

Choice Partners EDGAR Frequently Asked Questions



Q1: What is EDGAR?

A: The Education Department General Administrative Regulations (EDGAR) are the federal regulations that govern all federal grants awarded by the U.S. Department of Education on or after Dec. 26, 2014.

Q2: Does Choice Partners follow the new EDGAR regulations?

Yes. Choice Partners follows the new EDGAR regulations for every procurement action to ensure that Choice members may use Choice Partners' cooperative contracts when using federal funds. Specifically, because at the time of procurement, Choice Partners is unable to determine which of its procurements/contracts will be used by CP members using federal funds, Choice Partners intends to competitively procure each and every contract awarded by Choice Partners under Section 44.031 of the Texas Education Code and intends to comply with EDGAR for every procurement action. (See also FAQ # 6-7).

Q3: Do Choice Partners' vendors comply with the new EDGAR regulations?

A: Yes. All RFP documents now include EDGAR Certification Forms for future contracts, and vendors with existing contracts will receive EDGAR Certification Forms to complete and return to Choice Partners. Additionally, Choice Partners' vendors must retain all financial records, supporting documents, and statistical records for a period of three years, and vendors must certify compliance with EDGAR's record retention requirements at the time of the contract.¹

Q4: Does EDGAR allow for cooperative agreements?

A: Yes. Like the former regulations, EDGAR encourages the use of cooperative agreements for procurement or use of common or shared goods and services in order to foster greater economy and efficiency.²

Q5: How does EDGAR affect Choice members purchasing goods and services through Choice Partners?

A: As the purchasing cooperative, Choice Partners must follow state and federal procurement rules as if the Choice member made the procurement. According to TEA, upon verification by the Choice member that Choice Partners followed the most restrictive of the state or federal procurement rules (see the following question for detail), the Choice member may

¹ 2 C.F.R. § 200.333.

² 2 C.F.R. § 200.318(e).

purchase goods and services from Choice Partners “directly without any additional procurement activities or documentation.”³

Q6: How do Choice members verify that Choice Partners complied with the most restrictive of the state or federal procurement rules?

A: In accordance with EDGAR, Choice maintains records detailing its procurement histories, such as records reflecting the rationale for the method of procurement, the selection of contract type, the contractor selection or rejection, and the basis for the contract price.⁴ Choice members may use these records to verify Choice’s compliance with the most restrictive federal or state procurement rule. Members may review Choice’s documents reflecting the procurement history and the cost or price analysis upon request.

Q7: Which procurement rules are the most restrictive?

A: Choice Partners must comply with the most restrictive rule, whether the federal rules in EDGAR or the state rules in the Financial Accountability System Resource Guide (FASRG). The most restrictive rule varies according to the contract amount as follows:

- **Micro-purchases below \$3,000** – EDGAR
- **Small purchases between \$3,001 and \$49,999** – EDGAR
- **Purchases between \$50,000 and \$149,000** – FASRG
- **Purchases at or above \$150,000** – EDGAR.⁵

Because at the time of procurement, Choice Partners is unable to determine which of its procurements/contracts will be used by CP members using federal funds, Choice Partners intends to competitively procure each and every contract awarded by Choice Partners under Section 44.031 of the Texas Education Code and intends to comply with EDGAR for every procurement action by conducting an independent estimate and cost/price analysis for every procurement action and requiring all vendors to complete the EDGAR certification forms.

Q8: What is the independent estimate requirement?

A: As part of EDGAR’s cost or price analysis requirements in Section 200.323, Choice Partners must make an independent estimate of the value of goods or services in the current market before receiving bids or proposals.⁶ The independent estimate functions as a benchmark for evaluating the reasonableness of future bids and proposals and ensures that “due diligence is completed to determine a fair and reasonable price range for goods and services before procurement commences.”⁷ The level of analysis may vary from a simple budgetary estimate to a complex estimate that resembles a cost analysis or price analysis (described in FAQ # 9-13, below) more so than a preliminary estimate, but regardless of the level of complexity, the estimate should be an independent assessment of what HCDE/Choice members expects to pay for a particular good and/or services based on a reliable source, such as historical payment, industry standard, or market survey.⁸

³ *News from the Div. of Grants Admin.: Procurement Question Added to EDGAR FAQ Doc.*, Texas Educ. Agency (July 2, 2015).

⁴ 2 C.F.R. § 200.318(i).

⁵ See Texas Education Agency: March 2, 2015, training materials (PDF), http://tea.texas.gov/Finance_and_Grants/Grants/Administering_a_Grant/The_New_EDGAR/.

⁶ *Id.* § 200.323(a).

⁷ California Division of Mass Transportation: Federal Procurement Management Branch: *Independent Cost Estimate/Cost & Price Analysis* (revised March 5, 2015), <http://www.dot.ca.gov/hq/MassTrans/Docs-Pdfs/Procurement/04.ice.guidance.pdf>.

⁸ *Independent Cost Estimate/Cost & Price Analysis*.

Q9: What is the cost or price analysis requirement?

A: For procurement actions involving federal funds at or above \$150,000, the new EDGAR regulations require Choice Partners to conduct: **(1)** an independent estimate of the value of goods and services before receiving bids or proposals; and **(2)** a cost or price analysis before awarding a contract. While EDGAR only requires an independent estimate/cost or price analysis for contracts at or above \$150,000, Choice Partners intends to perform an independent estimate and a cost or price analysis for every procurement action for all future contracts awarded by Choice Partners.⁹

Q10: When does Choice Partners conduct the cost or price analysis?

A: First, before receiving bids or proposals, Choice Partners must make an independent estimate of the value of the goods or services in the current market. (See FAQ # 8). Second, before awarding a contract, Choice Partners performs either a cost or price analysis depending on the contract type. (See FAQ # 11-12).¹⁰

Q11: What is a cost analysis?

A: Choice Partners will conduct a cost analysis in two situations before awarding a contract: (1) for contract modifications; and (2) when Choice Partners only receives one proposal after soliciting competitive sealed proposals. A cost analysis involves evaluating the separate cost elements such as labor and materials that make up the total price (including profit), to determine whether the costs are allowable, allocable, and ultimately, reasonable in accordance with federal cost principles.¹¹

Q12: What is a price analysis?

A: Before awarding a contract, Choice Partners will conduct a price analysis for all competitive contracts (i.e., for all Choice Partners' contracts). A price analysis involves evaluation of the total price without analyzing separate cost elements to determine whether the lump sum is fair and reasonable based on current market value or comparable products or services.¹²

Q13: Does the cost or price analysis requirement apply to Choice members that use federal funds at or above \$150,000?

A: Yes. For contracts at or above \$150,000 of federal funds, Choice members must verify that Choice Partners followed EDGAR procurement rules, including the cost or price analysis requirement. According to TEA, upon verification, the Choice member may purchase goods or services from Choice Partners directly "without any additional procurement activities or documentation."¹³ This FAQ verifies Choice Partners' commitment to comply with EDGAR.

Additionally, Choice Partners will provide its completed Independent Estimate Determination Form and Determination of Cost or Price Reasonableness Form to Choice members upon request, but Choice Partners recommends that when circumstances necessitate separate evaluation of lump-sum pricing, Choice members also conduct an independent evaluation of cost or price reasonableness tailored to the Choice member's specific purchases so that the Choice member can independently determine the reasonableness of the cost/price of the

⁹ 2 C.F.R. § 200.323.

¹⁰ 2 C.F.R. § 200.323.

¹¹ See Texas Education Agency: March 2, 2015, training materials (PDF); see also 2 C.F.R. Part 200, Subpart E—Cost Principles; U.S. Dep't of Housing and Urban Development: Quick Guide to Cost and Price Analysis for HUD Grantees and Funding Recipients (July 6, 2015), http://portal.hud.gov/hudportal/HUD?src=/program_offices/cpo/grantees/cstprice.

¹² U.S. Dep't of Housing and Urban Development: Quick Guide to Cost and Price Analysis for HUD Grantees and Funding Recipients; Texas Education Agency: March 2, 2015, training materials (PDF).

¹³ Texas Education Agency: March 2, 2015, training materials (PDF).

particular purchase. Stated differently, if the Choice member's verification of Choice Partners' compliance with EDGAR reveals that the lump-sum price includes goods or services for which Choice Partners could not have performed a cost or price analysis, the Choice member should conduct an independent cost or price analysis. For example, the total lump-sum price may include charges for goods and/or services that were not or could not have been submitted to Choice Partners for review at the time proposals were submitted and a contract was awarded between HCDE/Choice Partners and the vendor.

Finally, Choice Partners recommends that when using federal funds at or above \$150,000 under Choice contracts that were awarded prior to EDGAR, Choice members conduct their own price or cost analysis before issuing a purchase order or entering into a contract with a Choice vendor in order to comply with EDGAR.