



## Side by Side of Procurement Rules What is most restrictive, State or Federal?

Purchases, including purchasing cooperatives, must demonstrate compliance with following most restrictive requirements:

Amount	State Requirements	EDGAR Requirements
<b>\$1-\$10,000 Aggregate</b>	TEC 44.031 - no formal rules, suggests policy	<b>200.320(a) micro purchase - reasonable cost and, as practicable, purchases equally distributed among vendors</b>
<b>\$10,001-\$49,999 Aggregate</b>	TEC 44.031 - no formal rules, suggests policy	<b>200.320(b) small purchase - price quotes (adequate number of vendors)</b>
<b>\$50,000-\$250,000 Aggregate</b>	<b>TEC 44.031 rules. (choose best option for LEA):</b> 1. competitive bidding 2. competitive sealed proposals 3. request for proposal (RFP) 4. interlocal contract 5. request for qualifications (RFQ) 6. reverse auction 7. formation of political subdivision corporation	200.320(b) small purchase - price or quotes (adequate number of vendors)
<b>\$250,001+</b>	TEC 44.031 - one of 7 methods listed above	<b>200.320(c,d) sealed bids/competition; RFP or RFQ</b> <b>200.323 LEA is required to conduct cost price analysis</b>
<b>Noncompetitive/Sole Source</b>	TEC 44.031(j)(k) – Sole source allowed if existence of patent, copyright, secret process or monopoly	<b>200.320(f) Noncompetitive proposal,</b> 1. Available from single source 2. Public exigency or emergency 3. Approved by authorized agency (TEA) 4. No Competition Procurement must still follow most restrictive rules based on the total price of the procurement.
<b>Denotes most restrictive rules that must be followed.</b>		

## **7. Procurement and Contracts**

### **7.1 Which procurement thresholds determine the strictest rules to follow, EDGAR or FASRG?**

Response:

The response varies depending on the subgrantee's entity type.

#### ***ISDs and ESCs***

Regarding procurement regulations in the new EDGAR and FASRG, the ISD or ESC must follow the most restrictive rule or regulation.

For micro-purchases below \$10,000, the federal rules apply. In addition, per state rules, the LEA should have a local policy identifying a threshold below \$50,000 for which the LEA does not require a competitive process. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,000. To the extent practicable, the LEA must distribute micro-purchases equitably among qualified suppliers and may be awarded if the LEA considers the price to be reasonable.

For purchases that cost between \$10,001 and \$49,999, the federal rules require a competitive process, which may be an informal process, including price or rate quotations from an adequate number of qualified sources. In this case, the federal rules are more restrictive than the state rules, up to \$50,000. This is for securing services, equipment or supplies, or other property that do not cost more than \$50,000 per individual service, aggregate equipment or supplies (such as 10 similar items of equipment at \$5,000 each), or other individual property.

At \$50,000 and above, the state rules become more restrictive than the federal and must be followed.

However, at \$250,000 and above, the federal rule for the cost or price analysis is more restrictive and must also be followed in conjunction with the state rules. This analysis must be conducted anytime the purchase price exceeds \$250,000 per item or service.

#### ***Charter Schools***

The FASRG requirements are not applicable to charter schools unless the commissioner approved otherwise in the individual contract for charter. Generally, TEC §12.1053 provisions do not significantly limit the contracting and purchasing activities of open-enrollment charter schools. The federal EDGAR requirements will, therefore, be more restrictive where FASRG does not apply and must in such instances be followed for all procurements under federal awards.

#### ***Nonprofit Organizations***

The FASRG requirements are not applicable to nonprofit organizations. The federal EDGAR requirements must be followed.