

Policy CCGB (Local)

Board Policy Committee

November 2019

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EL PASO INDEPENDENT
SCHOOL DISTRICT



Why does a District want to enter into a Chapter 313 agreement?

- Provides incentives to companies to relocate within the District's borders which may impact District's declining enrollment
 - “the key things that matter to people about the neighborhoods they live in include a mix of housing costs, being close to family, and proximity to where they work.” – Richard Florida*



*[Richard Florida](#) is a co-founder and editor at large of CityLab and a senior editor at *The Atlantic*. He is a university professor in the University of Toronto's School of Cities and Rotman School of Management, and a distinguished fellow at New York University's Schack Institute of Real Estate and visiting fellow at Florida International University.

What is the impact on the District's finances?

- The 313 agreement will have no impact on the I&S side. The full value of the project/property will be taxed on the I&S side.
- While the 313 agreement limits the taxable value of the project/property on the M&O side, there is no impact IF the Comptroller recommends in favor of an application. The Comptroller would fully deduct the portion of the property value that is not being fully taxed therefore it would not adversely impact District's State funding.



What is the minimum level of investment required?

- Tax Code Chapter 313 provides that the required number of qualifying jobs, amount of investment and the minimum amount of the value limitation vary according to whether the school district is considered **rural (subject to Subchapter C)** or **non-rural (subject to Subchapter B)**, and according to the amount of taxable property value in the school district.



What is the minimum level of investment required?

Limitation Values for 2019						
Independent School District Name	ISD #	Subject to Subchapter C	Category #	Subject to Subchapter C Because of Demographics Characteristics [Sec.313.051(a-1)(2)]	2019 Minimum Limitation Amount [Sec.313.053]	2019 Minimum Qualified Investment Amount [Sec.313.054]
El Paso	071-902	Y	1	N	\$30 Million	\$30 Million

Source: <https://comptroller.texas.gov/economy/local/ch313/values.php>



Policy CCGB(LOCAL)

- New Policy outlines the District's procedures for accepting, reviewing, and considering applications and amendments to applications, and, when necessary, enforcing agreements under the Texas Economic Development Act (the Act), as set forth in Tax Code Chapter 313.
 - EPISD does not have a local policy but in order to enter into any Chapter 313 agreements, EPISD must have a local policy to accompany CCGB(LEGAL)
- Policy approved at Leadership on 10/8/19 and Cabinet on October 17, 2019.



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Application Process



Details of CCGB(LOCAL)

- Applicant files an application with District based on the form and formats required by the Comptroller along with the Application Fee
- Standard Application fee is set by local policy, in this case, \$75,000*
 - Fee will cover the District costs in processing and considering the application
 - Fee is nonrefundable except as set forth in the policy
 - For large project fees after the initial fee submission
 - If the application is rejected after an initial Board review



*For large projects, the application fee is set by the Board of Trustees

Details of CCGB(LOCAL)

- Incomplete applications or applications without the fee will be held by the Superintendent until application is properly completed and fee is paid
 - Superintendent's determination of whether an application is complete shall be final
- If the board decides to consider an application, information provided in connection with an application will not be considered confidential except as allowed by law.



Details of CCGB(LOCAL)

- Application review period is defined in the policy
 - “Application review period” means the period during which the Board will consider and act on an application. The application review period begins on the application review start date and ends on the 151st day thereafter, unless the application review period is extended by Board action prior to the expiration date.
- Applications may be amended at any time prior to final Board action on the application



Application Process – Superintendent

- Upon receipt of an application and application fee, the Superintendent shall:
 - Send the applicant written confirmation of receipt of the application and application fee.
 - Review the application and, as necessary, require the applicant to submit additional and/or supplementary information, including all required schedules.
 - Within seven days of receipt of a completed application, submit the application to the comptroller, together with any economic analysis of the proposed project submitted by the applicant.
 - Obtain necessary conflict of interest disclosures. [See BBFA(LEGAL)]



Application Process – Initial Board Review

- As soon as practical after an application is filed, the Board shall conduct an initial review of the application during which the Board may consider the Superintendent's recommendation and written or oral presentations concerning the application.
- If, after the initial review, the Board determines that the application is not in the best interests of the District, the Board shall reject the application and return to the applicant the application fee, less any necessary and reasonable costs of the initial review.



Application Process – After Initial Board Review

- If the Board elects to consider the completed application, the board will approve the District Consultants and the Superintendent then takes all action necessary or required to process the application as outlined on page 3 of 5 of the Policy
- Key notes:
 - Not later than 151 days after the application review start date, the Superintendent shall present to the Board an agreement for final approval or a request for extension of the application review period;
 - If an extension of the application review period is requested, report each such request to the comptroller within seven days of the decision to grant the extension; and
 - After Board action on the application, if any, transmit all necessary and required information to the comptroller, the applicant, and the appraisal district.



District Consultants

- On retention by the Board, District consultants, including legal counsel, shall review the application to ensure it includes all required information. District consultants shall also begin an analysis of the application, consider any legal implications of the application, draft and negotiate an appropriate revenue protection agreement, and evaluate the analyses from the comptroller and TEA on receipt.
- District consultants shall be paid for services from the application fee and shall complete their analyses in time to assist the Board, as appropriate, in its initial review or final determination on the application.



Board Action on Application

- Completed applications may be considered for approval by the Board only after completion of the economic impact evaluation and the school facilities impact analysis, receipt of the comptroller's certification, submission of the final agreement to the comptroller for review and approval, as required by the Act.



Public Hearing on Application

- The Board's final determination on an application shall be made after a public hearing at which the Superintendent, District consultants, the applicant, and members of the public may provide input and information concerning the proposed application. The comptroller's certification shall be disclosed at the public hearing.
- The public hearing shall be held at a time that allows the Board to approve or disapprove an application before the expiration of the application review period, unless the deadline has been extended.
- After considering the comptroller's certification, the economic impact evaluation, the school facilities impact analysis, information from District consultants, and any other relevant information, the Board may approve the application and enter into an agreement that complies with all legal requirements. [See CCGB(LEGAL) at Agreement] The Board shall also consider and adopt an agreement with the applicant to provide protection from or compensation for any financial risks undertaken by the District in accepting the application.



Waiver of New Jobs Creation

- The Board may waive the new jobs creation requirement in accordance with the law. [See CCGB(LEGAL) at Waiver of New Jobs Creation Requirement] If an applicant makes a waiver request subsequent to the original application, the Board may charge the applicant a fee to cover the costs of any consultant required by the Board in making the requisite finding.



Steps After Approval of Agreement

- During the term of its agreement with the District, an **applicant** shall timely make all reports required by law and contemporaneously provide the District with a copy of all such reports or certifications.
- During the term of any agreement, the **Superintendent** shall ensure that all reporting requirements are met in a timely manner by the District and the applicant. The Superintendent is authorized to delegate this function to District consultants.



Required Board/Employee Disclosures

- 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)]



Questions



Policy Committee Meeting