



Contract Award Notification

Title	: Group 20060 – Books & Non-Print Library Materials & Related Ancillary Services (Statewide) Classification Code(s): 55
Award Number	: <u>22868</u> (Replaces Award 21274)
Contract Period	: June 1, 2015 – May 31, 2020
Bid Opening Date	: December 23, 2014
Date of Issue	: June 2, 2015
Specification Reference	: As Incorporated In The Invitation for Bids and Purchasing Memorandums Issued Through December 16, 2014
Contractor Information	: Appears on Page 2 of this Award

Address Inquiries To:

State Agencies & Vendors	Political Subdivisions & Others
Name : Theresa N. Kuo Title : Contract Management Specialist 1 Phone : 518-474-0259 E-mail : ningbin.kuo@ogs.ny.gov	Procurement Services Customer Services Phone : 518-474-6717 E-mail : customer.services@ogs.ny.gov

**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This award covers Books and Non-Print Library Materials and Related Ancillary Services. Types of Books included are Trade, Non-Trade, Scientific, Technical, Law, Text Books, Reference, Encyclopedias, Handbooks, University Press Publications, Society or Association Publications, Foreign Publications and Out of Print Books. Non-Print items include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

PR # 22868

(continued)

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED.IDENT. #</u> <u>NYS VENDOR#</u>
PC66953 SB	ADAMS BOOK CO, INC. 140 58th Street Brooklyn Army Terminal, Unit 6G Brooklyn, NY 11220	Miguel Gonzalez Tel: (800) 221-0909 Fax: (718) 852-3212 Email: miguelg@adamsbook.com Website: www.adamsbook.com	111764921 1000005563

No Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$30.00
Guarantees Delivery: 45 Calendar days A/R/O

PC66954 SB	AMBASSADOR BOOK SERVICE, INC. 445 Broad Hollow Road, Ste 206 Melville, NY 11747	Connie Angello Tel: (800) 431-8913 Fax: (631) 770-1041 Email: cangelo@ambassadored.com Website: www.ambassadored.com	112317664 1000005649
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$15,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: 1 Copy- no minimum dollar amount
Guarantees Delivery: 45 Calendar days A/R/O

PC66955	BRODART CO. 500 Arch Street Williamsport, PA 17701	Debbie Schall Tel: (800) 474-9802 Fax: (800) 999-6799 Email: Debbie.Schall@brodart.com Website: www.brodart.com	232248758 1000008909
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum Order
Guarantees Delivery: 45 Calendar days A/R/O

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<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED.IDENT. #</u> <u>NYS VENDOR#</u>
PC66956	CENGAGE LEARNING, INC. 20 Channel Center Boston, MA 02201	Brandie Ashcraft Tel: (800) 354-9706 Fax: (800) 487-8488 Email: brandie.ashcraft@cengage.com Website: www.cengage.com	592124491 1000009563

Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Update to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: \$50.00
 Guarantees Delivery: 45 Calendar days A/R/O

PC66957	COUGHLAN COMPANIES, INC. DBA CAPSTONE 1710 Roe Crest Drive North Mankato, MN 56003-1806	Customer Service Tel: (800) 747-4992 Fax: (888) 262-0705 Email: CustomerService@capstonepub.com Website: www.capstonepub.com	411723924 1000044841
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Update to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No minimum order
 Guarantees Delivery: 45 Calendar days A/R/O

PC66958	COUTTS INFORMATION SERVICES, INC. One Ingram Blvd. La Vergne, TN 37086	Shea Crow Tel: (800) 937-5300 Fax: (615) 213-6004 Email: shea.crow@ingramcontent.com Website: www.couttsinfo.com	160971172 1100004371
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Update to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No minimum order
 Guarantees Delivery: 45 Calendar days A/R/O

PC66959	DAVIDSON TITLES, INC. 2345 Doctor F. E. Wright Drive Jackson, TN 38305	Brenda T. Davidson Tel: (800) 433-3903 Fax: (800) 787-7935 Email: brenda@davidsontitles.com Website: www.davidsontitles.com	621076296 1000032409
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Update to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: \$25.00
 Guarantees Delivery: 45 Calendar days A/R/O

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<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED.IDENT. # NYS VENDOR#</u>
PC66960	EASTERN BOOK COMPANY 55 Bradley Drive Westbrook, ME 04092	Belinda Saulle Tel: (800) 937-0331 Fax: (800) 2143895 Email: bsaulle@ebc.com Website: www.ebc.com	010244194 1000005174

Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Update to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: \$50.00
 Guarantees Delivery: 45 Calendar days A/R/O

PC66961	FOLLET SCHOOL SOLUTIONS, INC. 1340 Ridgeview Dr. McHenry, IL, 60050	Jerry Perez (Quotes or Contract) Kelly Spangler (Orders) Tel: (815) 578-7348 (Jerry) (815) 578-3387 (Kelly) Toll Free: (888) 511-5114 Fax: (800) 852-5458 Email for Quotes: fssbidadmin@follett.com Email for Orders: kspangler@follett.com Website: www.follet.com	411426933 1100113853
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Update to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No minimum order
 Guarantees Delivery: 45 Calendar days A/R/O

PC66962	HERTZBERG-NEW METHOD, INC. DBA PERMA-BOUND BOOKS 617 E. Vandalia Road Jacksonville, IL 62650	Sarah Dundun Tel: (800) 637-6581 ext. 122 Fax: (800) 551-1169 Email: sarahd@perma-bound.com Website: www.perma-bound.com	371001726 1000009226
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Update to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No minimum order
 Guarantees Delivery: 45 Calendar days A/R/O

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<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED.IDENT. #</u> <u>NYS VENDOR#</u>
PC66963	INGRAM LIBRARY SERVICES INC. One Ingram Blvd. La Vergne, TN 37086	Shea Crow Tel: 800-937-5300 Fax: 615-213-6004 Email: shea.crow@ingramcontent.com Website: www.ingramcontent.com	621746696 1000048432

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC66964 SB	MAIN STREET BOOK SHOP INC. 501 Mamaroneck Ave. White Plains, NY 10605	Nicky Kennedy Tel: (888) 228-7550 Fax: (888) 228-7578 Email: mainstreetbook@gmail.com Website: www.mainstreetbookcompany.com	132531130 1000043508
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No Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$10.00
Guarantees Delivery: 45 Calendar days A/R/O

PC66965	MT LIBRARY SERVICES, INC. DBA JUNIOR LIBRARY GUILD 7858 Industrial Parkway Plain City, OH 43064	Kristy Kelly Tel: (800) 325-9558 ext.7621 Fax: (800) 827-3080 Email: jlgbids@juniorlibraryguild.com Website: www.juniorlibraryguild.com	593263895 1000009577
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum
Guarantees Delivery: 45 Calendar days A/R/O

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<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED.IDENT. #</u> <u>NYS VENDOR#</u>
PC66966	SCHOLASTIC INC. 557 Broadway, New York, NY 10012	Ben Woodworth Tel: (800) 825-4579, ext. 3451 Fax: (866) 560-6930 Email: bwoodworth@scholastic.com Website: www.scholastic.com	131824190 1000006121

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: >\$0.00
Guarantees Delivery: 45 Calendar days A/R/O

PC66967	WEST PUBLISHING CORPORATION 610 Opperman Drive Eagan, MN 55123	Linda Berghorn Tel: (800) 328-9378 or (800) 328-4880 Fax: (866) 535-1588 Email: linda.berghorn@thomsonreuters.com Website: www.west.thomson.com	411426973 1000004857
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No Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Update to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

For complete Contractor contact information, Executed Contract, and Pricelists for this award, please see the Contractor Information pages located on the OGS website at:

Cash Discount, If Shown, Should be Given Special Attention.
INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" and "Electronic Payments" in this document.)

AGENCIES SHOULD NOTIFY PROCUREMENT SERVICES PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO PROCUREMENT SERVICES.

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SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- obtaining all necessary prior approvals;
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

DEBRIEFING:

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

DISPUTE RESOLUTION POLICY:

Section 64 of Appendix B is hereby deleted. All disputes under this Contract shall be handled through the Procurement Services' Dispute Resolution Process found at:

<http://nyspro.ogs.ny.gov/sites/default/files/uploaded/Dispute%20Policy%209-2014.pdf>

ORDER OF PRECEDENCE:

The documents below address clarifications agreed to by the Bidder and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the contract award. The documents set forth below were included in Invitation for Bids (IFB) # 22868 or provided by the Contractor.

1. Appendix A
2. IFB Document
3. Appendix B
4. Appendix C
5. Appendix D
6. Attachment 1 – Price Pages
7. Attachments 2 -7
8. Awardees Bid and resultant clarifications

SCOPE:

The contract award is to be used by State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. This contract contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other.

The contract award shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music. Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

The contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract. However, publications that require a standing order for supplemental material or updates to the publication that may be issued subsequent to the original release of the publication, such as law books, for example, are within the scope of the Contract.

DEFINITIONS

Terms used in this Contract that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

1. **“Ancillary Services”** includes supplementary value added services, such as cataloging and processing (including shelf ready books); machine readable cataloging (MARC) records; security tape; rebinding of paperbacks; barcode labels; mylar covers; electronic archive retrieval; MARC record retrieval; spine labels; date due slip/circulation cards; reading program labels; and dust jackets.
2. **“Bidder”** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a Contract with the State for their services a Bidder shall become a “Contractor.” See also “Contractor.”
3. **“Agency or Agency(ies)”** shall mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
4. **“Invitation for Bids (IFB)”**, a defined in Appendix B, shall refer to this document, and its appendices and attachments.

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5. **“International Standard Book Number (ISBN)”** shall refer to the unique numeric commercial book identifier.
6. **“List Price”** shall mean Publishers Suggested Retail Price.
7. **“Lot”** shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014)*.
8. **“MWBE”** shall refer to a business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.
9. **“May”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “Should”.
10. **“Must”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Must” is synonymous with “required.” Also see “Shall”.
11. **“N/A”** is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
12. **“Net Price”** Shall be List Price less all applicable discounts and shall be the price paid by Authorized Users of the resultant Contract.
13. **“New York State Procurement (NYSPro)”**(formerly known as Procurement Services Group (PSG)) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide Contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such Contracts. The terms NYSPro and PSG shall be used interchangeably for purposes of this solicitation.
14. **“NYS Vendor ID”** shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
15. **“Preferred Source Products”** shall refer to those commodities or services that have been approved in accordance with State Finance Law §162.
16. **“Preferred Source Program”** shall refer to the special social and economic goals set by New York State in State Finance Law §162 that require a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the “form, function and utility” requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People who or Blind (NYSPSP; New York State Industries for the Disabled (NYSID); and the Office of Mental Health (OMH). These requirements apply to a State Agency, political subdivision and public benefit corporation (including most public authorities).
17. **“Price realism”** is an evaluative concept which is concerned with whether a bidder’s proposed prices are unrealistically low.
18. **“Shall”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Shall” is synonymous with “required.” Also see “Must”.
19. **“Should”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “May”.

PRICE:

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in New York State and shall include inside delivery inside doors of Authorized User’s receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method.

There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc. See “Delivery” clause for rush order charges.

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Upon mutual agreement, delivery locations may be expanded per the "Extension of Use" clause.

Discount percentages and/or monetary (dollar) amounts to be deducted or charged to each Authorized User shall be listed by Bidder. Discounts shall be applied to publishers' List Prices. A range of discounts and monetary amounts may be offered; however, the Bidder must identify, where possible, each specific discount within the range and where or how it is to be applied. The discount may increase at any time, but the publishers' List Prices shall be the current prices as published and distributed to the trade by the publishers. Discount shall not decrease during the term of the Contract.

All monetary amounts may be adjusted annually following the first year of the Contract on the basis of the Not Seasonally Adjusted Consumer Price Index – All Urban Consumers, U.S. City Average, All Items Less Food, Series ID: CUUR0000SAOL1, CUUS0000SAOL1 published monthly by the US Department of Labor Bureau of Labor Statistics. There shall be no price adjustments during the first year of the Contract.

The adjustment shall be established as follows. Following the first year of the Contract and annually thereafter, the Contractor may make a formal request for a price adjustment in the succeeding Contract year. This request must be made in writing to the Contract Management Specialist identified on the front page of the resultant Contract Award Notification and such request must be received by no later than sixty (60) calendar days in the year preceding the effective date of adjustment. If the Contractor fails to submit a written request by such date, they forfeit their opportunity to receive a price adjustment in the succeeding Contract year. Price adjustments shall be effected beginning with the second year of the Contract and annually thereafter. The adjustment shall be based on the percentage of increase or decrease in the above referenced index in the preceding twelve months ending three months prior to the effective date of the adjustments. In no case shall price adjustments exceed five percent. All adjusted prices will be rounded up or down to the nearest whole cent. The Office of General Services will notify all interested parties of the price adjustments through the issuance of written notification by Procurement Services.

ESTIMATED QUANTITIES

The quantities or dollar values listed in the IFB are estimated only. The Contracts resulting from the IFB shall be estimated quantities Contracts. No specific quantities or volumes are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of the award for this IFB, based on historical purchases under previous awards was approximately \$90 million annually. The individual value of each resultant Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the products, services and pricing that best meets their needs in the most practical and economical manner. See Appendix B §30 Estimated/Specific Quantity Contracts and §27 Participation in Centralized Contracts.

Numerous factors could cause the actual volume of product purchased under the Contracts resulting from the IFB to vary substantially from the estimates in the IFB. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period; and,
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In Procurement Services' experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting its bid, Bidder acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this IFB.

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CONTRACT PERIOD AND RENEWAL:

The Contract(s) shall be in effect for five (5) years beginning on the date of approval of the first contract awarded as a result of the IFB, and shall end conterminously five (5) years from the approval of the first contract awarded as a result of the IFB. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two additional one (1) year terms.

Discounts quoted are to be firm for the entire period of the Contract. Prices quotes for monetary amounts as defined in the Price clause are firm for the first year of the Contract but may be adjusted annually thereafter in accordance with the Price clause. Discount reduction will not be allowed and is specifically excluded from the terms and conditions of the Invitation for Bid, its specifications and subsequent Contract award. Price decreases or discount increases are permitted at any time.

CANCELLATION FOR CONVENIENCE:

The State of New York retains the right to cancel this Contract, in whole or in part without reason (see Appendix B, §47.b, Termination For Convenience).

SHORT TERM EXTENSION:

In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

ORDERS:

Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system. Contractor shall be required to provide written quotes to Authorized Users who request them prior to placing an order, which details List Price, discount, and Net Price, as applicable.

The web-based ordering system, if offered, shall allow Authorized Users to enter orders and have full order inquiry capabilities. All orders (manual, fax, electronic) shall reference requisition and/or purchase order number as required. If offering a web-based ordering system, the Contractor represents and warrants that it is the sole owner of the software product used for its ordering system, or, if not the owner, has received all proper authorizations from the owner to license the software product, and has the full right and power to grant the rights contained in any Contract resulting from this Invitation for Bids and as described further in Appendix B. Contractor further warrants and represents that the software product is of original development, and/or that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person/company.

Contractor shall defend, indemnify and save New York State wholly harmless from all costs, liability, and damages, including attorney fees incurred by New York State as a result of claims by a third party that New York State use of such data, information, and software infringes the rights of such third party. New York State shall promptly notify Contractor in the event New York State learns of such claim by a third party.

The web-based ordering system shall be capable of processing, controlling, documenting, and reporting on the following minimum data elements:

- Contractor Name and Address
- Agency/Facility/Political Subdivision, etc.
- Contract Number
- Purchase Order/Requisition Numbers
- Contact (individual placing order)
- Publisher, Description, ISBN
- Net Price
- Extended and Total Amounts

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If offering a web-based ordering system, the Contractor shall provide any necessary software (excluding communication software) and training guides/manuals or online support in the use of the web-based ordering system at no additional cost to all Authorized Users capable of placing orders electronically. Samples of software and training guides/manuals may be required. If requested, Contractor must demonstrate its system at an Albany, NY area location designated by the State.

MINIMUM ORDER:

Minimum order shall be \$100.00. Contractor may elect to honor orders for less than the minimum order, however no additional charges shall be allowed.

PRODUCT REQUIREMENTS

Bidder shall offer various types of books, Non-Print, and related services. Please see "Scope" clause. Bindings are to meet or exceed requirements established by the Library Binding Institute (LBI). The latest library standard issued by LBI is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000, unless otherwise amended. This standard is available at <http://www.lbibinders.org/>. Cloth bindings for hardcover publications shall be the publisher's standard binding. Library bindings for hardcover publications shall be reinforced and include reinforced juvenile publications.

Bidder shall identify services associated with furnishing books, Non-Print and related materials. Cost/pricing for services shall be expressed in specific monetary amounts, not percentages.

Bidders shall identify, define, and provide a short description of the service(s) offered. Also, Bidders shall include any additional service pricing that may apply. Bid pages may be duplicated, as necessary, and addendums may be submitted for additional books and Non-Print services.

INTERNET WEBSITES:

The State encourages Contractors to provide a designated NYS Contract website for Authorized Users' direct access. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in products/services or pricing must be approved by Procurement Services in accordance with any terms included in this contract prior to addition to the website. Hard copy catalog and pricelists, either in paper format or electronic format, must be available to all Authorized Users who either do not have Internet access or prefer the optional format.

PROCUREMENT INSTRUCTIONS

1. The Contracts listed herein have been issued under a multiple award structure. Authorized Users shall procure Products and services that best meet their form, function and utility requirements.
2. Before proceeding with their purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law §162 which requires that agencies afford first priority to the commodities/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such commodities/services meet the form, function and utility of the Authorized User.
3. Upon Authorized User acceptance of Products and/or services itemized on the purchase order, Contractor(s) will invoice Authorized User for any portion of Products and services accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all Products and services.

(continued)

PURCHASE ORDERS AND INVOICING:

All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order, assigned an order number with anticipated delivery date.

Purchase Orders:

Purchase orders are to include the following information:

- A. Contract number;
- B. Contractor name;
- C. Contract item number and/or description;
- D. International Standard Book Number (ISBN); and
- E. Calculation of NYS Net Price.

Invoices:

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice all of the following items. Failure to comply may result in lengthy payment delays. Original invoices must follow the billing instructions contained in the purchase order. Invoices shall include, at a minimum, the following information:

- A. Contract number;
- B. NYS Vendor Identification number;
- C. Contract item number and description;
- D. Purchase Order number; and
- E. Line item breakdown of all charges to include Net Price of each product/service.

Titles of books on invoices must be listed as shown on the original order. Shipping charges for foreign book shipments must be stated separately on the invoice. All other library materials must also be listed as shown on the original order and include List Prices, percentage discount or monetary charge, and Net Price of each item. Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying accounting systems in use by different Authorized Users.

DELIVERY:

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order. Delivery shall be made no later than 45 calendar days after receipt of purchase order. Guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each Authorized User. If there is a discrepancy between the purchase order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from the Office of General Services', Procurement Services.

BACKORDERING:

Backordering shall be permissible only when authorized by the ordering Authorizes User. Contractor must complete orders within the guaranteed delivery period offered.

PACKING SLIPS:

A legible packing slip and/or purchase order copy must accompany each shipment. The carton containing packing slip must be so marked.

(continued)

LABELING:

Number of packages in a single shipment must be marked on outside of each carton. Purchase order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

SUBSTITUTIONS:

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense.

Contractor shall be expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment.

PRODUCT RETURNS BECAUSE OF QUALITY PROBLEMS:

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, outdated product, damage, etc., shall be picked up by the Contractor within ten (10) business days after notification with no restocking charge. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

PRODUCT RETURNS DUE TO AUTHORIZED USER ERROR:

Products ordered in error by an Authorized User shall be returned by Authorized User at its expense for credit within fifteen (15) business days of delivery. Standard stock products must be in resalable condition (original packaging, unused). The Contractor may charge a restocking fee--not to exceed ten percent--for product returns due to Authorized User error.

CANCELLATION OF PURCHASE ORDERS

Cancellation of orders in part or whole for unavailable materials or for "out of stock," "out of print," and "not yet published" publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

STATUS REPORT:

A statement in each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reasons.

CONTRACT PAYMENTS:

Payments cannot be processed by Authorized Users until the items have been delivered and accepted in accordance with the Delivery section above. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in clause, Purchase Orders and Invoicing.

CONTRACT ADMINISTRATOR

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis.

TOLL-FREE NUMBER

Contractor must provide a toll-free telephone number for the Authorized User usage. Contractor must staff this toll-free number at a minimum from 8:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding NYS holidays.

(continued)

INSURANCE REQUIREMENTS

Workers' Compensation Insurance and Disability Benefits insurance coverage must be submitted at the time of bid submission. Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 7 – *Insurance Requirements*. The Contractor shall procure at its sole cost and expense and shall maintain in force at all times during the terms of the resultant Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 7, Paragraph A.3., Certificates of Insurance/Notices.

REPORT OF CONTRACT USAGE:

Contractor shall furnish a report of all Product provided under the Contract during each semiannual period, no later than the 15th of the month following the close of each half year. Purchases by Non-state agencies, political subdivisions and others authorized by law shall be reported in the same report and indicated as required. A template for such report is included In Attachment 6 – Administrative Reports. All fields of information shall be accurate and complete. The report is to be submitted electronically via electronic mail utilizing the template provided in Microsoft Excel 2013, or lower version (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, Award Number, Contract Number, Sales Period, and Contractor's (or other authorized agent) Name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

AUTHORIZED USER SALES REPORTS:

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on a monthly basis, a report listing the following: name of products purchased, quantity purchased, unit price and total dollar volume of purchases.

OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State Contracts. Contract users will be advised to select the most cost effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

NEW YORK STATE PROCUREMENT CARD

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each delivery.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS

New York State political subdivisions and others authorized by New York State law may participate in Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B § 27 *Participation in Centralized Contracts*. For purchase orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have Delivery locations adjacent to New York State), the terms of the "Price" clause shall be modified to include Delivery to locations adjacent to New York State.

Upon request, all eligible non-State Agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS' Procurement Services' Customer Services at (518) 474-6717.

(continued)

NOTE TO ALL NON-STATE AGENCIES AND BIDDERS:

All such participating non-State agencies and contractors understand, acknowledge and agree that the primary responsibility in regard to performance of the Contract, of any obligation, covenant, condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating non-State agencies and Contractor and not by the State. In the event of a failure or breach in performance of any such Contract by a non-State Agency or Contractor, the State specifically and expressly disclaims any and all liability for such defective performance or breach, and the eligible participating non-State agencies and Contractor guarantee to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the failure of either party to perform in accordance with its obligations, covenants and the terms and conditions of the State Centralized Contract.

EXTENSION OF USE:

This contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

EMERGENCY PURCHASING

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products and services from any source, including but not limited to this Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

CONTRACTOR PERFORMANCE:

Authorized Users should notify the Procurement Services contract administrator promptly if the Contractor fails to meet the requirements of this Contract. Performance which is otherwise unsatisfactory to the Authorized User should also be reported to Procurement Services.

MERCURY ADDED CONSUMER PRODUCTS

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

RESERVATION

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a Contract product(s) totaling more than \$75,000.00.

AMERICANS WITH DISABILITIES ACT (ADA)

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Bidders are required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

(continued)

ADDITIONAL REQUIREMENTS

A. NO DRUGS OR ALCOHOL

For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

B. TRAFFIC INFRACTIONS

The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

PERIODIC RECRUITMENT:

The State reserves the right to add Contractors beginning in the second year of the Contract and at one year intervals thereafter. The State will formally announce when the bid is reissued, at the discretion of the State. Bidders shall be required to submit such Bid documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the new Bid solicitation. Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration. In addition, if a Bid is deemed non-responsive under periodic recruitment, a vendor cannot reapply for a future Contract until the next periodic recruitment period. For Contracts that are awarded under periodic recruitment, the Contract term will commence upon OGS approval in accordance with §26, Contract Creation/Execution of Appendix B and will terminate on the then current end date of the Contract or at the end of any approved extension or renewal period.

Bidder must demonstrate that it has a minimum average sales volume of \$1,000,000 annually in product meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. Procurement Services reserves the right to request copies of purchase orders and/or invoices for verification or clarification.

For bids that are awarded under periodic recruitment, the Contract term will commence upon award and terminate on the current end date of the Contract unless an extension is mutually agreed upon between Procurement Services and the Contractor.

CONTRACT ADVERTISING:

In addition to the requirements set forth in Appendix B, §13 Advertising Results, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance.

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

(continued)

Policy Statement

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS Contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority- and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in State procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBEs") and the employment of minority groups members and women in the performance of New York State Contracts.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

The Bidder further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises (MWBEs)

New York State Executive Law Article 15-A requires that OGS provide opportunities for the maximum feasible participation of New York State certified minority- and women-owned business enterprises in the performance of OGS contracts. OGS has determined that it will not place MWBE participation goals on contracts resulting from this procurement because there are not sufficient subcontracting opportunities available in the books industry as related to the purchases of books & non-print library materials & related ancillary services. However, contractors should use good faith efforts to engage MWBEs as subcontractors to the extent that such opportunities exist. Additionally, OGS strongly encourages all certified minority- and women-owned businesses to submit a proposal in response to this solicitation. Finally, OGS encourages those minority- and women-owned companies that are not certified by the Empire State Development Division of Minority- and Women-Owned Businesses to become certified at the earliest opportunity. Information regarding the certification process can be viewed at:

<http://esd.ny.gov/MWBE/Certification.html>

(continued)

NEW YORK STATE STATEWIDE FINANCIAL SYSTEMS (SFS)

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the Contract period, and by submittal of a Bid a Bidder agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State Agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: <http://www.sfs.ny.gov/>.

USE OF RECYCLED OR REMANUFACTURED MATERIALS

New York State supports and encourages vendors to use recycled, remanufactured or recovered materials in the manufacture of products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the product or packaging unless such use is precluded due to health or safety requirements or product specifications contained herein. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this IFB. Warranties on refurbished or remanufactured components or products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, § 15 *Remanufactured, Recycled, Recyclable or Recovered Materials*.

BULK DELIVERY AND ALTERNATE PACKAGING

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

SURPLUS/TAKE-BACK/RECYCLING

- I. A State agency is reminded of its obligation to comply with the NY State Finance Law §§ 167, Transfer and Disposal of Personal Property, and 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.
- II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.
- III. The NYS Department of Environmental Conservation (DEC) Electronic Equipment Recycling and Reuse Act ("Act") (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>.

(continued)

IV. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://ogs.ny.gov/EO/4/Default.asp>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

NEW YORK STATE VENDOR RESPONSIBILITY

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination

(continued)

PREFERRED SOURCE PRODUCTS:

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services of preferred source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the resultant Contract(s) may be available from one or more preferred sources. An Authorized User must determine if a particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law §162(3) or (4)(b), respectively, before engaging the Contractor.

"OGS OR LESS" GUIDELINES:

Purchases of the products included in this contract are subject to the "OGS or Less" provisions of State Finance Law §163(3) (a) (v). This means that State Agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in form, function or utility to the products herein and are:

1. lower in price
- and/or-
2. available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State Agencies should refer to Procurement Council Guidelines for additional information.

CONTRACT MODIFICATION PROCEDURE:

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

(continued)

ADDITIONAL LICENSE AGREEMENTS

OGS will NOT review or approve “click through”, “shrink wrap” or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions. The Authorized User must ask if “click through”, “shrink wrap” or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User’s counsel, it is the responsibility of such Authorized User’s counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

APPENDIX A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX B

Appendix B, *Office of General Services General Specifications*, dated June 2014, is hereby expressly made a part of this Contract as if set forth at length herein and shall govern any situations not covered by the IFB document or Appendix A.

APPENDIX C

Appendix C, *Equal Employment Opportunity Staffing Plan* (Form EEO 100), is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX D

Appendix D, *Contract Modification Procedure*, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

(continued)

**State of New York
Office of General Services
PROCUREMENT SERVICES
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ **Contractor:** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

_____ (over)

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by mail to:

OGS PROCUREMENT SERVICES
Customer Services, 38th Floor
Corning 2nd Tower - Empire State Plaza
Albany, New York 12242
* * * * *

(continued)



Supplemental Contract Award Notification

Title	: Group 20060 – Books & Non-Print Library Materials & Related Ancillary Services (Statewide)
	Classification Code(s): 55
Award Number	: <u>22868</u> (Replaces Award 21274)
Contract Period	: June 1, 2015 – May 31, 2020
Bid Opening Date	: December 23, 2014
Date of Issue	: July 29, 2015
Specification Reference	: As Incorporated In The Invitation for Bids and Purchasing Memorandums Issued Through December 16, 2014
Contractor Information	: Appears on Pages 25 – 29 of this Award

Address Inquiries To:

State Agencies & Vendors		Political Subdivisions & Others	
Name :	Theresa N. Kuo	Procurement Services	
Title :	Contract Management Specialist 1	Customer Services	
Phone :	518-474-0259	Phone :	518-474-6717
E-mail :	ningbin.kuo@ogs.ny.gov	E-mail :	customer.services@ogs.ny.gov

**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This award covers Books and Non-Print Library Materials and Related Ancillary Services. Types of Books included are Trade, Non-Trade, Scientific, Technical, Law, Text Books, Reference, Encyclopedias, Handbooks, University Press Publications, Society or Association Publications, Foreign Publications and Out of Print Books. Non-Print items include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

PR # 22868

(continued)

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC66995 SB	ADVANCED EDUCATIONAL PRODUCTS, INC. 2495 Main Street, Ste. 230 Buffalo, NY 14214	Erica Elkins-Aquila Tel: (800) 311-1522 ext. 17 Fax: (716) 446-5642 E-mail: eelkins@aepbooks.com Website: http://www.aepbooks.com	161597345 1000008440

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC66996	AMERICAN READING COMPANY 201 S. Gulph Rd. King of Prussia, PA 19406	David Lyness Tel: (866) 810-2665 Fax: (610) 992-4156 E-mail: Contracts@americanreading.com Website: www.americanreading.com	232965253 1000034881
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$1,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC66997	Baker & Taylor LLC 2550 West Tyvola Road Suite 300 Charlotte, NC 28217	Lee Ann Queen Tel: (800) 775-7930, ext. 3245 Fax: (704) 998-3260 E-mail: bids@baker-taylor.com website: www.btol.com	473179974 1100142500
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**Customer Service/Sales Representation (Book and Spoken Word)
Public Libraries**

Lee Ann Turner
Customer Service Representative
Tel: (800) 775-1200 x2783
E-mail: leann.turner@baker-taylor.com

Marne Fellows
Sales Consultant
Tel: (800)775-7930 x1310
E-mail:
marne.fellows@baker-taylor.com

Tarita Murray
Sales Consultant
Tel: (800) 775-7930x 1210
E-mail: tarita.murray@baker-taylor.com

(continued)

School Libraries

Delilah Waldroup Customer Service Representative Tel: (800) 775-1200 x2434 E-mail: delilah.waldroup@bakertaylor.com	Roger Lendach District Account Manager Tel: (800)775-7930 x1220 E-mail: roger.lenadach@bakertaylor.com
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Academic Libraries

Cathy Fletcher Customer Service Representative Tel: (800) 775-1200 x2765 E-mail: cathy.fletcher@baker-taylor.com	Danielle Miller National Sales Manager, College Library Group Tel: (603) 496-7351 E-mail: dmiller@baker-taylor.com
Frances Lewis Inside Sales Manager Tel: (800) 258-3774 x8916 E-mail: flewis@baker-taylor.com	

Placing Orders

Firm Orders (Print Book, econtent, and Spoken Word Audio) Baker & Taylor Attn: Order Department Commerce Service Center 3584 Old Maysville Rd. Commerce, GA 30529 Tel: (800) 775-1100 Fax: (800) 775-7480 E-mail: orders@baker-taylor.com Web: www.baker-taylor.com	Continuation Services Baker & Taylor Attn: Order Department Commerce Service Center 3584 Old Maysville Rd. Commerce, GA 30529 Tel: (800) 775-1100 Fax: (800) 775-7480 E-mail: orders@baker-taylor.com Web: www.baker-taylor.com
	Customer Service Arnetha Johnson Tel: (800) 775-3600 x7295 E-mail: arnetha.johnson@baker-taylor.com

Placing Orders Continued

Customer Service (DVD, Blue Ray, Music CD, Playaway View) Baker & Taylor Attn: Order Department 875 Greentree Road, Suite 78 Seven Parkway Center Pittsburgh, PA 15220	Customer Financial Services Baker & Taylor 2550 West Tyvola Road, Suite 300 Charlotte, NC 28217 Tel: 800-340-5370 Accts Receivable Fax: 704-997-3314 E-mail: dl-arsupport@baker-taylor.com
Customer Service Heidi Metro Tel: (800) 775-2600 x2135 Fax: (888) 285-8922 Email: Heidi.metro@baker-taylor.com Web: www.baker-taylor.com	Remit Address (Lockbox) Baker & Taylor PO Box 277930 Atlanta, GA 30384-7930

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC66998	BARNES & NOBLE BOOKSELLERS, INC 122 FIFTH AVENUE New York, NY 10011	Salvatore Cirillo Phone: (212) 633-3266 (800) The-Book /843-2665 Fax: (800) 783-0043 E-mail: scirillo@bn.com Website: www.barnesandnoble.com	134030389 1000046258
	For Quotes & Orders Charley Carroll National Business Development Coordinator Barnes & Noble, Arboretum 10000 Research Blvd Austin, TX 78759 Tel:(713) 703-5259 Fax: (512) 418-9803 ccarroll@bn.com bn.com nook.com	For Remittance Information PO Box 951610 Dallas, TX 75395-1610	
		Accounts Receivable Joseph Mascia Tel: (732) 656-7267 Fax: (732) 656-2705 E-mail: jmascia@bn.com	

No Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$1.00
Guarantees Delivery: 45 Calendar days A/R/O

PC66999 SB WBE	BAUM & BEAULIEU ASSOCIATES, INC. 46 O'Connell Ct. Great River, NY 11739	Susan Baum Tel: (800) 923-2444 Fax: (631) 277-4054 E-mail: susan@baumbooks.com Website: www.baumandbeaulieu.com	203856165 1000044342
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No Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
1% additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$5.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67000 SB	BOOK REVUE WHOLESALE, LTD. 313 New York Ave. Huntington, NY 11743	Alyssa Axelrod Tel: (800)390-7413 Fax: (631) 271-5890 E-mail: bookrevu@optonline.net Website: www.bookrevue.com	274692456 1100069516
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No Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67001	GL GROUP, INC. DBA BOOKSOURCE 1230 Macklind Ave. St. Louis, MO 63110	Sara Bone Tel: (800) 444-0435 ext. 270 Fax: (800) 647-1923 E-mail: sbone@booksource.com Website: www.booksource.com	431018725 1100102035

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$1.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67002	GREENWOOD PUBLISHING DBA HINEMANN 361 Hanover St. Portsmouth, NH 03801	Lori Lampert (Contract Admin) Shira Baum (day to day) Tel: (800) 225-5800 (Lori) (800) 923-2444 (Shira) E-mail: lori.lampert@heinemann.com shira@baumbooks.com Website: www.heinemann.com	061154537 1000011213
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No Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67003	MATTHEW BENDER & COMPANY, INC. 9443 Springboro Pike Miamisburg, OH 45342	Mark Ferguson Tel: (937) 247-8209 Fax: (800) 624-8278 E-mail: mark.k.ferguson@lexisnexis.com Website: www.matthewbender.com	140499170 1000006624
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Yes Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum order
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67004	MIDWEST TAPLE, LLC 6950 Hall Street Holland, Ohio 43528	Christine Garrow Tel: (800) 875-2785 Fax: (800)-444-6645 E-mail: cgarrow@midwesttapes.com Website: www.midwesttapes.com	371499686 100009233

Offers Electronic Access Ordering (EDI)
Does not accept NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67005	STEPS TO LITERACY, LLC. PO BOX 6737 BRIDGEWATER, NJ 08807	Bryan Thompson Tel: (800) 895-2804 Fax: (866) 560-8699 E-mail: sales@stepstoliteracy.com Website: www.stepstoliteracy.com	223603124 1000020040
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$10 minimum order
Guarantees Delivery: 45 Calendar days A/R/O

For Pricelists for this award, please see the Contractor Pricing pages located on the OGS website at:
<http://www.ogs.ny.gov/purchase/spg/awards/2006022868CAN.HTM>

Cash Discount, If Shown, Should be Given Special Attention.

INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" and "Electronic Payments" in this document.)

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES.

SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

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RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

The Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- obtaining all necessary prior approvals;
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

DEBRIEFING:

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

DISPUTE RESOLUTION POLICY:

Section 64 of Appendix B is hereby deleted. All disputes under this Contract shall be handled through the Procurement Services Dispute Resolution Process found at:

<http://nyspro.ogs.ny.gov/content/dispute-resolution-procedures>

(continued)

ORDER OF PRECEDENCE:

The documents below address clarifications agreed to by the Bidder and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the contract award. The documents set forth below were included in Invitation for Bids (IFB) # 22868 or provided by the Contractor.

1. Appendix A
2. IFB Document
3. Appendix B
4. Appendix C
5. Appendix D
6. Attachment 1 – Price Pages
7. Attachments 2 -7
8. Awardees Bid and resultant clarifications

SCOPE:

The contract award is to be used by State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. This contract contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other.

The contract award shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music. Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

The contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract. However, publications that require a standing order for supplemental material or updates to the publication that may be issued subsequent to the original release of the publication, such as law books, for example, are within the scope of the Contract.

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DEFINITIONS:

Terms used in this Contract that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

1. **“Ancillary Services”** includes supplementary value added services, such as cataloging and processing (including shelf ready books); machine readable cataloging (MARC) records; security tape; rebinding of paperbacks; barcode labels; mylar covers; electronic archive retrieval; MARC record retrieval; spine labels; date due slip/circulation cards; reading program labels; and dust jackets.
2. **“Bidder”** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a Contract with the State for their services a Bidder shall become a “Contractor.” See also “Contractor.”
3. **“Agency or Agency(ies)”** shall mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
4. **“Invitation for Bids (IFB)”**, as defined in Appendix B, shall refer to this document, and its appendices and attachments.
5. **“International Standard Book Number (ISBN)”** shall refer to the unique numeric commercial book identifier.
6. **“List Price”** shall mean Publishers Suggested Retail Price.
7. **“Lot”** shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014)*.
8. **“MWBE”** shall refer to a business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.
9. **“May”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “Should”.
10. **“Must”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Must” is synonymous with “required.” Also see “Shall”.
11. **“N/A”** is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
12. **“Net Price”** Shall be List Price less all applicable discounts and shall be the price paid by Authorized Users of the resultant Contract.
13. **“New York State Procurement (NYSPRO)”**((formerly known as Procurement Services Group (PSG)) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide Contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such Contracts. The terms NYSPRO and PSG shall be used interchangeably for purposes of this solicitation.
14. **“NYS Vendor ID”** shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
15. **“Preferred Source Products”** shall refer to those commodities or services that have been approved in accordance with State Finance Law §162.
16. **“Preferred Source Program”** shall refer to the special social and economic goals set by New York State in State Finance Law §162 that require a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the “form, function and utility” requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People who or Blind (NYSPSP; New York State Industries for the Disabled (NYSID); and the Office of Mental Health (OMH). These requirements apply to a State Agency, political subdivision and public benefit corporation (including most public authorities).
17. **“Price realism”** is an evaluative concept which is concerned with whether a bidder’s proposed prices are unrealistically low.
18. **“Shall”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Shall” is synonymous with “required.” Also see “Must”.
19. **“Should”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “May”.

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PRICE:

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in New York State and shall include inside delivery inside doors of Authorized User's receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method.

There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc. See "Delivery" clause for rush order charges.

Upon mutual agreement, delivery locations may be expanded per the "Extension of Use" clause.

Discount percentages and/or monetary (dollar) amounts to be deducted or charged to each Authorized User shall be listed by Bidder. Discounts shall be applied to publishers' List Prices. A range of discounts and monetary amounts may be offered; however, the Bidder must identify, where possible, each specific discount within the range and where or how it is to be applied. The discount may increase at any time, but the publishers' List Prices shall be the current prices as published and distributed to the trade by the publishers. Discount shall not decrease during the term of the Contract.

All monetary amounts may be adjusted annually following the first year of the Contract on the basis of the Not Seasonally Adjusted Consumer Price Index – All Urban Consumers, U.S. City Average, All Items Less Food, Series ID: CUUR0000SA0L1, CUUS0000SA0L1 published monthly by the US Department of Labor Bureau of Labor Statistics. There shall be no price adjustments during the first year of the Contract.

The adjustment shall be established as follows. Following the first year of the Contract and annually thereafter, the Contractor may make a formal request for a price adjustment in the succeeding Contract year. This request must be made in writing to the Contract Management Specialist identified on the front page of the resultant Contract Award Notification and such request must be received by no later than sixty (60) calendar days in the year preceding the effective date of adjustment. If the Contractor fails to submit a written request by such date, they forfeit their opportunity to receive a price adjustment in the succeeding Contract year. Price adjustments shall be effected beginning with the second year of the Contract and annually thereafter. The adjustment shall be based on the percentage of increase or decrease in the above referenced index in the preceding twelve months ending three months prior to the effective date of the adjustments. In no case shall price adjustments exceed five percent. All adjusted prices will be rounded up or down to the nearest whole cent. The Office of General Services will notify all interested parties of the price adjustments through the issuance of written notification by Procurement Services.

ESTIMATED QUANTITIES:

The quantities or dollar values listed in the IFB are estimated only. The Contracts resulting from the IFB shall be estimated quantities Contracts. No specific quantities or volumes are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of the award for this IFB, based on historical purchases under previous awards was approximately \$90 million annually. The individual value of each resultant Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the products, services and pricing that best meets their needs in the most practical and economical manner. See Appendix B §30 Estimated/Specific Quantity Contracts and §27 Participation in Centralized Contracts.

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Numerous factors could cause the actual volume of product purchased under the Contracts resulting from the IFB to vary substantially from the estimates in the IFB. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period; and,
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In Procurement Services' experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting its bid, Bidder acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this IFB.

CONTRACT PERIOD AND RENEWAL:

The Contract(s) shall be in effect for five (5) years beginning on the date of approval of the first contract awarded as a result of the IFB, and shall end conterminously five (5) years from the approval of the first contract awarded as a result of the IFB. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two additional one (1) year terms.

Discounts quoted are to be firm for the entire period of the Contract. Prices quotes for monetary amounts as defined in the Price clause are firm for the first year of the Contract but may be adjusted annually thereafter in accordance with the Price clause. Discount reduction will not be allowed and is specifically excluded from the terms and conditions of the Invitation for Bid, its specifications and subsequent Contract award. Price decreases or discount increases are permitted at any time.

CANCELLATION FOR CONVENIENCE:

The State of New York retains the right to cancel this Contract, in whole or in part without reason (see Appendix B, §47.b, Termination For Convenience).

SHORT TERM EXTENSION:

In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

(continued)

ORDERS:

Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system. Contractor shall be required to provide written quotes to Authorized Users who request them prior to placing an order, which details List Price, discount, and Net Price, as applicable.

The web-based ordering system, if offered, shall allow Authorized Users to enter orders and have full order inquiry capabilities. All orders (manual, fax, electronic) shall reference requisition and/or purchase order number as required. If offering a web-based ordering system, the Contractor represents and warrants that it is the sole owner of the software product used for its ordering system, or, if not the owner, has received all proper authorizations from the owner to license the software product, and has the full right and power to grant the rights contained in any Contract resulting from this Invitation for Bids and as described further in Appendix B. Contractor further warrants and represents that the software product is of original development, and/or that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person/company.

Contractor shall defend, indemnify and save New York State wholly harmless from all costs, liability, and damages, including attorney fees incurred by New York State as a result of claims by a third party that New York State use of such data, information, and software infringes the rights of such third party. New York State shall promptly notify Contractor in the event New York State learns of such claim by a third party.

The web-based ordering system shall be capable of processing, controlling, documenting, and reporting on the following minimum data elements:

- Contractor Name and Address
- Agency/Facility/Political Subdivision, etc.
- Contract Number
- Purchase Order/Requisition Numbers
- Contact (individual placing order)
- Publisher, Description, ISBN
- Net Price
- Extended and Total Amounts

If offering a web-based ordering system, the Contractor shall provide any necessary software (excluding communication software) and training guides/manuals or online support in the use of the web-based ordering system at no additional cost to all Authorized Users capable of placing orders electronically. Samples of software and training guides/manuals may be required. If requested, Contractor must demonstrate its system at an Albany, NY area location designated by the State.

MINIMUM ORDER:

Minimum order shall be \$100.00. Contractor may elect to honor orders for less than the minimum order, however no additional charges shall be allowed.

PRODUCT REQUIREMENTS:

Bidder shall offer various types of books, Non-Print, and related services. Please see "Scope" clause. Bindings are to meet or exceed requirements established by the Library Binding Institute (LBI). The latest library standard issued by LBI is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000, unless otherwise amended. This standard is available at <http://www.lbibinders.org/>. Cloth bindings for hardcover publications shall be the publisher's standard binding. Library bindings for hardcover publications shall be reinforced and include reinforced juvenile publications.

Bidder shall identify services associated with furnishing books, Non-Print and related materials. Cost/pricing for services shall be expressed in specific monetary amounts, not percentages.

Bidders shall identify, define, and provide a short description of the service(s) offered. Also, Bidders shall include any additional service pricing that may apply. Bid pages may be duplicated, as necessary, and addendums may be submitted for additional books and Non-Print services.

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INTERNET WEBSITES:

The State encourages Contractors to provide a designated NYS Contract website for Authorized Users' direct access. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in products/services or pricing must be approved by the New York State Procurement in accordance with any terms included in this contract prior to addition to the website. Hard copy catalog and pricelists, either in paper format or electronic format, must be available to all Authorized Users who either do not have Internet access or prefer the optional format.

PROCUREMENT INSTRUCTIONS:

1. The Contracts listed herein have been issued under a multiple award structure. Authorized Users shall procure Products and services that best meet their form, function and utility requirements.
2. Before proceeding with their purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law § 162 which requires that agencies afford first priority to the commodities/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such commodities/services meet the form, function and utility of the Authorized User.
3. Upon Authorized User acceptance of Products and/or services itemized on the purchase order, Contractor(s) will invoice Authorized User for any portion of Products and services accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all Products and services.

PURCHASE ORDERS AND INVOICING:

All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order, assigned an order number with anticipated delivery date.

Purchase Orders:

Purchase orders are to include the following information:

- A. Contract number;
- B. Contractor name;
- C. Contract item number and/or description;
- D. International Standard Book Number (ISBN); and
- E. Calculation of NYS Net Price.

Invoices:

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice all of the following items. Failure to comply may result in lengthy payment delays. Original invoices must follow the billing instructions contained in the purchase order. Invoices shall include, at a minimum, the following information:

- A. Contract number;
- B. NYS Vendor Identification number;
- C. Contract item number and description;
- D. Purchase Order number; and
- E. Line item breakdown of all charges to include Net Price of each product/service.

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Titles of books on invoices must be listed as shown on the original order. Shipping charges for foreign book shipments must be stated separately on the invoice. All other library materials must also be listed as shown on the original order and include List Prices, percentage discount or monetary charge, and Net Price of each item. Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying accounting systems in use by different Authorized Users.

DELIVERY:

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order. Delivery shall be made no later than 45 calendar days after receipt of purchase order. Guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each Authorized User. If there is a discrepancy between the purchase order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from the Office of General Services, New York State Procurement.

BACKORDERING:

Backordering shall be permissible only when authorized by the ordering Authorized User. Contractor must complete orders within the guaranteed delivery period offered.

PACKING SLIPS:

A legible packing slip and/or purchase order copy must accompany each shipment. The carton containing packing slip must be so marked.

LABELING:

Number of packages in a single shipment must be marked on outside of each carton. Purchase order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

SUBSTITUTIONS:

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense.

Contractor shall be expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment.

PRODUCT RETURNS BECAUSE OF QUALITY PROBLEMS:

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, outdated product, damage, etc., shall be picked up by the Contractor within ten (10) business days after notification with no restocking charge. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized

User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

PRODUCT RETURNS DUE TO AUTHORIZED USER ERROR:

Products ordered in error by an Authorized User shall be returned by Authorized User at its expense for credit within fifteen (15) business days of delivery. Standard stock products must be in resalable condition (original packaging, unused). The Contractor may charge a restocking fee--not to exceed ten percent--for product returns due to Authorized User error.

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CANCELLATION OF PURCHASE ORDERS:

Cancellation of orders in part or whole for unavailable materials or for “out of stock,” “out of print,” and “not yet published” publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

STATUS REPORT:

A statement in each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reasons.

CONTRACT PAYMENTS:

Payments cannot be processed by Authorized Users until the items have been delivered and accepted in accordance with the Delivery section above. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in clause, Purchase Orders and Invoicing.

CONTRACT ADMINISTRATOR:

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis.

TOLL-FREE NUMBER:

Contractor must provide a toll-free telephone number for the Authorized User usage. Contractor must staff this toll-free number at a minimum from 8:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding NYS holidays.

INSURANCE REQUIREMENTS:

Workers' Compensation Insurance and Disability Benefits insurance coverage must be submitted at the time of bid submission. Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 7 – *Insurance Requirements*. The Contractor shall procure at its sole cost and expense and shall maintain in force at all times during the terms of the resultant Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 7, Paragraph A.3., Certificates of Insurance/Notices.

REPORT OF CONTRACT USAGE:

Contractor shall furnish a report of all Product provided under the Contract during each semiannual period, no later than the 15th of the month following the close of each half year. Purchases by Non-state agencies, political subdivisions and others authorized by law shall be reported in the same report and indicated as required. A template for such report is included In Attachment 6 – *Administrative Reports*. All fields of information shall be accurate and complete. The report is to be submitted electronically via electronic mail utilizing the template provided in Microsoft Excel 2013, or lower version (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, Award Number, Contract Number, Sales Period, and Contractor's (or other authorized agent) Name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

AUTHORIZED USER SALES REPORTS:

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on a monthly basis, a report listing the following: name of products purchased, quantity purchased, unit price and total dollar volume of purchases.

OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State Contracts. Contract users will be advised to select the most cost effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

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NEW YORK STATE PROCUREMENT CARD:

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each delivery.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:

New York State political subdivisions and others authorized by New York State law may participate in Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B § 27 *Participation in Centralized Contracts*. For purchase orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have Delivery locations adjacent to New York State), the terms of the "Price" clause shall be modified to include Delivery to locations adjacent to New York State.

Upon request, all eligible non-State Agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS New York State Procurement's Customer Services at (518) 474-6717.

NOTE TO ALL NON-STATE AGENCIES AND BIDDERS:

All such participating non-State agencies and contractors understand, acknowledge and agree that the primary responsibility in regard to performance of the Contract, of any obligation, covenant, condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating non-State agencies and Contractor and not by the State. In the event of a failure or breach in performance of any such Contract by a non-State Agency or Contractor, the State specifically and expressly disclaims any and all liability for such defective performance or breach, and the eligible participating non-State agencies and Contractor guarantee to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the failure of either party to perform in accordance with its obligations, covenants and the terms and conditions of the State Centralized Contract.

EXTENSION OF USE:

This contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

EMERGENCY PURCHASING:

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products and services from any source, including but not limited to this Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

CONTRACTOR PERFORMANCE:

Authorized Users should notify the Procurement Services Contract administrator promptly if the Contractor fails to meet the requirements of this Contract. Performance which is otherwise unsatisfactory to the Authorized User should also be reported to Procurement Services.

MERCURY ADDED CONSUMER PRODUCTS:

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

RESERVATION:

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a Contract product(s) totaling more than \$75,000.00.

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AMERICANS WITH DISABILITIES ACT (ADA):

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Bidders are required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

ADDITIONAL REQUIREMENTS:

A. NO DRUGS OR ALCOHOL

For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

B. TRAFFIC INFRACTIONS

The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

PERIODIC RECRUITMENT:

The State reserves the right to add Contractors beginning in the second year of the Contract and at one year intervals thereafter. The State will formally announce when the bid is reissued, at the discretion of the State. Bidders shall be required to submit such Bid documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the new Bid solicitation. Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration. In addition, if a Bid is deemed non-responsive under periodic recruitment, a vendor cannot reapply for a future Contract until the next periodic recruitment period. For Contracts that are awarded under periodic recruitment, the Contract term will commence upon OGS approval in accordance with §26, Contract Creation/Execution of Appendix B and will terminate on the then current end date of the Contract or at the end of any approved extension or renewal period.

Bidder must demonstrate that it has a minimum average sales volume of \$1,000,000 annually in product meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. Procurement Services reserves the right to request copies of purchase orders and/or invoices for verification or clarification.

For bids that are awarded under periodic recruitment, the Contract term will commence upon award and terminate on the current end date of the Contract unless an extension is mutually agreed upon between Procurement Services and the Contractor.

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CONTRACT ADVERTISING:

In addition to the requirements set forth in Appendix B, §13 Advertising Results, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance.

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

POLICY STATEMENT:

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS Contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority- and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in State procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBES") and the employment of minority groups members and women in the performance of New York State Contracts.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS:

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

The Bidder further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic

characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs):

New York State Executive Law Article 15-A requires that OGS provide opportunities for the maximum feasible participation of New York State certified minority- and women-owned business enterprises in the performance of OGS contracts. OGS has determined that it will not place MWBE participation goals on contracts resulting from this procurement because there are not sufficient subcontracting opportunities available in the books industry as related to the purchases of books & non-print library materials & related ancillary services. However, contractors should use good faith efforts to engage MWBEs as subcontractors to the extent that such opportunities exist. Additionally, OGS strongly encourages all certified minority- and women-owned businesses to submit a proposal in response to this solicitation. Finally, OGS encourages those minority- and women-owned companies that are not certified by the Empire State Development Division of Minority- and Women-Owned Businesses to become certified at the earliest opportunity. Information regarding the certification process can be viewed at:

<http://esd.ny.gov/MWBE/Certification.html>

NEW YORK STATE STATEWIDE FINANCIAL SYSTEMS (SFS):

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the Contract period, and by submittal of a Bid a Bidder agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State Agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: <http://www.sfs.ny.gov/>.

USE OF RECYCLED OR REMANUFACTURED MATERIALS:

New York State supports and encourages vendors to use recycled, remanufactured or recovered materials in the manufacture of products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the product or packaging unless such use is precluded due to health or safety requirements or product specifications contained herein. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this IFB. Warranties on refurbished or remanufactured components or products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, § 15 *Remanufactured, Recycled, Recyclable or Recovered Materials*.

BULK DELIVERY AND ALTERNATE PACKAGING:

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

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SURPLUS/TAKE-BACK/RECYCLING:

- I. A State agency is reminded of its obligation to comply with the NY State Finance Law §§ 167, Transfer and Disposal of Personal Property, and 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.
- II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.
- III. The NYS Department of Environmental Conservation (DEC) Electronic Equipment Recycling and Reuse Act (“Act”) (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>.
- IV. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4:

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://ogs.ny.gov/EO/4/Default.asp>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

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NEW YORK STATE VENDOR RESPONSIBILITY:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

PREFERRED SOURCE PRODUCTS:

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services of preferred source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the resultant Contract(s) may be available from one or more preferred sources. An Authorized User must determine if a particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law §162(3) or (4)(b), respectively, before engaging the Contractor.

"OGS OR LESS" GUIDELINES:

Purchases of the products included in this contract are subject to the "OGS or Less" provisions of State Finance Law §163(3) (a) (v). This means that State Agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in form, function or utility to the products herein and are:

1. lower in price
-and/or-
2. available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State Agencies should refer to Procurement Council Guidelines for additional information.

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CONTRACT MODIFICATION PROCEDURE:

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

ADDITIONAL LICENSE AGREEMENTS:

OGS will NOT review or approve "click through", "shrink wrap" or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions. The Authorized User must ask if "click through", "shrink wrap" or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User's counsel, it is the responsibility of such Authorized User's counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

APPENDIX A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX B

Appendix B, *Office of General Services General Specifications*, dated June 2014, is hereby expressly made a part of this Contract as if set forth at length herein and shall govern any situations not covered by the IFB document or Appendix A.

APPENDIX C

Appendix C, *Equal Employment Opportunity Staffing Plan* (Form EEO 100), is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX D

Appendix D, *Contract Modification Procedure*, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

(continued)

**State of New York
Office of General Services
PROCUREMENT SERVICES
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ **Contractor:** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

 _____ (over)

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by mail to:

OGS PROCUREMENT SERVICES
 Customer Services, 38th Floor
 Corning 2nd Tower - Empire State Plaza
 Albany, New York 12242
 * * * * *

(continued)



2nd Supplemental Contract Award Notification

Title	: Group 20060 – Books & Non-Print Library Materials & Related Ancillary Services (Statewide)
	Classification Code(s): 55
Award Number	: <u>22868</u> (Replaces Award 21274)
Contract Period	: June 1, 2015 – May 31, 2020
Bid Opening Date	: December 23, 2014
Date of Issue	: September 11, 2015
Specification Reference	: As Incorporated In The Invitation for Bids and Purchasing Memorandums Issued Through December 16, 2014
Contractor Information	: Appears on Pages 31 – 34 of this Award

Address Inquiries To:

State Agencies & Vendors	Political Subdivisions & Others
Name : Theresa N. Kuo	Procurement Services
Title : Contract Management Specialist 1	Customer Services
Phone : 518-474-0259	Phone : 518-474-6717
E-mail : ningbin.kuo@ogs.ny.gov	E-mail : customer.services@ogs.ny.gov

**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This award covers Books and Non-Print Library Materials and Related Ancillary Services. Types of Books included are Trade, Non-Trade, Scientific, Technical, Law, Text Books, Reference, Encyclopedias, Handbooks, University Press Publications, Society or Association Publications, Foreign Publications and Out of Print Books. Non-Print items include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

PR # 22868

(continued)

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67157	AKJ WHOLESALE LLC DBA AKJ BOOKS 4702 Benson Ave Halethorpe, MD 21227	Cindy Bruce Tel: (800) 922-6066 Fax: (888) 770-2338 E-mail: cindy@akjbooks.com Website: www.akjbooks.com	203905442 1100003197
Offers Electronic Access Ordering (EDI) Accepts NYS Procurement Card Up to \$85,000.00 No additional discount for purchases made with NYS Procurement Card No Prompt Payment Discount Minimum Order: \$25.00 Guarantees Delivery: 45 Calendar days A/R/O			
PC67158	BMI EDUCATIONAL SERVICES, INC. 26 Haypress Road Cranbury, NJ 08512	Lynda Bradley Tel: (800) 222-8100 Fax: (800) 986-9393 E-mail: lbradley@bmionline.com Website: www.bmionline.com	221753177 1000008712
Offers Electronic Access Ordering (EDI) Accepts NYS Procurement Card Up to \$85,000.00 No additional discount for purchases made with NYS Procurement Card No Prompt Payment Discount Minimum Order: No Minimum Guarantees Delivery: 45 Calendar days A/R/O			
PC67159	CENTRAL PROGRAMS INC. DBA GUMDROP BOOKS 802 N. 41 st St. Bethany, MO 64424	Lisa Gilbert/Amber Hoyle Tel: (800) 821-7199 Fax: (866) 321-7199 E-mail: wecare@gumdropbooks.com Website: www.gumdropbooks.com	431057878 1000044854
Offers Electronic Access Ordering (EDI) Accepts NYS Procurement Card Up to \$85,000.00 No additional discount for purchases made with NYS Procurement Card No Prompt Payment Discount Minimum Order: No Minimum Guarantees Delivery: 45 Calendar days A/R/O			

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67160	JEFCO SALES, INC. DBA APPLE BOOKS PO Box 99842 Pittsburgh, Pa 15233	Holly Bittel Tel: (800) 783-6767 Fax: (412) 688-8545 E-mail: customerservice@applebks.com Website: www.applebks.com	251332502 1100003218

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$50.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67161	LAKESHORE EQUIPMENT COMPANY DBA LAKESHORE LEARNING MATERIALS 2695 E. Dominguez St. Carson, CA 90895	Mariela Benavides Tel: (800) 421-5354 Fax: (800) 537-5403 E-mail: biddept@lakeshorelearning.com Website: www.lakeshorelearning.com	941525814 1000009785
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum
Guarantees Delivery: 45 Calendar days A/R/O

PC67162	LERNER PUBLISHING GROUP 241 First Avenue North Minneapolis, MN 55401	Brad Richason Tel: (800) 328-4929 Fax: (800) 332-1132 E-mail: brichason@lernerbooks.com Website:www.lernerbooks.com	410833899 1000044837
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$10.00
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67163	PEARSON EDUCATION, INC. 330 Hudson Street New York, NY 10013 Remittance Address PO Box 409496 Atlanta, GA 30384	Ken Lanfrank Tel: (201) 236-5386 (800) 848-9500 Fax: (877) 260-2530 E-mail: ken.lanfrank@pearson.com Website: www.pearsoned.com	221603684 1000008708

Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: \$50.00
 Guarantees Delivery: 45 Calendar days A/R/O

PC67164	PERFECTION LEARNING CORPORATION 1000 N. Second Avenue Logan, IA 51546	Kristin Hipwell Tel: (800) 831-4190 ext. 210 Fax: (800) 543-2745 E-mail: bids@perfectionlearning.com Website: www.perfectionlearning.com	420895541 1000009325
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$15,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No Minimum
 Guarantees Delivery: 45 Calendar days A/R/O

PC67165	QUALITY BOOKS, INC. 1003 W. Pines Road Oregon, IL 61061	Marcia Beauchem Tel: (800) 800-323-4241 ext. 495 Fax: (815) 732-4499 E-mail: marcia.beauchem@quality-books.com Website: www.qbibooks.com	061818765 1000036588
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: \$1.00
 Guarantees Delivery: 45 Calendar days A/R/O

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67166	SCHOLASTIC LIBRARY PUBLISHING, INC. 90 Old Sherman Turnpike Danbury, CT 06816	Kathy Brown/ Customer Service Tel: (800) 621-1115 ext. 6 (800) 621-1115 ext. 4 Fax:(203) 797-3478 (866) 783-4361 E-mail: kbrown@scholasticlibrary.com slpservice@scholastic.com Website: www.scholasticlibrary.digital.schoastic.com	061226353 1000036529

Does not Offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$0.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67167	THE CHAPTERS GROUP, LLC 4179 NW 29 th Way Boca Raton, FL 33434	Laurence Bard Tel: (866) 229-7976 ext. 4 Fax: (561) 243-3668 E-mail: Laurence@chaptersgroup.com Website: www.chaptersgroup.com	271623513 1100131421
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Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$50.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67168	YANKEE BOOK PEDDLER INC. D/B/A YBP LIBRARY SERVICES 999 Maple Street Contoocook, NH 03229	Alice Perry Tel: (800) 258-3774 ext. 8960 Fax: (800) 343-7413 E-mail: aperry@ybp.com Website: www.ybp.com	020302143 1000005200
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum
Guarantees Delivery: 45 Calendar days A/R/O

For Pricelists for this award, please see the Contractor Pricing pages located on the OGS website at:
<http://www.ogs.ny.gov/purchase/spg/awards/2006022868CAN.HTM>

Cash Discount, If Shown, Should be Given Special Attention.
INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" in this document.)

(continued)

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES.

SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

The Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- obtaining all necessary prior approvals;
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

DEBRIEFING:

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a

(continued)

Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

DISPUTE RESOLUTION POLICY:

Section 64 of Appendix B is hereby deleted. All disputes under this Contract shall be handled through the Procurement Services Dispute Resolution Process found at:
<http://nyspro.ogs.ny.gov/content/dispute-resolution-procedures>

ORDER OF PRECEDENCE:

The documents below address clarifications agreed to by the Bidder and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the contract award. The documents set forth below were included in Invitation for Bids (IFB) # 22868 or provided by the Contractor.

1. Appendix A
2. IFB Document
3. Appendix B
4. Appendix C
5. Appendix D
6. Attachment 1 – Price Pages
7. Attachments 2 -7
8. Awardees Bid and resultant clarifications

SCOPE:

The contract award is to be used by State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. This contract contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other.

The contract award shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music. Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlases/charts; video games; sheet music/scores; and audio visual materials.

The contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract. However, publications that require a standing order for supplemental material or updates to the publication that may be issued subsequent to the original release of the publication, such as law books, for example, are within the scope of the Contract.

DEFINITIONS:

Terms used in this Contract that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

1. **“Ancillary Services”** includes supplementary value added services, such as cataloging and processing (including shelf ready books); machine readable cataloging (MARC) records; security tape; rebinding of paperbacks; barcode labels; mylar covers; electronic archive retrieval; MARC record retrieval; spine labels; date due slip/circulation cards; reading program labels; and dust jackets.
2. **“Bidder”** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a Contract with the State for their services a Bidder shall become a “Contractor.” See also “Contractor.”

(continued)

3. **“Agency or Agency(ies)”** shall mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
4. **“Invitation for Bids (IFB)”**, as defined in Appendix B, shall refer to this document, and its appendices and attachments.
5. **“International Standard Book Number (ISBN)”** shall refer to the unique numeric commercial book identifier.
6. **“List Price”** shall mean Publishers Suggested Retail Price.
7. **“Lot”** shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014)*.
8. **“MWBE”** shall refer to a business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.
9. **“May”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “Should”.
10. **“Must”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Must” is synonymous with “required.” Also see “Shall”.
11. **“N/A”** is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
12. **“Net Price”** Shall be List Price less all applicable discounts and shall be the price paid by Authorized Users of the resultant Contract.
13. **“New York State Procurement (NYSPRO)”**(formerly known as Procurement Services Group (PSG)) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide Contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such Contracts. The terms NYSPRO and PSG shall be used interchangeably for purposes of this solicitation.
14. **“NYS Vendor ID”** shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
15. **“Preferred Source Products”** shall refer to those commodities or services that have been approved in accordance with State Finance Law §162.
16. **“Preferred Source Program”** shall refer to the special social and economic goals set by New York State in State Finance Law §162 that require a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the “form, function and utility” requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People who are or Blind (NYSPSP; New York State Industries for the Disabled (NYSID); and the Office of Mental Health (OMH). These requirements apply to a State Agency, political subdivision and public benefit corporation (including most public authorities).
17. **“Price realism”** is an evaluative concept which is concerned with whether a bidder’s proposed prices are unrealistically low.
18. **“Shall”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Shall” is synonymous with “required.” Also see “Must”.
19. **“Should”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “May”.

PRICE:

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in New York State and shall include inside delivery inside doors of Authorized User’s receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method.

There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc. See “Delivery” clause for rush order charges.

Upon mutual agreement, delivery locations may be expanded per the “Extension of Use” clause.

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Discount percentages and/or monetary (dollar) amounts to be deducted or charged to each Authorized User shall be listed by Bidder. Discounts shall be applied to publishers' List Prices. A range of discounts and monetary amounts may be offered; however, the Bidder must identify, where possible, each specific discount within the range and where or how it is to be applied. The discount may increase at any time, but the publishers' List Prices shall be the current prices as published and distributed to the trade by the publishers. Discount shall not decrease during the term of the Contract.

All monetary amounts may be adjusted annually following the first year of the Contract on the basis of the Not Seasonally Adjusted Consumer Price Index – All Urban Consumers, U.S. City Average, All Items Less Food, Series ID: CUUR000SA0L1, CUUS000SA0L1 published monthly by the US Department of Labor Bureau of Labor Statistics. There shall be no price adjustments during the first year of the Contract.

The adjustment shall be established as follows. Following the first year of the Contract and annually thereafter, the Contractor may make a formal request for a price adjustment in the succeeding Contract year. This request must be made in writing to the Contract Management Specialist identified on the front page of the resultant Contract Award Notification and such request must be received by no later than sixty (60) calendar days in the year preceding the effective date of adjustment. If the Contractor fails to submit a written request by such date, they forfeit their opportunity to receive a price adjustment in the succeeding Contract year. Price adjustments shall be effected beginning with the second year of the Contract and annually thereafter. The adjustment shall be based on the percentage of increase or decrease in the above referenced index in the preceding twelve months ending three months prior to the effective date of the adjustments. In no case shall price adjustments exceed five percent. All adjusted prices will be rounded up or down to the nearest whole cent. The Office of General Services will notify all interested parties of the price adjustments through the issuance of written notification by Procurement Services.

ESTIMATED QUANTITIES:

The quantities or dollar values listed in the IFB are estimated only. The Contracts resulting from the IFB shall be estimated quantities Contracts. No specific quantities or volumes are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of the award for this IFB, based on historical purchases under previous awards was approximately \$90 million annually. The individual value of each resultant Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the products, services and pricing that best meets their needs in the most practical and economical manner. See Appendix B §30 Estimated/Specific Quantity Contracts and §27 Participation in Centralized Contracts.

Numerous factors could cause the actual volume of product purchased under the Contracts resulting from the IFB to vary substantially from the estimates in the IFB. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period; and,
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In Procurement Services' experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting its bid, Bidder acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this IFB.

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CONTRACT PERIOD AND RENEWAL:

The Contract(s) shall be in effect for five (5) years beginning on the date of approval of the first contract awarded as a result of the IFB, and shall end conterminously five (5) years from the approval of the first contract awarded as a result of the IFB. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two additional one (1) year terms.

Discounts quoted are to be firm for the entire period of the Contract. Prices quotes for monetary amounts as defined in the Price clause are firm for the first year of the Contract but may be adjusted annually thereafter in accordance with the Price clause. Discount reduction will not be allowed and is specifically excluded from the terms and conditions of the Invitation for Bid, its specifications and subsequent Contract award. Price decreases or discount increases are permitted at any time.

CANCELLATION FOR CONVENIENCE:

The State of New York retains the right to cancel this Contract, in whole or in part without reason (see Appendix B, §47.b, Termination For Convenience).

SHORT TERM EXTENSION:

In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

ORDERS:

Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system. Contractor shall be required to provide written quotes to Authorized Users who request them prior to placing an order, which details List Price, discount, and Net Price, as applicable.

The web-based ordering system, if offered, shall allow Authorized Users to enter orders and have full order inquiry capabilities. All orders (manual, fax, electronic) shall reference requisition and/or purchase order number as required. If offering a web-based ordering system, the Contractor represents and warrants that it is the sole owner of the software product used for its ordering system, or, if not the owner, has received all proper authorizations from the owner to license the software product, and has the full right and power to grant the rights contained in any Contract resulting from this Invitation for Bids and as described further in Appendix B. Contractor further warrants and represents that the software product is of original development, and/or that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person/company.

Contractor shall defend, indemnify and save New York State wholly harmless from all costs, liability, and damages, including attorney fees incurred by New York State as a result of claims by a third party that New York State use of such data, information, and software infringes the rights of such third party. New York State shall promptly notify Contractor in the event New York State learns of such claim by a third party.

The web-based ordering system shall be capable of processing, controlling, documenting, and reporting on the following minimum data elements:

- Contractor Name and Address
- Agency/Facility/Political Subdivision, etc.
- Contract Number
- Purchase Order/Requisition Numbers
- Contact (individual placing order)
- Publisher, Description, ISBN
- Net Price
- Extended and Total Amounts

(continued)

If offering a web-based ordering system, the Contractor shall provide any necessary software (excluding communication software) and training guides/manuals or online support in the use of the web-based ordering system at no additional cost to all Authorized Users capable of placing orders electronically. Samples of software and training guides/manuals may be required. If requested, Contractor must demonstrate its system at an Albany, NY area location designated by the State.

MINIMUM ORDER:

Minimum order shall be \$100.00. Contractor may elect to honor orders for less than the minimum order, however no additional charges shall be allowed.

PRODUCT REQUIREMENTS:

Bidder shall offer various types of books, Non-Print, and related services. Please see "Scope" clause. Bindings are to meet or exceed requirements established by the Library Binding Institute (LBI). The latest library standard issued by LBI is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000, unless otherwise amended. This standard is available at <http://www.lbibinders.org/>. Cloth bindings for hardcover publications shall be the publisher's standard binding. Library bindings for hardcover publications shall be reinforced and include reinforced juvenile publications.

Bidder shall identify services associated with furnishing books, Non-Print and related materials. Cost/pricing for services shall be expressed in specific monetary amounts, not percentages.

Bidders shall identify, define, and provide a short description of the service(s) offered. Also, Bidders shall include any additional service pricing that may apply. Bid pages may be duplicated, as necessary, and addendums may be submitted for additional books and Non-Print services.

INTERNET WEBSITES:

The State encourages Contractors to provide a designated NYS Contract website for Authorized Users' direct access. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in products/services or pricing must be approved by the New York State Procurement in accordance with any terms included in this contract prior to addition to the website. Hard copy catalog and pricelists, either in paper format or electronic format, must be available to all Authorized Users who either do not have Internet access or prefer the optional format.

PROCUREMENT INSTRUCTIONS:

1. The Contracts listed herein have been issued under a multiple award structure. Authorized Users shall procure Products and services that best meet their form, function and utility requirements.
2. Before proceeding with their purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law §162 which requires that agencies afford first priority to the commodities/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such commodities/services meet the form, function and utility of the Authorized User.
3. Upon Authorized User acceptance of Products and/or services itemized on the purchase order, Contractor(s) will invoice Authorized User for any portion of Products and services accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all Products and services.

PURCHASE ORDERS AND INVOICING:

All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order, assigned an order number with anticipated delivery date.

Purchase Orders:

Purchase orders are to include the following information:

(continued)

- A. Contract number;
- B. Contractor name;
- C. Contract item number and/or description;
- D. International Standard Book Number (ISBN); and
- E. Calculation of NYS Net Price.

Invoices:

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice all of the following items. Failure to comply may result in lengthy payment delays. Original invoices must follow the billing instructions contained in the purchase order. Invoices shall include, at a minimum, the following information:

- A. Contract number;
- B. NYS Vendor Identification number;
- C. Contract item number and description;
- D. Purchase Order number; and
- E. Line item breakdown of all charges to include Net Price of each product/service.

Titles of books on invoices must be listed as shown on the original order. Shipping charges for foreign book shipments must be stated separately on the invoice. All other library materials must also be listed as shown on the original order and include List Prices, percentage discount or monetary charge, and Net Price of each item. Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying accounting systems in use by different Authorized Users.

DELIVERY:

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order. Delivery shall be made no later than 45 calendar days after receipt of purchase order. Guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each Authorized User. If there is a discrepancy between the purchase order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from the Office of General Services, New York State Procurement.

BACKORDERING:

Backordering shall be permissible only when authorized by the ordering Authorizes User. Contractor must complete orders within the guaranteed delivery period offered.

PACKING SLIPS:

A legible packing slip and/or purchase order copy must accompany each shipment. The carton containing packing slip must be so marked.

LABELING:

Number of packages in a single shipment must be marked on outside of each carton. Purchase order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

SUBSTITUTIONS:

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense.

Contractor shall be expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment.

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PRODUCT RETURNS BECAUSE OF QUALITY PROBLEMS:

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, outdated product, damage, etc., shall be picked up by the Contractor within ten (10) business days after notification with no restocking charge. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized

User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

PRODUCT RETURNS DUE TO AUTHORIZED USER ERROR:

Products ordered in error by an Authorized User shall be returned by Authorized User at its expense for credit within fifteen (15) business days of delivery. Standard stock products must be in resalable condition (original packaging, unused). The Contractor may charge a restocking fee--not to exceed ten percent--for product returns due to Authorized User error.

CANCELLATION OF PURCHASE ORDERS:

Cancellation of orders in part or whole for unavailable materials or for "out of stock," "out of print," and "not yet published" publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

STATUS REPORT:

A statement in each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reasons.

CONTRACT PAYMENTS:

Payments cannot be processed by Authorized Users until the items have been delivered and accepted in accordance with the Delivery section above. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in clause, Purchase Orders and Invoicing.

CONTRACT ADMINISTRATOR:

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis.

TOLL-FREE NUMBER:

Contractor must provide a toll-free telephone number for the Authorized User usage. Contractor must staff this toll-free number at a minimum from 8:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding NYS holidays.

INSURANCE REQUIREMENTS:

Workers' Compensation Insurance and Disability Benefits insurance coverage must be submitted at the time of bid submission. Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 7 – *Insurance Requirements*. The Contractor shall procure at its sole cost and expense and shall maintain in force at all times during the terms of the resultant Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 7, Paragraph A.3., Certificates of Insurance/Notices.

REPORT OF CONTRACT USAGE:

Contractor shall furnish a report of all Product provided under the Contract during each semiannual period, no later than the 15th of the month following the close of each half year. Purchases by Non-state agencies, political subdivisions and others authorized by law shall be reported in the same report and indicated as required. A template for such report is included In Attachment 6 – Administrative Reports. All fields of information shall be accurate and

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complete. The report is to be submitted electronically via electronic mail utilizing the template provided in Microsoft Excel 2013, or lower version (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, Award Number, Contract Number, Sales Period, and Contractor's (or other authorized agent) Name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

AUTHORIZED USER SALES REPORTS:

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on a monthly basis, a report listing the following: name of products purchased, quantity purchased, unit price and total dollar volume of purchases.

OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State Contracts. Contract users will be advised to select the most cost effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

NEW YORK STATE PROCUREMENT CARD:

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each delivery.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:

New York State political subdivisions and others authorized by New York State law may participate in Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B § 27 *Participation in Centralized Contracts*. For purchase orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have Delivery locations adjacent to New York State), the terms of the "Price" clause shall be modified to include Delivery to locations adjacent to New York State.

Upon request, all eligible non-State Agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS New York State Procurement's Customer Services at (518) 474-6717.

NOTE TO ALL NON-STATE AGENCIES AND BIDDERS:

All such participating non-State agencies and contractors understand, acknowledge and agree that the primary responsibility in regard to performance of the Contract, of any obligation, covenant, condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating non-State agencies and Contractor and not by the State. In the event of a failure or breach in performance of any such Contract by a non-State Agency or Contractor, the State specifically and expressly disclaims any and all liability for such defective performance or breach, and the eligible participating non-State agencies and Contractor guarantee to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the failure of either party to perform in accordance with its obligations, covenants and the terms and conditions of the State Centralized Contract.

EXTENSION OF USE:

This contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

EMERGENCY PURCHASING:

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products and services from any source, including but not limited to this

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Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

CONTRACTOR PERFORMANCE:

Authorized Users should notify the Procurement Services Contract administrator promptly if the Contractor fails to meet the requirements of this Contract. Performance which is otherwise unsatisfactory to the Authorized User should also be reported to Procurement Services.

MERCURY ADDED CONSUMER PRODUCTS:

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

RESERVATION:

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a Contract product(s) totaling more than \$75,000.00.

AMERICANS WITH DISABILITIES ACT (ADA):

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Bidders are required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

ADDITIONAL REQUIREMENTS:

A. NO DRUGS OR ALCOHOL

For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

B. TRAFFIC INFRACTIONS

The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

PERIODIC RECRUITMENT:

The State reserves the right to add Contractors beginning in the second year of the Contract and at one year intervals thereafter. The State will formally announce when the bid is reissued, at the discretion of the State. Bidders shall be required to submit such Bid documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the new Bid solicitation. Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration. In addition, if a Bid is deemed non-responsive under periodic recruitment, a vendor cannot reapply for a future Contract until the next periodic recruitment period. For Contracts that are awarded under periodic recruitment, the Contract term will commence upon OGS approval in accordance with §26, Contract Creation/Execution of Appendix B and will terminate on the then current end date of the Contract or at the end of any approved extension or renewal period.

Bidder must demonstrate that it has a minimum average sales volume of \$1,000,000 annually in product meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. Procurement Services reserves the right to request copies of purchase orders and/or invoices for verification or clarification.

For bids that are awarded under periodic recruitment, the Contract term will commence upon award and terminate on the current end date of the Contract unless an extension is mutually agreed upon between Procurement Services and the Contractor.

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CONTRACT ADVERTISING:

In addition to the requirements set forth in Appendix B, §13 Advertising Results, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance.

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

POLICY STATEMENT:

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS Contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority- and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in State procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBEs") and the employment of minority groups members and women in the performance of New York State Contracts.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS:

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

The Bidder further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs):

New York State Executive Law Article 15-A requires that OGS provide opportunities for the maximum feasible participation of New York State certified minority- and women-owned business enterprises in the performance of OGS contracts. OGS has determined that it will not place MWBE participation goals on contracts resulting from this

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procurement because there are not sufficient subcontracting opportunities available in the books industry as related to the purchases of books & non-print library materials & related ancillary services. However, contractors should use good faith efforts to engage MWBEs as subcontractors to the extent that such opportunities exist. Additionally, OGS strongly encourages all certified minority- and women-owned businesses to submit a proposal in response to this solicitation. Finally, OGS encourages those minority- and women-owned companies that are not certified by the Empire State Development Division of Minority- and Women-Owned Businesses to become certified at the earliest opportunity. Information regarding the certification process can be viewed at:
<http://esd.ny.gov/MWBE/Certification.html>

NEW YORK STATE STATEWIDE FINANCIAL SYSTEMS (SFS):

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the Contract period, and by submittal of a Bid a Bidder agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State Agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: <http://www.sfs.ny.gov/>.

USE OF RECYCLED OR REMANUFACTURED MATERIALS:

New York State supports and encourages vendors to use recycled, remanufactured or recovered materials in the manufacture of products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the product or packaging unless such use is precluded due to health or safety requirements or product specifications contained herein. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this IFB. Warranties on refurbished or remanufactured components or products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, § 15 *Remanufactured, Recycled, Recyclable or Recovered Materials*.

BULK DELIVERY AND ALTERNATE PACKAGING:

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

SURPLUS/TAKE-BACK/RECYCLING:

- I. A State agency is reminded of its obligation to comply with the NY State Finance Law §§ 167, Transfer and Disposal of Personal Property, and 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.
- II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.
- III. The NYS Department of Environmental Conservation (DEC) Electronic Equipment Recycling and Reuse Act ("Act") (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of

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electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>.

IV. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4:

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://ogs.ny.gov/EO/4/Default.asp>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

NEW YORK STATE VENDOR RESPONSIBILITY:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

PREFERRED SOURCE PRODUCTS:

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services of preferred source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the

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resultant Contract(s) may be available from one or more preferred sources. An Authorized User must determine if a particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law §162(3) or (4)(b), respectively, before engaging the Contractor.

"OGS OR LESS" GUIDELINES:

Purchases of the products included in this contract are subject to the "OGS or Less" provisions of State Finance Law §163(3) (a) (v). This means that State Agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in form, function or utility to the products herein and are:

1. lower in price
-and/or-
2. available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State Agencies should refer to Procurement Council Guidelines for additional information.

CONTRACT MODIFICATION PROCEDURE:

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

ADDITIONAL LICENSE AGREEMENTS:

OGS will NOT review or approve "click through", "shrink wrap" or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions. The Authorized User must ask if "click through", "shrink wrap" or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User's counsel, it is the

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responsibility of such Authorized User's counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

APPENDIX A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX B

Appendix B, *Office of General Services General Specifications*, dated June 2014, is hereby expressly made a part of this Contract as if set forth at length herein and shall govern any situations not covered by the IFB document or Appendix A.

APPENDIX C

Appendix C, *Equal Employment Opportunity Staffing Plan* (Form EEO 100), is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX D

Appendix D, *Contract Modification Procedure*, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

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**State of New York
Office of General Services
NEW YORK STATE PROCUREMENT
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ **Contractor:** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

_____ (over)

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by mail to:

OGS PROCUREMENT SERVICES
Customer Services, 38th Floor
Corning 2nd Tower - Empire State Plaza
Albany, New York 12242
* * * * *

(continued)



3rd Supplemental Contract Award Notification

Title	: Group 20060 – Books & Non-Print Library Materials & Related Ancillary Services (Statewide)
	Classification Code(s): 55
Award Number	: 22868 (Replaces Award 21274)
Contract Period	: June 1, 2015 – May 31, 2020
Bid Opening Date	: December 23, 2014
Date of Issue	: October 30, 2015
Specification Reference	: As Incorporated In The Invitation for Bids and Purchasing Memorandums Issued Through December 16, 2014
Contractor Information	: Appears on Pages 31 – 34 of this Award

Address Inquiries To:

State Agencies & Vendors		Political Subdivisions & Others	
Name	: Theresa N. Kuo	Procurement Services	
Title	: Contract Management Specialist 1	Customer Services	
Phone	: 518-474-0259	Phone	: 518-474-6717
E-mail	: ningbin.kuo@ogs.ny.gov	E-mail	: customer.services@ogs.ny.gov

**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This award covers Books and Non-Print Library Materials and Related Ancillary Services. Types of Books included are Trade, Non-Trade, Scientific, Technical, Law, Text Books, Reference, Encyclopedias, Handbooks, University Press Publications, Society or Association Publications, Foreign Publications and Out of Print Books. Non-Print items include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

PR # 22868

(continued)

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67254	COMPLETE BOOK AND MEDIA SUPPLY, LLC 1200 Toro Grande Drive, Ste. 200 Cedar Park, TX 78613	Jessica Kelly Tel: (800) 986-1775 Fax: (512) 616-0410 E-mail: jessica@completebook.com Website: www.completebook.com	742852244 1100005453

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum
Guarantees Delivery: 45 Calendar days A/R/O

PC67266	DELANEY EDUCATIONAL ENTERPRISES, INC 1455 W. Morena Blvd. San Diego, CA 92110	Sandy Johnson Tel: (800) 788-5557 Fax: (800) 660-2199 E-mail: sjohnson@deebooks.com Website: www.deebooks.com	731652998 1100150595
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum
Guarantees Delivery: 45 Calendar days A/R/O

PC67255	FINDAWAY WORLD, LLC. 31999 Aurora Rd. Solon, OH 44139	Donna Destefano Tel: (877) 893-0808 ext. 215 Fax: (877) 893-0809 E-mail: ddestefano@findawayworld.com Website: www.findawayworld.com	201388060 1100003190
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$100.00
Guarantees Delivery: 45 Calendar days A/R/O

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<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67256	GARRETT EDUCATIONAL CORPORATION 130 East 13th Street Ada, OK 74820	Cheryl York Tel: (800) 654-9366 Fax: (888) 525-1560 E-mail: cheryl.york@garrettbooks.com Website: www.garrettbooks.com	730750129 1000045111

Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No Minimum
 Guarantees Delivery: 45 Calendar days A/R/O

PC67257	LIBRARY SALES, INC DBA SEBCO BOOKS 2001 SW 31st Avenue Pembroke Park, FL 33009	Danny Comer Tel: (800) 223-3251 Fax: (954) 987-2200 E-mail: bids@sebcobooks.com Website:www.sebcobooks.com	650540354 1000045081
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: \$1.00
 Guarantees Delivery: 45 Calendar days A/R/O

PC67258	OTTO HARRASSOWITZ GMBH & CO. KG Kreuzberger Ring 7b-d 65205 Wiesbaden, Germany	Edith Klee Tel: (800) 348-6886 Fax: (800) 574-5732 E-mail: service@harrassowitz.de Website: www.harrassowitz.de	980423753 1000009840
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No Minimum
 Guarantees Delivery: 45 Calendar days A/R/O

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<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67259	RAINBOW BOOKS, INC D/B/A RAINBOW BOOK COMPANY 100 N Fairway Dr. #120 Vernon Hills, IL 60061	Michael Sherman Tel: (800) 255-0965 Fax: (847) 726-9935 E-mail: sales@rainbowbookcompany.com Website: www.rainbowbookcompany.com	364091907 1000044791

Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No Minimum
 Guarantees Delivery: 45 Calendar days A/R/O

PC67260 WBE	SADDLEBACK EDUCATIONAL, INC. 3120-A Pullman St. Costa Mesa, CA 92626	Lisa Taraborrelli Tel: (800) 637-8715 ext. 230 Fax: (888) 734-4010 E-mail: marcia.bids@sdlback.com Website: www.sdlback.com	953740226 1000009825
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Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No Minimum
 Guarantees Delivery: 45 Calendar days A/R/O

PC67261 SB	SUSSMAN SALES CO., INC. 250 East 54th Street, Suite 8B New York, NY 10022	Ronnie Sussman Tel: (800) 350-7180 Fax:(212) 371-8882 E-mail: info@sussmansales.com Website: www.sussmansales.com	112270606 1000024088
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Does not Offer Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 1% Prompt Payment Discount for payment within 15 days of delivery and/or receipt of invoice
 Minimum Order: \$25.00
 Guarantees Delivery: 45 Calendar days A/R/O

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67262	TEXTBOOK WAREHOUSE, LLC DBA TEXTBOOK WAREHOUSE 936 Curie Dr. Alpharetta, GA 30005	Diane Goldsmith Tel: (800) 796-9152 Fax: (800) 796-9154 E-mail: info@tbwarehouse.com Website: www.texbookwarehouse.com	202080039 1100024287

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum
Guarantees Delivery: 45 Calendar days A/R/O

PC67263	THE LEARNING CONNECTION COMPANY 4100 Silver Star Rd., Ste. D Orlando, FL 32808	Ryan Handberg Tel: (800) 218-8489 Fax: (800) 250-4951 E-mail: TLC@TLConnection.com Website: www.TLConnection.com	593094275 1100003013
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Does not offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$25.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67264	THE PENWORTHY COMPANY 219 N. Milwaukee St. Milwaukee, WI 53202	Anne Broda Rosanne McDonald Tel: (800) 262-2665 ext. 207 Fax: (414) 287-4602 E-mail: anne.broda@penworthy.com bid.administrator@penworthy.com Website: www.penworthy.com	391405550 1100131340
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Does not offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum
Guarantees Delivery: 45 Calendar days A/R/O

For Pricelists for this award, please see the Contractor Pricing pages located on the OGS website at:
<http://www.ogs.ny.gov/purchase/spg/awards/2006022868CAN.HTM>

Cash Discount, If Shown, Should be Given Special Attention.
INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" in this document.)

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AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES.

SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

The Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- obtaining all necessary prior approvals;
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

DEBRIEFING:

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a

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Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

DISPUTE RESOLUTION POLICY:

Section 64 of Appendix B is hereby deleted. All disputes under this Contract shall be handled through the Procurement Services Dispute Resolution Process found at:
<http://nyspro.ogs.ny.gov/content/dispute-resolution-procedures>

ORDER OF PRECEDENCE:

The documents below address clarifications agreed to by the Bidder and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the contract award. The documents set forth below were included in Invitation for Bids (IFB) # 22868 or provided by the Contractor.

1. Appendix A
2. IFB Document
3. Appendix B
4. Appendix C
5. Appendix D
6. Attachment 1 – Price Pages
7. Attachments 2 -7
8. Awardees Bid and resultant clarifications

SCOPE:

The contract award is to be used by State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. This contract contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other.

The contract award shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music. Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

The contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract. However, publications that require a standing order for supplemental material or updates to the publication that may be issued subsequent to the original release of the publication, such as law books, for example, are within the scope of the Contract.

DEFINITIONS:

Terms used in this Contract that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

1. **“Ancillary Services”** includes supplementary value added services, such as cataloging and processing (including shelf ready books); machine readable cataloging (MARC) records; security tape; rebinding of paperbacks; barcode labels; mylar covers; electronic archive retrieval; MARC record retrieval; spine labels; date due slip/circulation cards; reading program labels; and dust jackets.
2. **“Bidder”** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a Contract with the State for their services a Bidder shall become a “Contractor.” See also “Contractor.”

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3. “**Agency or Agency(ies)**” shall mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
4. “**Invitation for Bids (IFB)**”, as defined in Appendix B, shall refer to this document, and its appendices and attachments.
5. “**International Standard Book Number (ISBN)**” shall refer to the unique numeric commercial book identifier.
6. “**List Price**” shall mean Publishers Suggested Retail Price.
7. “**Lot**” shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014)*.
8. “**MWBE**” shall refer to a business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.
9. “**May**” denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “Should”.
10. “**Must**” denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Must” is synonymous with “required.” Also see “Shall”.
11. “**N/A**” is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
12. “**Net Price**” shall be List Price less all applicable discounts and shall be the price paid by Authorized Users of the resultant Contract.
13. “**New York State Procurement (NYSPPro)**”(formerly known as Procurement Services Group (PSG)) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide Contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such Contracts. The terms NYSPPro and PSG shall be used interchangeably for purposes of this solicitation.
14. “**NYS Vendor ID**” shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
15. “**Preferred Source Products**” shall refer to those commodities or services that have been approved in accordance with State Finance Law §162.
16. “**Preferred Source Program**” shall refer to the special social and economic goals set by New York State in State Finance Law §162 that require a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the “form, function and utility” requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People who are or Blind (NYSPSP; New York State Industries for the Disabled (NYSID); and the Office of Mental Health (OMH). These requirements apply to a State Agency, political subdivision and public benefit corporation (including most public authorities).
17. “**Price realism**” is an evaluative concept which is concerned with whether a bidder’s proposed prices are unrealistically low.
18. “**Shall**” denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Shall” is synonymous with “required.” Also see “Must”.
19. “**Should**” denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “May”.

PRICE:

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in New York State and shall include inside delivery inside doors of Authorized User’s receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method.

There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc. See “Delivery” clause for rush order charges.

Upon mutual agreement, delivery locations may be expanded per the “Extension of Use” clause.

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Discount percentages and/or monetary (dollar) amounts to be deducted or charged to each Authorized User shall be listed by Bidder. Discounts shall be applied to publishers' List Prices. A range of discounts and monetary amounts may be offered; however, the Bidder must identify, where possible, each specific discount within the range and where or how it is to be applied. The discount may increase at any time, but the publishers' List Prices shall be the current prices as published and distributed to the trade by the publishers. Discount shall not decrease during the term of the Contract.

All monetary amounts may be adjusted annually following the first year of the Contract on the basis of the Not Seasonally Adjusted Consumer Price Index – All Urban Consumers, U.S. City Average, All Items Less Food, Series ID: CUUR000SA0L1, CUUS000SA0L1 published monthly by the US Department of Labor Bureau of Labor Statistics. There shall be no price adjustments during the first year of the Contract.

The adjustment shall be established as follows. Following the first year of the Contract and annually thereafter, the Contractor may make a formal request for a price adjustment in the succeeding Contract year. This request must be made in writing to the Contract Management Specialist identified on the front page of the resultant Contract Award Notification and such request must be received by no later than sixty (60) calendar days in the year preceding the effective date of adjustment. If the Contractor fails to submit a written request by such date, they forfeit their opportunity to receive a price adjustment in the succeeding Contract year. Price adjustments shall be effected beginning with the second year of the Contract and annually thereafter. The adjustment shall be based on the percentage of increase or decrease in the above referenced index in the preceding twelve months ending three months prior to the effective date of the adjustments. In no case shall price adjustments exceed five percent. All adjusted prices will be rounded up or down to the nearest whole cent. The Office of General Services will notify all interested parties of the price adjustments through the issuance of written notification by Procurement Services.

ESTIMATED QUANTITIES:

The quantities or dollar values listed in the IFB are estimated only. The Contracts resulting from the IFB shall be estimated quantities Contracts. No specific quantities or volumes are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of the award for this IFB, based on historical purchases under previous awards was approximately \$90 million annually. The individual value of each resultant Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the products, services and pricing that best meets their needs in the most practical and economical manner. See Appendix B §30 Estimated/Specific Quantity Contracts and §27 Participation in Centralized Contracts.

Numerous factors could cause the actual volume of product purchased under the Contracts resulting from the IFB to vary substantially from the estimates in the IFB. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period; and,
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In Procurement Services' experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting its bid, Bidder acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this IFB.

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CONTRACT PERIOD AND RENEWAL:

The Contract(s) shall be in effect for five (5) years beginning on the date of approval of the first contract awarded as a result of the IFB, and shall end conterminously five (5) years from the approval of the first contract awarded as a result of the IFB. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two additional one (1) year terms.

Discounts quoted are to be firm for the entire period of the Contract. Prices quotes for monetary amounts as defined in the Price clause are firm for the first year of the Contract but may be adjusted annually thereafter in accordance with the Price clause. Discount reduction will not be allowed and is specifically excluded from the terms and conditions of the Invitation for Bid, its specifications and subsequent Contract award. Price decreases or discount increases are permitted at any time.

CANCELLATION FOR CONVENIENCE:

The State of New York retains the right to cancel this Contract, in whole or in part without reason (see Appendix B, §47.b, Termination For Convenience).

SHORT TERM EXTENSION:

In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

ORDERS:

Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system. Contractor shall be required to provide written quotes to Authorized Users who request them prior to placing an order, which details List Price, discount, and Net Price, as applicable.

The web-based ordering system, if offered, shall allow Authorized Users to enter orders and have full order inquiry capabilities. All orders (manual, fax, electronic) shall reference requisition and/or purchase order number as required. If offering a web-based ordering system, the Contractor represents and warrants that it is the sole owner of the software product used for its ordering system, or, if not the owner, has received all proper authorizations from the owner to license the software product, and has the full right and power to grant the rights contained in any Contract resulting from this Invitation for Bids and as described further in Appendix B. Contractor further warrants and represents that the software product is of original development, and/or that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person/company.

Contractor shall defend, indemnify and save New York State wholly harmless from all costs, liability, and damages, including attorney fees incurred by New York State as a result of claims by a third party that New York State use of such data, information, and software infringes the rights of such third party. New York State shall promptly notify Contractor in the event New York State learns of such claim by a third party.

The web-based ordering system shall be capable of processing, controlling, documenting, and reporting on the following minimum data elements:

- Contractor Name and Address
- Agency/Facility/Political Subdivision, etc.
- Contract Number
- Purchase Order/Requisition Numbers
- Contact (individual placing order)
- Publisher, Description, ISBN
- Net Price
- Extended and Total Amounts

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If offering a web-based ordering system, the Contractor shall provide any necessary software (excluding communication software) and training guides/manuals or online support in the use of the web-based ordering system at no additional cost to all Authorized Users capable of placing orders electronically. Samples of software and training guides/manuals may be required. If requested, Contractor must demonstrate its system at an Albany, NY area location designated by the State.

MINIMUM ORDER:

Minimum order shall be \$100.00. Contractor may elect to honor orders for less than the minimum order, however no additional charges shall be allowed.

PRODUCT REQUIREMENTS:

Bidder shall offer various types of books, Non-Print, and related services. Please see "Scope" clause. Bindings are to meet or exceed requirements established by the Library Binding Institute (LBI). The latest library standard issued by LBI is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000, unless otherwise amended. This standard is available at <http://www.lbibinders.org/>. Cloth bindings for hardcover publications shall be the publisher's standard binding. Library bindings for hardcover publications shall be reinforced and include reinforced juvenile publications.

Bidder shall identify services associated with furnishing books, Non-Print and related materials. Cost/pricing for services shall be expressed in specific monetary amounts, not percentages.

Bidders shall identify, define, and provide a short description of the service(s) offered. Also, Bidders shall include any additional service pricing that may apply. Bid pages may be duplicated, as necessary, and addendums may be submitted for additional books and Non-Print services.

INTERNET WEBSITES:

The State encourages Contractors to provide a designated NYS Contract website for Authorized Users' direct access. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in products/services or pricing must be approved by the New York State Procurement in accordance with any terms included in this contract prior to addition to the website. Hard copy catalog and pricelists, either in paper format or electronic format, must be available to all Authorized Users who either do not have Internet access or prefer the optional format.

PROCUREMENT INSTRUCTIONS:

1. The Contracts listed herein have been issued under a multiple award structure. Authorized Users shall procure Products and services that best meet their form, function and utility requirements.
2. Before proceeding with their purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law §162 which requires that agencies afford first priority to the commodities/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such commodities/services meet the form, function and utility of the Authorized User.
3. Upon Authorized User acceptance of Products and/or services itemized on the purchase order, Contractor(s) will invoice Authorized User for any portion of Products and services accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all Products and services.

PURCHASE ORDERS AND INVOICING:

All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order, assigned an order number with anticipated delivery date.

Purchase Orders:

Purchase orders are to include the following information:

(continued)

- A. Contract number;
- B. Contractor name;
- C. Contract item number and/or description;
- D. International Standard Book Number (ISBN); and
- E. Calculation of NYS Net Price.

Invoices:

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice all of the following items. Failure to comply may result in lengthy payment delays. Original invoices must follow the billing instructions contained in the purchase order. Invoices shall include, at a minimum, the following information:

- A. Contract number;
- B. NYS Vendor Identification number;
- C. Contract item number and description;
- D. Purchase Order number; and
- E. Line item breakdown of all charges to include Net Price of each product/service.

Titles of books on invoices must be listed as shown on the original order. Shipping charges for foreign book shipments must be stated separately on the invoice. All other library materials must also be listed as shown on the original order and include List Prices, percentage discount or monetary charge, and Net Price of each item. Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying accounting systems in use by different Authorized Users.

DELIVERY:

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order. Delivery shall be made no later than 45 calendar days after receipt of purchase order. Guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each Authorized User. If there is a discrepancy between the purchase order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from the Office of General Services, New York State Procurement.

BACKORDERING:

Backordering shall be permissible only when authorized by the ordering Authorizes User. Contractor must complete orders within the guaranteed delivery period offered.

PACKING SLIPS:

A legible packing slip and/or purchase order copy must accompany each shipment. The carton containing packing slip must be so marked.

LABELING:

Number of packages in a single shipment must be marked on outside of each carton. Purchase order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

SUBSTITUTIONS:

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense.

Contractor shall be expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment.

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PRODUCT RETURNS BECAUSE OF QUALITY PROBLEMS:

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, outdated product, damage, etc., shall be picked up by the Contractor within ten (10) business days after notification with no restocking charge. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized

User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

PRODUCT RETURNS DUE TO AUTHORIZED USER ERROR:

Products ordered in error by an Authorized User shall be returned by Authorized User at its expense for credit within fifteen (15) business days of delivery. Standard stock products must be in resalable condition (original packaging, unused). The Contractor may charge a restocking fee--not to exceed ten percent--for product returns due to Authorized User error.

CANCELLATION OF PURCHASE ORDERS:

Cancellation of orders in part or whole for unavailable materials or for "out of stock," "out of print," and "not yet published" publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

STATUS REPORT:

A statement in each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reasons.

CONTRACT PAYMENTS:

Payments cannot be processed by Authorized Users until the items have been delivered and accepted in accordance with the Delivery section above. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in clause, Purchase Orders and Invoicing.

CONTRACT ADMINISTRATOR:

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis.

TOLL-FREE NUMBER:

Contractor must provide a toll-free telephone number for the Authorized User usage. Contractor must staff this toll-free number at a minimum from 8:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding NYS holidays.

INSURANCE REQUIREMENTS:

Workers' Compensation Insurance and Disability Benefits insurance coverage must be submitted at the time of bid submission. Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 7 – *Insurance Requirements*. The Contractor shall procure at its sole cost and expense and shall maintain in force at all times during the terms of the resultant Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 7, Paragraph A.3., Certificates of Insurance/Notices.

REPORT OF CONTRACT USAGE:

Contractor shall furnish a report of all Product provided under the Contract during each semiannual period, no later than the 15th of the month following the close of each half year. Purchases by Non-state agencies, political

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subdivisions and others authorized by law shall be reported in the same report and indicated as required. A template for such report is included In Attachment 6 – Administrative Reports. All fields of information shall be accurate and complete. The report is to be submitted electronically via electronic mail utilizing the template provided in Microsoft Excel 2013, or lower version (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, Award Number, Contract Number, Sales Period, and Contractor's (or other authorized agent) Name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

AUTHORIZED USER SALES REPORTS:

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on a monthly basis, a report listing the following: name of products purchased, quantity purchased, unit price and total dollar volume of purchases.

OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State Contracts. Contract users will be advised to select the most cost effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

NEW YORK STATE PROCUREMENT CARD:

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each delivery.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:

New York State political subdivisions and others authorized by New York State law may participate in Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B § 27 *Participation in Centralized Contracts*. For purchase orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have Delivery locations adjacent to New York State), the terms of the "Price" clause shall be modified to include Delivery to locations adjacent to New York State.

Upon request, all eligible non-State Agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS New York State Procurement's Customer Services at (518) 474-6717.

NOTE TO ALL NON-STATE AGENCIES AND BIDDERS:

All such participating non-State agencies and contractors understand, acknowledge and agree that the primary responsibility in regard to performance of the Contract, of any obligation, covenant, condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating non-State agencies and Contractor and not by the State. In the event of a failure or breach in performance of any such Contract by a non-State Agency or Contractor, the State specifically and expressly disclaims any and all liability for such defective performance or breach, and the eligible participating non-State agencies and Contractor guarantee to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the failure of either party to perform in accordance with its obligations, covenants and the terms and conditions of the State Centralized Contract.

EXTENSION OF USE:

This contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

EMERGENCY PURCHASING:

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State

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Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products and services from any source, including but not limited to this

Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

CONTRACTOR PERFORMANCE:

Authorized Users should notify the Procurement Services Contract administrator promptly if the Contractor fails to meet the requirements of this Contract. Performance which is otherwise unsatisfactory to the Authorized User should also be reported to Procurement Services.

MERCURY ADDED CONSUMER PRODUCTS:

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

RESERVATION:

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a Contract product(s) totaling more than \$75,000.00.

AMERICANS WITH DISABILITIES ACT (ADA):

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Bidders are required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

ADDITIONAL REQUIREMENTS:

A. NO DRUGS OR ALCOHOL

For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

B. TRAFFIC INFRACTIONS

The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

PERIODIC RECRUITMENT:

The State reserves the right to add Contractors beginning in the second year of the Contract and at one year intervals thereafter. The State will formally announce when the bid is reissued, at the discretion of the State. Bidders shall be required to submit such Bid documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the new Bid solicitation. Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration. In addition, if a Bid is deemed non-responsive under periodic recruitment, a vendor cannot reapply for a future Contract until the next periodic recruitment period. For Contracts that are awarded under periodic recruitment, the Contract term will commence upon OGS approval in accordance with §26, Contract Creation/Execution of Appendix B and will terminate on the then current end date of the Contract or at the end of any approved extension or renewal period.

Bidder must demonstrate that it has a minimum average sales volume of \$1,000,000 annually in product meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. Procurement Services reserves the right to request copies of purchase orders and/or invoices for verification or clarification.

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For bids that are awarded under periodic recruitment, the Contract term will commence upon award and terminate on the current end date of the Contract unless an extension is mutually agreed upon between Procurement Services and the Contractor.

CONTRACT ADVERTISING:

In addition to the requirements set forth in Appendix B, §13 Advertising Results, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance.

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

POLICY STATEMENT:

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS Contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority- and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in State procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBEs") and the employment of minority groups members and women in the performance of New York State Contracts.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS:

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

The Bidder further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs):

New York State Executive Law Article 15-A requires that OGS provide opportunities for the maximum feasible participation of New York State certified minority- and women-owned business enterprises in the performance of OGS contracts. OGS has determined that it will not place MWBE participation goals on contracts resulting from this procurement because there are not sufficient subcontracting opportunities available in the books industry as related to the purchases of books & non-print library materials & related ancillary services. However, contractors should use good faith efforts to engage MWBEs as subcontractors to the extent that such opportunities exist. Additionally, OGS strongly encourages all certified minority- and women-owned businesses to submit a proposal in response to this solicitation. Finally, OGS encourages those minority- and women-owned companies that are not certified by the Empire State Development Division of Minority- and Women-Owned Businesses to become certified at the earliest opportunity. Information regarding the certification process can be viewed at:

<http://esd.ny.gov/MWBE/Certification.html>

NEW YORK STATE STATEWIDE FINANCIAL SYSTEMS (SFS):

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the Contract period, and by submittal of a Bid a Bidder agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State Agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: <http://www.sfs.ny.gov/>.

USE OF RECYCLED OR REMANUFACTURED MATERIALS:

New York State supports and encourages vendors to use recycled, remanufactured or recovered materials in the manufacture of products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the product or packaging unless such use is precluded due to health or safety requirements or product specifications contained herein. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this IFB. Warranties on refurbished or remanufactured components or products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, § 15 *Remanufactured, Recycled, Recyclable or Recovered Materials*.

BULK DELIVERY AND ALTERNATE PACKAGING:

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

SURPLUS/TAKE-BACK/RECYCLING:

- I. A State agency is reminded of its obligation to comply with the NY State Finance Law §§ 167, Transfer and Disposal of Personal Property, and 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.
- II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally

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sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.

III. The NYS Department of Environmental Conservation (DEC) Electronic Equipment Recycling and Reuse Act (“Act”) (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>.

IV. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4:

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://ogs.ny.gov/EO/4/Default.asp>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

NEW YORK STATE VENDOR RESPONSIBILITY:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor’s responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor’s expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

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PREFERRED SOURCE PRODUCTS:

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services of preferred source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the resultant Contract(s) may be available from one or more preferred sources. An Authorized User must determine if a particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law §162(3) or (4)(b), respectively, before engaging the Contractor.

"OGS OR LESS" GUIDELINES:

Purchases of the products included in this contract are subject to the "OGS or Less" provisions of State Finance Law §163(3) (a) (v). This means that State Agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in form, function or utility to the products herein and are:

1. lower in price
-and/or-
2. available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State Agencies should refer to Procurement Council Guidelines for additional information.

CONTRACT MODIFICATION PROCEDURE:

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

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ADDITIONAL LICENSE AGREEMENTS:

OGS will NOT review or approve “click through”, “shrink wrap” or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions. The Authorized User must ask if “click through”, “shrink wrap” or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User’s counsel, it is the responsibility of such Authorized User’s counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

APPENDIX A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX B

Appendix B, *Office of General Services General Specifications*, dated June 2014, is hereby expressly made a part of this Contract as if set forth at length herein and shall govern any situations not covered by the IFB document or Appendix A.

APPENDIX C

Appendix C, *Equal Employment Opportunity Staffing Plan* (Form EEO 100), is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX D

Appendix D, *Contract Modification Procedure*, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

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**State of New York
Office of General Services
NEW YORK STATE PROCUREMENT
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ **Contractor:** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

(over)

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by mail to:

OGS PROCUREMENT SERVICES
Customer Services, 38th Floor
Corning 2nd Tower - Empire State Plaza
Albany, New York 12242
* * * * *

(continued)



4th Supplemental Contract Award Notification

Title	: Group 20060 – Books & Non-Print Library Materials & Related Ancillary Services (Statewide)
	Classification Code(s): 55
Award Number	: 22868 (Replaces Award 21274)
Contract Period	: June 1, 2015 – May 31, 2020
Bid Opening Date	: December 23, 2014
Date of Issue	: February 5, 2016
Specification Reference	: As Incorporated In The Invitation for Bids and Purchasing Memorandums Issued Through December 16, 2014
Contractor Information	: Appears on Pages 90 – 91 of this Award

Address Inquiries To:

State Agencies & Vendors		Political Subdivisions & Others	
Name	: Theresa N. Kuo	Procurement Services	
Title	: Contract Management Specialist 1	Customer Services	
Phone	: 518-474-0259	Phone	: 518-474-6717
E-mail	: ningbin.kuo@ogs.ny.gov	E-mail	: customer.services@ogs.ny.gov

**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This award covers Books and Non-Print Library Materials and Related Ancillary Services. Types of Books included are Trade, Non-Trade, Scientific, Technical, Law, Text Books, Reference, Encyclopedias, Handbooks, University Press Publications, Society or Association Publications, Foreign Publications and Out of Print Books. Non-Print items include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

PR # 22868

(continued)

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67327	CBM LLC 2395 South Huron Parkway, Ste. 200 Ann Arbor, MI 48104	Misty Como Tel: (866) 918-3956 Fax: (866) 918-3956 E-mail: mlcomo@corpgraph.com Website: www.cherrylakepublishing.com	205654413 1100105824

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$1
Guarantees Delivery: 45 Calendar days A/R/O

PC67328	CHANNING BETE COMPANY, INC. One Community Place South Deerfield, MA 01373	Karen McGuane Tel: (888) 834-6627 x6513 Fax: (800) 329-2939 E-mail: kmcguane@channing-bete.com Website: www.channing-bete.com	042041237 1000005239
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Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
Prompt Payment Discount 1% discount if paid within 10 days
Minimum Order: \$100
Guarantees Delivery: 45 Calendar days A/R/O

PC67329	CHILDREN'S PLUS, INC 1387 Dutch American Way Beecher, IL 60401	Margaret Finnigan Tel: (800) 230-1279 ext. 4120 Fax: (800) 896-7213 E-mail: margaretf@childrensplusinc.com Website: www.childrensplusinc.com	364078966 1100005432
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67330	MARCO BOOK COMPANY, INC. DBA EVERBIND BOOKS 60 Industrial Rd. Lodi, NJ 07644	Edward T. Yamada Tel: (800) 842-0485 ext.213 Fax: (973) 458-5289 E-mail: eyamada@everbind.com Website: www.everbind.com	112006089 1000056423

Offers Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: \$25.00
 Guarantees Delivery: 45 Calendar days A/R/O

PC67331	WESTON WOODS STUDIOS INC. 90 Old Sherman Turnpike Danbury, CT 06816	Jennifer Philpott Tel: (800) 243-5020 Fax: (203) 797-3541 E-mail: wwbidsandquotes@scholastic.com Website: https://westonwoods.scholastic.com/products/westonwoods/	060716595 1100134851
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Does not offer Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: \$12.95
 Guarantees Delivery: 45 Calendar days A/R/O

PC67332	WORLD BOOK, INC. 233 N. Michigan Ave., Suite 2000 Chicago, IL 60601	Andrea Thorne Tel: (800) 975-3250 Fax: (800) 922-3766 E-mail: Andrea.Thorne@worldbook.com Website: www.worldbook.com	362364281 1000017719
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Does not offer Electronic Access Ordering (EDI)
 Accepts NYS Procurement Card Up to \$85,000.00
 No additional discount for purchases made with NYS Procurement Card
 No Prompt Payment Discount
 Minimum Order: No Minimum
 Guarantees Delivery: 45 Calendar days A/R/O

For Pricelists for this award, please see the Contractor Pricing pages located on the OGS website at:
<http://www.ogs.ny.gov/purchase/spg/awards/2006022868CAN.HTM>

Cash Discount, If Shown, Should be Given Special Attention.
INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
 (See "Contract Payments" in this document.)

(continued)

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES.

SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

The Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- obtaining all necessary prior approvals;
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

DEBRIEFING:

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a

(continued)

Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

DISPUTE RESOLUTION POLICY:

Section 64 of Appendix B is hereby deleted. All disputes under this Contract shall be handled through the Procurement Services Dispute Resolution Process found at:
<https://nyspro.ogs.ny.gov/sites/default/files/uploaded/Dispute%20Policy%209-2014.pdf>

ORDER OF PRECEDENCE:

The documents below address clarifications agreed to by the Contractor and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the contract award. The documents set forth below were included in Invitation for Bids (IFB) # 22868 or provided by the Contractor.

1. Appendix A
2. IFB Document
3. Appendix B
4. Appendix C
5. Appendix D
6. Attachment 1 – Price Pages
7. Attachments 2 -7
8. Awardees Bid and resultant clarifications

SCOPE:

The contract award is to be used by State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. This contract contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other.

The contract award shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music. Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

The contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract. However, publications that require a standing order for supplemental material or updates to the publication that may be issued subsequent to the original release of the publication, such as law books, for example, are within the scope of the Contract.

DEFINITIONS:

Terms used in this Contract that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

1. **“Ancillary Services”** includes supplementary value added services, such as cataloging and processing (including shelf ready books); machine readable cataloging (MARC) records; security tape; rebinding of paperbacks; barcode labels; mylar covers; electronic archive retrieval; MARC record retrieval; spine labels; date due slip/circulation cards; reading program labels; and dust jackets.
2. **“Bidder”** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a Contract with the State for their services a Bidder shall become a “Contractor.” See also “Contractor.”

(continued)

3. “**Agency or Agency(ies)**” shall mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
4. “**Invitation for Bids (IFB)**”, as defined in Appendix B, shall refer to this document, and its appendices and attachments.
5. “**International Standard Book Number (ISBN)**” shall refer to the unique numeric commercial book identifier.
6. “**List Price**” shall mean Publishers Suggested Retail Price.
7. “**Lot**” shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014)*.
8. “**MWBE**” shall refer to a business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.
9. “**May**” denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “Should”.
10. “**Must**” denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Must” is synonymous with “required.” Also see “Shall”.
11. “**N/A**” is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
12. “**Net Price**” shall be List Price less all applicable discounts and shall be the price paid by Authorized Users of the resultant Contract.
13. “**New York State Procurement (NYSPPro)**”(formerly known as Procurement Services Group (PSG)) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide Contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such Contracts. The terms NYSPPro and PSG shall be used interchangeably for purposes of this solicitation.
14. “**NYS Vendor ID**” shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
15. “**Preferred Source Products**” shall refer to those commodities or services that have been approved in accordance with State Finance Law §162.
16. “**Preferred Source Program**” shall refer to the special social and economic goals set by New York State in State Finance Law §162 that require a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the “form, function and utility” requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People who are or Blind (NYSPSP; New York State Industries for the Disabled (NYSID); and the Office of Mental Health (OMH). These requirements apply to a State Agency, political subdivision and public benefit corporation (including most public authorities).
17. “**Price realism**” is an evaluative concept which is concerned with whether a bidder’s proposed prices are unrealistically low.
18. “**Shall**” denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Shall” is synonymous with “required.” Also see “Must”.
19. “**Should**” denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “May”.

PRICE:

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in New York State and shall include inside delivery inside doors of Authorized User’s receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method.

There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc. See “Delivery” clause for rush order charges.

Upon mutual agreement, delivery locations may be expanded per the “Extension of Use” clause.

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Discount percentages and/or monetary (dollar) amounts to be deducted or charged to each Authorized User shall be listed by Contractor. Discounts shall be applied to publishers' List Prices. A range of discounts and monetary amounts may be offered; however, the Contractor must identify, where possible, each specific discount within the range and where or how it is to be applied. The discount may increase at any time, but the publishers' List Prices shall be the current prices as published and distributed to the trade by the publishers. Discount shall not decrease during the term of the Contract.

All monetary amounts may be adjusted annually following the first year of the Contract on the basis of the Not Seasonally Adjusted Consumer Price Index – All Urban Consumers, U.S. City Average, All Items Less Food, Series ID: CUUR000SA0L1, CUUS000SA0L1 published monthly by the US Department of Labor Bureau of Labor Statistics. There shall be no price adjustments during the first year of the Contract.

The adjustment shall be established as follows. Following the first year of the Contract and annually thereafter, the Contractor may make a formal request for a price adjustment in the succeeding Contract year. This request must be made in writing to the Contract Management Specialist identified on the front page of the resultant Contract Award Notification and such request must be received by no later than sixty (60) calendar days in the year preceding the effective date of adjustment. If the Contractor fails to submit a written request by such date, they forfeit their opportunity to receive a price adjustment in the succeeding Contract year. Price adjustments shall be effected beginning with the second year of the Contract and annually thereafter. The adjustment shall be based on the percentage of increase or decrease in the above referenced index in the preceding twelve months ending three months prior to the effective date of the adjustments. In no case shall price adjustments exceed five percent. All adjusted prices will be rounded up or down to the nearest whole cent. The Office of General Services will notify all interested parties of the price adjustments through the issuance of written notification by Procurement Services.

ESTIMATED QUANTITIES:

The quantities or dollar values listed in the IFB are estimated only. The Contracts resulting from the IFB shall be estimated quantities Contracts. No specific quantities or volumes are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of the award for this IFB, based on historical purchases under previous awards was approximately \$90 million annually. The individual value of each resultant Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the products, services and pricing that best meets their needs in the most practical and economical manner. See Appendix B §30 Estimated/Specific Quantity Contracts and §27 Participation in Centralized Contracts.

Numerous factors could cause the actual volume of product purchased under the Contracts resulting from the IFB to vary substantially from the estimates in the IFB. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period; and,
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In Procurement Services' experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting its bid, Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this IFB.

(continued)

CONTRACT PERIOD AND RENEWAL:

The Contract(s) shall be in effect for five (5) years beginning on the date of approval of the first contract awarded as a result of the IFB, and shall end conterminously five (5) years from the approval of the first contract awarded as a result of the IFB. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two additional one (1) year terms.

Discounts quoted are to be firm for the entire period of the Contract. Prices quotes for monetary amounts as defined in the Price clause are firm for the first year of the Contract but may be adjusted annually thereafter in accordance with the Price clause. Discount reduction will not be allowed and is specifically excluded from the terms and conditions of the Invitation for Bid, its specifications and subsequent Contract award. Price decreases or discount increases are permitted at any time.

CANCELLATION FOR CONVENIENCE:

The State of New York retains the right to cancel this Contract, in whole or in part without reason (see Appendix B, §47.b, Termination For Convenience).

SHORT TERM EXTENSION:

In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

ORDERS:

Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system. Contractor shall be required to provide written quotes to Authorized Users who request them prior to placing an order, which details List Price, discount, and Net Price, as applicable.

The web-based ordering system, if offered, shall allow Authorized Users to enter orders and have full order inquiry capabilities. All orders (manual, fax, electronic) shall reference requisition and/or purchase order number as required. If offering a web-based ordering system, the Contractor represents and warrants that it is the sole owner of the software product used for its ordering system, or, if not the owner, has received all proper authorizations from the owner to license the software product, and has the full right and power to grant the rights contained in any Contract resulting from this Invitation for Bids and as described further in Appendix B. Contractor further warrants and represents that the software product is of original development, and/or that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person/company.

Contractor shall defend, indemnify and save New York State wholly harmless from all costs, liability, and damages, including attorney fees incurred by New York State as a result of claims by a third party that New York State use of such data, information, and software infringes the rights of such third party. New York State shall promptly notify Contractor in the event New York State learns of such claim by a third party.

The web-based ordering system shall be capable of processing, controlling, documenting, and reporting on the following minimum data elements:

- Contractor Name and Address
- Agency/Facility/Political Subdivision, etc.
- Contract Number
- Purchase Order/Requisition Numbers
- Contact (individual placing order)
- Publisher, Description, ISBN
- Net Price
- Extended and Total Amounts

(continued)

If offering a web-based ordering system, the Contractor shall provide any necessary software (excluding communication software) and training guides/manuals or online support in the use of the web-based ordering system at no additional cost to all Authorized Users capable of placing orders electronically. Samples of software and training guides/manuals may be required. If requested, Contractor must demonstrate its system at an Albany, NY area location designated by the State.

MINIMUM ORDER:

Minimum order shall be \$100.00. Contractor may elect to honor orders for less than the minimum order, however no additional charges shall be allowed.

PRODUCT REQUIREMENTS:

Contractor shall offer various types of books, Non-Print, and related services. Please see "Scope" clause. Bindings are to meet or exceed requirements established by the Library Binding Institute (LBI). The latest library standard issued by LBI is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000, unless otherwise amended. This standard is available at <http://www.lbibinders.org/>. Cloth bindings for hardcover publications shall be the publisher's standard binding. Library bindings for hardcover publications shall be reinforced and include reinforced juvenile publications.

Contractor shall identify services associated with furnishing books, Non-Print and related materials. Cost/pricing for services shall be expressed in specific monetary amounts, not percentages.

Contractors shall identify, define, and provide a short description of the service(s) offered. Also, Contractors shall include any additional service pricing that may apply. Bid pages may be duplicated, as necessary, and addendums may be submitted for additional books and Non-Print services.

INTERNET WEBSITES:

The State encourages Contractors to provide a designated NYS Contract website for Authorized Users' direct access. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in products/services or pricing must be approved by the New York State Procurement in accordance with any terms included in this contract prior to addition to the website. Hard copy catalog and pricelists, either in paper format or electronic format, must be available to all Authorized Users who either do not have Internet access or prefer the optional format.

PROCUREMENT INSTRUCTIONS:

1. The Contracts listed herein have been issued under a multiple award structure. Authorized Users shall procure Products and services that best meet their form, function and utility requirements.
2. Before proceeding with their purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law §162 which requires that agencies afford first priority to the commodities/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such commodities/services meet the form, function and utility of the Authorized User.
3. Upon Authorized User acceptance of Products and/or services itemized on the purchase order, Contractor(s) will invoice Authorized User for any portion of Products and services accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all Products and services.

PURCHASE ORDERS AND INVOICING:

All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order, assigned an order number with anticipated delivery date.

(continued)

Purchase Orders:

Purchase orders are to include the following information:

- A. Contract number;
- B. Contractor name;
- C. Contract item number and/or description;
- D. International Standard Book Number (ISBN); and
- E. Calculation of NYS Net Price.

Invoices:

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice all of the following items. Failure to comply may result in lengthy payment delays. Original invoices must follow the billing instructions contained in the purchase order. Invoices shall include, at a minimum, the following information:

- A. Contract number;
- B. NYS Vendor Identification number;
- C. Contract item number and description;
- D. Purchase Order number; and
- E. Line item breakdown of all charges to include Net Price of each product/service.

Titles of books on invoices must be listed as shown on the original order. Shipping charges for foreign book shipments must be stated separately on the invoice. All other library materials must also be listed as shown on the original order and include List Prices, percentage discount or monetary charge, and Net Price of each item. Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying accounting systems in use by different Authorized Users.

DELIVERY:

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order. Delivery shall be made no later than 45 calendar days after receipt of purchase order. Guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each Authorized User. If there is a discrepancy between the purchase order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from the Office of General Services, New York State Procurement.

BACKORDERING:

Backordering shall be permissible only when authorized by the ordering Authorizes User. Contractor must complete orders within the guaranteed delivery period offered.

PACKING SLIPS:

A legible packing slip and/or purchase order copy must accompany each shipment. The carton containing packing slip must be so marked.

LABELING:

Number of packages in a single shipment must be marked on outside of each carton. Purchase order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

SUBSTITUTIONS:

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense.

(continued)

Contractor shall be expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment.

PRODUCT RETURNS BECAUSE OF QUALITY PROBLEMS:

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, outdated product, damage, etc., shall be picked up by the Contractor within ten (10) business days after notification with no restocking charge. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized

User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

PRODUCT RETURNS DUE TO AUTHORIZED USER ERROR:

Products ordered in error by an Authorized User shall be returned by Authorized User at its expense for credit within fifteen (15) business days of delivery. Standard stock products must be in resalable condition (original packaging, unused). The Contractor may charge a restocking fee--not to exceed ten percent--for product returns due to Authorized User error.

CANCELLATION OF PURCHASE ORDERS:

Cancellation of orders in part or whole for unavailable materials or for "out of stock," "out of print," and "not yet published" publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

STATUS REPORT:

A statement in each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reasons.

CONTRACT PAYMENTS:

Payments cannot be processed by Authorized Users until the items have been delivered and accepted in accordance with the Delivery section above. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in clause, Purchase Orders and Invoicing.

CONTRACT ADMINISTRATOR:

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis.

TOLL-FREE NUMBER:

Contractor must provide a toll-free telephone number for the Authorized User usage. Contractor must staff this toll-free number at a minimum from 8:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding NYS holidays.

INSURANCE REQUIREMENTS:

Workers' Compensation Insurance and Disability Benefits insurance coverage must be submitted at the time of bid submission. Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 7 – *Insurance Requirements*. The Contractor shall procure at its sole cost and expense and shall maintain in force at all times during the terms of the resultant Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 7, Paragraph A.3., Certificates of Insurance/Notices.

(continued)

REPORT OF CONTRACT USAGE:

Contractor shall furnish a report of all Product provided under the Contract during each semiannual period, no later than the 15th of the month following the close of each half year. Purchases by Non-state agencies, political subdivisions and others authorized by law shall be reported in the same report and indicated as required. A template for such report is included In Attachment 6 – Administrative Reports. All fields of information shall be accurate and complete. The report is to be submitted electronically via electronic mail utilizing the template provided in Microsoft Excel 2013, or lower version (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, Award Number, Contract Number, Sales Period, and Contractor's (or other authorized agent) Name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

AUTHORIZED USER SALES REPORTS:

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on a monthly basis, a report listing the following: name of products purchased, quantity purchased, unit price and total dollar volume of purchases.

OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State Contracts. Contract users will be advised to select the most cost effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

NEW YORK STATE PROCUREMENT CARD:

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each delivery.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:

New York State political subdivisions and others authorized by New York State law may participate in Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B § 27 *Participation in Centralized Contracts*. For purchase orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have Delivery locations adjacent to New York State), the terms of the "Price" clause shall be modified to include Delivery to locations adjacent to New York State.

Upon request, all eligible non-State Agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS New York State Procurement's Customer Services at (518) 474-6717.

NOTE TO ALL NON-STATE AGENCIES AND CONTRACTORS:

All such participating non-State agencies and contractors understand, acknowledge and agree that the primary responsibility in regard to performance of the Contract, of any obligation, covenant, condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating non-State agencies and Contractor and not by the State. In the event of a failure or breach in performance of any such Contract by a non-State Agency or Contractor, the State specifically and expressly disclaims any and all liability for such defective performance or breach, and the eligible participating non-State agencies and Contractor guarantee to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the failure of either party to perform in accordance with its obligations, covenants and the terms and conditions of the State Centralized Contract.

EXTENSION OF USE:

This contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

(continued)

EMERGENCY PURCHASING:

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products and services from any source, including but not limited to this Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

CONTRACTOR PERFORMANCE:

Authorized Users should notify the Procurement Services Contract administrator promptly if the Contractor fails to meet the requirements of this Contract. Performance which is otherwise unsatisfactory to the Authorized User should also be reported to Procurement Services.

MERCURY ADDED CONSUMER PRODUCTS:

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

RESERVATION:

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a Contract product(s) totaling more than \$75,000.00.

AMERICANS WITH DISABILITIES ACT (ADA):

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Contractors are required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

ADDITIONAL REQUIREMENTS:

A. NO DRUGS OR ALCOHOL

For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

B. TRAFFIC INFRACTIONS

The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

PERIODIC RECRUITMENT:

The State reserves the right to add Contractors beginning in the second year of the Contract and at one year intervals thereafter. The State will formally announce when the bid is reissued, at the discretion of the State. Bidders shall be required to submit such Bid documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the new Bid solicitation. Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration. In addition, if a Bid is deemed non-responsive under periodic recruitment, a vendor cannot reapply for a future Contract until the next periodic recruitment period. For Contracts that are awarded under periodic recruitment, the Contract term will commence upon OGS approval in accordance with §26, Contract Creation/Execution of Appendix B and will terminate on the then current end date of the Contract or at the end of any approved extension or renewal period.

Bidder must demonstrate that it has a minimum average sales volume of \$1,000,000 annually in product meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. Procurement Services reserves the right to request copies of purchase orders and/or invoices for verification or clarification.

(continued)

For bids that are awarded under periodic recruitment, the Contract term will commence upon award and terminate on the current end date of the Contract unless an extension is mutually agreed upon between Procurement Services and the Contractor.

CONTRACT ADVERTISING:

In addition to the requirements set forth in Appendix B, §13 Advertising Results, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance.

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

POLICY STATEMENT:

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS Contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority- and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in State procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBEs") and the employment of minority groups members and women in the performance of New York State Contracts.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS:

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

The Contractor further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

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BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs):

New York State Executive Law Article 15-A requires that OGS provide opportunities for the maximum feasible participation of New York State certified minority- and women-owned business enterprises in the performance of OGS contracts. OGS has determined that it will not place MWBE participation goals on contracts resulting from this procurement because there are not sufficient subcontracting opportunities available in the books industry as related to the purchases of books & non-print library materials & related ancillary services. However, contractors should use good faith efforts to engage MWBEs as subcontractors to the extent that such opportunities exist. Additionally, OGS strongly encourages all certified minority- and women-owned businesses to submit a proposal in response to this solicitation. Finally, OGS encourages those minority- and women-owned companies that are not certified by the Empire State Development Division of Minority- and Women-Owned Businesses to become certified at the earliest opportunity. Information regarding the certification process can be viewed at: <http://esd.ny.gov/MWBE/Certification.html>

NEW YORK STATE STATEWIDE FINANCIAL SYSTEMS (SFS):

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the Contract period, and by submittal of a Bid a Contractor agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State Agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: <http://www.sfs.ny.gov/>.

USE OF RECYCLED OR REMANUFACTURED MATERIALS:

New York State supports and encourages vendors to use recycled, remanufactured or recovered materials in the manufacture of products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the product or packaging unless such use is precluded due to health or safety requirements or product specifications contained herein. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this IFB. Warranties on refurbished or remanufactured components or products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, § 15 *Remanufactured, Recycled, Recyclable or Recovered Materials*.

BULK DELIVERY AND ALTERNATE PACKAGING:

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

SURPLUS/TAKE-BACK/RECYCLING:

- I. A State agency is reminded of its obligation to comply with the NY State Finance Law §§ 167, Transfer and Disposal of Personal Property, and 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.
- II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally

(continued)

sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.

III. The NYS Department of Environmental Conservation (DEC) Electronic Equipment Recycling and Reuse Act (“Act”) (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>.

IV. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4:

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://ogs.ny.gov/EO/4/Default.asp>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

NEW YORK STATE VENDOR RESPONSIBILITY:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor’s responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor’s expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

(continued)

PREFERRED SOURCE PRODUCTS:

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services of preferred source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the resultant Contract(s) may be available from one or more preferred sources. An Authorized User must determine if a particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law §162(3) or (4)(b), respectively, before engaging the Contractor.

"OGS OR LESS" GUIDELINES:

Purchases of the products included in this contract are subject to the "OGS or Less" provisions of State Finance Law §163(3) (a) (v). This means that State Agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in form, function or utility to the products herein and are:

1. lower in price
-and/or-
2. available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State Agencies should refer to Procurement Council Guidelines for additional information.

CONTRACT MODIFICATION PROCEDURE:

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

(continued)

ADDITIONAL LICENSE AGREEMENTS:

OGS will NOT review or approve “click through”, “shrink wrap” or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions. The Authorized User must ask if “click through”, “shrink wrap” or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User’s counsel, it is the responsibility of such Authorized User’s counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

APPENDIX A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX B

Appendix B, *Office of General Services General Specifications*, dated June 2014, is hereby expressly made a part of this Contract as if set forth at length herein and shall govern any situations not covered by the IFB document or Appendix A.

APPENDIX C

Appendix C, *Equal Employment Opportunity Staffing Plan* (Form EEO 100), is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX D

Appendix D, *Contract Modification Procedure*, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

(continued)

**State of New York
Office of General Services
NEW YORK STATE PROCUREMENT
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ **Contractor:** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

_____ (over)

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by mail to:

OGS PROCUREMENT SERVICES
Customer Services, 38th Floor
Corning 2nd Tower - Empire State Plaza
Albany, New York 12242
* * * * *



5th Supplemental Contract Award Notification

Title	:	Group 20060 – Books & Non-Print Library Materials & Related Ancillary Services (Statewide)
		Classification Code(s): 55
Award Number	:	<u>22868</u> (Replaces Award 21274)
Contract Period	:	June 1, 2015 – May 31, 2020
Bid Opening Date	:	December 23, 2014 and (Periodic Recruitment August 24, 2016)
Date of Issue	:	February 17, 2017
Specification Reference	:	As Incorporated In The Invitation for Bids and Purchasing Memorandums Issued Through December 16, 2014
Contractor Information	:	Appears on Pages 109 – 111 of this Award

Address Inquiries To:

State Agencies & Vendors		Political Subdivisions & Others	
Name :	Jennifer Clapham	Procurement Services	
Title :	Contract Management Specialist 1	Customer Services	
Phone :	518-474-2906	Phone :	518-474-6717
E-mail :	jennifer.clapham@ogs.ny.gov	E-mail :	customer.services@ogs.ny.gov

**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This award covers Books and Non-Print Library Materials and Related Ancillary Services. Types of Books included are Trade, Non-Trade, Scientific, Technical, Law, Text Books, Reference, Encyclopedias, Handbooks, University Press Publications, Society or Association Publications, Foreign Publications and Out of Print Books. Non-Print items include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67698	ATLANTIC COAST MARKETING, INC. 22 College Ave. S. Nyack, NY 10960	Vernon Hamilton Tel: (845) 727-7720 Tel: (877) 803-0325 Fax: (866) 806-2303 E-mail: hamiton@acmit.com Website: www.acmit.com	223030192 1100006850

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$25.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67699	BEARPORT PUBLISHING COMPANY, INC. 45 W. 21st St. 3 B New York, NY 10010	Kathryn Camisa Tel: (212) 337-8577 Tel: (877) 337-8577 Fax: (866) 337-8557 Fax: (212) 337-8557 E-mail: kcamisa@bearportpublishing.com Website: www.bearportpublishing.com	200298488 1100003226
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum
Guarantees Delivery: 45 Calendar days A/R/O

PC67700	GARETH STEVENS PUBLISHING, LLLP 111 E. 14th St., Suite 249 New York, NY 10003	Arlene Riley Tel: (800) 542-2595 Fax: (877) 542-2596 E-mail: bids@gspub.com Website: www.garethstevens.com	270404519 1100104699
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67701	GREY HOUSE PUBLISHING, INC. 4919 Route 22 Amenia, NY 12051	Yvonne Coburn Tel: (518) 789-8700 Fax: (845) 373-6370 E-mail: ycoburn@greyhouse.com Website: www.greyhouse.com	133044945 1000026400
Offers Electronic Access Ordering (EDI) Accepts NYS Procurement Card Up to \$85,000.00 No additional discount for purchases made with NYS Procurement Card No Prompt Payment Discount Minimum Order: \$50.00 Guarantees Delivery: 45 Calendar days A/R/O			
PC67702	LEE & LOW BOOKS, INC. DBA BEHOP BOOKS 95 Madison Ave. New York, NY 10016	Craig Low Tel: (212) 779-4400 x. 26 Tel: (888) 320-3190 x. 28 Fax: (212) 683-1894 E-mail: clow@leeandlow.com Website: www.leeandlow.com	133599568 1100126193
Offers Electronic Access Ordering (EDI) Accepts NYS Procurement Card Up to \$85,000.00 No additional discount for purchases made with NYS Procurement Card No Prompt Payment Discount Minimum Order: No Minimum Guarantees Delivery: 45 Calendar days A/R/O			
PC67703	MIDWEST LIBRARY SERVICE, INC. 11443 St. Charles Rock Road Bridgeton, MO 63044	Terry Marksbury Tel: (314) 739-3100 Tel: (800) 325-8833 Fax: (314) 739-1326 Fax: (800) 962-1009 E-mail: hlessen@midwestls.com Website: www.midwestls.com	430834505 1000009339
Offers Electronic Access Ordering (EDI) Accepts NYS Procurement Card Up to \$85,000.00 No additional discount for purchases made with NYS Procurement Card No Prompt Payment Discount Minimum Order: \$10.00 Guarantees Delivery: 45 Calendar days A/R/O			

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67704	THE CREATIVE COMPANY DBA SMART APPLE MEDIA 2140 Howard Drive West North Mankato, MN 56003	Jason Johnson Tel: (507) 388-7323 Fax: (507) 388-7330 E-mail: jjohnson@jappleseedmedia.com	411948137 1100024288

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$50.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67705	THE ROSEN PUBLISHING GROUP INC. 29 E. 21st St. New York, NY 10010	Arlene Riley Tel: (646) 205-7461 Tel: (800) 237-9932 Fax: (888) 436-4643 E-mail: bids@rosenpub.com Website: www.rosenpublishing.com	133129750 1100001011
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$15,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No Minimum
Guarantees Delivery: 45 Calendar days A/R/O

For Pricelists for this award, please see the Contractor Pricing pages located on the OGS website at:
<http://www.ogs.ny.gov/purchase/spg/awards/2006022868CAN.HTM>

Cash Discount, If Shown, Should be Given Special Attention.
INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" in this document.)

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES.

SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

The Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

(continued)

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- obtaining all necessary prior approvals;
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

DEBRIEFING:

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

DISPUTE RESOLUTION POLICY:

Section 64 of Appendix B is hereby deleted. All disputes under this Contract shall be handled through the Procurement Services Dispute Resolution Process found at:

<https://nyspro.ogs.ny.gov/sites/default/files/uploaded/Dispute%20Resolution%20Policy%20%289-2015%29.pdf>

ORDER OF PRECEDENCE:

The documents below address clarifications agreed to by the Contractor and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the contract award. The documents set forth below were included in Invitation for Bids (IFB) # 22868 or provided by the Contractor.

1. Appendix A
2. IFB Document
3. Appendix B
4. Appendix C
5. Appendix D

(continued)

6. Attachment 1 – Price Pages
7. Attachments 2 -7
8. Awardees Bid and resultant clarifications

SCOPE:

The contract award is to establish additional Centralized Contracts with a coterminous end date of May 31, 2020 as the first OGS approved Centralized Contracts, Award 22868. The contract award is to be used by State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. This contract contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other.

The contract award shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music. Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

The contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract. However, publications that require a standing order for supplemental material or updates to the publication that may be issued subsequent to the original release of the publication, such as law books, for example, are within the scope of the Contract.

DEFINITIONS:

Terms used in this Contract that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

1. **“Ancillary Services”** includes supplementary value added services, such as cataloging and processing (including shelf ready books); machine readable cataloging (MARC) records; security tape; rebinding of paperbacks; barcode labels; mylar covers; electronic archive retrieval; MARC record retrieval; spine labels; date due slip/circulation cards; reading program labels; and dust jackets.
2. **“Bidder”** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a Contract with the State for their services a Bidder shall become a “Contractor.” See also “Contractor.”
3. **“Agency or Agency(ies)”** shall mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
4. **“Invitation for Bids (IFB)”**, a defined in Appendix B, shall refer to this document, and its appendices and attachments.
5. **“International Standard Book Number (ISBN)”** shall refer to the unique numeric commercial book identifier.
6. **“List Price”** shall mean Publishers Suggested Retail Price.
7. **“Lot”** shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014)*.
8. **“MWBE”** shall refer to a business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.
9. **“May”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “Should”.
10. **“Must”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Must” is synonymous with “required.” Also see “Shall”.
11. **“N/A”** is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
12. **“Net Price”** Shall be List Price less all applicable discounts and shall be the price paid by Authorized Users of the resultant Contract.

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13. **“New York State Procurement (NYSPro)”**((formerly known as Procurement Services Group (PSG)) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide Contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such Contracts. The terms NYSPro and PSG shall be used interchangeably for purposes of this solicitation.
14. **“NYS Vendor ID”** shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
15. **“Preferred Source Products”** shall refer to those commodities or services that have been approved in accordance with State Finance Law §162.
16. **“Preferred Source Program”** shall refer to the special social and economic goals set by New York State in State Finance Law §162 that require a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the “form, function and utility” requirements of the governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People who or Blind (NYSPSP; New York State Industries for the Disabled (NYSID); and the Office of Mental Health (OMH). These requirements apply to a State Agency, political subdivision and public benefit corporation (including most public authorities).
17. **“Price realism”** is an evaluative concept which is concerned with whether a bidder’s proposed prices are unrealistically low.
18. **“Shall”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Shall” is synonymous with “required.” Also see “Must”.
19. **“Should”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “May”.

PRICE:

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in New York State and shall include inside delivery inside doors of Authorized User’s receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method.

There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc. See “Delivery” clause for rush order charges.

Upon mutual agreement, delivery locations may be expanded per the “Extension of Use” clause.

Discount percentages and/or monetary (dollar) amounts to be deducted or charged to each Authorized User shall be listed by Contractor. Discounts shall be applied to publishers’ List Prices. A range of discounts and monetary amounts may be offered; however, the Contractor must identify, where possible, each specific discount within the range and where or how it is to be applied. The discount may increase at any time, but the publishers’ List Prices shall be the current prices as published and distributed to the trade by the publishers. Discount shall not decrease during the term of the Contract.

All monetary amounts may be adjusted annually following the first year of the Contract on the basis of the Not Seasonally Adjusted Consumer Price Index – All Urban Consumers, U.S. City Average, All Items Less Food, Series ID: CUUR0000SA0L1,CUUS0000SA0L1 published monthly by the US Department of Labor Bureau of Labor Statistics. There shall be no price adjustments during the first year of the Contract.

The adjustment shall be established as follows. Following the first year of the Contract and annually thereafter, the Contractor may make a formal request for a price adjustment in the succeeding Contract year. This request must be made in writing to the Contract Management Specialist identified on the front page of the resultant Contract Award Notification and such request must be received by no later than sixty (60) calendar days in the year preceding the effective date of adjustment. If the Contractor fails to submit a written request by such date, they forfeit their opportunity to receive a price adjustment in the succeeding Contract year. Price adjustments shall be effected beginning

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with the second year of the Contract and annually thereafter. The adjustment shall be based on the percentage of increase or decrease in the above referenced index in the preceding twelve months ending three months prior to the effective date of the adjustments. In no case shall price adjustments exceed five percent. All adjusted prices will be rounded up or down to the nearest whole cent. The Office of General Services will notify all interested parties of the price adjustments through the issuance of written notification by Procurement Services.

ESTIMATED QUANTITIES:

The quantities or dollar values listed in the IFB are estimated only. The Contracts resulting from the IFB shall be estimated quantities Contracts. No specific quantities or volumes are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of the award for this IFB, based on historical purchases under previous awards was approximately \$90 million annually. The individual value of each resultant Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the products, services and pricing that best meets their needs in the most practical and economical manner. See Appendix B §30 Estimated/Specific Quantity Contracts and §27 Participation in Centralized Contracts.

Numerous factors could cause the actual volume of product purchased under the Contracts resulting from the IFB to vary substantially from the estimates in the IFB. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period; and,
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In Procurement Services' experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting its bid, Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this IFB.

CONTRACT PERIOD AND RENEWAL:

The Contract(s) shall be in effect for five (5) years beginning on the date of approval of the first contract awarded as a result of the IFB, and shall end conterminously five (5) years from the approval of the first contract awarded as a result of the IFB. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two additional one (1) year terms.

Discounts quoted are to be firm for the entire period of the Contract. Prices quotes for monetary amounts as defined in the Price clause are firm for the first year of the Contract but may be adjusted annually thereafter in accordance with the Price clause. Discount reduction will not be allowed and is specifically excluded from the terms and conditions of the Invitation for Bid, its specifications and subsequent Contract award. Price decreases or discount increases are permitted at any time.

CANCELLATION FOR CONVENIENCE:

The State of New York retains the right to cancel this Contract, in whole or in part without reason (see Appendix B, §47.b, Termination For Convenience).

SHORT TERM EXTENSION:

In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such

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one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

ORDERS:

Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system. Contractor shall be required to provide written quotes to Authorized Users who request them prior to placing an order, which details List Price, discount, and Net Price, as applicable.

The web-based ordering system, if offered, shall allow Authorized Users to enter orders and have full order inquiry capabilities. All orders (manual, fax, electronic) shall reference requisition and/or purchase order number as required. If offering a web-based ordering system, the Contractor represents and warrants that it is the sole owner of the software product used for its ordering system, or, if not the owner, has received all proper authorizations from the owner to license the software product, and has the full right and power to grant the rights contained in any Contract resulting from this Invitation for Bids and as described further in Appendix B. Contractor further warrants and represents that the software product is of original development, and/or that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person/company.

Contractor shall defend, indemnify and save New York State wholly harmless from all costs, liability, and damages, including attorney fees incurred by New York State as a result of claims by a third party that New York State use of such data, information, and software infringes the rights of such third party. New York State shall promptly notify Contractor in the event New York State learns of such claim by a third party.

The web-based ordering system shall be capable of processing, controlling, documenting, and reporting on the following minimum data elements:

- Contractor Name and Address
- Agency/Facility/Political Subdivision, etc.
- Contract Number
- Purchase Order/Requisition Numbers
- Contact (individual placing order)
- Publisher, Description, ISBN
- Net Price
- Extended and Total Amounts

If offering a web-based ordering system, the Contractor shall provide any necessary software (excluding communication software) and training guides/manuals or online support in the use of the web-based ordering system at no additional cost to all Authorized Users capable of placing orders electronically. Samples of software and training guides/manuals may be required. If requested, Contractor must demonstrate its system at an Albany, NY area location designated by the State.

MINIMUM ORDER:

Minimum order shall be \$100.00. Contractor may elect to honor orders for less than the minimum order, however no additional charges shall be allowed.

PRODUCT REQUIREMENTS:

Contractor shall offer various types of books, Non-Print, and related services. Please see "Scope" clause. Bindings are to meet or exceed requirements established by the Library Binding Institute (LBI). The latest library standard issued by LBI is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000, unless otherwise amended. This standard is available at <http://www.lbibinders.org/>. Cloth bindings for hardcover publications shall be the publisher's standard binding. Library bindings for hardcover publications shall be reinforced and include reinforced juvenile publications.

Contractor shall identify services associated with furnishing books, Non-Print and related materials. Cost/pricing for services shall be expressed in specific monetary amounts, not percentages.

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Contractors shall identify, define, and provide a short description of the service(s) offered. Also, Contractors shall include any additional service pricing that may apply. Bid pages may be duplicated, as necessary, and addendums may be submitted for additional books and Non-Print services.

INTERNET WEBSITES:

The State encourages Contractors to provide a designated NYS Contract website for Authorized Users' direct access. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in products/services or pricing must be approved by the New York State Procurement in accordance with any terms included in this contract prior to addition to the website. Hard copy catalog and pricelists, either in paper format or electronic format, must be available to all Authorized Users who either do not have Internet access or prefer the optional format.

PROCUREMENT INSTRUCTIONS:

1. The Contracts listed herein have been issued under a multiple award structure. Authorized Users shall procure Products and services that best meet their form, function and utility requirements.
2. Before proceeding with their purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law §162 which requires that agencies afford first priority to the commodities/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such commodities/services meet the form, function and utility of the Authorized User.
3. Upon Authorized User acceptance of Products and/or services itemized on the purchase order, Contractor(s) will invoice Authorized User for any portion of Products and services accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all Products and services.

PURCHASE ORDERS AND INVOICING:

All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order, assigned an order number with anticipated delivery date.

Purchase Orders:

Purchase orders are to include the following information:

- A. Contract number;
- B. Contractor name;
- C. Contract item number and/or description;
- D. International Standard Book Number (ISBN); and
- E. Calculation of NYS Net Price.

Invoices:

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice all of the following items. Failure to comply may result in lengthy payment delays. Original invoices must follow the billing instructions contained in the purchase order. Invoices shall include, at a minimum, the following information:

- A. Contract number;
- B. NYS Vendor Identification number;
- C. Contract item number and description;
- D. Purchase Order number; and
- E. Line item breakdown of all charges to include Net Price of each product/service.

Titles of books on invoices must be listed as shown on the original order. Shipping charges for foreign book shipments must be stated separately on the invoice. All other library materials must also be listed as shown on the original order and include List Prices, percentage discount or monetary charge, and Net Price of each item.

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Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying accounting systems in use by different Authorized Users.

DELIVERY:

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order. Delivery shall be made no later than 45 calendar days after receipt of purchase order. Guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each Authorized User. If there is a discrepancy between the purchase order and what is listed on the Contract, it is the Contractor's obligation to seek clarification from the ordering Authorized User and, if applicable, from the Office of General Services, New York State Procurement.

BACKORDERING:

Backordering shall be permissible only when authorized by the ordering Authorized User. Contractor must complete orders within the guaranteed delivery period offered.

PACKING SLIPS:

A legible packing slip and/or purchase order copy must accompany each shipment. The carton containing packing slip must be so marked.

LABELING:

Number of packages in a single shipment must be marked on outside of each carton. Purchase order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

SUBSTITUTIONS:

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense.

Contractor shall be expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment.

PRODUCT RETURNS BECAUSE OF QUALITY PROBLEMS:

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, outdated product, damage, etc., shall be picked up by the Contractor within ten (10) business days after notification with no restocking charge. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

PRODUCT RETURNS DUE TO AUTHORIZED USER ERROR:

Products ordered in error by an Authorized User shall be returned by Authorized User at its expense for credit within fifteen (15) business days of delivery. Standard stock products must be in resalable condition (original packaging, unused). The Contractor may charge a restocking fee --not to exceed ten percent--for product returns due to Authorized User error.

CANCELLATION OF PURCHASE ORDERS:

Cancellation of orders in part or whole for unavailable materials or for "out of stock," "out of print," and "not yet published" publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

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STATUS REPORT:

A statement in each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reason.

CONTRACT PAYMENTS:

Payments cannot be processed by Authorized Users until the items have been delivered and accepted in accordance with the Delivery section above. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in clause, Purchase Orders and Invoicing.

CONTRACT ADMINISTRATOR:

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis.

TOLL-FREE NUMBER:

Contractor must provide a toll-free telephone number for the Authorized User usage. Contractor must staff this toll-free number at a minimum from 8:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding NYS holidays.

INSURANCE REQUIREMENTS:

Workers' Compensation Insurance and Disability Benefits insurance coverage must be submitted at the time of bid submission. Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 7–Insurance Requirements. The Contractor shall procure at its sole cost and expense and shall maintain in force at all times during the terms of the resultant Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 7, Paragraph A.3., Certificates of Insurance/Notices.

REPORT OF CONTRACT USAGE:

Contractor shall furnish a report of all Product provided under the Contract during each semiannual period, no later than the 15th of the month following the close of each half year. Purchases by Non-state agencies, political subdivisions and others authorized by law shall be reported in the same report and indicated as required. A template for such report is included In Attachment 6–Administrative Reports. All fields of information shall be accurate and complete. The report is to be submitted electronically via electronic mail utilizing the template provided in Microsoft Excel 2013, or lower version (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, Award Number, Contract Number, Sales Period, and Contractor's (or other authorized agent) Name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

AUTHORIZED USER SALES REPORTS:

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on a monthly basis, a report listing the following: name of products purchased, quantity purchased, unit price and total dollar volume of purchases.

OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State Contracts. Contract users will be advised to select the most cost effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

NEW YORK STATE PROCUREMENT CARD:

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each delivery.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:

New York State political subdivisions and others authorized by New York State law may participate in Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B § 27 *Participation in Centralized Contracts*. For purchase orders issued by the Port Authority of New York and New Jersey (or any other

(continued)

authorized entity that may have Delivery locations adjacent to New York State), the terms of the "Price" clause shall be modified to include Delivery to locations adjacent to New York State.

Upon request, all eligible non-State Agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS New York State Procurement's Customer Services at (518) 474-6717.

NOTE TO ALL NON-STATE AGENCIES AND BIDDERS:

All such participating non-State agencies and contractors understand, acknowledge and agree that the primary responsibility in regard to performance of the Contract, of any obligation, covenant, condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating non-State agencies and Contractor and not by the State. In the event of a failure or breach in performance of any such Contract by a non-State Agency or Contractor, the State specifically and expressly disclaims any and all liability for such defective performance or breach, and the eligible participating non-State agencies and Contractor guarantee to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the failure of either party to perform in accordance with its obligations, covenants and the terms and conditions of the State Centralized Contract.

EXTENSION OF USE:

This contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

EMERGENCY PURCHASING:

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products and services from any source, including but not limited to this Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

CONTRACTOR PERFORMANCE:

Authorized Users should notify the Procurement Services Contract administrator promptly if the Contractor fails to meet the requirements of this Contract. Performance which is otherwise unsatisfactory to the Authorized User should also be reported to Procurement Services.

MERCURY ADDED CONSUMER PRODUCTS:

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

RESERVATION:

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a Contract product(s) totaling more than \$75,000.00.

AMERICANS WITH DISABILITIES ACT (ADA):

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Contractors are required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

ADDITIONAL REQUIREMENTS:

A. NO DRUGS OR ALCOHOL

(continued)

For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

B. TRAFFIC INFRACTIONS

The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

PERIODIC RECRUITMENT:

The State reserves the right to add Contractors beginning in the second year of the Contract and at one year intervals thereafter. The State will formally announce when the bid is reissued, at the discretion of the State. Bidders shall be required to submit such Bid documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the new Bid solicitation. Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration. In addition, if a Bid is deemed non-responsive under periodic recruitment, a vendor cannot reapply for a future Contract until the next periodic recruitment period. For Contracts that are awarded under periodic recruitment, the Contract term will commence upon OGS approval in accordance with §26, Contract Creation/Execution of Appendix B and will terminate on the then current end date of the Contract or at the end of any approved extension or renewal period.

Bidder must demonstrate that it has a minimum average sales volume of \$500,000 annually in product meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. Procurement Services reserves the right to request copies of purchase orders and/or invoices for verification or clarification.

For bids that are awarded under periodic recruitment, the Contract term will commence upon award and terminate on the current end date of the Contract unless an extension is mutually agreed upon between Procurement Services and the Contractor.

CONTRACT ADVERTISING:

In addition to the requirements set forth in Appendix B, §13 Advertising Results, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance.

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

POLICY STATEMENT:

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS Contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority- and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in State procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBES") and the employment of minority groups members and women in the performance of New York State Contracts.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS:

(continued)

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

The Contractor further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract.

Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs):

New York State Executive Law Article 15-A requires that OGS provide opportunities for the maximum feasible participation of New York State certified minority- and women-owned business enterprises in the performance of OGS contracts. OGS has determined that it will not place MWBE participation goals on contracts resulting from this procurement because there are not sufficient subcontracting opportunities available in the books industry as related to the purchases of books & non-print library materials & related ancillary services. However, contractors should use good faith efforts to engage MWBEs as subcontractors to the extent that such opportunities exist. Additionally, OGS strongly encourages all certified minority- and women-owned businesses to submit a proposal in response to this solicitation. Finally, OGS encourages those minority- and women-owned companies that are not certified by the Empire State Development Division of Minority- and Women-Owned Businesses to become certified at the earliest opportunity. Information regarding the certification process can be viewed at: <http://esd.ny.gov/MWBE/Certification.html>

NEW YORK STATE STATEWIDE FINANCIAL SYSTEMS (SFS)

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the Contract period, and by submittal of a Bid a Contractor agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State Agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: <http://www.sfs.ny.gov/>.

USE OF RECYCLED OR REMANUFACTURED MATERIALS:

New York State supports and encourages vendors to use recycled, remanufactured or recovered materials in the manufacture of products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the product or packaging unless such use is precluded due to health or safety requirements or product specifications contained herein. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this IFB. Warranties on refurbished or remanufactured components or products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, § 15 *Remanufactured, Recycled, Recyclable or Recovered Materials*.

(continued)

BULK DELIVERY AND ALTERNATE PACKAGING:

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

SURPLUS/TAKE-BACK/RECYCLING:

- I. A State agency is reminded of its obligation to comply with the NY State Finance Law §§ 167, Transfer and Disposal of Personal Property, and 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.
- II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.
- III. The NYS Department of Environmental Conservation (DEC) Electronic Equipment Recycling and Reuse Act (“Act”) (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>.
- IV. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4:

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://ogs.ny.gov/EO/4/Default.asp>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

NEW YORK STATE VENDOR RESPONSIBILITY:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

(continued)

The Contractor agrees that if it is found by the State that the Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

PREFERRED SOURCE PRODUCTS:

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services of preferred source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the resultant Contract(s) may be available from one or more preferred sources. An Authorized User must determine if a particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law §162(3) or (4)(b), respectively, before engaging the Contractor.

"OGS OR LESS" GUIDELINES:

Purchases of the products included in this contract are subject to the "OGS or Less" provisions of State Finance Law §163(3) (a) (v). This means that State Agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in form, function or utility to the products herein and are:

1. lower in price
-and/or-
2. available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State Agencies should refer to Procurement Council Guidelines for additional information.

CONTRACT MODIFICATION PROCEDURE:

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the

(continued)

Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

ADDITIONAL LICENSE AGREEMENTS:

OGS will NOT review or approve “click through”, “shrink wrap” or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions. The Authorized User must ask if “click through”, “shrink wrap” or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User’s counsel, it is the responsibility of such Authorized User’s counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

APPENDIX A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX B

Appendix B, *Office of General Services General Specifications*, dated June 2014, is hereby expressly made a part of this Contract as if set forth at length herein and shall govern any situations not covered by the IFB document or Appendix A.

APPENDIX B AMENDMENTS

Appendix B, § 6, Late Bids Rejected, is hereby deleted and replaced with the following:

6. Late Bids

Bids must be received at the location designated in the Solicitation at or before the date and time established in the Solicitation for the Bid opening or receipt of Bids.

Any Bid received at the designated location after the established time will be considered a Late Bid. A Late Bid may be rejected and disqualified from award. Notwithstanding the foregoing, a Late Bid may be accepted in the Commissioner’s sole discretion where (i) no timely Bids meeting the requirements of the Solicitation are received, (ii) in the case of a multiple award, an insufficient number of timely Bids are received to satisfy the multiple award, or (iii) the Bidder has demonstrated to the satisfaction of the Commissioner that the Late Bid was caused solely by factors outside the control of the Bidder. However, in no event will the Commissioner be under any obligation to accept a Late Bid.

APPENDIX C

Appendix C, *Equal Employment Opportunity Staffing Plan* (Form EEO 100), is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX D

Appendix D, *Contract Modification Procedure*, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

(continued)

**State of New York
Office of General Services
NEW YORK STATE PROCUREMENT
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ **Contractor:** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

_____ (over)

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by mail to:

OGS PROCUREMENT SERVICES
Customer Services, 38th Floor
Corning Tower - Empire State Plaza
Albany, New York 12242
customer.service@ogs.ny.gov
* * * * *



Price Lists

Group 20060 Books & Non-Print Library Materials & Related Ancillary Services (Statewide)		
Award Number	:	22868
Contract Period	:	June 1, 2015 to May 31, 2020

(Updated November 02, 2015)

1. [ADAMS BOOK CO, INC](#)
2. [AMBASSADOR BOOK SERVICE INC](#)
3. [BRODART CO](#)
4. [CENGAGE LEARNING INC](#)
5. [COUGHLAN COMPANIES INC DBA CAPSTONE](#)
6. [COUTTS INFORMATION SERVICES INC](#)
7. [DAVIDSON TITLES INC](#)
8. [EASTERN BOOK COMPANY](#)
9. [FOLLETT SCHOOL SOLUTIONS INC](#)
10. [HERTZBERG-NEW METHOD INC DBA PERMA-BOUND BOOKS](#)
11. [INGRAM LIBRARY SERVICES INC](#)
12. [MAIN STREET BOOK SHOP INC](#)
13. [MT LIBRARY SERVICES INC DBA JUNIOR LIBRARY GUILD](#)
14. [SCHOLASTIC INC](#)
15. [WEST PUBLISHING CORPORATION](#)

Supplemental Award #1

16. [ADVANCED EDUCATIONAL PRODUCTS, INC](#)
17. [AMERICAN READING COMPANY](#)
18. [BAKER & TAYLOR LLC](#)
19. [BARNES & NOBLE BOOKSELLERS, INC](#)
20. [BAUM & BEAULIEU ASSOCIATES, INC](#)
21. [BOOK REVUE WHOLESALE, LTD](#)
22. [GL GROUP, INC DBA BOOKSOURCE](#)
23. [GREENWOOD PUBLISHING DBA HEINEMANN](#)
24. [MATTHEW BENDER & COMPANY, INC](#)
25. [MIDWEST TAPE, LLC](#)
26. [STEPS TO LITERACY, LLC](#)

Supplemental Award #2

27. [AKJ WHOLESALE LLC DBA AKJ BOOKS](#)
28. [BMI EDUCATIONAL SERVICES, INC.](#)
29. [CENTRAL PROGRAMS INC. DBA GUMDROP BOOKS](#)
30. [JEFCO SALES, INC. DBA APPLE BOOKS](#)
31. [LAKESHORE EQUIPMENT COMPANY DBA LAKESHORE LEARNING MATERIALS](#)
32. [LERNER PUBLISHING GROUP](#)
33. [PEARSON EDUCATION, INC.](#)
34. [PERFECTION LEARNING CORPORATION](#)
35. [QUALITY BOOKS, INC.](#)
36. [SCHOLASTIC LIBRARY PUBLISHING, INC.](#)
37. [THE CHAPTERS GROUP LLC](#)
38. [YANKEE BOOK PEDDLER, INC DBA YBP LIBRARY SERVICES](#)



Price Lists

Group 20060 Books & Non-Print Library Materials & Related Ancillary Services (Statewide)		
Award Number	:	22868
Contract Period	:	June 1, 2015 to May 31, 2020

(Updated November 02, 2015)

Supplemental Award #3

- 39. [COMPLETE BOOK AND MEDIA SUPPLY, LLC](#)
- 40. [DELANEY EDUCATIONAL ENTERPRISES, INC](#)
- 41. [FINDAWAY WORLD, LLC](#)
- 42. [GARRETT EDUCATIONAL CORPORATION](#)
- 43. [LIBRARY SALES, INC DBA SEBCO BOOKS](#)
- 44. [OTTO HARRASSOWITZ GMBH & CO. KG](#)
- 45. [RAINBOW BOOKS, INC D/B/A RAINBOW BOOK COMPANY](#)
- 46. [SADDLEBACK EDUCATIONAL, INC](#)
- 47. [SUSSMAN SALES CO., INC](#)
- 48. [TEXTBOOK WAREHOUSE, LLC DBA TEXTBOOK WAREHOUSE](#)
- 49. [THE LEARNING CONNECTION COMPANY](#)
- 50. [THE PENWORTHY COMPANY](#)

Supplemental Award #4

- 51. [CBM LLC](#)
- 52. [CHANNING BETE COMPANY, INC.](#)
- 53. [CHILDREN'S PLUS, INC.](#)
- 54. [MARCO BOOK COMPANY, INC. DBA EVERBIND BOOKS](#)
- 55. [WESTON WOODS STUDIOS INC.](#)
- 56. [WORLD BOOK, INC.](#)



6th Supplemental Contract Award Notification

Title	:	Group 20060 – Books & Non-Print Library Materials & Related Ancillary Services (Statewide) Classification Code(s): 55
Award Number	:	<u>22868</u> (Replaces Award 21274)
Contract Period	:	June 1, 2015 – May 31, 2020
Bid Opening Date	:	December 23, 2014 and (Periodic Recruitment August 24, 2016)
Date of Issue	:	September 18, 2017
Specification Reference	:	As Incorporated In The Invitation for Bids and Purchasing Memorandums Issued Through December 16, 2014
Contractor Information	:	Appears on Pages 109 – 111 of this Award

Address Inquiries To:

State Agencies & Vendors		Political Subdivisions & Others	
Name :	Ruth K. Quezada	Procurement Services	
Title :	Contract Management Specialist 2	Customer Services	
Phone :	518-473-2801	Phone :	518-474-6717
E-mail :	Ruth.quezada@ogs.ny.gov	E-mail :	customer.services@ogs.ny.gov

**Procurement Services values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This award covers Books and Non-Print Library Materials and Related Ancillary Services. Types of Books included are Trade, Non-Trade, Scientific, Technical, Law, Text Books, Reference, Encyclopedias, Handbooks, University Press Publications, Society or Association Publications, Foreign Publications and Out of Print Books. Non-Print items include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

PR # 22868

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67861	ABDO PUBLISHING COMPANY 8000 W. 78th Street Suite 310 Edina, MN 55439	Pat Dumdei Tel: (800) 800-1312 Fax: (800) 800-1312 E-mail: customerservice@abdopublishing.com Website:www.abdopublishing.com	411699406 1000044840

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$1.00
Guarantees Delivery: 45 Calendar days A/R/O

PC67862	BOUND TO STAY BOUND BOOKS, INC. 1880 West Morton Jacksonville, IL 62650	Jill White Tel: (800) 637-6586 Fax: (217) 245-0424 E-mail: SALES@BTSB.COM Website: WWW.BTSB.COM	370439010 1000044797
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67863	CAVENDISH SQUARE PUBLISHING LLC 243 5th Ave., Suite 136 New York, NY 10016	Arlene Riley Tel: (877) 980-4450 Fax: (877) 988-4454 E-mail: bids@csqpub.com Website: www.cavendishsq.com	461843778 1100095985
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Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67864	CEREBELLUM CORPORATION 1661 Tennessee St., Suite 3D San Francisco, CA 94107	Becky Rena Tel: (866) 386-0253 Fax: (805) 426-8136 E-mail: brena@cerebellum.com Website: www.libraryvideocompany.com	541687620 1000040965

Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

PC67865	CONN EDUCATION, INC. DBA CLASSROOM LIBRARY COMPANY 3901 Union Blvd., Suite 155 St. Louis, MO 63115	Cristin Choat or Christopher Teter Tel: (888) 318-2665 Fax: (877) 716-7272 E-mail: cristin@classroomlibrarycompany.com chris@classroomlibrarycompany.com Website:www.classroomlibrarycompany.co	273910452 1100133574
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Does not offer Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$100
Guarantees Delivery: 45 Calendar days A/R/O

PC67866	MACKIN BOOK COMPANY DBA MACKIN EDUCATIONAL RESOURCES 3505 County Road 42 West Burnsville, MN 55306	Stephanie Reiersen Tel: (800) 245-9540 Fax: (800) 369-5490 E-mail: bids@mackin.com Website: www.mackin.com	411658426 1000017902
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Offers Electronic Access Ordering (EDI)
Accepts NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: No minimum order
Guarantees Delivery: 45 Calendar days A/R/O

(continued)

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC67867	TEL/ LOGIC INC. DBA TEXTBOOK CENTRAL 400 Post Ave. Suite 410 Westbury, NY 11590	Mark Lindenmann Tel: (516) 801-7865 Fax: (516) 801-7875 E-mail: mlindenmann@textbookcentral.com Website: www.textbookcentral.com	112907608 1000011968

Does not offer Electronic Access Ordering (EDI)
Does not accept NYS Procurement Card Up to \$85,000.00
No additional discount for purchases made with NYS Procurement Card
No Prompt Payment Discount
Minimum Order: \$100
Guarantees Delivery: 45 Calendar days A/R/O

For Pricelists for this award, please see the Contractor Pricing pages located on the OGS website at:
<http://www.ogs.ny.gov/purchase/spg/awards/2006022868CAN.HTM>

Cash Discount, If Shown, Should be Given Special Attention.
INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" in this document.)

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES.

SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:

The Procurement Services supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

NOTE TO AUTHORIZED USERS:

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its

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procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- obtaining all necessary prior approvals;
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

DEBRIEFING:

Unsuccessful Bidders shall be notified upon Notification of Award to the winning Contractor(s). A Bidder shall be accorded fair and equal treatment with respect to its opportunity for debriefing. Requests for debriefings may be made both prior to and after Contracts are awarded. For debriefings prior to Contract award, OGS shall, upon request, provide a debriefing which would be limited to review of that Bidder's proposal or bid. The debriefing prior to Contract award should be requested in writing within 14 days of notification that the bid or proposal was disqualified from further consideration or that the Bidder was a non-awardee.

After Contract award, OGS shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to the solicitation, regarding the reason that the proposal or bid submitted by such Bidder was not selected for a Contract award. Requests for debriefings by unsuccessful Bidders must be addressed to OGS in writing. The post-award debriefing should be requested in writing within 30 calendar days of posting of the Contract award on the OGS website.

DISPUTE RESOLUTION POLICY:

Section 64 of Appendix B is hereby deleted. All disputes under this Contract shall be handled through the Procurement Services Dispute Resolution Process found at:
<https://nyspro.ogs.ny.gov/sites/default/files/uploaded/Dispute%20Resolution%20Policy%20%289-2015%29.pdf>

ORDER OF PRECEDENCE:

The documents below address clarifications agreed to by the Contractor and the Office of General Services (OGS) and resolved by the parties and set forth herein in an order of precedence for the contract award. The documents set forth below were included in Invitation for Bids (IFB) # 22868 or provided by the Contractor.

1. Appendix A
2. IFB Document
3. Appendix B
4. Appendix C
5. Appendix D
6. Attachment 1 – Price Pages
7. Attachments 2 -7
8. Awardees Bid and resultant clarifications

SCOPE:

The contract award is to establish additional Centralized Contracts with a coterminous end date of May 31, 2020 as the first OGS approved Centralized Contracts, Award 22868. The contract award is to be used by State Agencies, and Non-State agencies including political subdivisions and others authorized by law (Authorized Users) with a means of acquiring Books and Non-Print Library Materials and Related Ancillary Services. This contract contains a total of two (2) Lots: 1) Printed Publications; and 2) Non-Print and Other.

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The contract award shall include, but not be limited to the following: domestic and foreign publications, textbooks, books in print, books out-of-print, pre-bound books, Braille books, Large print books, rare books, legal books and materials, business/economics/finance books, social science/humanities, medical books, academic books, encyclopedias, continuations, blanket orders, ephemeral publications, pamphlets (bound and unbound), government documents, musical scores, and sheet music. Non-Print items within scope include: abridged and unabridged audio books on tape, CD/DVD and MP3/MP4 format; non-subscription based eBooks; microfilm; microfiche; microcards; microprint; filmstrips; slides; DVD and Blu-ray (i.e. motion pictures, videos); audio cassettes; compact discs; laser discs; CD-ROM's (no online services); microcomputer software (educational); maps/globes/atlasses/charts; video games; sheet music/scores; and audio visual materials.

The contract is primarily for off the shelf, non-subscription based Products. Electronic databases and subscription based items, such as serials, periodicals, and subscription based eBooks are not within the scope of the Contract. Video players and tablets are also excluded from the scope of the contract. However, publications that require a standing order for supplemental material or updates to the publication that may be issued subsequent to the original release of the publication, such as law books, for example, are within the scope of the Contract.

DEFINITIONS:

Terms used in this Contract that have a capitalized first letter shall be defined in accordance with Appendix B, §2 *Definitions*, which is hereby incorporated by reference. The following definitions shall apply:

1. **“Ancillary Services”** includes supplementary value added services, such as cataloging and processing (including shelf ready books); machine readable cataloging (MARC) records; security tape; rebinding of paperbacks; barcode labels; mylar covers; electronic archive retrieval; MARC record retrieval; spine labels; date due slip/circulation cards; reading program labels; and dust jackets.
2. **“Bidder”** shall refer to any business entity who submits a response to this IFB. At the time that the Bidder executes a Contract with the State for their services a Bidder shall become a “Contractor.” See also “Contractor.”
3. **“Agency or Agency(ies)”** shall mean the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
4. **“Invitation for Bids (IFB)”**, a defined in Appendix B, shall refer to this document, and its appendices and attachments.
5. **“International Standard Book Number (ISBN)”** shall refer to the unique numeric commercial book identifier.
6. **“List Price”** shall mean Publishers Suggested Retail Price.
7. **“Lot”** shall refer to a grouping of Items as set forth in Attachment 1 – *Price Pages (Revised December 12, 2014)*.
8. **“MWBE”** shall refer to a business certified with NYS Empire State Development (ESD) as a Minority and/or Women-owned Business Enterprise.
9. **“May”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “Should”.
10. **“Must”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Must” is synonymous with “required.” Also see “Shall”.
11. **“N/A”** is a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.
12. **“Net Price”** Shall be List Price less all applicable discounts and shall be the price paid by Authorized Users of the resultant Contract.
13. **“New York State Procurement (NYSPPro)”**(formerly known as Procurement Services Group (PSG)) shall mean a division of the New York State Office of General Services which is authorized by law to issue centralized, statewide Contracts for use by New York agencies, political subdivisions, schools, libraries and others authorized by law to participate in such Contracts. The terms NYSPPro and PSG shall be used interchangeably for purposes of this solicitation.
14. **“NYS Vendor ID”** shall refer to the ten-character identifier issued by New York State when a vendor is registered on the Vendor File.
15. **“Preferred Source Products”** shall refer to those commodities or services that have been approved in accordance with State Finance Law §162.
16. **“Preferred Source Program”** shall refer to the special social and economic goals set by New York State in State Finance Law §162 that require a governmental entity purchase select commodities and services from designated organizations when the commodities or services meet the “form, function and utility” requirements of the

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governmental entity. Under State Finance Law §163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for People who are or Blind (NYSPSP; New York State Industries for the Disabled (NYSID); and the Office of Mental Health (OMH). These requirements apply to a State Agency, political subdivision and public benefit corporation (including most public authorities).

17. **“Price realism”** is an evaluative concept which is concerned with whether a bidder’s proposed prices are unrealistically low.
18. **“Shall”** denotes the imperative in a clause or specification of this IFB or a resulting Contract. “Shall” is synonymous with “required.” Also see “Must”.
19. **“Should”** denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see “May”.

PRICE:

Price shall include all customs duties and charges and shall be net, F.O.B. destination, any point in New York State and shall include inside delivery inside doors of Authorized User’s receiving platform. No additional shipping charges will be allowed, EXCEPT for foreign publications shipped directly to the Authorized User from an address outside the continent of North America. Contractor shall provide Authorized User with a written quote ahead of time for any additional shipping charges for foreign publications. Foreign shipping costs shall be prepaid by the Contractor and all such orders shall be shipped on an F.O.B. destination basis by the most economical method.

There shall be no increase in Contract prices for freight, shipping (foreign shipments excepted as noted above), fuel surcharges, FPT (Freight Pass Through), etc. See “Delivery” clause for rush order charges.

Upon mutual agreement, delivery locations may be expanded per the “Extension of Use” clause.

Discount percentages and/or monetary (dollar) amounts to be deducted or charged to each Authorized User shall be listed by Contractor. Discounts shall be applied to publishers’ List Prices. A range of discounts and monetary amounts may be offered; however, the Contractor must identify, where possible, each specific discount within the range and where or how it is to be applied. The discount may increase at any time, but the publishers’ List Prices shall be the current prices as published and distributed to the trade by the publishers. Discount shall not decrease during the term of the Contract.

All monetary amounts may be adjusted annually following the first year of the Contract on the basis of the Not Seasonally Adjusted Consumer Price Index – All Urban Consumers, U.S. City Average, All Items Less Food, Series ID: CUUR0000SA0L1,CUUS0000SA0L1 published monthly by the US Department of Labor Bureau of Labor Statistics. There shall be no price adjustments during the first year of the Contract.

The adjustment shall be established as follows. Following the first year of the Contract and annually thereafter, the Contractor may make a formal request for a price adjustment in the succeeding Contract year. This request must be made in writing to the Contract Management Specialist identified on the front page of the resultant Contract Award Notification and such request must be received by no later than sixty (60) calendar days in the year preceding the effective date of adjustment. If the Contractor fails to submit a written request by such date, they forfeit their opportunity to receive a price adjustment in the succeeding Contract year. Price adjustments shall be effected beginning with the second year of the Contract and annually thereafter. The adjustment shall be based on the percentage of increase or decrease in the above referenced index in the preceding twelve months ending three months prior to the effective date of the adjustments. In no case shall price adjustments exceed five percent. All adjusted prices will be rounded up or down to the nearest whole cent. The Office of General Services will notify all interested parties of the price adjustments through the issuance of written notification by Procurement Services.

ESTIMATED QUANTITIES:

The quantities or dollar values listed in the IFB are estimated only. The Contracts resulting from the IFB shall be estimated quantities Contracts. No specific quantities or volumes are represented or guaranteed and the State provides no guarantee of individual Authorized User participation. The Contractor(s) must furnish all quantities or dollar values actually ordered. The anticipated dollar value of the award for this IFB, based on historical purchases under previous awards was approximately \$90 million annually. The individual value of each resultant Contract is indeterminate and

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will depend upon the number of Contracts issued and the competitiveness of the pricing offered. Authorized Users will be encouraged to purchase from Contractors who offer the products, services and pricing that best meets their needs in the most practical and economical manner. See Appendix B §30 Estimated/Specific Quantity Contracts and §27 Participation in Centralized Contracts.

Numerous factors could cause the actual volume of product purchased under the Contracts resulting from the IFB to vary substantially from the estimates in the IFB. Such factors include, but are not limited to, the following:

- Such Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand, and actual quantities ordered during the contract period; and,
- The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract.

In Procurement Services' experience, depending on the price of a particular item, the actual volume of purchases for that item could be substantially in excess of, or substantially below, estimated volumes. Specifically, if actual contract pricing is lower than anticipated or historical pricing, actual quantities purchased could be substantially greater than the estimates; conversely, if actual contract pricing is higher than anticipated or historical pricing, actual quantities purchased could be substantially lower than the estimates. By submitting its bid, Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary substantially from the estimates provided in this IFB.

CONTRACT PERIOD AND RENEWAL:

The Contract(s) shall be in effect for five (5) years beginning on the date of approval of the first contract awarded as a result of the IFB, and shall end conterminously five (5) years from the approval of the first contract awarded as a result of the IFB. If mutually agreed between OGS and the Contractor, the Contract may be renewed under the same terms and conditions for up to two additional one (1) year terms.

Discounts quoted are to be firm for the entire period of the Contract. Prices quotes for monetary amounts as defined in the Price clause are firm for the first year of the Contract but may be adjusted annually thereafter in accordance with the Price clause. Discount reduction will not be allowed and is specifically excluded from the terms and conditions of the Invitation for Bid, its specifications and subsequent Contract award. Price decreases or discount increases are permitted at any time.

CANCELLATION FOR CONVENIENCE:

The State of New York retains the right to cancel this Contract, in whole or in part without reason (see Appendix B, §47.b, Termination For Convenience).

SHORT TERM EXTENSION:

In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one month extension), prices, and delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should a replacement Contract be issued in the interim.

ORDERS:

Contractor shall be capable of accepting orders manually, via facsimile, and, electronically via email. As an option, Contractor may also accept orders electronically via the Internet through a web-based ordering system. Contractor shall be required to provide written quotes to Authorized Users who request them prior to placing an order, which details List Price, discount, and Net Price, as applicable.

The web-based ordering system, if offered, shall allow Authorized Users to enter orders and have full order inquiry capabilities. All orders (manual, fax, electronic) shall reference requisition and/or purchase order number as

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required. If offering a web-based ordering system, the Contractor represents and warrants that it is the sole owner of the software product used for its ordering system, or, if not the owner, has received all proper authorizations from the owner to license the software product, and has the full right and power to grant the rights contained in any Contract resulting from this Invitation for Bids and as described further in Appendix B. Contractor further warrants and represents that the software product is of original development, and/or that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person/company.

Contractor shall defend, indemnify and save New York State wholly harmless from all costs, liability, and damages, including attorney fees incurred by New York State as a result of claims by a third party that New York State use of such data, information, and software infringes the rights of such third party. New York State shall promptly notify Contractor in the event New York State learns of such claim by a third party.

The web-based ordering system shall be capable of processing, controlling, documenting, and reporting on the following minimum data elements:

- Contractor Name and Address
- Agency/Facility/Political Subdivision, etc.
- Contract Number
- Purchase Order/Requisition Numbers
- Contact (individual placing order)
- Publisher, Description, ISBN
- Net Price
- Extended and Total Amounts

If offering a web-based ordering system, the Contractor shall provide any necessary software (excluding communication software) and training guides/manuals or online support in the use of the web-based ordering system at no additional cost to all Authorized Users capable of placing orders electronically. Samples of software and training guides/manuals may be required. If requested, Contractor must demonstrate its system at an Albany, NY area location designated by the State.

MINIMUM ORDER:

Minimum order shall be \$100.00. Contractor may elect to honor orders for less than the minimum order, however no additional charges shall be allowed.

PRODUCT REQUIREMENTS:

Contractor shall offer various types of books, Non-Print, and related services. Please see "Scope" clause. Bindings are to meet or exceed requirements established by the Library Binding Institute (LBI). The latest library standard issued by LBI is ANSI/NISO/LBI Library Binding Standard, Z39.78-2000, unless otherwise amended. This standard is available at <http://www.lbibinders.org/>. Cloth bindings for hardcover publications shall be the publisher's standard binding. Library bindings for hardcover publications shall be reinforced and include reinforced juvenile publications.

Contractor shall identify services associated with furnishing books, Non-Print and related materials. Cost/pricing for services shall be expressed in specific monetary amounts, not percentages.

Contractors shall identify, define, and provide a short description of the service(s) offered. Also, Contractors shall include any additional service pricing that may apply. Bid pages may be duplicated, as necessary, and addendums may be submitted for additional books and Non-Print services.

INTERNET WEBSITES:

The State encourages Contractors to provide a designated NYS Contract website for Authorized Users' direct access. This website will be listed under the Contractor information. The website will be the responsibility of the Contractor to maintain and keep updated. Changes in products/services or pricing must be approved by the New York State Procurement in accordance with any terms included in this contract prior to addition to the website. Hard copy catalog and pricelists, either in paper format or electronic format, must be available to all Authorized Users who either do not have Internet access or prefer the optional format.

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PROCUREMENT INSTRUCTIONS:

1. The Contracts listed herein have been issued under a multiple award structure. Authorized Users shall procure Products and services that best meet their form, function and utility requirements.
2. Before proceeding with their purchase, Authorized Users shall check the list of Preferred Source offerings and are reminded that they must comply with State Finance Law §162 which requires that agencies afford first priority to the commodities/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such commodities/services meet the form, function and utility of the Authorized User.
3. Upon Authorized User acceptance of Products and/or services itemized on the purchase order, Contractor(s) will invoice Authorized User for any portion of Products and services accepted, and accordingly, Authorized User will arrange for payment. Contractor shall provide itemized invoicing for all Products and services.

PURCHASE ORDERS AND INVOICING:

All Purchase Orders and invoices shall include the Contract number and a line by line listing of separate charges. Order confirmation shall mean that the Contractor has received the purchase order, has reviewed it for compatibility with the Item currently on Contract, has resolved any non-compatibility problems with the Authorized User, and has entered the order, assigned an order number with anticipated delivery date.

Purchase Orders:

Purchase orders are to include the following information:

- A. Contract number;
- B. Contractor name;
- C. Contract item number and/or description;
- D. International Standard Book Number (ISBN); and
- E. Calculation of NYS Net Price.

Invoices:

Authorized Users are instructed not to process invoices that do not include the required information set forth below. Invoices must be detailed and include in the body of the invoice or an attachment to the invoice all of the following items. Failure to comply may result in lengthy payment delays. Original invoices must follow the billing instructions contained in the purchase order. Invoices shall include, at a minimum, the following information:

- A. Contract number;
- B. NYS Vendor Identification number;
- C. Contract item number and description;
- D. Purchase Order number; and
- E. Line item breakdown of all charges to include Net Price of each product/service.

Titles of books on invoices must be listed as shown on the original order. Shipping charges for foreign book shipments must be stated separately on the invoice. All other library materials must also be listed as shown on the original order and include List Prices, percentage discount or monetary charge, and Net Price of each item. Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying accounting systems in use by different Authorized Users.

DELIVERY:

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a purchase order. Delivery shall be made no later than 45 calendar days after receipt of purchase order. Guaranteed delivery may be considered in making award.

Delivery shall be made in accordance with instructions on Purchase Order from each Authorized User. If there is a discrepancy between the purchase order and what is listed on the Contract, it is the Contractor's obligation to seek

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clarification from the ordering Authorized User and, if applicable, from the Office of General Services, New York State Procurement.

BACKORDERING:

Backordering shall be permissible only when authorized by the ordering Authorizes User. Contractor must complete orders within the guaranteed delivery period offered.

PACKING SLIPS:

A legible packing slip and/or purchase order copy must accompany each shipment. The carton containing packing slip must be so marked.

LABELING:

Number of packages in a single shipment must be marked on outside of each carton. Purchase order numbers, where required by the ordering Authorized User, must appear on the outside of each carton delivered.

SUBSTITUTIONS:

Substitutions and/or additions of titles or editions shall not be permitted without prior written authorization from the ordering Authorized User. All unauthorized substitutions and/or additions shall be returned to the Contractor at the Contractor's expense.

Contractor shall be expected to furnish the total number of copies of any one individual title in one shipment and to fill orders for multi-volume sets in one shipment.

PRODUCT RETURNS BECAUSE OF QUALITY PROBLEMS:

Upon written notification by the Authorized User to the Contractor, products determined to have quality problems, outdated product, damage, etc., shall be picked up by the Contractor within ten (10) business days after notification with no restocking charge. The Authorized User shall elect whether to receive a replacement product or a credit/refund for the full purchase price. The Authorized User must conduct its inspection, and notify the Contractor within 30 calendar days of delivery. If a defect is not identified within 30 calendar days after delivery, the Authorized User may be required to contact the manufacturer directly. Contractor shall provide an Authorized User with the manufacturer's contact number.

PRODUCT RETURNS DUE TO AUTHORIZED USER ERROR:

Products ordered in error by an Authorized User shall be returned by Authorized User at its expense for credit within fifteen (15) business days of delivery. Standard stock products must be in resalable condition (original packaging, unused). The Contractor may charge a restocking fee --not to exceed ten percent--for product returns due to Authorized User error.

CANCELLATION OF PURCHASE ORDERS:

Cancellation of orders in part or whole for unavailable materials or for "out of stock," "out of print," and "not yet published" publications shall be made by means of appropriate notations and adjustments on orders returned by Contractor to the Authorized User. Contractors shall make no shipments of canceled materials except on the basis of a new order. Titles not supplied by the Contractor may be purchased from any other Contract source.

STATUS REPORT:

A statement in each shipment must be provided to include a listing of unavailable products and/or a listing of titles out of print (OP), titles out of stock indefinitely (OI), titles out of stock temporarily (OS) and titles not to be supplied for other reason.

CONTRACT PAYMENTS:

Payments cannot be processed by Authorized Users until the items have been delivered and accepted in accordance with the Delivery section above. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in clause, Purchase Orders and Invoicing.

CONTRACT ADMINISTRATOR:

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis.

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TOLL-FREE NUMBER:

Contractor must provide a toll-free telephone number for the Authorized User usage. Contractor must staff this toll-free number at a minimum from 8:00 a.m. to 5:00 p.m. ET Monday through Friday, excluding NYS holidays.

INSURANCE REQUIREMENTS:

Workers' Compensation Insurance and Disability Benefits insurance coverage must be submitted at the time of bid submission. Upon tentative award, Bidder shall be required to procure at its sole cost and expense all required insurance as detailed in Attachment 7—Insurance Requirements. The Contractor shall procure at its sole cost and expense and shall maintain in force at all times during the terms of the resultant Contract, policies of insurance pursuant to the requirements outlined. At least thirty (30) days prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in the manner required for service of notice in Attachment 7, Paragraph A.3., Certificates of Insurance/Notices.

REPORT OF CONTRACT USAGE:

Contractor shall furnish a report of all Product provided under the Contract during each semiannual period, no later than the 15th of the month following the close of each half year. Purchases by Non-state agencies, political subdivisions and others authorized by law shall be reported in the same report and indicated as required. A template for such report is included In Attachment 6—Administrative Reports. All fields of information shall be accurate and complete. The report is to be submitted electronically via electronic mail utilizing the template provided in Microsoft Excel 2013, or lower version (or as otherwise directed by OGS), to the attention of the individual shown on the front page of the Contract Award Notification and shall reference the Group Number, Award Number, Contract Number, Sales Period, and Contractor's (or other authorized agent) Name, and all other fields required. OGS reserves the right to amend the report template during the Contract term.

AUTHORIZED USER SALES REPORTS:

Upon written request by an Authorized User, the Contractor shall furnish to such Authorized User, on a monthly basis, a report listing the following: name of products purchased, quantity purchased, unit price and total dollar volume of purchases.

OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State Contracts. Contract users will be advised to select the most cost effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.

NEW YORK STATE PROCUREMENT CARD:

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each delivery.

NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS:

New York State political subdivisions and others authorized by New York State law may participate in Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B § 27 *Participation in Centralized Contracts*. For purchase orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have Delivery locations adjacent to New York State), the terms of the "Price" clause shall be modified to include Delivery to locations adjacent to New York State.

Upon request, all eligible non-State Agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS New York State Procurement's Customer Services at (518) 474-6717.

NOTE TO ALL NON-STATE AGENCIES AND BIDDERS:

All such participating non-State agencies and contractors understand, acknowledge and agree that the primary responsibility in regard to performance of the Contract, of any obligation, covenant, condition or term thereunder by either such party thereto shall be borne and is expressly assumed by the participating non-State agencies and Contractor and not by the State. In the event of a failure or breach in performance of any such Contract by a non-State Agency or

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Contractor, the State specifically and expressly disclaims any and all liability for such defective performance or breach, and the eligible participating non-State agencies and Contractor guarantee to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by the failure of either party to perform in accordance with its obligations, covenants and the terms and conditions of the State Centralized Contract.

EXTENSION OF USE:

This contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

EMERGENCY PURCHASING:

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products and services from any source, including but not limited to this Contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

CONTRACTOR PERFORMANCE:

Authorized Users should notify the Procurement Services Contract administrator promptly if the Contractor fails to meet the requirements of this Contract. Performance which is otherwise unsatisfactory to the Authorized User should also be reported to Procurement Services.

MERCURY ADDED CONSUMER PRODUCTS:

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under this Contract.

RESERVATION:

The State reserves the right to negotiate lower pricing, or to advertise for bids, any unanticipated excessive purchase. An "unanticipated excessive purchase" is defined as an unexpected order for a Contract product(s) totaling more than \$75,000.00.

AMERICANS WITH DISABILITIES ACT (ADA):

The Federal ADA Act, signed into law July 26, 1990, bars employment discrimination and requires all levels of Government to provide necessary and reasonable accommodations to qualified workers with disabilities. Contractors are required to identify and offer any software or hardware products they manufacture or adapt which may be used or adapted for use by visually, hearing, or any other physically impaired individuals.

ADDITIONAL REQUIREMENTS:

A. NO DRUGS OR ALCOHOL

For reasons of safety and public policy, in any Contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

B. TRAFFIC INFRACTIONS

The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.

PERIODIC RECRUITMENT:

The State reserves the right to add Contractors beginning in the second year of the Contract and at one year intervals thereafter. The State will formally announce when the bid is reissued, at the discretion of the State. Bidders shall be required to submit such Bid documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the new Bid solicitation. Once awarded a Contract, a Contractor may not resubmit a Bid for future consideration. In addition, if a Bid is deemed non-responsive under periodic

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recruitment, a vendor cannot reapply for a future Contract until the next periodic recruitment period. For Contracts that are awarded under periodic recruitment, the Contract term will commence upon OGS approval in accordance with §26, Contract Creation/Execution of Appendix B and will terminate on the then current end date of the Contract or at the end of any approved extension or renewal period.

Bidder must demonstrate that it has a minimum average sales volume of \$500,000 annually in product meeting the scope of the Contract, offered to national public entities in the 36 month period preceding the bid opening date. Required proof of sales may be demonstrated in the form of a summary of the total sales reported, which shall include the names of the purchasers, the total amount of sales by purchaser and the date of each sale. Procurement Services reserves the right to request copies of purchase orders and/or invoices for verification or clarification.

For bids that are awarded under periodic recruitment, the Contract term will commence upon award and terminate on the current end date of the Contract unless an extension is mutually agreed upon between Procurement Services and the Contractor.

CONTRACT ADVERTISING:

In addition to the requirements set forth in Appendix B, §13 Advertising Results, any Contractor advertisements, promotional literature and/or Contract description(s) of Contract awards must be reviewed and approved by Procurement Services prior to issuance.

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

POLICY STATEMENT:

The New York State Office of General Services (OGS), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS Contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority- and Women-Owned Business Enterprises: Evidence from New York" ("the Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in State procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority- and women-owned business enterprises ("MWBES") and the employment of minority groups members and women in the performance of New York State Contracts.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS:

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to this Contract; or (ii) employment outside New York State.

The Contractor further agrees to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract.

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Further, pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex (including gender expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBEs):

New York State Executive Law Article 15-A requires that OGS provide opportunities for the maximum feasible participation of New York State certified minority- and women-owned business enterprises in the performance of OGS contracts. OGS has determined that it will not place MWBE participation goals on contracts resulting from this procurement because there are not sufficient subcontracting opportunities available in the books industry as related to the purchases of books & non-print library materials & related ancillary services. However, contractors should use good faith efforts to engage MWBEs as subcontractors to the extent that such opportunities exist. Additionally, OGS strongly encourages all certified minority- and women-owned businesses to submit a proposal in response to this solicitation. Finally, OGS encourages those minority- and women-owned companies that are not certified by the Empire State Development Division of Minority- and Women-Owned Businesses to become certified at the earliest opportunity. Information regarding the certification process can be viewed at: <http://esd.ny.gov/MWBE/Certification.html>

NEW YORK STATE STATEWIDE FINANCIAL SYSTEMS (SFS)

The New York State Statewide Financial System (SFS) went live for NYS agencies in April 2012. Future SFS procurement functionality envisions the ability to fully host Contract catalogs or to integrate Contractor-hosted punch-out catalogs. OGS reserves the right to integrate either of these future catalog functions with a Contractor during the Contract period, and by submittal of a Bid a Contractor agrees to coordinate with SFS for integration if OGS exercises its right to do so. No costs or expenses associated with providing information and integration shall be charged to NYS. Technical Requirements for the data elements, such as data types, maximum field lengths, and cXML element names shall be provided by SFS during integration. Upon completion of integration and activation of an SFS-based catalog ordering system, State Agencies shall process their orders through the SFS functionality and the other Authorized Users shall continue to process orders in accordance with Contract terms and conditions, including through any Contractor-hosted web based ordering system. For more information on SFS, its use, and its capabilities please visit the SFS website here: <http://www.sfs.ny.gov/>.

USE OF RECYCLED OR REMANUFACTURED MATERIALS:

New York State supports and encourages vendors to use recycled, remanufactured or recovered materials in the manufacture of products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the product or packaging unless such use is precluded due to health or safety requirements or product specifications contained herein. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this IFB. Warranties on refurbished or remanufactured components or products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B, § 15 *Remanufactured, Recycled, Recyclable or Recovered Materials*.

BULK DELIVERY AND ALTERNATE PACKAGING:

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

SURPLUS/TAKE-BACK/RECYCLING:

- I. A State agency is reminded of its obligation to comply with the NY State Finance Law §§ 167, Transfer and Disposal of Personal Property, and 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.

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II. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section III below for specific requirements governing electronic equipment recycling.

III. The NYS Department of Environmental Conservation (DEC) Electronic Equipment Recycling and Reuse Act ("Act") (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>.

IV. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NUMBER 4:

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://ogs.ny.gov/EO/4/Default.asp>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

NEW YORK STATE VENDOR RESPONSIBILITY:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

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PREFERRED SOURCE PRODUCTS:

Section 162 of the State Finance Law requires that agencies, including Executive Agencies, afford first priority to the products/services of preferred source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such products/services meet the form, function and utility of the agency. Some products/services in the resultant Contract(s) may be available from one or more preferred sources. An Authorized User must determine if a particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law §162(3) or (4)(b), respectively, before engaging the Contractor.

"OGS OR LESS" GUIDELINES:

Purchases of the products included in this contract are subject to the "OGS or Less" provisions of State Finance Law §163(3) (a) (v). This means that State Agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in form, function or utility to the products herein and are:

1. lower in price
-and/or-
2. available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State Agencies should refer to Procurement Council Guidelines for additional information.

CONTRACT MODIFICATION PROCEDURE:

OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to add new products at the same or better price level is an example of an update. Contractor requested Updates must be submitted no later than thirty (30) calendar days prior to the annual anniversary date of the Contract. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

Updates to the Centralized Contract and the Appendices may be made in accordance with the contractual terms and conditions to incorporate new products or services, make price level revisions, delete products or services, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

ADDITIONAL LICENSE AGREEMENTS:

OGS will NOT review or approve "click through", "shrink wrap" or other pass-through terms and conditions. An Authorized User looking to acquire products under these Contracts must review the contractual terms and conditions.

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The Authorized User must ask if “click through”, “shrink wrap” or other pass-through terms and conditions are present, and if so, the Authorized User is responsible for having its counsel review and approve such terms and conditions prior to ordering the product. If the terms and conditions are not acceptable to the Authorized User’s counsel, it is the responsibility of such Authorized User’s counsel to negotiate any needed amendments. Any additional license agreement terms and conditions offered by the Contractor or otherwise amended by agreement between the Contractor and Authorized User shall not conflict with the terms and conditions of the Contract.

APPENDIX A

Appendix A, *Standard Clauses For New York State Contracts*, dated January 2014, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX B

Appendix B, *Office of General Services General Specifications*, dated June 2014, is hereby expressly made a part of this Contract as if set forth at length herein and shall govern any situations not covered by the IFB document or Appendix A.

APPENDIX B AMENDMENTS

Appendix B, § 6, Late Bids Rejected, is hereby deleted and replaced with the following:

6. Late Bids

Bids must be received at the location designated in the Solicitation at or before the date and time established in the Solicitation for the Bid opening or receipt of Bids.

Any Bid received at the designated location after the established time will be considered a Late Bid. A Late Bid may be rejected and disqualified from award. Notwithstanding the foregoing, a Late Bid may be accepted in the Commissioner’s sole discretion where (i) no timely Bids meeting the requirements of the Solicitation are received, (ii) in the case of a multiple award, an insufficient number of timely Bids are received to satisfy the multiple award, or (iii) the Bidder has demonstrated to the satisfaction of the Commissioner that the Late Bid was caused solely by factors outside the control of the Bidder. However, in no event will the Commissioner be under any obligation to accept a Late Bid.

APPENDIX C

Appendix C, *Equal Employment Opportunity Staffing Plan* (Form EEO 100), is hereby expressly made a part of this Contract as fully as if set forth at length herein.

APPENDIX D

Appendix D, *Contract Modification Procedure*, is hereby expressly made a part of this Contract as fully as if set forth at length herein.

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**State of New York
Office of General Services
Procurement Services
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

Contract No.: _____ **Contractor:** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

 _____ (over)

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by mail to:

OGS PROCUREMENT SERVICES
 Customer Services, 38th Floor
 Corning Tower - Empire State Plaza
 Albany, New York 12242
 customer.service@ogs.ny.gov
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