RFP FORMS
"RB" SERIES

REQUEST FOR PROPOSALS
PRODUCING AND DELIVERING THE
2007-2008 IOWA OFFICIAL REGISTER (REDBOOK)

RB-2
CONTRACT FORM

Legislative Services Agency
State Capitol
Des Moines, Iowa 50319

Mr. Dennis Prouty, Director
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Legislative Services Agency RB-2 Contract Form
IOWA OFFICIAL REGISTER (REDBOOK)

I. PARTIES

The parties to this Contract are the Legislative Services Agency, herein referred to as the "Agency," an organization created under the jurisdiction of the Iowa General Assembly pursuant to § 2A.1 of the Iowa Code, and identified with the Federal Employer Identification Number 42-6022199, and Economy Advertising Co. dba Tru Art® Color Graphics, herein referred to as "Contractor," a business located in Iowa City, Iowa and identified with the Federal Identification Number 42-0229090.

II. DEFINITIONS

As used in this Contract, unless the context otherwise requires:

A. ***"Book"*** means the printed, finished, and bound volume of the 2007-2008 Edition of the Iowa Official Register.

B. ***"Book page"*** means the facing or reverse side of a sheet of paper which is part of a signature bound in a book, and which includes text or artwork.

C. ***"Contract price"*** means the total amount of money owed to the Contractor for the production and delivery of all books accepted by the Agency as described in Part V, Paragraph "E," and as calculated in Part VI, Paragraph "C."

D. ***"Delivery"*** means a party's receipt of an item sent by the other party as provided in this Contract.

E. ***"Iowa Official Register"*** means the publication commonly referred to as the "Redbook," which is a single, hardbound volume consisting of text and artwork (e.g., photographs and drawings) which provides a record of the State of Iowa and its relationship to other states and to the United States, including but not limited to (1) front and back matter, including a table of contents and index; and (2) the body of the publication, including (a) provisions of the constitutions and other foundational laws of the state and the United States, (b) a description of the state's system of government, such as its branches of government, its agencies and political subdivisions, and its principal educational institutions, (c) biographies and portraits of leaders of the state and the political leaders of the United States elected by Iowans, (d) descriptions and photographs of official or historic state buildings and monuments and official state symbols, (e) a profile of the state and its people, and (f) a description of the state's geography and climate.

F. ***"Production"*** includes all necessary and customary work using production materials relating to the design, composition, creation, manufacture, or reproduction of production items or books.

G. ***"Production item"*** means sample covers and sets of proof pages which are produced by the Contractor and delivered to the Agency as provided in this Contract.

H. ***"Production material"*** includes but is not limited to paper, ink, cover and binding materials, and book casings (e.g., fabric, end sheets, binder's boards, and back lines), book pages, bands, dies, and stamps which are necessary to produce a production item or book as provided in this Contract.

I. ***"Workmanship"*** includes all aspects of labor and mechanical, chemical, or computer processes used to compose, create, or manufacture a production item or book using production materials. "Workmanship" includes but is not limited to the appearance, sturdiness, and durability of a book; the fastening of book pages into signatures; the fastening of the signatures; the fastening of the book block to the casing; the quality of the binding; the appearance and placement of impressions and foils on the book cover; the composition of text and artwork in producing sets of proof pages and book pages; the replacement of replica artwork with genuine artwork; and the quality of the printing on the proof pages and book pages, including text and artwork.

III. GENERAL

A. ***Appendices Incorporated by Reference.*** The Appendices (Form RB-4) are incorporated as part of this document (Form RB-2) by reference. If a provision in this document and a provision in an Appendix conflict, the provision in this document shall control. Otherwise, the provisions in the Appendices shall be reasonably construed as being in harmony with the provisions of this document.

B. ***Choice of Law and Forum.*** This Contract is governed by the laws of the State of Iowa. All disputes and controversies regarding this Contract shall be heard in the District Court of Polk County, Iowa. However, if jurisdiction is not proper in the Polk County District Court, actions shall only be brought in the United States District Court for the Southern District of Iowa, Central Division, provided that jurisdiction is proper in that forum.

C. ***Conflict with Contract and Applicable Law.*** In the case of a conflict between a provision of this Contract and a statute or regulation of this state as judicially construed and in effect on the effective date of this Contract, the provision of this Contract controls, unless otherwise prohibited by a statute or regulation of this state as judicially construed and in effect on the effective date of this Contract. Otherwise, a statute or regulation of this state as judicially construed and in effect on the effective date of this Contract, and principles of common law as applicable on the effective date of this Contract, shall be reasonably construed as being in harmony with the provisions of this Contract.

D. ***Compliance With Applicable Laws and Regulations.*** The Contractor shall comply with all applicable laws and regulations of the State of Iowa and the United States, including but not limited to Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991 (42 U.S.C. ch. 21), and the federal Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651-678).

E. ***Taxes; Certification — Collection and Remission of Iowa Sales and Iowa Use Tax.*** The Agency or the Iowa General Assembly is not responsible for paying any taxes incurred by the Contractor in the performance of this Contract. The Agency and the Iowa General Assembly are exempt from the payment of Iowa sales taxes, Iowa use taxes, and other taxes. The Contractor certifies to Iowa's Department of Revenue, on any form required by the department, that the Contractor agrees to collect and remit Iowa sales taxes and Iowa use taxes due under Code of Iowa Chapter 423 on the sales of tangible personal property and services as enumerated by statute, pursuant to Code of Iowa § 423.2 and § 423.5. However, the Contractor shall not collect or remit an Iowa sales tax or Iowa use tax on sales of tangible personal property or services for its performance under this Contract.

F. ***Counting Book Pages.*** When counting book pages, one sheet of paper includes two pages, one on the front side and one on the reverse side.

G. ***Computing Time.*** For purposes of computing time, including but not limited to purposes of calculating delivery requirements according to a schedule provided in Appendix D, all of the following apply:

1. **Time of Day.** Any reference in this Contract to time of day is calculated using central time. A day begins at 8:00 a.m. and ends at 4:30 p.m.

2. **Days.** A "day" means a calendar day unless otherwise provided in this Contract.

   a. **Calendar Day.** A calendar day is any day of the week. In computing calendar days for purposes of delivery, the first day is excluded and the last day is included unless the last day falls on a Sunday or a legal public holiday as defined in Code of Iowa § 1C.1, in which case the time prescribed is extended to include the next succeeding calendar day.

   b. **Business Day.** A business day is a calendar day other than a Saturday or Sunday or a day recognized as a legal holiday by the State of Iowa. *See Code of Iowa § 1C.1.* In computing time for purposes of delivery, the first business day is excluded and the last business day is included.

H. ***Agency's Interest in Production Items or Books.*** Production items or books shall not be subject to copyright by the Contractor in the United States or in any other country. The Contractor shall not use or

release text or data originating from print or electronic media delivered to the Contractor and containing any portion of the production items or books without the prior written approval of the Agency. The Contractor shall not produce a print or electronic publication from such text or data without the prior written approval of the Agency. The Contractor shall not advertise itself as the official publisher of a book or any other publication produced by the Agency.

I. ***Party in Litigation.*** The Agency will not act as a party in any lawsuit to protect or enforce a right or interest of the Contractor, unless the Agency consents in writing to become a party.

J. ***Delegation.*** The Contractor shall not delegate (i.e., convey, assign, transfer, or subcontract) any interest in this Contract to another person without the prior written consent of the Agency except as follows:

1. **Authorized Persons.** The Contractor shall only subcontract with the following persons:

   a. **Production (Book Bindery).** The Contractor may, with Agency approval, provide for the production of production items and books by a book bindery which acts under the direct supervision of the Contractor. *See Appendices A and B.*

   b. **Delivery by Common Carrier.** The Contractor shall provide for the delivery to the Agency, including the packaging, shipping, and unloading of production items and books. The Contractor shall provide for the shipping of production items personally or by courier, and for the delivery of books personally or by freight company. *See Appendices C and D.*

2. **Payment Obligation.** The Contractor and not the Agency shall be liable for any payment to a subcontractor for performance rendered by the subcontractor under this Contract.

3. **Duty to Perform.** The Contractor shall not be relieved from performing a duty under this Contract because of a subcontract or a subcontractor's failure to perform a duty. All standards for production and delivery of production items and books as provided in this Contract shall apply to the Contractor regardless of whether the Contractor renders performance directly or by using a subcontractor.

4. **Agreements.** The Agency may obtain and review any agreement executed between the Contractor and a subcontractor.

K. ***No Pecuniary Gain or Conflict of Interest.*** The Contractor agrees that to its knowledge neither the staff of the Agency nor a member of the General Assembly of the State of Iowa has or will receive any direct economic benefit because of the selection of the Contractor as a party to this Contract. The Contractor agrees that it has no interest and will not acquire any direct or indirect interest which would conflict in any manner with the performance of this Contract, and that a person having such an interest will not knowingly be associated in the performance of this Contract.

L. ***Fixed-Price Contract.*** This is a fixed-price contract. Except as otherwise expressly provided in this Contract, or expressly agreed to in writing by the parties, the Contract price paid to a Contractor is fixed as provided in this Contract. Except as provided in this Contract, no special fees or expenses shall be charged directly or indirectly to the Agency, including labor, production materials, equipment, insurance, packing, freight, travel, parking, or any other costs incurred in producing and delivering the production items or books.

M. ***Renewal.*** The Agency reserves the right to execute a renewal Contract with the Contractor who is a party to this Contract to produce and deliver the next edition of the Iowa Official Register according to provisions substantially similar to the provisions of this Contract.

IV. PRODUCTION

A. ***Contractor's Duty of Performance.*** The Contractor shall acquire all production materials, furnish all workmanship, and oversee all aspects of production.

B. ***General Standards.*** Any detailed standard for a production material or workmanship contained and required in this Contract, including as specified in Paragraph "C", shall be the standard for a production material or workmanship used to produce a production item or book. However, if a standard is not specified in this

Contract or there is a question regarding the Contractor's compliance with a standard for a production material or workmanship, regardless of detailed standards provided in this Contract, the following shall apply:

1. **Production Materials.** If the Agency has approved without qualification a production material, that same production material shall be used by the Contractor in the production of books. The standard for a production material established pursuant to this Subparagraph 1 shall supersede any possible conflicting standard for the production material in this Contract. In all other cases, the standard for a production material shall be the same or equivalent to the standard used in producing the 2005-2006 Iowa Official Register.

2. **Workmanship.** If the Agency has approved without qualification the workmanship used to produce a production item, that same workmanship shall be used by the Contractor in the production of books. The standard of workmanship used to produce a production item approved by the Agency without qualification shall supersede any possible conflicting standard for workmanship in this Contract. In all other cases, the standard for workmanship for a production item or book shall be the same or equivalent as to the standard used in producing the 2005-2006 Iowa Official Register.

C. ***Detailed Standards — Appendices.*** The detailed standards for production items and books are specified in Appendices A and B shall control in all aspects of production, except if governed under general standards as provided in Paragraph "B".

1. **Book Size.** For the size of each book and associated page paper, Table A-1.

2. **Paper Stock.** For production materials associated with the paper stock used to produce page paper, Table A-2.

3. **Page Composition and Printing.** For production materials and workmanship used in page composition and printing, Tables A-3a and A-3b.

4. **Construction.** For production materials and workmanship, all of the following shall apply:

   a. **Production Items.** For production items, Table B-1.

   b. **Books.** For the books including binding, Table B-2a; covering, Table B-2b; and decoration, Table B-3.

V. DELIVERY

A. ***Communications.*** All communications regarding any issue regarding this Contract must be addressed to the parties' contact persons as specified in Appendix E.

1. **Book Bindery.** If the contractor's contact person specified in Table E-2a is not responsible for the day-to-day operations in the book bindery, the Agency reserves the right to communicate with the person in the book bindery. The Contractor shall furnish the Agency with the name and contact information of the person.

2. **Message and Response.** If the Agency's Project Manager delivers a message to the Contractor's contact person specified in Appendix E, regarding the production or delivery of a production item or book, the Contractor's contact person shall respond to the Agency's Project Manager as soon as possible. However, nothing in this Subparagraph 2 requires the Contractor to provide an immediate answer or deliver a production item or book to the Agency in response to the communication.

3. **Replacement.** If a party replaces its contact person, or names an alternative contact person, the party shall immediately notify the other party of the name and contact information for the new contact person.

B. ***General Duty to Deliver.*** The parties shall deliver products and responses as follows:

1. The parties shall provide for the delivery of deliverables as required in Appendix C as follows:

a. **Agency Products.** For Agency products (i.e., sample books and composed pages) required to be delivered by the Agency to the Contractor, Table C-1.

b. **Production Items and Books.** For production items and books required to be delivered by the Contractor to the Agency, Tables C-2 and C-3.

2. **Key Deadlines.** The Contractor and the Agency shall comply with key deadlines as required in Appendix D as follows:

a. **Production Items and Books.** For the Contractor's packaging and shipping of production items and books, Tables D-1 and D-2.

b. **Agency Response.** For the Agency's response, Tables D-1, D-2, and D-3. The Agency's response includes (1) the approval, approval with qualification, or disapproval of a production item, and (2) the acceptance or rejection of a book.

C. ***Incomplete Delivery of Set of Composed Pages and Set of Press Proofs.*** The Agency's failure to deliver a complete, satisfactory set of composed pages shall be deemed to be a failure to deliver all of the composed pages. The Contractor's failure to deliver a complete set of press proofs shall be deemed to be a failure to deliver the entire set of press proofs. However, the Agency may provide for incremental delivery of composed pages and the Contractor upon approval by the Agency may provide for the incremental production and delivery of press proofs. The Contractor's failure to deliver a complete, satisfactory set of book pages as part of a book shall be deemed to be a failure to deliver the entire book.

D. ***Possession by Agency.*** Delivery is not accomplished until the Agency takes possession of a production item or book. Title does not pass to the Agency prior to the receipt of the production item or book by the Agency. The Agency's receipt of a production item or book is not an approval of the production item or book by the Agency. A production item or book which is damaged prior to receipt by the Agency shall be deemed undelivered. When the Agency opens a carton containing a damaged production item or book, it is conclusively presumed that the damage occurred prior to receipt (during production or delivery).

E. ***Agency Review and Response.*** The Agency shall review deliverables (e.g., production items or books) and communicate a response to the Contractor as provided in Appendix D.

1. **Exclusive Right of the Agency.** Even though another person may be authorized to receive a deliverable, only the Agency is authorized to approve, disapprove, or approve with qualification any number of production items or accept or reject any number of books.

2. **Response.** The Agency shall respond as follows:

a. **Production Items.** For a production item, the Agency's shall (1) approve the production item without qualification, (2) approve the production item with qualification, or (3) disapprove the production item. If the Agency approves the production item with qualification or disapproves a production item, the Agency shall deliver a notice to the Contractor specifying the reasons for the qualified approval or disapproval, and the Contractor shall make the corrections. If the Agency disapproves a production item, the Contractor shall deliver a corrected replacement production item. If the Agency approves a set of press proofs with qualification or disapproves a set of press proofs, the Agency may return an entire set of press proofs, or any part of the set of press proofs, to the Contractor with markings indicating where any deficiencies were found. If the Agency disapproves an entire set of press proofs, the Contractor shall deliver a set of corrected press proofs or any part of the corrected set of press proofs to the Agency in the manner specified by the Agency.

b. **Books.** For a book, the Agency shall review and respond to the Contractor within a determination period as specified in Table D-2. The Agency may (1) accept the book, or (2) reject the book. If the Agency rejects a book, the Agency shall deliver a notice to the Contractor specifying the reasons for the rejection, which may include returning a book. In determining whether to accept or reject any book or all books delivered to the Agency, the Agency is not required to examine more than a statistical sampling of at least 5 percent of all books delivered to the Agency. If the Agency rejects a book, it may seek remedies as provided in Parts VII through X.

VI. PAYMENT

A. ***General.*** The Agency is liable to the Contractor as provided in this Contract only for amounts paid in consideration under this Contract. Unless this Contract is terminated as provided in Part VIII, payment shall be made by the Agency to the Contractor in accordance with the contract price, which shall be based on the production of books for and the delivery of the books to the Agency.

B. ***Payment Schedule.*** Upon delivery of an invoice, the Agency shall pay the Contractor the contract price as provided in Appendix D.

1. **Ordinary Payment Schedule.** Except as provided in Subparagraph 2, the Agency may make one payment to the Contractor after the Agency's acceptance of books within a determination period as provided in Table D-2, and evidenced by the Contractor's invoice as provided in Table D-3. The Agency shall pay the Contractor 100 percent of the amount of the contract price.

2. **Early Payment Schedule.** The Agency may pay the Contractor the contract price or a portion of the contract price earlier than otherwise required under Subparagraph 1. In order to make an early payment, the Contractor must verify that the Contractor has incurred production costs associated with performance under this Contract. The decision of the Agency to pay an amount earlier than otherwise required under Subparagraph 1 shall not be construed as an amendment of this Contract, shall not obligate the Agency to pay the Contractor an amount other than as provided in this Contract, shall not constitute a waiver of any requirement of this Contract, and shall not relieve the Contractor of its duty of performance under this Contract.

C. ***Amount of the Contract Price.*** The Agency shall pay the Contractor a contract price for the production and delivery of the books as follows:

1. **Estimated Basis.** The contract price shall be based on an estimated number of pages (page count) for the books as follows:

TABLE A-1
Estimated Basis for Contract Price

Total Number of Books	Estimated Page Count		Estimated Signature Count (16-page Signatures)		Contact Price	
	Per Book	Cumulative	Per Book	Cumulative	Per Book	Cumulative
1,500	480	720,000	30	45,000	18.24	$27,360

2. **Adjustments.** The contract price shall be adjusted to account for all of the following:

a. **Incidental Work.** The Agency shall pay the Contractor for incidental work approved by the Agency, which shall include correcting electronic files as required by the Agency. The prices charged by the Contractor for incidental work shall not exceed charges customarily charged by the Contractor to its customers for similar incidental work. The Contractor shall provide the Agency with proof of customary charges. The Contractor shall not charge the Agency for the first $300 for incidental work performed by the Contractor as required by the Agency.

b. **Actual Number of Books (Overrun).** The Agency shall adjust the estimated basis to pay the Contractor for any number of up to 100 additional books of an overrun which the Contractor produces and delivers to the Agency as provided in Part V. The Agency shall adjust the contract price to pay for the actual number of signatures of each book of the overrun.

TABLE A-2
Adjustments to the Estimated Basis to the Contract Price
By Signature for Book Order and Overrun

Signature Size	Signatures Per Book 16-Page Signatures	Amount	
		Book Order (For All Books)	Overrun (For Each Additional Book)
Estimated	30	$27,360	$18.24
Adjusted	Each Additional Full	$637.50	$.425
	Each Additional Half	$427.50	$.285
	Each Fewer Full	$352.50	$.235
	Each Fewer Half	$240.00	$.160

VII. PROCEDURES AND REMEDIES FOR NONCOMPLIANCE — GENERAL

A. ***All Legal Remedies Available.*** Remedies available as provided in this Contract for breach of contract are in addition to every other remedy available to the parties at law or in equity. The Agency may utilize a procedure and remedy for noncompliance as provided in this Contract in addition to another procedure and remedy also provided in this Contract, including but not limited to a demand for specific performance as provided in Part IX or the assessment of liquidated damages as provided in Part X or both for the same breach of contract as provided for in those parts.

B. ***Notice and Response Requirements.*** The Agency shall notify the Contractor in writing of the Contractor's noncompliance with the terms and conditions of this Contract that terminates the Contract as provided in Part VIII, that demands a remedy for breach by specific performance as provided in Part IX, or assesses liquidated damages as provided in Part X, and the Contractor shall respond to the Agency's notice as follows:

1. **Agency Notice.** Except as provided in Part VIII, the Agency shall deliver the notice of noncompliance within the determination period as provided in Table D-2. The notice demanding a remedy for a breach of contract as provided in Part IX or X shall document each breach of contract and the remedy demanded or imposed for the breach of contract. A notice of breach of contract which demands a remedy shall suspend any obligation by the Agency to carry out the provisions of this Contract until the Agency accepts the remedy.

2. **Agency Response.** The Contractor may (1) comply with the Agency's demand for a remedy as provided in its notice, or (2) dispute the Agency's determination of a breach of contract or remedy within 30 days after the Agency delivers its notice to the Contractor. However, the Contractor must respond within 10 days of an Agency notice demanding specific performance as provided in Part IX. A dispute shall be resolved by the parties in good faith.

C. ***Indemnification.*** Except as provided in this Contract, the Contractor shall jointly and severally indemnify and hold the Agency, the Iowa General Assembly, and the State of Iowa harmless from and against all liability, loss, damage, or expense, including reasonable attorney fees, by reason of a breach of contract by the Contractor.

VIII. PROCEDURES AND REMEDIES FOR NONCOMPLIANCE — TERMINATION

A. ***Justifiable Termination.*** Any of the following shall be just cause for terminating this Contract, without breach of contract:

1. **Insufficient Moneys.** If moneys necessary to satisfy the contract price are at any time not forthcoming or insufficient through the failure of the State of Iowa to make sufficient moneys available as a result of legally binding action, then the Agency may terminate this Contract by giving not less than 20 days written notice to the Contractor documenting the lack of funding. Upon termination, the Agency agrees to pay all costs incurred by the Contractor up to and until the date of termination. If moneys necessary to satisfy the contract price become available within 40 days subsequent to the termination, the Agency agrees to reexecute a contract with the Contractor under the same provisions of this Contract and any amendments as agreed to by the parties.
2. **Force Majeure.** If the performance of any provision of this Contract is prevented by an event which is an act of God, civil tumult, war, epidemic, interruption of transportation or communication, or any other cause beyond the control of a party, as determined by the Agency, that party is relieved of the performance of that provision of this Contract. However, if the Contractor is prevented from performance, the Contractor shall provide the Agency with written notice within 10 days describing the preventing event, the possible duration of the preventing event, the Contractor's efforts to remedy the situation caused by the preventing event, and the expected effect of the preventing event upon the schedules contained in this Contract. It shall be the Contractor's responsibility to show that the cause of the preventing event was beyond the Contractor's control, that the preventing event reasonably caused nonperformance, and that the Contractor was not reasonably able to anticipate the preventing event in order to avoid the nonperformance.

B. ***Unilateral Termination.*** The Agency may unilaterally terminate this Contract if the Contractor commits an egregious breach of this Contract as specified in this Paragraph "B." The Agency shall deliver a written notice to the Contractor within 30 days following the Agency's discovery of the egregious breach, but within the determination period as provided in Table D-2. The written notice shall document each cause of the egregious breach. An egregious breach is limited to any of the following:

1. **Unauthorized Copyright.** The Contractor obtains or attempts to obtain a copyright in text or artwork produced in a book or originating from electronic media transferred or delivered to the Contractor by the Agency as provided in this Contract.
2. **Unauthorized Release.** The Contractor releases text or artwork delivered by the Agency to the Contractor under this Contract to any person including but not limited to a related entity of the Contractor, the text or artwork is produced in a book or originates from electronic media transferred or delivered to the Contractor by the Agency, and the release is not expressly approved in writing by the Agency.
3. **Unauthorized Publishing.** The Contractor uses text or artwork delivered by the Agency to the Contractor under this Contract for purposes of publishing, without the express written approval of the Agency.
4. **Unwarranted Delay.** The Contractor fails to deliver a production item or book more than 20 days after a date required in this Contract.
5. **Unsatisfactory Press Proof Pages.** The Agency rejects all or a majority of press proof pages as required to be accepted by the Agency.
6. **Corruption of Text or Artwork.** The Contractor delivers final press proof pages that includes text or artwork that is corrupted or does not otherwise match the text or artwork delivered by the Agency to the Contractor for production of the final press proof pages (e.g., as provided as part of a composed page or a genuine photograph). This Subparagraph 6 does not apply to preliminary press proof pages or if the corruption of the text or image is due to the Agency's use of technology or procedures to produce or transmit information to the Contractor for the production of the press proof pages.
7. **Rejected Books (Rejection Rate).** The Agency may reject any book if it determines that the book is unsatisfactory. The Agency may reject all books if it determines that of the total number of books required to be delivered as part of the ordinary order, 15 percent or more of that number are unsatisfactory. The Agency shall notify the Contractor of the rejection as soon as practicable.
8. **Failure to Comply With a Notice for Specific Performance.** The Contractor fails to comply with a demand for specific performance within the period for compliance as provided in Part IX, Paragraph "B."

IX. PROCEDURES AND REMEDIES FOR NONCOMPLIANCE — SPECIFIC PERFORMANCE

A. ***Cause.*** The Agency may demand specific performance for cause as follows:

1. **Rejected Book.** The Agency may reject a book which does not meet the requirements of this Contract. The Agency may demand an exchange for a new book at the expense of the Contractor.
2. **Nondelivery.** If the Contractor fails to comply with a requirement for the delivery of a production item or book, the Agency may require the prompt delivery of the production item or book.
3. **Underrun.** If the Contractor produces an underrun of books, the Agency may require the Contractor to deliver the number of books required by this Contract to the Agency.
4. **Misuse of Text or Artwork.** The Contractor misuses text or artwork used in the production of a book as follows:
   a. **Copyright.** If the Contractor obtains or attempts to obtain a copyright in text or artwork, the Contractor shall immediately withdraw any application for the copyright and renounce any such copyright that the Contractor has obtained.
   b. **Unauthorized Release.** If the Contractor releases text or artwork to an unauthorized person, the Contractor shall take all actions necessary to recover the text or artwork from that person. The Contractor shall return the text or artwork to the Agency or destroy the text or artwork in a manner specified by the Agency.
   c. **Unauthorized Publishing.** If the Contractor uses text or artwork for purposes of unauthorized publishing, the Contractor shall destroy any publication which uses such text or artwork upon demand by the Agency.

B. ***Compliance Period.*** Unless the Contractor disputes the Agency's demand for specific performance following the delivery of the notice to the Contractor as otherwise provided in Part VII, Paragraph "B," the Contractor shall provide specific performance as demanded in the Agency's notice within 10 days of the delivery of the Agency's notice to the Contractor. However, if the Agency's demand is for the production and delivery of books to replace those books that the Agency rejected, the Contractor shall deliver the replacement books to the Agency within 20 days following the delivery of the Agency's notice to the Contractor.

X. PROCEDURES AND REMEDIES FOR NONCOMPLIANCE — LIQUIDATED DAMAGES

A. ***Late Delivery of Books.*** The Agency may assess liquidated damages which shall be imposed on the Contractor for the Contractor's unwarranted delay in the delivery of one or more books that are required to be produced for and delivered to the Agency.

1. **Assumption.** Any unwarranted delay in the Contractor's delivery of books will cause the Agency damages, including a loss in future sales of the books and an accompanying loss of goodwill and diminished reputation which will affect the sales of other Agency publications, including future sales of the Iowa Official Register. In addition, the late delivery of books will reduce the efficiency and effectiveness of persons who receive those books, including but not limited to (1) officials and employees of the federal government, this state, and political subdivisions of this state, and (2) citizens of this state who may purchase the books or refer to the books distributed to libraries.

2. a. **Calculation.** For each calendar day delay in the delivery of a book, the Agency shall assess liquidated damages which shall be imposed upon the Contractor based on the following formula:

TABLE B-1
Formula Used to Calculate Liquidated Damages for the Late Delivery of Books

One Book That is Delivered One Calendar Day Late
x Rate of Assessment
= Base Amount of Liquidated Damages

Base Amount of Liquidated Damages
x Number of Books That are Delivered One Calendar Day Late
= Amount of Liquidated Damages
(For All Books That are Delivered One Calendar Day Late)

Amount of Liquidated Damages
x Number of Calendar Days Late
= Total Amount of Liquidated Damages Due
(For All Books That are Delivered One or More Calendar Days Late)

b. Rate of Assessment. The rate of assessment per book is $.10.

B. ***Late Delivery of a Production Item.*** The Agency may assess liquidated damages for the Contractor's late delivery of a production item to the Agency. The unwarranted delay in the Contractor's delivery of a production item will cause the Agency damages calculated as a fraction of a one-calendar-day delay in the delivery of all books to the Agency as provided in Paragraph "A," Subparagraph 2.

1. **Application.** The Agency's assessment of liquidated damages applies regardless of whether the books are or are not actually delivered late because it is assumed that any delay in the Contractor's delivery of the response or production item will be rectified by the Agency taking extraordinary measures to restore the schedule to every extent possible.
2. **Calculation.** For each calendar day in the delivery of the production item, the Agency shall assess liquidated damages based on the formula used to calculate liquidated damages for the Contractor's late delivery of books at the assessment rate as provided in Paragraph "A," Subparagraph 2.
3. **Assessment Schedule.** The amount of the liquidated damages shall be assessed according to the following schedule:

TABLE B-2
Schedule Used to Assess Liquidated Damages for the Late Delivery of a Response or Production Item

Type of Item		Rate of Assessment Per Book	Equivalent Calendar-Day Delay in the Delivery of Books
Sample Cover	Paper	$.10	1/4 Calendar Day
	Fabric	$.10	1/2 Calendar Day
Set of Press Proof Pages	Preliminary	$.10	1/4 Calendar Day
	Final	$.10	1/2 Calendar Day

C. ***Improper Shipment of Books.*** The Contractor's failure to properly ship books as part of required delivery as provided in Part V, Paragraph "B," would cause a three-calendar-day delay in the delivery of all books (calculated by estimating the time expended by the Agency notifying the Contractor and the Contractor to package and ship the books to the Agency). The amount of liquidated damages shall be based on the same formula used to calculate liquidated damages for the late delivery of books as provided in Paragraph "A," Subparagraph 2. The amount of the liquidated damages shall be assessed according to the following schedule:

TABLE B-3
Schedule Used to Assess Liquidated Damages for Improper Shipment of Books

Type of Item	Rate of Assessment Per Book	Equivalent Number of Calendar Days Assessed as Late
Book	$.10	3

D. ***Unsatisfactory Production Materials or Workmanship.*** The Agency may accept unsatisfactory books with qualification if the Agency declines to unilaterally terminate this Contract as provided in Part VIII, Paragraph "B," and concludes that the timeliness of delivery is more important than requiring specific performance alone as provided in Part IX.

1. **Standard.** Books are unsatisfactory if the Agency determines that the books do not conform to production standards required in Part IV.
2. **Assumption.** The assessment of liquidated damages as provided in this part is based on the assumption that the Agency may accept one or more unsatisfactory books with qualification, and that the Agency receives damages for losses that it would have incurred by demanding specific performance which would cause an unwarranted delay in the delivery of replacement books as provided in Part IX.
3. **Calculation.** The amount of liquidated damages shall be based on the same formula used to calculate liquidated damages for the late delivery of all books as provided in Paragraph "A," Subparagraph 2. The amount of the liquidated damages shall be assessed according to the following schedule:

TABLE B-4
Schedule Used to Assess Liquidated Damages for Unsatisfactory Materials or Workmanship

Type of Item	Rate of Assessment Per Book	Equivalent Number of Calendar Days Assessed as Late
Book	$.10	6

XI. WAIVERS AND AMENDMENTS

A. ***Writing Requirement.*** A waiver or amendment of a provision of this Contract shall not be valid unless in writing.

B. ***Authorized Persons.*** On behalf of the Agency, no person other than Mr. Dennis Prouty, Director, or Mr. Richard Johnson, Legal Services Division Director, is authorized to waive a requirement or amend a provision of this Contract. On behalf of the Contractor, Mr. Willis M. Bywater, Chairman of Economy Advertising Co. dba Tru Art® Color Graphics, is authorized to waive a requirement or amend a provision of this Contract.

C. ***Failure to Act is Not a Waiver.*** The failure of a party at any time to enforce a provision of this Contract is not a waiver of the provision, and does not affect the validity of any provision of this Contract or the right of either party to subsequently enforce a provision of this Contract. A decision by the Agency to ignore a breach of this Contract is not a waiver of a subsequent breach of this Contract.

XII. EXECUTION AND EFFECT OF EXECUTION

A. ***Integration.*** Except as provided in this paragraph, this Contract contains the entire agreement between the Agency and the Contractor, and representations made before the signing of this Contract shall not be binding, and neither party shall rely upon conflicting prior representations in entering into this Contract. However, if the parties disagree regarding an issue which is not expressly addressed in this Contract, or regarding the interpretation of a provision in this Contract, which is expressly addressed in a provision contained in the Contractor's Proposal Form for the Iowa Official Register as selected by the Agency, the provision contained in the Proposal Form shall be deemed as part of this Contract. Otherwise, this Contract supersedes the provisions of any Request for Proposals or agreements made prior to the execution of this Contract.

B. ***Effective and Termination Dates.*** This Contract takes effect upon being signed by authorized representatives of the Agency and the Contractor and continues until the provisions of this Contract are satisfactorily performed, or until this Contract is otherwise terminated under its provisions.

C. ***Signatures.*** The duly recognized representatives of the Agency and the Contractor have on the date noted signed their names to and executed this Contract:

Dennis C Prouty — 1/11/08

Mr. Dennis Prouty, Director
Legislative Services Agency

Date

Willis M. Bywater — 1/18/08

Mr. Willis M. Bywater, Chairman
Economy Advertising Co.
dba Tru Art® Color Graphics

Date

ADDRESS: c/o Legislative Services Agency
State Capitol
Des Moines, Iowa 50319
Phone: 515/281-3566

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