November 21, 2013

To: ARL Directors and Collection Development Contacts

From: Celeste Feather, ARL Licensing Initiative Program Manager, LYRASIS

Re: University Press Scholarship Online Offer from Oxford University Press, Winter 2013-2014

**Offer Background and Summary**

Our second offer from Oxford University Press for the ebook content at their [University Press Scholarship Online (UPSO)](http://www.universitypressscholarship.com/) site includes content they have loaded at the site from 2011-2013 and the forthcoming content that will be loaded in 2014. I am pleased to report that negotiations to improve the UPSO offer that was available for 2013 were successful. The discounts and participation thresholds are set at much more favorable levels for 2014. This 2014 UPSO offer is again based on a sliding scale discount so that as more libraries participate, the better the prices become. **The offer deadline by which libraries need to express their intentions to order at specific discount levels is** **February 28, 2014. Final orders will be confirmed and invoiced by March 15, 2014.**

The UPSO offer provides many flexible opportunities for purchasing content with perpetual access by year, subject, and publisher. One key point of which everyone should be aware is that the years of content at UPSO (i.e. 2011-2014) are not an exact match to the publication years of the titles. Oxford uploads new content to UPSO on a monthly basis. The uploads generally contain content published in that same year, but a small amount of the content will be older. OUP reports that they add this older content in answer to requests by libraries for specific titles. Also, when a new partner press joins UPSO, the first upload of content from that press will contain all of the backlist volumes that the press wants to host at UPSO regardless of the year of publication. The subsequent uploads from that press will contain mostly content that is published in the current year. In recognition that the older titles are not as appealing as new ones, OUP has reduced the cost for the older titles by 20% when they set the list price for each collection. All of our group discounts will be off that already reduced cost for the older titles in the 2011-2014 uploads.

UPSO offers 28 subject collections:

|  |  |  |
| --- | --- | --- |
| Anthropology | History | Philosophy |
| Archaeology | Information Science | Physics |
| Biology | Law | Political Science |
| Business/Management | Linguistics | Psychology |
| Classical Studies | Literature | Public Health/Epidemiology |
| Computer Science | Mathematics | Religion |
| Economics and Finance | Music | Social Work |
| Education | Neuroscience | Society/Culture |
| Environmental Science | Palliative Care | Sociology |
| Film, Television/Radio |  |  |

University presses that now participate in UPSO are:

American University in Cairo Press

University of California Press

University of Chicago Press

Edinburgh University Press (UK)

University Press of Florida

Fordham University Press

Hong Kong University Press

University Press of Kentucky

Liverpool University Press (UK)

University of Manchester (UK)

University of Mississippi Press

MIT University Press

Oxford University Press

Policy Press (from the University of Bristol in the UK)

Stanford University Press

Yale University Press

The participation thresholds for the 2014 offer are as follows.

Up to 20 libraries

21-30 libraries

31-50 libraries

51+ libraries

Discount levels vary with the deepest discount at 55% off list on the purchases of the complete 2011 or 2012 uploads. For a complete purchase of 2013 and 2014 uploads, the deepest discount is 50% off list price. All of the pricing details are set forth in the spreadsheet located at <http://bit.ly/1bCZ8UI>. There are 5 pricing tiers in this UPSO offer, based on library type and FTE counts. There are ARL libraries in each tier. With lower participation discount thresholds for 2014, the likelihood of arriving at deeper discounts than we attained in 2013 is far greater. Fifteen libraries participated in the UPSO offer last year. All are assured of the same level of discount in 2014 if they wish to continue participating, and if at least 6 more libraries participate all will receive a higher discount than any library received last year. The costs per title in the various UPSO collections are higher than those in other offers that we have negotiated for the ARL Licensing Initiative, but the original list prices for Oxford and some of the other high profile presses at UPSO are higher than they are for other university presses.

In 2014 there will be greater overlap of content between Project MUSE ebooks and UPSO ebooks since there are more presses with substantial content at both sites. The presses at both MUSE and UPSO to be carefully considered regarding overlap are:

University of California Press

University Press of Florida

Fordham University Press

University Press of Kentucky

Using the title lists for the 2013 publication year collections at these two sites, it seems that in general more titles from the overlapping presses are hosted at Project MUSE than at UPSO. As far as I can determine, the difference is that MUSE encourages and accepts a wider variety of content from the participating presses than Oxford. MUSE collections contain some edited compilations, small reference works, poetry, and a few other types of content that are not, strictly speaking, scholarly monographs. Oxford seems to be taking a slightly more narrow approach for UPSO content and focuses primarily on scholarly monographs. As the collections with some of the larger overlapping publishers take shape in 2014, a more precise analysis of the differences between MUSE and UPSO content will be possible.

**Action Items**

1. Review the pricing spreadsheet at <http://bit.ly/1bCZ8UI>.

2. Review the ARL/LYRASIS central license for UPSO at <http://bit.ly/Tt0RHt> and be prepared to agree to abide by the terms of this license at the point of an actual order. If you already agreed to this license last year, nothing further is needed. If amendments are needed to specify state law in the case of public institutions, contact me (celeste.feather@lyrasis.org) so that we have time to facilitate those amendments.

3. Determine collections of interest and the price point (% discount off list) that would enable you to make a purchase.

4. Complete the Expression of Interest Form at <http://svy.mk/1hVrtOU> by **February 28, 2014, indicating the % discounts needed for each collection of interest that would enable your library to place an order**.

5. Be prepared to confirm a final order by **March 15, 2014**. As a reminder so no one is caught by surprise, a 5% administrative fee as negotiated between ARL and LYRASIS will apply to all orders from libraries that are new participants in the UPSO license. For returning libraries, the administrative fee will be 4%. If we reach a total order amount of $2 million, then the % fee will start to decline.

**License Negotiation**

LYRASIS has signed a [central license](http://bit.ly/Tt0RHt) with Oxford University Press. All libraries purchasing UPSO content through LYRASIS will be covered by the terms of this agreement. LYRASIS will be responsible for obtaining each institution’s agreement to abide by the terms of this central license, which we will do as part of the routine ordering process. We recognize that legal offices at some institutions will require state-specific language, and we can facilitate amendments of this type to the central license when absolutely necessary. **If you have local requirements that necessitate a special amendment to the central license and believe that you will be making a purchase, please let me know as soon as possible so that we can reach resolution for each special circumstance.**

The license negotiations with Oxford were especially challenging last year, and for those new to this discussion I am including the following recap of the major points of discussion.

1. Oxford refused to include mention of **Canadian copyright law** as required by the ARL license specifications. They did not want to bear the responsibility of monitoring laws outside the United States. The acceptable compromise was to itemize all of the rights that Canadian institutions have but not mention Canadian law. The Attachment for Canadian Libraries at the end of the main license contains the language regarding usage rights that will pertain to any institution in Canada.

2. Use of the licensed content is not permitted in print course packs without paying royalties, but after lengthy discussion we did succeed in getting permission to use and temporarily store **excerpts of the works** (not just links) in e-reserve and course management systems.

3. The **scholarly sharing** provision prompted quite a lengthy discussion too. In the end Oxford agreed to the ARL language about users being able to make Fair Use of tables, figures, and excerpts of UPSO content as long as the copyright to these tables, figures, etc. is held by OUP or the partner presses at UPSO.

4. **Governing law** was a particularly thorny issue, as the ARL requirements specify silence on the matter. We worked out a compromise on this issue by accepting the clause about New York governing law that will be used to resolve any disputes between LYRASIS and OUP, and OUP finally did agree to remain silent about governing law with respect to any participating libraries.

5. **Confidentiality** was another difficult provision. Oxford finally agreed to state that the license terms and pricing are not deemed to be confidential information. There still is a confidentiality section in the license that governs other types of information that might be passed between OUP, LYRASIS, and a library.

Other important points of successful negotiation in this license are:

* ADA compliance
* Electronic ILL (but at the usual chapter level)
* Indemnification by OUP
* Local loading of data by an institution or a trusted third party on behalf of an institution
* Text mining rights
* Perpetual use and local archiving rights
* Provision of copy of data upon termination
* No annual hosting fee for content purchased as long as this group agreement is in place

I will be glad to address any questions (celeste.feather@lyrasis.org, 800-999-8558, ext. 2954), and I look forward to working with you.



Useful links:

[UPSO 2011-2014 ebook collection pricing](http://bit.ly/1bCZ8UI)

[UPSO 2011-2014 title list](http://bit.ly/17Nz5sN)

[LYRASIS ARL central license with Oxford for UPSO](http://bit.ly/Tt0RHt)

[Expression of Interest Form](http://svy.mk/1hVrtOU)

[University Press Scholarship Online](http://www.universitypressscholarship.com/)