

RFQ Information

School Year: 2020-2021
Open Date: 7/1/2019
Close Date: 6/30/2020

It is the intent of the School Library Systems Association of New York State ("SLSA"), a 501(c)(3) organization, to receive a quotation from vendors for online library/educational resources to be purchased by any of the 41 BOCES/Big City School Library Systems ("BOCES/Big City SLS"), excluding Buffalo City, New York City, Rochester City, Nassau BOCES, Rockland BOCES, Syracuse City, and Western Suffolk BOCES SLSs, that participate in its SLS Consortium of Online Resources for Education ("SCORE") program during the applicable school year only.

Requirements -

Letter of Agreement

A copy of a letter of agreement to the terms of this Request for Quotation ("RFQ") will be signed by the appropriate vendor representative and attached to the Documents section of the online quote. The terms and conditions set forth in this RFQ shall be incorporated by reference into all such letters of agreement and enforceable upon the vendor and pertinent BOCES/Big City SLS.

Vendor quotes are to be submitted via the SLSA SCORE database, at: <https://score-nys.org>. The SCORE database is used by authorized BOCES/Big City SLS staff to access approved quotes.

Access (Inability to meet any requirement should be explained fully below each area)

1. Online product access must be provided by two of the following access methods:
 - IP address authentication,
 - Username and password, and/or
 - Unique user URL.

For BOCES/Big City SLSs preferring a generic username and unique password for each library, please use the following model: Username is the abbreviation for the BOCES/Big City SLS where the order originates (i.e., OCMSLS, OHSLs, CRSLS) and the password is the name of the district ordering the product (i.e., AKRON, Canastota, Guilderland).

2. Passwords must be sent to the individual school librarians and the corresponding BOCES/Big City SLS no later than two weeks after receipt of the purchase order, when applicable. Any documentations pertaining to username/password sent to the individual school or district must also be sent to the corresponding BOCES/Big City SLS.
3. Free remote patron access by unique username and password must be provided.
4. The BOCES/Big City SLS offices will receive a complimentary account for training and administration purposes.

X Check this box if you agree to previous terms as stated.

Statistics (Inability to meet any requirements should be explained fully below each area)

1. Instructions to access individual subscription statistics for both in-house and remote usage will be provided to each site and the corresponding BOCES/Big City SLS office.
2. Our resource statistics comply with the latest COUNTER Codes of Practice standards. For information, see: http://www.projectcounter.org/code_practice.html.
 Check this box if you agree to previous terms as stated.

Our products comply with COUNTER 2

Pricing (Inability to meet any requirement should be explained fully below each area)

1. A pricing structure will be established to guarantee the lowest price in New York State for every resource title offered during the school year referenced above. Vendors shall not change their pricing or offer lower pricing to any other entity/organization in New York State during the applicable school year. Vendors shall also consider regional pricing options for local BOCES/Big City SLSs who purchase products for their entire region.
2. Awarded vendors participating in this program will negotiate only with the SLSA Online Library Resources Program Consultant and SCORE Committee chairs.
3. Subscriptions will be for a one-year term commencing on either a July 1st to June 30th or August 1st to July 31st of the applicable school year term, as determined by the individual BOCES/Big City SLS.
4. Awarded vendors will not quote or advertise SLSA pricing to individual New York State librarians or school district, BOCES, or BOCES Regional Information Computer Centers (“RIC”) personnel. Vendors should direct these inquiries to their local BOCES/Big City SLS for this consortia pricing.
5. The total volume of prior year School Library System Online Library Resources Program purchases statewide will be considered when establishing SLSA pricing for the 2020-2021 school year.
6. Vendor will provide each year, in PDF format, **on vendor letterhead**:
 - Complete product listing,
 - **Pricing with a cost comparison that includes list price and SLSA pricing,**
 - **Criteria and thresholds for system-wide purchasing, if available,**
 - New York State OGS contract number or sole source letters for products,
 - All vendor contact information (vendor contact, order contact, and technical support contact) to include: names, email addresses, phone and fax numbers, and
 - Name and address where purchase orders are to be submitted.
7. Vendors will have established SLSA pricing for the 2020-2021 school year in place by October 1, 2019. Pricing shall not increase for the entire 2020-2021 school year.
8. Established SLSA pricing will be distributed to BOCES/Big City SLSs participating in SLSA’s SCORE program by December 15, 2019 through the organization’s designated website. Pricing will be accessed only through SCORE member username(s) and password(s).

9. Schools may subscribe to a database throughout the school year on a prorated basis. Purchase orders will be sent directly to vendors from individual BOCES/Big City SLS offices. These orders will reflect SLSA SCORE negotiated pricing.

10. All invoices and/or renewal notices will be sent directly to the individual BOCES/Big City SLS offices issuing the purchase order, not to the individual schools/districts.

Check this box if you agree to previous terms as stated.

BOCES pricing was created considering the volume of orders. However, if SLSA were to submit 1 purchase order per product for all of their members with the same start and end dates, the pricing may be more favorable.

Training (Inability to meet any requirement should be explained fully below each area)

1. Vendors will provide onsite or web-based training for library and teacher partners as appropriate.

2. All training will be coordinated through the individual BOCES/Big City SLS.

Check this box if you agree to previous terms as stated.

Product Information (Inability to meet any requirement should be explained fully below each area)

1. **Brief** product descriptions, including grade levels and URLs, to expanded descriptions will be provided to SLSA within the RFQ. SLSA will allow BOCES/Big City SLS access to this website by December 15, 2019.

2. System requirements needed to operate the resource will be listed (for example: ability to work on mobile devices).

3. Sample licenses or terms of use agreements will be provided in the Documents section of the RFQ.

4. Product sales information for distribution to individual schools may be attached to the SLSA RFQ submission in .pdf format under the Documents section.

Check this box if you agree to previous terms as stated.

General Evaluation Criteria (Inability to meet any requirement should be explained fully below each area)

1. The quotations will be evaluated by using (but not limited to) the following criteria: unit and overall pricing, adherence to requirements, and known vendor performance history in the implementation, maintenance, and service level of same or similar quotations.

2. SLSA reserves the sole right to accept/reject or award to multiple vendors any and all proposals based on (but not limited to) the criteria listed above.

3. Vendor must detail procedures for real time, direct telephone and email access to live technicians in vendor's support center via toll-free number.

4. Vendor must complete all sections of the RFQ. If a response is left blank it will be considered a no response and should have an explanation entered.
5. Vendor must provide a copy of its contract/licensing agreement. Items below must be part of any vendor contract:
 - a. EXECUTORY CLAUSE - The contract shall be deemed executory only to the extent of monies appropriated and available for the purpose of the agreement, and no liability shall be incurred beyond the amount of such monies. The contract is not a general obligation of BOCES/Big City SLSs or their component school districts. The full faith and credit of the BOCES/Big City SLS is pledged to the payment of any amount due or to become due under this agreement. It is understood that neither this agreement nor any representation by any public employer or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of the contract. In the event no funds or insufficient funds are appropriated and budgeted by the BOCES/Big City SLS or by its component school districts in any fiscal period for payments due under the contract, the BOCES/Big City SLS will immediately notify Vendor of such occurrence. The contract shall terminate as to the BOCES/Big City SLS upon its failure to appropriate monies for the service provided pursuant to contract on the last day of the fiscal period for which appropriations were received, without further liability therefore.

This agreement is further subject to annual cancellation by the BOCES/Big City SLS as the result of the withdrawal of a request for the service program, which makes use of the object of this lease.

- b. CANCELLATION - The BOCES/Big City SLS shall have the right to terminate the agreement in the event of Vendor's failure to cure any default or breach of this agreement within thirty (30) days of receiving written notice of the default or breach (subject to the Force Majeure provisions).
- c. FORCE MAJEURE - If the performance of the respective obligations of Vendor shall be prevented or interfered with by reason of an event of Force Majeure, then provider shall not be liable to the BOCES/Big City SLS for its failure to perform such obligations hereunder. A Force Majeure shall mean unusually severe weather, explosion, accident, an Act of God or public enemy, riot or civil disturbance, or order of any court of competent jurisdiction, not foreseeable, preventable or within the control of the provider. In such event, the BOCES/Big City SLS shall not be required to make any payment until provider is in compliance with this agreement.
- d. IRAN DIVESTMENT ACT - As a result of the Iran Divestment Act of 2012 ("Act"), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law ("SFL"), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services ("OGS") will be developing a list ("prohibited entities list") of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.
 - i. By submitting a quote in response to this solicitation or by assuming the responsibility of a contract awarded hereunder, Vendor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such contract any subcontractor that is identified on the prohibited entities list.

ii. For more information, see: <http://ogs.ny.gov/BU/PC/purchase/spg/pdfdocs/CL762.pdf>.

- e. **COMPLIANCE WITH NYS EDUCATION LAW SECTION 2-D** - To the extent that a third party contractor (i.e., Vendor) receives confidential, personally identifiable information regarding student data or teacher or principal data pursuant to a contract entered into with an educational agency (i.e., the BOCES/Big City SLS), NYS Education Law section 2-d requires Vendor to **acknowledge that it understands and will comply with the provisions of NYS Education Law section 2-d and its regulations in all respects, including but not limited to:**

Education Law section 2-d(5)(d); Regulations of the Commissioner of Education part 121.9

Vendor agrees that the confidentiality of student, teacher and principal data shall be maintained in accordance with state and federal laws and regulations and the BOCES/Big City SLS's policies on data security and privacy that protect the confidentiality of personally identifiable information. Vendor agrees to adopt technologies, safeguards, and practices that align with the National Institute of Standards and Technology ("NIST") Cybersecurity Framework ("CSF").

Education Law section 2-d(5)(e); Regulations of the Commissioner of Education parts 121.3 and 121.6

Vendor agrees that any contracts entered into between it and a BOCES/Big City SLS under which Vendor will receive student data or teacher or principal data shall include Vendor's data security and privacy plan that is approved and accepted by the BOCES/Big City SLS. Vendor's data security and privacy plan shall, at a minimum:

- Outline how Vendor will implement all state, federal, and local data security and privacy contract requirements over the life of the contract, consistent with the BOCES/Big City SLS's data security and privacy policy;
- Specify the administrative, operational and technical safeguards and practices Vendor has in place to protect personally identifiable information that it will receive under the contract;
- Demonstrate that Vendor complies with the requirements of 8 NYCRR Part 121.3(c), regarding the parents bill of rights for data privacy and security and any supplemental information included;
- Specify how Vendor's officers, employees, or assignees who have access to student data or teacher or principal data receive or will receive training on the federal and state laws governing confidentiality of such data prior to receiving access;
- Specify if Vendor will utilize subcontractors and how it will manage those relationships and contracts to ensure personally identifiable information is protected;
- Specify how Vendor will manage data security and privacy incidents that implicate personally identifiable information, including specifying any plans to identify breaches and unauthorized disclosures and to promptly notify the BOCES/Big City SLS;
- Describe whether, how, and when data will be returned to the BOCES/Big City SLS, transitioned to a successor contractor, or, at the BOCES/Big City SLS's option and discretion, deleted or destroyed by Vendor when the contract is terminated or expires; and
- Include a signed copy of the BOCES/Big City SLS's parents bill of rights and supplemental information.

Education Law section 2-d(3)(b)(1) and (c)(1); Regulations of the Commissioner of Education part 121.9

The exclusive purpose for which Vendor is being provided access to personally identifiable information is to enable the BOCES/Big City SLS to make use of the services provided by Vendor, or by any assignee of Vendor, to a BOCES/Big City SLS and it shall not be sold or used for any marketing or commercial purposes and Vendor shall not facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so.

Education Law section 2-d(3)(c)(2); Regulations of the Commissioner of Education part 121.9

Vendor shall ensure that, to the extent that it comes into possession of personally identifiable information, it will share said personally identifiable information with additional third parties only if those third parties are also contractually bound to adhere to the data protection and security requirements set forth in this specification. Where a Vendor engages a subcontractor to perform its contractual obligations, the data protection obligations imposed on the Vendor by state and federal law and regulations and contract shall also apply to the subcontractor.

Education Law section 2-d(3)(c)(3)

Upon expiration of an agreement with the BOCES/Big City SLS, Vendor shall assist the BOCES/Big City SLS in exporting all personally identifiable information pertaining to students, teachers and principals previously received from the BOCES/Big City SLS, and Vendor, at the request of the BOCES/Big City SLS, shall thereafter securely delete any copy of the data remaining in Vendor's possession or control. If data is to be maintained by Vendor for federal and/or state reporting, such data shall remain in an encrypted format and stored in a secure facility located within the United States of America.

Education Law section 2-d(3)(c)(5), (5)(e), (5)(f)(4), and (5)(f)(5)

Student or teacher or principal data transferred to Vendor by a BOCES/Big City SLS shall be stored in electronic format on systems maintained by Vendor in a secure data center facility or in a data facility maintained by a board of cooperative educational services in the United States of America. The measures that Vendor shall take to protect the privacy and security of student or teacher or principal data while it is stored in that manner must be associated with industry best practices, including but not necessarily limited to: disk encryption, file encryption, firewalls, and password protection.

Education Law section 2-d(5)(f) and (6)(a); Regulations of the Commissioner of Education parts 121.9, 121.10, and 121.11

Vendor acknowledges that it must comply with the following obligations with respect to any student or teacher or principal data received from a BOCES/Big City SLS, and a failure to fulfill any one of these statutory obligations shall be a breach of the agreement with the BOCES/Big City SLS. Vendor shall:

1. Limit internal access to education records to only those employees and subcontractors that are determined to have legitimate educational interests within the meaning of Education Law section 2-d and FERPA or need access to provide the contracted services, including technical support;
2. Not use personally identifiable information for any purpose other than those explicitly authorized in this contract;
3. Not disclose any personally identifiable information to any other party without the prior written consent of the parent or eligible student: (i) except for authorized representatives of Vendor such as a subcontractor or assignee to the extent they are carrying out the contract and in compliance with state and federal laws, regulations, and its contract with the BOCES/Big City SLS, or (ii) unless required by statute or court order and Vendor provides a notice of disclosure to the department, district board of education, or institution that

- provided the information no later than the time the information is disclosed, unless provided notice of disclosure is expressly prohibited by statute or court order;
4. Maintain reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable student information in its custody as prescribed by state and federal law, regulations, and its contract with the BOCES/Big City SLS;
 5. Use encryption technology to protect personally identifiable information in its custody while in motion or at rest; and
 6. Promptly notify the BOCES/Big City SLS from which student or teacher or principal data is received of any breach of security resulting in an unauthorized release of student or teacher or principal data by Vendor or its assignees in violation of state or federal law, the parents bill of rights for student data and security, the data privacy and security policies of the BOCES/Big City SLS, and/or of contractual obligations relating to data privacy and security in the most expedient way possible and without unreasonable delay but no more than seven calendar days after such discovery of such breach. Vendors must also cooperate with the BOCES/Big City SLS and law enforcement to protect the integrity of investigations into the breach or unauthorized release of the personally identifiable information. Where a BOCES/Big City SLS must notify affected parents, eligible students, teachers, and/or principals of Vendor's or its assignee's breach or unauthorized release of the personally identifiable information, Vendor shall pay for or promptly reimburse the BOCES/Big City SLS for the full cost of such notification.

Education Law section 2-d(6)(d), (e) and (7)(b); Regulations of the Commissioner of Education part 121.11

In the event that Vendor violates Education Law section 2-d(6)(a), Vendor understands that it may be punished by a civil penalty of the greater of \$5,000 or up to \$10 per student, teacher, and principal whose data was released without authorization, provided that the latter amount shall not exceed the maximum penalty imposed under General Business Law section 899-aa(6)(a). For all other violations of Education Law section 2-d, Vendor understands that, for a first violation, it may be punished by a civil penalty of up to \$1,000; for a second violation involving the unauthorized disclosure of the same personally identifiable information, it may be punished by a civil penalty of up to \$5,000; and for any subsequent violations involving the unauthorized disclosure of the same personally identifiable information, it may be punished by a civil penalty of up to \$10,000, again subject to the General Business Law limitations. Additional non-monetary sanctions from the state's Chief Privacy Officer may also be assessed.

To ensure continued compliance with Education Law section 2-d, it may be necessary to amend or modify this specification in the event that any federal, state or local legislative or regulatory authority adopts any law, rule, policy, or procedure that establishes a material change to the terms and conditions of this RFQ, including but not limited to the implementation of enhanced protections to personally identifiable information. Vendor agrees to amend and/or modify this specification and its policies and procedures in order to comply with such legislative or regulatory changes.

- f. **ADA COMPLIANCE** - By submitting a quote in response to this solicitation or by assuming the responsibility of a contract awarded hereunder, Vendor certifies that it is in compliance with all pertinent provisions of the Americans with Disabilities Act of 1990 and its implementing regulations, which may be amended from time to time. In particular, Vendor certifies that its

website is ADA compliant or, if not, that Vendor will outline the steps that it is taking to become compliant.

Check this box if you agree to previous terms as stated.

Scholastic is currently conducting an accessibility audit for the following programs:

1. Scholastic F.I.R.S.T.
2. Scholastic W.O.R.D.
3. Scholastic Literacy Pro
4. Scholastic Next Step Guided Reading Assessment (Digital)
5. Leveled Bookroom Accelerator
6. Scholastic Literacy Teacher Hub
7. BookFlix
8. ScienceFlix
9. TrueFlix

This audit is being conducted by a third party organization who will deliver us a report that will outline the changes needed to meet WCAG A and AA compliance for each program. While we do not have an exact timeline of when those changes will be implemented, we are planning to begin the compliance work in the latter half of the 2020 year.

GENERAL RFQ TERMS AND CONDITIONS

1. The RFQ does not commit or obligate SLSA or SCORE to pay any cost or expenses incurred by the individual or entity submitting a quotation in response to the RFQ in connection with the preparation of the submitted quotation. All such costs and expenses are solely at the risk and obligation of the individual or entity submitting a quotation in response to the RFQ. By submitting a quotation, the individual or entity submitting the quotation agrees that the quotation was prepared without collusion with any other officer, director, employee or agent of SLSA or SCORE.
2. In the event that it becomes necessary to revise any part of the RFQ prior to the date for the return of quotations, SLSA or SCORE shall provide such revisions and addendum to each individual or entity identified at such time as involved in the RFQ process. SLSA or SCORE will be the sole determinant of whether any revisions or addendums should be issued as a result of any questions or other matters, and will extend the information deadline if, in SLSA or SCORE's sole judgment, such information significantly amends the RFQ or makes compliance with the original information due date impractical.
3. SLSA or SCORE, in its sole and absolute discretion, may (a) reject any and all quotations submitted and (b) waive and/or add any requirements to the RFQ. Any contact with individuals or representatives of SLSA or SCORE regarding the RFQ, other than those indicated in the RFQ or as directed by SLSA or SCORE, during this process may result in disqualification of the individual or entity submitting a quotation in response to the RFQ.
4. SLSA or SCORE reserves the right to consider the quotation by the individual or entity submitting a quotation in response to the RFQ to be final and shall supersede all other statements or materials submitted by the individual or entity. SLSA or SCORE's failure to exercise any of its rights contained herein shall not constitute or be deemed a waiver or forfeiture of such rights.

5. The selection of a quotation by SLSA or SCORE in relation to the RFQ shall not be a basis for reliance that a BOCES/Big City SLS will enter into a letter of agreement with the individual or entity for the educational resources offered by the vendor. Any actions taken by the selected individual or entity following its selection pursuant to the RFQ, including, but not limited to, the hiring of any additional personnel, shall be at such individual's or entity's sole and absolute liability and risk. SLSA or SCORE or the BOCES/Big City SLS shall have no obligation or liability to the selected individual or entity unless and until such time that a final letter of agreement is mutually executed by such individual or entity and the BOCES/Big City SLS.
6. The selection of a quotation pursuant to the RFQ is within the sole and absolute discretion of SLSA or SCORE and, without limiting the foregoing, will not be based solely on the purchase price quoted but will include other criteria and factors, such as, but not limited to, reputation and past experience consistent with sole source contracting principles set forth in the New York State Finance Law and New York State General Municipal Law.
7. Each individual or entity submitting a quotation in response to the RFQ must represent and warrant to SLSA, SCORE and the BOCES/Big City SLS that the individual or the officers, directors, members, managers and/or employees of the entity and all affiliates of any such individual or entity are not currently debarred from participation in any state or federal governmental contracting programs.
8. The terms and conditions set forth in this RFQ shall be incorporated by reference into all letters of agreement by and between all vendors and all BOCES/Big City SLSs and shall be enforceable upon the vendor and pertinent BOCES/Big City SLS. All vendors acknowledge and understand that SLSA and SCORE are intended third-party beneficiaries of all such letters of agreement, and all vendors consent to the jurisdiction of SLSA and/or SCORE to enforce the terms and conditions of all such letters of agreement and this RFQ. Any violation of any provisions of this RFQ or letters of agreement may result in the vendor's termination/removal from SCORE for this and subsequent school years.
9. In the event of a breach or default of this RFQ by Vendor including, but not limited to, Vendor failing to meet schedules, deadlines, and delivery dates or otherwise perform in accordance with this RFQ, SLSA reserves the right to, upon thirty (30) days written notice and, within that same time, an opportunity for Vendor to correct the breach or default, cancel the contract award and provide it to the next lowest and best bidder as it deems to be in its best interest.
10. The location of any dispute resolution regarding this RFQ shall be in either Monroe County or Erie County.
11. The terms of the 2020-2021 RFQ that have previously been agreed to remain in effect unless directly contradicted by this updated RFQ, in which case the terms of this updated version shall control.

Check this box if you agree to previous terms as stated.

Parents Bill of Rights for Data Privacy and Security

Pursuant to Education Law section 2-d(3)(a), (b) and Regulations of the Commissioner of Education part 121.3, the following Parents Bill of Rights for Data Privacy and Security shall apply to all contracts that BOCES/Big City SLSs enter into with Vendors where Vendors receive personally identifiable information:

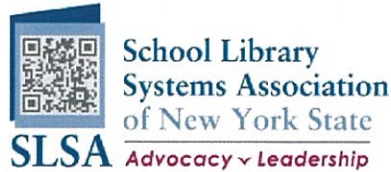
1. A student's personally identifiable information cannot be sold or released for any marketing or commercial purposes;
2. Parents have the right to inspect and review the complete contents of their child's education record;
3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;
4. A complete list of all student data elements collected by the State is available for public review at: <http://www.nysed.gov/student-data-privacy/student-data-inventory> or by writing to: New York State Education Department, Student Data Privacy Office, EB 152, 89 Washington Avenue, Albany, NY 12234; and
5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to BOCES.

Supplemental Information

Pursuant to Education Law section 2-d(3)(c) and Regulations of the Commissioner of Education part 121.3, should BOCES/Big City SLSs enter into a contract pursuant to this RFQ with Vendors where Vendors receive personally identifiable information, the following supplemental information to the Parents' Bill of Rights applies:

1. The exclusive purpose for which the personally identifiable information shall be used is to enable BOCES/Big City SLSs to make use of the services provided by Vendor, or by any assignee of Vendor, and shall not be sold or used for any marketing or commercial purposes and Vendor shall not facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so;
2. Vendor shall ensure that, to the extent that it comes into possession of personally identifiable information, it will share said personally identifiable information with additional third parties only if those third parties are also contractually bound to adhere to the data protection and security requirements set forth in federal and state statute and regulations, and this RFQ;
3. Upon expiration of this agreement on June 30, 2021 with the BOCES/Big City SLS, Vendor shall return all personally identifiable information pertaining to students, teachers, and principals previously received from the BOCES/Big City SLS, and Vendor, at the request of the BOCES/Big City SLS, shall thereafter securely delete any copy of the data remaining in Vendor's possession or control. If data is to be maintained by Vendor for federal and/or state reporting, such data shall remain in an encrypted format and stored in a secure facility located within the United States of America;

4. In the event that a parent, student, or eligible student or teacher or principal wishes to challenge the accuracy of student or teacher or principal data concerning that student or eligible student or teacher or principal, that challenge shall be processed through the procedures provided by the BOCES/Big City SLS or by the student's district of enrollment under the Family Educational Rights and Privacy Act (FERPA);
5. Student or teacher or principal data transferred to Vendor by a BOCES/Big City SLS shall be stored in electronic format on systems maintained by third party contracts in a secure data center facility or in a data facility maintained by a board of cooperative education services in the United States of America; and
6. The measures that Vendor shall take to protect the privacy and security of student or teacher or principal data while it is stored in that manner must be associated with industry best practices including, but not necessarily limited to: disk encryption, file encryption, firewalls, and password protection.



LETTER AGREEMENT

Whereas, the undersigned company (“Vendor”) submitted a response to the Request for Proposal (“RFQ”) distributed by the School Library Systems Association of New York State (“SLSA”) to solicit price quotations for library materials to be made available for purchase directly by the Big City/BOCES School Library Systems (“SLSs”) which are participating members of SLSA; and

Whereas, the RFQ contemplates a Letter Agreement between each Big City/BOCES SLS and Vendor to confirm Vendor’s response to the RFQ and the terms and conditions thereof, and to establish the direct purchasing relationship between Vendor and each Big City/BOCES SLS; and

Whereas, this Letter Agreement confirms Vendor’s participation in SLSA’s SCORE program to afford Big City/BOCES SLSs the opportunity to purchase library materials directly from Vendor.

Now, Therefore, Vendor and each Big City/BOCES SLS acknowledge and agree that:

1. Annexed to Vendor’s online profile within SCORE is a true and accurate copy of the standard RFQ and Vendor’s response to the RFQ.
2. All of the terms and conditions of the RFQ and the Vendor’s response to the RFQ are incorporated herein by reference, and Vendor and Big City/BOCES SLS shall abide by and shall be able to enforce all such terms and conditions.
3. Big City/BOCES SLS is responsible for making its own purchasing decisions and meeting its own purchasing requirements; provided, however, Vendor acknowledges that Big City/BOCES SLS shall be entitled to rely on Vendor’s response to the RFQ when making its purchasing decisions.
4. Big City/BOCES SLS is not obligated to purchase any library materials from Vendor; provided, however, if Big City/BOCES SLS does purchase materials from Vendor, Vendor and Big City/BOCES SLS accept and are bound by the terms and conditions set forth in the standard RFQ, and this Letter Agreement.

Vendor: Scholastic/Library Publishing, Inc.
By: Allison Henderson
Name: Allison Henderson
Title: Vice President of Administration
Email: KmBrown@Scholastic.com
Date: 3/9/2020

Summary of Changes to the RFQ Regarding Proposed and Final Regulations

Regulation Part 121.4

There is no substantive change from the proposed to the final regulation but deleted the provision from the RFQ because it is not applicable to vendors.

Regulation Part 121.6

The proposed regulation required each educational agency that entered into a contract with a vendor *to ensure that the contract included a data security and privacy plan* that met certain requirements.

The final regulations require *the vendor* to create a data security and privacy plan that is accepted by the educational agency and that meets certain requirements (in addition to the Education Law § 2-d(5)(e) requirements).

Regulation Part 121.9(5)

There is no substantive change from the proposed to the final regulation, but the following specific language changed from:

Vendor shall . . . except for authorized representatives of the third-party contractor such as a subcontractor or assignee to the extent they are carrying out the contract and in compliance with state and federal law, regulations and its contract with the educational agency, not disclose any personally identifiable information to any other party: (i) without the prior written consent of the parent or eligible student; or (ii) unless required by statute or court order and the third-party contractor provides a notice of disclosure to the department, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of disclosure is expressly prohibited by the statute or court order.

to:

Vendor shall . . . not disclose any personally identifiable information to any other party without the prior written consent of the parent or eligible student: (i) except for authorized representatives of vendor such as a subcontractor or assignee to the extent they are carrying out the contract and in compliance with state and federal laws, regulations, and its contract with the educational agency, or (ii) unless required by statute or court order and vendor provides a notice of disclosure to the department, district board of education, or institution that provided the information no later than the time the information is disclosed, unless provided notice of disclosure is expressly prohibited by statute or court order.

Regulation Part 121.9(7)

There is no substantive change from the proposed to the final regulation, but the following specific language changed from:

Use encryption technology to protect data while in motion or in its custody from unauthorized disclosure using controls as specified by the Secretary of the United States Department of Health and Human Services in guidance issued under Section 13402(H)(2) of Public Law 111-5.

to:

Use encryption to protect personally identifiable information in its custody while in motion or at rest.

Regulation Part 121.10

There is no substantive change from the proposed to the final regulation but deleted the provisions regarding notification requirements from the RFQ because they are not applicable to vendors.