

OREGON STATE UNIVERSITY



REQUEST FOR PROPOSAL

#SF143421P

Wave Energy Mobile Ocean Test Berth

PROCUREMENT ANALYST: Shannon Fanourakis

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ISSUE DATE: March 20, 2009

PROPOSAL DUE DATE AND TIME: April 17, 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: March 20, 2009

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

Proposal Due Date: April 17, 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.***

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ATTACHMENTS:

- Attachment A – OSU Standard Terms and Conditions for Goods
- Attachment B – Proposer Certification
- Attachment C – Proposer Information Sheet
- Attachment D – Reference Sheet

EXHIBITS: Exhibit 1 - Example

1.0 INTRODUCTION AND GENERAL INFORMATION

1.01 Introduction

This Request for Proposal (RFP) is to solicit responsive responsible vendor(s) to provide the pre-design, system design and system build of a Wave Energy Mobile Ocean Test Berth.

1.02 Background

Through the United States Department of Energy (USDOE) Water Power Program, a Northwest National Marine Renewable Energy Center (NNMREC) is being established, led by Oregon State University (OSU). The NNMREC will help move the generation of energy from waves, ocean currents and tides from the laboratory to an integral part of the nation's alternative energy future. NNMREC will build a mobile (non-grid connected) floating "test berth" to test and demonstrate wave energy technologies off the Oregon Coast near Newport, as well as perform extensive environmental impact studies, modeling, community outreach and other initiatives.

2.0 SCOPE OF WORK & REQUIREMENTS

2.01 Overview

Oregon State University is seeking responsive responsible vendor(s) to provide a full-scale ocean deployed Wave Energy Mobile Test Berth ("Test Berth"). The Test Berth should be a "plug-and-play" connection point that includes a mobile power analysis and data acquisition (PADA) module and load bank, and necessary buoys and mooring systems (See Example in Exhibit 1).

The mobile power analysis and data acquisition module ("PADA module") is the system core. It must be designed and constructed to load and monitor wave energy devices being tested at the Test Berth. The mobile Test Berth must be designed for effective deployment from vessels, and must have several advantageous features including (1) testing capability without costly grid connections; (2) adjustable loading for device characterization, (3) capacity for independent device feasibility studies for developers at a site of interest, and (4) capacity to contribute to the development of uniform testing standards for wave energy devices.

The Test Berth should be sufficiently mobile to enable the NNMREC to assist others by having the ability to travel to their predetermined test site with ease. For example, when a wave energy company wishes to demonstrate that a particular site is suitable for a potential wave array, they need to demonstrate and have a third party determine performance characteristics *at that site*. The NNMREC must be able to take the Test Berth to that particular site, and the Test Berth must provide a variable loading system so that device being tested does not initially need to be grid-connected. The PADA module should then enable the NNMREC to analyze the performance of the device.

The PADA module should consist of an onboard computing system, interface and measurement boards, probes and connectors. The PADA module must be mounted in a secure, self-contained, marine-watertight, portable enclosure. The PADA module must be able to test, observe and record the performance of the system in a PC-based GUI programming environment. In addition, the PADA module control algorithms must be capable of modification while the system is in operation, thus making it unnecessary for the operators to return the system to shore to reprogram. The capacity to implement, modify, and test the system while the system is in operation, should maximize results for the testing team. The PADA module must be an extremely flexible, powerful, and novel tool for wave energy technology development.

The successful company, or collaboration of companies, must work closely with the OSU Wave Energy Team of professors and students, as well as the Fishermen Involved in Natural Energy (FINE), on the design and implementation. Important considerations for the Wave Energy Mobile Ocean Test Berth include user friendly operation of systems, ease of installation, high line-to-line voltage capability to ensure a large margin of safety, durability, and a lengthy warranty.

The Oregon Wave Energy Trust (OWET) funded a survey of Wave Energy Developers from around the world, conducted through OSU's College of Business "Close to the Customer" program. Fifty-one qualified wave contacts were identified and 24 responded to the e-mail survey or participated in the phone survey. The response rate was 47%. From this survey the following Test Berth specifications were identified:

- a. Peak instantaneous power: 2MW
- b. Average power per wave period: 1MW
- c. Line-to-line voltage: 20kVrms
- d. Peak phase current: 800A
- e. Devices are expected to be grounded through the test berth (will want a ground conductor)
- f. Sampling rate: at least 100 us

The build procedure will be divided into three stages as indicated in the Scope of Work below, with each subsequent stage pending successful completion of previous stages:

2.02 Scope of Work

Stage 1: Pre-Design Activities

- a. Agree upon Test Berth load ratings, power dissipation, and electrical specifications (see Required Specifications below).
- b. Specify Test Berth marine/sea-worthy enclosures, connectors, and mechanical requirements.

c. Specify environmental conditions for system operation, including water depth range at test site and maximum wave height during deployment and normal operation.

d. Stage 1 Deliverable: Pre-Design Report estimated at 30% design.

Stage 2: System Design

a. Design Test Berth.

b. Design the Test Berth mooring and identification/navigation lighting, etc.

c. Stage 2 Deliverable: Plans and Specification

Stage 3: System Build and Demonstration

a. Requisition equipment and building of the entire Test Berth system, including the PADA module and load bank, and necessary buoys and mooring systems.

b. Test PADA module system on a device tested on the OSU Wave Energy Linear Test Bed.

c. Ocean test entire Test Berth system with a device under test (wave energy device can be supplied by OSU).

d. Stage 3 Deliverable: Fully deployable Test Berth.

2.03 Required Specifications

- (a) Fully mobile marine solution including careful buoy and mooring designs (e.g. anchor and tether systems).
- (b) Straightforward device surface connection systems.
- (c) A PADA module with adjustable load system for the device power take-off cable interconnect.
- (d) Appropriate identification/navigation lighting in accordance with applicable regulatory requirements.
- (e) Comprehensive warranty statements.
- (f) Peak instantaneous power: 2MW

- (g) Average power per wave period: 1MW (with the range of testing capabilities including low power devices)
- (h) Line-to-line voltage: maximum feasible with switch-mode components (e.g. IGBTs).
- (i) Peak phase current: 800A
- (j) Devices are to be grounded through the test berth (devices under test want a ground conductor).
- (k) Sampling rate: at least 100 us
- (l) Ability to provide reactive power to the wave energy converter.

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2.04 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 shall submit at a minimum the following information and in accordance with the instructions provided below:

- (a) A submittal letter detailing how Proposer meets the expectations provided in the Overview in section 2.01, the Scope of Work as outlined in section 2.02 of this RFP and the required specifications identified in section 2.03 of this RFP. The submittal letter must be signed by an authorized representative of the Proposer with authority to bind the Proposer. The submittal letter should describe the proposer's qualifications and experience with similar/applicable projects.,
- (b) A timeline for completion of the Scope of Work in section 2.02, in accordance with the expectations provided in the Overview in section 2.01 and the required specifications in section 2.03 and consistent with the Price Proposal.
- (b) A Price Proposal, identifying the price that the Proposer is offering for the pre-design, design, and build and demonstration of the Test Berth, as described in sections 2.01, 2.02, and 2.03 of this RFP.
- (c) Attachment B – Proposer Certifications
- (e) Attachment C – Proposer Information Sheet
- (f) Attachment D – Reference Sheet

3.02 Quantity of Proposal

Proposers shall submit ONE (1) ORIGINAL copy of all proposal pages that request information from the Proposer AND FOUR (4) 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.

Original shall be marked "ORIGINAL". Original copy shall contain original signatures on any pages where it is requested. Additionally, submit four (4) copies of any illustrated literature or other technical matter included by way of explanation of your 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

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.

Complete proposals will be sent to the evaluation committee who will perform first stage evaluations on the written proposals based on the criteria identified below. Points will be given in each criteria and a total score will be determined. The maximum points available for each category are identified below. If the proposal is unclear, proposers may be asked to provide written clarification. At the end of this evaluation stage, OSU may choose to award the Contract to the highest scoring Proposer(s) or move forward to a second stage of evaluation.

The following is a summary of criteria and associated amount of maximum possible points that may be awarded:

Criteria	Points
Proposer's Plan, as expressed in the Letter Agreement, to meet the expectations of sections 2.01-2.03	10
User-friendly operation of Test Berth system	5
Ease of Installation of Test Berth	5
Lightweight and Compact Design of Test Berth	5
High line-to-line voltage capability	5
Proposed Timeline	7
References	5
Warranty	8
Price Proposal	50
Total:	100

At the end of this evaluation stage, OSU may choose to award the Contract to the highest scoring Proposer or move forward to a second stage of evaluation.

If the Contract is not awarded after the first stage, then OSU will proceed with its options under existing Oregon University Systems' Oregon Administrative Rules, in Chapter 580 and 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 Administrative Rules of Oregon State University, 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 "Submittal". 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 OSU's sole discretion as to whether or not they will accept or deny any exceptions raised by Proposers. If OSU clarifies or modifies the RFP, it will do so through issuing an addendum 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 Submittal

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 protest 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 specifications or the procurement process will be in the form of an addendum to the RFP and will be made available to Proposers. Only documents issued as addenda by the OSU Procurement and Contract Services (PaCS) Department serve to change the RFP in any way. No other direction received by the proposer, written or verbal, serves to change the RFP. Note: if you have received a RFP you should consult the OSU Procurement and Contract Services Department to assure that you have not missed any addenda announcements. Proposers are not required to return addenda with their proposals. However, Proposers are responsible to make themselves aware of, obtain and incorporate any changes made in any addendums issued, and to incorporate any changes made by an addendum into their final proposal. 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 prepared by typewriter or in ink and shall be signed in ink by an authorized representative of the Proposer. At least one proposal submitted by Proposer should bear an original signature. 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 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 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 Request for Proposal. 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 may be subject to review by the public under the Oregon Public Records Law.

If a proposal contains any information that is considered 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 Oregon 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 the 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 the references and the past performance of any Proposer with respect to 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. Identification of the "apparent successful Proposer" is procedural only and creates no right in the named Proposer to award of the Contract. Competing Proposers shall be notified in writing of the identity of the apparent successful Proposer and shall be given seven (7) calendar days to review the RFP file and evaluation report at the OSU Procurement and Contract Services Department. Any questions or concerns about, or protests of, the evaluation process must be in writing and must be delivered to the OSU Procurement and Contract

Services Department 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 OSU Standard Terms and Conditions at Attachment A contain terms and conditions that Proposer should consider when preparing its proposal. Prior to execution, any Contract entered as a result of this RFP 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. The Contract may only be amended after execution upon the mutual agreement of both parties in a writing signed by both parties.

ATTACHMENT A

OREGON STATE UNIVERSITY STANDARD TERMS & CONDITIONS FOR GOODS

Rev (1/07)

As used in this Contract, the terms set forth below are defined as follows:

- a. "Contract" means only the documents listed below, which, in the event of any conflicts among them, must be interpreted in the following order of precedence:
 - i. The Solicitation Document and its Attachments and Addenda and Amendments, if any; and
 - ii. The Purchase Order Issued by OSU
- b. "Contractor" means a person or organization with whom OSU has contracted for the provision of goods pursuant to this Contract;
- c. "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from Contractor's performance of this Contract;
- d. "OAR" means the Oregon Administrative Rules;
- e. "ORS" means the Oregon Revised Statutes;
- f. "OSU" means the State of Oregon, acting by and through the State Board of Higher Education, on behalf of Oregon State University. "OSU" also means other parties to the Contract if the purchase is being made under a cooperative agreement;
- g. "Solicitation Document" means the Request for Quotes, Invitation to Bid, Request for Proposals, or any other written document issued by OSU that outlines the required specifications necessary to submit a responsive quote, bid, proposal, or any other response;

2. 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 this Contract. OSU, 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 OSU's review 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 this Contract and for any commitments or expenditures in excess of amounts authorized by OSU.

3. AFFIRMATIVE ACTION: Pursuant to OAR 580-061-0030, Contractor certifies that Contractor has not discriminated against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts.

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

5. 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 by Contractor to assign, sell, transfer, or subcontract rights or delegate responsibilities under this Contract,

without first acquiring written approval of the OSU Procurement and Contract Services Department, will be void. No such written approval shall relieve Contractor of any obligations of this Contract, and any transferee or subcontractor will 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.

6. AVAILABILITY OF FUNDS: OSU certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current biennial appropriation or expenditure limitation, provided, however, that continuation of the Contract or any extension after the end of the fiscal period in which it is written, is contingent upon a new appropriation or limitation for each succeeding fiscal period for the purpose of this Contract.

7. AWARD TO FOREIGN CONTRACTOR: If the amount of this Contract exceeds \$10,000 and if Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and Secretary of State Corporation Division, all information required by those agencies relative to this Contract. OSU shall withhold final payment under this Contract until Contractor has met this requirement.

8. COMPLIANCE WITH APPLICABLE LAW: Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated.

9. DELIVERY: All deliveries are F.O.B. destination with all transportation and handling charges paid by the Contractor, unless specified otherwise in the Solicitation Documents. Responsibility and liability for loss or damage remain with the Contractor until final inspection and acceptance, when responsibility passes to OSU except as to latent defects, fraud and Contractor's warrant obligations.

10. EXECUTION AND COUNTERPARTS: This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

11. 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 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. However, if a default or delay due to a force majeure event continues for an unreasonable time, as determined by OSU, then OSU is entitled to terminate the Contract.

12. 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 County, 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.

13. 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 OSU, the Oregon State Board of Higher Education, the State of Oregon and their agencies, subdivisions, officers, directors, agents, members, and employees 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 Section 11(a), Contractor expressly agrees to defend, indemnify, and hold OSU, the Oregon State Board of Higher Education, the State of Oregon and their agencies, subdivisions, officers, directors, agents, members, 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 Sections 11(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.

14. INSPECTIONS: Goods furnished under this Contract are subject to inspection and test by OSU at times and places determined by OSU. If OSU finds goods furnished to be incomplete or not in compliance with the Contract, OSU, at its sole discretion, may either reject the goods, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the goods to OSU at a reduced price, whichever OSU deems appropriate under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by OSU, OSU may reject the goods and cancel the Contract in whole or in part. Nothing in this paragraph is to in any way affect or limit OSU's rights as a Buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

15. INSURANCE: Contractor shall secure at its own expense and keep in effect during the term of this Contract general liability or professional liability insurance as deemed applicable by OSU with limits of not less than one million dollars (\$1,000,000) unless otherwise specified in writing by OSU. Insurance policies are to be issued by an insurance company authorized to do business in the State of Oregon with a rating of A or better, or as deemed acceptable by OSU. If requested, Contractor shall provide proof of insurance of said insurance policy. If any of the liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration commiserate with the statute of limitations for tort claims in Oregon.

16. NOTICE: Any notice pursuant to this Contract shall be validly given if in writing, via e-mail or fax, or sent by registered or certified mail, postage prepaid, to the respective addressees of Contractor and OSU.

17. PARKING: All contractors, vendors and commercial vehicles doing business on the OSU campus are required to have a permit to park, whether utilizing designated street parking or parking in the parking lots. The permits may be picked up from Transit & Parking Services.

18. PAYMENT TO CONTRACTOR: Payment of OSU contracts or Purchase Orders is normally made within 30-45 days following the date the entire order is delivered or the date the invoice is received, whichever is later. After 45 days, Contractor may assess overdue account charges up to a maximum of two-thirds of one percent per month (8% per annum) on the outstanding balance (ORS 293.462).

19. PAYMENT OF CONTRACTOR'S OBLIGATIONS: Contractor agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the provision of the work provided in this Contract; pay all contributions or amounts due the industrial accident insurance provider from such Contractor incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the State of Oregon on account of any labor or material furnished; pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate OSU official may pay such claim and charge the amount of the payment against funds due or to become due to the Contractor under this Contract. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety, if any, of obligations with respect to any unpaid claims.

20. RECYCLABLE PRODUCTS: Contractors will use recyclable products to the maximum extent economically feasible in the performance of the Contract.

21. 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, by virtue of this Contract, be eligible for federal Social Security, employment insurance, workers' compensation or the Public Employees' Retirement System, except as a self-employed individual.

22. SAFETY AND HEALTH REQUIREMENTS/HAZARD COMMUNICATION: Goods supplied under this Contract are to comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State of Oregon Worker's Compensation Division.

23. SEVERABILITY: If any provisions of this Contract are ruled 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 ruled to be invalid, unless OSU deems the unenforceable term or provision to be material.

24. SEXUAL HARASSMENT: The State Board of Higher Education has adopted policies applicable to Contractors that prohibit sexual harassment, and Contractor's company and employees are required to adhere to OSU's policy prohibiting sexual harassment in their interactions with members of the OSU community.

25. SUCCESSORS IN INTEREST: The provisions of this Contract are binding upon and will inure to the benefit of the parties to the Contract and their respective permitted successors and assigns.

26. TAX COMPLIANCE CERTIFICATION: Contractor hereby certifies under penalty of perjury that Contractor 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 and ORS chapters 118, 314, 316, 317, 318, 320, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Department of Revenue under ORS 305.620.

27. TERMINATION: This Contract may be terminated at any time by mutual consent of both parties, or by OSU upon thirty (30) days' notice in writing and delivered by certified mail or in person to the other party. 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 administrative 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.

In addition, OSU may terminate this Contract effective upon delivery of written notice to Contractor, or at such later date as may be established by OSU, if (a) Contractor fails to provide goods 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. 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. Contractor shall be liable for any and all damages incidental and consequential, as provided in ORS 72.7110 to 72.7170, suffered by OSU as the result of Contractor's breach of contract. OSU is entitled to any and all remedies provided under the Uniform Commercial Code (ORS Chapter 72) in the event of a breach of contract by Contractor. In the event of repeated breach of public or private contracts, Contractor shall be subject to disqualification as bidder on OSU contracts.

28. THIRD PARTY BENEFICIARY: OSU and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

29. WAIVER: Failure of OSU to enforce any provision of this Contract will 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.

30. WARRANTIES: unless otherwise stated, all goods must be new and current model and carry full manufacturer warranties. Contractor warrants all goods delivered to be free from defects in labor, material, and manufacture and to be in compliance with specifications in the Solicitation Document. All implied or expressed warranty provisions of the Uniform Commercial Code, at ORS Chapter 72, are incorporated into this Contract. All warranties run to OSU.

31. WORKERS' COMPENSATION: All employers, including Contractor, that employ subject workers under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.

32. MERGER: THIS CONTRACT 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 IS 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. CONTRACTOR ALSO AGREES THAT OSU IS NOT BOUND TO ANY TERMS AND CONDITIONS EXTERNAL TO THIS CONTRACT THAT OSU HAS NOT READ AND AGREED TO IN A WRITING SIGNED BY AN INDIVIDUAL AUTHORIZED TO BIND OSU.

ATTACHMENT B
Proposer Certification

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
Reference Sheet

Each Proposer must submit the following information as required in the Request for Proposal.

REFERENCE FIRM #1

NAME: _____

ADDRESS: _____

POINT OF CONTACT AT REFERENCE FIRM: _____

PHONE NUMBER OF CONTACT: _____

SCOPE OF SERVICES PROVIDED: _____

REFERENCE FIRM #2

NAME: _____

ADDRESS: _____

POINT OF CONTACT AT REFERENCE FIRM: _____

PHONE NUMBER OF CONTACT: _____

SCOPE OF SERVICES PROVIDED: _____

REFERENCE FIRM #3

NAME: _____

ADDRESS: _____

POINT OF CONTACT AT REFERENCE FIRM: _____

PHONE NUMBER OF CONTACT: _____

SCOPE OF SERVICES PROVIDED: _____

EXHIBIT 1
Example

Draft Schematic of Initial Wave Energy Test Berth
(non-grid connected)

