

**STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
REQUEST FOR PROPOSAL (RFP) # DEQ-1181-13**

ENVIRONMENTAL IMPACTS OF FOOD WASTE MANAGEMENT

1. GENERAL INFORMATION

1.1 Purpose

The Oregon Department of Environmental Quality (DEQ) is requesting proposals from firms or individuals to conduct an assessment of the environmental impacts (both positive and negative) comparing four methods of source-separated food waste management (aerobic composting, anaerobic digestion, sink-disposed sewer treatment, and landfill). The assessment will consist of two phases: first, a literature review of existing life cycle analysis (LCA) studies, supplemented with limited data collection specific to Oregon conditions, and second, a meta-analysis of that literature, with adjustments as appropriate for consistent study boundaries (what's included) and key data inputs, as well as consistency with Oregon-specific conditions, and reconciliation of inconsistent modeling assumptions. In this project, DEQ is not commissioning an original life cycle analysis.

Factors of particular interest are: 1) energy; 2) greenhouse gasses; and 3) agricultural practices/soil productivity, including impacts on soil tilth properties such as biological community, organic matter content, structure, plant nutrient properties, water holding capacity, and soil carbon storage. The study will also need to include research into how compost is currently used in Oregon, what the potential for uses might be for compost and/or digestate, and to what extent displacement of synthetic fertilizers, irrigation water, pesticides, and other soil or plant supplements may occur with these potential uses. A report to DEQ will include conducting a meta-analysis to summarize existing literature in quantitative form, with additional modeling/adjustments as needed. DEQ has an estimated budget of \$30,000 for the project and anticipates the work to take approximately 6 months. DEQ expects to contract with an individual or firm that has significant experience and understanding of LCA and of soil science. As this scope of work contains a combination of traditional literature review and analysis work as well as knowledge of soil and agricultural sciences, DEQ highly encourages interdisciplinary teams to submit proposals.

PRE-PROPOSAL CONFERENCE CALL:

Interested parties are STRONGLY encouraged to attend a non-mandatory informational conference call/webinar to be held December 2, 2013 from 10:30 to NOON (PT) to review the RFP and answer questions. The meeting may end early if the questions of all participants have been answered. To participate in the conference call, visit <https://connect9.uc.att.com/service32/meet/?ExEventID=84770113&CT=M>

and log in with your name and email address. To participate by telephone only, you can call in using one of the following three options:

- * Caller-Paid number: 215-446-3656
- * Toll-Free Number (in USA): 888-363-4734.
- * Blackberry (Caller-Paid): 2154463656x4770113#

When prompted, enter the Meeting Access Code: 4770113#

It is recommended that interested Proposers visit the website prior to the webinar/conference call to automatically download the webinar software and test your audio and video connection. To prepare in advance for the conference (for all devices): <https://connect9.uc.att.com/service32/Prepare/>. To view supported Operating Systems and devices: <http://www.uc.att.com/support/SupportedDevices.html>

1.2 Minority, Women, and Emerging Small Business Participation

Pursuant to Oregon Revised Statute (ORS) Chapter 200, and as a matter of commitment, the DEQ encourages the participation of minority, women, and emerging small business enterprises in all contracting opportunities. The DEQ also encourages joint ventures or subcontracting with minority, women, and emerging small business enterprises. All businesses seeking contracting opportunities as a minority, women, or emerging small business must be certified by the Office of Minority, Women and Emerging Small Business (OMWESB). For more information please visit <http://egov.oregon.gov/DCBS/OMWESB/index.shtml>.

1.3 Oregon Procurement Information Network (ORPIN)

This solicitation, including addenda, is posted on the Oregon Procurement Information Network (ORPIN). ORPIN provides access to procurement and contracting information issued by the State of Oregon, local governments, and political subdivisions. If you wish to view or download a procurement opportunity, you will need to be registered in ORPIN at <http://orpin.oregon.gov/open.dll/welcome>.

1.4 Estimated Schedule of Events

Event	Date	Time
RFP Release Date	November 14, 2013	See ORPIN
Pre-Proposal Conference Call/Webinar	December 2, 2013	10:30 to NOON (PT)
Deadline for Questions/Request for Changes	December 9, 2013	5:00 PM (PT)
RFP Close Date	January 3, 2014	3:00 PM (PT)
Estimated Contract Award Date	January 10, 2014	
Estimated Contract Effective Date	January 24, 2014	

1.5 DEQ Contact

Proposal submittals and all correspondence concerning this RFP must be emailed to:

BIDSDEQ@deq.state.or.us
Subject: RFP #DEQ-1181-13

1.6 Questions / Requests for Changes / Addenda

Requests for clarification or change must be received by the DEQ Contact on the date and time listed in Section 1.4 (Estimated Schedule of Events).

The sample Contract (Attachment 4) contains the terms and conditions that will govern this contract between DEQ and the successful Proposer. A potential Proposer who believes any of the terms and conditions contained in the sample contract are unnecessarily restrictive or limit competition, or a potential Proposer who would like to request that specific terms and conditions contained in the sample contract be considered for negotiation, shall comply with the provisions of this Section 1.6.

This is the only opportunity to protest the RFP provisions and terms and conditions contained in the sample contract and to request the negotiation of provisions contained in the RFP or sample contract. Any submitted proposal that takes exception to the terms and conditions of the sample contract or requires negotiation of additional terms and conditions shall be deemed non-responsive and the proposal shall be rejected.

When appropriate, revisions or clarifications of the RFP or attached terms and conditions will be issued as Written Addenda to this RFP. Changes or modifications to this RFP will be binding on the DEQ only when made in the form of Written Addenda. Proposers are responsible for checking ORPIN to determine whether a Written Addendum to this RFP has been issued. The DEQ is not responsible for sending addenda to any potential Proposer. Proposers should frequently check ORPIN until the Close Date, especially in the week immediately preceding the Close Date.

2. DUE DATE FOR PROPOSAL SUBMITTAL

All Proposals must be received at the email address in section 1.5 (DEQ Contact) no later than the RFP Close date and time described in Section 1.4 (Estimated Schedule of Events) unless otherwise extended by written addenda. Proposals received after this time and date will not be accepted. Proposals that are mailed, faxed, or submitted to any other email address or in another electronic format will not be considered.

3. BACKGROUND

As part of the development of Oregon's Materials Management [2050 Vision and Framework for Action](#) (for background information, see also: <http://www.oregon.gov/deq/lq/Pages/SW/2050-Vision.aspx>), an analysis was done of the materials currently being disposed of in Oregon in terms of potential energy and greenhouse gas savings that could be gained by recovery and utilization. In that analysis, food waste showed a significant potential for greenhouse gas reduction through recovery and composting, due in large part to the avoidance of methane production when landfilled.

The 2050 Vision also guides the state to seek the "Highest and Best Use" for a material. That is defined here as that use of a material that maximizes the savings of energy and natural resources and minimizes environmental damage and risk to human health. In deciding which is the highest and best use for a material, a key factor is to consider what materials the recovered material is substituting for, and what the impacts of those "displaced" materials are. Using a recovered material in place of a material with high energy requirements, toxicity, and/or other impacts will have greater benefits than would be the case for using the recovered material in place of a material with low energy requirements, toxicity, or other impacts.

Oregon has a well-established and mature composting industry. There is now public and private interest in the state in utilizing Anaerobic Digestion (AD) technology for energy recovery and production of soil amendments from its byproducts. Landfill operators have made investments in Landfill Gas (LFG) recovery that is largely generated by decomposition of food wastes, and in-sink disposal interests have been promoting that mechanism as an environmentally-preferred system. This study is vital to the state's ability to make informed decisions about which technology's infrastructure for handling food wastes should be encouraged through policy.

DEQ and others are interested in better understanding environmental impacts of current and developing options for managing food waste. DEQ's initial scan of the existing literature indicated that is likely difficult to easily synthesize data, because many studies use different boundary systems and accounting conventions, assumptions and data points. Further, literature on the benefits of compost and digestate associated with their use displacing other chemical inputs, conserving water, etc. did not appear to be well-developed and the benefits appeared to depend on how and where the compost/digestate is used, and varied between markets and geographic areas.

For this project, DEQ has partnered with Metro, a metropolitan service district in the three-county Portland, Oregon region. Metro's Sustainability Center advances the region's efforts to reduce greenhouse gas emissions, conserve natural resources, and protect the environment and human health, and has provided substantial funding for this study. DEQ has data on food waste feedstocks generated across the state. Metro recently contracted for a study "Examining the Feasibility of Increasing Compost Use on Food Crops" that may help to inform Oregon compost utilization and potential.

4. SCOPE OF WORK

The selected Contractor must provide the following deliverables:

1. Develop a draft report that includes:
 - a. A current literature review for relevant Life Cycle Analyses (LCAs) that evaluate one or more of the targeted food waste treatments (aerobic composting, source-separated anaerobic digestion, sink-ground sewage treatment at WWTP, landfill). Factors to assess are:
 - Energy;
 - Greenhouse gases;
 - Agricultural practices/soil productivity, including impacts on soil properties: plant nutrient availability, carbon storage, water holding capacity and pest resistance, compared to the potential displacement impacts of any commonly-used substitutes such as synthetic fertilizers, pesticides, etc.

The analysis must summarize the existing literature, provide comparisons by waste treatment type and also identify any gaps in the research. The analysis must also describe the methods used to deal with the problem of isolating solely the impacts of the food waste fraction from mixed organics feedstocks on the above-listed assessment factors. "Food Waste" is defined for purposes of the study as food or trimmings that, after wholesale or retail distribution, were deemed not fit for consumption. It also includes soiled paper

- incidental to preparation or consumption (such as paper towels and napkins), but does not include packaging.
- b. Identification and analysis of all the current end uses, as well as potential applications for compost/digestate in Oregon, with a particular focus on the magnitude of likely benefits, such as fertilizer and pesticide displacement, improved water retention resulting in reduced water use, benefits in carbon reduction or sequestration, etc..
 2. Produce a draft report of meta-analysis. The meta-analysis will provide a quantitative evaluation and summation of the literature results, with adjustments as appropriate to results of existing studies to account for factors such as:
 - a. Inconsistent accounting boundaries and approaches (e.g., some studies may include fertilizer displacement while others do not);
 - b. Inconsistent modeling assumptions and key data points (e.g., greenhouse gas emissions from landfills);
 - c. Oregon-specific conditions, in particular, how compost/digestate is used in Oregon, carbon intensity of marginal energy offsets, and landfill conditions.
 3. Final report

After a project contract is executed in January, 2014, the selected Contractor will be required to attend a project kick-off meeting; at a minimum, the project manager will be required to appear in person at the meeting to be held at DEQ's Portland, OR Headquarters. Other key team members are invited to attend in person, but may also attend by phone/video conference. Developing the reports required in this project will be an iterative process. All necessary subsequent project meetings will be held by conference or video conference call to reduce the project's cost and environmental footprint. DEQ will provide some leads of possible sources of studies to analyze. Contractor will compile initial information on a number of the items listed above in preparation for at least one meeting with the DEQ project team in February, 2014. DEQ will provide input regarding the information, the contractor will compile more information and finalize the LCA review and analysis, and then meet again with DEQ by March 28, 2014 to present and discuss the draft report and proposed meta-analysis approach. DEQ will review this report and plan internally and with stakeholder and partner input that will be shared with Contractor in April, 2014. At that time, direction for the meta-analysis will be given, and Contractor will then work to prepare a final draft report to be presented by May 30, 2014 for DEQ, partner and stakeholder review. Based on feedback from this review process, a final report will be prepared and must be presented to DEQ by June 30, 2014.

4. PROPOSAL REQUIREMENTS

Proposals must be in the format outlined in Section 5.1 (General Requirements for Proposals), contain all of the forms and information in the order listed in Section 5.2 (Proposal Format and Content), be received by the date and time indicated in Section 1.4, and comply with all other requirements listed elsewhere in this RFP. ***Failure to follow these instructions may cause disqualification.***

5.1 General Requirements for Proposals.

The electronic copy submitted must be prepared to allow printing on standard 8 1/2 by 11 inch paper and be a PDF or Microsoft Word document. ***Proposals in another electronic format, mailed, hand delivered, faxed, or submitted to any other email address than listed in Section 1.5 above will not be considered.***

Important The Proposal may not exceed 10 (ten) pages in length, excluding the Proposal Cover Sheet, project description forms, resumes, and exhibits from this limit. The emailed proposal must be under 10 MB in size as DEQ's email system will block emails with large attachments. Alternatively, Proposers may "zip" multiple documents into a single, smaller "zip" file. However, DEQ's email system will automatically delete all files ending with the suffix .zip. As such, Proposers using the "zip" feature should change the file suffix from .zip to .txt and indicate in the body of Proposers email that the file is in reality a .zip file. If larger than 10 MB in size, Proposer must make arrangements in advance to submit the materials electronically.

All exhibits and attachments including, but not limited to, lists, fee schedules, and resumes must also meet these requirements. Do not include standard brochures in the Proposal. The Proposal must be organized and submitted

in the same order that the information is requested in Section 5.2 below (Proposal Format and Content). Proposer shall not include unnecessary attachments, enclosures, or exhibits.

The DEQ may reject any Proposal not in compliance with all prescribed solicitation procedures and requirements or upon a finding that it is in the public interest to do so. Under no circumstances will the DEQ be responsible for any Proposal costs and expenses incurred in submitting a response to this RFP.

5.2 Proposal Format and Content. The Proposal must include the forms, headings and subsections indicated below and contain all of the information listed. ***Proposals omitting any section of required information may be deemed non-responsive.***

5.2.1 Proposal Cover Provide a completed and signed Proposal Cover including all the information required in Attachment 1 - Proposal Cover in the same order and with the same headings described.

5.2.2 Company Information

- a. Company Description: Provide a brief description of your company, including its history;
- b. Ownership Changes: If any change in ownership, control, or takeover of the Proposer is anticipated during the twelve months following the Proposal due date, describe the circumstances of such change and indicate when the change will likely occur;
- c. Judgments: Disclose all judgments, pending or expected litigation, and other real or potential financial reversals that might materially affect the viability or stability of your company, or warrant that no such condition is known to exist;
- d. Parent Corporation: Supply a brief description and history of parent corporations, if any. If no parent corporation exists, so indicate; and
- e. Contract Terminations: If your company has had a contract terminated for default during the past five years, all such incidents must be described. Termination for default is defined as a notice to stop performance due to your company's nonperformance or poor performance, and the issue was either (a) not litigated or (b) litigated and such litigation determined your company to be in default. Submit full details of all terminations for default experienced by your company during the past five years, including the other party's name, address, and telephone number. Present your company's position on the matter. The State will evaluate the facts and may, at its sole discretion, reject your Proposal if the facts discovered indicate that completion of a contract resulting from this RFP may be jeopardized by selection of your company. If no such terminations for default have occurred, so indicate.

5.2.3 Subcontractors Provide a list of any subcontractors proposed as part of the Project team. Include the company name, address, phone number and, if applicable, their OMWESB #.

5.2.4 Company Experience. Attach at least two but not more than six project description forms (Attachment 2) or equivalent. The projects described must be specifically relevant to this Proposal. Ideally, they will indicate company and individual knowledge of and experience with the four targeted organics waste treatments to be evaluated in this study: aerobic composting, anaerobic digestion, sink-disposed sewage treatment, and Landfills. Knowledge of food waste treatment and compost/digestate utilization statewide (Oregon), regionally (West Coast), nationally, and worldwide are all of value.

5.2.5 Project Plan Describe how the Proposal will accomplish the activities described in the RFP Scope of Work (Section 4), and include the following:

- a. Project team. Provide a list of the specific individuals, including subcontractors, who would be assigned to key positions for this project. Include, by individual, a description of their duties and responsibilities. Attach a résumé for each person identified as a key team member. The resume should be concise and should highlight experience that is relevant to this project. The skills and experience of staff assigned to the project must be comparable to those submitted in the Proposal. DEQ will determine comparability. If a contract results from this Proposal, substitutions or replacement of staff identified as key team members must be approved in advance by DEQ.

- b. Project timeline. Proposals should include information about how the work will be phased to accomplish the tasks outlined in the Scope of Work (Section 4), and should include an overall project timeline and schedule. Identify no fewer than 4 milestones or project deliverables that may be used to gauge progress for the purpose of determining project success and to be used as the basis for interim payments. Indicate the work involved in reaching each milestone and the expected dates of reaching each milestone in terms of working days from the contract effective date. An explanation should be provided if the project timelines proposed are not in accordance with the timeline discussed in the scope of work.
- c. Data sources. Provide information on how you intend to obtain the information that will be compiled as specified in the Scope of Work (Section 4), the sources of the information, the range of the number of studies anticipated to be analyzed, and the experience of the key team member with the data sources relevant to their work scope responsibilities.

5.2.6 Price Proposal. Provide a firm fixed price proposal for completion of the tasks described in the Scope of Work (Section 4) and in the Proposer's Project Plan (see Section 5.2.5 above). DEQ's budget for the work described in Section 4 of this RFP is not-to-exceed \$30,000. If additional funding becomes available, DEQ reserves the right to negotiate during the Contractor selection process to expand the scope or to amend the contract to include additional work.

Provide a listing of the classifications of staff for this project and the not-to-exceed billing rate for each classification, plus the key staff individuals assigned to each classification, using the format shown at the top of Attachment 3.

In addition, provide a budget for each separate milestone or project deliverable specified in the Proposer's Project Plan (see Section 5.2.5 above). The budget must be in the format shown at the bottom of Attachment 3, and specify for each separate milestone or project deliverable, each person working on that item, the estimated hours devoted by that person, and the price (staff hours times hourly billing rate). In addition, specify in the budget the cost of equipment and supplies, travel, and other expenses, if any, that are not covered as normal overhead under staff billing rates, for each separate milestone and project deliverable in the format as shown in Attachment 3. Also include the total for each milestone. The information provided in this price proposal will be used in developing fixed interim payments on completion of each milestone or project deliverable.

5.2.7 Additional Information. This optional section may include additional company, team, or Proposal information that the Proposer believes will aid DEQ in evaluating the Proposal. This material may not consist of standard brochures or marketing materials and should be relevant to the evaluation criteria described in Section 6. Pages dedicated to this section will be included in the overall limit of 10 pages.

6. PROPOSAL EVALUATION & CONTRACTOR SELECTION

6.1 Responsiveness. To be considered responsive, proposals must substantially comply with all requirements of this RFP, including Mandatory Qualifications (if any), Section 2 Due Date for Proposal Submittal), Section 5 (Proposal Requirements), and all prescribed public solicitation procedures. Proposals that do not comply with the requirements of this RFP or meet all prescribed solicitation procedures will be deemed non-responsive. In making such evaluation, DEQ may waive minor informalities and irregularities.

6.2 RFP Outcome. The outcome of the evaluation process may, at DEQ's sole discretion, result in: (a) notice to Proposer(s) of intent to award (b) further steps to gather more information for evaluation; or (c) notification to proposers that the RFP is delayed, suspended, or cancelled.

6.3 Proposer Availability. During the evaluation of proposals, proposers must respond to any request for clarification within three business days of the request. Inability of the evaluator to reach a Proposer for clarification and/or failure of a Proposer to respond within the time stated may result in rejection of the Proposal.

6.4 Evaluation Criteria. DEQ staff will review and analyze all responsive proposals. DEQ may seek clarification of any Proposal details during the evaluation process. The DEQ will select the contractor with the highest ranking Proposal after conducting an analysis and scoring each Proposal based on the criteria listed below:

	Evaluation Criteria	Points Assigned
1	Project Plan Response The extent to which the Project Plan provided in response to the requirements of Section 5.2.5 reflects an understanding of the critical activities required to support successful completion of this project, and the ability of the contractor to successfully perform work on schedule.	0 to 35
2	Experience The extent to which the company description (including subcontractors, if listed) and staff résumés reflect appropriate experience.	0 to 35
3	Key Staff Experience The value of key staff, measured as hourly billing rates relative to relevant experience.	0 to 20
4	Cost The Proposer submitting the lowest Price Proposal will receive the maximum available points. Each Proposer submitting a higher Price Proposal will receive a portion of the total amount of points designated for price in accordance with the following formula: $(L/X)*Y = A$, where: X = Price Proposal being scored L = Lowest Price Proposal scored Y = Maximum possible points (10) A = Awarded points	0 to 10
	Total Possible Points	100

6.5 References. DEQ reserves the right to conduct research on Proposer's past performance, compliance with specifications and contractual obligations, its completion or delivery of service on schedule and its lawful payment of suppliers, subcontractors and employees. Proposals submitted by proposers deemed non-responsible by DEQ in accordance with OAR 125-247-0500 will be disqualified.

7. CONTRACT FORMULATION

7.1 Sample Contract. A sample copy of the approved form for a DEQ Personal/Professional Services contract is included as Attachment 4 to this RFP. The sample contract form contains the standard terms and conditions that will govern the contract awarded under this RFP. A final Statement of Work, payment terms, delivery schedule and project specific requirements will be negotiated between the parties based on the selected contractor's Proposal. The project specific insurance requirements are described in Attachment 4, Exhibit B of the sample Contract. The contract becomes effective on the date on which the DEQ and the selected contractor have executed it.

7.2 Contract Amendments.

In accordance with OAR 125-246-0560, the DEQ reserves the right to amend the Contract to extend its term, to modify the statement of work to address activities related to the scope of services described in the solicitation documents, to modify payment terms as agreed upon by the DEQ and Contractor, or any combination of the foregoing. The terms of the Contract may not be waived or changed except by written amendment signed by all parties and for which all necessary State of Oregon approvals have been obtained.

Situations that might require a Contract Amendment include:

- a. The addition of additional work which may include but is not limited to a market analysis of compost utilization potential for food wastes generated in Oregon. DEQ may limit analysis to particular regions, counties, etc. of the state or request the analysis be throughout the entire State of Oregon.
- b. Amendments to delete portions of the work;
- c. Amendments to add funding in the instance of changes to the statement of work and/or contract extension.

8. PUBLIC RECORDS

Following the award of a contract, responses to this RFP are subject to release as public information unless the response or specific information contained therein is identified as exempt from public disclosure. Proposer is advised to consult with legal counsel regarding disclosure issues.

If a Proposer believes that any portion of a Proposal contains any information that is considered a trade secret under ORS Chapter 192.501(2), or otherwise is exempt from disclosure under the Oregon Public Records Law, ORS 192.410 through 102.505, each page containing such information must include the following:

"This data is exempt from disclosure under the Oregon Public Records Law pursuant to ORS 192, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS 192.410 through 192.505."

DEQ will take reasonable measures to hold in confidence all such labeled information and documentation. The State shall not be liable for release of any information when required by law or court order to do so, whether pursuant to Oregon Public Records Law or otherwise. The State shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

Attachment 1

PROPOSAL COVER SHEET

**STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
REQUEST FOR PROPOSAL (RFP) # DEQ-1181-13**

PART I – GENERAL INFORMATION

RFP #: _____

Organization Name (tax filing): _____

Primary Contact: _____ Title: _____

Street Address: _____ City, State, Zip: _____

Telephone: _____ E-mail Address: _____

ORPIN #: _____ (Not required for Subcontractors)

OMWESB #: _____ (If certified by the OR Office of Minority, Women, and Emerging Small Business as a Disadvantaged Business Enterprise, Minority Business Enterprise/Women Business Enterprise, or Emerging Small Business.)

Provide below the name and title of the person(s) authorized to represent the Proposer in any negotiations. Also provide the name and title of the person(s) authorized to sign any Contract that may result, if different:

Authorized Representative: _____
Name _____ Title _____

Authorized Signer(s): _____
Name _____ Title _____

PART II - REPRESENTATIONS, ATTESTATIONS, AND CERTIFICATIONS: The undersigned further acknowledges, attests and certifies individually and on behalf of the Proposer that:

1. No attempt has been made or shall be made by the Proposer to induce any other person or organization to submit or not submit a Proposal.
2. Information and prices included in this Proposal shall remain valid for sixty (60) days after the proposal due date or until a Contract is approved, whichever comes first.
3. The Proposer understands that all Proposals not withdrawn prior to the RFP Close Date become the property of the State of Oregon as of the Proposal due date and Proposer grants the State the right to use all information contained therein.
4. The Proposer acknowledges receipt of all Addenda issued under the RFP.
5. Proposer does not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation or national origin, nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women or emerging small business (MWESB) enterprise certified under ORS 200.055. Proposer certifies that it will take reasonable steps to ensure that MWESB certified firms are provided an equal opportunity to compete for and participate in the performance of any subcontracts resulting from this procurement.

6. The Proposer, acting through its authorized representative, has read and understands all RFP instructions, specifications, and terms and conditions contained within the RFP, including those in the Sample State of Oregon Personal/Professional Services Contract.
 7. The Proposer agrees to and shall comply with, all requirements, specifications and terms and conditions contained within the RFP, including all Addenda, if any;
 8. The Proposal submitted is in response to the specific language contained in the RFP, and Proposer has made no assumptions based upon either (a) verbal or written statements not contained in the RFP, or (b) any previously-issued RFP, if any.
 9. The Proposer agrees that if awarded the Contract, Proposer shall be authorized to do business in the State of Oregon at the time of the award;
 10. Agency shall not be liable for any claims or be subject to any defenses asserted by Proposer based upon, resulting from, or related to, Proposer's failure to comprehend all requirements of the RFP.
 11. The Agency shall not be liable for any expenses incurred by Proposer in either preparing or submitting its Proposal, or in participating in the proposal evaluation/selection or Contract negotiation process, if any.
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PART III - OFFICE OF FOREIGN ASSETS CONTROL AND US DEPARTMENT OF STATE: Proposer and Proposer's employees and agents are not included on:

- a) the list entitled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/>; or
 - b) the list entitled "Current List of Designated Foreign Terrorist Organizations of the US Department of State" and currently found at <http://www.state.gov/s/ct/rls/fs/37191.htm>.
-

PART IV - INSURANCE REQUIREMENTS Proposer agrees to meet the insurance requirements outlined in Attachment 4, Exhibit B that will be included as a part of any contract issued in response to this RFP.

PART V – SIGNATURE The signatory of this Proposal Cover is a duly authorized representative of the Proposer, has been authorized by Proposer to make all representations, attestations, and certifications contained in this Proposal document and all Addenda, if any, issued, and to execute this Proposal document on behalf of Proposer.

By signature below, the undersigned Authorized Representative hereby certifies on behalf of Proposer that all contents of this Proposal Cover and the submitted Proposal are truthful, complete and accurate. Failure to provide information required by the RFP may ultimately result in rejection of the Proposal.

THIS COVER PAGE MAY NOT BE ALTERED. THIS COVER PAGE MUST BE SIGNED IN BLUE OR BLACK INK BY AN AUTHORIZED REPRESENTATIVE OF THE PROPOSER.

Authorized Signature: _____

Print Name: _____

Title: _____

Attachment 2

PROJECT DESCRIPTION FORM

Project Description Form #

Proposer must provide a minimum of two but not more than six project description forms. The projects provided must be specifically relevant to this Proposal. Ideally, the project will indicate company and project team member knowledge of and experience with LCA methodology and meta-analysis, organic waste processing technologies, and organic amendment utilization in agriculture; statewide (Oregon) and regional (West Coast) knowledge are especially of value.

Under Project Description, please be concise but include enough information for the Proposal evaluation committee to understand the project goals, objectives and outcome. For members of your project team, please note their roles in this project, if any. References listed may be contacted as a part of the evaluation process.

Project Name:

Project Begin and End Dates:

Project Description:

Project Team Member Participation:

References:

Company Name: _____

Contact Name: _____

Contact Phone: _____

Attachment 3

PRICE PROPOSAL FORM

- Identify classifications and not to exceed hourly rates to be applied by classification for the proposed project team, and also list the key project team members assigned to each classification. Modify the table as needed for the number of classification and key staff involved in your proposal. There may be more than one team member assigned to each classification.

	Classification	Not to Exceed Hourly Rate	Names of Persons Assigned To This Classification
1			a) b) c)
2			
3			
4			

- Use the table format below to list the estimated number of hours each staff will spend on each of the project milestones or deliverables listed in the proposal per section 5.2.5 and the total cost of achieving each milestone, including other expenses incurred in working on each milestone/deliverable. Modify the table as needed for the number of milestones and staff you propose. This table can also be turned to landscape mode so that the two sets of rows can be combined and the totals column included if there are not too many milestones to fit.

Name	Milestone 1		Milestone 2		Milestone 3		Milestone 4	
	Hours	Price	Hours	Price	Hours	Price	Hours	Price
Equipment and Supplies \$								
Travel and other expenses \$								
Total per Milestone								

Name	Milestone 5 (optional)		Milestone 6 (optional)		Milestone 7 (optional)		Total	
	Hours	Price	Hours	Price	Hours	Price	Hours	Price
Equipment and Supplies \$								
Travel and other expenses \$								
Total per Milestone								

Grand total (fixed bid price)	
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Attachment 4 – Sample Contract

Contract No. _____
(ORPIN # _____)

STATE OF OREGON PERSONAL/PROFESSIONAL SERVICES CONTRACT

<TITLE>

This Contract is between the State of Oregon, acting by and through its Department of Environmental Quality, hereafter called Agency or DEQ, and _____ hereafter called Contractor. Agency's Contract Administrator for this Contract is _____.

CONTRACTOR DATA	DEQ DATA
Project Officer: Organization: Address:	Contract Administrator: Department of Environmental Quality
Phone: _____ Fax: _____	Phone: _____ Fax: _____
Email: _____	Email: _____

1. Contract Period. This Contract shall become effective on the date this Contract has been fully executed by every party and, when required, approved by the Department of Administrative Services and the Department of Justice. Unless extended or terminated earlier in accordance with its terms, this Contract shall terminate when Agency accepts Contractor's completed performance or on _____, whichever date occurs last. Contract termination shall not extinguish or prejudice Agency's right to enforce this Contract with respect to any default by Contractor that has not been cured.

2. Statement of Work. Contractor shall perform the work (the "Work") as set forth in the Statement of Work, which includes the delivery schedule for such Work, and that is attached hereto as Exhibit A. Contractor shall perform the Work in accordance with the terms and conditions of this Contract.

3. Consideration

- a. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is _____. Agency will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract for completing the Work, and will not pay for Work performed before the date this Contract becomes effective or after the termination of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.
- b. Interim payments to Contractor shall be subject to ORS 293.462, and shall be made in accordance with the payment schedule and requirements in Exhibit A.
- c. Agency will pay only for completed Work that is accepted by Agency.

4. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence: this Contract less all exhibits, attached Exhibit A (the Statement of Work), Exhibit B (Required Insurance), Exhibit C (Independent Contractor Certification Statement), Exhibit D (Provisions Required by Federal Law), Exhibit E (the RFP) and Exhibit F (the Proposal). *[NOTE: it may be appropriate to include additional Exhibits if additional documents are necessary to describe Contractor's obligations, or it may not be necessary to use all of the Exhibits listed here. Consult with Agency Contracts Coordinator if you have any questions.]* Exhibits A-_____ are attached hereto and incorporated herein by this reference.

5. Independent Contractor; Responsibility for Taxes and Withholding

- a. Contractor shall perform all Work as an independent contractor. The Agency reserves the right (i) to determine and modify the delivery schedule for the Work and (ii) to evaluate the quality of the Work Product; however, the Agency 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 Work.
- b. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Contract, represents and warrants that: Contractor's Work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244 and no statutes, rules or regulations of the state or federal agency for which Contractor currently performs work would prohibit Contractor's Work under this Contract.
- c. Contractor understands and agrees that it is not an "officer", "employee", or "agent" of the Agency, as those terms are used in ORS 30.265.
- d. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, Agency will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

6. Subcontracts, Successors, and Assignments

- a. Contractor shall not enter into any subcontracts for any of the Work required by this Contract without Agency's prior written

consent. In addition to any other provisions Agency may require, Contractor shall include in any permitted subcontract under this Contract provisions to ensure that Agency will receive the benefit of subcontractor performance as if the subcontractor were the Contractor with respect to Sections 5, 6, 7, 9, 10, 11, 14, 15, 16, 18, and 23. Agency's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

- b. The provisions of this Contract shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns, if any.
- c. Contractor shall not assign, delegate or transfer any of its rights or obligations under this Contract without Agency's prior written consent.

7. No Third Party Beneficiaries. Agency and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, 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.

8. Funds Available and Authorized; Payments. Contractor shall not be compensated for Work performed under this Contract by any other agency or department of the State of Oregon. Agency certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within the Agency's current biennial appropriation or limitation. Contractor understands and agrees that Agency's payment of amounts under this Contract is contingent on Agency receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

9. Representations and Warranties.

a. **Contractor's Representations and Warranties.** Contractor represents and warrants to Agency that (1) Contractor has the power and authority to enter into and perform this Contract, (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, (3) Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession, (4) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work, (5) all computer hardware and software delivered under this Contract will, individually and in combination, correctly process, sequence, and calculate all date and date-related data for all dates prior to, through and after January 1, 2000, (6) any software products delivered under this Contract that process date or date-related data shall recognize, store and transmit date data in a format which explicitly and unambiguously specifies the correct century, and (7) Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

b. **Warranties cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

10. Ownership of Work Product.

a. **Definitions.** As used in this Section 10, and elsewhere in this Contract, the following terms have the meanings set forth below:

- (i) "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Work.
- (ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than Agency or Contractor.
- (iii) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to Agency pursuant to the Work.

b. **Original Works.** All Work Product created by Contractor pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of Agency. Agency and Contractor agree that such original works of authorship are "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not "work made for hire," Contractor hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in Agency. Contractor forever waives any and all rights relating to original Work Product created pursuant to the Work, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

In the event that Work Product created by Contractor under this Contract is a derivative work based on Contractor Intellectual Property, or is a compilation that includes Contractor Intellectual Property, Contractor hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Contractor Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

In the event that Work Product created by Contractor under this Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Contractor shall secure on the Agency's behalf and in the name of the Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

c. **Contractor Intellectual Property.** In the event that Work Product is Contractor Intellectual Property, Contractor hereby grants to

Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Contractor Intellectual Property, and to authorize others to do the same on Agency's behalf.

d. Third Party Works. In the event that Work Product is Third Party Intellectual Property, Contractor shall secure on the Agency's behalf and in the name of the Agency, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on Agency's behalf.

11. Indemnity.

a. GENERAL INDEMNITY. CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON AND AGENCY AND THEIR OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEYS FEES, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTIVITIES OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS CONTRACT.

b. INDEMNITY FOR INFRINGEMENT CLAIMS. WITHOUT LIMITING THE GENERALITY OF SECTION 11.a, CONTRACTOR EXPRESSLY AGREES TO DEFEND, INDEMNIFY, AND HOLD AGENCY, 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 WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEMS DELIVERED TO AGENCY BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR THE AGENCY'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 STATE SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

c. CONTROL OF DEFENSE AND SETTLEMENT. CONTRACTOR SHALL HAVE CONTROL OF THE DEFENSE AND SETTLEMENT OF ANY CLAIM THAT IS SUBJECT TO SECTIONS 11.a OR 11.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.

12. Insurance. Contractor shall maintain insurance as set forth in Exhibit B, which is attached hereto.

13. Default; Remedies; Termination.

a. Default by Contractor. Contractor shall be in default under this Contract if:

- (i) 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
- (ii) Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Contract and Contractor has not obtained such license or certificate within fourteen (14) calendar days after Agency's notice or such longer period as Agency may specify in such notice; or
- (iii) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after Agency's notice, or such longer period as Agency may specify in such notice.

b. Agency's Remedies for Contractor's Default. In the event Contractor is in default under Section 13.a, Agency 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:

- (i) termination of this Contract under Section 13.e(ii);
- (ii) withholding all monies due for Work and Work Products that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;
- (iii) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief;
- (iv) exercise of its right of setoff.

These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Contractor was not in default

under Sections 13.a, then Contractor shall be entitled to the same remedies as if this Contract was terminated pursuant to Section 13.e(i).

c. Default by Agency. Agency shall be in default under this Contract if:

- (i) Agency fails to pay Contractor any amount pursuant to the terms of this Contract, and Agency fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice; or
- (ii) Agency commits any material breach or default of any covenant, warranty, or obligation under this Contract, and such breach or default is not cured within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.

d. Contractor's Remedies for Agency's Default. In the event Agency terminates the Contract under Section 13.e(i), or in the event Agency is in default under Section 13.c and whether or not Contractor elects to exercise its right to terminate the Contract under Section 13.e(iii), Contractor's sole monetary remedy shall be (a) with respect to services compensable on an hourly basis, a claim for unpaid invoices, hours worked within any limits set forth in this Contract but not yet billed, authorized expenses incurred and interest within the limits permitted under ORS 293.462, and (b) with respect to deliverable-based Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by Agency, less previous amounts paid and any claim(s) that Agency has against Contractor. In no event shall Agency be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 13.d, Contractor shall pay immediately any excess to Agency upon written demand provided in accordance with Section 20.

e. Termination.

(i) Agency's Right to Terminate at its Discretion. At its sole discretion, Agency may terminate this Contract:

- (A) For its convenience upon thirty (30) days' prior written notice by Agency to Contractor;
- (B) Immediately upon written notice if Agency fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products; or
- (C) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the Agency's purchase of the Work or Work Products under this Contract is prohibited or Agency is prohibited from paying for such Work or Work Products from the planned funding source.

(ii) Agency's Right to Terminate for Cause. In addition to any other rights and remedies Agency may have under this Contract, Agency may terminate this Contract immediately upon written notice by Agency to Contractor, or at such later date as Agency may establish in such notice, or upon expiration of the time period and with such notice as provided in Section 13.e(ii)(B) and 13.e(ii)(C) below, upon the occurrence of any of the following events:

- (A) Contractor is in default under Section 13.a(i) because 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;
- (B) Contractor is in default under Section 13.a(ii) because Contractor no longer holds a license or certificate that is required for it to perform services under the Contract and Contractor has not obtained such license or certificate within fourteen (14) calendar days after Agency's notice or such longer period as Agency may specify in such notice; or
- (C) Contractor is in default under Section 13.a(iii) because Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after Agency's notice, or such longer period as Agency may specify in such notice.

(iii) Contractor's Right to Terminate for Cause. Contractor may terminate this Contract with such written notice to Agency as provided in Sections 13.e(iii)(A) and 13.e(iii)(B) below, or at such later date as Contractor may establish in such notice, upon the occurrence of the following events:

- (A) Agency is in default under Section 13.c(i) because Agency fails to pay Contractor any amount pursuant to the terms of this Contract, and Agency fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice; or
- (B) Agency is in default under Section 13.c(ii) because Agency commits any material breach or default of any covenant, warranty, or obligation under this Contract, fails to perform its commitments hereunder within the time specified or any extension thereof, and Agency fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.

(iv) Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to Agency all of Agency's property (including without limitation any Work or Work Products for which Agency has made payment in whole or in part) that is in the possession or under the control of Contractor in whatever stage of development and form of recordation such Agency property is expressed or embodied at that time. Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless Agency expressly directs otherwise in such notice of termination. Upon Agency's request, Contractor shall surrender to anyone Agency designates, all documents, research or objects or other tangible things needed to complete the Work and the Work Products.

14. Records Maintenance; Access. Contractor shall maintain all financial records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to

clearly document Contractor's performance. Contractor acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of Contractor that are pertinent to this Contract, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

15. 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. Agency's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235, and 279B.270 which are incorporated by reference herein. Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(ee)), recycled PETE products (as defined in ORS 279A.010(1)(ff)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(gg)).

16. Foreign Contractor. 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 the Secretary of State Corporation Division all information required by those agencies relative to this Contract. Contractor shall demonstrate its legal capacity to perform the Work under this Contract in the State of Oregon prior to entering into this Contract.

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

18. Survival. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections 1, 7, 8, 9, 10, 11, 12, 13, 14, 18, 23, and 24.

19. Time is of the Essence. Contractor agrees that time is of the essence under this Contract.

20. Notice. Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or Agency at the address, number or email address set forth in this Contract, or to such other addresses or numbers as either party may indicate pursuant to this Section 20. Any communication or notice so addressed and mailed shall be effective five (5) days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against Agency, any notice transmitted by facsimile must be confirmed by telephone notice to Agency's Contract Administrator. Any communication or notice given by personal delivery shall be effective when actually delivered. Any communication or notice given by email shall be effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

21. Severability. The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction 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 term or provision held to be invalid.

22. Counterparts. This Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

23. Governing Law; Venue; Consent to Jurisdiction. This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Agency (and/or any other agency or department of the State of Oregon) and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

24. Merger Clause; Waiver. This Contract and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification or change of terms of this Contract shall bind all parties unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Agency to enforce any provision of this Contract shall not constitute a waiver by Agency of that or any other provision.

25. Amendments. Agency may amend this Contract to the extent permitted by applicable statutes and administrative rules. Additionally, for Anticipated Amendments (as defined in OAR 125-246-0560(2)(a)(A)) Agency may amend this Contract to the extent i) provided in the solicitation document, if any, from which this Contract arose, and ii) to the extent described in Exhibit A. No amendment to this Contract shall be effective unless it is in writing signed by the parties, and all approvals required by applicable law have been obtained before becoming effective.

26. Contractor Data and Certification.

a. Contractor Tax Identification Information. Contractor shall provide Contractor's Social Security number or Contractor's federal tax ID number and the additional information set forth below. This information is requested pursuant to ORS 305.385 and OAR 125-246-330(3). Social Security Numbers provided pursuant to this Section will be used for the administration of state, federal and local tax laws.

Name (tax filing): _____ Address: _____

Citizenship, if applicable: Non-resident alien [] Yes [] No

Business Designation (check one): [] Corporation [] Professional Corporation [] Partnership [] Sole Proprietorship

[] Limited Liability Partnership [] Limited Partnership [] Limited Liability Company [] Other

Federal Taxpayer ID #: _____ Oregon Business ID#: _____ ORPIN Supplier ID#: _____

Certified Minority, Women or Emerging Small Business Firm? [] No [] Yes If yes, certification number: _____

Agency may report the information set forth above to the Internal Revenue Service (IRS) under the name and social security number or taxpayer identification number provided.

b. Certification. The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury that: (a) the number shown on this form is Contractor's correct taxpayer identification; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, Contractor is not in violation of any Oregon tax laws named in ORS 305.380(4), including without limitation the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue, including the Multnomah County Business Income Tax, Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan District Self-Employment Tax; (d) Contractor is an independent contractor as defined in ORS 670.600; and (e) the supplied Contractor data is true and accurate.

CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTORS: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO NECESSARY STATE APPROVALS

CONTRACTOR :

Date

AGENCY:

Date

Date

Index-PCA-Pjt

Jim Roys, Financial Services Manager

Date

EXHIBIT A
PERSONAL/PROFESSIONAL SERVICES CONTRACT # _____

Contractor: _____

Part I. General Information. (Insert: introduction, agency objectives, background, applicable documents, and criteria for Contract amendments, e.g., time . Be specific and complete.)

Part II. Work; Acceptance Criteria; Deliverables and Delivery Schedule. (Insert: Work to be done, schedule of Work, deliverables and tasks, performance monitoring requirements, criteria for acceptance by Agency, documents and reporting requirements. The Agency shall develop a Statement of Work for services that will not result in an employee relationship with the potential Contractor. Include any special terms and conditions application to this Contract. Be specific and complete.)

Part III. Invoicing / Payment Provisions. (Include when appropriate: progress/payment schedule, payments for particular deliverables, hourly rates, applicable acceptance criteria, retention of payments, if applicable.)

(Option 1) Contractor shall submit monthly invoices for Work performed. The invoices shall describe all Work performed with particularity and by whom it was performed and shall itemize and explain all expenses that this Contract requires Agency to pay and for which Contractor claims reimbursement. Each invoice also shall include the total amount invoiced to date by Contractor prior to the current invoice. Contractor shall send invoices to **DEQ Business Office 811 SW Sixth Avenue Portland OR 97204.** Invoice payments will be sent to: _____
OR

(Option 2) Contractor shall submit one lump sum invoice at project completion for all Work performed. The invoice shall describe all Work performed with particularity and by whom it was performed and shall itemize and explain all expenses that this Contract requires Agency to pay and for which Contractor claims reimbursement. Contractor shall send the invoice to **DEQ Business Office 811 SW Sixth Avenue Portland OR 97204.** Invoice payment will be sent to: _____
OR

(Option 3) Invoicing and payments will be based on the schedule in _____. The invoice shall describe all Work performed with particularity and by whom it was performed and shall itemize and explain all expenses that this Contract requires Agency to pay and for which Contractor claims reimbursement. Contractor shall send the invoice to **DEQ Business Office 811 SW Sixth Avenue Portland OR 97204.** Invoice payment will be sent to: _____
OR

(Option 4) Contractor shall send invoices to DEQ for the Services according to the Payment Schedule in Part III. Contractor shall include in each invoice i) Contract Number; ii) itemized list of the Goods ordered and delivered, per unit cost; and iii) the total amount due and the payment address. For repair and diagnostic services Contractor shall include the number of hours and the billing rate.←Example only

Contractor shall send invoices to **DEQ Business Office, Attention: Delia Chadwick, 811 SW Sixth Avenue, Portland OR 97204.**

Contractor Accounts Payable: _____

Phone: _____

Email: _____

I. Payment Schedule EXAMPLE ONLY:

Type	Frequency	Order Mechanism	Cost
Ambient Criteria Pollutant Gas Monitors, and Particulate Monitors as identified in Part VII.	As needed. Contractor shall invoice DEQ following shipment of equipment.	Lab Requisition for Supplies, Equipment or Service (Exhibit F)	See Part VII
OEM Replacement Parts and Consumables (Exhibit E)	As needed Contractor shall invoice	Lab Requisition for Supplies, Equipment or Service (Exhibit F)	See Part VII

	DEQ following shipment of OEM Goods and Consumables		
Services for equipment repair and/or Diagnostic services	As needed. Contractor shall invoice DEQ 10 business days following shipment of the return of DEQ's equipment.	Lab Requisition for Supplies, Equipment or Service (Exhibit F)	See Part VII
Training	As Needed	Contract Amendment	As mutually agreed upon.

INFORMATION IN TABLE ABOVE IS AN EXAMPLE ONLY-CHANGE TABLE AS NEEDED

II. Payment Provisions:

- i. Contractor shall look solely to DEQ for payment of all amounts DEQ owes to Contractor. Contractor shall not be compensated by any agency or department of the State of Oregon other than DEQ for Services performed.

Payment of contractors invoices received will be mailed to: [REDACTED]

Contractor's claims to DEQ for overdue payments on invoices are subject to ORS 293.462.

- ii. If Contractor is a nonresident alien as defined in 26 USC § 7701(b)(1)(B), then Contractor shall, upon execution of this Contract, deliver to DEQ a completed and signed W-8 form, 8233 form, or W-9 form, as applicable, from the IRS, as evidence that DEQ is not required by 26 USC 1441 to withhold part of Contractor's payment. Such forms are currently available at <http://www.irs.gov>. DEQ may withhold payments to Contractor pending DEQ's receipt from Contractor of the applicable, completed and signed form. If DEQ does not receive the applicable, completed and signed form from Contractor, or if the IRS provides notice to DEQ that Contractor's information on the form provided is incorrect, DEQ will withhold as federal income tax 30% of all amounts DEQ owes to Contractor under the Contract.
- iii. Funds Available and Authorized Payments. Contractor understands and agrees that DEQ's payment of amounts under a Contract is contingent on DEQ receiving funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow DEQ, in the exercise of its reasonable administrative discretion, to make payments under the Contract.

Part IV. Travel Expenses.

(Option 1) Agency shall not reimburse Contractor for any travel or travel related expenses under this Contract.

OR

(Option 2)

1. Agency will reimburse Contractor, within the not to exceed amount identified in this Contract, for travel only when the travel is essential to the normal discharge of Agency's responsibilities. Contractor shall conduct all travel in the most efficient and cost-effective manner resulting in the best value to the Agency. The travel must comply with all the requirements set forth in this section and must be for official Agency business only. **Contractor shall provide Agency with receipts for all travel expenses except meals.** All Contractor representatives will fly "coach class," unless Contractor personally pays the difference. All Contractor representatives will be limited to economy or compact sized rental vehicles, unless Contractor personally pays the difference. **All out-of-state travel must be approved in advance, and in writing, by the Agency.**
2. Contractor understands and agrees that travel expenses shall be reimbursed at rates not to exceed those rates approved by the Department of Administrative Services (DAS) for State government employees at the time the expense was incurred. Contractor understands and agrees that the rates are subject to change and any changed rates shall immediately become part of this Contract and govern reimbursement of any travel expenses incurred after the date of the change. Agency is not responsible for notifying Contractor of changes in the federal rate of reimbursement.

- a. **Mileage.** Mileage for travel in a private automobile while Contractor is acting within the course and scope of his/her duties under this Contract and driving over the most direct and usually traveled route will be reimbursed at the rate approved by the U.S. General Services Administration (GSA) and in effect at the time of travel. To qualify for mileage reimbursement, Contractor must hold a valid, current driver's license for the class of vehicle to be driven and carry personal automobile liability insurance in amounts not less than those required by Exhibit B of this contract.
- b. **Meals and Lodging.** Per diem rates for meals and lodging vary between cities. Contractor understands and agrees that expenses for meals and lodging shall be reimbursed at rates not to exceed the GSA per diem rates.
- c. The U.S. General Services Administration approved rates can be found at www.gsa.gov.

Part V. Contract Amendments. The Agency reserves the right to amend the Contract for the Anticipated Amendments, listed below, in accordance with the rules of OAR 125-247-0270.

ANTICIPATED AMENDMENTS

(Option 1) None

OR

(Option 2) If using Anticipated Amendments, the Solicitation Document, if any, from which this Contract arose must also describe the Anticipated Amendments as required below. If using Anticipated Amendments, insert that there is the possibility of one or more Amendments. For each Anticipated Amendment, Insert:

- 1) The general circumstances that might require the Anticipated Amendment to be issued under the Contract;
- 2) The method that the Agency will use to finalize the details and costs of the Anticipated Amendment; and
- 3) A general description of certain or known changes to the requirements of the Contract that may be anticipated or even planned for, but not necessarily quantified at the time of Contract execution. These changes may be specifically described as:
 - (a) Extra Work;
 - (b) Additional Work;
 - (c) Work to be done if certain situations are encountered; or
 - (d) Changes in terms, conditions, price, or type of Work.

EXHIBIT B **INSURANCE REQUIREMENTS**

Contractor shall obtain at Contractor's expense the insurance specified below prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in State and that are acceptable to Agency.

1. Required by Agency of contractors with one or more workers, as defined by ORS 656.027.

Workers' Compensation. All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

2. Required by Agency

Commercial General Liability insurance covering bodily injury, death and property damage in a form and with coverage's that are satisfactory to the State. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. * **Property damage or destruction limits are subject to an annual adjustment by the Office of the State Court Administrator (OSCA).**

Contractor shall provide proof of insurance of not less than the following amounts:

Bodily Injury/Death and Property Damage Combined:

\$1,000,000 Per occurrence limit for any single claimant; and
\$1,000,000 Per occurrence limit for multiple claimants

3. Required by Agency

Automobile Liability insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability insurance (with separate limits for "Commercial General Liability" and "Automobile Liability").

* **Property damage or destruction limits are subject to an annual adjustment by the Office of the State Court Administrator (OSCA).**

Contractor shall provide proof of insurance of not less than the following amounts:

Bodily Injury/Death and Property Damage Combined:

\$1,000,000 Per occurrence limit for any single claimant; and
\$1,000,000 Per occurrence limit for multiple claimants

- 4. Excess/Umbrella Insurance.** A combination of primary and excess/umbrella insurance is acceptable. If you are using excess/umbrella insurance to meet the minimum insurance requirement, your certificate must include a list of the policies that fall under the excess/umbrella insurance. Sample wording is "The Excess/Umbrella policy is excess over General Liability, Auto Liability, etc."
- 5. Additional Insured.** The Commercial General Liability insurance and Automobile Liability insurance required under this Contract shall include the State of Oregon, its officers, employees and agents as Additional Insureds but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
- 6. Certificates of Insurance.** Contractor shall provide to Agency Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any. **The Contractor shall immediately notify the Oregon Department of Environmental Quality (DEQ) of any change in insurance coverage.**

EXHIBIT C
PERSONAL/PROFESSIONAL SERVICES CONTRACT # _____
INDEPENDENT CONTRACTOR CERTIFICATION

Part A. CONTRACTOR IS AN INDEPENDENT CONTRACTOR (An Independent Contractor Certification is required, regardless of corporate status. OAR 125-246-0330(2) (b).)

1. I am free from direction and control over the means and manner of providing the services, subject only to the right of the person for whom the services are provided to specify the desired results;
2. I am registered under ORS Chapter 58, 60, 62, 63, 65, 67, 70 or 648 to provide the services, if such registration is required.
3. I am responsible for obtaining other licenses or certificates necessary to provide the services.
4. I am customarily engaged in an independently established business because a minimum of **three** of the following requirements are satisfied:
 - A. I maintain a business location:
 - 1) That is separate from the business or work location of the person for whom the services are provided; or
 - 2) That is in a portion of my residence, and that portion is used primarily for business.
 - B. I bear the risk of loss related to the business or the provision of services as shown by factors such as:
 - 1) Entering into a fixed-price contract;
 - 2) Being required to correct defective work;
 - 3) Warranting the services provided; or
 - 4) Negotiating indemnification agreements, or purchasing indemnification liability insurance, performance bonds or errors and omissions insurance.
 - C. I provide contracted services for two or more different persons within a 12-month period, or routinely engage in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
 - D. I make a significant investment in the business, through means such as:
 - 1) Purchasing tools or equipment necessary to provide the services;
 - 2) Paying for the premises or facilities where the services are provided; or
 - 3) Paying for licenses, certificates or specialized training required to provide the services.
 - E. I have the authority to hire other persons to provide or to assist in providing the services and have the authority to fire those persons.

(Section 4 does not apply if a Person files a Schedule F as part of an income tax return and the Person provides farm labor or farm services that are reportable on Schedule C of an income tax return.)

Contractor Signature _____ Date _____

Part B. AGENCY STATEMENT Agency completes Part B below after the Contractor completes Part A above.

ORS 670.600. Independent Contractor Standards. As used in various provisions of ORS chapters 316, 656, 657, 671 and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an Independent Contractor if the standards of this section are met. OAR 125-246-0335 states that if a Contractor is not an Independent Contractor, the Agency may not enter into a Personal Services Contract with the Contractor; instead, the Agency must follow personnel policies for employment options.

The representative of the Agency understands and states, to the best of his or her knowledge, that the Contractor and the contracted work should meet the following standards:

1. Although Agency may (a) determine and modify the delivery schedule for Services to be performed and (b) evaluate the quality of the completed performance, Agency cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing any Services required under this Contract; and
2. Contractor is not an "officer", "employee", or "agent" of Agency as those terms are used in ORS 30.265.

DEQ Signature: _____ Date _____