



Group purchasing for charter schools. That's smart.

1040 S. Gaylord Street STE 29 • Denver CO 80209
www.buyq.org

July 1, 2021

RE: Letter Regarding the new EDGAR and BuyQ's Group Purchasing Program

To whom it may concern,

This letter provides information and background on the use of federal funds in the purchase of products and services through BuyQ-approved program vendors and informational guidance on example policies and procedures with respect to related purchases using federal funds by individual charter schools, private schools, independent school or other similar schools or educational institutions or organizations ("participants"). If you are procuring goods or services using federal funds, you are subject to certain requirements under federal law, including, but not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (the "new EDGAR", as updated in August 2020). We note that this letter is for informational purposes only and does not constitute legal advice. Given the complexity of the new EDGAR and other purchasing laws and regulations, each participany and related support organization should obtain its own independent legal advice to ensure compliance with applicable law if it is using federal funds to purchase products or services, whether through a group purchasing organization or otherwise.

Group purchasing organizations are designed to enable groups of independent customers, like charter schools, independent schools, private schools and similar schools and organizations, to combine their purchasing power to negotiate discounts with vendors. By leveraging the combined purchasing power of 5,000+ participants, BuyQ is able to deliver significant savings and other benefits on the products and services it offers through its approved list of vendors. Fortunately, the new EDGAR recognizes the benefits that group purchasing organizations like BuyQ provide and, in fact, encourages non-federal entities (e.g. charter schools, private schools and independent schools) to enter into inter-entity agreements (like the programs made available by BuyQ) where appropriate for procurement or use of common or shared goods or services to foster greater economy and efficiency.¹

The BuyQ group purchasing program selects vendors through open and competitive request for proposal (or RFP) processes that provide individual participants access to discounts and other benefits on products and services from reputable vendors. Throughout the RFP process, BuyQ adheres to a strict code of conduct that governs BuyQ's contracting activities. This ensures not only that our individual members have a resource to combine their collective purchasing power, but also that our awarded vendors have been selected according to ethical purchasing standards that put participants first.

BuyQ vendor contracts have been in place for several years and were specifically designed to comply with federal regulations prior to the passage of the new EDGAR and regulatory updates in August 2020. BuyQ continually reviews its RFP process to ensure compliance with applicable regulations and to determine whether any changes to its processes and contracts may assist individual participants in compliance with all federal regulations, including the new EDGAR. To the best of BuyQ's knowledge, our RFP processes substantially conform to the extent applicable to the new EDGAR rules for: "General procurement standards" (2 CFR §200.318), "Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms" (§200.321), and "Competition" (§200.319), as well as

¹ Federal Register 80 FR 54407; 2 CFR §200.318(e).



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the “Informal Procurement Methods” (§200.320(a), for purchases under the micro-purchase threshold² or under the Federal Simplified Acquisition Threshold³) and the “Formal Procurement Methods” (§200.320(b), for purchases over the Federal Simplified Acquisition Threshold). However, while use of group purchasing programs, such as BuyQ’s, is allowed and even encouraged, it is still the responsibility of each individual participant to ensure all purchasing using federal funds complies with the requirements of the new EDGAR.

Simply stated, because purchases are made by individual participants and not by BuyQ or any other group purchasing organization, any group purchasing organization, including but not limited to BuyQ, will not and cannot know, at the time vendors are selected, (i) the underlying source of and ultimate value of any funds used in any individual participant’s expenditures, (ii) the individual participant’s procurement policies or (iii) the unique requirements of any particular federal grant made to a participant. **As a result, responsibility for compliance with the new EDGAR and other applicable regulations ultimately rests with the individual participant.**

BuyQ has included below some informational policies and guidance for consideration by school support organizations and their individual participants when making purchases using federal funds through BuyQ-approved vendors. As always, it is important to note that these federal regulations, including the new EDGAR, do not apply to other purchases by participants using non-federal funds (although other regulations may apply).

Micro-purchases pursuant to 2 CFR § 200.320(a)(1)

A micro-purchase is a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold (currently \$10,000).⁴ The new EDGAR provides that micro-purchases may be awarded without soliciting quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly; to the maximum extent practicable, the non-Federal entity should distribute micro-purchases among qualified suppliers.⁵

Given the extensive RFP processes conducted by BuyQ to select its vendors as described above and the ability of BuyQ to negotiate large discounts on behalf of participants, BuyQ is the ideal source for individual participants to find reasonable prices on the goods and services they require when making micro-purchases in compliance with the applicable provisions of the new EDGAR. As always, it is up to the individual participant to determine: (1) whether a price is reasonable; and (2) the practicality of distributing purchases equitably among qualified suppliers. BuyQ believes that the savings potential associated with making micro-purchases through BuyQ’s vendors may make it impracticable and unreasonable for individual participants to distribute micro-purchases among other suppliers of similar products because those suppliers may not be able to match the savings provided by BuyQ vendors, but that, as always, is a decision for the individual participant.

Small purchase procedures (under \$250,000) pursuant to 2 CFR § 200.320(a)(ii)

² The micro-purchase threshold is \$10,000 as of the date of this letter.

³ The Federal Simplified Acquisition Threshold is \$275,000 as of the date of this letter.

⁴ 2 CFR § 200.320(a)(1).

⁵ Id.



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Non-federal entities may adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold (currently set at \$250,000, referred to herein as the "Limit").⁶ For purchases under the Limit, the new EDGAR provides for a relatively simple and informal procurement method, which only requires that price or rate quotations be obtained from an adequate number of qualified sources as determined by the non-Federal entity. As noted above, BuyQ believes its extensive and competitive RFP process exceeds the requirements under the new EDGAR for purchases under the Limit. Individual participants should ensure they obtain price and rate quotation from an adequate number of sources, whether through BuyQ-approved vendors or otherwise. It is up to the individual participants to determine whether the BuyQ-approved vendor offers the best pricing for the products and services that is seeking. Individual participants should be aware that they may be subject to other procurement requirements, including under applicable state or local law.

Purchases above the Limit

For purchases of products and services using federal funds above the Limit, each individual participant should consult with its own independent legal counsel or advisor as the applicable provisions of the new EDGAR for purchases over the Limit are complicated and vary depending on the specific needs and circumstances of each individual participant. As always, please keep in mind that the requirements of the new EDGAR only apply to the use of *federal* funds, and not to other funding sources.

Please do not hesitate to contact me at mrafanelli@buyq.org with any questions or if you would like additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marco Rafanelli".

Marco Rafanelli
Founder and President

⁶ 2 CFR §200.320(a)(2)