

E&I EDGAR/Uniform Guidance Compliance Letter

E&I requested that our firm review E&I's procurement practices and provide an opinion on whether those practices are in compliance with the new regulations set forth in the U.S. Department of Education's General Administrative Regulations ("EDGAR"). In doing so, we have had discussions with E&I staff about E&I procurement practices and we reviewed various procurement documents and written policies provided by E&I. We suggested updates to various documents and practices, and then reviewed the finalized drafts of the documents and procurement practices to ensure EDGAR compliance. Based upon our review of the documents and information that E&I has shared, we believe E&I conducts its procurement activities in a manner to comply with the subject new EDGAR regulations, which are further detailed in this letter.

Please note that although E&I is compliant with all practices, Members also have Member-specific responsibilities to ensure EDGAR compliance. E&I will do its best to guide Members on their Member-specific responsibilities, but ultimately Members are responsible for their individual compliance.

As an initial matter, EDGAR is the Education Department General Administrative Regulations, which requires compliance with 2 CFR 200 (i.e. Uniform Guidance). This is the recently updated Federal regulation that governs all federal grants awarded by the Federal Government on or after December 26, 2014. However, the adoption date was pushed back to July 1, 2018 for non-federal government entities.

Cooperative purchasing, such as done with E&I, is not only permissible under EDGAR, but actually encouraged to enter into inter-entity agreements, where appropriate, to procure or use common or shared goods and services. However, failure to comply with EDGAR could require Members to return all federal grant funds if the vendors are not properly procured.

It is important to note that EDGAR regulations apply with the application of even \$1 of federal grant funds used. At the time of purchase, Members may not be able to determine which of its procurements/contracts will be funded with federal funds (even in part), or the final amount of the purchase(s), so the Member should comply with EDGAR for every procurement action by conducting an independent estimate and cost/price analysis for every procurement and purchasing action that could aggregate to the applicable annual threshold; and, requiring all vendors to complete the EDGAR certification forms.

Additionally, Members must comply with the most restrictive rule, whether EDGAR rules or state procurement rules. Which rule is the most restrictive depends on the purchase or contract amount and the Member's state and local rules. E&I has already incorporated these new processes into the current solicitation documents.

Specifically, it appears E&I's procurement methods comply with EDGAR Procurement Standards detailed in 2 CFR 200.317-200.326 as follows:

- **200.317: Procurements by State** – E&I cooperates with State Members for compliance with state and local laws, in addition to EDGAR compliance
- **200.318 General Procurements** –Although Members are individually responsible under this section of EDGAR, E&I works with members to ensure all Members' general procurement standards are included in E&I involvement in the procurement process.
- **200.319 Competition** – E&I's policies for the competitive process include all specifications providing full and open competition and adequate dispute and appeals process, required by this section.
- **200.320 Methods of Procurement to be Followed** – E&I's competitive proposal procurement practices are compliant with the applicable available procurement methods, and E&I's agreements which Members use for small and micro purchases are also compliant.
- **200.321 Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms** – E&I takes all necessary affirmative steps to ensure these businesses are used when possible and requires the appropriate certifications to ensure compliance.
- **200.322 Procurement of Recovered Materials** - E&I is compliant by working with applicable Members with this specification detailing an affirmative program for procuring recovered materials identified in EPA Guidelines.
- **200.323 Contract Cost and Price** – Although this is an independent Member responsibility, E&I complies with this section by working with Members (such as providing pricing, benchmarking, and prohibiting cost-plus pricing, where applicable) to ensure their ability to comply with applicable contract procedures and rules detailed in this section.
- **200.324 Federal Awarding Agency and Pass Through Entity Review** – E&I is compliant because E&I and Members both agree to cooperate with applicable requests for review from the Awarding Agency or Pass through Entity.
- **200.325 Bonding Requirements** – Although this is the Member responsibility, E&I is compliant because it is E&I's policy to cooperate with Member to ensure all minimum federal requirements are met when E&I is involved.
- **200.326 Contract Provisions** – E&I is compliant with this by including all applicable provisions described in Appendix II to 2 CFR 200 in an EDGAR certification and EDGAR certification addendum with its Request for Proposal, which sets forth the specific contractual requirements detailed in the EDGAR regulations.

Based on the forgoing observations, we believe E&I conducts its procurement activities in a manner that complies with the requirements of EDGAR as described in this letter.

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