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An Audit Report on

**Selected Major Agreements
Under the Texas Economic
Development Act**

August 2015
Report No. 15-042

Selected Major Agreements Under the Texas Economic Development Act

Overall Conclusion

The Texas Economic Development Act (Texas Tax Code, Chapter 313) has encouraged capital investment and job creation by businesses that have appraisal limitation agreements (agreements) with school districts. Oversight of those agreements relies primarily on self-reported information that businesses certify.

To determine whether businesses with agreements complied with Texas Tax Code, Chapter 313, the three school districts audited¹ relied primarily on the certification of the annual eligibility reports and biennial progress reports that businesses submitted to confirm (1) the businesses' capital investment and (2) the number of jobs the businesses committed to create or had created. Statute does not require school districts to verify that information, and the school districts audited did not perform verifications.

School districts provide the information that businesses submit to the Office of the Comptroller of Public Accounts and the Texas Education Agency as the basis for additional state aid paid to the school districts for (1) property tax revenue losses associated with agreements and (2) tax credits associated with applicable agreements.

Each of the three school districts audited hired the same consultant to compile information that businesses reported and to prepare revenue protection payments and

Background Information

The Texas Economic Development Act (Texas Tax Code, Chapter 313)

In 2001, the 77th Legislature enacted House Bill 1200, which created Tax Code, Chapter 313, otherwise known as the Texas Economic Development Act (Act). The purpose of the Act, as currently specified in Texas Tax Code, Section 313.003, is to:

- Encourage large-scale capital investments in this state;
- Create new, high-paying jobs in this state;
- Attract to this state new, large-scale businesses that are exploring opportunities to locate in other states or other countries;
- Enable local government officials and economic development professionals to compete with other states by authorizing economic development incentives that meet or exceed incentives being offered to prospective employers by other states and to provide local officials with an effective means to attract large-scale investment;
- Strengthen and improve the overall performance of the economy of this state;
- Expand and enlarge the ad valorem property tax base of this state; and
- Enhance this state's economic development efforts by providing school districts with an effective local economic development option.

The Act allows a school district to attract new taxable property and create jobs by offering (1) an eight-year limitation on the appraised value of a property for the maintenance and operations portion of the school district's property tax and (2) a tax credit for agreements effective prior to January 1, 2014. The property remains fully taxable for the purposes of any school district debt service tax. Texas Education Code, Section 42.2515, entitles school districts to additional state aid from the Texas Education Agency for tax credits that are applied against the property taxes of businesses with appraisal limitation agreements (agreements) each tax year.

As of January 2015, the Office of the Comptroller of Public Accounts reported that businesses with agreements had invested approximately \$123 billion in the state and created 5,487 qualifying jobs through May 2014.

As of December 31, 2014, there were 287 executed agreements between 161 school districts and 196 businesses. County appraisal districts reported to the Office of the Comptroller of Public Accounts that, from tax year 2005 through tax year 2014, an estimated \$1.143 billion in property tax revenue was not collected as a result of agreements. See Appendix 4 for more information.

Source: The Office of the Comptroller of Public Accounts.

¹ The three school districts audited included the Blackwell Consolidated Independent School District, the Jim Ned Consolidated Independent School District, and the Southwest Independent School District.

payments in lieu of taxes that are required by the agreements.

Based on the information in their annual eligibility reports and biennial progress reports, the businesses with agreements certified that they met certain elements and complied with various requirements of Texas Tax Code, Chapter 313. The school districts associated with the agreements accepted the submissions.

Auditors identified certain aspects of the overall accountability and transparency associated with the agreements under Texas Tax Code, Chapter 313, that could be strengthened. The State Auditor's Office previously reported similar issues for other school districts in a November 2014 report:²

- **Verification of information.** The three school districts audited relied primarily on certifications that businesses submit and information prepared by their consultants. Statute does not require school districts to verify that information, and the school districts audited did not perform verifications.
- **Developing agreements.** The agreements included all statutorily required provisions and were approved by the school boards. However, the agreements did not consistently:
 - Specify the agreed-upon investment amounts and the anticipated number of jobs to be created. (That information was in the applications for agreements.)
 - Describe how school districts would determine and issue tax credits to businesses.
 - Require school districts to determine the eligibility of any new business to which an existing agreement would be transferred. For two of the three agreements audited, businesses transferred the agreements to affiliates.
- **Issuing tax credits.** Texas Tax Code, Chapter 313, requires a school district to direct its tax assessor-collector to apply tax credits to a business's future property taxes. Southwest Independent School District (Southwest ISD) complied with those requirements and directed the county tax assessor-collector to apply \$1,851,148 in tax credits to the business's future property taxes. However, as the State Auditor's Office reported in November 2014, at the direction of the Texas Education Agency, other school districts paid tax credits directly to businesses. Specifically, the Blackwell Consolidated Independent School District (Blackwell CISD) and the Jim Ned Consolidated Independent School District (Jim Ned CISD) paid tax credits totaling \$1,175,434 directly to the businesses. As of December 31, 2014, businesses associated with 287 executed agreements and 15 applications for agreements may be entitled to receive an estimated \$688 million in tax credits from tax year 2006 through tax year 2031. See Appendix 3 for more information on tax credits.
- **Disclosing conflicts of interests.** The school districts' conflict of interest policies included all statutory requirements in the Texas Local Government Code, Chapters 171 and 176. However, the policies for each school district audited varied, and the policies

² See *An Audit Report on Selected Major Agreements Under the Texas Economic Development Act* (State Auditor's Office Report No. 15-009, November 2014).

did not require disclosure of potential conflicts of interest on a regular, periodic basis or affirmations that no conflicts existed with the businesses and the consultants associated with the agreements.

This audit identified additional areas that could be strengthened, including the following:

- **Multiple agreements for the same project.** Blackwell CISD and Jim Ned CISD did not (1) verify whether a business counted the same jobs toward two different agreements related to the same project or (2) require the business to demonstrate that it was not counting the same jobs to meet the eligibility requirements. (The project was physically located in both school districts.)
- **Records retention.** There is no records retention policy for all school districts to follow regarding the supporting documentation for agreements. Certain documentation was unavailable to auditors at Southwest ISD because the school district had destroyed that documentation in accordance with its record retention policy.
- **Incorrect billing amounts.** Southwest ISD and Blackwell CISD billed the businesses associated with their agreements for incorrect amounts of revenue protection payments and payments in lieu of taxes. As a result, Southwest ISD did not receive \$358,063 in required revenue protection payments and Blackwell CISD did not receive \$2,143 in required revenue protection payments and payments in lieu of taxes. That occurred because the school districts did not review their consultants' calculations of those payments.

Opportunities also exist to improve certain administrative processes at each school district audited. While the issues identified in those processes may not be material to determining compliance with Texas Tax Code, Chapter 313, they are significant to each school district's management of agreements.

Auditors also communicated other, less significant issues separately in writing to each school district audited.

Selected Recommendations

The Legislature should consider:

- Requiring an independent verification of the information that businesses with agreements submit to school districts.
- Requiring disclosure on an annual basis any business, professional, and personal relationships that could create potential conflicts of interest with agreements or affirm that a conflict does not exist.
- Requiring school districts to retain agreement documentation for the life of the agreement.

Summary of Management's Response

The Southwest Independent School District agreed with most of the recommendations addressed to it. However, the Blackwell Consolidated Independent School District and the Jim Ned Consolidated Independent School District did not agree with certain findings and recommendations addressed to them.

The State Auditor's Office stands by its conclusions based on the evidence presented and compiled during this audit.

Summary of Objectives, Scope, and Methodology

The objectives of this audit were to:

- Determine whether selected major agreements under the Texas Economic Development Act:
 - Accomplish the purposes of Texas Tax Code, Section 313.003.
 - Comply with the intent of the Legislature in enacting Texas Tax Code, Section 313.004.
 - Were executed in compliance with the provisions of Texas Tax Code, Chapter 313.
- Determine whether there are ways to increase the efficiency and effectiveness of the administration of the Texas Economic Development Act.

The scope of this audit covered selected applications and agreements processed from September 1, 2003, through December 31, 2014.

The audit methodology included selecting three school districts with agreements to audit; testing applications, agreements, progress reports, and tax credit documentation; conducting interviews with school districts, consultants, county tax assessor-collector staff, and county appraisal district staff; collecting information and documentation, performing selected tests and other procedures, analyzing and evaluating the results of the tests; and conducting interviews with the Office of the Comptroller of Public Accounts' management and staff.

Auditors determined that the data from the Office of the Comptroller of Public Accounts and the Texas Education Agency was sufficiently reliable for the purposes of this audit. Auditors' assessment of the reliability of that data was based on prior audit work performed and performing limited review of the data for reasonableness and completeness.

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Detailed Results

Chapter 1

Oversight of Agreements Relies Primarily on Information That Businesses Report

Auditors identified certain aspects of the overall accountability and transparency associated with appraisal limitation agreements (agreements) under Texas Tax Code, Chapter 313, that could be strengthened. The State Auditor's Office previously reported similar issues for other school districts in a November 2014 report:³

- **Oversight of agreements is based primarily on information that businesses report and certify.** The three school districts audited⁴ relied primarily on the certifications of the annual eligibility reports and biennial progress reports that the businesses submitted to confirm the businesses' qualified investment and the number of jobs they committed to create or had created.
- **Additional state aid provided to school districts is based primarily on information that businesses report and certify.** The Office of the Comptroller of Public Accounts and the Texas Education Agency rely primarily on the certified information that school districts provide to support the appropriateness of additional state aid paid to school districts that have agreements, including additional state aid for tax credits issued to businesses. The three school districts audited did not determine whether the businesses complied with their agreements before the school districts (1) distributed tax credits to the businesses and (2) subsequently requested additional state aid from the Texas Education Agency.
- **There are no statutory requirements to verify information that businesses report and certify.** Texas Tax Code, Chapter 313, does not require that the compliance and property information that businesses with agreements report to school districts be verified for accuracy and completeness. The school districts audited did not perform verifications.

³ See *An Audit Report on Selected Major Agreements Under the Texas Economic Development Act* (State Auditor's Office Report No. 15-009, November 2014).

⁴ The three school districts audited included the Blackwell Consolidated Independent School District, the Jim Ned Consolidated Independent School District, and the Southwest Independent School District.

House Bill 3390 (83rd Legislature, Regular Session)

House Bill 3390 amended Texas Tax Code, Chapter 313, by (1) assigning to the Office of the Comptroller of Public Accounts additional monitoring and reporting responsibilities with regard to job-creation requirements in agreements and (2) removing Texas Tax Code, Subchapter D, which allowed businesses with agreements to receive tax credits in addition to a limitation on the appraised value of property.

Those changes were limited to agreements executed on or after January 1, 2014.

- **Agreements executed prior to January 2014 may not be subject to statutory job-creation monitoring requirements.** House Bill 3390 (83rd Legislature, Regular Session) amended Texas Tax Code, Chapter 313, to assign additional monitoring and reporting requirements to the Office of the Comptroller of Public Accounts and remove tax credit provisions (see text box for additional details). However, those requirements may not apply to agreements executed prior to January 2014.

- **Requirements to disclose potential conflicts of interest vary across school districts, and policies do not require regular disclosures.** The requirements to disclose business, professional, and personal relationships that could create potential conflicts of interest varied across the school districts audited. In addition, those policies do not require

disclosures on a regular basis or an affirmation that a conflict does not exist.

During this audit, auditors also identified the following:

- **Two school districts audited did not determine whether a business counted the same jobs toward two different agreements related to the same project.** One business had separate agreements with two school districts audited that covered the same project. (The project was physically located in both school districts.) The two school districts audited did not determine whether that business counted the same jobs toward the two different agreements to demonstrate that it complied with the job-creation requirements in Texas Tax Code, Chapter 313. Documentation at the school districts and from the county appraisal districts indicated that the business used differing qualifying properties and differing investments to demonstrate its eligibility for each of the two agreements.
- **There is no records retention policy for all school districts to follow regarding the supporting documentation for agreements.** Certain documentation (such as documentation regarding the application fee for an agreement, the use of the revenue protection payments, and the use of payments in lieu of taxes) was unavailable to auditors for one of the agreements audited. The school district had destroyed that documentation in accordance with its record retention policy. See Chapter 4-F for more information.

Recommendations

The Legislature should consider:

- **Requiring an independent verification of the information that businesses with agreements submit to school districts.**

- Requiring disclosure on an annual basis any business, professional, and personal relationships that could create potential conflicts of interest with agreements or affirm that a conflict does not exist.
- Requiring school districts to retain agreement documentation for the life of the agreement.

Blackwell Consolidated Independent School District Agreement with FPL Energy Horse Hollow Wind

Background Information on the Agreement with the Blackwell Consolidated Independent School District ^a	
Business	FPL Energy Horse Hollow Wind GP, LLC, and FPL Energy Horse Hollow Wind II, GP, LLC (referred to in this report as FPL Energy Horse Hollow Wind) ^b
Application number	30
Business category	Renewable energy electric generation (wind farm)
Counties	Nolan and Taylor
Term of agreement	January 1, 2007, through December 31, 2019
Appraisal value with limitation	\$10,000,000
Tax year 2014 appraised value	\$241,761,024
Net tax benefit to business based on the 2014 Biennial Cost Data Request Form	\$11,156,442
Number of qualifying jobs created as reported by the business (as of December 31, 2014)	10
Total tax credits business is eligible to receive	\$12,489,353
Other tax abatements and other economic development incentives business received	Property tax abatements from Nolan County and the Nolan County Hospital District
Revenue protection payments school district received from business (as of December 31, 2014)	\$799,172
Payments in lieu of taxes school district received from business (as of December 31, 2014)	\$8,333,974
^a See Appendix 2 for more detailed information.	
^b FPL stands for Florida Power and Light.	

Sources: The Office of the Comptroller of Public Accounts, Blackwell CISD, and the Nolan County Appraisal District.

This chapter covers the agreement between the Blackwell Consolidated Independent School District (Blackwell CISD) and FPL Energy Horse Hollow Wind. Blackwell CISD executed the agreement with FPL Energy Horse Hollow Wind in compliance with Texas Tax Code, Section 313.027.

FPL Energy Horse Hollow Wind certified that it complied with certain requirements of Texas Tax Code, Chapter 313, and Blackwell CISD accepted that certification. As discussed in Chapter 1, statute does not require school districts to verify that information, and Blackwell CISD did not perform verifications of information that FPL Energy Horse Hollow Wind provided in its application for the agreement or in periodic reports.

The maximum property value on which property covered by the agreement with FPL Energy Horse Hollow Wind can be taxed for the maintenance and operations portion of property taxes is \$10,000,000. The appraised value of the property for tax year 2014 was \$241,761,024 (see text box for additional information).

The appraisal limitation will end in tax year 2016, and the property covered under the agreement will be fully taxable for Blackwell CISD's maintenance and operations tax purposes starting in tax year 2017. The agreement requires Blackwell CISD to pay FPL Energy Horse Hollow Wind tax credits through tax year 2019. (See Appendix 5 for information on the time line for agreements).

Table 1 provides information on the appraised value of the property under the agreement.

Table 1

FPL Energy Horse Hollow Wind Property Appraised Value Compared to Appraisal Limitation Value January 2007 through December 2014			
Tax Year	Agreement Year	Appraised Value	Appraisal Limitation Value ^a (Taxable Value for Maintenance and Operations Property Taxes Purposes)
2007	1	\$619,162,130	No limitation
2008	2	\$601,737,194	No limitation
2009	3	\$505,117,801	\$10,000,000
2010	4	\$432,213,857	\$10,000,000
2011	5	\$312,790,293	\$10,000,000
2012	6	\$301,233,420	\$10,000,000
2013	7	\$265,737,138	\$10,000,000
2014	8	\$241,761,024	\$10,000,000

^a The appraisal limitation became effective in the third year of the agreement and applies only to the maintenance and operations portion of Blackwell CISD's property tax. The property remains fully taxable for purposes of any Blackwell CISD debt service tax during the term of the agreement.

Sources: The Nolan County Appraisal District, the Office of the Comptroller of Public Accounts, and Blackwell CISD.

The remainder of this chapter provides information on:

- Processing applications for agreements.
- Developing the agreement.
- Monitoring compliance.
- Processing tax credits.
- Disclosing conflicts of interest.
- Administrative processes.

Processing Applications for Agreements

Blackwell CISD relied primarily on information provided in FPL Energy Horse Hollow Wind's application.

Application for Appraisal Limitation

FPL Energy Horse Hollow Wind filed its original application to the Blackwell CISD school board on May 25, 2005. FPL Energy Horse Hollow Wind submitted an amended application to Blackwell CISD in December 2006 to revise the investment amount and the first year of the qualifying time period. The original and amended applications included:

- Survey maps and survey field notes.
- An economic impact report prepared by a subcontractor of Blackwell CISD's consultant.
- A summary of the proposed appraisal limitation value's effect on school finance prepared by the school district's consultant.

Blackwell CISD submitted the amended application to the Office of the Comptroller of Public Accounts, as required by statute. In a letter dated December 28, 2006, the Office of the Comptroller of Public Accounts recommended that the amended application be favorably considered.

The Blackwell CISD school board issued its findings related to the effect of the FPL Energy Horse Hollow Wind appraisal limitation on Blackwell CISD, as required by statute, and approved the agreement on December 28, 2006.

Sources: The Office of the Comptroller of Public Accounts and Blackwell CISD.

Blackwell CISD documented its determination of how the agreement with FPL Energy Horse Hollow Wind would comply with the purpose and intent of Texas Tax Code, Chapter 313 (see text box for additional information about the FPL Energy Horse Hollow Wind application). To make that determination, Blackwell CISD relied primarily on certified information that FPL Energy Horse Hollow Wind provided in its original and amended applications for an agreement. Examples of that information included:

- The relationship between (1) the renewable energy industry and the types of qualifying jobs to be created and (2) the long-term economic growth plans of the State.
- The ability of FPL Energy Horse Hollow Wind to locate in or relocate to another state or another region of Texas.
- The qualified investment to be made during the qualifying time period and the anticipated total investment for the project.

- The number of qualifying jobs to be created, the wages to be paid for each job, and the types of employee benefits FPL Energy Horse Hollow Wind would offer.
- An allocation of the property covered in the project among Blackwell CISD and two adjacent school districts. (See Chapter 3 for information about one of the other school districts involved in the project).

Texas Tax Code, Section 313.025(f), states that a school district may approve an application only if it finds that the information in the application is true and correct, finds that the applicant is eligible for the limitation on the appraised value, and determines that granting the application is in the best interest of the school district and the State.

Developing the Agreement

Blackwell CISD ensured that the agreement included all provisions that statute required and that its school board approved the agreement. However, the agreement did not include certain provisions that would increase accountability and transparency.

The agreement did not include provisions regarding tax credits.

The agreement included a definition of tax credits, but it did not include provisions regarding how Blackwell CISD would determine and issue tax credits to FPL Energy Horse Hollow Wind. As a result, there was no agreed-upon tax credit process between Blackwell CISD and FPL Energy Horse Hollow Wind (see Chapter 2-D for additional information on tax credits).

The agreement did not include provisions that described the agreed-upon qualified investment amount and the number of jobs to be created.

The qualified investment amount that FPL Energy Horse Hollow Wind committed to make and the anticipated number of jobs to be created were documented in the original and amended applications, rather than in the agreement. FPL Energy Horse Hollow Wind committed to a qualified investment of \$600,000,000 and anticipated creating 10 jobs in its amended application. However, the agreement did not explicitly state that the original and amended applications were part of the agreement.

Texas Tax Code, Section 313.027(e), requires agreements to describe with specificity the qualified investment that the business will make on or in connection with the qualified property that is subject to the appraisal limitation. Other property that is not specifically described in the agreement is not subject to the limitation unless the governing body of the school district, by official action, provides that the other property is subject to the limitation.

A provision of the agreement allowed the agreement to be transferred to a new business, but it did not specify that the new business must meet Texas Tax Code, Chapter 313, eligibility requirements.

The agreement allowed FPL Energy Horse Hollow Wind to transfer the agreement to a new business. Specifically, Section 6.5 of the agreement stated:

[The agreement] may not be assigned by [FPL Energy Horse Hollow Wind] without the approval of [Blackwell CISD], except that [FPL Energy Horse Hollow Wind] may assign [the agreement] without [Blackwell CISD's] consent (a) to any lenders as collateral security for obligations under financing documents with such lenders, (b) to any person which acquires all or any portion of [FPL Energy Horse Hollow Wind's] interest in the Qualified Property; or

(c) to an affiliate; provided however that [FPL Energy Horse Hollow Wind] shall give written notice of any such assignment to [Blackwell CISD].

Although Blackwell CISD must approve the transfer of the agreement to a new business (except under certain circumstances), the agreement did not specify that the new business must be eligible to receive an agreement. As a result, there is a risk that the agreement could be transferred to a business that does not meet the eligibility requirements in Texas Tax Code, Chapter 313. FPL Energy Horse Hollow Wind transferred the agreement to an affiliate and notified Blackwell CISD of the transfer in accordance with Section 6.5 of the agreement.

The agreement did not include performance standards or require periodic deliverables to enable Blackwell CISD to verify whether FPL Energy Horse Hollow Wind met its commitments.

As discussed above, the original and amended applications for the agreement specified the qualified investment that FPL Energy Horse Hollow Wind committed to make and the number of jobs it committed to create. However, the agreement did not require FPL Energy Horse Hollow Wind to report its progress toward meeting those commitments.

FPL Energy Horse Hollow Wind submitted its annual eligibility and biennial progress reports in compliance with requirements that the Office of the Comptroller of Public Accounts established in 2010 (see Chapter 2-C for more information about the reports). However, the Blackwell CISD school board approved the agreement with FPL Energy Horse Hollow Wind in 2006, approximately four years before the Office of the Comptroller of Public Accounts established those requirements. The agreement did not include provisions that required FPL Energy Horse Hollow Wind to submit any periodic performance reports or deliverables to enable Blackwell CISD to monitor compliance with the terms of the agreement.

Without specifying performance standards or periodic deliverables to monitor progress, Blackwell CISD did not have a defined methodology to obtain assurances that FPL Energy Horse Hollow Wind fulfilled the requirements of the agreement and complied with Texas Tax Code, Chapter 313.

Recommendations

Blackwell CISD should consider amending the agreement to include:

- All information related to the agreed-upon investment amounts and the anticipated number of jobs to be created; alternatively, it should explicitly state in the agreement that the information in the related original and amended applications is incorporated into the agreement.

- Provisions that require Blackwell CISD to assess and approve the eligibility of any business to which an agreement is transferred.
- Performance standards or requirements for the business to periodically submit deliverables that will enable Blackwell CISD to verify whether FPL Energy Horse Hollow Wind met its commitments.

Management's Response

Blackwell CISD will continue to work with its consultants and attorneys to ensure that all Chapter 313 agreements and procedures meet all requirements as specified by all codes and laws of the state of Texas. As an initial matter, the auditors indicate that there are no provisions regarding the agreed upon investment between the parties, and reference the estimated investment set forth in the Application. However, that is incorrect. While the parties specifically do not agree to the estimated levels of investment and taxable values set forth in the application, the form drafted by the Comptroller clearly indicates that those values are estimates. Entering into an agreement to limit the appraised value of property does not deprive a property tax payer of its rights under the laws, including the right to ensure that property is appraised uniformly and in accordance with generally acceptable appraisal techniques and other requirements of law.

Instead, the Agreement has provisions related to required investment amounts. Sections 1.2 and 1.3 of both agreements define the tax limitation amount as being \$10 Million. At the time of the agreement Tex. Tax Code §§ 313.022(b) and 313.023 required the applicant's minimum Qualified Investment to be \$10 Million. That was the minimum amount of Qualified Investment required by the Agreement; and therefore the agreement did in fact, have provisions regarding the agreed upon investment amount.

Furthermore, the Applicant is required to create and retain the number of jobs set forth in statute to maintain a Viable Presence in the District. Failure to maintain this viable presence will result in the termination of the Agreement and subject the Applicant to penalties, including the recoupment of all tax benefit received by the Applicant from the District by virtue of entering into the Agreement.

The applicant was bound by the statutory requirements set forth at Tex. Tax Code §313.021 (2)(A)(iv)(b). The statutory requirement is incorporated into the agreement at Section 6.2(b) which requires the applicant to maintain a viable presence in the district, which in conformance with the term's definition in Section 1.3, included the maintenance, over the life of the agreement of the statutorily required number of jobs.

The Agreement between Blackwell CISD and FP&L specifically states that assignment can only be done with the consent of the District. Those provisions already exist in the agreement an amendment is not necessary.

The agreement does not require FPL to report compliance with the Agreement; however, the Texas Comptroller has promulgated statutory reporting requirements that would supersede any amendments to an agreement that the District could require. Blackwell CISD followed all requirements mandated by Tax Code Chapter 313 and the Texas Legislature. Blackwell CISD was compliant with state requirements governing conflict of interest filings. Finally, Blackwell CISD will continue to maintain all documents regarding Chapter 313 agreements in accordance with record retention laws.

Chapter 2-C

Monitoring Compliance

Blackwell CISD’s monitoring relied primarily on information that FPL Energy Horse Hollow Wind certified on annual eligibility reports and biennial progress reports that neither Blackwell CISD nor its consultant verified.

FPL Energy Horse Hollow Wind submitted annual eligibility reports and biennial progress reports to Blackwell CISD as required by the Office of the Comptroller of Public Accounts (see Appendix 7 for more information on required reports that businesses and school districts submit). As discussed in Chapter 1, statute does not require school districts to verify the information on annual eligibility reports and biennial progress reports, and Blackwell CISD did not perform verifications.

Blackwell CISD hired a consultant to assist in the administration of the agreement, including addressing reporting requirements, compiling information that FPL Energy Horse Hollow Wind reported, and performing annual calculations of revenue protection payments and payments in lieu of taxes that the agreement required.

Examples of information in the reports that FPL Energy Horse Hollow Wind submitted included:

- Market value and taxable value of property covered under the agreement. (Correctly specifying those values is significant to ensuring that the property tax revenue amount not collected is calculated accurately because that affects the amount of state funding a school district receives each tax year).
- Total and qualified investment amounts. (Businesses are required to make certain qualified investments in personal property that will be used with property under an agreement. See Appendix 6 for more information on qualified investments).

- The number of qualifying jobs FPL Energy Horse Hollow Wind committed to create on the amended application and the number of qualifying jobs that FPL Energy Horse Hollow Wind actually created, as well as whether the number of jobs created complied with statutory requirements. (Businesses are required to create qualifying jobs. See Appendix 6 for more information on qualified jobs and job-creation requirements).

The annual eligibility reports and biennial progress reports provided inconsistent information.

Auditors identified discrepancies in the annual eligibility reports and biennial progress reports that FPL Energy Horse Hollow Wind submitted to Blackwell CISD for tax years 2009 through 2013, including:

- FPL Energy Horse Hollow Wind reported in its annual eligibility report for tax year 2012 that the market value of the qualified property was \$301,233,420. However, its biennial progress report for tax year 2012 specified that the market value of the qualified property was \$270,710,133 for tax year 2012.
- FPL Energy Horse Hollow Wind reported that it created 8 jobs in tax year 2011 in its annual eligibility report (which is fewer than the minimum number of 10 jobs required by Texas Tax Code, Section 313.051(b)). It reported that it created 10 jobs in tax year 2011 in its biennial progress report.
- FPL Energy Horse Hollow Wind used 2005 quarterly industry wage data to report the minimum required annual wage for each qualifying job in its annual eligibility reports for tax years 2009 through 2013.

The Office of the Comptroller of Public Accounts (1) requires businesses to submit the annual eligibility report and biennial progress reports to the school districts by May 15 and (2) requires the school districts to submit those reports to the Office of the Comptroller of Public Accounts by June 15 of each year for which reports are required.

Blackwell CISD reported certain information that was inconsistent with (1) information that FPL Energy Horse Hollow Wind reported and (2) information that the Nolan County Appraisal District reported.

Blackwell CISD submitted all biennial cost reports to the Office of the Comptroller of Public Accounts, as required (see Appendix 7 for more information on required reports that businesses and school districts submit). However, auditors identified discrepancies between the market values in those biennial cost reports and the annual eligibility reports that FPL Energy Horse Hollow Wind submitted to Blackwell CISD for tax years 2010 through 2012. (Those discrepancies were the same inconsistencies in information discussed above, and they indicate that Blackwell CISD did not make corrections before

it submitted the biennial cost reports to the Office of the Comptroller of Public Accounts.)

In addition, the market values that FPL Energy Horse Hollow Wind and Blackwell CISD reported on their reports were not consistent with the market values that the Nolan County Appraisal District reported for tax years 2009 through 2013. However, Blackwell CISD's consultant asserted that those inconsistencies could be explained by differences in timing. For example, the Office of the Comptroller of Public Accounts requires school districts to submit biennial cost reports by July 15 of each even-numbered year, and the Nolan County Appraisal District completed its reporting of market values in September and October for tax years 2009 through 2013.

Recommendation

Blackwell CISD should ensure that the annual eligibility reports and biennial progress reports it receives contain consistent information before it submits those reports to the Office of the Comptroller of Public Accounts.

Management's Response

Blackwell CISD will develop an in-house system to ensure that eligibility and progress reports contain consistent information before submitting reports to the Comptroller of Public Accounts. However; the District has no control over how the Appraisal District reports values and must follow the reporting deadlines set forth in Comptroller rules.

Chapter 2-D

Processing Tax Credits

Blackwell CISD paid tax credits directly to FPL Energy Horse Hollow Wind instead of applying tax credits to FPL Energy Horse Hollow Wind's future property tax bills as required by statute.

Blackwell CISD did not comply with statute regarding how it should provide tax credits to FPL Energy Horse Hollow Wind. Texas Tax Code, Section 313.104, required Blackwell CISD to direct the tax assessor-collector for the school district to apply the tax credits against the future taxes imposed on the qualified property. However, at the direction of the Texas Education Agency, Blackwell CISD paid tax credits directly to FPL Energy Horse Hollow Wind. Blackwell CISD paid \$853,390 in tax credits directly to FPL Energy Horse Hollow Wind for tax years 2010 through 2014. Throughout the life of the agreement, FPL Energy Horse Hollow Wind is eligible to receive a total of \$12,489,353 in tax credits under Texas Tax Code, Section 313.102.

Blackwell CISD did not correct an incorrect tax credit payment in accordance with statutory requirements.

Blackwell CISD overpaid FPL Energy Horse Hollow Wind \$10,627 in tax credits in 2010 due to a manual data entry error. The Texas Education Agency discovered the error and Blackwell CISD reduced its tax year 2011 tax credit payment to FPL Energy Horse Hollow Wind to recover the overpayment. However, that process did not comply with statutory requirements for correcting an overpayment. Texas Tax Code, Section 313.105, required the school district to impose an additional tax on a qualified property to recover any overpayment plus interest at an annual rate of 7 percent calculated from the date the tax credit was issued. In addition, a tax lien attaches to the qualified property in favor of the school district to secure payment.

As stated in Chapter 2-B, the agreement did not have provisions regarding tax credits, and Blackwell CISD did not have policies and procedures to administer tax credits to help ensure that it complied with statutory requirements.

Recommendations

Blackwell CISD should:

- Comply with statute related to tax credits, and direct the tax assessor-collector to apply the amount of tax credits against the future property taxes imposed on the property subject to an agreement.
- Develop and implement policies and procedures related to administering tax credits.
- Comply with statutory requirements regarding tax credit overpayments.

Management's Response

Under Section 42.2515 of the Education Code should a tax credit be owed, the TEA rule calls for the school district to submit "A copy of the tax bill sent to the taxpayer (showing the credit) or other proof that the school has reimbursed the tax credit to the taxpayer." However, the TEA procedures for the processing of tax credits currently in place require the District to present the Agency with proof of actual payment to the company of the tax credit amount as a prerequisite for reimbursement to the District, in lieu of a copy of a tax bill. Blackwell CISD has been in compliance with the process imposed by TEA. Blackwell CISD will continue to work with its consultants and attorneys to ensure that all Chapter 313 agreements and procedures meet all requirements as specified by all codes and laws of the state of Texas.

Disclosing Conflicts of Interest

Blackwell CISD had policies and procedures to identify and report conflicts of interest between Blackwell CISD, the business, and/or other parties involved in its agreements. However, Blackwell CISD did not always follow those policies and procedures. Specifically:

- Blackwell CISD did not enforce its policy to require its consultant to submit a conflict of interest disclosure questionnaire. Blackwell CISD's purchasing policy in effect at the time required that vendors submit a conflict of interest disclosure questionnaire not later than seven days after beginning contract discussions, beginning negotiations, or submitting a potential agreement with the school district.
- Blackwell CISD did not ensure that one of its school board members submitted an annual conflict of interest form for 2009.

Blackwell CISD's conflict of interest policies included all statutory requirements in Texas Local Government Code, Chapters 171 and 176. However, those policies do not require the filing of disclosure statements on a regular basis or affirmations that conflicts do not exist on an annual basis. In addition, Blackwell CISD's conflict of interest policies and disclosure forms are not specific to agreements.

Recommendations

Blackwell CISD should:

- Ensure that its consultants and the members of its school board follow its conflict of interest disclosure policies.
- Consider including a requirement in its conflict of interest policies requiring completion of a conflict of interest disclosure form on an annual basis to confirm whether a conflict exists.

Management's Response

Since inception of the Chapter 313 agreements in 2005-2006, Blackwell CISD has been compliant with all conflict of interest policies with the exception of once in 2005 and once in 2009. Blackwell CISD will continue to abide by all conflict of interest policies found both in BCISD board policy and the state of Texas.

Administrative Processes

Opportunities exist for Blackwell CISD to strengthen certain administrative processes. While the following items may not be material to determining compliance with statute, they are significant to Blackwell CISD's management of its agreement:

- Blackwell CISD did not receive a net total of \$2,143 in required revenue protection payments and payments in lieu of taxes. That occurred because Blackwell CISD did not review its consultant's calculations to ensure that FPL Energy Horse Hollow Wind paid the correct amounts. In addition, auditors identified inconsistencies between (1) the market values and gross tax savings that Blackwell CISD reported on its biennial cost reports and (2) the corresponding values that its consultant used to calculate revenue protection payments and payments in lieu of taxes for tax years 2009 through 2013. That occurred because Blackwell CISD did not compare that information. Blackwell CISD does not have policies and procedures for reviewing information related to revenue protection payments and payments in lieu of taxes.
- Blackwell CISD established a \$75,000 application fee that complied with its policy. Although FPL Energy Horse Hollow Wind paid that fee, it did not pay that fee when it submitted its application, as required by Texas Tax Code, Section 313.025(a).
- Blackwell CISD established a link on its Web site to the Office of the Comptroller of Public Accounts' Web site, as required by Texas Tax Code, Section 313.0265(c).

Recommendations

Blackwell CISD should:

- Develop and implement policies and procedures for (1) reviewing its consultant's calculations for revenue protection payments and payments in lieu of taxes and (2) ensuring consistency in the information that it reports on its biennial cost reports and the information that its consultant uses to calculate revenue protection payments and payments in lieu of taxes.
- Determine how it should correct errors identified in payments from a business with an agreement.
- Collect required application fees in accordance with statute.

Management's Response

Blackwell CISD notates the recommended procedures and will continue to investigate procedures that will enable BCISD to maintain compliance with all required policies and statutes.

Jim Ned Consolidated Independent School District Agreement with FPL Energy Horse Hollow Wind

Background Information on the Agreement with the Jim Ned Consolidated Independent School District ^a	
Business	FPL Energy Horse Hollow Wind GP, LLC and FPL Energy Horse Hollow Wind II GP, LLC (referred to in this report as FPL Energy Horse Hollow Wind) ^b
Application number	29
Business category	Renewable energy electric generation (wind farm)
County	Taylor
Term of agreement	January 1, 2007, through December 31, 2019
Appraisal value with limitation	\$5,000,000
Tax year 2014 appraised value	\$86,698,820
Net tax benefit business received based on the 2014 Biennial Cost Data Request Form	\$4,093,625
Number of qualifying jobs created as reported by the business (as of December 31, 2014)	10
Total tax credits business is eligible to receive	\$4,110,664
Other tax abatements and other economic development incentives business received	None
Revenue protection payments school district received from business (as of December 31, 2014)	\$250,364
Payments in lieu of taxes school district received from business (as of December 31, 2014)	\$3,079,012
^a See Appendix 2 for more detailed information.	
^b FPL stands for Florida Power and Light.	

Sources: The Office of the Comptroller of Public Accounts, Jim Ned CISD, and the Taylor County Appraisal District.

This chapter covers the agreement between the Jim Ned Consolidated Independent School District (Jim Ned CISD) and FPL Energy Horse Hollow Wind. Jim Ned CISD executed the agreement with FPL Energy Horse Hollow Wind in compliance with Texas Tax Code, Section 313.027.

FPL Energy Horse Hollow Wind certified that it complied with certain requirements of Texas Tax Code, Chapter 313, and Jim Ned CISD accepted that certification. As discussed in Chapter 1, statute does not require school districts to verify that information, and Jim Ned CISD did not perform verifications of information FPL Energy Horse Hollow Wind provided in its application for the agreement or periodic reports.

The maximum property value on which property covered by the agreement with FPL Energy Horse Hollow Wind can be taxed for the maintenance and operations portion of property taxes is \$5,000,000. The appraised value of that property for tax year 2014 was \$86,698,820 (see text box for additional information).

The appraisal limitation will end in tax year 2016, and the property covered under the agreement will be fully taxable for Jim Ned CISD's maintenance and operations tax purposes starting in tax year 2017. The agreement requires Jim Ned CISD to pay FPL Energy Horse Hollow Wind tax credits through tax year 2019. (See Appendix 5 for information on the time line for agreements).

Table 2 provides information on the appraised value of the property under the agreement.

Table 2

FPL Energy Horse Hollow Wind Property Appraised Value Compared to Appraisal Limitation Value January 2007 through December 2014			
Tax Year	Agreement Year	Appraised Value	Appraisal Limitation Value ^a (Taxable Value for Maintenance and Operations Property Taxes Purposes)
2007	1	\$205,198,560	No limitation
2008	2	\$200,057,593	No limitation
2009	3	\$185,022,914	\$5,000,000
2010	4	\$151,344,226	\$5,000,000
2011	5	\$125,445,986	\$5,000,000
2012	6	\$113,489,580	\$5,000,000
2013	7	\$100,291,936	\$5,000,000
2014	8	\$86,698,820	\$5,000,000

^a The appraisal limitation became effective in the third year of the agreement and applies only to the maintenance and operations portion of Jim Ned CISD's property tax. The property remains fully taxable for purposes of any Jim Ned CISD debt service tax during the term of the agreement.

Sources: The Taylor County Appraisal District, the Office of the Comptroller of Public Accounts, and Jim Ned CISD.

The remainder of this chapter provides information on the following:

- Processing applications for agreements.
- Developing the agreement.
- Monitoring compliance.
- Processing tax credits.
- Disclosing conflicts of interest.
- Administrative processes.

Processing Applications for Agreements

Jim Ned CISD relied primarily on information provided in FPL Energy Horse Hollow Wind's application.

Application for Appraisal Limitation

FPL Energy Horse Hollow Wind filed its original application to the Jim Ned CISD school board on May 25, 2005. FPL Energy Horse Hollow Wind submitted an amended application to Jim Ned CISD in December 2006 to revise the investment amount and the first year of the qualifying time period. The original and amended applications included:

- Survey maps and survey field notes.
- An economic impact report prepared by a subcontractor of Jim Ned CISD's consultant.
- A summary of the proposed appraisal limitation value's effect on school finance prepared by the school district's consultant.

Jim Ned CISD submitted the amended application to the Office of the Comptroller of Public Accounts, as required by statute. In a letter dated December 28, 2006, the Office of the Comptroller of Public Accounts recommended that the amended application be favorably considered. The Jim Ned CISD school board issued its findings related to the effect of the FPL Energy Horse Hollow Wind appraisal limitation on Jim Ned CISD, as required by statute, and approved the agreement on December 28, 2006.

Sources: The Office of the Comptroller of Public Accounts and Jim Ned CISD.

Jim Ned CISD documented its determination of how the agreement with FPL Energy Horse Hollow Wind would comply with the purpose and intent of Texas Tax Code, Chapter 313 (see text box for additional information about the FPL Energy Horse Hollow Wind application). To make that determination, Jim Ned CISD relied primarily on certified information that FPL Energy Horse Hollow Wind provided in its original and amended applications for an agreement. Examples of that information included:

- The relationship between (1) the renewable energy industry and the types of qualifying jobs to be created and (2) the long-term economic growth plans of the State.
- The ability of FPL Energy Horse Hollow Wind to locate in or relocate to another state or another region of Texas.
- The qualified investment to be made during the qualifying time period and the anticipated total investment for the project.

- The number of qualifying jobs to be created, the wages to be paid for each job, and the types of employee benefits FPL Energy Horse Hollow Wind would offer.
- An allocation of the property covered in the project among Jim Ned CISD and two other adjacent school districts. (See Chapter 2 for information about one of the other school districts involved in the project).

Texas Tax Code, Section 313.025(f), states that a school district may approve an application only if it finds that the information in the application is true and correct, finds that the applicant is eligible for the limitation on the appraised value, and determines that granting the application is in the best interest of the school district and the State.

Developing the Agreement

Jim Ned CISD ensured that the agreement included all provisions that statute required and that its school board approved the agreement. However, the agreement did not include certain provisions that would increase accountability and transparency.

The agreement did not include provisions regarding tax credits.

The agreement included a definition of tax credits, but it did not include provisions regarding how Jim Ned CISD would determine and issue tax credits to FPL Energy Horse Hollow Wind. As a result, there was no agreed-upon tax credit process between Jim Ned CISD and FPL Energy Horse Hollow Wind (see Chapter 3-D for more information on tax credits).

The agreement did not include provisions that described the agreed-upon qualified investment amount and the number of jobs to be created.

The qualified investment amount that FPL Energy Horse Hollow Wind committed to make and the anticipated number of jobs to be created were documented in the original and amended applications, rather than in the agreement. FPL Energy Horse Hollow Wind committed to a qualified investment of \$210,000,000 and anticipated creating 10 jobs in its amended application. However, the agreement did not explicitly state that the original and amended applications were part of the agreement.

Texas Tax Code, Section 313.027(e), requires agreements to describe with specificity the qualified investment that the business will make on or in connection with the qualified property that is subject to the appraisal limitation. Other property that is not specifically described in the agreement is not subject to the limitation unless the governing body of the school district, by official action, provides that the other property is subject to the limitation.

A provision of the agreement allowed the agreement to be transferred to a new business, but it did not specify that the new business must meet Texas Tax Code, Chapter 313, eligibility requirements.

The agreement allowed FPL Energy Horse Hollow Wind to transfer the agreement to a new business. Specifically, Section 6.5 of the agreement stated:

[The agreement] may not be assigned by [FPL Energy Horse Hollow Wind] without the approval of [Jim Ned CISD], except that [FPL Energy Horse Hollow Wind] may assign [the agreement] without [Jim Ned CISD's] consent (a) to any lenders as collateral security for obligations under financing documents with such lenders, (b) to any person which acquires all or any portion of [FPL Energy Horse Hollow Wind's] interest in the Qualified Property; or (c) to an affiliate;

provided however that [FPL Energy Horse Hollow Wind] shall give written notice of any such assignment to [Jim Ned CISD].

Although Jim Ned CISD must approve the transfer of the agreement to a new business (except under certain circumstances), the agreement did not specify that the new business must be eligible to receive an agreement. As a result, there is a risk that the agreement could be transferred to a business that does not meet the eligibility requirements in Texas Tax Code, Chapter 313. FPL Energy Horse Hollow Wind transferred the agreement to an affiliate and notified Jim Ned CISD of the transfer in accordance with Section 6.5 of the agreement.

The agreement did not include performance standards or require periodic deliverables to enable Jim Ned CISD to verify whether FPL Energy Horse Hollow Wind met its commitments.

As discussed above, the original and amended applications for the agreement specified the qualified investment that FPL Energy Horse Hollow Wind committed to make and the number of jobs it committed to create. However, the agreement did not require FPL Energy Horse Hollow Wind to report its progress toward meeting those commitments.

FPL Energy Horse Hollow Wind submitted its annual eligibility and biennial progress reports in compliance with requirements that the Office of the Comptroller of Public Accounts established in 2010 (see Chapter 3-C for more information about the reports). However, the Jim Ned CISD school board approved the agreement with FPL Energy Horse Hollow Wind in 2006, approximately four years before the Office of the Comptroller of Public Accounts established those requirements. The agreement did not include provisions that required FPL Energy Horse Hollow Wind to submit any periodic performance reports or deliverables to enable Jim Ned CISD to monitor compliance with the terms of the agreement.

Without specifying performance standards or periodic deliverables to monitor progress, Jim Ned CISD did not have a defined methodology to obtain assurances that FPL Energy Horse Hollow Wind fulfilled the requirements of the agreement and complied with Texas Tax Code, Chapter 313.

Recommendations

Jim Ned CISD should consider amending the agreement to include:

- All information related to the agreed-upon investment amounts and the anticipated number of jobs to be created; alternatively, it should explicitly state in the agreement that the information in the related original and amended applications is incorporated into the agreement.

- Provisions that require Jim Ned CISD to assess and approve the eligibility of any business to which an agreement is transferred.
- Performance standards or requirements for the business to periodically submit deliverables that will enable Jim Ned CISD to verify whether FPL Energy Horse Hollow Wind met its commitments.

Management's Response

Jim Ned CISD will continue to work with its consultants and attorneys to ensure that all Chapter 313 agreements and procedures meet all requirements as specified by all codes and laws of the state of Texas. As an initial matter, the auditors indicate that there are no provisions regarding the agreed upon investment between the parties, and reference the estimated investment set forth in the Application. However, that is incorrect. While the parties specifically do not agree to the estimated levels of investment and taxable values set forth in the Application. In fact, the form drafted by the Comptroller clearly indicates that those values are estimates. Entering into an agreement to limit the appraised value of property does not deprive a property tax payer of its rights under the laws, including the right to ensure that property is appraised uniformly and in accordance with generally acceptable appraisal techniques and other requirements of law.

Instead, the Agreement has provisions related to required investment amounts. Sections 1.2 and 1.3 of both agreements define the tax limitation amount as being \$5 Million. At the time of the agreement Tex. Tax Code §§ 313.022(b) and 313.023 required the applicant's minimum Qualified Investment to be \$5 Million. That was the minimum amount of Qualified Investment required by the Agreement; and therefore the agreement did In fact have provisions regarding the agreed upon investment amount.

Furthermore, the Applicant is required to create and retain the number of jobs set forth in statute to Maintain a Viable Presence in the District. And, failure to maintain this viable presence will result in the termination of the Agreement, and subject the Applicant to penalties, including the recoupment of all tax benefit received by the Applicant from the District by virtue of entering into the Agreement.

And, the applicant was bound by the statutory requirements set forth at Tex. Tax Code §313.021 (2)(A)(iv)(b). The statutory requirement is incorporated into the agreement at Section 6.2(b) which requires the applicant to maintain a viable presence in the district, which in conformance with the term's definition in Section 1.3, included the maintenance, over the life of the agreement of the statutorily required number of jobs.

The statutory requirements also govern the assignment of the project. It is not necessary to include provisions that state that agreements can only be

assigned to certain companies. The statute governs what property owners may receive the benefit of an appraised value limitation.

The agreement does not require FPL to report compliance with the Agreement; however, the Texas Comptroller has promulgated statutory reporting requirements that would supersede any amendments to an agreement that the District could require. Jim Ned CISD followed all requirements mandated by Tax Code Chapter 313 and the Texas Legislature. Jim Ned CISD was compliant with state requirements governing conflict of interest filings. Finally, Jim Ned CISD will continue to maintain all documents regarding Chapter 313 agreements in accordance with record retention laws.

Chapter 3-C

Monitoring Compliance

Jim Ned CISD's monitoring relied primarily on information that FPL Energy Horse Hollow Wind certified on annual eligibility reports and biennial progress reports that neither the school district nor its consultant verified.

FPL Energy Horse Hollow Wind submitted annual eligibility reports and biennial progress reports to Jim Ned CISD as required by the Office of the Comptroller of Public Accounts (see Appendix 7 for more information on required reports that businesses and school districts submit). As discussed in Chapter 1, statute does not require school districts to verify the information on annual eligibility reports and biennial progress reports, and Jim Ned CISD did not perform verifications.

Jim Ned CISD hired a consultant to assist in the administration of the agreement, including addressing reporting requirements, compiling information that FPL Energy Horse Hollow Wind reported, and performing annual calculations of revenue protection payments and payments in lieu of taxes that the agreement required.

Examples of information in the reports that FPL Energy Horse Hollow Wind submitted included:

- Market value and taxable value of property covered under the agreement. (Correctly specifying those values is significant to ensuring that the property tax revenue amount not collected is calculated accurately because that affects the amount of state funding a school district receives each tax year).
- Total and qualified investment amounts. (Businesses are required to make certain qualified investments in personal property that will be used with property under an agreement. See Appendix 6 for more information on qualified investments).

- The number of qualifying jobs FPL Energy Horse Hollow Wind committed to create on the amended application and the number of qualifying jobs that FPL Energy Horse Hollow Wind actually created, as well as whether the number of jobs created complied with statutory requirements. (Businesses are required to create qualifying jobs. See Appendix 6 for more information on qualified jobs and job-creation requirements).

The annual eligibility reports and biennial progress reports provided inconsistent information.

Auditors identified (1) discrepancies in the annual eligibility reports and biennial progress reports that FPL Energy Horse Hollow Wind submitted to Jim Ned CISD for tax years 2010 and 2012 and (2) the use of incorrect wage data for tax years 2009 through 2013. Specifically:

- FPL Energy Horse Hollow Wind reported in its annual eligibility report for tax year 2012 that the market value of the qualified property was \$113,489,580. However, its biennial progress report for tax year 2012 specified that the market value of the qualified property was \$115,410,307 for tax year 2012.
- FPL Energy Horse Hollow Wind reported in its annual eligibility report for tax year 2010 that the market value of the qualified property was \$151,344,226. However, its biennial progress report for tax year 2010 specified that the market value of the qualified property was \$157,269,477 for tax year 2010.
- FPL Energy Horse Hollow Wind used 2005 quarterly industry wage data for Nolan County to report the minimum required annual wage for each qualifying job in its annual eligibility reports for tax years 2009 through 2013. However, Jim Ned CISD is located in Taylor County.

The Office of the Comptroller of Public Accounts (1) requires businesses to submit the annual eligibility report and biennial progress reports to the school districts by May 15 and (2) requires the school districts to submit those reports to the Office of the Comptroller of Public Accounts by June 15 of each year for which reports are required.

Jim Ned CISD reported certain information that was inconsistent with (1) information that FPL Energy Horse Hollow Wind reported and (2) information that the Taylor County Appraisal District reported.

Jim Ned CISD submitted all biennial cost reports to the Office of the Comptroller of Public Accounts, as required (see Appendix 7 for more information on required reports that businesses and school districts submit). However, auditors identified discrepancies between the market values in those biennial cost reports and the annual eligibility reports that FPL Energy Horse Hollow Wind submitted to Jim Ned CISD for tax years 2010 and 2012.

(Those discrepancies were the same inconsistencies in information discussed above, and they indicate that Jim Ned CISD did not make corrections before it submitted the biennial cost reports to the Office of the Comptroller of Public Accounts.)

In addition, the market values that FPL Energy Horse Hollow Wind and Jim Ned CISD reported on their reports are not consistent with the market values that the Taylor County Appraisal District reported for tax years 2010 and 2012. However, Jim Ned CISD's consultant asserted that these inconsistencies could be explained by differences in timing. For example, the Office of the Comptroller of Public Accounts requires school districts to submit biennial cost reports by July 15 of each even-numbered year, and the Taylor County Appraisal District completed its reporting of market values in October and November for tax years 2010 and 2012.

Recommendation

Jim Ned CISD should ensure that the annual eligibility reports and biennial progress reports it receives contain consistent information before it submits those reports to the Office of the Comptroller of Public Accounts.

Management's Response

Jim Ned CISD will develop an in-house system to ensure that eligibility and progress reports contain consistent information before submitting reports to the Comptroller of Public Accounts. However, the District has no control over how the Appraisal District reports values and must follow the reporting deadlines set forth in Comptroller rules.

Chapter 3-D

Processing Tax Credits

Jim Ned CISD paid tax credits directly to FPL Energy Horse Hollow Wind instead of applying tax credits to FPL Energy Horse Hollow Wind's future property tax bills as required by statute.

Jim Ned CISD did not comply with statute regarding how it should provide tax credits to FPL Energy Horse Hollow Wind. Texas Tax Code, Section 313.104, required Jim Ned CISD to direct the tax assessor-collector for the school district to apply the tax credits against the future taxes imposed on the qualified property. However, at the direction of the Texas Education Agency, Jim Ned CISD paid tax credits directly to FPL Energy Horse Hollow Wind. Jim Ned CISD paid \$322,044 in tax credits directly to FPL Energy Horse Hollow Wind for tax years 2010 through 2014. Throughout the life of the agreement, FPL Energy Horse Hollow Wind is eligible to receive a total of \$4,110,664 in tax credits under Texas Tax Code, Section 313.102.

The Jim Ned CISD school board did not approve the tax credits in accordance with statutory requirements.

Jim Ned CISD did not comply with a requirement in Texas Tax Code, Section 313.104, for its school board to sign an order or resolution approving the FPL Energy Horse Hollow Wind's application for tax credits (those tax credits totaled \$4,110,664). FPL Energy Horse Hollow Wind submitted its tax credit application on August 26, 2009. Although the Jim Ned CISD school board prepared a resolution dated January 11, 2011, to approve the application, none of the members of the school board signed that resolution. Jim Ned CISD did not pay any tax credits to FPL Energy Horse Hollow Wind prior to the creation of the unsigned resolution; however, it paid a total of \$322,044 in tax credits without a signed resolution indicating school board approval.

As stated in Chapter 3-B, the agreement did not have provisions regarding tax credits, and Jim Ned CISD did not have policies and procedures to administer tax credits to help ensure that it complied with statutory requirements.

Recommendations

Jim Ned CISD should:

- Comply with statute related to tax credits, and direct the tax assessor-collector to apply the amount of tax credits against the future property taxes imposed on the property subject to an agreement.
- Develop and implement policies and procedures related to administering tax credits.
- Ensure that its school board approves applications for tax credits in accordance with statutory requirements prior to granting tax credits to businesses.

Management's Response

Absence of a copy of a signed resolution does not prove that the Board did not approve the tax credit.

Under Section 42.2515 of the Education Code should a tax credit be owed, the TEA rule calls for the school district to submit "A copy of the tax bill sent to the taxpayer (showing the credit) or other proof that the school has reimbursed the tax credit to the taxpayer." However, the TEA procedures for the processing of tax credits currently in place require the District to present the Agency with proof of actual payment to the company of the tax credit amount as a prerequisite for reimbursement to the District, in lieu of a copy of a tax bill. Jim Ned CISD has been in compliance with the process imposed by TEA. Jim Ned CISD will continue to work with its consultants and attorneys to

ensure that all Chapter 313 agreements and procedures meet all requirements as specified by all codes and laws of the state of Texas.

Chapter 3-E

Disclosing Conflicts of Interest

Jim Ned CISD had policies and procedures to identify and report conflicts of interest between Jim Ned CISD, the business, and/or other parties involved in its agreements. However, Jim Ned CISD did not enforce its policy to require its consultant to submit a conflict of interest disclosure questionnaire. Jim Ned CISD's purchasing policy in effect at the time required that vendors submit a conflict of interest disclosure questionnaire not later than seven days after beginning contract discussions, beginning negotiations, or submitting a potential agreement with the school district.

Jim Ned CISD's conflict of interest policies included all statutory requirements in Texas Local Government Code, Chapters 171 and 176. However, those policies do not require the filing of disclosure statements on a regular basis or affirmations that conflicts do not exist on an annual basis. In addition, Jim Ned CISD's policies and disclosure forms are not specific to agreements.

Recommendations

Jim Ned CISD should:

- Ensure that its consultants follow its conflict of interest disclosure policies.
- Consider including a requirement in its conflict of interest policies requiring completion of a conflict of interest disclosure form on an annual basis to confirm whether a conflict exists.

Management's Response

Since inception of the Chapter 313 agreements, the decision makers for Jim Ned CISD have been compliant with all conflict of interest policies. Jim Ned CISD will continue to abide by all conflict of interest policies found both in JCISD board policy and the state of Texas.

Administrative Processes

Opportunities exist for Jim Ned CISD to strengthen certain administrative processes. While the following items may not be material to determining compliance with statute, they are significant to Jim Ned CISD's management of its agreement:

- Auditors identified inconsistencies between (1) the market values that Jim Ned CISD reported on its biennial cost reports and (2) the corresponding values that its consultant used to calculate revenue protection payments and payments in lieu of taxes for tax years 2009 through 2012. In addition, the gross tax savings that Jim Ned CISD reported on its biennial cost reports were not consistent with (1) the corresponding values that its consultant used to calculate revenue protection payments and (2) payments in lieu of taxes for tax years 2011 and 2012. That occurred because Jim Ned CISD did not compare that information. Furthermore, although auditors did identify incorrect payments of required revenue protection payments and payments in lieu of taxes, Jim Ned CISD did not review its consultant's calculations to ensure that FPL Energy Horse Hollow Wind paid the correct amounts. Jim Ned CISD does not have policies and procedures for reviewing information related to revenue protection payments and payments in lieu of taxes.
- Jim Ned CISD established a \$75,000 application fee that complied with its policy. Although FPL Energy Horse Hollow Wind paid that fee, it did not pay that fee when it submitted its application, as required by Texas Tax Code, Section 313.025(a).
- After it received notification of this audit, Jim Ned CISD established a link on its Web site to the Office of the Comptroller of Public Accounts' Web site, as required by Texas Tax Code, Section 313.0265(c).

Recommendations

Jim Ned CISD should:

- Develop and implement policies and procedures for (1) reviewing its consultant's calculations for revenue protection payments and payments in lieu of taxes and (2) ensuring consistency in the information that it reports on its biennial cost reports and the information that its consultant uses to calculate revenue protection payments and payments in lieu of taxes.
- Collect required application fees in accordance with statute.

Management's Response

Jim Ned CISD notes the recommended procedures and will continue to investigate procedures that will enable JCJSD to maintain compliance with all required policies and statutes.

Southwest Independent School District Agreement with Toyota Motor Manufacturing, Texas, Inc.

Background Information on the Agreement with the Southwest Independent School District ^a	
Business	Toyota Motor Manufacturing, Texas, Inc.
Application number	18
Business category	Manufacturing
County	Bexar
Term of agreement	January 1, 2005, through December 31, 2017
Appraisal limitation	\$10,000,000
Tax year 2014 appraised value	\$569,601,198
Net tax benefit business received based on the 2014 Biennial Cost Data Request Form ^b	\$29,406,140
Number of qualifying jobs created as reported by the business (as of December 31, 2014) ^b	2,409 according to annual eligibility report or 2,539 according to biennial progress report
Total tax credits business is eligible to receive	\$2,159,679
Other tax abatements and other economic development incentives business received: ^a	
	<ul style="list-style-type: none"> • State: Sales and use tax exemption, franchise tax credits, road construction and improvements, funding for training and other activities, and funding for workforce development services. • County: Real estate and personal property tax abatements, road access and improvements, and railroad construction and improvements. • City: Conveyance of the project site property; reimbursement of site preparation costs; reimbursement of training center construction costs; extension of utility lines; and most favored firm, non-interruptible, full-service utility rates.
Revenue protection payments school district received from business (as of December 31, 2014) ^b	\$579,898
Payments in lieu of taxes school district received from business (as of December 31, 2014)	\$2,000,000
^a See Appendix 2 for more detailed information.	
^b Auditors noted discrepancies in some of the amounts reported, see Chapter 4-C for details.	

Sources: The Office of the Comptroller of Public Accounts, Southwest ISD, and the Bexar County Appraisal District.

This chapter covers the agreement between the Southwest Independent School District (Southwest ISD) and Toyota Motor Manufacturing, Texas, Inc. (Toyota). Southwest ISD executed the agreement with Toyota in compliance with Texas Tax Code, Section 313.027.

Toyota certified that it complied with certain requirements of Texas Tax Code, Chapter 313, and Southwest ISD accepted that certification. As discussed in Chapter 1, statute does not require school districts to verify that information, and Southwest ISD did not perform verifications of information Toyota provided in its application for the agreement or periodic reports.

The maximum property value on which property covered by the agreement with Toyota can be taxed for the maintenance and operations portion of property taxes is \$10,000,000. The appraised value of the property for tax year 2014 was \$569,601,198 (see text box for additional information).

The appraisal limitation ended in tax year 2014, and the property covered under the agreement will be fully taxable for Southwest ISD's maintenance and operations tax purposes starting in tax year 2015. The agreement requires Southwest ISD to pay Toyota tax credits under the agreement through tax year 2015.

Toyota is obligated per the agreement to maintain a viable presence in the school district through tax year 2018. (See Appendix 5 for more information

on the timeline of Texas Tax Code, Chapter 313 agreements).

Table 3 provides information on the appraised value of the property under the agreement.

Table 3

Toyota Motor Manufacturing, Texas, Inc. Property Appraised Value Compared to Appraisal Limitation Value January 2005 through December 2014			
Tax Year	Agreement Year	Appraised Value	Appraisal Limitation Value ^a (Taxable Value for Maintenance and Operations Property Taxes Purposes)
2005	1	\$19,100,577	No limitation
2006	2	\$157,697,235	No limitation
2007	3	\$679,552,310	\$10,000,000
2008	4	\$710,307,490	\$10,000,000
2009	5	\$518,156,180	\$10,000,000
2010	6	\$465,627,880	\$10,000,000
2011	7	\$585,316,717	\$10,000,000
2012	8	\$546,820,210	\$10,000,000
2013	9	\$577,619,705	\$10,000,000
2014	10	\$569,601,198	\$10,000,000

^a The appraisal limitation became effective in the third year of the agreement and applies only to the maintenance and operations portion of Southwest ISD's property tax. The property remains fully taxable for purposes of any Southwest ISD debt service tax during the term of the agreement.

Sources: The Bexar County Appraisal District, the Office of the Comptroller of Public Accounts, and Southwest ISD.

The remainder of this chapter provides information on the following:

- Processing applications for agreements.
- Developing the agreement.
- Monitoring compliance.
- Processing tax credits.
- Disclosing conflicts of interest.
- Administrative processes.

Processing Applications for Agreements

Southwest ISD relied primarily on information provided in Toyota's application.

Southwest ISD documented its determination of how the agreement with Toyota would comply with the purpose and intent of Texas Tax Code,

Chapter 313. (See text box for additional information about the Toyota application). To make that determination, Southwest ISD relied primarily on certified information that Toyota provided in its original and amended applications for an agreement. Examples of that information included:

Application for Appraisal Limitation

Toyota submitted its original application to the Southwest ISD school board on September 4, 2003. Toyota submitted amended applications to Southwest ISD in April 2004 and June 2004 to revise the investment amount and the first year of the qualifying time period. The original and amended applications included:

- Survey maps and survey field notes.
- An economic impact report prepared by a subcontractor of Southwest ISD's consultant.

Southwest ISD submitted the original and amended applications to the Office of the Comptroller of Public Accounts, as required by statute. In letters dated October 31, 2003, and July 14, 2004, the Office of the Comptroller of Public Accounts recommended that the original and amended applications be favorably considered.

The Southwest ISD school board issued its findings related to the effect of the Toyota appraisal limitation on Southwest ISD, as required by statute, and approved the agreement on August 16, 2004.

Sources: The Office of the Comptroller of Public Accounts and Southwest ISD.

- The relationship between (1) the automotive industry and the types of qualifying jobs to be created and (2) the long-term economic growth plans of the State.
- The ability of Toyota to locate in or relocate to another state or another region of Texas.
- The qualified investment to be made during the qualifying time period and the anticipated total investment for the project.
- The number of qualifying jobs to be created, the wages to be paid for each job, and the types of employee benefits Toyota would offer.

Texas Tax Code, Section 313.025(f), states that a school district may approve an application only if it finds that the information in the application is true and correct, finds that the applicant is eligible for the limitation on the appraised value, and determines that granting the application is in the best interest of the school district and the State.

Developing the Agreement

Southwest ISD ensured that the agreement included all provisions that statute required and that its school board approved the agreement. However, the agreement did not include certain provisions that would increase accountability and transparency.

The agreement did not include provisions that described the agreed-upon qualified investment amount and the number of jobs to be created.

The qualified investment amount that Toyota committed to make and the anticipated number of jobs to be created were documented in the original and amended applications, rather than in the agreement. Toyota committed to a qualified investment of \$573,000,000 and anticipated creating 2,000 jobs in its

amended application. However, the agreement did not explicitly state that the original and amended applications were part of the agreement.

Texas Tax Code, Section 313.027(e), requires agreements to describe with specificity the qualified investment that the business will make on or in connection with the qualified property that is subject to the appraisal limitation. Other property that is not specifically described in the agreement is not subject to the limitation unless the governing body of the school district, by official action, provides that the other property is subject to the limitation.

A provision of the agreement allowed the agreement to be transferred to an affiliate or a new business, but it did not specify that the affiliate or new business must meet Texas Tax Code, Chapter 313, eligibility requirements.

The agreement allowed Toyota to transfer the agreement to an affiliate (as defined by Section 1.3 of the agreement) or to another business. Specifically, Section 8.3 of the agreement stated:

[Toyota] may assign [the agreement] to an Affiliate or to a new owner or lessee of all or a portion of [Toyota's] interest in [Toyota's] Qualified Property and/or [Toyota's] Qualified Investment, provided that [Toyota] shall give the [school district] and other Parties written notice of such assignment.

Although Southwest ISD must be notified of the transfer of the agreement to an affiliate or new business, the agreement did not specify that the affiliate or new business must be eligible to receive an agreement. As a result, there is a risk that the agreement could be transferred to a business that does not meet the eligibility requirements in Texas Tax Code, Chapter 313.

The agreement did not include performance standards or require periodic deliverables to enable Southwest ISD to verify whether Toyota met its commitments.

As discussed above, the original and amended applications for the agreement specified the qualified investment that Toyota committed to make and the number of jobs it committed to create. However, the agreement did not require Toyota to report its progress toward meeting those commitments.

Toyota submitted its annual eligibility and biennial progress reports in compliance with requirements that the Office of the Comptroller of Public Accounts established in 2010 (see Chapter 4-C for more information about the reports). However, the Southwest ISD school board approved the agreement with Toyota in 2004, approximately six years before the Office of the Comptroller of Public Accounts established those requirements. The agreement did not include provisions that required Toyota to submit any periodic performance reports or deliverables to enable Southwest ISD to monitor compliance.

Without specifying performance standards or periodic deliverables to monitor progress, Southwest ISD did not have a defined methodology to obtain assurances that Toyota fulfilled the requirements of the agreement and complied with Texas Tax Code, Chapter 313.

Recommendations

Southwest ISD should consider amending the agreement to include:

- All information related to the agreed-upon investment amounts and the anticipated number of jobs to be created; alternatively, it should explicitly state in the agreement that the information in the related original and amended applications is incorporated into the agreement.
- Provisions that require Southwest ISD to assess and approve the eligibility of any business to which an agreement is transferred.
- Performance standards or requirements for the business to periodically submit deliverables that will enable Southwest ISD to verify whether Toyota met its commitments.

Management's Response

- *Southwest ISD will reference investment and job information in the original and amended applications in future Chapter 313 agreements.*
- *Southwest ISD will include provisions requiring Southwest ISD to approve the eligibility of any business to which any future Chapter 313 agreement is transferred.*
- *Southwest ISD will require businesses to submit information which will allow Southwest ISD to verify that commitments listed in future Chapter 313 agreements have been met.*

Chapter 4-C

Monitoring Compliance

Southwest ISD's monitoring relied primarily on information that Toyota certified on annual eligibility reports and biennial progress reports that neither the school district nor its consultant verified.

Toyota submitted annual eligibility reports and biennial progress reports to Southwest ISD as required by the Office of the Comptroller of Public Accounts (see Appendix 7 for more information on required reports that businesses and school districts submit). As discussed in Chapter 1, statute does not require school districts to verify the information on annual eligibility

reports and biennial progress reports, and Southwest ISD did not perform verifications.

Southwest ISD hired a consultant to assist in the administration of the agreement, including addressing reporting requirements, compiling information that Toyota reported, and performing annual calculations of revenue protection payments that the agreement required.

Examples of information in the reports that Toyota submitted included:

- Market value and taxable value of property covered under the agreement. (Correctly specifying those values is significant to ensuring that the property tax revenue amount not collected resulting from the agreements is calculated accurately because that affects the amount of state funding a school district receives each tax year).
- Total and qualified investment amounts. (Businesses are required to make certain qualified investments in personal property that will be used with property under an agreement. See Appendix 6 for more information on qualified investments).
- The number of qualifying jobs Toyota committed to create on the amended application and the number of qualifying jobs that Toyota actually created, as well as whether the number of jobs created complied with statutory requirements. (Businesses are required to create qualifying jobs. See Appendix 6 for more information on qualified jobs and job-creation requirements).

The annual eligibility reports and biennial progress reports provided inconsistent information.

Auditors identified discrepancies in the annual eligibility reports and biennial progress reports that Toyota submitted to Southwest ISD for tax years 2009 through 2013. Specifically:

- Toyota reported different totals in tax years 2009, 2011, 2012, and 2013 for the number of jobs created. For example, Toyota reported that it created 2,539 jobs in tax year 2013 in its annual eligibility report, but it reported that it created 2,409 jobs in tax year 2013 in its biennial progress report.
- Toyota reported in its annual eligibility report for tax year 2009 that the market value of the qualified property was \$504,000,000. However, its biennial progress report for tax year 2009 specified that the market value of the qualified property was \$432,768,000 for tax year 2009. Toyota reported consistent market values for the qualified property for tax years 2010 through 2013.

The Office of the Comptroller of Public Accounts (1) requires businesses to submit the annual eligibility report and biennial progress reports to the school districts by May 15 and (2) requires the school districts to submit those reports to the Office of the Comptroller of Public Accounts by June 15 of each year for which reports are required.

Southwest ISD reported certain information that was inconsistent with (1) information that Toyota reported and (2) information that the Bexar County Appraisal District reported.

Southwest ISD submitted all biennial cost reports to the Office of the Comptroller of Public Accounts, as required (see Appendix 7 for more information on required reports that businesses and school districts submit). However, as discussed above, Toyota reported in its annual eligibility report for tax year 2009 that the market value of the qualified property was \$504,000,000, but its biennial progress report for tax year 2009 specified that the market value of the qualified property was \$432,768,000 for tax year 2009. Southwest ISD did not correct that discrepancy before it submitted the biennial cost reports to the Office of the Comptroller of Public Accounts.

In addition, the market values that Toyota and Southwest ISD reported on their annual and biennial reports were not consistent with the market values that the Bexar County Appraisal District reported for tax years 2009 through 2013. However, Southwest ISD's consultant asserted that those inconsistencies could be explained by timing. For example, the Office of the Comptroller of Public Accounts requires school districts to submit biennial cost reports by July 15 of each even-numbered year, and the Bexar County Appraisal district completed its reporting of market values in October and November for tax years 2009 through 2013.

Recommendation

Southwest ISD should ensure that the annual eligibility reports and biennial progress reports it receives contain consistent information before it submits those reports to the Office of the Comptroller of Public Accounts.

Management's Response

Southwest ISD will work with its consultant to ensure that information similar in nature submitted to the Office of the Comptroller of Public Accounts from annual and biennial information is consistent.

Processing Tax Credits

Southwest ISD complied with statute and directed the Bexar County Tax Assessor-Collector to apply \$1,851,148 in tax credits to Toyota's future property tax bills for tax years 2008 through 2013. Throughout the life of the agreement, Toyota is eligible to receive \$2,159,679 in total tax credits under the agreement.

Southwest ISD also ensured that its school board approved the tax credits and certified that Toyota did not relocate outside of the school district, as required by statute.

Disclosing Conflicts of Interest

Southwest ISD had policies and procedures to identify and report conflicts of interest between Southwest ISD, the business, and/or other parties involved in its agreement. However, Southwest ISD did not always follow those policies and procedures. Specifically:

- Southwest ISD did not enforce its procedure to require its consultant to submit a conflict of interest disclosure questionnaire. The procedure required vendors to submit a conflict of interest disclosure questionnaire as part of a vendor packet.
- Southwest ISD did not maintain annual conflict of interest forms from members of its school board for fiscal years 2009 and 2010. The auditing firm that stored those forms is no longer in operation, and Southwest ISD did not retain copies.

Southwest ISD's conflict of interest policies included all statutory requirements in Texas Local Government Code, Chapters 171 and 176. However, those policies do not require the filing of disclosure statements on a regular basis or affirmations that conflicts do not exist on an annual basis. In addition, Southwest ISD's conflict of interest policies and disclosure forms are not specific to agreements.

Recommendations

Southwest ISD should:

- Ensure that its vendors follow its conflict of interest disclosure procedures.
- Maintain the completed conflict of interest forms that its policies and procedures require.

- Consider including a requirement in its conflict of interest policies requiring completion of a conflict of interest disclosure form on an annual basis to confirm whether a conflict exists.

Management's Response

Southwest ISD ensures that it follows applicable conflict of interest disclosures outlined in Chapter 176 of the Government Code.

Chapter 4-F

Administrative Processes

Opportunities exist for Southwest ISD to strengthen certain administrative processes. While the following items may not be material to determining compliance with statute, they are significant to Southwest ISD's management of its agreement:

- Southwest ISD did not receive a net total of \$358,063 in required revenue protection payments. That occurred because Southwest ISD did not review its consultant's calculations and ensure that Toyota paid required revenue protection payments in the correct amount. Specifically:
 - ♦ Southwest ISD did not bill Toyota for revenue protection for tax years 2007 through 2009, as required by the agreement. During this audit, Southwest ISD's consultant calculated that Toyota should have paid Southwest ISD \$578,767 in revenue protection payments for those years.
 - ♦ The school district's consultant did not calculate the revenue protection payments that Toyota paid Southwest ISD for tax years 2013 and 2014 according to the methodology in the agreement. During this audit, Southwest ISD's consultant calculated that Toyota overpaid Southwest ISD by \$220,704 for those years.
- In addition auditors identified inconsistencies between (1) the market values and gross tax savings that Southwest ISD reported on its biennial cost reports and (2) the corresponding values that its consultant used to calculate revenue protection payments for tax years 2010 through 2013. That occurred because Southwest ISD did not compare that information. Southwest ISD does not have policies and procedures for reviewing information related to revenue protection payments.
- Southwest ISD asserted that it destroyed some documentation associated with the agreement in accordance with its record retention policy. As a result, Southwest ISD did not have supporting documentation for decisions it made regarding its application fee and its use of the revenue

protection payments and payments in lieu of taxes that it received through the agreement.

- Southwest ISD established a \$165,000 application fee after it had received the application for the agreement. Therefore, although Toyota paid that fee, it did not pay that fee when it submitted its application, as required by Texas Tax Code, Section 313.025(a).
- Southwest ISD established a link on its Web site to the Office of the Comptroller of Public Accounts' Web site, as required by Texas Tax Code, Section 313.0265(c).

Recommendations

Southwest ISD should:

- Develop and implement policies and procedures for (1) reviewing its consultant's calculations for revenue protection payments and (2) ensuring consistency in the information that it reports on its biennial cost reports and the information that its consultant uses to calculate revenue protection payments.
- Consider revising its record retention schedule to maintain documentation for the life of the agreement.
- Collect required application fees in accordance with statute.

Management's Response

- *Southwest ISD will implement procedures for reviewing calculations for revenue protection payments and ensure that information similar in nature used to calculate revenue protection payments is consistent.*
- *Southwest ISD will continue to follow Texas State Records Retention Schedule.*
- *Southwest ISD will require application fees in accordance with statute in future Chapter 313 agreements.*

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to:

- Determine whether selected major agreements under the Texas Economic Development Act:
 - Accomplish the purposes of Texas Tax Code, Section 313.003.
 - Comply with the intent of the Legislature in enacting Texas Tax Code, Section 313.004.
 - Were executed in compliance with the provisions of Texas Tax Code, Chapter 313.
- Determine whether there are ways to increase the efficiency and effectiveness of the administration of the Texas Economic Development Act.

Scope

The scope of this audit covered selected applications and appraisal limitation agreements (agreements) processed from September 1, 2003, through December 31, 2014.

Methodology

The audit methodology included selecting three school districts with agreements to audit. Auditors selected the agreements using information reported by the businesses with agreements, including estimated net tax benefit to the business as a result of the appraisal limitation, total gross savings for the business due to the appraisal limitation and tax credits, number of jobs the business reported that it created compared with the number of jobs it committed to create, and the qualified investment the business made. Auditors also considered school districts that had agreements with the same business for a project that was physically located in multiple school districts. The three agreements selected included:

- An agreement between the Blackwell Consolidated Independent School District (Blackwell CISD) and FPL Energy Horse Hollow Wind for property used in renewable energy electric generation (a wind farm).

- An agreement between the Jim Ned Consolidated School District (Jim Ned CISD) and FPL Energy Horse Hollow Wind for property used in the same wind farm discussed above.
- An agreement between the Southwest Independent School District (Southwest ISD) and Toyota Motor Manufacturing, Texas, Inc. for property used in manufacturing.

The audit methodology also included testing applications, agreements, progress reports, and tax credit documentation, and conducting interviews with school districts, consultants, county tax assessor-collector staff, and county appraisal district staff.

In addition, the audit methodology included collecting information and documentation, performing selected tests and other procedures, analyzing and evaluating the results of the tests, and conducting interviews with the Office of the Comptroller of Public Accounts' management and staff.

Data Reliability

Auditors' assessment of the reliability of (1) the agreement data from the Office of the Comptroller of Public Accounts that it used to prepare the January 2015 *Report of the Texas Economic Develop Act* and (2) property tax data from the Office of the Comptroller of Public Accounts' Property Tax System was based on prior audit work performed and performing limited review of the data for reasonableness and completeness. Auditors determined that the data was sufficiently reliable for the purposes of this audit.

Auditor's assessment of the reliability of the additional state aid payment data from the Texas Education Agency's Foundation School Program System relied on prior audit work performed. Auditors determined that data was sufficiently reliable for the purposes of this audit.

Information collected and reviewed included the following:

- Agreements between school districts and businesses.
- Application documentation, including economic impact evaluations, school district financial projections, school board findings, recommendations, and correspondence from the Office of the Comptroller of Public Accounts to school districts.
- Minutes from school districts' school board meetings.
- Annual eligibility reports, biennial progress reports, biennial cost data request reports, and the Office of the Comptroller of Public Accounts' *Report on Value Loss Because of Value Limitations Under Tax Code Chapter 313*.

- Conflict of interest statements signed by selected school districts' school board members and management.
- Tax credit applications, requests for additional state aid, property tax bills, property tax receipts, and tax credit payments.
- Agreements between school districts and consultants.
- Property tax data reported to the Office of the Comptroller of Public Accounts for tax years 2005 to 2014.
- Agreement data and biennial progress data used to develop the Office of the Comptroller of Public Accounts' *Report of the Texas Economic Development Act*, January 2015.
- Additional state aid payment data for tax years 2006 through 2013.

Procedures and tests conducted included the following:

- Interviewed members of each selected school districts' school board, management, staff, consultants, county appraisal district, and county tax assessor-collector.
- Interviewed management and staff of the Office of the Comptroller of Public Accounts.
- Reviewed school district policies and procedures.
- Reviewed school board meeting minutes.
- Reviewed conflict of interest statements prepared by members of school boards and school district management.
- Reviewed application documentation.
- Reviewed agreement terms and conditions.
- Reviewed consultant contracts with school districts.
- Reviewed annual eligibility reports, biennial progress reports, and biennial cost data request reports for selected agreements.
- Reviewed tax credit applications, tax receipts, tax bills, and tax credit payments.

Criteria used included the following:

- Texas Tax Code, Chapters 171 and 313.
- Texas Local Government Code, Chapters 171 and 176.

- Texas Education Code, Chapters 41 and 42.
- Title 34, Texas Administrative Code, Chapter 9.
- Title 10, Texas Administrative Code, Chapter 178.
- Title 19, Texas Administrative Code, Chapter 61.
- Selected school districts' policies and procedures.
- Agreements between selected school districts and businesses.
- Agreements between selected school districts and consultants.

Project Information

Audit fieldwork was conducted from January 2015 through June 2015. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Jennifer Lehman, MBA, CIA, CFE, CGAP (Project Manager)
- Anna Howe (Assistant Project Manager)
- Nathan Beavers
- Brady Bennett, MBA, CFE
- Cheryl Durkop, CFE
- Naima Hafeez
- Tammie Wells, MBA
- Colleen F. West
- Tony White, CFE
- Dennis Ray Bushnell, CPA (Quality Control Reviewer)
- Verma Elliott, MBA, CPA, CIA, CGAP (Audit Manager)

Selected Information on the Three School Districts Audited

Table 4 presents selected background and financial information related to the appraisal limitation agreements (agreements) at the three school districts audited:

- The Blackwell Consolidated Independent School District's (Blackwell CISD) agreement with FPL Energy Horse Hollow Wind GP, LLC, and FPL Energy Horse Hollow Wind II GP, LLC (referred to in this report as FPL Energy Horse Hollow Wind).
- The Jim Ned Consolidated Independent School District's (Jim Ned CISD) agreement with FPL Energy Horse Hollow Wind.
- The Southwest Independent School District's (Southwest ISD) agreement with Toyota Motor Manufacturing, Texas, Inc. (Toyota).

Table 4

Background Information on the Agreements Audited			
	Agreements		
	Blackwell CISD Agreement with FPL Energy Horse Hollow Wind	Jim Ned CISD Agreement with FPL Energy Horse Hollow Wind	Southwest ISD Agreement with Toyota
Application Number	30	29	18
Business Category	Renewable energy electric generation (wind farm)	Renewable energy electric generation (wind farm)	Manufacturing
County(ies)	Taylor and Nolan	Taylor	Bexar
Type of School District	Rural	Rural	Rural
Agreement Execution Date	December 28, 2006	December 28, 2006	August 16, 2004
Length of Agreement	January 1, 2007, through December 31, 2019	January 1, 2007, through December 31, 2019	January 1, 2005, through December 31, 2017
Appraisal Limitation	\$10,000,000	\$5,000,000	\$10,000,000
Tax Year 2014 Appraised Value	\$241,761,024	\$86,698,820	\$569,601,198
Net Tax Benefit to Business (reported on the 2014 Biennial Cost Data Request Form)	\$11,156,442	\$4,093,625	\$29,406,140
Projected Total Net Tax Benefit to Business	\$18,476,929	\$7,899,454	\$33,936,815

Background Information on the Agreements Audited

	Agreements		
	Blackwell CISD Agreement with FPL Energy Horse Hollow Wind	Jim Ned CISD Agreement with FPL Energy Horse Hollow Wind	Southwest ISD Agreement with Toyota
Number of Qualifying Jobs Created as Reported by the Business (as of December 31, 2014)	10	10	2,409 according to annual eligibility report 2,539 according to biennial progress report ^a
Projected Qualified Jobs to Be Created	10	10	2,000
Projected Total Net Tax Benefit per Qualifying Job Created (calculated by auditors)	\$1,847,693	\$789,945	Between \$14,088 and \$13,366
Total Tax Credits Paid (as of December 31, 2014)	\$853,390	\$322,044	\$1,851,148
Total Tax Credits the Business is Eligible to Receive	\$12,489,353	\$4,110,664	\$2,159,679
Total Projected Investment	\$600,000,000	\$210,000,000	\$573,000,000
Qualified Investment as Reported by the Business (as of December 31, 2014)	\$539,306,507	\$210,000,000	\$1,177,914,001
Revenue Protection Payments School District Received from Business (as of December 31, 2014)	\$799,172	\$250,364	\$579,898
Supplemental Payments School District Received from Business (as of December 31, 2014)	\$8,333,974 ^b	\$3,079,012 ^c	\$2,000,000 ^d

Background Information on the Agreements Audited

	Agreements		
	Blackwell CISD Agreement with FPL Energy Horse Hollow Wind	Jim Ned CISD Agreement with FPL Energy Horse Hollow Wind	Southwest ISD Agreement with Toyota
Other Tax Abatements and Other Economic Development Incentives Business Received	Property tax abatements from Nolan County ^e Property tax abatements from Nolan County Hospital District ^f	None	State: Sales and use tax exemption; franchise tax credits; road construction and improvements; funding for training cost and activities; and funding towards workforce development services. ^g County: Real estate and personal property tax abatements; road access and improvements; and railroad construction and improvements. ^h City: Conveyance of the project site property; reimbursement of site preparation costs; reimbursement of training center construction costs; water and sewage extension lines, wastewater treatment, natural gas lines, and electrical transmission lines at no cost; and most favored firm, non-interruptible full-service utility rates. ⁱ

^a In its annual eligibility report, Toyota reported that it created 2,409 qualifying jobs; in its biennial progress report, Toyota reported that it created 2,539 qualifying jobs.

^b Article IV of the agreement required FPL Energy Horse Hollow Wind to make annual payments to Blackwell CISD in amounts equal to 40 percent of the net tax benefit that FPL Energy Horse Hollow Wind receives as a result of the agreement for tax years 2009 through 2019.

^c Article IV of the agreement required FPL Energy Horse Hollow Wind to make annual payments to Jim Ned CISD in amounts equal to 40 percent of the net tax benefit that FPL Energy Horse Hollow Wind receives as a result of the agreement for tax years 2009 through 2019.

^d Article IV of the agreement required Toyota to make a one-time payment of \$2,000,000 in tax year 2007 to Southwest ISD.

^e Effective in 2007, Nolan County provided a 60 percent tax abatement on the market value of the property under the agreement for the first 5 years, and a 40 percent tax abatement on the market value of the property under the agreement for the subsequent 5 years.

^f Effective in 2008, the Nolan County Hospital District completely exempted the market value of the property under the agreement from taxation. The Nolan County Hospital District bills FPL Energy Horse Hollow Wind directly for payments in lieu of taxes.

^g The State of Texas provided Toyota with various sales and use tax exemptions and franchise tax credits with assistance from the Office of the Comptroller of Public Accounts; road access and improvements with assistance from the Department of Transportation; up to \$15 million for training costs and activities from the Office of the Governor; and up to \$27,250,000 for workforce development services from the Texas Workforce Commission.

^h Bexar County abated all real estate and personal property ad valorem taxes, other than those imposed on behalf of the Bexar County Hospital District and the Flood Control District, for a period of 10 years following substantial completion of construction; provided road access and improvements from funds received from the Department of Transportation; and constructed and completed railroad improvements from funds received from the Office of the Governor.

ⁱ The City of San Antonio provided conveyance of the project site; reimbursement of site preparation costs up to \$10 million; water and sewage extension lines and wastewater treatment services from the San Antonio Water System; construction and installation of natural gas lines, electric transmission and distribution lines, and favored utility rates from the City Public Service; and reimbursement of up to \$3 million for the construction of a training center.

Sources: Information from school districts, county appraisal districts, and the Office of the Comptroller of Public Accounts.

Summary of Additional State Aid Paid (Tax Credits) and Projected to Be Paid from Tax Years 2006 Through 2031

According to Texas Education Code, Section 42.2515, the Texas Education Agency may provide additional state aid payments to school districts through the school finance system for tax credits that school districts issue to businesses with which they have appraisal limitation agreements (agreements). The estimated tax credits total approximately \$688 million from tax year 2006 through tax year 2031.

The Office of the Comptroller of Public Accounts (Comptroller's Office) had processed 287 agreements and received 15 applications as of December 31, 2014.

As of December 31, 2014, the Texas Education Agency had paid a total of approximately \$37 million to 53 school districts that had requested additional state aid for tax credits the school districts had issued to businesses with agreements from tax year 2009 through tax year 2013.

Table 5 presents tax credit information from the Comptroller's Office and the Texas Education Agency.

Table 5

Tax Credit Information for Agreements and Applications as of December 31, 2014	
Category	Amount
Estimated tax credits that school districts may issue to businesses with executed agreements.	\$643,915,606
Estimated tax credits that school districts may issue to businesses with applications that the Comptroller's Office has received but for which agreements have not yet been executed.	\$44,022,036
Estimated liability to the State for tax credits that school districts may issue to businesses with executed agreements or that have filed applications.	\$650,958,207
Total additional state aid payments from the Texas Education Agency to school districts for tax credits that school districts issued to businesses with agreements.	\$36,979,434

Sources: Comptroller's Office and Texas Education Agency.

Property Tax Revenue Not Collected as a Result of Agreements for Tax Years 2005 Through 2014

For tax years 2005 through 2014, county appraisal districts reported to the Office of the Comptroller of Public Accounts (Comptroller's Office) that property tax revenue not collected by school districts as a result of appraisal limitation agreements (agreements) totaled approximately \$1.143 billion.

Table 6 summarizes the total reported property tax revenue not collected by school districts as a result of agreements for tax years 2005 through 2014. The information for 2014 is based on preliminary information reported by the county appraisal districts and does not incorporate changes resulting from property owner protests and property value study audits. The information for tax years 2005 through 2013 is final information.

Table 6

Total Reported Property Tax Revenue Not Collected from Agreements	
Tax Year 2005 through Tax Year 2014	
Tax Years	Property Tax Revenue Not Collected
2011 through 2014	\$878,400,966
2005 through 2010	\$264,442,073
Total	\$1,142,843,039

Source: Comptroller's Office.

Table 7 summarizes the property values that all county appraisal districts reported for tax years 2011 through 2014.

Table 7

Property Values Reported by All County Appraisal Districts in Texas Tax Year 2011 through Tax Year 2014						
Tax Year	Appraisal Value	Taxable Value for Maintenance and Operations Purposes	Taxable Value for Interest and Sinking Fund Purposes	Property Tax Revenue	Property Tax Revenue Not Collected from Agreements	Percent of Property Tax Revenue Not Collected (calculated by auditors)
2014	\$2,521,484,304,491	\$2,037,680,893,155	\$2,055,726,331,106	\$26,811,871,834	\$237,598,027	0.89%
2013	\$2,326,066,320,168	\$1,880,119,552,001	\$1,899,812,042,303	\$24,854,671,461	\$222,578,432	0.90%
2012	\$2,208,817,007,702	\$1,752,926,534,827	\$1,769,849,324,749	\$23,072,781,962	\$221,572,866	0.96%
2011	\$2,120,439,535,886	\$1,673,870,904,780	\$1,688,998,383,088	\$22,002,289,358	\$196,651,641	0.89%
Totals				\$96,741,614,615	\$878,400,966	

Source: Comptroller's Office.

Table 8 summarizes the property values that county appraisal districts with agreements reported for tax years 2011 through 2014.

Table 8

Property Values Reported by County Appraisal Districts with Agreements in Texas Tax Year 2011 Through Tax Year 2014							
Tax Year	Appraisal Value	Taxable Value for Maintenance and Operations Purposes	Taxable Value for Interest and Sinking Fund Purposes	Property Tax Revenue	Property Tax Revenue Not Collected from Agreements	Percent of Property Tax Revenue Not Collected (calculated by auditors)	Average Percent of School District Revenue Not Collected (calculated by auditors)
2014	\$188,850,518,750	\$139,859,415,200	\$157,904,853,151	\$1,909,195,555	\$237,598,027	12.44%	64.55%
2013	\$155,664,829,687	\$124,154,987,365	\$141,018,649,658	\$1,920,441,112	\$222,578,432	11.59%	26.52%
2012	\$144,640,754,718	\$115,639,533,513	\$132,562,323,435	\$1,542,029,240	\$221,572,866	14.37%	64.32%
2011	\$123,550,406,163	\$98,375,414,115	\$113,502,892,423	\$1,326,753,181	\$196,651,641	14.82%	68.18%
Totals				\$6,698,419,088	\$878,400,966		

Source: Comptroller's Office.

Table 9 summarizes the property values that all county appraisal districts reported for tax years 2005 through 2010.

Table 9

Property Values Reported by All County Appraisal Districts in Texas Tax Year 2005 through Tax Year 2010						
Tax Year	Appraisal Value	Taxable Value ^a	Property Tax Revenue	Property Tax Revenue Not Collected from Agreements (calculated by auditors)	Percent of Property Tax Revenue Not Collected (calculated by auditors)	
2010	\$2,094,207,272,645	\$1,655,152,584,816	\$ 21,558,289,126	\$117,276,160	0.54%	
2009	\$2,120,661,300,153	\$1,683,700,155,921	\$21,751,400,885	\$66,577,117	0.31%	
2008	\$2,086,830,275,980	\$1,663,375,273,082	\$21,149,319,188	\$40,796,278	0.19%	
2007	\$1,876,060,708,651	\$1,500,811,983,249	\$18,817,215,656	\$23,664,901	0.13%	
2006	\$1,673,514,101,939	\$1,348,691,120,811	\$20,811,701,140	\$10,597,708	0.05%	
2005	\$1,490,671,558,947	\$1,198,525,740,074	\$20,150,818,051	\$5,529,909	0.03%	
Totals			\$124,238,744,046	\$264,442,073		

^a Prior to tax year 2011, property tax revenue not collected was calculated based on the weighted average between the taxable value for maintenance and operations purposes and the taxable value for interest and sinking fund purposes.

Source: Comptroller's Office.

Table 10 summarizes the property values that county appraisal districts with agreements reported for those same tax years.

Table 10

Property Values Reported by County Appraisal Districts with Agreements in Texas Tax Year 2005 Through Tax Year 2010						
Tax Year	Appraisal Value	Taxable Value ^a	Tax Levy	Property Tax Revenue Not Collected from Agreements	Percent of Property Tax Revenue Not Collected (calculated by auditors)	Average Percent of Property Tax Revenue Not Collected (calculated by auditors)
2010	\$175,730,901,354	\$150,622,155,575	\$1,922,644,398	\$117,276,160	6.10%	96.23%
2009	\$151,297,694,986	\$131,127,734,455	\$1,631,057,616	\$66,577,117	4.08%	58.59%
2008	\$78,916,982,668	\$67,752,556,214	\$867,518,962	\$40,796,278	4.70%	18.07%
2007	\$67,814,965,270	\$59,179,390,554	\$731,319,717	\$23,664,901	3.24%	9.55%
2006	\$24,918,316,302	\$21,223,540,136	\$294,425,873	\$10,597,708	3.60%	10.21%
2005	\$14,068,655,865	\$11,688,382,889	\$183,598,621	\$5,529,909	3.01%	3.55%
Totals			\$5,630,565,187	\$264,442,073		

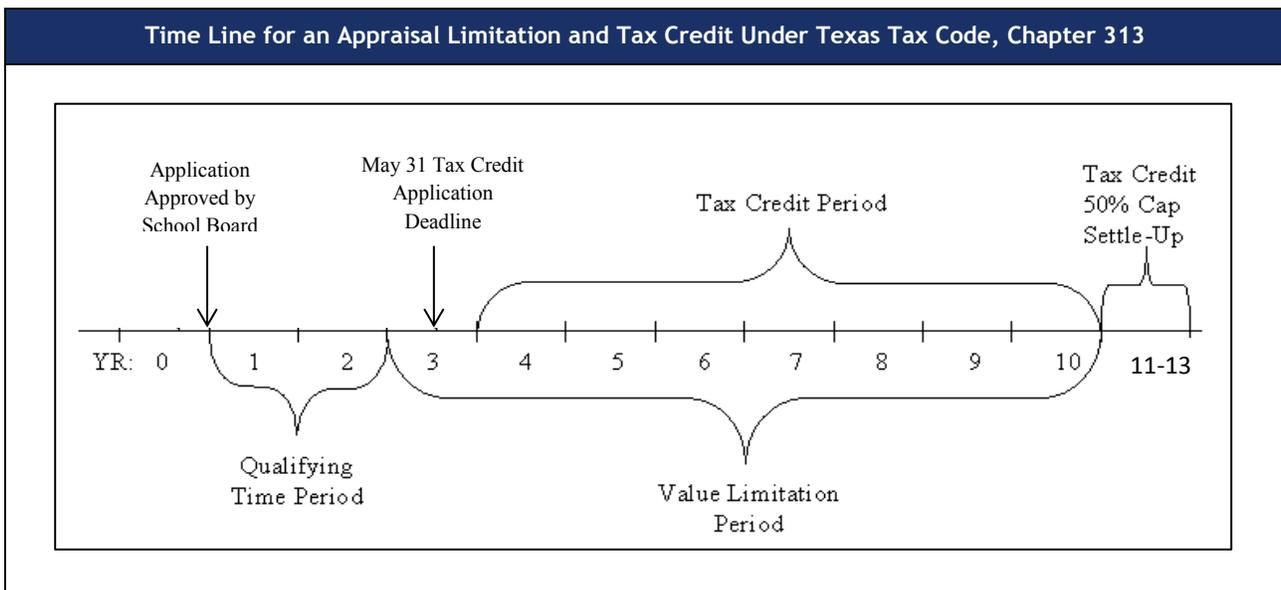
^a Prior to tax year 2011, property tax revenue not collected was calculated based on the weighted average between the taxable value for maintenance and operations purposes and the taxable value for interest and sinking fund purposes.

Source: Comptroller's Office.

Time Line of Appraisal Limitation and Tax Credits Under Texas Tax Code, Chapter 313

Figure 1 shows an example of a time line for an appraisal limitation and tax credit under Texas Tax Code, Chapter 313, as illustrated by the Office of the Comptroller of Public Accounts (Comptroller's Office). It describes appraisal limitation agreements (agreements) for which the Comptroller's Office reviewed applications from January 1, 2002, through December 31, 2014.

Figure 1



Source: Comptroller's Office.

Each year on the time line starts on January 1, the beginning of a tax year. The agreement begins on January 1 of year 1 on the time line. There is a two-year qualifying time period (the qualifying time period may be longer for an agreement involving advanced clean energy and nuclear electric power generation, as allowed by statute), followed by an eight-year appraisal limitation period. After the third year, the next seven-year period is also a tax credit period. The three-year period after the appraisal limitation expires is the tax credit settle-up period during which a business is entitled to any tax credit remaining from an agreement. The tax credit received during any tax year cannot exceed 50 percent of the property taxes paid in that tax year.

The time line reflects certain changes the Legislature has made to Texas Tax Code, Chapter 313. Specifically:

- House Bill 1470 (80th Legislature, Regular Session) expanded the tax credit settle-up period from one to three years. That change was effective on June 15, 2007.

- House Bill 3676 (81st Legislature, Regular Session) changed the default beginning of the qualifying time period from January 1 of the year following school board approval of an application to the execution date of agreement (unless otherwise deferred). That change was effective June 19, 2009.

In addition, House Bill 3390 (83rd Legislature, Regular Session) repealed the provision of Texas Tax Code, Chapter 313, that provided an entitlement to a related tax credit for taxes paid on the portion of a property's appraised value above the amount of the limitation. That change is not reflected in the time line and affects only agreements executed after January 2014.

Glossary of Selected Terms Related to Agreements

Table 11 lists the definitions for certain terms used in the administration of appraisal limitation agreements (agreements).

Table 11

Glossary of Selected Terms Related to Agreements	
Term	Definition
Annual eligibility report	<p>The Office of the Comptroller of Public Accounts (Comptroller's Office) requires each agreement holder or its authorized representative to submit annual eligibility reports to the school district by May 15 of every year and to use information from the previous tax year in those reports. See Appendix 7 for an example of the reporting form that is used.</p> <p>School districts are required to review those reports, retain the original reports, and submit PDF versions of the completed and signed reports and any attachments to the Comptroller's Office by June 15 of every year.</p>
Biennial progress report	<p>The Comptroller's Office requires each agreement holder or its authorized representative to submit biennial progress reports to the school district by May 15 of each even-numbered year. See Appendix 7 for an example of the reporting form that is used.</p> <p>The Comptroller's Office requests that the agreement holder complete the spreadsheet version of the biennial progress report and submit both an unsigned electronic version and a signed hard-copy version (with any attachments) to the school district. School districts are required to forward those reports to the Comptroller's Office by June 15 of each even-numbered year.</p>
Biennial school district cost data request form	<p>The Comptroller's Office requires school districts to submit the biennial school district cost data request form to the Comptroller's Office by July 15 of each even-numbered year. That form indicates, for each project that is the subject of an agreement, actual and estimated property values, tax rates, payments in lieu of taxes, extraordinary educational expenses, and revenue protection payments. See Appendix 7 for an example of the reporting form that is used.</p>
Payments in lieu of taxes	<p>The terms of the agreements audited specified that payments in lieu of taxes are intended to support a school district as a result of its consideration in executing an agreement with a business.</p> <p>The Blackwell Consolidated Independent School District agreement audited and the Jim Ned Consolidated Independent School District agreement audited specified that the business pays the school district an annual payment that is based on a percentage of the net tax benefit the business receives each tax year.</p> <p>The Southwest Independent School District agreement audited specified a one-time payment in the third year of the agreement.</p>
Qualified investment	<p>As of December 31, 2014, Texas Tax Code, Section 313.021(1), defined qualified investment as follows:</p> <p>Tangible personal property that is first placed in service in Texas during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is described as Section 1245 property by Section 1245(a) of the U.S. Internal Revenue Code of 1986.</p> <p>Tangible personal property that is first placed in service in Texas during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:</p> <ul style="list-style-type: none"> ▪ Integrated systems, fixtures, and piping. ▪ All property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances.

Glossary of Selected Terms Related to Agreements

Term	Definition
	<ul style="list-style-type: none"> ▪ Production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting. <p>Tangible personal property that is first placed in service in Texas during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the operation of a nuclear electric power generation facility, including:</p> <ul style="list-style-type: none"> ▪ Property, including pressure vessels, pumps, turbines, generators, and condensers, used to produce nuclear electric power. ▪ Property and systems necessary to control radioactive contamination. <p>Tangible personal property that is first placed in service in Texas during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an integrated gasification combined cycle electric generation facility, including:</p> <ul style="list-style-type: none"> ▪ Property used to produce electric power by means of a combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification of coal or another carbon-based feedstock. ▪ Property used in handling materials to be used as feedstock for gasification or used in the gasification process to produce synthetic gas or another carbon-based feedstock for use in the production of electric power in the manner described by statute. <p>Tangible personal property that is first placed in service in Texas during the applicable qualifying time period that begins on or after January 1, 2010, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an advanced clean energy project, as defined by Texas Health and Safety Code, Section 382.003; Health and Safety Code; A building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by statute.</p>
Qualifying job	<p>As of December 31, 2014, Texas Tax Code, Section 313.021(3), defined a qualifying job as a permanent, full-time job that meets all of the following:</p> <ul style="list-style-type: none"> ▪ Requires at least 1,600 hours of work a year. ▪ Is not transferred from one area in Texas to another area in Texas. ▪ Is not created to replace a previous employee. ▪ Is covered by a group health benefit plan for which a business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage. ▪ Pays at least 110 percent of the county average weekly wage for manufacturing jobs in the county where the job is located.
Qualified property	<p>As of December 31, 2014, Texas Tax Code, Section 313.021(2), defined qualified property as follows:</p> <p>Land:</p> <ul style="list-style-type: none"> ▪ That is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code. ▪ On which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person submits a complete application for a limitation on appraised value under this subchapter. ▪ That is not subject to a tax abatement agreement entered into by a school district under Chapter 312. ▪ On which, in connection with the new building or new improvement described by Subparagraph (ii), the owner or lessee of, or the holder of another possessory interest in, the land proposes to: <ul style="list-style-type: none"> • Make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023.

Glossary of Selected Terms Related to Agreements	
Term	Definition
	<ul style="list-style-type: none"> • Create at least 25 new qualifying jobs. <p>The new building or other new improvement described by paragraph (A)(ii). Tangible personal property:</p> <ul style="list-style-type: none"> ▪ That is not subject to a tax abatement agreement entered into by a school district under Chapter 312. ▪ For which a sales and use tax refund is not claimed under Section 151.3186. ▪ Except for new equipment described in Section 151.318(q) or (q-1), that is first placed in service in the new building, in the newly expanded building, or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.
Qualifying time period	<p>As of December 31, 2014, Texas Tax Code, Section 313.021(4), defined a qualifying time period as follows:</p> <p>The period that begins on the date that a person's application for a limitation on appraised value under this subchapter is approved by the governing body of the school district and ends on December 31 of the second tax year that begins after that date, except as provided by the following:</p> <ul style="list-style-type: none"> ▪ In connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner. ▪ In connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, the first five tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.
Revenue protection payments	<p>Revenue protection payments are intended to protect a school district against any loss of maintenance and operations tax revenues as a result of an agreement. They also may include any costs that the school district incurs during the term of the agreement, including tax credits for which a school district does not receive additional state aid from the State.</p> <p>Agreements may require that the payment calculation be based on annual certified tax roll data prepared by the county appraisal district.</p>

Sources: Texas Tax Code, Chapter 313; school districts; and the Comptroller's Office.

Periodic Reporting Forms That School Districts and Businesses with Agreements Certify

The Office of the Comptroller of Public Accounts (Comptroller’s Office) requires each business with an appraisal limitation agreement (agreement) to submit (1) a Chapter 313 annual eligibility form and (2) a biennial progress report for the Texas Economic Development Act.

Below is the version of the Chapter 313 annual eligibility report form that was in effect from July 2013 until May 2014.

Chapter 313 Annual Eligibility Report Form



Form 50-772
(Revised July 2013)

Tax Year Covered in This Report _____

School District Name	I&S Tax Rate	M&O Tax Rate
Project Name	Company Name	
Company Address	Company Contact Information	

NOTE: This form must be completed by an authorized representative of each approved applicant and each entity with property subject to the limitation agreement. It must be submitted to the school district by May 15th of every year using information from the previous tax (calendar) year. For limitation agreements where there are multiple company entities that receive a part of the limitation provided by the agreement: 1) each business entity not having a full interest in the agreement should complete a separate form for their proportionate share of required employment and investment information; and, 2) separately, the school district is required to complete an Annual Eligibility Report that provides for each question in this form a sum of the individual answers from reports submitted by each entity so that there is a cumulative Annual Eligibility Report reflecting the entire agreement.

Texas Taxpayer ID of Applicant	Texas Taxpayer ID Reporting Entity (if appropriate)
Date of Agreement Approval	Original Applicant Name
First Complete Tax Year of the Qualifying Time Period	Last Tax Year of the Qualifying Time Period
First Tax Year of the Limitation	Amount of the Limitation at the Time of Application Approval

QUALIFIED PROPERTY INFORMATION

Market Value	I&S Taxable Value	M&O Taxable Value
Is the business entity in good standing with respect to Tax Code, Chapter 171? (Attach printout from Comptroller Web site: http://www.window.state.tx.us/taxinfo/coasintr.html) <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is the business entity current on all taxes due to the State of Texas? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is the business activity of the project an eligible business activity under Section 313.024(b)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Please identify business activity: _____		
What was the application review start date for your application (the date your application was determined to be complete)? _____ <small>(This question must only be answered for projects with applications approved after June 1, 2010.)</small>		
How many new jobs were based on the qualified property in the year covered by this report? (See note on page 3.) _____		
What is the number of new jobs required for a project in this school district according to 313.021(2)(A)(iv)(b), 313.051(b), as appropriate? _____		
If the applicant requested a waiver of minimum jobs requirement, how many new jobs must the approved applicant create under the waiver? _____		
80 percent of New Jobs (0.80 x number of new jobs based on the qualified property in the year covered by this report.) _____		

For more information, visit our website: www.texasahead.org/tax_programs/chapter313/
50-772 - 07-13/3



What is the minimum required annual wage for each qualifying job in the year covered by the report?

For agreements executed prior to June 19, 2009, please identify which of the two Tax Code sections is used to determine the wage standard required by the agreement: §313.021(5)(A) or §313.051(b). For agreements executed after June 19, 2009, please identify which of the four Tax Code sections is used to determine the wage standard required by the agreement: §313.021(5)(A), §313.021(5)(B), §313.021(3)(E)(ii), or §313.051(b)

Attach calculations and cite (or attach) exact Texas Workforce Commission data sources.

How many qualifying jobs (employees of this entity and employees of a contractor with this entity) were based on the qualified property in the year covered by the report?

Of the qualifying job-holders last year, how many were employees of the approved applicant?

Of the qualifying job-holders last year, how many were employees of an entity contracting with the approved applicant?

If any qualifying job-holders were employees of an entity contracting with the applicant, does the approved applicant or assignee have documentation from the contractor supporting the conclusion that those jobs are qualifying jobs? NA Yes No

THE FOLLOWING QUESTIONS APPLY ONLY TO APPROVED APPLICANTS WITH AGREEMENTS THAT REQUIRE THE APPROVED APPLICANT TO PROVIDE A SPECIFIED NUMBER OF JOBS AT A SPECIFIED WAGE.

How many qualifying jobs did the approved applicant commit to create in the year covered by the report?

At what annual wage?

How many qualifying jobs were created at the specified wage?

ENTITIES ARE NOT REQUIRED TO ANSWER THE FOLLOWING FIVE QUESTIONS IF THE YEAR COVERED BY THE REPORT IS AFTER THE QUALIFYING TIME PERIOD OF THEIR AGREEMENT.

What is the qualified investment expended by this entity from the beginning of the qualifying time period through the end of the year covered by this report?

Was any of the land classified as qualified investment? Yes No

Was any of the qualified Investment leased under a capitalized lease? Yes No

Was any of the qualified Investment leased under and operating lease? Yes No

Was any property not owned by the applicant part of the qualified investment? Yes No

THE FOLLOWING QUESTIONS MUST BE ANSWERED BY ENTITIES HAVING A PARTIAL INTEREST IN AN AGREEMENT.

What was your limitation amount (or portion of original limitation amount) during the year covered by this report?

Please describe your interest in the agreement and identify all the documents creating that interest.

Large empty rectangular box for describing interest and identifying documents.



NOTE: For job definitions see TAC §9.1051(14) and Tax Code, §313.021(3). If the agreement includes a definition of "new job" other than TAC §9.1051(14)(C), then please provide the definition "new job" as used in the agreement.

Notwithstanding any waiver by the district of the requirement for the creation of a minimum number of new jobs, or any other job commitment in the agreement, Tax Code 313.024(d) requires that 80 percent of all new jobs be qualifying jobs.

APPROVAL

"I am the authorized representative for the Company submitting this Annual Eligibility Report. I understand that this Report is a government record as defined in Chapter 37 of the Texas Penal Code. The information I am providing on this Report is true and correct to the best of my knowledge and belief."

Signature _____

Printed Name of Authorized Company Representative _____

Title _____

Date _____

CONTACT INFORMATION FOR AUTHORIZED REPRESENTATIVE

Address _____

Phone _____

Email _____

Below is the version of the Chapter 313 annual eligibility report form that became effective in May 2014.



Chapter 313 Annual Eligibility Report Form

Economic Development
and Analysis

Form 50-772-A

SECTION 1: Applicant and District Information

1. Tax year covered by this report: _____
NOTE: This report must be completed and submitted to the school district by May 15 of every year using information from the previous tax (calendar) year.
2. Application number: _____
NOTE: You can find your application number and all agreement documents and reports on the website www.texasahead.org/tax_programs/chapter313/applicants
3. Name of school district: _____
4. Name of project on original application (or short description of facility): _____
5. Name of applicant on original application: _____
6. Name the company entering into original agreement with district: _____
7. Amount of limitation at time of application approval: _____
8. If you are one of two or more companies originally applying for a limitation, list all other applicants here and describe their relationships.
(Use attachments if necessary.)

SECTION 2: Current Agreement Information

1. Name of current agreement holder(s) _____
2. Complete mailing address of current agreement holder _____
3. Company contact person for agreement holder:

Name _____	Title _____
Phone _____	Email _____
4. Texas franchise tax ID number of current agreement holder: _____
5. If the current agreement holder does not report under the franchise tax law, please include name and tax ID of reporting entity:

Name _____	Tax ID _____
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6. If the authorized company representative (same as signatory for this form) is different from the contact person listed above, complete the following:

Name _____	Title _____
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Complete Mailing Address _____

Phone _____	Email _____
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7. If you are a current agreement holder who was not an original applicant, please list all other current agreement holders. Please describe the chain of ownership from the original applicant to the new entities. (Use attachments if necessary.)

The Economic Development and Analysis Division at the Texas Comptroller of Public Accounts provides information and resources for taxpayers and local taxing entities.

For more information, visit our website:
www.TexasAhead.org/tax_programs/chapter313/

50-772-A • 05-14/2

SECTION 3: Applicant Eligibility Information

1. Does the business entity have the right to transact business with respect to Tax Code, Chapter 171? (Attach printout from Comptroller Web site: <http://www.window.state.tx.us/taxinfo/coasintr.html>) Yes No
2. Is the business entity current on all taxes due to the State of Texas? Yes No
3. Is the business activity of the project an eligible business activity under Section 313.024(b)? Yes No

3a. Please identify business activity: _____

SECTION 4: Qualified Property Information

1. Market value for reporting year: \$ _____
2. I&S taxable value for reporting year: \$ _____
3. M&O taxable value for reporting year: \$ _____

SECTION 5A: Wage and Employment Information for Applications Prior to Jan. 1, 2014 (#1 Through 999)

ONLY COMPLETE THE WAGE SECTION (5A or 5B) THAT APPLIES TO YOUR APPLICATION. You can find your application number on the website at www.texasahead.org/tax_programs/chapter313/applicants.

NOTE: All statutory references in Section 5A are for statute as it existed prior to Jan. 1, 2014. For job definitions see TAC §9.1051(14) and Tax Code, §313.021(3). If the agreement includes a definition of "new job" other than TAC §9.1051(14)(C), then please provide the definition "new job" as used in the agreement. Notwithstanding any waiver by the district of the requirement for the creation of a minimum number of new jobs, or any other job commitment in the agreement, Tax Code §313.024(d) requires that 80 percent of all new jobs be qualifying jobs.

1. How many new jobs were based on the qualified property in the year covered by this report? (See note above) _____
2. What is the number of new jobs required for a project in this school district according to §313.021(2)(A)(iv)(b), §313.051(b), as appropriate? _____
3. Did the applicant request that the governing body waive the minimum job requirement, as provided under Tax Code §313.025(f-1)? Yes No
 - 3a. If yes, how many new jobs must the approved applicant create under the waiver? _____
4. Calculate 80 percent of new jobs (0.80 x number of new jobs based on the qualified property in the year covered by this report.) _____
5. What is the minimum required annual wage for each qualifying job in the year covered by the report? \$ _____
6. Identify which of the four Tax Code sections is used to determine the wage standard required by the agreement:

 §313.021(5)(A) or §313.021(5)(B) or §313.021(3)(E)(ii) or §313.051(b)
 - 6a. Attach calculations and cite exact Texas Workforce Commission data source as defined in TAC §9.1051. _____
7. Does the agreement require the applicant to provide a specified number of jobs at a specified wage? Yes No
 - 7a. If yes, how many qualifying jobs did the approved applicant commit to create in the year covered by the report? _____
 - 7b. If yes, what annual wage did the approved applicant commit to pay in the year covered by the report? \$ _____
 - 7c. If yes, how many qualifying jobs were created at the specified wage in the year covered by the report? _____
8. How many qualifying jobs (employees of this entity and employees of a contractor with this entity) were based on the qualified property in the year covered by the report? _____
 - 8a. Of the qualifying job-holders last year, how many were employees of the approved applicant? _____
 - 8b. Of the qualifying job-holders last year, how many were employees of an entity contracting with the approved applicant? _____
 - 8c. If any qualifying job-holders were employees of an entity contracting with the applicant, does the approved applicant or assignee have documentation from the contractor supporting the conclusion that those jobs are qualifying jobs? Yes No N/A

For more information, visit our website: www.TexasAhead.org/tax_programs/chapter313/

SECTION 5B: Wage and Employment Information for Applications After Jan. 1, 2014 (#1000 and Above)

ONLY COMPLETE THE WAGE SECTION (5A or 5B) THAT APPLIES TO YOUR APPLICATION. You can find your application number on the website at www.texasahead.org/tax_programs/chapter313/applicants.

NOTE: For job definitions see TAC §9.1051(14) and Tax Code, §313.021(3).

QUALIFYING JOBS

1. What is the number of new qualifying jobs the applicant committed to create in the year covered by this report? _____
2. Did the applicant request that the governing body waive the minimum qualifying job requirement, as provided under Tax Code §313.025(f-1)? Yes No
 - 2a. If yes, how many new qualifying jobs must the approved applicant create under the waiver? _____
3. Which Tax Code section are you using to determine the wage standard required for this project? §313.021(5)(A) or §313.021(5)(B)
 - 3a. Attach calculations and cite exact Texas Workforce Commission data sources as defined in TAC §9.1051.
4. What is the minimum required annual wage for each qualifying job in the year covered by this report? \$ _____
5. What is the annual wage the applicant committed to pay for each of the qualifying jobs in the year covered by this report? \$ _____
6. Do the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? Yes No

NON-QUALIFYING JOBS

7. What is the number of non-qualifying jobs the applicant had on Dec. 31 of the year covered by this report? _____
8. What was the average wage you were paying for non-qualifying jobs on Dec. 31 of the year covered by this report? . . . \$ _____
9. What is the county average weekly wage for non-qualifying jobs, as defined in TAC §9.1051? \$ _____

MISCELLANEOUS

10. Did the applicant rely on a determination by the Texas Workforce Commission under the provisions §313.024(3)(F) in meeting the minimum qualifying job requirements? Yes No
 - 10a. If yes, attach supporting documentation to evidence that the requirements of §313.021(3)(F) were met.
11. Are you part of a Single Unified Project (SUP) and relying on the provisions in Tax Code §313.024(d-2) to meet the qualifying job requirements? Yes No
 - 11a. If yes, attach supporting documentation from the Texas Economic Development and Tourism Office including a list of the other school district(s) and the qualifying jobs located in each.

SECTION 6: Qualified Investment During Qualified Time Period

ENTITIES ARE NOT REQUIRED TO COMPLETE THIS SECTION IF THE YEAR COVERED BY THE REPORT IS AFTER THE QUALIFYING TIME PERIOD OF THEIR AGREEMENT.

1. What is the qualified investment expended by this entity from the beginning of the qualifying time period through the end of the year covered by this report? \$ _____
2. Was any of the land classified as qualified investment? Yes No
3. Was any of the qualified Investment leased under a capitalized lease? Yes No
4. Was any of the qualified Investment leased under an operating lease? Yes No
5. Was any property not owned by the applicant part of the qualified investment? Yes No

For more information, visit our website. www.TexasAhead.org/tax_programs/chapter313/

SECTION 7: Partial Interest

THE FOLLOWING QUESTIONS MUST BE ANSWERED BY ENTITIES HAVING A PARTIAL INTEREST IN AN AGREEMENT. For limitation agreements where there are multiple company entities that receive a part of the limitation provided by the agreement: 1) each business entity not having a full interest in the agreement should complete a separate form for their proportionate share of required employment and investment information; and, 2) separately, the school district is required to complete an Annual Eligibility Report that provides for each question in this form a sum of the individual answers from reports submitted by each entity so that there is a cumulative Annual Eligibility Report reflecting the entire agreement.

1. What was your limitation amount (or portion of original limitation amount) during the year covered by this report? _____
2. Please describe your interest in the agreement and identify all the documents creating that interest.

SECTION 8: Approval

"I am the authorized representative for the Company submitting this Annual Eligibility Report. I understand that this Report is a government record as defined in Chapter 37 of the Texas Penal Code. The information I am providing on this Report is true and correct to the best of my knowledge and belief."

print here ➔

 Print Name (Authorized Company Representative) Title

sign here ➔

 Signature (Authorized Company Representative) Date

print here ➔

 Print Name of Preparer (Person Who Completed the Form) Phone

For more information, visit our website: www.TexasAhead.org/tax_programs/chapter313/

Below is the version of the biennial progress report for the Texas Economic Development Act that was in effect from July 2013 until May 2014.



Biennial Progress Report for Texas Economic Development Act

Form 50-773
(Revised July 2013)

Instructions:

- This form must be filled out by each applicant that is party to a limitation agreement.
- If the original application was made by a group of two or more companies, each company must complete this form.
- If the original applicant split into two or more applicants after the original agreement, all current agreement holders must complete this form.
- Applicants should only complete the information for their years as an agreement holder, noting what year they were formed after the original agreement was approved.
- Each agreement holder should respond as a current applicant on Line 9 below.
- Applicants should report their proportionate share of required employment and investment information.
- If the original applicant is still the only agreement holder, please do not complete Lines 31 and 32 below.

In addition to the Biennial Progress Report required from each applicant that is a party to an agreement, a separate Biennial Progress Report summarizing the combined applicant's data for the entire agreement must be completed.

- If one of the applicants cannot provide this information, a summarization report must be completed by the school district.

- Projects spanning more than one school district must complete forms for each school district.
- Please return signed hard copy forms and electronic spreadsheets to the school district before May 15 of each even-numbered year.

Note:

- The school district that is a party to the Chapter 313 agreement is collecting the data required by Chapter 313.008 on this form for the Comptroller of Public Accounts (CPA).
- The CPA requests companies complete the electronic spreadsheet version of the form. Please submit both an *unsigned electronic version* and a *signed hard copy version* of the spreadsheet (with any attachments) to the district. Please contact CPA if you have questions about the form. The spreadsheet version of this form can be downloaded at www.texasahead.org/tax_programs/chapter313/.
- After ensuring that all forms are complete, the school district will forward that data to the CPA for inclusion in a statutorily required report to the Texas Legislature.

1. Name of school district:
2. Name of CAD appraising the qualified property in this school district:
3. Name of project on original application (or short description of facility):
4. Name of applicant on original application:
5. Date original application filed with school district:
6. Name of company entering into original agreement with district:
7. Date original limitation agreement approved by school district:
8. Date of final signing of agreement (if different from board approval date):
9. Name of current agreement holder(s):
10. Complete mailing address of current agreement holder:
11. Name of company contact person for agreement holder:
12. Title of company contact person:
13. Phone number of company contact person:
14. E-mail address of company contact person:
15. Texas franchise tax ID number of current agreement holder:

For more information, visit our website: www.texasahead.org/tax_programs/chapter313/

50-773 • 07-13/3



16. If the current agreement holder does not report under the franchise tax law, please include name and tax ID of reporting entity.

17. NAICS Code of current agreement holder (6 Digit):

18. Name of authorized company representative (if different from above):

19. Title of authorized company representative (if different from above):

20. Phone of authorized company representative (if different from above):

21. E-mail of authorized company representative (if different from above):

22. Complete mailing address of authorized company representative (if different from above):

23. First (complete) year of Qualifying Time Period – after the date the application is approved. See Tax Code §313.021[4]:

24. First year of property value limitation (generally the third complete year of the agreement):

25. Original Limitation Amount (for entire agreement):

26. Amount of qualified investment during the qualifying time period the recipient committed to spend or allocate for this project on application (Not Total Investment):

27. Date of construction commencement (estimate if in the future):

28. Date construction completed (actual or estimate if in the future):

29. Has the description of the qualified property changed from that in the application? If so, please describe on an attachment how the actual qualified property — for which you are providing actual and estimated market values on subsequent pages — differs from that property described in the agreement. Include only property located in this school district.

30. What was the number of permanent existing jobs at this facility prior to application?

31. If you are one of two or more companies originally applying for a limitation, list all other applicants here and describe their relationships. (Use attachments if necessary.)

32. If you are a current agreement holder who was not an original applicant, please list all other current agreement holders. Please describe the chain of ownership from the original applicant to the new entities. (Use attachments if necessary.)

33. If the agreement includes a definition of "new job" other than TAC §9.1051(14)(C), please provide the definition of "new job" as used in the agreement. (Use attachments if needed.)

District Name _____ Project Name _____
 Company Name _____ 1st Yr. of Qualifying Time Period _____

Note: Excel spreadsheet version is available for download at URL listed below.

	Pre-Qualifying Time Period	Qualifying Time Period		
		From application approval date to Jan. 1 of next tax year ¹	Year 1 (First Complete Tax Year)	Year 2
	/ / / / /	/ / / / /		
Please enter tax years (YYYY) here (starting in "Year 1"). →	/ / / / /	/ / / / /		
34. Number of qualifying jobs ² applicant committed to create on application (cumulative)**	/ / / / /	/ / / / /		
35. Number of qualifying jobs ² applicant actually created (cumulative)**	/ / / / /	/ / / / /		
36. Number of new jobs ³ created (cumulative)**	/ / / / /	/ / / / /		
37. Number of new jobs ³ created that provide health benefits for employees (cumulative)**	/ / / / /	/ / / / /		
38. Median annual wage of new jobs each applicant created**	/ / / / /	/ / / / /		
39. Average annual wage of new jobs each applicant created**	/ / / / /	/ / / / /		
40. Total investment for this project (per year or time period, not cumulative)***				
41. Amount of qualified investment applicant actually spent or allocated for this project ⁴ (per year or time period, not cumulative)** (See also Note #1.)	/ / / / /			
42. Market value of qualified property on January 1 before any exemptions***				
43. Market value of qualified property (amount shown in #42) less any exemptions, but before the limitation on value authorized by Tax Code 313**				
44. Limitation amount in each of years 1-10 ^{7**}	/ / / / /	/ / / / /		
45. Taxable value of qualified property certified by the county appraisal district for the purpose of school M&O taxes**				
46. School District M&O tax rate (per hundred dollars of value)*				
47. School district I&S tax rate (per hundred dollars of value)*				
48. Total school district ad valorem tax levy (M&O and I&S) on qualified property*				

*Actual data only. **Actual and projected data. Use actual data for prior years. Estimates are required for current and future years.

Notes:

1. Only projects with agreements executed after June 19, 2009 may have any qualified investment between the time of application approval and Jan. 1 of subsequent tax year.
2. Jobs meeting all of the requirements of Tax Code §313.021(3). Each qualifying job is a new job that meets the wage standard for that school district, and is covered by a group health benefits plan for which the employer offers to pay at least 80 percent of the employee-only premium. Do not include construction jobs in counts of qualifying jobs.
3. For new job definition see TAC §9.1051(14).
4. Total Investment is all investment at original cost, including land acquired after filing of application. Investments made in one year should be reflected in the subsequent year's market value.
5. The investment made during the qualifying time period meeting the requirements of Tax Code §313.021(1). Fill in amounts for the time between the application approval and Jan. 1 of first tax year, Year 1 and Year 2 only. (See also Note #1)
6. For all values, use those from CAD as available. For future years, use market value that the entity estimates will approximate the market value for ad valorem tax purposes in that year.
7. This amount may vary annually for agreements with multiple agreement-holders. Subentities should enter their share of original limitation amount. Limitation amounts of all subentities should sum to that of the original limitation amount originally approved by the school district.

(continued on next page)



	Limitation Period								
	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	
Please enter tax years (YYYY) here. →									
34. Number of qualifying jobs ² applicant committed to create on application (cumulative)**									
35. Number of qualifying jobs ² applicant actually created (cumulative)**									
36. Number of new jobs ³ created (cumulative)**									
37. Number of new jobs ³ created that provide health benefits for employees (cumulative)**									
38. Median annual wage of new jobs each applicant created**									
39. Average annual wage of new jobs each applicant created**									
40. Total investment for this project (per year or time period, not cumulative)**									
41. Amount of qualified investment applicant actually spent or allocated for this project ⁴ (per year or time period, not cumulative)** (See also Note #1.)									
42. Market value of qualified property on January 1 before any exemptions***									
43. Market value of qualified property (amount shown in #42) less any exemptions, but before the limitation on value authorized by Tax Code 313**									
44. Limitation amount in each of years 1-10.***									
45. Taxable value of qualified property certified by the county appraisal district for the purpose of school M&O taxes**									
46. School District M&O tax rate (per hundred dollars of value)*									
47. School district I&S tax rate (per hundred dollars of value)*									
48. Total school district ad valorem tax levy (M&O and I&S) on qualified property*									

*Actual data only. **Actual and projected data. Use actual data for prior years. Estimates are required for current and future years.

Notes:

1. Only projects with agreements executed after June 19, 2009 may have any qualified investment between the time of application approval and Jan. 1 of subsequent tax year.
2. Jobs meeting all of the requirements of Tax Code §313.021(3). Each qualifying job is a new job that meets the wage standard for that school district, and is covered by a group health benefits plan for which the employer offers to pay at least 80 percent of the employee-only premium. Do not include construction jobs in counts of qualifying jobs.
3. For new job definition see TAC §9.1051(14).
4. Total Investment is all investment at original cost, including land acquired after filing of application. Investments made in one year should be reflected in the subsequent year's market value.
5. The investment made during the qualifying time period meeting the requirements of Tax Code §313.021(1). Fill in amounts for the time between the application approval and Jan. 1 of first tax year, Year 1 and Year 2 only. (See also Note #1)
6. For all values, use those from CAD as available. For future years, use market value that the entity estimates will approximate the market value for ad valorem tax purposes in that year.
7. This amount may vary annually for agreements with multiple agreement-holders. Subentities should enter their share of original limitation amount. Limitation amounts of all subentities should sum to that of the original limitation amount originally approved by the school district.

<p>The CPA requests companies complete the electronic spreadsheet version of the form. Please submit both an unsigned electronic version and a signed hard copy version of the spreadsheet (with any attachments) to the district.</p>	<p>By signing below, I, _____, certify that I am the authorized representative of _____, a current agreement holder of a limitation on appraised value, and the contents of this form and the attached documentation are true and correct to the best of my knowledge and belief.</p>	
	<p>Authorized Official</p> <p>sign here →</p>	<p>Date</p>
	<p>Print Name/Title</p>	<p>Phone (area code and number)</p>

Below is the version of the biennial progress report for the Texas Economic Development Act that became effective in May 2014.



Biennial Progress Report for Texas Economic Development Act

Economic Development
and Analysis
Form 50-773-A

INTRODUCTION

- You have been assigned an application number. Please verify this number on the website prior to completing the form. This form will indicate the sections you need to complete based on application number.
- This form must be filled out by each applicant that is party to a limitation agreement.
- If the original application was made by a group of two or more companies, each company must complete this form.
- If the original applicant split into two or more applicants after the original agreement, all current agreement holders must complete this form.
- Applicants should only complete the information for their years as an agreement holder, noting what year they were formed after the original agreement was approved.
- Each agreement holder should respond as a current agreement holder in Section 2.
- Applicants should report their proportionate share of required employment and investment information.
- In addition to the Biennial Progress Report required from each applicant that is a party to an agreement, a separate Biennial Progress Report summarizing the combined applicants' data for the entire agreement must be completed.
- If one of the applicants cannot provide this information, a summarization report must be completed by the school district and signed by the superintendent.
- Projects spanning more than one school district must complete forms for each school district.
- Please return signed hard copy forms and electronic spreadsheets to the school district before May 15 of each even-numbered year.

Note:

- The school district that is a party to the Chapter 313 agreement is collecting the data required by Chapter 313.032 on this form for the Comptroller of Public Accounts (CPA).
- The CPA requests companies complete the electronic spreadsheet version of the form. Please submit both an *electronic version* and a *signed hard copy version* of the spreadsheet (with any attachments) to the district. Please contact CPA if you have questions about the form. The spreadsheet version of this form can be downloaded at: www.texasahead.org/tax_programs/chapter313/forms.php.
- After ensuring that all forms are complete, the school district will forward that data to the CPA for inclusion in a statutorily required report to the Texas Legislature.

SECTION 1: Applicant Information

1. Application number _____
2. Name of school district _____
3. Name of central appraisal district (CAD) appraising the qualified property in this school district _____
4. Name of project on original application (*or short description of facility*) _____
5. Name of applicant on original application _____
6. Name of company entering into original agreement with district _____
7. If you are one of two or more companies originally applying for a limitation, list all other applicants here and describe their relationships.
(Use attachments if necessary.)

The Economic Development and Analysis Division at the Texas Comptroller of Public Accounts provides information and resources for taxpayers and local taxing entities.

For more information, visit our website:
www.TexasAhead.org/tax_programs/chapter313/

50-773-A • 05-14/2



SECTION 2: Current Agreement Information

1. Name of current agreement holder(s) _____

2. Complete mailing address of current agreement holder _____

3. Company contact person for agreement holder:

Name _____ Title _____

Phone _____ Email _____

4. Texas franchise tax ID number of current agreement holder: _____

5. If the current agreement holder does not report under the franchise tax law, please include name and tax ID of reporting entity:

Name _____ Tax ID _____

6. NAICS Code of current agreement holder (6 Digit): _____

7. If the authorized company representative is different from the contact person listed above:

Name _____ Title _____

Complete Mailing Address _____

Phone _____ Email _____

8. If you are a current agreement holder who was not an original applicant, please list all other current agreement holders. Please describe the chain of ownership from the original applicant to the new entities. *(Use attachments if necessary.)*

[Empty text box for listing other current agreement holders and ownership chain]

SECTION 3: Project Timeline

1. Date original limitation agreement approved by school district. _____

2. First (complete) year of qualifying time period – after the date the application is approved. See Tax Code §313.021[4]. _____

3. Date commercial operations began at the site of the project _____

4. First year of property value limitation _____

For more information, visit our website: www.TexasAhead.org/tax_programs/chapter313/

SECTION 4: Value Limitation Details

- 1 Minimum limitation amount per Agreement (for entire agreement):
- 2 Amount of qualified investment during the qualifying time period the recipient committed to spend or allocate for this project on application (not total investment):
- 3 Total qualified investment made from the beginning of the qualifying time period through the end of the qualifying time period or the last complete tax year, if still in the qualifying time period.
- 4 Has the size and/or scope of the project changed, resulting in a material change in qualified property from that in the application? Yes No
 - 4a. If yes, please describe on an attachment how the actual qualified property — for which you are providing actual and estimated market values on subsequent pages — differs from that property described in the agreement. Include only property located in this school district.
- 5 What was the number of permanent existing jobs at this facility prior to application? (See guidelines for definition of existing job.)

SECTION 5: Job Details

- 1 For agreements before Jan. 1, 2014, does the agreement includes a definition of "new job" other than TAC §9.1051(14)(C), as the rule existed at the time of application? Yes No
 - 1a. If yes, please provide the definition of "new job" as used in the agreement. (Use attachments if needed.)

SECTION 6: Authorized Signature

After this report and charts are complete, they should be reviewed and certified to be complete by a company employee authorized to sign on behalf of the company listed in Section 2.

By signing below, I certify that I am an employee of _____, a current agreement holder of a limitation on appraised value who is authorized to sign on behalf of the company. I attest that the contents of this form and attachments are true and correct to the best of my knowledge and belief and have determined that the electronic copy is identical to the hard copy of this report.

print here ➔

Print Name of Company Employee _____ Title _____ Phone _____

sign here ➔

Signature of Company Employee _____ Date _____

NOTE: If you amend your report, you will need to resign and resubmit this section with your forms, charts or attachments.

Biennial Progress Report for Texas Economic Development Act

CHART A2: Investment and Market Values for Applications 1 through 999

Applicant Number: _____ Date: _____
 ISD Name: _____ Current Agreement Holder Name: _____

CHART A2 – Only complete this for applications 1 through 999.

Year	School Year (YYYY-YYYY)	Tax Year (actual tax year) YYYY	Total Investment ¹ (cumulative)	Market value of qualified property on Jan. 1 BEFORE any exemptions ²	Market value less any exemptions (such as pollution control) and before limitation ³	Taxable value of qualified property for purposes of M&O
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						

Actual and projected data. Use actual data for prior years. Estimates are required for current and future years.

Notes:

1. Total investment is all investment at original cost, including land acquired after filing of application. Investments made in a year should be reflected in the subsequent year's market value.
2. Use appraisal values from CAD as available. For future years, use market value that the entity estimates will approximate the market value for ad valorem tax purposes in that year.
3. This amount is typically the taxable value for the purpose of I&S fund or debt service reserve fund.

The CPA requests companies complete the electronic spreadsheet version of the form and submit identical electronic and hard copy versions of the spreadsheet (with any attachments) to the district.

For more information, visit our website: www.TexasAhead.org/tax_programs/chapter313/

Biennial Progress Report for Texas Economic Development Act

CHART B1: Job Data for Applications 1000+

App Number: _____ Date: _____
 District Name: _____ 1st Yr. of Qualifying Time Period: _____
 Company Name: _____

CHART B1 – Only complete this for applications 1000+

	Tax year (YYYY)	Qualifying Time Period				Limitation Period ¹				Viable Presence Period							
		Year 1 (first complete Tax Year)	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	
1	Number of qualifying jobs ¹ applicant committed to create on application (cumulative)																
2	Number of qualifying jobs ¹ applicant actually created (cumulative)																
3	Median annual wage of qualifying jobs ¹ applicant created																
4	Total wages for qualifying jobs ¹ applicant created																
5	Number of non-qualifying jobs ² applicant created (cumulative)																
6	Average annual wage of non-qualifying jobs ² applicant created																
7	Total wages for non-qualifying jobs ² applicant created																

Actual and projected data. Use actual data for prior years. Estimates are required for current and future years.

Notes:

- Jobs meeting all of the requirements of Tax Code §313.021(3).
- For non-qualifying job definition see TAC §9.1051.
- Insert columns as needed to adjust beginning date of limitation per 313.027(a-1)(2).

The CPA requests companies complete the electronic spreadsheet version of the form and submit identical electronic and hard copy versions of the spreadsheet (with any attachments) to the district.

For more information, visit our website: www.TexasAhead.org/tax_programs/chapter313/

Biennial Progress Report for Texas Economic Development Act

CHART B2: Investment and Market Values for Applications 1000+

Applicant Number: _____ Date: _____
 ISD Name: _____ Current Agreement Holder Name: _____

CHART B2 – Only complete this for applications 1000+

Year	School Year (YYYYYY)	Tax Year (actual tax year) YYYY	Total Investment ¹ (cumulative)	Market value of qualified property on Jan. 1 BEFORE any exemptions ²	Market value less any exemptions (such as pollution control) and before limitation ³	Taxable value of qualified property for purposes of M&O
0						
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						

Prior to start of value limitation period or most recent year end. Insert rows as needed.⁴

Value limitation period

Viable presence period

Actual and projected data. Use actual data for prior years. Estimates are required for current and future years.

Notes:

- Total investment is all investment at original cost, including land acquired after filing of application. Investments made in a year should be reflected in the subsequent year's market value.
- Use appraisal values from CAD as available. For future years, use market value that the entity estimates will approximate the market value for ad valorem tax purposes in that year.
- This amount is typically the taxable value for the purpose of I&S fund or debt service reserve fund.
- Insert rows as needed to adjust beginning date of limitation per 313.027(a-1)(2).

The CPA requests companies complete the electronic spreadsheet version of the form and submit identical electronic and hard copy versions of the spreadsheet (with any attachments) to the district.

For more information, visit our website: www.TexasAhead.org/tax_programs/chapter313/

Biennial School District Cost Data Request (CDR)

The superintendent of each school district having a value limitation agreement under Tax Code Chapter 313 is requested by the Comptroller to complete this form every other year for each limitation agreement. Information from

Date:		Application Number:									
School district:		County:									
Original applicant(s) and current agreement-holder(s) If different:		Date of Agreement:									
1st complete year of the Value Limitation:		Limitation Amount:									
Year (of the agreement)	School Year (YYYY-YYYY)	Market value of qualified property before any exemptions	Market value less any exemptions & before limitation	Taxable value of qualified property for purposes of M&O	M&O Tax Rate	I&S Tax Rate	Revenue Protection Payments	Extraordinary Educational Expenses	Supplemental Payments (Payments in Lieu of Taxes - PILT)	Gross Tax Savings through Tax Credit	Gross Tax Savings through Limitation
Year preceding start of limitation											
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											

NOTE: Use actual data for prior years. Estimates are required for current and future years. For prior year property values of qualified property, use CAD reported values. For current and future years, use best information available or property value estimates provided by agreement-holder(s) on Biennial Progress Report Form 50-773A.

Are you aware of any payments or transfer of things of value not included in the table above, made by the applicant or affiliate of the applicant, to the school district, any person or persons, organization or local governmental entity provided in recognition of, anticipation of, or consideration for the agreement for limitation on appraised value?

Superintendent Name

Superintendent Signature

Date

Name, title, phone, and email of person authorized by superintendent to be contacted by Comptroller's office about information on this form.

Upon completion of this form, please send a signed copy to: Chapter 313 Office, Economic Development and Analysis, LBJ State Office Building, Room 1118, 111 East 17th St., Austin, TX, 78711-1440 AND send an electronic copy (MS Excel format) to chapter313@cpa.state.tx.us

Copies of this report have been distributed to the following:

Legislative Audit Committee

The Honorable Dan Patrick, Lieutenant Governor, Joint Chair
The Honorable Joe Straus III, Speaker of the House, Joint Chair
The Honorable Jane Nelson, Senate Finance Committee
The Honorable Robert Nichols, Member, Texas Senate
The Honorable John Otto, House Appropriations Committee
The Honorable Dennis Bonnen, House Ways and Means Committee

Office of the Governor

The Honorable Greg Abbott, Governor

Office of the Comptroller of Public Accounts

The Honorable Glenn Hegar, Comptroller of Public Accounts

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Mr. James Sanderson, Vice President
Mr. Jody Bell, Secretary
Mr. Skipper Gaston
Mr. Rick Griffin
Mr. Rick Stanford
Mr. Ray Walls
Mr. Abe Gott, Superintendent

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Members of the School Board

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Ms. Yolanda Garza-Lopez
Dr. Lloyd Verstuyft, Superintendent



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In compliance with the Americans with Disabilities Act, this document may also be requested in alternative formats. To do so, contact our report request line at (512) 936-9500 (Voice), (512) 936-9400 (FAX), 1-800-RELAY-TX (TDD), or visit the Robert E. Johnson Building, 1501 North Congress Avenue, Suite 4.224, Austin, Texas 78701.

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