

**Itasca Independent School District**  
**123 N. College**  
**Itasca, Texas 76055**

July 31, 2023

Theresa Shutey  
Special Investigations Unit  
Division of Governance  
Texas Education Agency  
1701 N. College  
Itasca, TX 76055-2307

Subject: TEA Reference #: INV2023-04-246 Itasca ISD

Dear Ms. Shutey:

Please accept the following response from the Itasca Independent School District (“District”) to the Notice of Complaint Review letter dated June 23, 2023. Thank you again for your approval of the extension of time to deliver the District’s response by August 1, 2023.

For background, I have conducted what I consider to be due diligence in trying to locate records associated with the complaint. However, please note that at least one of the items of your office’s inquiry involves a contract with Ideal Impact which goes back over six years when it was first approved on February 8, 2016. Since that time, there have been five different superintendents to serve the District. Most of the former superintendents engaged in each of the issues for which you are seeking information. As the type of district records responsive to your request were kept in the superintendent’s office, it has been difficult determining whether the records may have been stored in paper format, electronic format, or whether they ever existed at all. Therefore, the responses below are based on my best efforts to provide the most responsive information and records available.

To adequately address the allegations, I have broken the responses down by information requested from TEA. Supporting documentation is attached.

- 1. TEA requested information pertaining to the RFQ process for the Ideal Impact contract issued in 2016, including but not limited to, the public posting, vendor bids submitted, ranking sheets, scoring criteria, and contracts awarded.*

**Response:** The Ideal Impact contract between the District and Ideal Impact was unanimously approved by the Board of Trustees in a Regular Board meeting on February 8, 2016. The contract which is written as a consulting contract was for a term of 57 months and guaranteed a savings of \$130,588 over the contract period. In a phone conversation with Jill Downs, Ideal Impact Representative, on July 20, 2023, she stated that the actual cost savings achieved

exceeded the contract guarantee by \$134,265 over the contract term. Ideal Impact has provided a spreadsheet verifying the savings which is attached.

Regarding the TEA request for information, please note the following:

- A copy of the public posting of the RFP cannot be verified. In background notes provided to the Board during the January 11, 2016, meeting, former Superintendent Glenn Pittman indicated that he was going to issue an RFP to solicit responses from vendors.
- Based on the attached documents, apparently the only proposal in response to the District's RFP was from Ideal Impact. Assuming Ideal Impact was the only vendor to respond to the RFP, ranking sheets and scoring criteria would not have been developed.
- A copy of the contract approved by the Board on February 8, 2016, is included in the packet.

Responsive Documents to this Section are attached and labeled "**Exhibit 1 – Ideal Impact Records**" with additional responsive documents contained in "**Exhibit 3 – Public Information Records.**"

2. *TEA requested documentation regarding compliance with TEC 44.901 for the 2016 ESPC, including but not limited to, the payment and performance bond relating to the installation of the measures, any separate bonds to cover the value of the guaranteed savings on the contract, a description of how the contract was financed and supporting documentation, and the completed review that was done of the projected cost savings by a licensed professional engineer.*

**Response:** According to information received from Ideal Impact, the District entered into a contract with Ideal Impact under TEC 44.031 and not under TEC 44.901, as no HVAC or lighting equipment was purchased or replaced and no construction took place. This project purpose was primarily to address contractually provide consulting and technology services designed to save energy costs. The contract was funded through "local" funds and not financed with Ideal Impact or any other party. The total contract amount of \$119,963 was paid in four separate installments through the District's general fund.

- A record of a payment and performance bond being provided by Ideal Impact could not be verified.
- A record of the projected cost savings review by a licensed engineer could not be verified.

Responsive Documents to this Section are attached and labeled "**Exhibit 2 – Ideal Impact Payment Records**" with additional responsive documents contained in "**Exhibit 1 – Ideal Impact Records and Exhibit 3 – Public Information Records.**"

3. *TEA requested all Public Information Requests made to IISD regarding the energy savings achieved by the 2016 ESPC and documentation copies of documents provided to the requestor of the information.*

**Response:** Since July 2021, the District has received five separate Open Records Requests regarding the Ideal Impact contract. All requests were from the same person, Mr. Jeff Mashburn. Listed below is a summary of all requests and district responses. Copies of all ORR and responses are attached.

- July 26, 2021 – The District received ORR #1 from Mr. Mashburn regarding the 2016 Ideal Impact contract. On July 27, 2021, former Superintendent Mark Parsons, responded to the request by email. In this July 27 email, Dr. Parsons stated that the District did not have “responsive” records as related to the request.
- September 22, 2021 – The District received ORR #2 from Mr. Mashburn dated September 14, 2021. A certified letter was mailed to Mr. Mashburn from former Superintendent Dr. Parsons on September 29, asking for clarification. The ORR requested that “the district to provide information listed below.” However, the ORR did not include the referenced “information listed below. While a copy of the Dr. Parson’s letter could not be located, a draft copy was included in the file along with the certified mail receipt. There is no record that Mr. Mashburn responded to Dr. Parsons.
- April 14, 2022 – Itasca ISD receives ORR #3 from Mr. Mashburn. Please note that Mr. Michael Stevens had just assumed the position as superintendent of schools on April 1, 2022. A response to the request was sent to Mr. Mashburn by certified mail on April 29 with an itemized cost to fulfill the request or view the records in person. It is my understanding that Mr. Mashburn viewed the records requested along with information requested in ORR#4 in the superintendent’s office.
- May 13, 2022 – Itasca ISD receives ORR #4 from Mr. Mashburn dated May 11, 2022. From the available records, there is evidence to show that Itasca ISD fulfilled this request by providing the records for Mr. Mashburn to view when he visited the district in association with ORR #3.
- April 13, 2023 – The District received ORR #5 from Mr. Mashburn and, from what I can gather, provided him with a response where it sought clarification as to what specific records, if any, he was requesting. I found no records indicating that Mr. Mashburn responded to the District in response to the clarification or follow-up to his request.

Responsive Documents to this Section are attached and labeled “**Exhibit 3 – Public Information Records.**”

4. *Provide a detailed description and supporting documentation as to how the cost of the May 2022 Bond dollar amount was calculated.*

**Response:** The purpose of the May 2022 Bond was to create a plan to assess and provide new construction and renovation to District's facilities. As the attached records show, the community was involved and aware of the District's work in conducting a facility review and reviewing financing options including calling for a bond election through numerous public meetings of a committee and the Board of Trustees. Preparation for facility improvements began in 2020 when Gallagher Construction assisted the district in conducting a Facility Assessment. A "Needs Assessment/Improvements Committee" was established to conduct a facilities study and consider making a recommendation to the Board regarding a future bond issue. Ultimately, a bond election was called by the Board of Trustees at a public meeting in February 2022 to address the following facility needs: roof replacement for the elementary and middle school campuses, middle school classroom wing, a new cafetorium (cafeteria/gym/auditorium) combined in one facility, renovations to administration and life skills classroom, and restroom renovations at all campuses, Alternate projects were listed as well, but would only be considered upon availability of funds.

The bullets points below outline the efforts of the District and Board of Trustees, at public meetings, to determine the facility needs of the District and the estimated cost of a bond to fund the improvements.

- On April 12, 2021, the Board received a recommendation from Mark Fehnel, Needs Assessment Committee member, to consider a future bond election to address facility needs. The Board unanimously approved the recommendation. (See Agenda and Minutes from April 12, 2021.)
- On June 7, 2021, the Board held a Special Meeting to conduct a workshop and discuss possible options to address facility needs and improvements. (See Agenda and Minutes from June 7, 2021, meeting.)
- On July 12, 2021, the Board approved hiring VLK Architects for potential bond projects and approved the Construction Manager – Agent method, as the delivery method for potential bond projects.
- The District partnered with VLK Architects and Gallagher Construction to identify the District's priority facility needs and develop a plan with budget to address those needs. VLK and Gallagher worked together to arrive at the \$20 million bond measure amount. At my request, Robb Sidebottom from Gallagher Construction has provided a summary of how the cost of the projects were developed. A budget breakdown of the projects along with a project description is provided.
- At a regular scheduled Board meeting on January 10, 2022, the Board heard a report from the Construction Manager-Agent (Gallagher), Architect (VLK), and financial advisor (Dan Mahoney, Stifel) regarding the scope and cost of the proposed projects. Mr. Mahoney presented information regarding the financial impact of the bond on the District's interest and sinking (I&S) tax rate.

- On February 7, 2022, the Board called a Special Meeting to consider calling a bond election.

Responsive Documents to this Section are attached and labeled “**Exhibit 4 – Bond Election Records.**”

In conclusion and after review of the records, the District has been responsive to each of Mr. Masburn’s concerns and multiple public information requests based on the information that it had available to it at the time. The contract with Ideal Impact was not a construction services contract and thus I understand that performance and payment bonds or other requirements under TEC 44.901 were not required of it at the time. As a consulting contract for professional services, state law procurement requirements for public solicitations were not applicable under the Professional Services Procurement Act found in Tex. Gov’t Code Section 2254.001-.007. Nonetheless, it appears to my review that Ideal Impact did respond to an RFP although records of this procurement were not successfully located. Similarly, the District appears to have met its legal requirements in response to Mr. Masburn’s multiple requests for public information over the years. The District’s records show that upon receiving public information requests from Mr. Masburn, the District responded by informing him that it did not have responsive records or asked for clarification or provided a cost estimate or produced responsive documents for inspection. From my review of the records, I am not aware of any requests that are outstanding from Mr. Masburn for public records. Last, the records also show that the District involved its community, financial and design and construction experts as the Board examined the facility needs of the District and collaborated with the community to prioritize facilities for improvement given District finances and the potential for a called bond election. These discussions were developed with the community and in open and public meetings by a District committee and Board of Trustees.

After reviewing this matter, I respectfully request that the investigation be concluded in favor of the District. The District will continue to ensure that future procurements and requests for public information and possible future construction projects and/or bond elections be conducted in good faith partnership with the community and in full legal compliance. If there are areas for District improvement, please know that I will work to carry forward to ensure guidance from TEA is known by the Board and staff and followed.

If I can answer any questions or be of any assistance, please do not hesitate to contact me.

Sincerely,

Keith Boles  
Interim Superintendent  
Itasca ISD