

BOARD OF TRUSTEES AGENDA

<input type="checkbox"/> Workshop	<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Special
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- (A) Report Only Recognition

Presenter(s):

Briefly describe the subject of the report or recognition presentation.

- (B) Action Item

Presenter(s): ISMAEL MIJARES, DEPUTY SUPERINTENDENT FOR BUSINESS & FINANCE

Briefly describe the action required.

CONSIDER AND TAKE APPROPRIATE ACTION ON THE REQUEST TO APPROVE UPDATE TO BOARD POLICY CV (LOCAL) TO MAKE CONSISTENT WITH BOARD POLICY CV (LEGAL).

- (C) **Funding source: Identify the source of funds if any are required.**

- (D) **Clarification: Explain any question or issues that might be raised regarding this item.**


SEE ATTACHED MEMORANDUM



EAGLE PASS INDEPENDENT SCHOOL DISTRICT

MEMORANDUM

To: Mr. Ismael Mijares, Deputy Superintendent for Business and Finance

From: Mr. Luis A. Vélez, Purchasing Director  Luis A. Vélez
2021.12.07 15:28:26
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Date: Monday, December 6, 2021

Subject: Update to CV (Local)

Before advertising for the procurement of a construction contract, applicable law (Section 2269.056 of the Texas Government Code) generally requires the Board of Trustees to determine which construction contracting method (Competitive Sealed Proposals, Construction Manager, Design-Build, etc.) provides the best value for the District. However, there is an exception. If the method to be used is competitive bidding, the Board is not required by law to make this determination. This exception is already in CV (Legal), which states (emphasis added): "The board that considers a construction contract using a method authorized by Government Code Chapter 2269 **other than competitive bidding** must, before advertising, determine which method provides the best value for the district." Accordingly, to keep CV (Legal) and CV (Local) consistent, CV (Local) is proposed for revision as highlighted in the attachment.

If you have any question or need more information regarding this matter, please contact me at the Purchasing Department.

Compliance with Law

The Superintendent shall establish procedures that ensure that all school facilities within the District comply with applicable laws and local building codes.

Construction Contracts

~~Except when using the competitive bidding method.~~ Prior to advertising, the Board shall determine the project delivery/contract award method to be used for each construction contract valued at or above \$50,000. To assist the Board, the Superintendent shall recommend 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 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)]

Initial Phase

Bidding for District construction projects for which the architect is contracted shall be handled by the architect, who will be responsible for receiving and recording all bonds, deposits, and other documents as required. Performance and pay bonds in the amount of the estimated cost of the project shall be required before contracts for construction are signed.

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

Change orders permitted by law shall be approved prior to any changes being made in the approved plans or the actual construction of the facility.

Change orders valued at or above \$50,000 shall require Board approval. The Superintendent shall be authorized to approve change orders of a lesser amount.

In all change orders, the District's architect shall give a written cost estimate of the proposed change and submit it to the administration. The signature of the Superintendent or designee shall be required before a change order may be executed.

Emergency

When emergencies arise that require an immediate response, the architect may issue a field order when the amount in question is not over \$1,000. However, a cost estimate shall be submitted and

verbal approval given by the Superintendent or designee before proceeding. The field order shall then be followed by a written change order as indicated above.

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.

Certificates of Payment

The architect shall certify all bills before payment is made and shall issue a certificate of payment outlining the amounts due the contractor. All work shall be performed to the satisfaction of the architect before payment is made. The signature of the Superintendent shall be required on all certificates of payment.

Final Payment

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

2. Any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

In determining the award of a contract, the district may consider:

1. The price.
2. The offeror's experience and reputation.
3. The quality of the offeror's goods or services.
4. The impact on the ability of the district to comply with rules relating to historically underutilized businesses.
5. The offeror's safety record.
6. The offeror's proposed personnel.
7. Whether the offeror's financial capability is appropriate to the size and scope of the project.
8. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Gov't Code 2269.055

Using Method Other Than Competitive Bidding

Determine Best Value

The board that considers a construction contract using a method authorized by Government Code Chapter 2269 other than competitive bidding must, before advertising, determine which method provides the best value for the district.

Publish Criteria

The district shall base its selection among offerors on applicable criteria listed for the particular method used. The district shall publish in the request for proposals or qualifications:

1. The criteria that will be used to evaluate the offerors;
2. The applicable weighted value for each criterion; and
3. A detailed methodology for scoring each criterion.

Make Evaluations Public

The district shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

Gov't Code 2269.056

Submission

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery. *Gov't Code 2269.059*