



**Solicitation Information
November 14, 2013**

Addendum #1

RFP # 7536377

Title: TALKING BOOKS PLUS SERVICES

Submission Deadline: December 11, 2013 at 11:45 AM (ET)

**ATTACHED IS THE PROPOSED AGREEMENT WHICH IS REFERENCED ON
PAGE 12, SECTION 7 OF RFP #7536377.**

**Gail Walsh
Chief Buyer**

SERVICE AGREEMENT

THIS AGREEMENT (the "Agreement") is effective as of January 1st, 2014 by and between the Office of Library and Information Services of the State of Rhode Island ("OLIS") and Vendor.

WHEREAS OLIS operates a library engaged in the lending of special reading material and playback equipment to blind and physically handicapped persons in the State of Rhode Island; and

WHEREAS OLIS wishes to retain Vendor to perform for OLIS, upon the terms and conditions set forth in this Agreement, the warehousing, shipping, receiving, circulation, machine lending and online public access catalog functions for such special reading materials and playback equipment to blind and otherwise disabled patrons;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement, and for good and valuable consideration, receipt of which is acknowledged, the parties hereto agree as follows:

1. DEFINITIONS

- a) The "Effective Date" is the date first written above.
- b) "KLAS system" means Keystone Library Automation System, a client/server system based on Progress, a computer language and database, provided by a company called Keystone Systems Inc.
- c) "Materials" means any or all of the special reading materials including, but not limited to, recorded books on analog cassettes and digital cartridges, recorded magazines on digital cartridges, Braille books and Braille magazines, and described digital video disks made available by Vendor for circulation to patrons in Rhode Island.
- d) "Equipment" means any or all of the special playback equipment including, but not limited to, cassette players, digital talking books machines (including both the basic and advanced models); as well as accessories including, but not limited to, headphones, extension keys for cassette equipment, remote control devices and amplified headphones.
- e) "NLS" means the National Library Service for the Blind and Physically Handicapped.
- f) A "patron" is a blind or otherwise physically handicapped person who is eligible for the loan of library materials from Talking Books Plus.
- g) "Talking Books Plus" is the Rhode Island Regional Library for the Blind and Physically Handicapped and functions as a public library for eligible persons with disabilities who reside in Rhode Island.
- h) "X-ESS" is a method for deleting outdated cassettes and digital cartridges and maintaining the collection according to the NLS Guidelines.

2. SERVICES

- a) Basic Services. Vendor will perform all reasonably necessary warehousing, shipping, receiving and circulation functions relating to circulation of Materials to registered patrons of Talking Books Plus. The Materials are, and will remain, the property of the United States Government, Library of Congress/National Library Service for the Blind and Physically Handicapped.
- b) Vendor will perform the equipment lending functions including the warehousing, shipping, receiving, circulation and repair activities for equipment (including all required reporting to NLS) for registered patrons of Talking Books Plus. The equipment will remain the property of the United States Government, Library of Congress/National Library Service for the Blind and Physically Handicapped.
- c) Patron Contact. Talking Books Plus shall be solely responsible for all patron contact and the provision of direct patron services including, without limitation, readers' advisor, reference, referral and liaison with the National Library Service.
- d) Requests for Materials. If OLIS enters a request for Materials requested by RI patrons and entered into the Talking Books Plus automated circulation system before 5:00 p.m. on any given business day it shall be shipped by Vendor on the following business day if such Materials are currently available for shipping. Vendor will ship Materials to patrons through the U.S. Postal System using the "Free Matter for the Blind" mailing tariff.
- e) Emergency Requests. If necessary, OLIS may place up to ten (10) urgent/rush requests per day for Materials and/or equipment. Vendor will process and ship such urgent/rush requests on the same business day if such requests are received before 2:00 p.m. If such requests are received after 2:00 p.m., Vendor will ship such requested Materials and/or equipment on the morning of the next business day.
- f) Inspection and Repair of Returned Items. Vendor will open and inspect returned Materials and equipment for possible damage or missing parts, check the contents of returned Materials for correctness of title, and rewind the tapes where necessary. Vendor will check and shelve all undamaged returned Materials and equipment within three business days. In addition, Vendor will use commercially reasonable efforts to repair damaged Materials and make new copies of books as necessary if it has another copy thereof.
- g) Repair of Returned Equipment. Vendor will arrange for repair of nonfunctioning playback equipment either through in-house repair or by working in cooperation with outside volunteer equipment repair groups to facilitate playback equipment repair. All equipment will be opened and inspected for possible damage or defect. Vendor will check and process all damaged returned equipment within five business days.
- h) Inventory Control. Vendor will maintain the collections of Materials and equipment in good order to ensure efficient retrieval of items in accordance with this Agreement. Materials and equipment returned from circulation will be checked in and re-shelved in the proper numerical order pursuant to Vendor operational procedures. Vendor shall maintain an ongoing inventory of Materials and equipment to be available to meet the service needs of Rhode Island patrons. Additionally, Vendor will conduct periodic X-ESS weeding cycles following procedures set forth

by NLS for discarding unwanted copies of Materials, and will follow NLS established procedures for the transfer or disposal of obsolete or damaged beyond repair playback equipment.

- i) Access to Talking Books Plus Data Records. Vendor will maintain access to the "Talking Book Plus" data records on the KLAS system. Software security features will maintain the confidentiality of patron information and records.
- j) Warehousing. Vendor shall have available for annual shipping approximately 95,000 titles in cassette, digital cartridge, braille, and DVD format. The projected growth in the number digital cartridges and braille books to be stored is approximately 2,500 titles per year. Multiple copies of these titles will be maintained on site in the approved facility for mailing to members. The increase in cassettes, digital cartridges, and braille books that Vendor will be required to warehouse shall not exceed 6,000 additional items in any 12-month period.

Vendor will store the Materials and equipment in an environment where the Materials and equipment would not reasonably be expected to be damaged by excessive heat or cold, and would not reasonably be expected to be subject to pilferage or other loss or damage. Vendor will store the Materials in an environment where the temperature is maintained within the range of 68-74 degrees Fahrenheit and the relative humidity is maintained within the range of 45-55%. OLIS may, upon reasonable notice and during normal business hours, visit the storage facility to review compliance with these standards. OLIS also may collaborate with Vendor to determine whether a new site or location is acceptable for purposes of warehousing, shipping and receiving materials and equipment. The final decision on whether a new site is acceptable for the aforesaid purposes shall remain with OLIS.

Vendor will provide, and bear all reasonable costs incurred, for the moving and re-shelving of Materials and equipment to be warehoused if Vendor and OLIS agree on a new location.

- k) Circulation. Vendor agrees to be prepared to ship up to 600 items per day consisting of both Materials and playback equipment. Vendor shall produce mail cards by 6:00 a.m. from Monday to Friday each week to facilitate the retrieval, checkout and shipping of requested Materials and playback equipment to patrons. Vendor will not prepare mail cards on designated federal and Massachusetts state holidays, as listed in their Holiday schedule.

Vendor will prepare outgoing Materials to be ready for pickup prior to 8:00 a.m. each business day by the U.S. Postal Service for delivery to the Providence automated mail facility according to U.S. Postal Service specifications.

Vendor will use the KLAS system for the check-in and check-out of all Materials. Patron records shall be secure to prevent unauthorized access.

Vendor shall monitor KLAS system error messages during the check-in and check-out of materials and respond in accordance with procedures established by Keystone Systems for dealing with each type of error message.

Vendor and OLIS shall use all reasonable efforts to communicate on a regular basis to resolve service discrepancies and other issues. Vendor shall report any changes indicated on returned mail (e.g., status changes or address changes of patrons) to OLIS via written post, telephone, fax

or email on a daily basis.

Vendor shall begin circulation of the collection upon the Effective Date of this agreement.

- l) KLAS system. Vendor will provide complete access to the KLAS system including the KLAS SHELF Project of local regional titles for OLIS through the establishment of branch user status for Talking Books Plus. Monthly fees for KLAS access will be paid by Vendor as part of this agreement. Vendor will make reasonable efforts to ensure that connections to KLAS and training programs on the system are in place for use by OLIS staff. Internet connectivity for the use of KLAS is the sole responsibility of OLIS.

OLIS will participate in such maintenance agreements that Vendor maintains with Keystone Systems Inc. and will find remedy in that agreement in the event of a breakdown in the KLAS system.

Any scheduled maintenance shutdown or software upgrades of the KLAS system will occur at a time mutually agreed upon by Keystone Systems, OLIS and Vendor. The reasons for temporary shutdown of the KLAS system may include system backup, maintenance, repair or upgrades. Vendor's obligations will be stayed during any shutdown of the KLAS system. OLIS shall be notified of scheduled maintenance shutdowns in advance. If there is a shutdown for any other reason, it should be mutually agreed upon between OLIS, Vendor and Keystone Systems, and adjustments to the payment schedule will be negotiated.

- m) Vendor will increase access to physical titles by using the "Brick" system to duplicate on demand physical digital copies of books and magazines available as digital files from the National Library Service program and mail such copies to Rhode Island members during each year of the contract:

- 2014 up to 500 titles,
 - 2015 up to 600 titles,
 - 2016 up to 700 titles,
 - 2017 up to 750 titles,
 - 2018 up to 800 titles

- n) Vendor will perform BPHICS biennial machine audits and reconciliation of all talking book machines and digital players every two years (2015 and 2017). During the opposite years (2014, 2016, and 2018), Vendor will conduct a self-audit of machines to ensure records are current and accurate.

3. COMPENSATION

Monthly compensation proposal:

OLIS shall make the monthly payments listed below to Vendor by wire transfer or by check. If a payment is more than 60 days late, Vendor may, at its sole discretion, add an interest charge of 1% per month on the outstanding amount:

2014	01/01/14 thru 12/31/14 (12 Months)	\$	(\$ per month)
2015	01/01/15 thru 12/31/15(12 Months)	\$	(\$ per month)
2016	01/01/16 thru 12/31/16(12 Months)	\$	(\$ per month)
2017	01/01/17 thru 12/31/17(12 Months)	\$	(\$ per month)
2018	01/01/18 thru 12/31/18 (12 Months)	\$	(\$ per month)

Per transaction cost:

2014 - 1/1/14 to 12/31/14 cost per transaction:

2015 - 1/1/15 to 12/31/15 cost per transaction:

2016 - 1/1/16 to 12/31/16 cost per transaction:

2017 - 1/1/17 to 12/31/17 cost per transaction:

2018 - 1/1/18 to 12/31/18 cost per transaction:

Additional Services:

1. Recording and brailling of RITBP newsletters, brochures and correspondence:
cost:
2. Audio production, digital recording, and online bibliographic control within the KLAS system of up to 12 original book titles, serials, and other media collection resources for the Talking Books Plus program during each year of the contract.
cost:

4. PERFORMANCE STANDARDS

Vendor will (i) ship at least 99% of the Materials and playback equipment for which mail cards are produced by the morning of the following business day and 100% of the Materials and playback equipment by the morning of the second business day if such items are available for shipping, and (ii) check in and reshelve 100% of the undamaged returned Materials and playback equipment. Any consistent pattern of material failure to perform shall be grounds for termination of this Agreement in accordance with Section 5(d) hereof. Vendor will report promptly to the OLIS Liaison all material problems it may have relating to this Agreement.

5. TERM AND TERMINATION

- a) Term. The term of this Agreement shall begin on the Effective Date and continue through December 31, 2014 with automatic renewals for four (4) additional 12- month periods ending December 31, 2018, unless terminated earlier as provided in this Agreement. An extension to this agreement may be issued by OLIS in case of contract extension or transition of the service. Upon termination of this contract, Vendor will promptly return all State and/or Federally-owned Materials at Vendor's expense.
- b) Termination Without Cause. Either party may terminate the Agreement by providing written notice ninety (90) days before the end of any 12-month period.

- c) Termination With Cause. Either party shall have the right to terminate this Agreement for material breach hereof by the other party upon providing written notice to the other party and allowing that party thirty (30) days in which to cure its breach.
- d) Unsatisfactory performance by Vendor. OLIS may only effect termination of this Agreement based upon unsatisfactory performance by Vendor if (i) it has made a reasonable determination that performance is unsatisfactory, (ii) it has provided Vendor with written notice of such unsatisfactory performance, and (iii) Vendor has not taken reasonable steps to address the concerns within thirty (30) days of the notice.

6. OFFICIAL CONTACTS

The Official Contact at OLIS for purposes of this Agreement (the "OLIS Liaison") shall be Andrew Egan, Regional Librarian, Talking Books Plus, or such other person the identity of whom shall be provided in writing to Vendor. The Official Contact at Vendor for purposes of this Agreement (the "Vendor Official Contact") shall be Vendor Contact, or such other person the identity of whom shall be provided in writing to OLIS.

7. OLIS LIAISON

The OLIS Liaison shall serve as liaison between Talking Books Plus, Vendor, Keystone Systems, and the National Library Service. The OLIS Liaison shall be the single point of contact between Vendor and the State of Rhode Island. No requests from other agencies or patrons shall be handled directly by Vendor, and OLIS shall not be obligated to pay Vendor for any services not authorized by OLIS.

8. RESOLUTION OF PROBLEMS

Vendor Official Contact, the OLIS liaison and the Rhode Island Office of Purchases shall use commercially reasonable efforts to resolve any disagreements or problems arising under this Agreement. OLIS shall not withhold any payment pending an investigation by Vendor and the Office of Library and Information Services. Any credit due to OLIS resulting from such investigation shall be applied to a subsequent billing.

9. LIMITATIONS OF LIABILITY

In no event shall either party be liable to the other party or any other person for any indirect, incidental, consequential or punitive damages, including loss of profit or goodwill, for any matter arising out of or relating to this Agreement or its subject matter, whether such liability is asserted on the basis of contract, tort or otherwise even if such party has been advised of the possibility of such damages.

Vendor's total liability for damages with respect to any claim or cause of action arising out of this Agreement shall be limited to the sum of all amounts paid by OLIS to Vendor under this Agreement during the 12-month period immediately preceding the date upon which the facts underlying such claim or cause of action first arise.

The limitations set forth in this section will apply notwithstanding the failure of the essential purpose of any limited remedy and will survive the termination of this Agreement. The amounts payable hereunder reflect this allocation of risk between the parties.

10. GENERAL PROVISIONS

a) Notices.

Except as otherwise specified herein, all notices, demands, requests, or other communication which may be or are required to be given, served, or sent by any party to any other party pursuant to this Agreement shall be in writing and shall be delivered personally, mailed by first-class, registered or certified mail, return receipt requested, postage prepaid or transmitted by electronic mail or facsimile, and addressed as follows:

If to OLIS:

Talking Books Plus
Office of Library and Information Services
One Capitol Hill, Providence, Rhode Island 02908
Attention: Andrew Egan, Librarian, Telephone: (401) 574-9312
Fax: 401-574-9200 E-mail: Andrew.Egan@olis.ri.gov

If to Vendor:

With a copy to:

Each party may designate by notice, in writing, a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request or communication which shall be mailed, delivered, or transmitted in the manner described above shall be deemed sufficiently given, served, sent and received for all purposes at such time as it is (a) delivered personally to the addressee, (b) received in the mail by the addressee (with the return receipt, the delivery receipt, or the affidavit of messenger being conclusive evidence of its receipt), (c) with respect to a facsimile transmission, the machine confirmation being deemed conclusive evidence of such delivery or (d) at such time as delivery is refused by the addressee upon presentation.

b) Independent Contractor. In providing services under this Agreement, Vendor is and shall at all times act as an independent contractor, not as an employee or agent of OLIS. Neither Vendor nor any personnel employed by Vendor are or shall be treated as employees or agents of OLIS. Nothing contained in this Agreement shall be construed to create a joint venture, partnership,

association or other affiliation or like relationship between the parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. In no event shall any party be liable for the debts or obligations of the other

- c) Entire Agreement/Amendment. This Agreement, including any attachments, constitutes the entire agreement between the parties, and shall not be amended, altered or modified, except by an instrument, in writing, duly executed by both parties
- d) Assignment. This Agreement may not be assigned, in whole or in part, except with the prior written consent of the non-assigning party
- e) Successor Rights. OLIS recognizes no successor rights under this Agreement and the Agreement shall be considered to be voided in the event of any transfer of ownership interest in Vendor's business unless OLIS shall consent in writing to such transfer Governing Law. This Agreement, the rights and obligations of the parties hereto, and any claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of The State of Rhode Island. (but not including the choice of law rules thereof).
- f) Severability. If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of said provision or the remaining provisions of said agreement.
- g) Waiver. Neither the waiver of a breach of any provision of this Agreement, nor a failure to enforce, on one or more occasions, a provision of this Agreement (or exercise any right or privilege thereunder) shall constitute a waiver of the provision itself, a waiver of any breach thereafter, or a waiver of any other provision herein.
- h) No Intended Third Party Beneficiaries. It is the explicit intention of the parties that no other person or entity is or shall be entitled to bring any action to enforce any provision of this Agreement against either of the parties, and that the covenants, undertakings and agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by the parties or their respective successors and assigns as permitted under this Agreement.
- i) Force Majeure. In the event that either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies, strikes, riots, acts of war, communication line failures, power failures, fires or such like events or circumstances, (collectively herein referred to as "Force Majeure") the party who has been so affected shall promptly give written notice to the other party and shall do everything reasonably possible to resume performance Upon receipt of such notice, all obligations under this Agreement which cannot be performed as a result of the Force Majeure event, and the related obligations of the other party, shall be suspended until the cessation of such event If the period of nonperformance of any material obligation exceeds sixty (60) days from the receipt of notice of the Force Majeure event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this agreement within the next thirty (30) days.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the Effective Date

OFFICE OF LIBRARY AND INFORMATION SERVICES

Signature:

Name:

Title:

Vendor

Signature:

Name:

Title: