



Dr. Joseph Waldron
Deputy Superintendent

CV (LOCAL) - Facilities Construction

June 2024

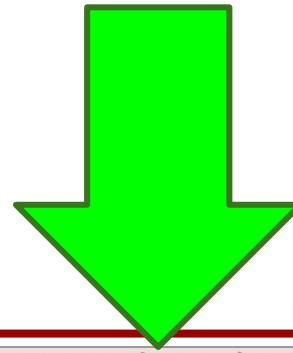
TASB LEGAL - Recommendation

Review of Your Policies:

For this review, we have examined only the following code(s): **CV(LOCAL)**. We have the following comments:

CV(LOCAL): At Construction Contracts, the policy purports to approve the construction project delivery/contract award methods permitted under Texas Government Code Chapter 2269. The Texas Government Code provides that a governing body of a governmental entity that considers a construction contract using a method other than competitive bidding must, before advertising, determine which method provides the best value for the district. Tex. Gov't. Code § 2269.056(a). State law therefore requires that the board engage in a determination of which method provides the best value for the district on a case-by-case basis, unless the board selects the competitive bidding method for that particular construction project, and would not permit the board to preapprove all methods without considering their utility with respect to a particular project.

TASB LEGAL - Recommendation



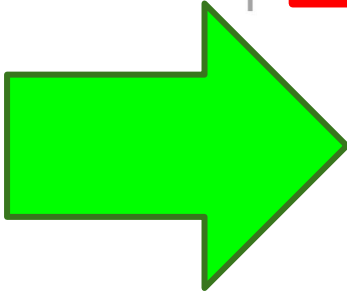
Further, if the board intends to delegate authority to the superintendent or other person to select a construction delivery method, please be aware that the district must provide notice of any delegation and the limits of the delegation by rule or in the procurement documents. Tex. Gov't Code § 2269.053. We believe providing notice of the board's delegation in board policy satisfies the requirement to provide notice by rule; however, the policy as amended does not make a clear delegation of authority. TASB Legal Services recommends that the district revert to its previous language for this policy or consult with its school attorney in revising this policy to conform to the requirements of Texas Government Code Chapter 2269.

CV (LOCAL) - Current as Updated in March

Construction Contracts

In accordance with Texas Government Code 2269, the Board approves the following delivery/contract award methods:

- Competitive Bidding
- Competitive Sealed Proposal
- Construction Manager-At-Risk
- Construction Manager-Agent
- Design Build
- Job Order Contract



For construction contracts valued at or above \$50,000, the Superintendent shall also submit the resulting contract to the Board for approval. Lesser expenditures for construction and construction-related materials or services shall be at the discretion of the Superintendent and consistent with law and policy. [See also CH and CBB(LEGAL)]

CV (LOCAL) - New Update for June

► Prior Update (March):

- Board approved all construction methods in Government Code 2269
- Superintendent determines best value method to use for project
- Projects over \$50,000 - contract approved by the board
- Board - change orders
- Board - final payment

► Current Update (June):

- Superintendent delegated authority to determine project delivery method/contract award that provides the best value
- Projects over \$50,000 - contract approved by the board
- Superintendent - change orders
- Superintendent - final payment

Construction Contracts

The Board delegates to the Superintendent its authority to determine, prior to advertising, the project delivery/contract award method to be used for each construction contract. The Superintendent shall determine the project delivery/contract award method that he or she determines provides the best value to the District. [See CV series generally and CBB(LEGAL) for requirements if federal funds are involved.]

For construction contracts valued at or above \$50,000, the Superintendent shall submit the resulting contract to the Board for approval. Lesser expenditures for construction and construction-related materials or services shall be at the discretion of the Superintendent and consistent with law and policy. [See also CH and CBB(LEGAL)]

Note: For provisions regarding delegation of authority for construction contracts in the event of a catastrophe, emergency, or natural disaster affecting the District, see CH(LOCAL).

Change Orders

The Superintendent or his/her designee shall be authorized to approve change orders permitted by law.

Project Administration

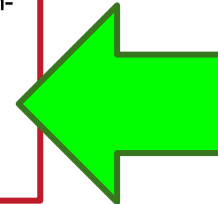
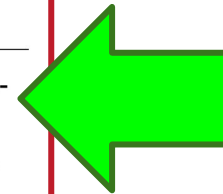
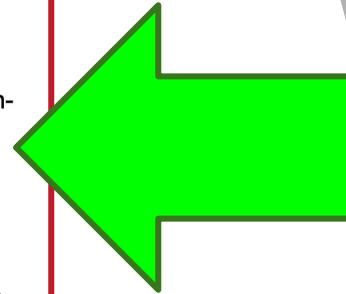
All construction projects shall be administered by the Superintendent or designee.

The Superintendent shall keep the Board informed concerning construction projects and also shall provide information to the general public.

Final Payment

The District shall not make final payments for construction or the supervision of construction until the work has been completed and accepted by the Superintendent.

CV (LOCAL) *proposed*



Administrative Recommendation - June Action

- ▶ **Accept the TASB Recommended CV (LOCAL)**
- ▶ **Delegates to Superintendent**
 - ▶ **Authority to determine the project delivery method/contract award method that provides best value**
- ▶ **For all projects over \$50,000 the Board shall vote on approval of the contract**
- ▶ **Compliance with all Government Code 2269 Regulations**
- ▶ **Change orders are delegated to the Superintendent**
- ▶ **Superintendent authorizes final payment upon completion**



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