



ALBUQUERQUE PUBLIC SCHOOLS - PROCUREMENT DIVISION
PO BOX 25704
ALBUQUERQUE, NEW MEXICO 87125
PHONE (505) 881-8415
FAX (505) 830-1161

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Houghton Mifflin Harcourt
3800 Gold Road Ste 200
Rolling Meadows, IL 60008

SHIP TO

Various APS Locations

ATTENTION
OF

DATE	VENDOR CODE
5/17/2016	11205

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico Criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

PLEASE SHOW PRICE AGREEMENT NUMBER ON ALL INVOICES, SHIPPING PAPERS, PACKAGES, CORRESPONDENCE, ETC. INVOICE IN DUPLICATE.

ITEMS, TERMS, & CONDITIONS

PRICE AGREEMENT

Math & Language Arts Manipulatives and Related Materials

Contract Term: May 23, 2013 to May 22, 2017

Per terms and conditions of: 13-044LJ-AM

Board Approved: 5/22/2013

Pricing Attached

SERVICES AND/OR GOODS TO BE PROVIDED: The Contractor shall provide the good(s) and/or service(s), as defined in this agreement, on an "as ordered" basis. This is not an order and no funds are obligated under this Pricing Agreement. Funds are obligated by approved purchase orders on an "as needed" basis. Contractor shall receive separate individual Purchase Orders for each individual requests.

MINIMUM AMOUNT: Albuquerque Public Schools does not guarantee a minimum amount of purchases in conjunction with this pricing agreement.

QUOTES AND PAYMENT: The Contractor shall include the APS Pricing Agreement Number on each quote and reflect the price as awarded. If a quote is based on a percentage discount, the quote should document the list price, discount percent, and final price. The invoice submitted for payment shall match the quote and shall note the purchase order number.

Amendments: This Pricing Agreement shall not be altered, changed, or amended except by written agreement signed by both parties. Current catalog prices will expire on 9/30/16, prices will be at the then-current catalog period.

Reason for Amendment: Extension

Contact: Shawn Weirather

Phone: 800-767-8420

Email: HMH.Bids@hnhco.com

PROCUREMENT DIVISION AUTHORIZED SIGNATURE

Sandra Sanchez 5-18-16
Date

VENDOR AUTHORIZED SIGNATURE

Nicole Genova 6/20/16
Nicole Genova, Director, Business Desk Date

ALBUQUERQUE PUBLIC SCHOOLS (APS) GENERAL TERMS AND CONDITIONS

- 1. INSPECTION.** The materials, supplies or services furnished shall be exactly as specified in this order, free from defects in Seller's design, workmanship and materials, and, except as otherwise provided in this order, shall be subject to inspection and test by APS at all times and places. If, prior to final acceptance, any materials, supplies or services are found to be defective or not as specified, APS may reject them, require Seller to correct them without charge, or require delivery of such materials, supplies, or services at a reduction in price which is equitable under the circumstances. If Seller is unable or refuses to correct such defects within a time deemed reasonable by APS, APS may terminate the order in whole or in part. Seller shall bear all risks as to rejected materials, supplies and services and, in addition to any other costs for which Seller may become liable to APS under other provisions of this order, shall reimburse APS for all transportation costs, other related costs incurred, or payments to Seller in accordance with the terms of this order for unaccepted materials, supplies and services. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud or such gross mistakes as amount to fraud. Any test programs and procedures required by the specifications are in addition to, and do not limit, APS's rights provided in this Paragraph.
- 2. WARRANTIES.** Seller warrants the materials, supplies or services furnished to be exactly as specified in this order, free from defects in Seller's design, labor, materials and manufacture, and to be in compliance with any drawings or specifications incorporated herein and with any samples furnished by Seller. All applicable UCC warranties, express or implied are incorporated herein.
- 3. ASSIGNMENT.** Neither the order nor any interest therein, nor claim thereunder shall be assigned or transferred by the Seller except as authorized in writing by APS. No assignment or transfer shall relieve the Seller from its obligations and liabilities.
- 4. CHANGES.** APS may make changes within the general scope of this order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of, or the time required for performance of this order, an appropriate equitable adjustment shall be made. No change by Seller shall be recognized without written approval of APS. Any claim of Seller for an adjustment under this Paragraph must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such change unless APS waives this condition. Nothing in this Paragraph shall excuse Seller from proceeding with performance of the order as changed hereunder.
- 5. LABOR DISPUTES.** Seller shall give prompt notice to APS of any actual or potential labor dispute which delays or may delay timely performance of this order.
- 6. TERMINATION AND DELAYS.** APS may by written notice stating the extent and effective date, terminate this order for convenience in whole or in part, at any time. APS shall pay Seller as full compensation for performance until such termination: (1) the unit or pro rata order price for the delivered and accepted portion; and (2) a reasonable amount, not otherwise recoverable from other sources by Seller as approved by APS with respect to the undelivered or unaccepted portion of this order; provided compensation hereunder shall in no event exceed the total order price. Such amount will be limited to the Seller's actual cost and shall not include anticipated profits.

APS may by written notice terminate this order for Seller's default, in whole or in part, at any time, if Seller refuses or fails to comply with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time, or fails to make deliveries of the items or services or to perform the services within the time specified or any written extension thereof. In such event, APS may purchase or otherwise secure items or services and, except as otherwise provided herein, Seller shall be liable to APS for any excess costs occasioned APS thereby, including incidental and consequential damages.

If, after notice of termination for default, APS determines that the Seller was not in default or that the failure to perform this order is due to causes beyond the control and without the fault or negligence of Seller (including, but not restricted to, acts of God or of the public enemy, acts of APS, acts of Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a subcontractor or supplier due to such causes and without the fault or negligence of the subcontractor or supplier), termination shall be deemed for the convenience of APS, unless it shall be determined that the items or services covered by this order were obtainable from other sources in sufficient time to meet the required delivery schedule.

If APS determines that Seller has been delayed in the work due to causes beyond the control and without the fault and negligence of the Seller, APS may extend the time for completion of the work called for by this order, when promptly applied for in writing by the Seller; and if such delay is due to failure of APS, not caused or contributed by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of the order shall be subject to change under the Changes Paragraph. Sole remedy of Seller in event of delay by failure of APS to perform shall, however, be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of delay. No allowance will be made for anticipated profits.

The rights and remedies of APS provided in this Paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order. As used in this Paragraph, the word "Seller" includes Seller and its sub suppliers at any tier.
- 7. AFFIRMATIVE ACTION.** Seller shall not maintain or provide racially segregated facilities for employees at any establishment under his control. Seller agrees to adhere to the principle set forth in Executive Order 11246 and 11375, and to undertake specifically to maintain employment policies and practices that affirmatively promote equality of opportunity for minority group persons and women; to take affirmative steps to hire and promote women and minority group persons at all job levels and in all aspects of employment; to communicate this policy effectively to all persons concerned within Seller's company, with outside recruiting services and the minority community at large; to provide APS on request a breakdown of its labor force by ethnic group, sex, and job category; and to discuss with APS its policies and practices relating to its affirmative action program.
- 8. INDEMNIFICATION AND INSURANCE.** Seller assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any actual or alleged personal injury (including death) and/or damage or destruction to property sustained or alleged to have been sustained in connection with or arising out of the performances of the work by Seller, its agents, employees, subcontractors or consultants, except to the extent of liability arising out of the negligent performance of the work by or willful misconduct of APS. Seller shall indemnify and hold harmless APS, its officers, agents, and employees from any and all liability for such losses, expenses, damages, demands, and claims and shall defend any suit or action brought against any or all of them based on any actual or alleged personal injury or damage and shall pay any damage costs and expenses including attorneys' fees, in connection with or resulting from such suit or action. Seller agrees that it and its subcontractors will maintain public liability and property damage insurance in reasonable amounts covering the above obligation and will maintain workers' compensation coverage covering all employees performing this order on premises occupied by or under the control of APS.
- 9. PATENT AND COPYRIGHT INDEMNITY.** Seller shall pay all royalty and license fees relating to deliverables and other items covered hereby. In the event any third party shall claim that the reproduction, manufacture, use or sale of goods or items covered hereby infringes any copyright, trademark, patent, or other intellectual property rights, Seller shall indemnify and hold APS harmless from any cost, expense, damage, or loss resulting therefrom.
- 10. DISCOUNTS.** APS will take advantage of prompt payment discounts whenever possible; however these will not be used as a means to determine the low responsive and responsible bidder. Any discount period will not begin until the materials, supplies or services have been received and accepted and a correct invoice submitted for payment. If testing is required, discount period will not begin until such tests are satisfactorily completed.
- 11. CONTINGENCY FEES.** Seller warrants that no person or selling agency has been employed or retained to solicit or secure this order upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona-fide employees or bona-fide established commercial or selling agencies maintained or utilized by Seller for the purpose of securing business. For violation or breach of this warranty, APS shall have the right to annul this order without liability or, at its discretion, to deduct from this order, price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.
- 12. PENALTIES.** The New Mexico Procurement Code (NMSA 1978) imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose penalties for bribes, gratuities and kickbacks.
- 13. TITLE AND DELIVERY.** Title to the materials and supplies passed hereunder shall pass to APS at the F.O.B. point specified subject to the right of APS to reject upon inspection. For any exception to the delivery date specified, Seller shall give prior notification and obtain approval thereto from APS's Purchasing Department. Order is subject to termination for failure to make timely delivery.
- 14. TAX STATUS.** APS holds a Class 9 Nontaxable Transaction Certificate and is exempt from payment of tax on the purchase of tangible personal property. This certificate will be issued upon request. It is not valid for the purchase of services including construction, or materials that become part of a construction project or for the lease of property. Seller is responsible for payment of all applicable taxes, which will be added to invoice as a separate item at the current rate.
- 15. APPLICABLE LAWS.** If this order is a subcontract under a U.S. Government Prime Contract, applicable clauses of the Federal Acquisition Regulations are incorporated herein by reference. Any provision required to be included in a contract of this type by any applicable and valid Executive Order, federal, state or local law, ordinance, rule or regulation also shall be deemed to be incorporated herein. Any contract or litigation resulting from acceptance of this purchase order will be construed according to the laws of the State of New Mexico unless otherwise stated.



**Houghton
Mifflin
Harcourt**

April 19, 2013

Lawrence Jojola
District Buyer
Procurement Department
Albuquerque Public Schools
6400 Uptown Blvd NE, Suite 500 E
Albuquerque, NM 87110

Dear Mr. Jojola:

Houghton Mifflin Harcourt (HMH) is pleased to submit this bid to the Albuquerque Public Schools in response to Bid #13-044LJ-AM for *Math and Language Arts Manipulatives*. We have enclosed the completed required forms and an authorized executive in the company has signed the appropriate documents.

Following this letter you will find our Standard Terms and Deviations document and Shipping and Handling information, along with a list of our current catalogs. Our online catalogs, additional information related to our product and service offerings, and other information about our company are available via our website at <http://customercare.hmhco.com>.

Effective prices will be those listed in the then-current catalog at the time your order is placed.

Should you have any questions about this response or need additional information, please contact Cheryl Eckart, Account Executive, at 505-385-3163 or via e-mail at Cheryl.Eckart@hnhco.com; or Lisa Edwards, Account Executive, at 512-795-3351 or via e-mail at Lisa.Edwards@hnhco.com.

Sincerely,

Mark A. Oberholz, Business Desk Specialist
West Region Business Desk

Enclosure

Standard Terms and Deviations

We are the Publisher, not a jobber. We only carry the books that we publish or ones of another company with whom we have an exclusive agreement. All titles will be shown in our catalog. If your bid requires a jobber, please consider this an alternate bid.

All catalog prices represent an educational discount from our list price. We cannot agree to a special discount for any particular school as it could put us in violation of state and district contracts containing a "Most Favored Nations" clause. No additional discounts will be taken.

While we will not be employing any subcontractors to perform any work if awarded this bid, we would like you to know that we do use many Minority and Women Owned Businesses in developing our products.

Delivery will be made within 45 days from receipt of purchase order, barring any unforeseen circumstances. Please include instructions on each purchase order if you want no substitutions or back orders, or for any special shipping arrangements. Customers will assess no penalties for untimely deliveries.

Terms are NET 30, no cash discounts allowed. If you must have a delayed billing period, please state so on each purchase order. Our credit department must approve this. Please include any special instructions and a contact phone number on all purchase orders so that we may contact you if needed.

We have standard packing slips. They will be in the first box of each shipment and will be single spaced, items listed by warehouse (pick) location. The packing slip will contain the ISBN, title of book, and quantity ordered. No discount or pricing information is printed on this slip. We do not alphabetize these packing slips.

You may return damaged, defective, and unwanted items by calling our Customer Service Department at (800) 225-5425 for approved authorization. If the return needs to be made because of errors made by us, we will arrange for pickup by issuing a call tag. Your account will be credited or a refund sent to you. Upon completion of adjustments, our Customer Service Department will issue credit memos to your account. Report any discrepancies as soon as possible to our Customer Service Department at the above number.

Invoices and credit memos are sent to the bill-to address. If an invoice is to be sent to both the bill-to address and the ship-to address, or to another address, please state this on each purchase order to which it applies. Invoices will not be alphabetized in any way; they will appear in the order that the items were entered into the system and will contain ISBN, quantity, title, unit price, and total. It will reference the bill-to and ship-to address as well as the account number, purchase order number, invoice number, and order number.

Shipping and handling charges are not included in the unit prices listed. Please see the following Houghton Mifflin Harcourt Shipping and Handling information.

Prices are valid for the then-current catalog only. Prices may change with new catalogs but the discount percentage will remain constant for the duration of the bid.



Shipping and Handling

The following is the current transportation policy for Houghton Mifflin Harcourt (HMH) that went into effect on 01/01/09.

HMH uses UPS as its preferred carrier for shipments up to 300 pounds. Typically, any shipment in excess of 300 pounds will be sent via LTL freight carrier. The specific freight carrier is determined based on cost, weight, and destination.

Special arrangements such as expedited service, inside delivery, or collect shipments with the customer's preferred carrier can be arranged on an individual basis through the Customer Service group.

Order Value	Shipping & Handling	Expedited Services		
<\$100	\$10.50 minimum	<table border="1"> <tr> <td>Next day service — 17% of purchase with minimum charge of \$20.00</td> </tr> <tr> <td>2nd day service — 15% of purchase with minimum charge of \$10.50</td> </tr> </table>	Next day service — 17% of purchase with minimum charge of \$20.00	2nd day service — 15% of purchase with minimum charge of \$10.50
Next day service — 17% of purchase with minimum charge of \$20.00				
2nd day service — 15% of purchase with minimum charge of \$10.50				
\$100–\$2K	10.5% of subtotal			
\$2K–\$10K	8% of subtotal			
\$10K–\$50K	7.5% of subtotal			
\$50K–\$100K	7% of subtotal			
\$100K–\$200K	6% of subtotal			
\$200K+	5% of subtotal			

Technology Shipping Charges

Applied to CDs, DVDs, videos, disks, and flash-drives on a per-unit basis.

Ground shipping = \$18 per unit
 2nd-day shipping = \$23 per unit
 Next-day shipping = \$28 per unit

Transportation Terms

We offer two methods of shipping: FOB shipping point and FOB destination. FOB shipping point (whether an HMH facility or a third party facility) is the least expensive method and HMH guarantees delivery. Shipping costs quoted are estimates and may vary from the actual costs. For educational customers preferring FOB destination, charges are prepaid and added to the invoice. FOB destination is calculated by taking the school price and adding 10.5% with a minimum charge of \$10.50.

Catalog List

The following Houghton Mifflin Harcourt catalogs can be found online via our website at <http://customercare.hmhco.com/csrportal/catalogHome.do>.

- *Holt McDougal: Advanced & Electives – Language Arts*
- *Holt McDougal: Advanced & Electives – Mathematics*
- *Holt McDougal: Advanced & Electives – Science and Health*
- *Holt McDougal: Advanced & Electives – Social Studies*
- *Holt McDougal: Advanced & Electives – World Languages*
- *Holt McDougal: Language Arts Catalog*
- *Holt McDougal: Mathematics Catalog*
- *Holt McDougal: Science and Health Catalog*
- *Holt McDougal: Social Studies Catalog*
- *Holt McDougal: World Languages Catalog*
- *Houghton Mifflin Harcourt: Pre-K – 8 Catalog*
- *Houghton Mifflin Harcourt: Professional Development and Services Catalog: Educational Consulting Services*
- *Saxon: Pre-K – 12 Catalog*
- *Specialized Curriculum: Mathematics, Science, Social Studies Catalog*
- *Specialized Curriculum: Reading, Literacy Catalog*
- *Steck-Vaughn: Adult Education and Workforce Development Catalog*

**BID NO. 13-044LJ-AM
Math and Language Arts Manipulatives**

Houghton Mifflin Harcourt Publishing Company

Firm Name

Bid No. 13-044LJ-AM

**MATH AND LANGUAGE ARTS MANIPULATIVES
AND RELATED MATERIALS - DISCOUNT FROM LIST**

Page 8

Item

No. Description

In the interest of fairness and sound business practice, please provide the following information regarding your company. No value will be assigned but it will be a factor in determining the responsive and responsible bidder(s). APS reserves the right to request additional information as necessary.

NOTE: Your bid will be rejected if the following information is not provided on these pages.

- 1. Contract Designee: (Name of person assigned to APS account. Include telephone and fax number. Please notify APS if contract designee changes.)**

Houghton Mifflin Harcourt Customer Service

phone - 800-225-5425

fax - 800-269-5232

- 2. Special Quotation/Reference/Account Number: (Optional. If applicable, indicate type and number.)**

Not Applicable

- 3. Order Address: (Mailing address for orders)**

3800 Golf Road, Suite 200

Rolling Meadows, IL 60008

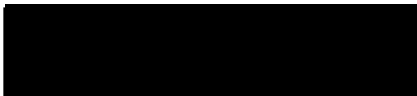
- 4. Remit Address: (Mailing address for payments)**

HMH Receivables

14046 Collections Center Drive

Chicago, IL 60693

- 5.**



BID NO. 13-044LJ-AM
Math and Language Arts Manipulatives

Houghton Mifflin Harcourt Publishing Company

Firm Name

Bid No. 13-044LJ-AM

**MATH AND LANGUAGE ARTS MANIPULATIVES
AND RELATED MATERIALS – DISCOUNT FROM LIST**

Page 9

Item

No. Description

6. Overall Catalog Discount: (Net, 10%, etc.) Cover letter explaining discounts is recommended.

0%

7. Individual Price List Discount: (Indicate area, i.e. live material, furniture, etc. which may be more or less than No. 6.)

0%

8. Discount Exceptions: (Indicate, if applicable, i.e. X amount or more pricing, motor freight items, etc.)

None

9. Minimum Order/Delivery amount per order to qualify for discount: (If applicable.)

None

10. Miscellaneous Charges: (i.e. small order charge, hazardous materials surcharge, etc. Please specify name of charge and amount or percentage.)

None

BID NO. 13-044LJ-AM
Math and Language Arts Manipulatives

Houghton Mifflin Harcourt Publishing Company
Firm Name

Bid No. 13-044LJ-AM

**MATH AND LANGUAGE ARTS MANIPULATIVES
AND RELATED MATERIALS - DISCOUNT FROM LIST**

Page 10

Item

No. Description

- 11. Delivery Charge Exceptions: (Indicate the amount, percent, etc. to be charged.) Before filling in this section, read General Requirements, F.O.B. Destination, page 6.**

There is an additional pre-paid charge for shipping and handling added to the invoice for FOB Destination. Please refer to the Shipping and Handling document following the cover letter.

- 12. APS may on occasion require inside delivery of math and language arts manipulatives, and related materials to a certain location. Can your company deliver these types of manipulatives related material inside a building?**

Yes

- 13. Specify any exceptions and conditions that your company may require.**

There is an additional pre-paid charge for shipping and handling added to the invoice for FOB Destination. Please refer to the Shipping and Handling document following the cover letter.

Prices are those of the then-current catalog period. Pricing is effective for the period September 1st - August 31.

The contractor may assign the contract to a parent, affiliate, or purchaser of substantially all of its assets.

Terms are net 30 days.

- 14. What is your average lead-time after receipt of order?**

Delivery is 45 days upon receipt of order.

- 15. What is your Return Policy? (Specify your return goods policy, restocking charges, exchanges, etc.)**

Please refer to the enclosed Standard Terms and Deviations information following the cover letter.

**BID NO. 13-044LJ-AM
Math and Language Arts Manipulatives**

Houghton Mifflin Harcourt Publishing Company

Firm Name

Bid No. 13-044LJ-AM

**MATH AND LANGUAGE ARTS MANIPULATIVES
AND RELATED MATERIALS – DISCOUNT FROM LIST**

Page 11

Item

No. Description

- 16. Please explain your discount procedures as it applies to your invoice. (i.e. discount based on unit price, total extension of unit price, total order, etc.) APS PREFERS DISCOUNT BY LINE ITEM.**

Not applicable

- 17. Does your company have a digital catalog or online ordering capabilities? If so please include detailed information on catalogs, ordering procedures, website information etc.**

Yes. Products and services can be ordered through our customer service department and/or online at www.customercare.hmhco.com.

- 18. Add any other information regarding ordering procedures that has not been discussed that you wish to have considered.**

Please refer to the Standard Terms and Deviations information, and Shipping and Handling document following the cover letter.

- 19. Fax Number(s) for purchase orders:**

800-269-5232

- 20. Email address for companies APS contact: (Used to get quotes, request returns, pricing problems)**

GreatService@hnhco.com

Note: Please include any attachments/procedures that display your companies' policies.

Previous Bid No. 09-066GR-SL