursed to the District by the Applicant.

**STATEMENTS
REGARDING
CONFLICTS OF
INTEREST**

Each Board member and any District employee who is a local government official under Local Government Code Chapter 176 shall submit a conflict of interest statement confirming or denying the existence of a conflict of interest or a substantial business interest in each project that is the subject of an application, agreement, or amendment to an agreement with the District. Within 60 days after each Board election or the appointment of a Board member, each new Board member shall complete a statement. The completed statements shall be retained by the District with each affected application or agreement. If a conflict or substantial interest exists, the appropriate disclosure forms shall be completed and filed as required by law. [See BBFA(LEGAL)]

**PUBLIC ACCESS TO
INFORMATION**

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

**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 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'S
POST-AGREEMENT
RESPONSIBILITIES**

An applicant 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.
7. Changes of an authorized representative;
8. Changes to the location and contact information for the approved applicant, including all members of the combined group participating in the limitation agreement; and
9. Copies of any assignments of the agreement and contact information for authorized representatives of any assignees.

**RECORD
RETENTION**

If the District approves an agreement, the District shall preserve all records, including electronically stored information, and suspend

routine record destruction practices until the agreement's final termination date, which means the last date of the final year in which the applicant is required to maintain viable presence.

DRAFT