

OREGON STATE UNIVERSITY



REQUEST FOR PROPOSAL

#SF144155P

Fishing Vessel Charter

PROCUREMENT ANALYST: Shannon Fanourakis

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ISSUE DATE: May 21, 2009

PROPOSAL DUE DATE AND TIME: June 11, 2009 , 2:00 PM

NO LATE PROPOSALS WILL BE ACCEPTED

Web Viewers Note: There may be attachments to this RFP that are not available via the webpage. Contact the procurement analyst listed above to obtain any attachments.

RFP SUBMITTAL LOCATION

Oregon State University Procurement & Contract Services
Attn: Shannon Fanourakis
644 SW 13th Street
Corvallis, Oregon 97333-4238

SCHEDULE OF EVENTS

RFP Released: , May 21, 2009

*Deadline for Requests for
Exception/Clarifications/
Modification or Protest June 3, 2009, 2:00 PM

Proposal Due Date: , June 11, 2009, 2:00 PM

Note: The schedule of events and the dates contained therein are subject to modification as necessary at the sole discretion of Oregon State University (OSU). If modification is necessary, the dates will be modified through written addenda issued by OSU.

****The purpose of the period of time allotted for requests for exception/clarifications/modification or protest is to permit OSU to correct, prior to the opening of proposals, technical or contractual requirements that may be unlawful, improvident, or unjustifiably restrict competition. This will allow OSU to make needed corrections through the issuance of an addendum, prior to the opening of proposals. This will help eliminate the waste of time which is inherent in protests and in the possible rejection of all proposals. In order to have their complaints considered, proposers must submit them within the time established in the RFP.***

INDEX

1.0	INTRODUCTION AND GENERAL INFORMATION.....	4
1.01	Introduction	4
1.02	Overview of Oregon State University	4
2.0	SCOPE OF WORK & REQUIREMENTS.....	6
2.01	Overview	6
2.02	Scope of Work/Requirements:.....	6
2.03	Pre-Proposal Conference	7
3.0	REQUIRED SUBMITTALS & EVALUATION	7
3.01	Required Submittals	7
3.02	Quantity of Proposal	7
3.03	Evaluation	8
4.0	INSTRUCTIONS TO PROPOSERS	10
4.01	Provisions and Requirements.....	10
4.02	Right to Reject	10
4.03	Request for Exception/Clarification/Modification or Protest	10
4.04	Request for Exception/Clarification/Modification or Protest Submittal	10
4.05	Change or Modification/Addenda	11
4.06	Proposal Preparation and Submission	11
4.07	Proposal Modification	11
4.08	Proposal Withdrawals	12
4.09	Agreement to RFP Requirements, Terms and Conditions	12
4.10	Information Submitted.....	12
4.11	Public Record	12
4.12	RFP Preparation Costs.....	12
4.13	Alternate Proposals	13
4.14	Proposal Opening Procedure	13
4.15	Investigation of References	13
4.16	Prior Acceptance of Defective Proposals	13
4.17	Post-Selection Review.....	13
4.18	Legal Sufficiency Review.....	14

ATTACHMENTS:

Attachment A – Sample Contract for Services
Attachment B - Proposer Certifications
Attachment C– Proposer Information Sheet
Attachment D - Pricing Sheet

1.0 INTRODUCTION AND GENERAL INFORMATION

1.01 Introduction

Oregon State University (OSU) is soliciting proposals for a fishing vessel charter in order to conduct zooplankton and phytoplankton research off of the central coast of Oregon. The goal of the project is to conduct plankton net and water sampling along two transect lines; one extending out from Newport to 200 miles offshore and the other off Heceta Head to 50 miles. Below are the net types and tow specifics that we will use.



Vertical net
0.5m diameter ring net
202 μ m mesh
Towed vertically
Max depth 100m (54 fathoms)
Weight 70 lbs



Bongo net
0.70m paired net
505 μ m mesh
Towed obliquely at 2-3 knots
Max depth 100m (54 fathoms)
Weight 200 lbs



CTD
Lowered vertically
with a max depth
of 500m (274 fathoms)
Weight 70 -100 lbs.

A "typical catch"



1.02 Overview of Oregon State University Cooperative Institute for Marine Resources Studies

The Cooperative Institute for Marine Resources Studies (CIMRS) was established in 1982 to foster collaborative research between the National Oceanic and Atmospheric Administration (NOAA) and Oregon State University in fisheries ecosystem studies, aquaculture, oceanography, and marine-resource technology and related fields. The present day CIMRS partnership brings together scientists from NOAA's NW Fisheries Science Center, the Pacific Marine Environmental Laboratory and Oregon State University to work on problems of mutual interest relating to the living and non-living components of the marine environment and their interrelationships. CIMRS research staff are currently involved in scientific efforts that parallel NOAA's program objectives in the areas of fisheries oceanography: including characterizations of essential fish habitat, marine protected areas, groundfish stock assessment, long-term surveys and process studies of mesozooplankton and selected species of euphausiids, juvenile salmonids and associated taxa off the Oregon/N. California coast, studies of juvenile salmon and the influence of disease and anthropogenic factors in the estuarine environment.

2.0 SCOPE OF WORK & REQUIREMENTS

2.01 Overview

OSU is seeking responsive responsible vendor(s) to provide OSU Cooperative Institute for Marine Resources Studies a fishing vessel charter for use off of the central coast of Oregon for zooplankton and phytoplankton research.

2.02 Scope of Work/Requirements:

A sample contract containing OSU's requirements for this Request for Proposal is included as Attachment A. The other provisions in Attachment A are standard terms and conditions that will apply to the resulting contract and should be considered by Proposer to determine price proposals and whether Proposer can meet OSU's expectations.

2.03 Pre-Proposal Conference

There will not be a pre-proposal meeting for this RFP.

3.0 REQUIRED SUBMITTALS & EVALUATION

3.01 Required Submittals

Proposal information should be ordered in the same order as listed below. Proposers should submit at a minimum the following information and in accordance with the instructions provided below:

- (a) A submittal letter detailing how Proposer meets the requirements specified in provisions 2-14 of the Sample Contract, at Attachment A. The submittal letter must be signed by a representative of the Proposer who is authorized to bind the Proposer.
- (b) Attachment B – Proposer Certifications
- (c) Attachment C – Proposer Information Sheet
- (d) Attachment D – Pricing Sheet with pricing for all necessary staff and equipment.

3.02 Quantity of Proposal

Proposers shall submit ONE (1) ORIGINAL of the Proposal, including all Required Submittals AND THREE (3) PHOTO COPIES of the same pages to the location listed on page 1 of this RFP by the time listed on page 1 of this RFP.

Proposers shall mark originals, "ORIGINAL". Originals must contain original signatures on any pages where they are requested. Additionally, Proposer must submit four (4) copies of any illustrated literature or other technical matter included by way of explanation of the proposal. Proposers who fail to submit the requested number of copies may delay the evaluation process by being required to submit additional copies for the evaluation team.

3.03 Evaluation

The evaluation will be a multi-stage process according to the following process:

- (a) During first stage evaluations, Proposals will first be evaluated for completeness and compliance with the requirements of this RFP. Those proposals that are incomplete may be rejected. OSU reserves the right to waive minor informalities as allowed in applicable Oregon Administrative Rules.
- (b) Complete proposals will be sent to the evaluation committee who will perform second stage evaluations which will include an onsite visit of the fishing vessel. During the onsite visit points will be given in each criteria listed below and a total score will be determined. The maximum points available for each category are identified below.
- (c) The Contract will be awarded based on responsiveness to the requirements of the

RFP and strength of the onsite visit.

The following is a summary of criteria and associated amount of maximum possible points that may be awarded after the second stage on site visit evaluation:

Criteria/Points

- 1. Vessel Length beyond minimum requirement of 60 feet (10 possible points)**
- 2. Stabilizers included on Vessel (10 possible points)**
- 3. Availability of winch that holds 600m of wire (10 possible points)**
- 4. Availability of wire counter (10 possible points)**
- 5. Availability of hydraulics for OSU winch (GPM, psi) (5 possible points)**
- 6. Quality and Quantity of Accommodations on board for OSU scientists (10 possible points)**
- 7. Quality and Quantity of Internal work space included with 110 AC (10 possible points)**
- 8. Vessel livability: Potable fresh water supply, head and shower operating appropriately, clean and sanitary accommodations for crew and science party. (10 possible points)**
- 9. Dates of vessel availability in 2009 for the following months: June, July, August, September, and October (20 possible points)**
- 10. Current Coast Guard safety training and first aid training for the Captain (5 possible points)**
- 11. Current Coast Guard safety training and first aid training for at least one additional member of crew (5 possible points)**
- 12. Port Costs for loading and unloading equipment and personnel, including wages of the vessel operator and crew (50 possible points)**
- 13. Daily rate for vessel operation at sea including wages for vessel crew and food for scientific personnel (prorated for partial days), and any additional cost of Marine Property and Indemnity Insurance for having scientific equipment aboard. Scientific gear is valued at \$75,000. (50 possible points)**

If the Contract is not awarded after the evaluation stage, then OSU will proceed with its options under existing Oregon University Systems' Oregon Administrative Rules, in Chapter 580 at Division 62. Such options include, but are not limited to, low tie bid or proposal procedures, rejection of some or all proposals, and negotiations as described in the existing Oregon Administrative Rules.

4.0 INSTRUCTIONS TO PROPOSERS

4.01 Provisions and Requirements

All proposals are subject to the provisions and requirements of the applicable Oregon Revised Statutes and the Oregon University Systems Oregon Administrative Rules, at Chapter 580.

4.02 Right to Reject

OSU reserves the right to reject any proposal or to reject all proposals at any time prior to OSU's execution of a Contract if it is determined to be in the best interest of OSU to do so.

4.03 Request for Exception, Clarification, Modification or Protest

All requests for exceptions, clarifications, modifications or protest regarding information contained in this RFP (including, but not limited to, specifications, requirements, submittals, procedures, terms and conditions or contractual requirements) must be submitted, in writing, no later than the date and time listed in the schedule of events to the name and address listed below in section 4.04. All requests must be received in writing. No information obtained in any conversation with any OSU personnel will serve to change the requirements and/or scope of the RFP. It is within OSU's sole discretion whether it will accept or deny any exceptions raised by Proposers. If OSU clarifies or modifies the RFP, it will do so through issuing an addendum or addenda to this RFP.

OSU reserves the right to reject proposals that raise any objections to the terms and conditions of this RFP after the deadline for requests for exception/clarifications/modification or protest.

4.04 Request for Exception, Clarification, Modification, or Protest Submittals

Requests for exception, clarification, modification, or protests must be marked with the following information:

Request for Exception, Clarification, Modification, or Protest:

RFP # _____

RFP Title: _____

Closing Date: _____

Submit requests for exception, clarification, modification, or protests to:

Oregon State University, Procurement and Contract Services

Attn: Shannon Fanourakis

644 SW 13th Street

Corvallis, Oregon 97333-4238

Voice: (541) 737-6995 Fax: (541) 737-2170

Requests or protests submitted to other than the person listed above may not be considered. OSU will not be held responsible for any requests or protests that are not submitted by the due date and time. Requests or protests may be submitted via

facsimile, at the number listed above.

4.05 Change or Modification/Addenda

Any change or modification to the RFP specifications or the procurement process will be issued in an addendum to the RFP and made available to Proposers. Only addenda issued by the OSU Procurement and Contract Services (PaCS) Department may change the RFP in any way. No information obtained from any OSU personnel, written, or verbal, will serve to change the RFP.

Note: if you have received an RFP you should consult the PaCS to assure that you have not missed any addenda announcements. Proposers are not required to return addenda with their proposals. However, Proposers are responsible for making themselves aware of, obtaining and incorporating any changes made in any addenda issued by OSU into their final proposals. Failure to do so may, in effect, make the Proposer's proposal non-responsive, which may cause the Proposer's proposal to be rejected.

4.06 Proposal Preparation and Submission

In a joint effort to save costs, reduce waste and produce energy savings, Proposers are encouraged to use double-sided printing on standard 8-1/2" x 11" paper. Proposers are highly encouraged to refrain from submitting proposals in 3-ring binders, spiral bindings, and other non-recyclable presentation folders. Pages should be numbered consecutively and a set of tabs inserted to identify each section of the proposal, such as: "Submittal Letter", "Detailed Response", etc. All binders, reference materials, and other documents should be clearly labeled or otherwise identified and referenced in a clear and consistent manner throughout the proposal.

Proposals and pricing shall be typed and signed by an authorized representative of the Proposer where signatures are required in the attached forms. At least one proposal submitted by Proposer should bear original signatures. No oral, telegraphic, telephone or facsimile proposals will be accepted.

Proposals must be submitted in sealed package(s) or envelope(s). To ensure proper identification and handling, all package(s) or envelope(s) must be clearly marked with the RFP Number and date and time of closing.

Proposals must be received and time-stamped by the OSU Procurement and Contract Services Department at the location listed on Page 1 of this RFP prior to scheduled RFP closing date(s) listed in the Schedule of Events. It is the Proposer's responsibility to submit proposals in a timely manner, allowing plenty of time for delivery. OSU will not be held responsible for late RFP delivery due to a courier's inability to deliver the proposal in a timely manner. Under no circumstances shall late proposals or modifications be considered.

4.07 Proposal Modification

Modifications or erasures made to proposals before proposal submission should be initialed in ink by the person signing the proposal. Proposals, once submitted, may be modified in writing before the time and date set for proposal closing. Any modifications should be prepared on company letterhead, signed by an authorized representative, and state that the new document supersedes or modifies the prior proposals.

Proposers may not modify proposals after proposal due date and closing time.

4.08 Proposal Withdrawals

Proposals may be withdrawn in writing on company letterhead signed by an authorized representative and received by PaCS prior to proposal due date and time. Proposals may also be withdrawn in person before the proposal due date and time upon presentation of appropriate identification.

4.09 Agreement to RFP Requirements, Terms and Conditions

By proposal submission, Proposers agree to all requirements, terms and conditions contained in the RFP. Proposer further agrees that if Proposer is awarded a Contract pursuant to this RFP process, no terms and conditions will apply to the Contract other than those in writing and signed by an individual authorized to bind OSU.

4.10 Information Submitted

The Proposer is cautioned that it is the Proposer's sole responsibility to submit information related to the evaluation categories, and that OSU is under no obligation to solicit such information if it is not included within the Proposer's proposal. Failure by the Proposer to submit such information may cause an adverse impact on the evaluation of the Proposer's proposal.

4.11 Public Record

In addition, Proposers must be aware that all information submitted by them in response to this RFP is subject to review by the public under the Oregon Public Records Law.

If a proposal contains any information that it considers to be a "trade secret" under ORS 192.501(2), the Proposer must mark each sheet of such information with the following legend:

This data constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.

The Oregon Public Records law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies "unless the public interest requires disclosure in the particular instance." ORS 192.501(2). Therefore, non-disclosure of documents or any portion of a document submitted as part of a proposal may depend upon official or judicial determinations made pursuant to the Public Records Law.

The above restriction may not include cost or price information, which must be open to public inspection. Designating an entire proposal a "trade secret" or otherwise confidential is unacceptable. Proposals in which the entire document is marked or otherwise identified in its entirety as a "trade secret" or otherwise confidential will be rejected.

4.12 RFP Preparation Costs

OSU shall not be liable for any costs incurred in the preparation and presentation of proposals.

4.13 Alternate Proposals

Proposers may submit more than one proposal. All proposals must comply with the requirements of the RFP except that additional proposals may incorporate, by reference, repetitive information which is provided in a complete proposal.

4.14 Proposal Opening Procedure

All proposals received in response to this RFP shall be opened at the scheduled Proposal Due Date and Time indicated on the cover of this RFP. Proposers who attend the opening will be informed only of the names of Proposers submitting proposals. No other information will be available.

4.15 Investigation of References

OSU reserves the right to investigate and to consider the references and the past performance of any Proposer with respect to such things as its successful performance of similar services, compliance with specifications and contractual obligations, and its lawful payment of suppliers, sub-contractors, and workers. OSU may postpone the award or execution of the Contract after the announcement of the apparent successful Proposer in order to complete its investigation.

OSU reserves the right to consider past performance, historical information and fact, whether gained from the Proposer's proposal, question and answer conference, references, OSU or any other source in the evaluation process.

4.16 Prior Acceptance of Defective Proposals

Due to limited resources, OSU generally will not completely review or analyze proposals which on their faces fail to comply with the requirements of the RFP or which clearly are not the best proposals, nor will OSU generally investigate the references or qualifications of those who submit such proposals. Therefore, neither the release of a Proposer's bid bond, the return of a proposal, nor acknowledgment that the selection is complete shall operate as a representation by OSU that an unsuccessful proposal was complete, sufficient, or lawful in any respect.

4.17 Post-Selection Review

After evaluation, OSU will name an apparent successful Proposer or Proposers. Identification of the "apparent successful Proposer or Proposers" is procedural only and creates no right in the named Proposer or Proposers to award of the Contract. Competing Proposers shall be notified in writing of the identity of the apparent successful Proposer or Proposers and shall be given seven (7) calendar days to review the RFP file and evaluation report at PaCS. Any questions or concerns about, or protests of, the evaluation process must be in writing and must be delivered to PaCS within seven (7) calendar days after the date of the letter identifying the apparent successful Proposer.

Within a reasonable time following the end of this seven (7) day protest period, OSU will consider all protests received, if any, and:

- (a) pursuant to OAR 580-061-0145(8) reject all protests and proceed with

final evaluation of the apparent successful Proposer and, pending the satisfactory outcome of this final evaluation, enter into a Contract with the named Proposer; OR

- (b) pursuant to OAR 580-061-0145 (8), sustain a meritorious protest(s) and reject the apparent successful Proposer as non-responsive, if such Proposer is unable to demonstrate that its proposal complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, OSU may name a new apparent successful Proposer; OR
- (c) pursuant to OAR 580-061-0145 (8) reject all proposals and cancel the procurement.

4.18 Legal Sufficiency Review

The Sample Contract at Attachment A contains terms and conditions that Proposer should consider when preparing its proposal. The Sample Contract is an approximation of the final Contract. Proposers awarded a Contract pursuant to this RFP are expected to enter with OSU. The final Contract will reflect additions acceptable to OSU from the proposal or proposals from Proposers awarded the Contract and any additional terms and conditions added as a result of the negotiations allowed under this RFP and applicable Oregon Administrative Rules. Prior to execution, the Contract must be reviewed for legal sufficiency pursuant to the Oregon Revised Statutes and applicable Oregon Administrative Rules. OSU may not enter into any Contract not approved for legal sufficiency by an attorney qualified to approve the Contract for legal sufficiency. After execution by both parties, the Contract may only be amended upon the mutual agreement of both parties in a writing signed by both parties.

ATTACHMENT A
Sample Contract for Service

This is a Contract between the State of Oregon acting by and through the State Board of Higher Education on behalf of **OREGON STATE UNIVERSITY (OSU)** and **[INSERT NAME OF CONTRACTOR] (CONTRACTOR)**.

WHEREAS, **OSU** needs the services outlined in this Contract and has competitively solicited for those services under Request for Proposal number SF144155P entitled Fishing Vessel Charter; and

WHEREAS, **CONTRACTOR** has submitted a proposal in response to the above referenced Request for Proposal and was selected as the contractor best able to provide this service; and

WHEREAS, **OSU** and **CONTRACTOR** are both in agreement with the terms of this Contract and desire to enter into this mutually beneficial Contract;

NOW, THEREFORE, **OSU** and **CONTRACTOR** agree as follows:

1. **Contract Term and Pricing:** The initial term of this contract shall be from date of contract execution through December 31, 2009. At the option of OSU, the contract may be extended for an additional term of one (1) year from January 1 2010 through December 1, 2010. The Pricing Terms specified on the Pricing Sheet shall apply throughout the Contract Term.
2. **Vessel Requirements:** Contractor shall provide OSU a Vessel that meets the following requirements:
 - a. The Vessel shall have a minimum overall length of 60 feet.
 - b. The Vessel must have sufficient bunk space to comfortably accommodate six passengers on board, including three members of the boat crew and three OSU scientists.
 - c. The Vessel must be able to maintain a minimum cruising speed of at least 8kts.
 - d. The Vessel must be able to maintain a towing speed of 3 kts for the bongo net, and must be able to come to a full stop and hold position to deploy the vertical net and CTD.
 - e. The Vessel should have an accessory winch/boom with approximately 600 feet of 3/8" cable to deploy the CTD and nets or an appropriate deck location at which a winch could be installed.

- f. The Vessel must have a clean flush deck area for sampling equipment and workspace of approximately 8x10ft².
 - g. The Vessel must have an additional deck area of at least 6x6ft² for sample equipment and sample storage.
 - h. The Vessel must have a storage/work area with clean 110 power in the main deck house for scientific use.
 - i. The Vessel must have approximately 50 cu ft of freezer storage exclusively for stowing scientific samples, or sufficient deck space to allow for an OSU provided freezer.
 - j. The Vessel must have a saltwater hose to facilitate washing down scientific nets after each tow.
 - k. The Vessel must have sufficient deck lights, as determined by OSU, for working at night.
3. **Ships Crew:** Ships crew shall consist of three crew members, including two crew members who are able to operate the boat for 24 hour operations, and one deck hand. The crew must be appropriately licensed, qualified, knowledgeable and familiar with the Vessel and waters of the charter area and have sufficient expertise and experience to manage and handle the Vessel safely and competently.
4. **Inspection Certificates:** The Vessel must display a current US Coast Guard, SOLAS or US Navy INSURV inspection certificate with the date of the last inspection.
5. **Life Rafts:** The Vessel must provide sufficient life raft capacity for everyone onboard; the Vessel must display a certificate indicating the date of the last inspection of the life rafts.
6. **Water Supply:** Potable fresh water supply must be adequate for vessel and personal use for crew and scientists.
7. **Ventilation:** Work spaces, berthing, and galley spaces must be adequately ventilated and free from tobacco smoke, excessive engine noise, and hydrocarbon fumes.
8. **Meals:** Nutritionally balanced meals must be provided for everyone on board. Food must be available for all 24 hours of vessel operations.
9. **Payment, Deposit, and Cancellation Prior to Charter:** If Contractor cancels or defaults prior to commencement of charter, and does not find an acceptable

substitute time, then charter fee and any additional payments paid by OSU shall be refunded in full by Contractor and Contractor agrees to reimburse OSU for any reasonable costs incurred in anticipation of the charter. If, after signature of this Agreement, Contractor suffers financial failure, OSU reserves the right to cancel the charter, whereupon Contractor shall immediately release OSU from obligations under this Agreement and all monies shall be refunded without deduction. In this context 'financial failure' shall include but not be limited to bankruptcy, liquidation, receivership, voluntary arrangements with creditors or similar arrangements or interventions (be they judicial or non-judicial) made as a result of the Contractor's becoming insolvent.

10. Delivery/Redelivery: Contractor shall deliver the Vessel at the locations, dates and times specified by OSU, unless changes are mutually agreed to by the parties.

11. Condition: The Vessel must be delivered in good working order and in the same condition or agreed to condition as when the Vessel was inspected by OSU, with all equipment required by the U.S. Coast Guard, outfitted as a boat suitable to its style, size and accommodations. OSU shall inspect the Vessel before beginning the charter and will notify Contractor if there is any complaint or visible defect as to the condition, equipment or accommodations of the Vessel.

12. Expenses and Operating Costs: Contractor shall pay ordinary maintenance expenses for the boat, including wear and tear.

13. Delays, Breakdowns, Accidents: In the event of delay, breakdown or accident during the charter term, Contractor shall notify OSU and attempt to resolve the problem. This includes but is not limited to mechanical failure of the boat or equipment, grounding, collision or other cause which disables the Vessel so that it can not safely be used in navigation, scientific sampling, or is not habitable. The Contractor shall attempt to remedy the problem within 24 hours so that the charter may be completed but no charter fee nor other payments will be made by OSU for time that the Vessel didn't function for the charter. OSU shall not be held responsible for the costs to resolve the problem and redeliver the boat. In the event that the remedy is not able to be completed within 24 hrs, the charter may be terminated at that point by OSU, with the charter fee to be refunded based upon the prorata uncompleted charter term from the time the Vessel became unfit, along with any unused additional payments made by OSU. Contractor shall be responsible to transport charter party to stated point of disembarkation if event is not due to negligence or intentional acts of OSU. OSU recognizes that the charter voyage may not be able to proceed where and when intended due to weather and sea conditions. OSU may propose an alternate itinerary.

If Contractor terminates or defaults, the unused charter fee and other payments made by OSU shall be refunded in full to OSU in addition to any other reasonable damages.

14. Affirmative Action and Equal Employment Opportunity: The Contractor shall adhere to OSU's Affirmative Action and Equal Employment Opportunity policies, as published on OSU's website.

15. Notice/Contacts: Any notice pursuant to this Contract shall be validly given if in writing and sent to the respective addressees of Contractor and OSU. The OSU contacts for submittals and any other correspondence and notices related to performance under Contract shall be:

OSU Contract Administrator

and: OSU Cooperative Institute for
Marine Resources Studies

Shannon Fanourakis, CPPB
Senior Procurement Analyst
Oregon State University
644 SW 13th Street
Phone: (541) 737-6995

Jennifer Menkel
CIMRS
Oregon State University, HMSC
2030 SE Marine Science Drive
Phone: (541) 867- 0279

The Contractor contacts for submittals and any other correspondence and notices related to performance under Contract shall be:

16. Amendments: The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of OSU.

17. Independent Contractor Status: The service or services to be rendered under this Contract are those of an independent contractor. OSU reserves the right (a) to determine and modify the delivery schedule for the services and (b) to evaluate the quality of the services; however, OSU may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the services. Contractor is not an officer, employee or agent of OSU as those terms are used in ORS 30.265.

18. Retirement System Status: Contractor is not a contributing member of the Public Employees' Retirement System and will be responsible for any federal or state taxes applicable to payment under this Contract. Contractor will not be eligible for any benefits from these Contract payments of federal Social Security, employment insurance, workers' compensation or the Public Employees' Retirement System, except as a self-employed individual.

19. Government employment status:

- A. If this payment is to be charged against federal funds, Contractor certifies that it is not currently employed by the federal government.
- B. Contractor certifies it is not an employee of OSU.

20. Waiver: Failure of OSU to enforce any provision of this Contract shall not constitute a waiver or relinquishment by OSU of the right to such performance in the future nor of the right to enforce any other provision of this Contract.

21. Assignment/Subcontract/Successors: Contractor shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the OSU Procurement and Contract Services Department and any attempt to do so will be null and void. No such written approval shall relieve Contractor of any obligations of this Contract, and any transferee or subcontractor shall be considered the agent of Contractor. Contractor shall remain liable to OSU under the Contract as if no such assignment, transfer, or subcontract had occurred.

22. Successors in Interest: The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties to the Contract and their respective permitted successors and assigns.

23. Compliance with Applicable Law: Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act, 42 USC §12100 et seq., ORS 659.425 and all regulations and administrative rules established pursuant to those laws. Failure or neglect on the part of Contractor to comply with any or all such laws, ordinances, rules, and regulations shall not relieve Contractor of these obligations nor of the requirements of this Contract.

24. Payment of Contractor's Obligations: Contractor agrees to make payments promptly when due to all persons supplying labor or materials to Contractor to facilitate its performance of this Contract; to pay all contributions or amounts due the industrial accident insurance provider that Contractor incurs in the performance of this Contract; not to permit any lien or claim to be filed or prosecuted against the state on account of any labor or material furnished by Contractor; to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required in this paragraph, the appropriate OSU official may pay the claims and charge the amount of the payment against funds due or to become due to the Contractor under this Contract. If no additional payments are due Contractor under this

Contract, Contractor shall reimburse OSU for claims it pays on Contractor's behalf. Any payment of a claim in the manner authorized in this section does not relieve the Contractor or Contractor's surety, if any, of obligations with respect to any unpaid claims.

25. Severability: If any provisions of this Contract are declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid, unless that provision is deemed material by OSU.

26. Indemnity, Responsibility for Damages: (a) Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work under this Contract, or from any act, omission, or neglect of Contractor, its subcontractors, or employees. Contractor shall save, defend, indemnify, and hold harmless the State of Oregon, the State Board of Higher Education, OSU, and their officers, agents, employees, and members from all claims, suits, and actions of any nature resulting from or arising out of the activities or omissions of Contractor or its subcontractors, officers, agents, or employees acting under this Contract. (b) Without limiting the generality of subsection (a), Contractor expressly agrees to defend, indemnify, and hold OSU, the State of Oregon and their agencies, subdivisions, officers, directors, agents, and employees harmless from any and all claims, suits, actions, losses, liabilities, costs, expenses, including attorneys fees, and damages arising out of or related to any claims that the services or any other tangible or intangible items delivered to OSU by Contractor that may be the subject of protection under any state or federal intellectual property law or doctrine, or OSU's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, that OSU shall provide Contractor with prompt written notice of any infringement claim. (c) Contractor shall have control of the defense and settlement of any claim that is subject to subsections (a) or (b); however, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Oregon Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon, nor shall Contractor settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Contractor is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

27. Safety and Health Requirements: Services supplied under this Contract

shall comply with all federal Occupational Safety and Health Admin. (OSHA) requirements and with all Oregon safety and health requirements, including those of the State of Oregon Workers' Compensation Division.

28. Access to Records: Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of the Contract and of the Annual Net Revenue. The Oregon State Board of Higher Education, Oregon Secretary of State, federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for three years from the date of Contract expiration unless a shorter period is authorized in writing. Contractor is responsible for any audit discrepancies involving deviation from the terms of the Contract and for any commitments or expenditures in excess of amounts authorized by OSU.

29. Insurance Terms and Conditions:

A. **LIABILITY INSURANCE:** Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, General Liability Insurance. Such insurance policy is to be issued by an insurance company authorized to do business in the State of Oregon. Contractual, product, and completed operations liability combined single limit per shall not be less than \$1,000,000, when applicable. OSU and the Oregon University System, their officers, employees and agents shall be included as additional insured in said insurance policy. Contractor shall also obtain Marine Property and Indemnity Insurance for OSU's scientific equipment, with an estimated value of \$75,000.

B. **WORKERS' COMPENSATION:** The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract are subject employers under the Oregon Workers' Compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, unless such employees are exempt under ORS 656.126.

C. **PRIMARY COVERAGE:** Insurance carried by Contractor under this Contract shall be the primary coverage and OSU's insurance is excess and solely for damages or losses for which OSU is responsible.

D. **CERTIFICATES OF INSURANCE:** As evidence of the insurance coverages required by this Contract, the Contractor shall furnish Certificate(s) of Insurance to OSU Procurement and Contract Services Department, upon request. The Certificate(s) will specify all of the parties who are Additional Insureds (or Loss Payees). Insurance coverages required under this Contract shall be obtained

from insurance companies or entities acceptable to OSU. The Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self-insurance included hereunder.

E. **NOTICE OF CANCELLATION OR CHANGE:** There shall be no cancellation, material change, potential exhaustion of aggregate limits or intent not to renew insurance coverage(s) without 30 days' written notice from the Contractor or its insurer(s) to OSU Procurement and Contract Services Department. Any failure to comply with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverage(s) provided to OSU.

Note: Contractor shall ensure any/all subcontractors, comply with insurance requirements. OSU reserves the right to obtain insurance certificates from these entities at any time during the Contract period.

30. **Termination:** This Contract may be terminated at any time by mutual consent of both parties, or by OSU at its discretion. If sufficient funds are not provided in future legislatively approved budgets of OSU (or from applicable federal, state or other sources) to permit OSU, in the exercise of its reasonable administration discretion, to continue this Contract, or if OSU or the program from which this Contract was executed is abolished, OSU may terminate this Contract without further liability upon delivery of notice to Contractor. This Contract may also be terminated by OSU for default (including breach of contract) if (a) Contractor fails to provide services called for by this Contract within the time specified, (b) Contractor fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of the Contract in accordance with these terms, and after receipt of written notice from OSU, fails to correct such failures within ten days, (c) Contractor institutes or has instituted against it, insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis, or (d) Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Contract or Contractor has not obtained such license or certificate within fourteen (14) calendar days after OSU's notice or such longer period as OSU may specify in such notice. The rights and remedies of OSU provided in the above clause related to defaults (Including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by or under this Contract.

31. **OSU's Remedies for Contractor's Default:** In the event Contractor is in default under the Section titled "Termination", OSU may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to: (a) rejection of the services, (b) requiring Contractor to correct any defects without charge, (c) negotiation with Contractor to sell the services to OSU at a reduce price, (d) termination of the Contract under the Section titled "Termination", (e) withholding all moneys due for the services Contractor has failed to deliver within any scheduled completion dates or has

performed inadequately or defectively, (f) initiation of an action or proceedings for damages, specific performance, or declaratory or injunctive relief, or (g) exercise of its right of set off. These remedies are cumulative to the extent the remedies are not inconsistent, and OSU may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

32. Force Majeure: Neither OSU nor Contractor shall be held responsible for delay or default caused by fire, riot, act of nature, terrorist acts, or other acts of political sabotage, or war where such cause was beyond, respectively, OSU's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Contract.

33. Governing Law: This Contract shall be governed and construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflict of laws rules or doctrines. Any claim, action, or suit between OSU and Contractor that arises out of or relates to performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Marion, for the State of Oregon. Provided, however that if any such claim, action, or suit may be brought only in federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Contractor hereby consents to the in personam jurisdiction of said courts.

34. Notice: Any notice pursuant to this Contract shall be validly given if in writing and sent by registered or certified mail, postage prepaid, to the respective addressees of Contractor and OSU.

35. Sexual Harassment Policy: Contractor shall comply with the Board of Higher Education policies applicable to contractors that prohibit sexual harassment by Contractor and its employees in their interactions with members of the OUS community.

36. Merger: THIS CONTRACT, INCLUDING THIS DOCUMENT AND ANY ATTACHMENTS CONSTITUTES THE ENTIRE CONTRACT BETWEEN THE PARTIES. THERE ARE NO UNDERSTANDINGS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SUBMISSION OF A BID OR PROPOSAL BY ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE CONTRACT AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective duly authorized representatives as of the date last below written.

CONTRACTOR

OREGON STATE UNIVERSITY

Name Date
Title

Tamara Bronson Date
Procurement and Contracts
Supervisor

Approved as to legal sufficiency:

Name Date
Title

ATTACHMENT B

PROPOSER CERTIFICATIONS

Each Entity must read and comply with the following sections. Failure to do so may result in rejection of offer. By signature on this certification the undersigned certifies that they are authorized to act on behalf of the Entity and that under penalty of perjury the undersigned will comply with the following:

SECTION I. OREGON TAX LAWS

As required in ORS 305.385(6) the undersigned hereby certifies that to the best of the undersigned's knowledge, the Entity is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 401.792 to 401.816 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 320 (Amusement Device and Transient Lodging Taxes), 321 (Timber And Forestland Tax), 323 (Cigarettes And Tobacco Products Tax), and the elderly rental assistance program under ORS 310.630 to 310.706; and any local taxes administered by the Department of Revenue under ORS 305.620. If a Contract is executed, this information will be reported to the Internal Revenue Service under the name and taxpayer I.D. number submitted below. Information not matching IRS records could subject Contractor to 31 percent backup withholding.

SECTION II. AFFIRMATIVE ACTION

The undersigned hereby certifies that they have not discriminated against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts, pursuant to OAR 580-061-0030 (3).

SECTION III. COMPLIANCE WITH SOLICITATION

The undersigned agrees and certifies that they:

1. Have read, understands and agree to be bound by and comply with all requirements, instructions, specifications, terms and conditions contained herein (including any attachments); and
2. Are an authorized representative of the Entity, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the offer or contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the solicitation and the contract; and
4. Will provide/furnish federal employee identification number or social security number with offer.

Authorized Signature: _____ Date: _____

Name (Type or Print): _____ Title: _____

Telephone Number:(_____) _____ Fax Number:(_____) _____

FEIN ID# or SSN# (required): _____

Construction Contractors Board (CCB) License Number (if applicable): _____

Business Designation (check one):

☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Non-Profit ☐ Limited Liability Company

Minority, Women & Emerging Small Business (MWESB) Certified Firm: ☐ Yes ☐ No

If yes, Minority, Women & Emerging Small Business (MWESB) Certification Number: _____

ATTACHMENT C
PROPOSER INFORMATION SHEET

PROPOSER: _____

CONTRACT CONTACT INFORMATION

POINT OF CONTACT: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

ADDRESS: _____

CITY, STATE ZIP: _____

ACCOUNTING CONTACT INFORMATION

POINT OF CONTACT: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

REMITTANCE ADDRESS: _____

CITY, STATE ZIP: _____

ATTACHMENT D

PRICING SHEET

1. OSU anticipates 6 hours for loading and 6 hours for unloading OSU equipment and OSU personnel. Please indicate below the price offered for loading and unloading OSU equipment; the price should include all port costs for loading and unloading OSU equipment, and all applicable labor costs.

PORT COSTS: \$ _____

2. Please indicate below the Charter Fee for operation of the Vessel. The Charter Fee specified below must include the cost of Vessel operation at sea for 24 hours, 24-hour labor costs, the cost of food for all OSU personnel, and the cost for Marine Property and Indemnity Insurance for OSU's scientific equipment, with an estimated value of \$75,000.

DAILY RATE: \$ _____