

# Cypress-Fairbanks ISD

Construction Contract Compliance Audit

September 29, 2023



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This report presents the results of the construction audit compliance services related to the District's Construction compliance with Texas Education Code (TEC) §51.783, and contractor/sub-contractor contractual compliance. Our procedures performed were for the Cypress-Fairbanks ISD (The District) during the period of September 1, 2023, through September 29, 2023, relating to Transportation Center #6, Sprague Middle School #20, and Brosnahan Elementary School #58.

Our procedures were performed in accordance with Statement on Standards for Consulting Services issued by the AICPA Management Consulting Services Executive Committee. Our procedures did not represent an audit of the financial statements of the District in accordance with United States Generally Accepted Government Auditing Standards (GAGAS).

The objectives of our construction audit were to evaluate the following:

- A. Determined whether the District is in compliance with TEC §51.783, Selecting Contractor for Construction Services Through Competitive Sealed Proposals
- B. Determine whether contractual requirements are followed between the District and its general contractors DivisionOne Construction (Transportation Center #6), Satterfield & Pontikes Construction (Sprague Middle School #20), and ICI Construction, Inc. (Brosnahan Elementary School #58)

To accomplish these objectives, we conducted interviews with District Management to confirm existing procedures and examined contracts and supporting documentation required for our audit procedures.

The following report summarizes our procedures, and the results of those procedures.

*Weaver and Tidwell, L.L.P.*

WEAVER AND TIDWELL, L.L.P.

Austin, Texas  
September 29, 2023

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# Cypress-Fairbanks ISD

## Construction Contract Compliance Audit

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### Background

As a fast-growing district in the state, Cypress-Fairbanks ISD, through the 2019 Bond Program, has undertaken a large building program to keep up with the needs of the District. As part of that program, the District plans to complete construction or renovation of 36 facilities between June of 2023 and August of 2024. As part of monitoring the overall wellness of the construction in the 2019 Bond Program, the District determined it was prudent to have an external compliance evaluation for compliance of the selection of the contractors and the contractors' compliance with contract terms. The three projects selected to be included in this evaluation are: Transportation Center #6, Sprague Middle School #20, and Brosnahan Elementary #58. Construction of these projects is in progress, and substantial completion and retainage release is expected within the next six to 12 months.

The District has selected the lump-sum method of contracting for its building and renovation contracts. This method requires general contractors to submit a single price bid for the total cost of construction. In accordance with the Texas Education Code (TEC) §51.783, a competitive sealed proposal (CSP) process was requested from bidders on for the three construction projects within the Cypress-Fairbanks ISD during 2021. The fixed price contracts were negotiated between the District and the contractors for each of these three projects.

For each project, multiple proposals were ranked and evaluated. The District chose the contractor which represented the best value for the District, as detailed below:

#### Transportation Center #6

- RFP Date: June 28, 2021
- 20-04-5473R-RFP
- Architect: VLK Architects
- Contractor: DivisionOne Construction
- Contract Sum: \$26,781,000.00
- 11 Competitive Bid Proposal Tabulations

#### Sprague Middle School #20

- RFP Date: March 15, 2021
- 19-11-543R-RFP
- Architect: Texas-IBI Group
- Contractor: Satterfield & Pontikes Construction, Inc.
- Contract Sum: \$66,942,000.00
- Six Competitive Bid Proposal Tabulations

#### Brosnahan Elementary School #58

- RFP Date: April 9, 2021
- 20-04-5478R-RFP
- Architect: PBK
- Contractor: ICI Construction Inc.
- Contract Sum: \$33,252,000.00
- Eight Competitive Bid Proposal Tabulations

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### Audit Scope & Objectives

The audit focused on the District's compliance with the competitive sealed bid process, TEC §51.783, and contract compliance between contractors, sub-contractors, and the District. We reviewed contracts and supporting documentation to ensure the District was in regulatory compliance with the following:

#### TEC §51.783 – Competitive Sealed Proposals:

- A competitive sealed proposal process was utilized for selecting construction contractors
- Firms utilized for testing services were independent from the contractor, as outlined within the request for proposal
- A request for proposal was submitted which included construction documents, selection criteria, estimated budgets, project scope, schedule, and other information required for contractors to respond to the request
- Notice of the request for proposal was published and made publicly available within 45 days after the date of opening the proposal
- The facilities team evaluated and ranked each proposal
- The facilities team recommended the proposal that provided the best value for the District based on the published criteria and on its ranking evaluation, and the Board approved the recommendation

#### Change Proposal Request (CPR) Testing:

- Required signatures are obtained for change proposal requests (CPR)
- The sum of approved CPR and change orders agrees to the approved balance of Owners Betterment Allowance

#### Change Order Testing:

- Required signatures from the architect, contractor, and owner are included on change orders
- Change orders agree to the facilities planning and construction change order routing sheet and correspondence from the architect, contractor, and owner
- Change orders are complete and accurate

#### Contract Testing:

- Through their contracts, general contractors ensured that sub-contractors were aware of and enforced the District's prevailing wage rate terms and conditions
- Application and certification for payment checklist are signed off by the contractor, architect, and owner for contractual requirements
- Application and certification for payments checklist and transmittal are signed and dated by the contractor
- Conflicts of interest do not exist between the owner, contractor, or subcontractor

Our scope did not include evaluating the District's compliance with the Texas Government Code §2254.004, Contracting for professional services of architect, engineer, or surveyor.

# **Cypress-Fairbanks ISD**

## **Construction Contract Compliance Audit**

### **September 29, 2023**

The objectives of this audit were as follows:

- Determined whether the District is in compliance with TEC §51.783, Selecting Contractor for Construction Services Through Competitive Sealed Proposals
- Determine whether contractual requirements are followed between the District and its general contractors DivisionOne Construction, Satterfield & Pontikes Construction, and ICI Construction, Inc.

Our procedures included interviewing key personnel involved in the District's Construction processes to gain an understanding of the current processes in place, examining documentation, and evaluating contracts for regulatory compliance.

### **Executive Summary and Conclusion**

Through our review of the construction documentation, our evaluation of contract and procurement compliance and the testing performed, we did not identify any findings. In the three projects that were included in the scope of the audit procedures, we determined that the District followed the requirements of the Texas Education Code in the selection of contractors for services. We also did not identify any instances where the general contractors did not maintain compliance with the terms and conditions of the contracts that were executed.

Based on our evaluation, the District appears to have practices in place that monitor the billings submitted by the contractor for compliance with the contract terms and conditions. The general contractors have communicated and enforced through contractual terms the District's prevailing wage requirements to their sub-contractors. The general contractors also appear to be in compliance with the terms and conditions of their contracts with the District.

# **Detailed Procedures Performed and Results**

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## Construction Contract Compliance Audit

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### Objective A: Regulatory Compliance

Determined whether the District is in compliance with TEC §51.783, Selecting Contractor for Construction Services Through Competitive Sealed Proposals.

- 1. Procedures Performed:** We obtained and reviewed contractual documentation, requests for proposal, evaluation criteria sheets, tabulation scoring sheets, and board minutes for Transportation Center #6, Sprague Middle School #20, and Brosnahan Elementary School #58 and verified the following:
  - A competitive sealed proposal process was utilized for selecting construction contractors
  - Firms utilized for testing services were independent from the contractor, as outlined within the request for proposal
  - A request for proposal was submitted which included construction documents, selection criteria, estimated budgets, project scope, schedule, and other information required for contractors to respond to the request
  - Notice of the request for proposal was published and made publicly available within 45 days after the date of opening the proposal
  - The facilities team evaluated and ranked each proposal
  - The facilities team recommended the proposal that provided the best value for the District based on the published criteria and on its ranking evaluation, and the Board approved the recommendation

**Result:** No findings identified.

### Objective B: Contract Compliance

Determine whether contractual requirements are followed between the District and its general contractors.

- 1. Procedures Performed:** We obtained and reviewed change proposal requests (CPR) for Transportation Center #6, Sprague Middle School #20, and Brosnahan Elementary School #58 and verified the following:
  - Required signatures are obtained for change proposal requests (CPR)
  - The sum of approved CPR and change orders agrees to the approved balance of Owners Betterment Allowance in the pay applications

**Results:** No findings identified.

- 2. Procedures Performed:** We obtained and reviewed two change orders that were executed during the construction of Transportation Center #6 and verified the following:
  - Change orders included required signatures from the architect, contractor, and owner
  - Change orders agree to the facilities planning and construction change order routing sheet and correspondence from the architect, contractor, and owner
  - Change orders are complete and accurate

**Results:** No findings identified.

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- 3. Procedures Performed:** We obtained and reviewed 178 subcontract agreements executed for the construction of Transportation Center #6, Sprague Middle School #20, and Brosnahan Elementary School #58, and verified the following:
- Contracts were fully executed and signed by the contractor and subcontractor
  - Subcontractors are separate entities from the general contractor
  - Contracts with subcontractors were not executed by key District employees or related parties to key District personnel

**Results:** No findings identified.

- 4. Procedures Performed:** We obtained and reviewed the executed contracts between the District and DivisionOne Construction, Satterfield & Pontikes Construction, Inc., and ICI Construction Inc., for the construction of Transportation Center #6, Sprague Middle School #20, and Brosnahan Elementary School #58, respectively, and verified the following:
- Application and certification for payment checklist are signed off by the contractor, architect, and owner for contractual requirements
  - Application and certification for payments checklist and transmittal are signed and dated by the contractor

**Results:** No findings identified.

- 5. Procedures Performed:** We obtained the 178 contracts issued by the general contractors to sub-contractors for the construction of Transportation Center #6, Sprague Middle School #20, and Brosnahan Elementary School #58. We evaluated these contracts to the sub-contractors to ensure that the general contractors included provisions in the contract to ensure that the sub-contractors are knowledgeable of and are expected to follow the District's prevailing wage rate requirements when paying their workers.

**Results:** No findings identified.