

ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
2100 CLARENDON BOULEVARD  
ARLINGTON, VIRGINIA 22201

**NOTICE OF AWARD OF CONTRACT**

<b>TO:</b> OTC Direct, Inc. D/B/A Oriental Trading Company 4206 South 108 <sup>th</sup> Street Omaha, NE 68137	<b>DATE ISSUED:</b> April 20, 2017
	<b>AGREEMENT NO:</b> 17-196-2-R
	<b>AGREEMENT TITLE:</b> Instructional Aids, Toys & Games

**THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.**

Your firm is awarded the above referenced contract. The contract term covered by this Notice of Award is effective immediately, and expires on November 30, 2021. This Agreement includes the ability to renew for five (5) twelve (12) month period(s) from December 1, 2021 to November 30, 2026.

The contract documents consist of the terms and conditions of Arlington County Rider Agreement No. 17-196-2-R dated April 20, 2017, and Arlington Public Schools Contract #15-31 FY17, including any exhibits, attachments or amendments thereto.

**CONTRACT PRICING:**

1. REFER TO ARLINGTON PUBLIC SCHOOLS CONTRACT #15-31 FY17 ("INSTRUCTIONAL AIDS, TOYS & GAMES")

**ATTACHMENT/S:**

1. ARLINGTON COUNTY RIDER AGREEMENT NO. 17-196-2-R, DATED 04/20/2017
2. ATTACHMENT A (ARLINGTON PUBLIC SCHOOLS – CONTRACT #15-31 FY17), DATED 01/24/2017
3. ATTACHMENT B (ARLINGTON PUBLIC SCHOOLS – CONTRACT #15-31 FY17 – PRICING SCHEDULE), DATED 01/24/2017

**EMPLOYEES NOT TO BENEFIT:**

NO COUNTY EMPLOYEES SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

**VENDOR CONTACT:** Cydney Ledesma

**TELEPHONE NO.:** (800) 228-0475

**EMAIL ADDRESS:** orders@oriental.com

**COUNTY CONTACT:** Megan Carney

**TELEPHONE NO.:** (703) 228-1821

**EMAIL ADDRESS:** mcarney@arlingtonva.us

**CONTRACT AUTHORIZATION**

  
MICHAEL BEVIS  
PURCHASING AGENT

4/20/2017  
DATE

**DISTRIBUTION:**

VENDOR: 1  
BID FOLDER: 2

**ORIGINAL**

C.P.

ARLINGTON COUNTY, VIRGINIA  
OFFICE OF THE PURCHASING AGENT  
2100 CLARENDON BOULEVARD, SUITE 500  
ARLINGTON, VA 22201

**RIDER AGREEMENT NO. 17-196-2-R**

THIS RIDER AGREEMENT (hereinafter "Agreement") is made, on the date of its execution by the County, between OTC Direct, Inc. D/B/A Oriental Trading Company, 4206 South 108<sup>th</sup> Street, Omaha, NE 68137 ("Contractor"), a Corporation authorized to transact business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County"). The County and the Contractor, for the consideration and quantity(ies) specified herein or specified in a County Purchase Order referencing this Agreement, agree as follows:

**1. CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement and Attachment A (Arlington Public Schools – Contract #15-31 FY17, Instructional Aids, Toys & Games, incorporated herein by reference), and Attachment B (Arlington Public Schools – Contract #15-31 FY17 – Pricing Schedule), (collectively, "Contract Documents" or "Contract").

This Agreement rides a competitive procurement process conducted by Arlington Public Schools. The Contractor desires to extend to the County the same pricing as the Contractor's agreement with Arlington Public Schools.

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents and the remaining Contract Documents shall be complementary to each other and if there are any conflicts the most stringent terms or provisions shall prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to the parties' agreement which is not contained in the Contract Documents.

**2. CONTRACT TERM**

The Contractor's provision of goods for the County ("Work") shall commence on the date of execution of this Agreement by the County and shall be completed no later than November 30, 2021 ("Initial Contract Term"), subject to any modifications as provided for in the Contract Documents.

Upon satisfactory performance by the Contractor, and with the concurrence of the Contractor, if Arlington Public Schools renews their agreement identified in Attachment A, the County may elect to renew this Agreement under the same contract unit prices for not more than five (5) additional twelve (12) month periods from December 1, 2021 to November 30, 2026 ("Subsequent Contract Term"). However, if Arlington Public Schools does NOT renew their agreement identified in Attachment A, this Agreement shall automatically expire on the date of Arlington Public School's contract expiration date.

**3. CONTRACT PRICING**

The County will pay the Contractor in accordance with the terms of the Payment paragraph below, at the unit prices set forth in Attachment A (Arlington Public Schools – Contract #15-31 FY17, Instructional Aids, Toys & Games), and Attachment B (Arlington Public Schools – Contract #15-31 FY17 – Pricing Schedule), for Work provided by the Contractor, as described and required in the Contract Documents, and accepted by the County.

**4. SCOPE OF WORK**

The Contractor agrees to provide the goods described in the Contract Documents. The primary purpose of the Work is to provide instructional aids, toys and educational games.

The Contract Documents set forth the minimum work estimated by the County and the Contractor to be necessary to complete the work. It shall be the Contractor's responsibility, at the Contractor's sole cost, to provide the specific Work set forth in the Contract Documents sufficient to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of the Work.

**5. PROJECT OFFICER**

The performance of the Contractor is subject to the review and approval of the County Project Officer ("Project Officer"), who shall be appointed by the Director of the Arlington County department or agency requesting the work under the Contract Documents. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its work pursuant to the Contract Documents.

**6. PAYMENT TERMS**

Payment terms will be recorded by the County as Net thirty (30) days. The County will pay the Contractor within thirty (30) calendar days after the date of receipt of a correct, as determined by the Project Officer, invoice approved by the Project Officer describing completed work which is reasonable and allocable to the Contract, or the date of receipt of the entire order, or the date of acceptance of the work which meets the Contract requirements, whichever is later. Payments will be made by the County for goods or services furnished, delivered, inspected, and accepted upon receipt of invoices submitted on the date of shipment or delivery of service, subject to applicable payment terms. The number of the County Purchase Order pursuant to which authority shipments have been made or services performed shall appear on all invoices. Invoices shall be submitted in duplicate. Unless otherwise specified herein, payment shall not be made prior to delivery and acceptance of the entire order by the County.

**7. PAYMENT OF SUBCONTRACTORS**

The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven (7) calendar days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as those contained herein with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

#### **8. NON-APPROPRIATION**

All funds for payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia. In the event of non-appropriation of funds by the County Board of Arlington County, Virginia for the goods or services provided under this Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the County shall not be obligated under this Contract beyond the date of termination specified in the County's written notice.

#### **9. COUNTY PURCHASE ORDER REQUIREMENT**

County purchases are authorized only if a County Purchase Order is issued in advance of the transaction, indicating that the ordering agency has sufficient funds available to pay for the purchase. Such a Purchase Order is to be provided to the Contractor by the ordering agency. The County will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by the County Purchasing Agent. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and sole expense.

#### **10. DELIVERY**

All goods are purchased F.O.B. destination in Arlington County as designated in this Contract. All costs for handling and transportation charges to the designated point of delivery shall be borne by the Contractor. Transportation, handling and all related charges are included in the unit prices or discounts submitted by the Contractor with its bid.

#### **11. WARRANTY**

All goods and materials provided to the County shall be fully guaranteed by the Contractor against factory defects. Any defects which may occur as the result of either faulty material or workmanship by the manufacturer within the period of the manufacturer's standard warranty shall be corrected by the Contractor at no expense to Arlington County. The Contractor shall provide evidence of all manufacturers' warranties to the Project Officer at the time of delivery. All goods and materials are also

guaranteed by the Contractor against defects resulting from the use of inferior or faulty materials or workmanship for one (1) year from the date of final acceptance by the County in addition to and irrespective of any manufacturer's or supplier's warranty. No date other than the date of final acceptance shall govern the effective date of the Guaranty, unless that date is agreed upon by the County and the Contractor in advance and in a signed writing.

**12. INSPECTION, ACCEPTANCE, TITLE, AND RISK OF LOSS**

Inspection and acceptance of goods or materials by the County will be at the delivery location in Arlington County, Virginia, and within ten (10) calendar days of delivery, unless otherwise provided for in the Contract. The County will not inspect, accept, or pay for any goods or materials stored or delivered off-site by the Contractor.

Title and risk of loss or damage to all goods shall be the responsibility of the Contractor until acceptance by the County. The County's right of inspection shall not be deemed to relieve the Contractor of its obligation to ensure that all articles, materials and supplies are consistent with specifications and instructions and are fit for their intended use. The County reserves the right to conduct any tests or inspections it may deem appropriate before acceptance.

No goods or materials shall be purchased by the Contractor or any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that it has good title to, and that it will require all subcontractors to warrant that they have good title to, all goods or materials for which the Contractor invoices for payment.

**13. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**

During the performance of this Contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by federal or Virginia law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary or related to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that the Contractor is an Equal Opportunity Employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment, and mandates their full participation in both publicly and privately-provided services and activities.
- e. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over \$10,000.00, so that these provisions will apply to each subcontractor or vendor.

**14. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

In accordance with § 2.2-4311.1 of the Code of Virginia, 1950, as amended, the Contractor acknowledges that it does not, and shall not during the performance of this Contract, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

**15. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR**

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of marijuana or any other controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000.00 relating to this Contract, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor by Arlington County, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

**16. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE**

The Contract shall remain in force for the Initial Contract Term or any Subsequent Contract Term(s) and until the County determines that all the following requirements and conditions have been satisfactorily met: the County has accepted the Work, and thereafter until the Contractor has met all requirements and conditions relating to the Work under the Contract Documents, including warranty and guarantee periods. However, the County shall have the right to terminate this Contract sooner if the Contractor is in breach or default or has failed to perform satisfactorily the Work required, as determined by the County in its discretion.

If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) within at least fifteen (15) days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period, or as otherwise specified in the notice, the Contract may be terminated for the Contractor's failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor, allocable to the Contract and accepted by the County prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to the County Project Officer within fifteen (15) days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination shall be immediate after notice from the County to the Contractor (unless the County in its discretion provides for an opportunity to cure) and the Contractor shall not be permitted to seek Termination Costs.

Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of termination, including costs required to be expended by the County to complete the Work covered by the Contract, including costs of delay in completing the Project or the cost of repairing or correcting any unsatisfactory or non-compliant work performed or provided by the Contractor or its subcontractors. Such costs shall be either deducted from any amount due the Contractor or shall be promptly paid by the Contractor to the County upon demand by the County. Additionally, and notwithstanding any provision in this Contract to the contrary, the Contractor is liable to the County, and the County shall be entitled to recover, all damages to which the County is entitled by this Contract or by law, including and without limitation, direct damages, indirect damages, consequential damages, delay damages, replacement costs, refund of all sums paid by the County to the Contractor under the Contract and all attorney fees and costs incurred by the County to enforce any provision of this Contract.

Except as otherwise directed by the County in the notice, the Contractor shall stop work on the date of receipt of notice of the termination or other date specified in the notice, place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated, and terminate all vendors and subcontracts and settle all outstanding liabilities and claims. Any purchases after the date of termination contained in the notice shall be the sole responsibility of the Contractor.

In the event any termination for cause, default, or breach shall be found to be improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

#### **17. TERMINATION FOR THE CONVENIENCE OF THE COUNTY**

The performance of Work under this Contract may be terminated by the County Purchasing Agent, in whole or in part, whenever the Purchasing Agent shall determine that such termination is in the County's best interest. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance of the work under this Contract is terminated and the date upon which such termination becomes effective. The Contractor will be entitled to receive compensation for all Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination and any other reasonable termination costs as negotiated by the parties, but no amount shall be allowed for anticipatory profits.

After receipt of a notice of termination and except as otherwise directed, the Contractor shall stop all designated work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as are necessary for the completion of such portion of the work not terminated; immediately transfer all documentation and paperwork for terminated work to the County; and terminate all vendors and subcontracts and settle all outstanding liabilities and claims.

#### **18. INDEMNIFICATION**

The Contractor covenants for itself, its employees, and subcontractors to save, defend, hold harmless and indemnify the County, and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards, and commissions (collectively the "County" for purposes of this section) from and against any and all claims made by third parties or by the County for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees),

charges, liability, demands or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the work called for by the Contract Documents. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after notice by the County, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse the County for any and all expenses, including, but not limited to, reasonable attorneys fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by the County and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

**19. CONFIDENTIAL INFORMATION**

The Contractor, and its employees, agents, and subcontractors, hereby agree to hold as confidential all County information obtained as a result of its Work under this Contract. Confidential information includes, but is not limited to, nonpublic personal information, personally identifiable health information, social security numbers, addresses, dates of birth, other contact information or medical information about a person, information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans, expertise and any information entrusted to any affiliate of the parties. The Contractor shall take reasonable measures to ensure that all of its employees, agents, and subcontractors are informed of, and abide by, this requirement.

**20. ETHICS IN PUBLIC CONTRACTING**

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as any Virginia or federal law related to ethics, conflicts of interest, or bribery, including, by way of illustration and not limitation, the Virginia State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its offer was made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

**21. COUNTY EMPLOYEES**

No employee of the County shall be admitted to any share in any part of this Contract or to any benefit that may arise therefrom which is not available to the general public.

**22. FORCE MAJEURE**

The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond the control of the Contractor and outside the scope of the Contractor's then-current, by industry standards, disaster plan that make performance impossible or illegal, unless otherwise specified in the Contract.

The County shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond the control of the County that make performance impossible or illegal, unless otherwise specified in the Contract.



**23. AUTHORITY TO TRANSACT BUSINESS**

The Contractor shall, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Initial Term and any Subsequent Contract Term(s) of this Contract. A contract entered into by a Contractor in violation of this requirement is voidable, without cost or expense, at the sole option of the County.

**24. RELATION TO THE COUNTY**

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered employees, servants or agents of the County. The County will not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents. The County will not withhold from payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor or its employees, servants or agents. Furthermore, the County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the County for its employees.

**25. ANTITRUST**

By entering into this Contract, the Contractor conveys, sells, assigns and transfers to the County all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods purchased or acquired by the County under this Contract.

**26. AUDIT**

The Contractor must retain all books, records and other documents related to this Contract for at least five years after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

**27. ASSIGNMENT**

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this Contract, without the prior written consent of the County.

**28. AMENDMENTS**

Unless otherwise specified herein, this Contract shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and the County.

**29. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**

Notwithstanding any provision to the contrary herein, no provision of the Arlington County Purchasing Resolution or any applicable County policy is waived in whole or in part.

**30. DISPUTE RESOLUTION**

All disputes arising under this Agreement, or its interpretation, whether involving law or fact, extra work or extra compensation or time, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer for decision at the time of the occurrence or beginning of the work upon which the claim is based, whichever occurs first. Any such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than sixty (60) days after final payment. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Arlington County Purchasing Resolution, is fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Purchasing Resolution, which is incorporated herein by reference. A copy of the Arlington County Purchasing Resolution is available upon request from the Office of the Purchasing Agent. The Contractor shall not cause a delay in the Work pending a decision of the Project Officer, County Manager, County Board, or a court.

**31. APPLICABLE LAW, FORUM, VENUE, AND JURISDICTION**

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction, forum, and venue for any litigation with respect hereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court. In performing its work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

**32. ARBITRATION**

It is expressly agreed that nothing under the Contract shall be subject to arbitration, and that any references to arbitration are expressly deleted from the Contract.

**33. NONEXCLUSIVITY OF REMEDIES**

All remedies available to the County under this Contract are cumulative, and no such remedy shall be exclusive of any other remedy available to the County at law or in equity.

**34. NO WAIVER**

The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.

**35. SEVERABILITY**

The sections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Contract shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Contract.

**36. NO WAIVER OF SOVEREIGN IMMUNITY**

Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by the County pursuant to this Contract shall constitute or be construed as a waiver of either the sovereign or governmental immunity of the County. The parties intend for this provision to be read as broadly as possible.

**37. SURVIVAL OF TERMS**

In addition to the numbered section in this Agreement which specifically state that the term or paragraph survives the expiration of termination of this Contract, the following sections if included in this Contract also survive: INDEMNIFICATION; RELATION TO COUNTY; AUDIT; WARRANTY; AND CONFIDENTIAL INFORMATION.

**38. HEADINGS**

The section headings in this Contract are inserted only for convenience and are not to be construed as part of this Contract or a limitation on the scope of the particular section to which the heading precedes.

**39. AMBIGUITIES**

Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

**40. NOTICES**

Unless otherwise provided herein, all notices and other communications required by this Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

**TO THE CONTRACTOR:**

OTC Direct, Inc. D/B/A Oriental Trading Company  
4206 South 108<sup>th</sup> Street  
Omaha, NE 68137

**TO THE COUNTY:**

Megan Carney, Project Officer  
Arlington County Department of Parks and Recreation  
3700 South Four Mile Run  
Arlington, Virginia 22206

**AND**

Michael E. Bevis, Purchasing Agent  
Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 500  
Arlington, Virginia 2220

**41. NON-DISCRIMINATION NOTICE**

Arlington County does not discriminate against faith-based organizations.

**42. INSURANCE REQUIREMENTS**

The Contractor shall provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force the coverage below prior to the start of any Work under this Contract and upon any contract extension. The Contractor agrees to maintain such insurance until the completion of this Contract or as otherwise stated in the Contract Documents. All required insurance coverages must

be acquired from insurers authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides, and acceptable to the County. The minimum insurance coverage shall be:

- a. Workers Compensation - Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability with limits of \$100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 combined single limit coverage with \$2,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this Contract. Evidence of Contractual Liability coverage shall be typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 Combined Single Limit (Owned, non-owned and hired).
- d. The Contractor shall carry Errors and Omissions or Professional Liability Insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render services or perform Work under the contract, in the amount of \$1,000,000.
- e. Additional Insured - Arlington County, and its officers, elected and appointed officials, employees, and agents shall be named as an additional insureds on all policies except Workers Compensation and Auto and Professional Liability; and evidence of the Additional Insured endorsement shall be typed on the certificate.
- f. Cancellation - If there is a material change or reduction in coverage the Contractor shall notify the Purchasing Agent immediately upon Contractor's notification from the insurer. It is the Contractor's responsibility to notify the County upon receipt of a notice indicating that the policy will not be renewed or will be materially changed. Any policy on which the Contractor has received notification from an insurer that the policy has or will be cancelled or materially changed or reduced must be replaced with another policy consistent with the terms of this Contract, and the County notified of the replacement, in such a manner that there is no lapse in coverage. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- g. Any insurance coverage that is placed as a "claims made" policy must remain valid and in force, or the Contractor must obtain an extended reporting endorsement consistent with the terms of this Contract, until the applicable statute of limitations has expired, such date as determined to begin running from the date of the Contractor's receipt of final payment.
- h. Contract Identification - The insurance certificate shall state this Contract's number and title.

The Contractor must disclose the amount of any deductible or self insurance component applicable to the General Liability, Automobile Liability, Professional Liability, Intellectual Property or any other policies required herein, if any. The County reserves the right to request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible. Thereafter, at its option, the County may require a lower deductible, funds equal to the deductible be

placed in escrow, a certificate of self-insurance, collateral, or other mechanism in the amount of the deductible to ensure protection for the County.

The Contractor shall require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability Insurance, and Workers' Compensation insurance in the same form and manner as specified for the Contractor. The Contractor shall furnish subcontractors' certificates of insurance to the County immediately upon request by the County.

No acceptance or approval of any insurance by the County shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the Work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self insurance for all or any part of the insurance required, provided that the Contractor can demonstrate financial capacity and the alternative coverages are submitted to and acceptable to the County. The Contractor must also provide its most recent actuarial report and provide a copy of its self insurance resolution to determine the adequacy of the insurance funding.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON  
COUNTY, VIRGINIA

OTC DIRECT, INC. D/B/A ORIENTAL TRADING  
COMPANY

AUTHORIZED  
SIGNATURE:



NAME: MICHAEL E. BEVIS

TITLE: PURCHASING AGENT

DATE: 4/20/2017

AUTHORIZED  
SIGNATURE: x



NAME: Cydney Ledesma

TITLE: Bld Supervisor

DATE: 4/13/17



**Arlington Public Schools**

Purchasing Office  
1426 N. Quincy St., Arlington, VA 22207 • Phone: (703) 228-2411 • Fax: (703) 841-0681  
www.apsva.us

January 24, 2017

**OTC Direct, Inc. dba  
ORIENTAL TRADING COMPANY**  
Attn: Cydney Ledesma, Bid Supervisor  
4206 S. 108th Street  
Omaha, NE 68137-1215  
Sent via email to: [orders@oriental.com](mailto:orders@oriental.com)

Subject: ACCEPTANCE AND AWARD AGREEMENT – INVITATION TO BID NUMBER #15FY17  
INSTRUCTIONAL AIDS, TOYS & GAMES

Reference: CONTRACT NUMBER #15-31 FY17, INSTRUCTIONAL AIDS, TOYS & GAMES

Dear Cydney Ledesma:

Your bid opened November 2, 2016 is hereby accepted for:

- 1) 5.0% discount off listed prices published in the Main Oriental Trading catalog, and
- 2) 5.0% discount off listed prices published in the Education Oriental Trading catalog, and
- 3) 5.0% discount off listed prices published in the Seasonal Oriental Trading catalog, and
- 4) 5.0% discount off listed prices published in the Hands On Fun Oriental Trading catalog, and
- 5) 5.0% discount off listed prices published in the Crafts Oriental Trading catalog.

A contract is awarded to **ORIENTAL TRADING COMPANY** for the goods referenced above. Please arrange to have an officer or authorized agent of your company sign the Acknowledgement and return to this office within five (5) days.

Orders are to be provided in accordance with the following contract documents:

- 1) Agreement Between Arlington Public School (APS) and Contractor
- 2) Pricing Schedule
- 3) Scope of Services
- 4) Bid Documents and Addenda, included by reference
- 5) General Terms and Conditions
- 6) Modifications issued after Execution of this Agreement

A completed Certificate of Insurance (as outlined in Section 65 of the ITB) was not submitted with your bid. Please include a copy of this required document when the Acknowledgement is returned.

This is not an order. A Purchase Order will follow.

Sincerely,

David Webb, C.P.M.  
Director/Purchasing  
Enclosures

ARLINGTON PUBLIC SCHOOLS  
PURCHASING OFFICE

JANUARY 24, 2017

OFFER OF CONTRACT FOR BID NUMBER #15FY17 - INSTRUCTIONAL AIDS, TOYS & GAMES

CONTRACTOR:

OTC Direct, Inc. dba  
ORIENTAL TRADING COMPANY  
Attn: Cydney Ledesma, Bid Supervisor  
4206 S. 108th Street  
Omaha, NE 68137-1215

CONTRACT:

#15-31FY17

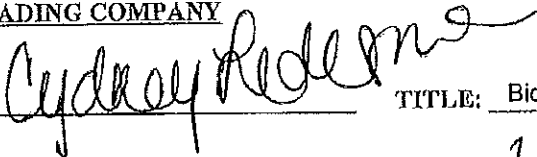
We acknowledge Contract reference #15-31FY17 dated January 24, 2017, for INSTRUCTIONAL AIDS, TOYS & GAMES, as follows:

- 1) 5.0% discount off listed prices published in the Main Oriental Trading catalog, and
- 2) 5.0% discount off listed prices published in the Education Oriental Trading catalog, and
- 3) 5.0% discount off listed prices published in the Seasonal Oriental Trading catalog, and
- 4) 5.0% discount off listed prices published in the Hands On Fun Oriental Trading catalog, and
- 5) 5.0% discount off listed prices published in the Crafts Oriental Trading catalog.
- 6) Custom imprint (advertising specialty products) sold by Fun Impressions group are not eligible for discount.
- 7) Discount does not apply to shipping and handling charges.
- 8) Free standard delivery on orders over \$150.00.
- 9) For orders \$150, or less, the following shipping and handling charges apply:
  - Up to \$25.00 \$ 6.99
  - \$25.01 - \$50.00 \$ 9.99
  - \$50.01 - \$75.00 \$12.99
  - \$75.01- \$100.00 \$13.99
  - \$100.01 - \$125.00 \$14.99
  - \$125.01- \$150.00 \$17.99
- 10) Free delivery does not apply to items in the catalogs identified with the symbol of a truck. There is no discount for express delivery charges.
- 11) Catalogs are issued throughout the year and prices are subject to change with the release of new catalogs each year; percentage discount will remain the same.
- 12) The Customer Number, 1114030, should be included on every Purchase Order

ACKNOWLEDGMENT:

ORIENTAL TRADING COMPANY

SIGNATURE: X



TITLE: Bid Supervisor

PRINTED NAME:

Cydney Ledesma

DATE:

1/26/17

## SCOPE OF SERVICES

### 1. SPECIFICATIONS:

- 1.1. 5.0% discount off listed prices published in the Main Oriental Trading catalog.
- 1.2. 5.0% discount off listed prices published in the Education Oriental Trading catalog.
- 1.3. 5.0% discount off listed prices published in the Seasonal Oriental Trading catalog.
- 1.4. 5.0% discount off listed prices published in the Hands On Fun Oriental Trading catalog.
- 1.5. 5.0% discount off listed prices published in the Crafts Oriental Trading catalog.
- 1.6. Custom imprint (advertising specialty products) sold by Fun Impressions group are not eligible for discount.
- 1.7. Discount does not apply to shipping and handling charges.
- 1.8. Free standard delivery on orders over \$150.00.
- 1.9. For orders \$150, or less, the following shipping and handling charges apply:
  - Up to \$25.00 \$ 6.99
  - \$25.01 - \$50.00 \$ 9.99
  - \$50.01 - \$75.00 \$12.99
  - \$75.01- \$100.00 \$13.99
  - \$100.01 - \$125.00 \$14.99
  - \$125.01- \$150.00 \$17.99
- 1.10 Free delivery does not apply to items in the catalogs identified with the symbol of a truck. There is no discount for express delivery charges.
- 1.11 Catalogs are issued throughout the year and prices are subject to change with the release of new catalogs each year; percentage discount will remain the same.
- 1.12 The Customer Number, **1114030**, should be included on every Purchase Order

### 2. PERIOD OF CONTRACT AND RENEWALS:

- 2.1. The period of this contract shall be from DATE OF AWARD through November 30, 2021.
- 2.2. This contract may be renewed at the expiration of its term by agreement of both parties. Such renewal may be for one (1) additional five-year period at the same terms and conditions upon mutual agreement of the Contractor and APS.
- 2.3. APS, at its discretion, may extend the initial contract term or contract renewal term of the resultant Contract for a period of not more than six months, unless specifically stated otherwise in the solicitation.
- 2.4. Notice of intent to renew will be given to the Contractor in writing by the APS Purchasing Office, normally 60 days before the expiration date of the current contract. (This notice shall not be deemed to commit APS to a contract renewal



3. DELIVERY:

3.1. The date and place of delivery of items under this contract shall be agreed upon between the authorized representative placing the order and the Contractor at the time the order is placed. Deliveries will be made to various locations in the Arlington Public Schools between the hours of 7:30 AM and 2:30 PM on regular APS business days unless other arrangements have been made.

4. INVOICING:

4.1. The Contractor shall submit a Summary Invoice once each month listing the Sales/ Delivery Ticket numbers covering deliveries made during the monthly billing period. The invoice must be accompanied by one copy of each signed Sales/ Delivery Ticket.

4.2. Invoices will be delivered to the following address:

Accounts Payable  
Arlington Public Schools  
1426 N. Quincy Street  
Arlington, VA 22206

4.3. The invoice shall contain the applicable Purchase Order number, and the name of the agency/ school receiving the supplies.

**ARLINGTON PUBLIC SCHOOLS**

**GENERAL TERMS AND CONDITIONS AND INSTRUCTIONS TO BIDDERS**

Bidder: The general terms and conditions and instructions to bidders which follow apply to all purchases and become a part of all formal solicitations and become a part of all Contract awards and Purchase Order issued by the Arlington Public Schools (APS), unless otherwise specified. Bidders or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting bids, failure to do so will be at the bidder's own risk and will not be a basis for relief.

Subject to all State and local laws, policies, resolutions, regulations and all accepted rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by APS will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation. Where there is a conflict between these General Conditions and Instructions and the Purchasing Resolution, the Purchasing Resolution shall prevail.

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1. **AUTHORITY**

The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying each and every solicitation, Purchase Order or other award issued by the APS. In the discharge of these responsibilities, the Purchasing Agent is assisted by buyers under his supervision. No other Arlington Public Schools officer or employee is authorized to order supplies or services, enter into purchase negotiations or Contract. Any Purchase Order or Contract made which is contrary to these provisions and authorities shall be void and neither the Arlington County School Board (ACSB), nor any of its officers and employees, shall be bound thereby.

2. **INDEPENDENT CONTRACTOR**

The Contractor will be legally considered as an independent Contractor and neither the Contractor nor its employees will, under any circumstances, be considered servants or agents of APS. APS will not be legally responsible for any negligence or other wrongdoing by the Contractor, its servants or agents. APS will not withhold from the Contractor payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Further, APS will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by APS for its employees.

3. **ARLINGTON PUBLIC SCHOOLS EMPLOYEES**

No employee of APS shall be admitted to any share or part of this Contract or to any benefit that may arise from the contract which is not available to the general public.

4. **BID FORMS**

All bids shall be submitted in duplicate, on the Bid Form provided, properly signed in ink in the proper spaces, and submitted in a sealed envelope provided with the solicitation.

5. **EXAMINATION OF BID DOCUMENTS**

- 5.1 Bidders shall thoroughly examine the bid documents. The bidder's failure or omission to examine any document shall not relieve the bidder from any obligations with respect to its bid or to the resultant Contract. The submission of a bid shall be taken as prima facie evidence of compliance with this section.
- 5.2 If a bidder knows, or should have known, that an ambiguity, discrepancy, error, omission or conflicting statement exists in the bid documents, the bidder has an obligation to seek clarification, interpretation or instructions from the Purchasing Agent prior to submitting a bid. Any and all such requests for clarifications, interpretations or supplemental instructions will be in the form of written addendum, if issued, will be sent to prospective bidders prior to the date fixed for the opening of bids. APS will not be responsible for any clarifications, interpretations or instructions except those made by written addendum. Should the bidder fail to seek such a clarification prior to submission of a bid, the bidder thereby waives, and agrees to indemnify and hold APS harmless from any claim, suit or cause of action arising out of or related to such ambiguity, discrepancy, error, omission or conflicting statement which the bidder knew or should have known existed at the time the bid was submitted.
- 5.3 Failure of a bidder to receive any addendum shall not relieve the bidder from the requirements of the bid, including all addenda issued. All addenda so issued shall become part of the bid documents. Each bidder shall be responsible for determining prior to submitting a bid that all addenda issued have been received and shall acknowledge receipt and inclusion of all addenda in the bid.

6. **SPECIFICATIONS**

- 6.1 If goods/services bid are in substantial compliance with the bid requirements, APS, in its sole discretion, may waive informalities and award a Contract if the informality (see paragraph 17., Informalities) will not affect the price, quality, quantity or delivery schedule of the goods, services or construction being procured.
- 6.2 The bidder shall indicate on their bid form any exceptions from the bid specifications and terms and conditions. If exceptions are not stated, it will be assumed that the goods and/or services fully comply with the bid specifications and terms and conditions and the bidder will be required to deliver the product or service meeting the bid specifications under the terms and conditions specified.
- 6.3 All materials used for the manufacture or construction of any supplies, materials or equipment covered by this bid shall be new (unused), unless otherwise specified. The items bid shall be the latest model, of the best quality, and highest grade workmanship.
- 6.4 Any ancillary items or parts of any equipment listed in the solicitation which are not fully described in the specification and which are necessary for the completion and use of the items or equipment and its appurtenances shall be considered a part of such equipment although not directly specified in the solicitation.

7. **SUBSTITUTION OF MATERIALS OR SERVICES**

- 7.1 In the specifications, where any item of equipment or material is specified by proprietary name, trade name, and/or name of one or more manufacturers, with the addition of such expressions as "no substitutes," it is to be understood that those items are so specified for reasons of standardization in maintenance and operation, or for reasons of obtaining desirable features best suited to the requirements of APS and no other brand shall be considered.

- 7.2 When a brand name is stated, unless identified as a “no substitute” item in the solicitation, the name of a certain brand, make or manufacturer does not restrict bidders to that specific brand, make or manufacturer. The use of the brand, make or manufacturer’s identification is intended to convey the general type, style, character and quality of the item described. Any article which APS in its sole discretion determines to be the equivalent of the item specified, considering quality, workmanship, economy of operation and suitability for the intended use, may be accepted and considered for award.
- 7.3 If bidding a brand other than that specified, it is the bidders responsibility to substantiate that the goods and/or services meet the specifications. To ensure that sufficient information is available, the bidder shall furnish (and should submit as part of his bid) descriptive material (e.g., catalog cuts, drawings, specifications, etc.) necessary to substantiate that the products or services offered meet the requirements of the solicitation.

## **8. PREPARATION, SUBMISSION AND RECEIPT OF BIDS**

- 8.1 Bids must be submitted to the address stated in the solicitation. Bids shall be submitted in the prescribed format and on the forms furnished, if any, or copies thereof, and shall be signed in ink. Original signatures are required on bids. Bids shall be enclosed in an envelope, and shall be sealed and clearly labeled with the bid number and project name so as to indicate the work covered by the solicitation so as to guard against opening prior to the time set for the opening. Bidders shall designate on the exterior of the outermost envelope the bid number and date and time of opening of the bid. Erasures or other changes must be explained and initialed by the bidder. Bids containing any conditions, omissions, failure to bid all items, unexplained erasures or alterations or items not called for in the bid, or irregularities of any kind, may be rejected by APS as being non-responsive.
- 8.2 Each bid must give the full legal name and business address of the bidder. Bids must be signed by a person authorized to bind the bidder in Contractual matters. The name and title of the person signing the bid shall also be typed or printed as indicated on the bid form.
- 8.2.1 The Bidder shall provide, in the space provided or directed in the solicitation, (i) its social security number if an individual, or (ii) its federal employer identification number if a proprietorship, partnership or corporation.
- 8.3 Bids must be received prior to the date and time of opening specified in the solicitation. Late bids will not be considered.
- 8.4 No APS official or employee shall be responsible for a bid opened that is not properly identified on the envelope, or for any bid not submitted, as specified in the solicitation. Bids for separate solicitations shall not be combined on the same form or submitted in the same envelope. Any such bids may be rejected as non-responsive.
- 8.5 Each Bid Form shall include specific acknowledgment of receipt of all addenda issued during the bidding process. Failure to acknowledge addenda may result in the bid being rejected as non-responsive.
- 8.6 APS accepts no responsibility for any expense incurred by any bidder in the preparation and submission of a bid.

## **9. ALTERNATE BIDS**

Bidders who have other items they wish to offer in lieu of or in addition to what is required by this solicitation shall submit a separate bid clearly marked “ALTERNATE BID”. Alternate bids will be deemed non-responsive and will not

be considered for award. Such bids will, however, be examined prior to awarding the Contract contemplated herein and may result in either cancellation of all bids in order to permit rewriting of the solicitation to include the alternate items in a re-bid or the alternate items may be considered for future requirements.

10. **EXCEPTIONS**

Bidders taking exception to any part or section or term of this solicitation, including, by way of illustration and not limitation, the Contract, the specifications, Special conditions, General Terms and Conditions and Instructions to Bidders and any other attachments or references hereto or thereto, shall indicate such exceptions on the Bid Form. Failure to indicate any exceptions, shall be interpreted as the bidder's intent to fully comply with solicitation as written. However, conditional or qualified bids with such exceptions, unless specifically allowed in this solicitation, are subject to rejection in whole or in part as non-responsive.

11. **SUBMISSION OF PROPRIETARY INFORMATION**

Trade secrets or proprietary information submitted by a Bidder in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Bidder must invoke these protections prior to or upon submission of the data or the materials, and must identify the data or other materials to be protected and state the reason why protection is necessary. [Virginia Code Section 2.2-4342(F)]. **Bidders shall submit, in a separate section of the bid, any information considered by the Bidder to be trade secrets or proprietary information, shall clearly identify the information as trade secrets or proprietary information and shall state the reason why protection is necessary. Bidders may not declare the entire bid proprietary nor may they declare pricing to be proprietary.** References may be made within the body of the bid to proprietary information; however all information contained within the body of the bid not in the separate section labeled proprietary shall be public information.

12. **SIGNED BID CONSIDERED AN OFFER**

12.1 A signed bid shall be considered an offer on the part of the bidder and shall be deemed accepted upon award by APS, unless withdrawn under the provisions herein. Should any bidder receiving an award default or fail to deliver the products or services ordered by the time specified, APS may terminate the Purchase Order and/or Contract, and after oral or written notice to the bidder, may procure the products and/or services from other sources and hold the defaulting bidder liable for any resulting additional cost.

12.2 Unless otherwise specified by APS, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties. No limitation made by the bidder on the binding nature of the bid shall have any effect.

13. **LATE BIDS**

13.1 A late bid is any bid received at the office designated in the solicitation after the exact time specified for receipt of the bid. Late bids will not be considered for award except if it is received before award is made and either:

13.2 It was sent by registered or certified mail not later than the fifth (5<sup>th</sup>) calendar day prior to the date specified for receipt of the bid or:

13.3 The bid was sent by mail and the Purchasing Agent determines that the late receipt was due solely to mishandling

by the Arlington Public Schools after receipt at the address and the office specified in the solicitation.

13.4 The time a bid is received shall be determined by the date and time stamped by the date and time clock in the Purchasing Office. Bidders are responsible for ensuring that Purchasing Office personnel date and time stamp their bids by the deadline indicated. In the event the time clock is not functioning, the time shall be determined by the time displayed on the landline telephone near the time clock. The time on the telephone will be written on the bid by hand by the Purchasing Office staff.

13.5 A late hand-carried bid, or any other late bid not submitted by mail or courier, shall not be considered for award.

**14. WITHDRAWAL OF BID**

No bid may be withdrawn after it is filed unless the bidder makes a request in writing to APS prior to the time set for the opening of bids or unless APS fails to award or issue a notice of intent to award within ninety (90) days after date fixed for the opening.

**15. WITHDRAWAL OF BID DUE TO ERROR (Other Than Construction)**

15.1 Upon proper request and identification, bids may be withdrawn at any time prior to the date and time set for the bid opening. After the bid opening, if the Purchasing Agent denies the withdrawal of a bid, the bidder shall be notified in writing stating the reasons for the decision. Award of the Contract shall be made to the bidder at the bid price, provided the bidder is a responsible and responsive bidder.

15.2 Bidders may request withdrawal of their bid from consideration if the price bid was substantially lower than the other bids due solely to a clerical or arithmetical mistake therein. The bidder shall give written notice to the Director of Purchasing of a claim to withdraw the bid prior to the award of the Contract or issuance of the Purchase Order. The cause and nature of the mistake shall be stated in the claim to withdraw.

15.3 If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

15.4 No bid may be withdrawn under this section when the result would be the awarding of the Contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any sub-Contract or other work agreement for the person or firm to whom the Contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

**16. REJECTION AND AWARD OF BIDS**

16.1 APS reserves the right to accept or reject any or all bids or parts of bids, to waive informalities and re-bid any requirement. Bids having exceptions to the specifications and/or terms and conditions included in the solicitation may be considered, but preference may be given to bids with no exceptions taken.

16.2 Modifications of or additions to any portion of a quote or bid, which affects quality, quantity, price or delivery, shall be cause to reject the bid as non-responsive. Modifications which do not affect quality, quantity, price or delivery will be dealt with, by APS, on a case by case basis and APS, in its sole discretion, may reject such bids as

non-responsive, waive the modifications as informality or require the bidder to withdraw the non-responsive language as a condition of being a responsive bidder.

- 16.3 APS reserves the right to award the Contract for any or all items bid on a lump sum basis, individual item basis or such combination as shall best serve its interests, including award to multiple Contractors, unless otherwise specified by APS. Where a unit price and the extension price are at variance, the unit price will prevail.
- 16.4 A notice of Contract award for this solicitation shall be posted on a bulletin board the public bulletin board on the 1st Floor, Education Center, 1426 N. Quincy Street, Arlington, VA 22207 for a period of at least 10 calendar days.
- 16.5 If a bid from the lowest responsive and responsible bidder exceeds available funds, APS may negotiate with that bidder to obtain a Contract within available funds. Such negotiation may include but is not necessarily limited to adjustment of the bid price and changes in the bid scope or requirements in order to bring the bid within the amount of available funds. The apparent lowest responsive and responsible bidder shall be notified in writing that the bid exceeds available funds and APS wishes to negotiate. If APS and the Bidder are unable to successfully negotiate the scope of work and/or bid price so the price is within available funds, all bids shall be rejected. APS reserves the right to increase or decrease quantities at the quoted unit price.

## 17. INFORMALITIES

APS has the right to waive minor defects or variances from the exact requirements of the solicitation in bid insofar as those defects or variances do not affect the price, quality, quantity or delivery schedule of the goods or services being procured. If insufficient information is submitted for APS to properly evaluate the bid, APS has the right to require such additional information as it may deem necessary after the bid opening time and date, provided that the information requested does not change the price, quality, quantity or delivery schedule for the goods or services being procured.

## 18. QUALIFICATION OF BIDDERS

Each bidder may be required, before the award of a Contract, to show to the complete satisfaction of the Purchasing Agent that it has the necessary facilities, ability and financial resources to furnish the goods or services specified herein in a satisfactory manner. Each bidder may also be required to show past history and references which will enable the Purchasing Agent to be satisfied as to the bidder's qualifications. Failure to qualify according to the foregoing requirements will justify bid rejection by APS.

## 19. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS

A written award (Acceptance Agreement or two party Contract) mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the solicitation shall be deemed to result in a binding Contract. The following documents which are included in the solicitation shall be incorporated by reference in the resulting Contract and become a part of the Contract:

- 19.1 Bidder's Bid Form
- 19.2 Pricing Schedule
- 19.3 APS Acceptance Agreement/Acceptance Agreement;
- 19.4 General Terms and Conditions & Instructions to Bidders
- 19.5 Any Special Conditions if applicable
- 19.6 Any addenda

**20. SAMPLES**

Evidence in the form of samples may be requested if the brand bid is other than that specified. When requested, samples must be furnished free of cost to APS, within seven (7) days of written request, and will, if not used or destroyed in testing and upon request, be returned at the bidder's expense within thirty (30) days of bid award.

**21. CONTRACTOR REGISTRATION/ ARLINGTON COUNTY LICENSE**

21.1 If required in order to perform the work in this solicitation, the bidder certifies they have the appropriate license or certificate and classification(s) required to perform the work included in the scope of the bid documents, prior to submitting the bid, in accordance with Title 54.1, Chapter 11 of the Code of Virginia and in accordance with the laws, rules and regulations of the Commonwealth of Virginia, Department for Professional and Occupational Regulation, Virginia Board for Contractors in granting the License or Certificate and classifications.

21.2 The successful bidder must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that chapter and its applicability to this solicitation, contact the Arlington County Business License Division, Office of the Commissioner of Revenue, 2100 Clarendon Boulevard, Suite 200, Arlington, Virginia 22207, (703) 228-3060.

**22. AUTHORITY TO TRANSACT BUSINESS**

Any bidder organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership must be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Virginia Code, or as otherwise required by law. The proper legal name of the firm or entity and the identification number issued to the bidder by the State Corporation Commission must be written in the space provided on the proposal submission form. APS may require a firm to provide documentation prior to award which: 1) clearly identifies the complete name and legal form of the firm or entity (i.e. corporation, limited partnership, etc.), and 2) establishes that the firm or entity is authorized by the State Corporation Commission to transact business in the Commonwealth of Virginia. Failure of a prospective and/or successful bidder or offeror to provide such documentation shall be grounds for rejection of their bid or proposal or cancellation of the award, if an award has been made. For further information refer to the Commonwealth of Virginia State Corporation Commission website at: [www.scc.virginia.gov](http://www.scc.virginia.gov).

**23. LICENSES, PERMITS AND FEES**

23.1 The Contractor shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the work which are legally required prior to and during the work, unless otherwise specified by APS in the solicitation.

23.2 Included in the permits required in the paragraph immediately above, the Contractor shall apply for and be issued a local permit for any land disturbing activity, and shall provide a "responsible land disturber" for the project, as required by Arlington County ordinance.

**24. DELIVERY**

24.1 Time is of the essence for any orders placed as a result of this solicitation. APS reserves the right to cancel such orders, or any part thereof, without obligation if delivery is not made at the time(s) specified in the awarded



Contract. All items shall be delivered F.O.B. destination and delivery included in the bid price. Failure to do so may be cause for termination of the Contract. The bidder shall assume all liability and responsibility for the delivery of merchandise in good condition to the specified delivery location(s).

- 24.2 In the case of failure by the Contractor to deliver goods or services in accordance with the Contract, APS, after oral or written notice, may procure the same or similar goods or services from other sources and the Contractor shall be liable for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which APS may have pursuant to this Contract under law. APS shall be entitled to offset such costs against any sums owed by APS to the Contractor.

**25. ACCEPTANCE OF MATERIAL**

The goods/services delivered under this solicitation shall remain the property of the Contractor until a physical inspection or actual usage of the goods/services is made and thereafter accepted to the satisfaction of APS. The goods/services must comply with the specifications and terms and conditions of the solicitation and be of the highest quality. In the event the goods/services supplied to APS are found to be defective or not to conform to specifications, APS reserves the right to cancel the order upon written notice to the Contractor and return products to Contractor at the Contractor's expense.

**26. APS PURCHASE ORDER REQUIREMENT**

Purchases by APS are authorized only if an APS Purchase Order is issued in advance of the transaction, indicating that the ordering agency has sufficient funds available to pay for the purchase. Contractors providing goods or services without a signed APS Purchase Order, do so at their own risk. APS will not be liable for payment of any purchases made by its employees without appropriate purchase authorization issued by APS Purchasing Agent.

**27. CHANGES TO PURCHASE ORDERS**

Any changes to an existing Purchase Order must be approved in advance through issuance of a written change order by the Purchasing Office. APS will not assume responsibility for the cost of any changes made without issuance of a written change order.

**28. CHANGES AND AMENDMENTS TO CONTRACTS**

- 28.1 APS may, at any time, by written notice, require changes in the services to be performed by the Contractor. If such changes cause an increase or decrease in the Contractor's cost of, time required for, performance of any services under this Contract, an equitable adjustment shall be made and the Contract shall be modified in writing accordingly. The APS Purchasing Office must approve all work that is beyond the original scope of work.
- 28.2 No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the APS Purchasing Director/Purchasing Agent.
- 28.3 This Contract shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and APS.

29. **PAYMENT TERMS**

Payments will be made within 30 days after receipt of an approved invoice by APS. Discounts for prompt payment **will not** be considered in the evaluation of bids. However, any offered discount will become part of the award and will be taken if payment is made within the discount period offered in the bid. In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of earning the discount, payment shall be considered to have been made on the date that appears on the payment check or the date on which an electronic funds transfer for the payment was made.

30. **INVOICES**

Invoices unless otherwise specified on the Contract or Purchase Order, will be submitted for each Purchase Order immediately upon completion of the shipment or services. If shipment is made by freight or express, the original Bill of Lading properly receipted, must be attached to the invoice. Mail invoices, as applicable:

Arlington Public Schools  
Office of Accounting  
1426 N. Quincy St.  
Arlington, VA 22207

31. **TAXES**

APS is exempt from the payment of any federal excise or any Virginia State Tax. The price bid must be net, exclusive of taxes. However, when under established trade practice, any federal excise tax is included in the list price; the bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by APS. The APS Federal Tax Exemption Number is 54600128. Contractors located outside the Commonwealth of Virginia are advised that, when the bid calls for materials to be picked up by the APS at their place of business, they may charge and collect their own local/state sales tax.

32. **COPYRIGHTS OR PATENT RIGHTS**

By submitting a bid, the Bidder certifies that there has been no violation of copyrights or patent rights in manufacturing, producing, or selling the commodities or services to be ordered as a result of the solicitation. The successful bidder shall, at his own expense, defend any and all actions or suits charging such infringement, will indemnify APS and will save APS, its officers, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

33. **APPROPRIATION OF FUNDS**

All funds for payments by APS under this Contract are subject to the availability of an annual appropriation for this purpose by the ACSB. In the event of non-appropriation of funds by the ACSB for the goods or services provided under the Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, APS will terminate the Contract, without termination charge or other liability to APS, on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the APS shall not be obligated under this Contract beyond the date of termination.

**34. TERMINATION FOR CONVENIENCE**

Unless otherwise stated, any resultant Contract may be terminated by APS, in whole or in part, whenever APS determines that such a termination is in its best interests. Any such termination shall become effective on the date stated in a written notice of termination mailed to the Contractor at least five days prior to the stated termination date. The notice of termination shall state the extent to which performance shall be terminated. The Contractor shall be paid for all goods delivered or services successfully completed prior to the termination date. If funds are not appropriated for this Contract for any APS fiscal year, the Contract shall terminate automatically, without prior notice, after the last day for which funds were appropriated (see paragraph 34., Appropriation of Funds). Contract termination pursuant to this section shall not be considered a Contract default, and APS shall not be liable for future payments or for cancellation or termination charges.

**35. TERMINATION FOR CAUSE**

35.1 If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, APS thereupon has the right to declare the Contractor in default in whole or in part. In the event APS elects to declare the Contractor in default, APS will notify the Contractor by written notice describing the nature of the default and providing the Contractor a right to cure such default within ten (10) days after the date of the notice, or within such longer period as APS, in its sole and absolute discretion, may prescribe. In the event the default is not cured within the time period, APS has the right to take necessary actions to correct or complete the work. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the Contract shall, at the option of the APS, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

35.2 Notwithstanding the above, the Contractor shall not be relieved of liability for damages sustained by APS by virtue of any breach of Contract by the Contractor until such time as the exact amount of damages due to APS from the Contractor can be determined.

**36. INTENTIONALLY DELETED**

**37. OWNERSHIP OF DOCUMENTS**

37.1 All finished or unfinished information or materials, documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by or for the Contractor under any resultant Contract shall, at the option of APS, become APS property and shall be delivered to and remain the property of APS upon completion of the work or termination of the Contract. APS shall have the right to use and reproduce the data and reports submitted hereunder, without additional compensation to the Contractor.

37.2 Any art work provided to the Contractor by APS shall be returned to APS upon delivery of the final products and/or services. Any art work, negatives, proofs, etc. produced by the Contractor in order to supply the products or services Contracted for shall become the property of APS and shall be sent to APS upon delivery of the final products and/or services unless otherwise requested by APS. Failure to deliver the art work, negatives, proofs, etc. shall be cause for withholding any payment due.

**38. COMPLIANCE WITH ALL REQUIREMENTS**

The Contractor shall comply with all applicable Federal, State and Local laws, codes and regulations. The Contractor shall give notice and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority having jurisdiction over the performance of the work.

**39. ANTITRUST**

By entering into a Contract, the Contractor conveys, sells, assigns and transfers to APS all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the goods or services purchased or acquired by APS under said Contract.

**40. LEGAL PROCEEDINGS**

The Contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the Circuit Court of Arlington County, Virginia. The Contractor shall comply with applicable federal, state, and local laws and regulations.

**41. ARBITRATION**

It is expressly agreed that nothing under the Contract shall be subject to arbitration, and any references to arbitration are expressly deleted from the Contract Documents.

**42. SEVERABILITY**

The sections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Contract shall be declared invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Contract.

**43. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**

During the performance of this Contract, the Contractor agrees as follows:

43.1 The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

43.2 The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an Equal Opportunity Employer.

43.3 Notices, advertisements and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

43.4 The Contractor will include the provisions of the foregoing paragraphs 43.1, 43.2 and 43.3 in every Sub-Contract

or Purchase Order of over \$10,000, so that the provisions will be binding upon each Sub-Contractor or vendor.

43.5 The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.

**44. CONTRACTUAL DISPUTE**

44.1 Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the dispute is based. Any notice or dispute shall be delivered to the Superintendent, Arlington Public Schools, 1426 N. Quincy Street, Arlington, Virginia 22207 and shall include a description of the factual basis for the dispute and a statement of the amounts claimed or other relief requested. The Superintendent shall render a decision on the claim and shall notify the Contractor within 30 days of receipt of the dispute. The Contractor may appeal the decision of the Superintendent to the Arlington County School Board by providing written notice to the Superintendent, within 15 days of the date of the decision. The Arlington County School Board shall render a decision on the dispute within 60 days of the date of receipt of the appeal notice and such decision shall be final unless the Contractor appeals the decision in accordance with the Virginia Public Procurement Act. Invoices for all services or goods provided by the Contractor shall be delivered to APS no later than 30 days following the conclusion of the work or delivery of the goods, unless other terms are prescribed by Contract.

44.2 A Contractor may not institute legal action as provided in the APS Resolution prior to receipt of APS's decision on the claim.

**45. DRUG AND SMOKING FREE WORKPLACE**

45.1 During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every Sub-Contract or Purchase Order of over \$10,000, so that the provisions will be binding upon each sub-Contractor or vendor.

45.2 For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific Contract awarded to a Contractor in accordance with the APS Purchasing Resolution, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

45.3 Contractor acknowledges that any building or open area wherein or whereon the Contractor is performing the Work under the contract that there shall be no smoking as defined by Va. Code Ann. §15.2-2820, including e-cigarettes or similar apparatus, at any time in performing the work under the contract.

**46. PAYMENTS TO SUBCONTRACTORS**

In accordance with Virginia Code Section 2.2-4354 the Contractor agrees that:

46.1 Should any sub-contractor be employed by the Contractor for the provision of any goods or services under the resultant Contract, the Contractor agrees to the following:

46.1.1 The Contractor shall, within seven days after receipt of any payments from the County pursuant to the resultant Contract, either:

46.1.1.1 Pay the sub-contractor for the proportionate share of the total payment received from APS attributable to the goods or services provided by the Sub-Contractor; or

46.1.1.2 Notify APS and the sub-contractor, in writing, of the intention to withhold all or a part of the sub-contractor's payment with the reason for nonpayment. Written notice shall be given to: Superintendent, Arlington Public Schools, 1426 N. Quincy Street, Arlington, VA 22207.

46.1.2 The Contractor shall pay interest to the Sub-Contractor, at the rate of one percent per month on all amounts owed to the Sub-Contractor that remain unpaid after seven days following receipt of payment from APS for goods or services provided under the resultant Contract, except for amounts withheld under the subparagraph immediately preceding this subparagraph.

46.1.3 The Contractor shall include in each of its Sub-Contracts a provision requiring each Sub-Contractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier Sub-Contractor.

46.1.4 The Contractor's obligation to pay an interest charge to a Sub-Contractor shall not be an obligation of APS.

46.1.5 No Contract modification shall be allowed for the purpose of providing reimbursement for these interest charges. No cost reimbursement claim shall include any amount for reimbursement of these interest charges.

**47. INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor, for itself, heirs, representatives, successors and assigns agrees to save, defend, keep harmless and indemnify APS, and all of its officials, agents and employees (collectively, "APS") from and against any and all claims, loss, damage, injury, costs (including court costs and attorney's fees), charges, liability or exposure, however caused, resulting from, arising out of or in any way connected with the Contractor's performance (or nonperformance) of the agreement terms or its obligations under this Contract.

**48. ETHICS IN PUBLIC CONTRACTING**

48.1 The provisions contained in Virginia Code Sections 2.2-4367 through 2.2-4377, the Virginia Public Procurement Act, shall be applicable to all Contracts solicited or entered into by APS. A copy of these provisions may be obtained from the Purchasing Agent upon request.

48.2 The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (Title 2.2, Chapter 31 of the Virginia Code), the Virginia Governmental Frauds Act (Title 18.2, Chapter 12, Article 1.1 of the Virginia Code) and prohibitions against bribery and related offenses (Title 18.2, Chapter 10, Articles 2 and 3 of the Virginia Code). The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia Conflict of Interests Act.

**49. NOTIFICATION**

Any notice required by the Contract shall be effective if given by regular mail, to the Contractor in the name and at the address given in its proposal submission; provided that change of address shall be effective if given in accordance with this paragraph. Unless otherwise specified, any notice to APS shall be given by regular mail to the Arlington Public Schools, Purchasing Agent, 1426 N. Quincy Street, Arlington, VA 22207. The Contractor agrees to notify APS immediately of any change of legal status or of address. Any notice provided in accordance with this paragraph shall be deemed to have been completed five calendar days after the date of mailing.

**50. EXTENSION OF CONTRACT TERM**

The APS Purchasing Office, at its sole and absolute discretion, may extend the final Contract term or final Contract renewal term of the resultant Contract for a period of not more than six months, unless specifically stated otherwise in the solicitation.

**51. INTENTIONALLY DELETED**

**52. INTENTIONALLY DELETED**

**53. GUARANTEES & WARRANTIES**

53.1 The Contractor shall, through itself and/or the manufacturer, provide APS with a warranty on all products provided by the Contractor. The warranty shall be for a period of at least one-year, or the manufacturer's standard warranty, whichever is longer.

53.2 The warranty shall include all parts, labor, transportation, and any other costs (except general supply items) necessary to keep the product in good operating condition.

53.3 The cost of this one-year warranty shall be included in the price quoted.

53.4 If seasonal limitations prevent performance of any required testing of the product, the warranty period for such equipment shall begin after the tests have been successfully performed.

**54. USE OF INFORMATION AND DOCUMENTS**

APS and its officials, employees and agents will copy and use the response of the bidder and documents included with the response, for various purposes related to analysis, evaluation, and decision to award a Contract. The bidder is responsible for obtaining any necessary authorizations for such use of the documents and information, and for assuring that such copying and use is in conformance with laws related to trademarks and copyrights. Any documents or information for which the bidder has not obtained such authorization, or for which such copying and use is not authorized, shall not be

submitted. The undersigned bidder agrees to indemnify, defend and hold APS, its officials, employees and agents harmless from any claims of any nature, including claims arising from trademark copyright laws, related to use of information and documents submitted with the Bidder's response.

**55. FAITH BASED ORGANIZATIONS**

APS does not discriminate against faith-based organizations.

**56. IMMIGRATION REFORM AND CONTROL ACT**

In accordance with § 2.2-4311.1 of the Code of Virginia, Contractors shall certify that they have not, and will not during the performance of the Contract for goods and services of the Contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

**57. HIPAA COMPLIANCE**

The Contractor shall comply with all applicable legislative and regulatory requirements of privacy, security and electronic transaction components of the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

**58. CONTRACTOR AND EMPLOYEE CERTIFICATION REGARDING CRIMINAL CONVICTIONS**

58.1 As a condition of awarding a contract for the provision of Work that requires the Contractor or his employees to have direct contact with students on school property during regular school hours or during school-sponsored activities, the Arlington School Board shall require the Contractor to provide certification that all persons who will provide such services have not (i) been convicted of a felony or of any offense involving the sexual molestation or physical or sexual abuse or rape of a child; (ii), as more particularly set forth in Va. Code Ann. Section 18.2-370.4 no person shall perform any part of the Work on the property of an existing elementary or secondary school who has been convicted of rape, forcible sodomy or object sexual penetration, all of a child under 13, during the commission of abduction, in the course of entering a dwelling with intent to commit murder, rape, robbery, arson, larceny, assault and battery, or any felony, or of aggravated malicious wounding; and (iii) as more particularly set forth in Va. Code Ann. Section 18.2-370.5, no person shall perform any part of the Work on the property of an existing elementary or secondary school during school hours or during school-related or school sponsored activities who has been convicted of a sexually violent offense. The Contractor certification covers its employees, its Subcontractors and the employees thereof.

58.2 The Contractor certification shall also cover its employees, its Subcontractors and employees thereof, assigned to the Work after Contract award. The Contractor, upon demand from APS, shall provide all information which allowed for the Contractor's certification.

58.3 The Contractor shall submit to APS a completed Contractor Certification Regarding Criminal Convictions on the form provided by APS (see Attachment A)

**59. ASSIGNMENT**

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this Contract, without the prior written consent of APS.



**60. SUBCONTRACTING**

- 60.1 The Contractor shall not enter into any Subcontract with any Subcontractor who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the State in which the work under this Contract is to be performed.
- 60.2 The Contractor shall be as fully responsible for the acts or omissions of its Subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor.
- 60.3 The Contractor shall insert appropriate clauses in all Subcontracts to bind Subcontractors to the terms and conditions of this Contract insofar as they are applicable to the work of Subcontractors.
- 60.4 Nothing contained in this Contract shall create any Contractual relationship between any Subcontractor and APS.

**61. CONTRACTOR RESPONSIBILITY FOR DAMAGE TO PROPERTY**

The Contractor shall be responsible for damages to property caused by work performed under the Contract or Purchase Order. The Contractor shall repair to proper working order or replace, to APS's satisfaction, any property damaged either directly or indirectly by its actions.

**62. FORCE MAJEURE**

- 62.1 The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars or an act of God beyond the control of the Contractor and outside the scope of the Contractor's then-current disaster plan that makes performance impossible or illegal, unless otherwise specified in the Contract.
- 62.2 APS shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars or an act of God beyond the control of APS that makes performance impossible or illegal, unless otherwise specified in the Contract

**63. COOPERATIVE PURCHASING CONTRACTS WITH PUBLIC JURISDICTIONS**

- 63.1 This procurement is being conducted on behalf of APS, Virginia and other public bodies in accordance with the provisions of §2.2-4304 of the Virginia Public Procurement Act.
- 63.2 If approved by the Contractor, the Contract resulting from this procurement may be used by other public bodies to purchase at Contract prices and in accordance with the Contract terms. The Contractor shall deal directly with any public body it approves to use the Contract. APS assumes no responsibility for any notification of the availability of the Contract for use by other public bodies, but the Contractor may conduct such notification.
- 63.3 With the approval of the Contractor, any public body using the resultant Contract has the option of executing a separate Contract with the Contractor to add terms and conditions required by statute, ordinances, or regulations, or to remove terms and conditions which conflict with its governing statutes, ordinances, or regulations.
- 63.4 APS, its officials and staff are not responsible for placement of orders, invoicing, payments, Contractual disputes, or any other transactions between the Contractor and any other public bodies, and in no event shall APS, its officials or staff be responsible for any costs, damages or injury resulting to any party from use of an APS Contract.

**64. SUBCONTRACTING WITH SMALL & MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE, & LABOR SURPLUS AREA FIRMS**

The Contractor should take the following steps to assure that, whenever possible, subcontracts are awarded to minority firms, women's business enterprises, and labor surplus area firms:

- 64.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- 64.2 Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- 64.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- 64.4 Establishing delivery schedules, where the requirements of the Contract permit, which encourage participation by small and minority businesses and women's business enterprises; and
- 64.5 Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and state and local.

**65. GENERAL INSURANCE REQUIREMENTS**

65.1 The Contractor shall provide a Certificate of Insurance to the Purchasing Agent indicating that the Contractor has in force the coverage below prior to the start of any work under the contract and agrees to maintain such insurance until the completion of the contract. All required insurance coverage's must be acquired from insurers authorized to do business in the Commonwealth of Virginia and acceptable to APS. The minimum insurance coverage shall be:

- 65.1.1 Workers Compensation – Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability at the state statutory limits. APS will not accept W/C coverage issued by the Injured Worker's Insurance Fund of Towson, MD.
- 65.1.2 Commercial General Liability - \$1,000,000 per occurrence with \$5,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this project. Evidence of Contractual Liability coverage shall be typed on the certificate.
- 65.1.3 Additional Insured – Arlington County School Board shall be named as an additional insured in the Contractor's Commercial General Liability policy; evidence of the Additional Insured endorsement shall be typed on the certificate.
- 65.1.4 Cancellation – A thirty (30) day notice of cancellation or non-renewal in writing shall be furnished by the Contractor's insurance carrier(s) or insurance agent(s) to APS Purchasing Agent.
- 65.1.5 Contract identification – The insurance certificate shall state contract number and title.
- 65.1.6 Business Automobile Liability -- \$500,000 Combined Single Limit (Owned, non-owned and hired).

- 65.2 The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work, until final acceptance of the work by APS.
- 65.3 No acceptance or approval of any insurance by APS shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.
- 65.4 The Contractor shall be responsible for the work performed under the Contract documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor shall be as fully responsible to APS for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

**66. PRICE REDUCTION**

If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to the contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a "general price reduction" shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc. which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a "general reduction" under this provision. The Contractor shall submit their invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the "Price Reduction" provision of the contract documents. The Contractor, in addition, will within ten (10) days of any general price reduction, notify the Purchasing Agent of such reduction by letter. FAILURE TO DO SO MAY LEAD TO TERMINATION OF THE CONTRACT. Upon receipt of any such notice of a general price reduction all ordering offices will be duly notified by the Purchasing Agent. The Contractor, if requested, shall furnish, within ten (10) days after the end of the contract period, a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the bid, or (2) if any such general price reductions are made, that as provided above, they were reported to the Purchasing Agent within ten (10) days, and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such reduction was issued, (2) the effective date of the reduction, and (3) the date when the Purchasing Agent was notified of any such reduction.



Attachment A

CONTRACTOR CERTIFICATION  
REGARDING CRIMINAL CONVICTIONS

**This form must be completed by an authorized official for any organization contracting to provide services under a contract with the Arlington Public Schools or any of its schools or departments, or any subcontractor under such contractor.**

**The completed form from the Contractor is a condition precedent to the award of the Contract.**

As the official authorized to enter into this Contract on behalf of my organization, I certify that:

1. No employee of the organization who will have direct contact with students on school property during regular school hours or during school-sponsored activities during the performance of this Contract has been convicted of a felony or of any offense involving the sexual molestation, physical or sexual abuse or rape of a child; and
2. As more particularly set forth in Virginia Code Ann. Section 18.2-370.4, no employee who has been convicted of rape, forcible sodomy or object sexual penetration, all of a child under 13, during the commission of abduction, in the course of entering a dwelling with intent to commit murder, rape, robbery, arson, larceny, assault and battery, or any felony, or of aggravated malicious wounding will enter upon the property of an existing elementary or secondary school in the performance of the Work; and
3. As more particularly set forth in Virginia Code Ann. Section 18.2-370.5, no employee who has been convicted of a sexually violent crime shall enter upon the property of any existing elementary or secondary school during school hours or during school-related or school sponsored activities in the performance of the Work.

I understand that a materially false statement regarding this certification is a Class 1 misdemeanor and that conviction of such misdemeanor shall result in the revocation of this Contract and of any related license that I may hold. I declare under penalty of perjury that the foregoing statements are true and correct.

Oriental Trading Company  
Name of Firm

*Cydney Ledesma*  
Signature

4206 S 108th St Omaha, NE 68137-1215  
Address of Firm

Cydney Ledesma, Bid Supervisor  
Name and Title (please type or print)

800-228-0038  
Telephone

*10/11/14*  
Date

**ARLINGTON PUBLIC SCHOOLS**

**BID FORM**

**PROVISION OF INSTRUCTIONAL AIDS, TOYS & GAMES**

**Invitation to Bid No. 15FY17**

**Due Prior to 1:00 PM, November 2, 2016**

The time a bid is received shall be determined by the time stamped by the time clock in the Purchasing Office. In the event this time clock is not functioning, the time shall be determined by time displayed on the wall clock above Room 405. The time on the wall clock will be written on the bid receipt by hand, by Purchasing Office personnel.

**SUBMIT PAGES 7 THROUGH 12 AND PAGE 26 (APPENDIX A) AS YOUR BID RESPONSE**

The Bidder proposes and agrees, if this bid is accepted within 90 days after the bid opening date, to furnish any and all of the items upon which the prices are quoted, at the price set opposite each item, delivered at the point(s) specified and as scheduled. The Bidder is required to note any and all exceptions to the bid requirements on the Bid Form or by an attachment to the Bid Form.

**PLEASE PLACE YOUR BID PRICES AS INDICATED ON PAGE 12**

**FULL LEGAL NAME OF BIDDER** OTC Direct, Inc dba Oriental Trading Company

**Remittance Address (If different):**

**ADDRESS** 4206 S 108th St

PO Box 14502

Omaha, NE

Des Moines, IA

68137-1215

50306

**PHONE:** ( 800 ) 228-0475 **FAX:** ( 800 ) 327-8904

**DATE:** 10/11/16

**TAX ID NUMBER (EIN/SSN):** 27-4811648

**EMAIL ADDRESS:** orders@oriental.com

**CONTACT FOR ADMINISTRATION:**

**NAME:** Customer Relations

**ADDRESS: (Office)** 4206 S 108th St Omaha, NE 68137-1215

**TELEPHONE NUMBER: (Office)** 800-228-0038 **FAX NUMBER:** 877-564-4440

APS requires that a minimum of 30 days after receipt of an approved invoice by APS shall be allowed for payment. Discounts for prompt payment will not be considered in the evaluation of bids. However, any offered discount will become part of the award and will be taken if payment is made within the discount period offered in the bid. In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of earning the discount, payment shall be considered to have been made on the date that appears on the payment check or the date on which an electronic funds transfer for the payment was made.

PROMPT PAYMENT TERMS: none

(PLEASE NOTE: COD TERMS ARE NOT ACCEPTABLE)

INDICATE THE TYPE OF BUSINESS: INDICATE BY PLACING A CHECK HERE \_\_\_\_\_ IF A FAITH-BASED ORGANIZATION AS DESCRIBED IN VA CODE § 2.2-4343.1

\_\_\_\_\_ Individual Trading in Own Name

\_\_\_\_\_ Partnership

\_\_\_\_\_ Individual Trading Under Trade Name  
(Individual and Trade Name must be listed below  
as "legal name")

X Corporation

PLEASE CHECK THE FOLLOWING INFORMATION RELEVANT TO YOUR FIRM:

Minority Owned Business:	YES _____	NO _____
Small Business:	YES _____	NO _____
Woman Owned Business:	YES _____	NO _____
Service Disabled Veteran Owned Business:	YES _____	NO _____
Employment Service Organization:	YES _____	NO _____
None of the Above:	YES <u>X</u> _____	NO _____

### REFERENCES

On page 9 the Bidder must provide at least three (3) commercial contract references which demonstrate satisfactory performance on past and current contracts of a similar size, nature, number of locations. References noted must be within the last three (3) years: indicate firm name, contact name, telephone number and email address of each reference

**REFERENCES**

<u>FIRM NAME</u>	<u>CONTACT NAME</u>	<u>TELEPHONE NUMBER</u>	<u>E-MAIL ADDRESS</u>
1. <u>Alexandria City Public Schools</u>	<u>Noreen OBrien</u>	<u>703-824-6600</u>	<u>noreen.obrien@acpsk12.va.us</u>
2. <u>Mansfield ISD</u>	<u>Shelley Freeman</u>	<u>817-299-6090</u>	<u>accountspayable@misdmail.org</u>
3. <u>Killeen ISD</u>	<u>Tammy Shannon</u>	<u>254-336-0107</u>	<u>accounts.payable@killeenisd.org</u>
4. _____	_____	_____	_____
5. _____	_____	_____	_____

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**STATE CORPORATION COMMISSION (SCC) IDENTIFICATION NUMBER - MANDATORY REQUIREMENT:**

Under paragraph 22. Of the General Terms and Conditions, the bidder agrees, if this bid is accepted by APS, for such services and/or items, that the bidder has met the requirements of the Virginia Code Section 2.2-4311.2.

Please complete the following by checking the appropriate line that applies and providing the requested information

1. \_\_\_ Bidder is a Virginia business entity organized and authorized to transact business in Virginia by the SCC.  
The bidder's identification number issued by the SCC is \_\_\_\_\_. *(The SCC number is **NOT** your federal tax Identification number).*
2. \_\_\_ Bidder is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such bidder's identification number issued to it by the SCC is \_\_\_\_\_.
3.  Bidder does not have an identification issued to it by the SCC and such bidder is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

*Please attach additional sheets if you need to explain in further detail why such bidder is not required to be authorized to transact business in Virginia.*

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**DEBARMENT**

If you answer yes to any of the following, on a separate attachment, state the person or entity against whom the debarment was entered, give the location and date of the debarment, describe the project involved, and explain the circumstances relating to the debarment, including the names, addresses and phone numbers of persons who might be contacted for additional information

1. Is your organization or any officer, director, project manager, procurement manager, chief financial officer, partner or owner currently debarred from doing federal, state or local government work for any reason?  
Yes \_\_\_ No
2. Has your organization or any current officer, director, project manager, procurement manager, chief financial officer, partner or owner ever been debarred from doing federal, state or local government work for any reason?  
Yes \_\_\_ No



**NUMBER OF YEARS IN BUSINESS**

How many years has your organization been in the business of providing **INSTRUCTIONAL AIDS, TOYS & GAMES?**  
84 years

How many years has your organization been in business under its present business name? 5 years

**Receipt of Addenda listed below is acknowledged and the bid incorporates all requirements of these Addenda:**

No. \_\_\_\_\_ Date \_\_\_\_\_ No. \_\_\_\_\_ Date \_\_\_\_\_ No. \_\_\_\_\_ Date \_\_\_\_\_ No. \_\_\_\_\_ Date \_\_\_\_\_

In compliance with this Invitation to Bid and subject to all conditions thereof and attached hereto, the undersigned offers and agrees, if this bid be accepted within 90 calendar days from the date of opening, to furnish any and all of the items upon which the prices are quoted, at the price set opposite each item, delivered at the points as specified and as scheduled.

The Bidder certifies that he has not combined, conspired or agreed to intentionally rig, alter or otherwise manipulate, or to cause to be rigged, altered or otherwise manipulated this bid for the purpose of allocating purchases or sales to or among persons, raising or otherwise fixing the prices of the goods or services, or excluding other persons from dealing with APS.

My signature certifies that this firm (or individual) has no business or personal relationships with any other companies or persons that could be considered as a conflict of interest or potential conflict of interest to APS, and that there are no principals, officers, agents, employees, or representatives of this firm that have any business or personal relationships with any other companies or person that could be considered as a conflict of interest or a potential conflict of interest to APS, pertaining to any and all work or services to be performed as a result of this request and any resulting contract with APS.

SIGNATURE: Cydney Ledesma TITLE: Bid Supervisor  
(Person signing must be authorized to bind the bidder in contractual matters) (Applicable for Partnership/Corporation)

NAME: Cydney Ledesma DATE: 10/11/14  
(Type or Print)


## PRICING SCHEDULE

### CONTRACT NUMBER #15-31FY17 - INSTRUCTIONAL AIDS, TOYS & GAMES

	<b>Item Description</b>	<b>CATOLOG NAME</b>	<b>Catalog Price DISCOUNT OFF %</b>
<b>1</b>	All Items	Main Oriental Trading catalog	<b>5.0%</b>
<b>2</b>	All Items	Main Oriental Trading catalog	<b>5.0%</b>
<b>3</b>	All Items	Main Oriental Trading catalog	<b>5.0%</b>
<b>4</b>	All Items	Main Oriental Trading catalog	<b>5.0%</b>
<b>5</b>	All Items	Main Oriental Trading catalog	<b>5.0%</b>

- 6) Custom imprint (advertising specialty products) sold by Fun Impressions group are not eligible for discount.
- 7) Discount does not apply to shipping and handling charges.
- 8) Free standard delivery on orders over \$150.00.
- 9) For orders \$150, or less, the following shipping and handling charges apply:
  - Up to \$25.00                 \$ 6.99
  - \$25.01 - \$50.00             \$ 9.99
  - \$50.01 - \$75.00             \$12.99
  - \$75.01- \$100.00             \$13.99
  - \$100.01 - \$125.00          \$14.99
  - \$125.01- \$150.00          \$17.99
- 10) Free delivery does not apply to items in the catalogs identified with the symbol of a truck. There is no discount for express delivery charges.
- 11) Catalogs are issued throughout the year and prices are subject to change with the release of new catalogs each year; percentage discount will remain the same.
- 12) The Customer Number, **1114030**, should be included on every Purchase Order

## PRICE SCHEDULE

Item Description	CATALOG NAME and NUMBER (Discount is offered for all catalog items, except those items listed in the exceptions section)	Catalog Price  DISCOUNT OFF %	 If Catalog Available Online
	Main	5%	✓
	Education	5%	✓
	Seasonal	5%	✓
	Hands on Fun	5%	✓
	Crafts	5%	✓

**WEBSITE ADDRESS:** [www.orientaltrading.com](http://www.orientaltrading.com)

**EXCEPTIONS:**

Fun Impression items are not included.

Please see attached deviation form.



Oriental Trading Company  
Shipping and Handling Charges (Continental U.S. only)  
Free standard delivery Orders over \$150

Orders under \$150.00 F.O.B. destination, charges prepaid and added.  
Express shipping charges prepaid and added.

Order Total	Standard	Express 3-5 Business Days	Express 2-3 Business Days
Up to \$25	\$6.99	\$13.99	\$19.99
\$25.01- \$50	\$9.99	\$16.99	\$22.99
\$50.01 - \$75	\$12.99	\$18.99	\$24.99
\$75.01 - \$100	\$13.99	\$19.99	\$25.99
\$100.01 - \$125	\$14.99	\$20.99	\$26.99
\$125.01 - \$150	\$17.99	\$24.99	\$33.99
\$150.01 -\$200	Free	\$26.99	\$34.99
Over \$200	Free	16 %	18 %

Free delivery does not apply to the additional per item shipping fee for items in our catalog identified with the symbol of a truck.  
Free shipping does not apply to Fun Impressions advertising specialty merchandise.

May 28, 2015



**Arlington Public Schools**  
**Bid #15FY17 Instructional Aids, Toys & Games**  
**Deviations**

- 1) Include the customer number and key code with every purchase order to reduce billing errors.
  - a) The Customer Number for your organization is: # **1114030**.
  - b) You may take advantage of special additional offers from catalogs or email. When ordering please include the promo code so that we may apply the offer.
- 1) **A 5% discount will apply to each order.** This discount applies to merchandise only. No discount will be given for shipping and handling charges. Total amount of the discount is removed at the end of the order, not from individual line items.
- 2) **Custom imprint (advertising specialty products)** sold by our **Fun Impressions** group are not eligible for discount.
- 3) **Free Standard delivery on orders over \$150.00.** Free delivery does not apply to the additional per item shipping fee for items in our catalog identified with the symbol of a truck. There is no discount for express delivery charges. Shipping charges are FOB destination, prepaid and added to invoice. Shipping chart is attached.
- 4) Free delivery does not apply to **custom imprint (advertising specialty products)** sold by our **Fun Impressions** group. **Shipping charges are subject to change.**
- 5) URL address: [www.orientaltrading.com](http://www.orientaltrading.com)
  - a) Online Net 30 terms are available. Call the Bid Sales Department for more information. We apologize that our discount offer does not default when orders are placed on line. Phone the bid department to apply your discount to your on line order. Phone 800-228-0038. Or
  - b) Save your items to your shopping cart. The shopping cart does not calculate the discount or shipping charges. [Save] and [Print] after entering all purchases to your shopping cart. Manually calculate the amount of the discount and shipping charges based on your merchandise total. Copies of your shopping cart page may be attached to your purchase order. Submit your purchase order by mail, fax or phone.
- 6) Catalogs - Main, Seasonal, Hands on Fun, Craft, and Fun Impressions are sent frequently during the year. Items may be ordered at any time, but prices are subject to change.
- 7) Merchandise is delivered approximately 7-10 business days after receipt of order. Custom Imprint items may require 30 days or longer for delivery.
- 8) Payments on net accounts due within 30 days of receiving the order. 0% discount for early payment.
- 9) The purchase order number will appear on the invoice and packing slip, but may not appear on the outside of the package. A single copy of the invoice is mailed at the time your order is shipped.
- 10) Claims for missing or damaged items must be made within 30 days of receiving order. All sales are made and consummated with Oriental Trading Company in Omaha, Nebraska.
- 11) We will not have a representative available for on-site visits. Questions or problems may be directed to: Bid Sales Department 800-228-0038.

October 2016



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OTC Brands, Inc. DBA Oriental Trading Company  
Federal Employer Identification Number: 27-4791180

We are a LARGE business concern.  
We are exempt from Back-up Withholding.  
We are exempt from receiving a form 1099-Misc.  
We sell products only. We do not provide services.  
OTC Direct, Inc. incorporated State of Nebraska, February 4, 2011.

**Customer Service and Purchase orders:** Oriental Trading Company  
PO Box 2308  
Omaha, NE 68103-2308

Phone: 800-228-0475  
Fax: 800-327-8904  
orders@oriental.com

**Remittance Address:** Oriental Trading Company  
PO Box 14502  
Des Moines, IA 50306-3502

**Address for Sealed Bids:** Oriental Trading Company  
Attn: Bid Dept.  
4206 S 108 St  
Omaha, NE 68137

Phone: 800-228-0038  
Fax: 877-564-4440  
Email: npsbids@oriental.com

**Address for Informal Quotes:** Oriental Trading Company  
PO Box 2308  
Omaha, NE 68103-2308

Phone: 800-526-7400  
Fax: 877-564-4440  
Email: [npscusterservice@oriental.com](mailto:npscusterservice@oriental.com)

**Returns Address:** Oriental Trading Company  
11201 Giles Rd, Door 217  
Omaha, NE 68128

(Please call Customer Service for a Return Authorization number and instructions.)

**WEBSITE:** <http://www.orientaltrading.com>

Oriental Trading Company is a wholesaler of toys, novelties, party supplies, arts and crafts supplies, and personalized merchandise.  
All items are subject to availability.

06/02/16

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*Corporate Offices*

4206 South 108<sup>th</sup> Street  
Omaha, Nebraska 68137  
402-331-5511

5455 South 90<sup>th</sup> Street  
Omaha, Nebraska 68137  
402-596-1200

**Oriental Trading**



**MindWare**

**OTC BRANDS, INC.  
4206 SOUTH 108 STREET  
OMAHA NE 68137-1233**

Substitute W-9

Dear Valued Customer:

Thank you for your recent inquiry. Due to the high volume of request we receive for this information, we have developed this general information / substitute W-9 form. Thank you again for your interest in Oriental Trading Company, Inc.

Very truly yours  
Oriental Trading Company  
Credit Department

Our Employer Tax ID Number is 27-4791180.

We are a LARGE business concern.

We are exempt from Back-up Withholding.

We are exempt from receiving a Form 1099-Misc.

We sell products only / not services.

<b>Street Address:</b>	<b>4206 S 108 St.</b>	<b>Omaha, NE 68137-1215</b>
<b>Address for Orders:</b>	<b>PO Box 2308</b>	<b>Omaha, NE 68103-2308</b>
<b>Address for Payments:</b>	<b>PO Box 14502</b>	<b>Des Moines, IA 50306</b>

To Charge Orders by Phone: (800) 228-2269  
(Mon-Fri 6:00 am -11:00 p.m., Sat 7:00 am - 8:00 p.m., Sun 9:00 am - 8:00 pm CST)

To Charge Orders Schools, Churches and Nonprofit Organizations (800) 228-0475

TDD Relay Service for the Hearing Impaired (800) 833-7352  
(Please ask the operator to call (800) 228-2269)

To Request Catalogs: (800) 327-9678  
International Orders (800) 457-6728  
Operadores Bilingues (Ingles/Espanol) (800) 537-3857

To Charge by FAX-Domestic (800) 327-8904 fax  
Schools, Churches, Non-Profit Organizations (800) 327-8904 fax  
International (800) 327-8904 fax

Customer Service (800) 228-0475  
(Operadores Bilingues (800) 457-6728)  
(Mon-Fri 7:00 a.m. - 9:00 p.m., Sat 8:00 a.m. - 5:30 p.m. CST)

WEBSITE [www.orientaltrading.com](http://www.orientaltrading.com)

We are a wholesaler of toys, novelties, party supplies, and personalized merchandise. All Items subject to availability. All prices and rates are subject to change.

## Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**OTC Brands, Inc.**

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:  
 Individual/sole proprietor or single-member LLC  
 C Corporation  
 S Corporation  
 Partnership  
 Trust/estate  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  
 Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.  
 Other (see instructions) ▶ \_\_\_\_\_

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) \_\_\_\_\_  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Applies to accounts established outside the U.S.)*

5 Address (number, street, and apt. or suite no.)  
**4206 S 108th St**

6 City, state, and ZIP code  
**Omaha, NE 68137-1215**

7 List account number(s) here (optional)

Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number									
-				-					

OR

Employer identification number									
2	7	-	4	7	9	1	1	8	0

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here      Signature of U.S. person *Roxanne MacCartis*      Date ▶ *1-4-17*

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/w9](http://www.irs.gov/w9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.