

ATTACHMENT I

Statutory Citations Relating to Discussion of Proposed Amendment to 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter D, Uniform Bank Bid or Request for Proposal and Depository Contract, §109.52, Uniform Depository Bank Contract and Surety Bond Forms

Texas Education Code (TEC), §7.102, State Board of Education Powers and Duties (excerpt):

- (c) (34) The board shall prescribe uniform bid blanks for school districts to use in selecting a depository bank as required under Section 45.206.

TEC, §45.205, Term of Contract, as amended by Senate Bill 754, 85th Texas Legislature, Regular Session, 2017:

- (a) Except as provided by Subsection (b), the depository bank when selected shall serve for a term of two years and until its successor is selected and has qualified.
- (b) A school district and the district's depository bank may agree to extend a depository contract for three [two] additional two-year terms. The contract may be modified for each two-year extension if both parties mutually agree to the terms. An extension under this subsection is not subject to the requirements of Section 45.206.
- (c) The contract term and any extension must coincide with the school district's fiscal year.

TEC, §45.206, Bid or Request for Proposal Notices; Bid and Proposal Forms:

- (a) Not later than the 60th day before the date a school district's current depository contract expires, the district shall choose whether to select a depository through competitive bidding or through requests for proposals.
 - (a-1) If a school district chooses under Subsection (a) to use competitive bidding, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include a uniform bid blank in the form prescribed by State Board of Education rule.
 - (a-2) If a school district chooses under Subsection (a) to use requests for proposals, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include a uniform proposal blank in the form prescribed by State Board of Education rule.
- (b) The school district may add to the uniform bid or proposal blank other terms that do not unfairly restrict competition between banks in or near the territory of the district.
- (c) Interest rates may be stated in the bid or proposal either as a fixed rate, as a percentage of a stated base rate, in relation to a stated prevailing rate varying from time to time, or in any other manner, but in every case in a uniform manner, that will permit comparison with other bids or proposals received.
- (d) If the school district chooses under Subsection (a) to use requests for proposals, the district shall state the selection criteria, including the factors specified under Section 45.207(c), in the request for proposals and shall select the proposal that offers the best value to the district based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. A

district may negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed.

TEC, §45.208, Depository Contract; Bond:

- (a) The bank or banks selected as the depository or depositories and the school district shall enter into a depository contract or contracts, bond or bonds, or other necessary instruments setting forth the duties and agreements pertaining to the depository, in a form and with the content prescribed by the State Board of Education. The parties shall attach to the contract and incorporate by reference the bid or proposal of the depository.
- (b) The depository bank shall attach to the contract and file with the school district a bond in an initial amount equal to the estimated highest daily balance, determined by the board of trustees of the district, of all deposits that the school district will have in the depository during the term of the contract, less any applicable Federal Deposit Insurance Corporation insurance. The bond must be payable to the school district and must be signed by the depository bank and by some surety company authorized to do business in this state. The depository bank shall increase the amount of the bond if the board of trustees determines it to be necessary to adequately protect the funds of the school district deposited with the depository bank.
- (c) The bond shall be conditioned on:
 - (1) the faithful performance of all duties and obligations devolving by law on the depository;
 - (2) the payment on presentation of all checks or drafts on order of the board of trustees of the school district, in accordance with its orders entered by the board of trustees according to law;
 - (3) the payment on demand of any demand deposit in the depository;
 - (4) the payment, after the expiration of the period of notice required, of any time deposit in the depository;
 - (5) the faithful keeping of school funds by the depository and the accounting for the funds according to law; and
 - (6) the faithful paying over to the successor depository all balances remaining in the accounts.
- (d) The bond and the surety on the bond must be approved by the board of trustees of the school district. A premium on the depository bond may not be paid out of school district funds.
- (e) A copy of the depository contract and bond shall be filed with the agency.
- (f) In lieu of the bond required under Subsection (b), the depository bank may deposit or pledge, with the school district or with a trustee designated by the school district, approved securities in an amount sufficient to adequately protect the funds of the school district deposited with depository bank. A depository bank may give a bond and deposit or pledge approved securities in an aggregate amount sufficient to adequately protect the funds of the school district deposited with the depository bank. The school district shall designate from time to time the amount of approved securities or the aggregate amount of the bond and approved securities to adequately protect the district. The district may not designate an amount less than the balance of school district funds on deposit with the depository bank from day to day, less any applicable Federal Deposit Insurance Corporation insurance. The depository bank may substitute approved securities on obtaining the approval of the school district. For purposes of this subsection, the approved securities are valued at their market value.