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**State of Oregon**  
**Office of the State Treasurer**  
350 Winter Street NE, Suite 100  
Salem, Oregon 97301-3896

on behalf of the  
**Oregon Retirement Savings Board**

**REQUEST FOR PROPOSALS (RFP)**  
**RFP #170-1108-16**

**Oregon Retirement Savings Plan**  
**Investment Consulting Services**

Date of Issue: June 2, 2016

Closing Date/Time: June 27, 2016 @ 4:00 PM PST

Single Point of Contact (SPC): Connie Lelack

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## 1.0 INTRODUCTION

The State of Oregon, acting by and through the Office of the State Treasurer (“Treasury”) as staff to the Oregon Retirement Savings Plan Board (“Board”) is seeking proposals from qualified professional firms for the purpose of performing Investment Consulting Services for the Oregon Retirement Savings Plan (the “Program” or “Plan”). All firms submitting proposals are referred to as Proposers in this document; after negotiations, the awarded Proposer will be designated as Consultant.

Treasury anticipates it will choose one Consultant from the Proposers, and will negotiate a contract with that consultant.

### 1.1 Overview

In 2015, the Oregon Legislative Assembly enacted House Bill 2960, which is codified at ORS 178.200 through 178.245 (the “2015 Act”) calling for the establishment of a state administered retirement savings program (the “Plan” or “Program”) that provides employees with automatic enrollment, payroll deduction, and automatic annual contribution escalation, all on a flexible, opt-out basis. The Plan is governed by an appointed board and will be run by a private-sector provider, with a minimum employer role.

The 2015 Act provides that the Oregon Retirement Savings Board (the “Board”) shall establish a plan in compliance with these intended rules. The plan developed and established by the Oregon Retirement Savings Board under section 2 of this 2015 Act must:

- A. Allow eligible individuals employed for compensation in this state to contribute to an account established under the plan through payroll deduction.
- B. Require an employer to offer its employees the opportunity to contribute to the plan through payroll deductions unless the employer offers a qualified retirement plan, including but not limited to a plan qualified under section 401(a), section 401(k), section 403(a), section 403(b), section 408(k), section 408(p) or section 457(b) of the Internal Revenue Code.
- C. Provide for automatic enrollment of employees and allow employees to opt out of the plan.
- D. Have a default contribution rate set by the board by rule.
- E. Offer default escalation of contribution levels that can be increased or decreased within the limits allowed by the Internal Revenue Code.
- F. Provide for contributions to the plan to be deposited directly with the investment administrator for the plan.
- G. Whenever possible, use existing employer and public infrastructure to facilitate contributions to the plan, recordkeeping and outreach.
- H. Require no employer contributions to employee accounts.
- I. Require the maintenance of separate records and accounting for each plan account.
- J. Provide for reports on the status of plan accounts to be provided to plan participants at least annually.
- K. Allow for account owners to maintain an account regardless of place of employment and to roll over funds into other retirement accounts.
- L. Pool accounts established under the plan for investment.
- M. Be professionally managed.
- N. Provide that the State of Oregon and employers that participate in the plan have no proprietary interest in the contributions to or earnings on amounts contributed to accounts established under the plan.
- O. Provide that the investment administrator for the plan is the trustee of all contributions and earnings on amounts contributed to accounts established under the plan.
- P. Not impose any duties under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) on employers.
- Q. Keep administration fees in the plan low.
- R. Allow the use of private sector partnerships to administer and invest the contributions to the plan under the supervision and guidance of the board.
- S. Allow employers to establish an alternative retirement plan for some or all employees.
- T. The plan, the board, each board member and the State of Oregon may not guarantee any rate of return or any interest rate on any contribution. The plan, the board, each board member and the State of Oregon may not be liable for any loss incurred by any person as a result of participating in the plan.

The Board shall coordinate with the efforts of other states as those states pursue legal guidance for similar retirement savings programs.

The Board will also undertake outreach to small businesses and future Plan participants. Read more here: <http://www.oregon.gov/treasury/Program/pages/default.aspx>. The 2015 Act envisions that the Plan will be made available to Oregonians on July 1, 2017.

Treasury intends to issue separate requests for proposals for legal services and for the investment and administration of the Plan at a future date.

The successful firm will demonstrate superior experience and capability in the areas of investment and program design consulting to institutional defined contribution programs of similar size and complexity, and will have a track record of working with programs during periods of high innovation. The successful firm will also demonstrate a high capacity for working collaboratively within and across the organizations and teams that will ultimately be service providers to or stakeholders in the Oregon Retirement Savings Plan.

The purpose of this RFP is to establish a Contract (the “Contract” or “Agreement”) for comprehensive, full-service retainer general and investment consulting services (the “Services”) related to the Program.

## **1.2 Scope of Work**

Consultant shall provide the “Services” to Treasury and the Board, to include investment funds and program approaches suitable to an institutional defined contribution program serving the public in Oregon. The Services include but may not be limited to:

- 1) Draft and recommend investment policy at the Program and investment option level, keeping in mind the unique nature of the participant base served
- 2) Portfolio analytics and attribution analyses
- 3) Investment manager/investment fund research and searches
- 4) Investment manager/investment fund monitoring and reporting
- 5) General program analysis for effectiveness and competitiveness
- 6) General research
- 7) Board education on special topics
- 8) Other projects as specified by the board

Consultant shall provide Program pre-launch Services to Treasury to include at a minimum:

- 1) Assist in the drafting of an RFP for the provider(s) who will perform and provide administrative recordkeeping and investment management services for the Program – RFP scheduled for early September, 2016
- 2) Assist in the assessment of responding candidates, providing analysis and recommendations to the Board on potential service providers – October and November 2016
- 3) Assist in negotiation and retention of service provider(s) – December 2016
- 4) Program implementation support, including assistance with development and execution of Program implementation and launch strategies – 1Q2017 through completion of launch period

The Scope of Work is further described in Exhibit A of Attachment B.

## **1.3 Single Point of Contact (SPC)**

The SPC for this RFP is identified on the Cover Page, along with the SPC’s contact information. Proposer shall direct all communications related to any provision of the RFP, whether about the technical requirements of the RFP, contractual requirements, the RFP process, or any other provision only to the SPC.

## **1.4 Procurement Authority and Method**

Treasury is conducting this RFP pursuant to its authority under ORS 178.205 and ORS 279B.060.

Treasury is using the Competitive Sealed Proposals method, pursuant to ORS 279B.060 and OAR 137-047-0260. Treasury may use a combination of the methods for Competitive Sealed Proposals, including optional procedures: a) Competitive Range; b) Discussions and Revised Proposals; c) Revised Rounds of Negotiations; d) Negotiations; and e) Best and Final Offers. For purposes of this paragraph, capitalized terms have the meanings given in OAR 137-046 and 137-047.

## **1.5 Schedule**

The table below represents a tentative schedule of events. All times are listed in Pacific Time. All dates listed are subject to change.

Event	Date	Time
Pre-Proposal Tele-Conference	June 9, 2016	10:00-11:00 AM PST
Questions / Requests for Clarification Due	June 14, 2016	12:00 PM PST
RFP Protest / Request for Change Period Ends	June 17, 2016	12:00 PM PST
Closing (Proposals Due)	June 27, 2016	4:00 PM PST
Proposal Evaluations	June 28 – July 7, 2016	
Presentations or Interviews (potential)	July 19, 2016	
Issuance of Notice of Intent to Award (approx.)	July 20, 2016	
Award Protest Period Ends	July 27, 2016	

**1.6 Estimated Contract Term; Amount.**

The initial term of the Contract is anticipated to be for a three (3) year term and may be renewed for up to a maximum of seven (7) years. The anticipated initial value of the Contract is estimated not to exceed \$300,000.00. Proposers are advised that the awarded amount of the Contract under this RFP is contingent upon approval of the Board and pursuant to the allocated funding from the Oregon Legislature for Treasury’s use under this Program.

**2.0 PROPOSAL REQUIREMENTS**

**2.1 MINIMUM QUALIFICATIONS**

**2.1.1 Minimum Proposer Qualifications**

Provide your firm’s specific responses demonstrating that you meet each of the following Minimum Qualifications (IF YOU DO NOT DOCUMENT AND SUPPORT YOUR FIRM’S RESPONSE TO THE FOLLOWING FIVE MINIMUM QUALIFICATIONS, YOUR FIRM’S PROPOSAL WILL NOT BE CONSIDERED FURTHER.):

- 1) The firm must provide consultation *primarily* to institutional investors;
- 2) The firm must provide consultation to defined contribution plans such as 401(k), 457 and 529 plans;
- 3) The firm must have full-service traditional consulting capabilities (including but not limited to consultation on asset allocation, manager research, and performance monitoring);
- 4) The firm must have experience conducting plan administration search and selection for institutional defined contribution plans, and in monitoring and reporting on provider and program performance; and
- 5) The firm must be willing to serve as a fiduciary to the Program under the standards promulgated by the U. S. Securities and Exchange Commission applicable to investment advisors.

**2.2 MINIMUM SUBMISSION REQUIREMENTS**

**2.2.1 Proposal Submission Requirements**

DUE DATE:  
**June 27, 2016 by 4:00 PM PST**

DELIVERY ADDRESS:  
**Oregon State Treasury  
 Attn: Connie Lelack  
 350 Winter Street NE, Suite 100, Salem, OR 97301**

Proposer may use this section of minimum requirements as a checklist to ensure the proposal is complete:

- Proposal Cover Sheet with References:** (Not counted in the page limitation)  
The Proposal must include a completed, signed Proposal Cover Sheet (refer to Attachment A).
  
- Proposal:** (not to exceed 35 total pages, excluding sample reports or exhibits)  
The Proposal must be organized in accordance with the list of scored criteria in this section.  
Submit one (1) original signed proposal  
Submit five (5) additional proposal copies  
Submit one (1) electronic proposal copy
  
- Resumes** (not counted in page limit)
  
- Sample Work Product:** (not counted in page limit)  
Include samples of actual work product with your response, including at a minimum:
  1. A target date fund or target date fund family evaluation report
  2. A quarterly or annual report to a board or other governing entity covering program and performance review
  3. A recordkeeper/plan administrator due diligence report
  4. An investment service provider due diligence report
  5. A 'trends and issues'-style publication, research or white paper
  
- Cost Proposal:** (Not counted in the page limitation)  
The cost proposal must be inclusive of all services, expenses and fees

### 2.2.2 Proposal Format and Quantity

Proposals must be delivered in a sealed envelope, which clearly identifies the RFP #170-1108-16, the Oregon Retirement Savings Plan, the SPC contact person name, agency name and address, and the proposal closing time and date. Mis-deliveries and late submittals will not be accepted or considered. Proposals must be received at the delivery address by the required time. Postmarks will not be considered. Proposals that are e-mailed or faxed will NOT be considered.

One (1) original signed proposal by an authorized signer; five (5) copies, and one (1) electronic copy must be submitted on a disc, flashdrive or similar device. The proposal must not exceed thirty-five (35) total pages; to be double-sided; 12 pt font; 1" margins, **excluding** Cover Sheet with References, Resumes, Sample Work Product, Cost Proposal.

All proposals shall be valid for ninety (90) days from the RFP closing date.

All costs associated with Proposer's submission of the project concept and/or proposals are the sole responsibility of the proposer and shall not be borne by the State of Oregon. All proposals submitted will become public record.

Treasury will not be held responsible for any error or omissions from downloading the RFP. The official solicitation document is the one held at the Treasury.

Those proposals which are incomplete or which do not meet all requirements of the RFP, will be deemed by Treasury to be "non-responsive" and will be rejected. Proposals considered complete, or "responsive," will be evaluated to determine if they comply with the administrative, contractual, and technical requirements of the RFP. If the proposal is unclear, the proposer may be asked to provide written clarification to assist Treasury in determining the issue of the proposal's responsiveness.

### 2.2.3 Electronic Submission

Proposals that are e-mailed, faxed, or otherwise transmitted electronically will NOT be accepted.

### 2.2.4 RFP Questions

All inquiries relating to the RFP process, administration, deadline or award, or to the substantive technical portions of the RFP, must be directed to the Single Point of Contact ("SPC") listed above.

All questions regarding the intent of the work or technical aspects of the work must be submitted in writing (mail or e-mail). When appropriate, revisions, substitutions, or clarifications shall be issued as addenda to this RFP. Changes/modifications to

the RFP requirements shall **ONLY** be recognized if in the form of written addenda issued by Treasury. Treasury will provide copies of any addenda to all known RFP recipients and advertise the response on the [Treasury website: http://www.oregon.gov/treasury/AboutTreasury/Pages/Requests-for-Proposals.aspx](http://www.oregon.gov/treasury/AboutTreasury/Pages/Requests-for-Proposals.aspx) and advertise the response on the Oregon Procurement Information Network (ORPIN) <http://orpin.oregon.gov/open.dll/welcome>. Anyone who has received a copy of this RFP from somewhere else will only be alerted to the existence of any addenda by checking the [Treasury website](http://www.oregon.gov/treasury/AboutTreasury/Pages/Requests-for-Proposals.aspx) and ORPIN.

Questions regarding this RFP will be accepted until **12:00 p.m. (noon) PST on June 14, 2016**. Questions from and answers to any one proposer will be forwarded to all proposers (as soon as resolved and before the submission deadline), if such questions will clarify any part of this RFP.

### **2.2.5 Optional Pre-Proposal Teleconference**

A pre-Proposal Teleconference will held via teleconference on **June 9, 2016 from 10:00 to 11:00 AM PST**. Interested parties may participate by calling 1-877-336-1828 enter participant code: 1691288. Prospective Proposers' participation in this conference is highly encouraged but not mandatory.

The purpose of the pre-Proposal conference is to:

- Provide additional description of the Program;
- Explain the RFP process; and
- Answer any questions Proposers may have related to the Program or the process.

Statements made at the pre-Proposal conference are not binding upon Treasury. Proposers may be asked to submit questions in writing.

### **2.2.6 Solicitation Changes or Protests**

A Proposer who believes the RFP specifications are unnecessarily restrictive or limit competition must submit its protest to the SPC listed in section 1.3.

Requests for change or protests of solicitation specifications or contract provisions must be delivered in person or mailed and received by Treasury, in writing, on or **before 12:00 (noon) PM PST on June 17, 2016**. Requests for change or protests may NOT be e-mailed or faxed. No requests for change or protest of solicitation specifications or contract provisions shall be considered after the deadline stated above.

Such request for change or protests shall include the reasons for the request for change or protest, and proposed changes to specifications or provisions. Envelopes containing requests for change or protest must be marked SOLICITATION SPECIFICATION REQUEST FOR CHANGE or CONTRACT PROVISION PROTEST, and must identify the RFP number and proposal closing time and date. Treasury reserves the right to amend the RFP, amend the proposal acceptance closing date, or deny the request or protest.

If Treasury deems it necessary to amend the RFP an Addendum will be prepared and issued to all known RFP recipients and proposers. If so instructed in a particular Addendum, Proposers shall be required to sign and attach a copy of the Addendum to their proposal. If the Proposer has already submitted a proposal, the Proposer shall modify the proposal as set forth below. The Treasury will provide copies of any Addendum to all known RFP recipients and Proposers, and will advertise the response on the [Treasury website](http://www.oregon.gov/treasury/AboutTreasury/Pages/Requests-for-Proposals.aspx) and ORPIN. Anyone who has received a copy of this RFP from somewhere else will only be alerted to the existence of any Addendum by checking the [Treasury website](http://www.oregon.gov/treasury/AboutTreasury/Pages/Requests-for-Proposals.aspx) and ORPIN.

Unless a different date is set forth in the Addendum, a Proposer may submit a written request for change or protest to the Addendum by the close of the Treasury's next business day after issuance of the Addendum, or up to the last day allowed to submit a request for change or protest, whichever date is later.

Proposals may be withdrawn at any time prior to the scheduled closing date for the receipt of proposals. This can be accomplished by written notification on company letterhead signed by an authorized representative. This notice must be delivered in person or mailed. The notice may NOT be e-mailed or faxed. Treasury will not be responsible for any costs associated with returning withdrawn proposals. If the Proposer chooses to pick up the proposal in person, appropriate identification and the requisite letter must be presented before Treasury will release the proposal.

Modifications to previously submitted proposals which are made prior to the closing date for proposal acceptance will be considered by Treasury, if received prior to that scheduled closing date. Envelopes must be clearly marked as to

MODIFICATION, the RFP number, and the proposal closing time and date. Oral or telephone modifications or corrections will not be recognized or considered.

### **2.2.7 References**

Treasury does not intend to score references but may contact references provided, or other references selected by Treasury, to verify information provided in Proposals. Proposers must provide three (3) references on the Cover Sheet (Attachment A) with whom the proposer has provided services similar in nature and scope to those described in this RFP within the past three (3) years.

### **2.2.8 Interviews/Follow-up Questions**

Treasury may conduct and may score interviews/follow-up questions. If interviews/follow-up questions are conducted, they may be evaluated and scored based any on the following criteria:

- a. Understanding of requested Services
- b. Project management/cost effectiveness
- c. Proposer's general qualifications
- d. Proposer's capabilities
- e. Proposer's relevant experience
- f. Project team and qualifications

If interviews/follow-up questions are conducted, the following will apply:

- a. A minimum of 3 evaluators will score the interviews/follow-up questions;
- b. The interviews/follow-up questions will have a maximum score of 20 points.
- c. The number of Proposers selected for interviews/follow-up questions is at the sole discretion of Treasury.
- d. Follow-up questions will typically be sent via e-mail to Proposer(s) as an alternative to face-to-face interviews. However, Treasury may conduct face-to-face interviews if determined necessary after conducting written follow-up questions.
- e. Interviews normally require physical attendance at Treasury's offices; however, Treasury may elect to conduct interviews via teleconference or video conference. Further details will be included with notification of time and date of interviews, if conducted.

## **3.0 SCORED CRITERIA**

Scoring is based on the categories described below, and the Proposer must describe how they meet any other requirements that may be specified in this document. A total of 100 maximum points are possible. If the proposal is unclear, Proposers may be asked to provide written clarification.

### **3.1 Consulting Firm**

*20 points maximum*

#### ***Organization, Ownership, and Independence – 8 points***

Please provide a succinct response that satisfies the following questions:

- a. Provide a brief history and high level description of your firm, including for how many years your firm has provided the types of consulting services you are proposing. In an environment of innovation and emerging requirements for state administered retirement programs (business, legal, stakeholder), describe how and why your firm is well positioned to meet the needs of the Program now and over the course of its development. If your firm has been involved in the evolution of state-based auto IRA programs, please describe.
- b. Describe the ownership structure of your firm giving specific details with regard to any parent or affiliates. Include an organizational chart.
- c. Describe the line(s) of business of your firm, any parent organization and any affiliated companies, including approximate size by business and line (employees, revenue, assets served).
- d. Describe any recent or planned changes in ownership, leadership, organizational structure, and organizational capabilities. Recent should encompass the past three years.

- e. Is your firm, any parent or any affiliate, a registered investment advisor with the U.S. Securities and Exchange Commission (“SEC”) under the Investment Advisers Act of 1940? If not, what is your fiduciary classification? The firm must contractually agree that in the performance of its duties it owes the Program the highest professional care and responsibility.
- f. Does your firm, its parent, affiliate, joint venture, its directors, officers or any employee sell information or any other services, directly or indirectly, to investment managers or financial service providers in categories that could reasonably be expected to be used by the Program? If so, describe in detail. Describe how you manage for potential conflicts of interest.
- g. Disclose any other business relationships, affiliations, strategic alliances, joint ventures, and referral arrangements, if not previously disclosed in your response to this RFP.
- h. Has your firm adopted the CFA Institute’s Code of Ethics and Standards of Professional Conduct? In general, how does your firm work internally and externally to ensure ethical conduct and compliance with all relevant laws and regulations.
- i. If a subcontractor will perform work on the contract, identify each subcontractor to be used, their role, and their experience related to the evaluation used for the Proposer?

***Employees – Servicing Team and Available Resources – 12 points***

Please provide a succinct response that satisfies the following questions:

- j. Describe the proposed team who will meet the service requirements of the Program, including highlights of their qualifications and experience working with programs and projects similar to ours.
- k. Does this team work together currently or will this be a newly constituted team; please describe - who will lead the team; how does the team manage its work and priorities; how is the team cultivated over time (education, professional development, industry engagement, public speaking, involvement in thought leadership work product, or other means).
- l. Please provide descriptions of this team’s work product that helps us understand their capabilities and approach: programs or projects and outcomes, including key issues encountered and problem solving applied, relevant to the circumstances and requirements of the Program.
- m. What makes the team especially well positioned to meet the needs of the Program, Treasury, and the Board during the planning, implementation, and operating phases of the Program.
- n. What challenges does the team think it may encounter over the course of this assignment, and how will the team prepare itself and the Program. Please indicate the largest drivers of success for the implementation of this program. What are the largest potential detractors?
- o. Identify the name and title of the individual who will act as our primary key person consultant and relationship manager, and the location/s from which the consulting work will be done.
- p. Provide resumes of the key individuals who would be assigned to providing services to the Program, as well as other key human resources of your firm. Please include descriptions of their qualifications such as education, experience, credentials, tenure, and years working with institutional defined contribution plans and Individual Retirement Account (“IRA”) accounts or programs. *(Note: The number of pages for this response will be excluded when determining compliance with the 35 page maximum.)*
- q. List senior staff hires and departures over the last three years.
- r. Describe your firm’s compensation arrangement for professional staff. How does this arrangement encourage the retention of key individuals?

**3.2 Consulting Capabilities**

*50 points maximum*

***Consulting Capabilities – Broad – 30 points***

- a. Describe the key capabilities of your firm relevant to the current and anticipated needs of the Program, Treasury, and the Board. Using the lists in Scope of Services in Exhibit A of Attachment B, describe your firm's experience, capabilities and approach to each service required. Use metrics and examples. Describe any ways in which your firm and your offering is uniquely valuable to the Program and its requirements. Keep in mind that the Plan will be operating through several phases, including start-up, implementation, and maintenance.
- b. Using the set of requirements shown in Scope of Services in Exhibit A of Attachment B, Deliverables, Tasks 1, 2 and 3, describe how your firm would support the Program. Here we are interested in understanding what it would be like to work together, how your firm creates work product, specific approaches to and experience with the work that are useful to the Program. Avoid repeating content from (a) above. Provide examples of work product where possible and relevant. (*Note: samples of work product will be excluded when determining compliance with the 35 page maximum*)
- c. Please describe your overall knowledge of and experience of key components which will be required to complete the contracted duties - e.g., state services, payroll, IRA custodial and recordkeeping services, investment management services, technology services.
- d. Please offer your insights into the criteria for success at each phase of the process: assessment of supplier proposals, supplier selection, contract negotiations, program implementation, ongoing program monitoring, and program benefit realization.
- e. What are the three most important things you will require from the State in order to successfully complete your contracted deliverables?
- f. Describe your firm's involvement in preparing guidelines regarding contractual requirements for investment managers and service providers.

***Capabilities – Additional Investment Related – 8 points***

- g. Target date or age-based funds are likely to be a key component of the Program. How would your firm help the Program identify and evaluate candidate funds – be specific about the criteria you would suggest using, and the resources you would use or provide as part of this process.
- h. A very low risk / stable investment choice is likely to be a key component of the Program. How would your firm work with the Program to consider appropriate investment types and vehicles and what are the evaluation criteria you would suggest. A growth/diversified equity investment choice may be a key component of the Program. How would your firm work with the Program to consider appropriate investment types and vehicles and what are the evaluation criteria you would suggest.
- i. Does your firm believe strongly that other investment types should be offered. Please comment.
- j. If not already discussed, how does your firm think about active and passive management as part of the Program's asset allocation and investment considerations?
- k. Please describe how your firm would align the characteristics of strong investment performance (risk and return), investment cost, investment vehicle, and recordkeeping/administrative platform with the needs of the Program, taking into account that the Program may have some complex components and interactions. Describe your view of whether it is possible to get top performance, best price, and a strong, flexible, fit-for-purpose platform in a single package – or not.

***Capabilities – Plan Administration Related – 12 points***

The choice of plan administration provider and platform will have a significant impact on the Program's ability to operate as intended, and to service participants and engage with stakeholders in a highly effective way.

- l. Provide examples of innovative approaches you have initiated or assisted in developing with respect to defined contribution plan design concepts. These examples may relate to the organization of administrative services, the structure of investment option menus, the expansion/enhancement of related program types or services, etc.
- m. The Plan will likely include hybrid characteristics of existing plan and account types, and will serve a unique segment of the market. It is important that the Plan operate on a cost-effective and efficient basis while providing excellent

service and investment opportunity to its participants. The Plan will launch in 2017 and is expected to take participants on in phases. What key requirements would you include in a provider request for proposal (“RFP”)?

- n. Describe the resources you can make available to the Plan for the purpose of expert technical review of defined contribution plan statutes and regulations. Provide some background on your experience with respect to U. S. Department of Labor, SEC and IRS regulations with regard to state administered retirement plans.
- o. Describe any experience your firm has in either pre-testing for an IRS audit or assisting plan sponsors in navigating an actual IRS audit.
- p. Discuss your experience in the design of requests for proposal for plan administration (including recordkeeping, communication and enrollment services). Provide some background on your development process for this type of RFP, including the gathering of plan data, establishing timelines, etc. Provide an example of standard service level agreements that your firm has developed.
- q. In the last three years, how many such requests for proposals has your company helped develop? For each, please indicate the plan, plan type (e.g. Section 457(b), 401(k), etc.), approximate number of participants and assets. Describe the resources utilized in generating and reviewing questions related to such requests and summarizing results for clients.
- r. Provide examples of innovative approaches you have initiated or otherwise assisted in developing with respect to print, online, and app-based communication materials and campaigns. These examples are not limited to the field of retirement planning or investing and may include any subject matter you choose.
- s. The Program will have a target participation rate with demographic breakdowns. Describe how your firm would contribute to the development of a marketing strategy to target employees of a low-participation demographic to enroll in the Plan.
- t. The Program will conduct periodic participant surveys for various purposes. These surveys may be targeted at limited populations, or the entire population, and may be direct-mailed to participant homes or executed using online tools. Program’s contract with its third-party administrator (“TPA”) may provide that the TPA will help develop, execute and tabulate the surveys, but the Plan is not limited to using the TPA only. Describe any unique qualifications/experience your firm has in survey development and execution.

### **3.3 Clientele**

*10 points maximum*

- a. Describe your firm’s experience in providing consulting services to equivalent plans, such as 401(k), 457(b) and 529 plans, and IRA programs.
- b. Provide the names, portfolio sizes (as of December 31, 2015), and inception of the engagements for clients that use your firm’s services for 401(k), 457(b), 529 plans, and IRA programs. In addition, please provide similar data on your firm’s defined benefit business.
- c. Please provide the names of all clients who have terminated your firm’s services in the last three years. In each case, detail the reason for termination and the services that were being provided.

### **3.4 Cost Proposal**

*20 points maximum*

Please provide a quote of your firm’s proposed fees for the following services:

- a. Annual fee for full-service consulting arrangement, not to exceed \$100,000 per year for the initial three (3) year term. Please detail the scope of services to be provided under such an arrangement and provide quotes (sample rate sheet) for any additional services not covered under the annual fee. As a benchmark, you should anticipate up to six meetings a year working directly with the Board and its committees.
- b. Although the Contract will be for an initial three (3) year term, it may be renewed for two (2) additional two-year periods. Please provide the escalation rates, if any, to be used for the annual renewal periods. That is, provide fees for a seven (7) year horizon beginning August 12, 2016.

The Cost Proposal must be inclusive of all services, fees, rates, expenses, and other fees. Cost Proposals will be evaluated for reasonableness and competitiveness. If the Cost Proposal is higher than Treasury's anticipated budget, Proposer shall provide a detailed explanation of costs.

#### **4.0 PROPOSAL EVALUATIONS**

##### **4.1 Evaluation Process**

The selection process shall be administered in accordance with the authority and procedures in ORS 279B.060.

Proposals submitted will be reviewed to determine that all minimum requirements have been met. Proposals meeting those criteria will be forwarded to an evaluation committee for scoring against the evaluation criteria described in Section 3.0. The outcome of the evaluations may, at the Treasury's sole discretion, result in (a) a notice to a Proposer(s) of selection for tentative Contract negotiation and possible award; or (b) an interview notice to selected Proposer(s) describing the interview process and date(s) of interview.

##### **4.2 Pass/Fail Criteria**

Each Proposal must comply with the following Pass/Fail criteria. Proposals not meeting ALL Pass/Fail criteria will be rejected, unless such failure is deemed immaterial at the sole discretion of the Treasury.

- Cover Sheet (refer to **Exhibit A**), including at least three (3) qualified references.
- One (1) original signed Proposal
- Five (5) copies of the Proposal
- One (1) electronic copy of the Proposal
- Proposal deadline met
- Meets all Minimum Qualifications
- Cost Proposal included
- Sample Work Product:
  - Include samples of actual work product with your response, including at a minimum:
    - A target date fund or target date fund family evaluation report
    - A quarterly or annual report to a board or other governing entity covering program and performance review
    - A recordkeeper/plan administrator due diligence report
    - An investment service provider due diligence report
    - A 'trends and issues'-style publication, research or white paper

##### **4.3 Evaluation Criteria**

Each proposal must clearly address minimum proposal requirements and all scored criteria.

##### **4.4 Notice of Intent to Award**

Proposers will be notified in writing of Treasury's intent to award, as well as be posted on the [Treasury website](#) and ORPIN network.

Unsuccessful Proposers may protest the selection process, proposal award, or if applicable, rejection of their proposal. The protest must be in writing delivered in person or by mail, and must be received at the address set forth on the Cover Page of this RFP, within seven (7) calendar days of written notification date of the pending award to another proposer, or notice of proposal rejection. The protest may NOT be e-mailed or faxed. The protest must state with clarity the issue protested, and the rationale and basis for such protest. The envelope containing the protest MUST be marked PROTEST, and MUST identify the RFP number and the closing time and date for acceptance of proposals, as well as the Treasury SPC, and address as listed on the Cover Page of this RFP.

#### **5.0 GENERAL SOLICITATION TERMS**

5.1 Treasury may require clarification to understand any of the selected Proposer's scored criteria. Any necessary clarifications or modifications will be made before executing the Contract and may become part of the final Contract.

- 5.2 Treasury reserves the sole right and option to amend the Contract, which results from this RFP. Contract amendments may be for increases in time or, consideration, insurance requirements, or for changes within the Statement of Work, and shall occur only upon mutual consent and signature by all parties to the Contract. All amendments shall be in writing and shall conform to the amendment process.
- 5.3 Subject to negotiation as described in Sections 5.8(8), 5.12 and 5.13, by submitting a proposal to this RFP, Proposer shall substantially accept all terms and conditions of Attachment B, Sample Contract.
- 5.4 At a minimum, industry standard insurance will be required for the resulting contract. Upon request, consultant will provide certificates of insurance and any applicable endorsements to Treasury prior to execution of the Contract.
- 5.5 Consultant shall ensure that each of its subcontractors complies with these requirements.
- 5.6 Consultant shall be required to provide certificates of insurance and any applicable endorsements to Treasury, upon request, prior to execution of the Contract.
- 5.7 ORS 60.701 requires that foreign corporations be registered by the State of Oregon, Office of the Secretary of State, before conducting business in the state. A foreign corporation (ORS 60.001) means a corporation-for-profit incorporated under a law other than the law of the State of Oregon. If a firm is selected for the Contract as a result of this solicitation they must register to do business in Oregon.
- 5.8 Treasury reserves the right, at its sole discretion: (1) to amend the RFP prior to the closing date (2) to amend the deadline for submitting proposals; (3) to determine whether a proposal does or does not substantially comply with the requirements of this RFP; (4) to waive any minor irregularity, informality, or nonconformance with this RFP; (5) to obtain from and/or provide to other public agencies, upon request, references, regarding the Proposer's contract performance; (6) at any time prior to Contract execution (including after announcement of the apparent awardee): (a) to reject any proposal that fails to substantially comply with all prescribed RFP procedures and requirements; and (b) to reject all proposals received and cancel this RFP upon a finding by Treasury that there is good cause and that such cancellation would be in the best interests of the State; (7) seek clarification on any or all proposals; and (8) negotiate the final description of work tasks, deliverables, pricing and specific terms and conditions of the sample Contract within the scope of what is advertised here for inclusion in the resulting Contract.
- 5.9 This RFP and one copy of each original response received, together with copies of all documents pertaining to the award of a Contract, shall be kept by Treasury and made a part of a file or records, which shall be open to public inspection. If a proposal contains any information that is considered a trade secret under ORS 192.501 (2), each sheet of such information must be marked with the following legend:
- “The information on this page 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 only “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 determination made pursuant to the Public Records Law.
- If a Proposal contains any information that may be considered exempt from disclosure under one of the other grounds specified in Oregon Public Records Law, ORS 192.410 through 192.505, Proposers must clearly designate any portion of its Proposal as exempt, along with a citation to the authority relied upon. Application of the Oregon Public Records Law shall determine whether any information is actually exempt from disclosure. Identifying a Proposal in whole as exempt from disclosure is not acceptable. Failure to identify a portion of the Proposal as exempt from disclosure, and the authority used, shall be deemed a waiver of any future claim of non-disclosure of that information.
- 5.10 The Consultant will be required to assume responsibility for all services outlined and finalized in the Contract, whether the Consultant, a representative or subcontractor produces them. Treasury considers the prime Consultant responsible for any and all contractual matters, including performance of work and the stated deliverables.
- 5.11 In accordance with the 2003 Oregon Sustainability Executive Order and ORS 279A.125, Proposers must use recyclable products to the maximum extent economically feasible in the performance of the Contract work set forth in this document.
- 5.12 The cost, statement of work of the project and any terms and conditions as noted above in section 5.8, may be negotiated, within the overall intent described in this RFP, with the selected Proposer. If negotiations are not successful and a Contract

is not executed within 60 days, Treasury may either: (a) terminate negotiations with the top selection and begin negotiations with the next highest ranked Proposer, (b) cancel the solicitation, or (c) continue negotiations with the highest ranked Proposer.

5.13 Proposers submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. For Proposers that do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer. Negotiations may be conducted with responsible Proposers who submit proposals found to be reasonably likely to be selected for award.

**ATTACHMENT A  
RFP #170-1108-16  
COVER SHEET**

Legal Entity name: \_\_\_\_\_

DBA: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Website: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

SEC CIK #: \_\_\_\_\_

State of incorporation: \_\_\_\_\_

Business Designation (check one):

- Corporation     Professional Corporation     Partnership     Limited Partnership  
 Limited Liability Company     Limited Liability Partnership     Sole Proprietorship  
 Other \_\_\_\_\_

Oregon Secretary of State Business Registry No. \_\_\_\_\_ (if applicable)

Oregon Resident proposer:  Yes  No

*Voluntary information:*

- a. Office of Minority, Women, and Emerging Small Business Registration No. \_\_\_\_\_ (type; check one):  
 Women Owned Business     Minority Owned Business     Emerging Small Business  
b. Disabled Veteran Owned Business:  Yes  No

Within the last five years, has your organization or an officer or principal been involved in any business litigation or other legal proceedings relating to your consulting activities?  Yes  No If yes, provide an explanation and indicate the current status or disposition.

Proposer wishes to negotiate terms and conditions of the sample Price Agreement (Attachment B)  Yes  No  
If so, provide requested verbiage and changes.

**Does Proposer meet all of the following Minimum Qualifications:**

Yes  No The firm must provide consultation *primarily* to institutional investors;

Yes  No The firm must provide consultation to defined contribution plans such as 401(k), 457 and 529 plans;

Yes  No The firm must have full-service traditional consulting capabilities (including but not limited to consultation on asset allocation, manager research, and performance monitoring);

Yes  No The firm must have experience conducting plan administration search and selection for institutional defined contribution plans, and in monitoring and reporting on provider and program performance; and

Yes  No The firm must be willing to serve as a fiduciary to the Program.



**ATTACHMENT B  
SAMPLE CONTRACT**



**STATE OF OREGON  
OREGON STATE TREASURY  
SERVICES CONTRACT**

This Services Contract No. \_\_\_\_\_ is between the State of Oregon, acting by and through the Oregon Savings Retirement Plan Board (the "Board") and for the benefit of the Office of the Oregon State Treasurer, hereafter called "Treasury," (that serves as staff to the Board), and \_\_\_\_\_, a \_\_\_\_\_, hereafter called "Consultant."

For good and sufficient consideration, including the terms and conditions herein, the parties agree as follows:

**1. Effective Date and Duration.** This Contract shall become effective on the date this Contract has been signed by every party hereto and, when required, approved by the Department of Justice. Unless terminated or extended, this Contract shall expire when the Board accepts Consultant's completed performance or on by \_\_\_\_\_, whichever date occurs first. The term of this Contract may be extended for additional periods by execution of a written amendment extending the foregoing termination date. Expiration shall not extinguish or prejudice the Board's right to enforce this Contract with respect to any breach of a Consultant warranty or any default or defect in Consultant performance that has not been cured.

**2. Statement of Work.** The statement of work (the "Work"), including the delivery schedule for such Work, is contained in Exhibit A attached and incorporated by reference into this Contract. Consultant agrees to perform the Work in accordance with the terms and conditions of this Contract.

**3. Consideration.**

**a.** The maximum, not-to-exceed compensation payable to Consultant under this Contract, which includes any allowable expenses, is \$ \_\_\_\_\_. Consultant will be compensated only from funds appropriated to the Board for the implementation of the Program. The Board will not pay Consultant 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 Consultant performs Work subject to the amendment.

**b.** Interim payments to Consultant shall be subject to ORS 293.462, and shall be made in accordance with the payment schedule and requirements in Exhibit A.

**c.** The Board will pay only for completed Work that is accepted by Treasury.

**d.** Consultant shall submit monthly invoices to Treasury's Contract Administrator 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 the Board to pay and for which Consultant claims reimbursement. Each invoice also shall include the total amount invoiced to date by Consultant prior to the current invoice. Consultant will specifically note in the appropriate invoice when it has requested payment for one-third and two-thirds of the maximum, not-to-exceed compensation. Consultant shall send invoices to Treasury's Contract Administrator.

**4. Contract Documents.** This Contract consists of the following documents which are listed in descending order of precedence: this Contract less all exhibits, attached Exhibits A (Statement of Work) and B (Insurance Requirements) which are incorporated herein by this reference.

**5. Independent Consultant; Responsibility for Taxes and Withholding.**

**a.** Consultant shall perform all Work as an independent contractor. The Board 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 Board and Treasury may not and will not control the means or manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Work.

**b.** If Consultant is currently performing work for the State of Oregon or the federal government, Consultant by signature to this Contract, represents and warrants that: Consultant'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 Consultant currently performs work would prohibit Consultant's Work under this Contract.

c. Consultant understands and agrees that it is not an "officer", "employee", or "agent" of the Board or Treasury, as those terms are used in ORS 30.265.

d. Consultant shall be responsible for all federal or state taxes applicable to compensation or payments paid to Consultant under this Contract and, unless Consultant is subject to backup withholding, Treasury will not withhold from such compensation or payments any amount(s) to cover Consultant's federal or state tax obligations. Consultant is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Consultant under this Contract, except as a self employed individual.

#### **6. Subcontracts and Assignment; Successors and Assigns.**

a. Consultant shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract, without Treasury's prior written consent. In addition to any other provisions the Board or Treasury may require, Consultant shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by Sections 5, 6, 7, 9, 10, 11, 15, 16, 19, and 25 of this Contract as if the subcontractor were the Consultant. The Board's consent to any subcontract shall not relieve Consultant of any of its duties or obligations under this Contract.

b. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.

c. Consultant shall not assign, delegate or transfer any of its rights or obligations under this Contract without Treasury's prior written consent.

**7. No Third Party Beneficiaries.** The Board and Consultant 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. The parties understand and agree that Treasury in its role as staff to the Board is an intended beneficiary of this Contract.

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

#### **9. Representations and Warranties.**

a. Consultant's Representations and Warranties. Consultant represents and warrants to Treasury and the Board that (1) Consultant 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 Consultant enforceable in accordance with its terms and will not violate: (i) any provision of the charter documents of Consultant, (ii) any state law or judgment, decree, order, regulation or rule of any court, or governmental authority applicable to Consultant, or (iii) any agreement to which Consultant is bound which violation would result in a material adverse effect on the business and financial condition of Consultant, (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with professional standards, (4) the personnel of Consultant that are responsible for discharging Consultant's duties and obligations under this Contract are individuals experienced in the performance of the Work contemplated under this Contract and shall, at all times during the term of this Contract, be qualified, professionally competent, and shall have completed, obtained and performed all registrations, filings, approvals, authorizations, consents, examinations or licensing required by any governmental authority to perform the Work, (5) there are no (i) actions, (ii) proceedings or (iii) investigations by any state or federal regulatory authority pending, or to Consultant's knowledge threatened, against Consultant (A) that could have a material adverse effect on the business and financial condition of Consultant or its ability to perform the Work or (B) that claim or allege fraud or misrepresentation by Consultant or its officers, directors or partners, including its Key Personnel, nor has Consultant, or any of its officers, directors or partners, including its Key Personnel, been found liable under or guilty of any claims of fraud or misrepresentation, and (6) any software products delivered under this Contract that process dates or date-related data shall recognize, store, and transmit date data in a format that explicitly and unambiguously specifies the correct century.

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 Agreement, the following terms have the meanings set forth below:

(i) "Consultant Intellectual Property" means any intellectual property owned by Consultant and developed independently from the Work.

(ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than Treasury, the Board or Consultant.

(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 Consultant is required to deliver to Treasury pursuant to the Work.

**b. Original Works.** All Work Product created by Consultant 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 the Board. The Board and Consultant agree that such original works of authorship are "work made for hire" of which the Board 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," Consultant hereby irrevocably assigns to the Board 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 Treasury's or the Board's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in the Board. Consultant 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 Consultant under this Contract is a derivative work based on Consultant Intellectual Property, or is a compilation that includes Consultant Intellectual Property, Consultant hereby grants to Board 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 Consultant Intellectual Property employed in the Work Product, and to authorize others to do the same on the Board's behalf.

In the event that Work Product created by Consultant under this Agreement is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Consultant shall secure on the Board's behalf and in the name of the Board 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 the Board's behalf.

**c. Consultant Intellectual Property.** In the event that Work Product is Consultant Intellectual Property Consultant hereby grants to the Board an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Consultant Intellectual Property, and to authorize others to do the same on the Board's behalf.

**d. Third Party Works.** In the event that Work Product is Third Party Intellectual Property, Consultant shall secure on the Board's behalf and in the name of the Board, 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 the Board's behalf.

## **11. Indemnity.**

**a. GENERAL INDEMNITY.** CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON, THE BOARD AND TREASURY 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 AGREEMENT.

**b. INDEMNITY FOR INFRINGEMENT CLAIMS.** WITHOUT LIMITING THE GENERALITY OF SECTION 11.a, CONTRACTOR EXPRESSLY AGREES TO DEFEND, INDEMNIFY, AND HOLD THE BOARD, TREASURY, 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 Treasury BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR THE TREASURY'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.** Consultant shall provide insurance as indicated on Exhibit B, attached hereto and by this reference made a part hereof.

**13. Default; Remedies; Termination.**

**a. Default by Consultant.** Consultant shall be in default under this Agreement if:

(i) Consultant 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) Consultant no longer holds a license or certificate that is required for Consultant to perform its obligations under the Contract and Consultant has not obtained such license or certificate within fourteen (14) calendar days after the Board's notice or such longer period as the Board may specify in such notice; or

(iii) Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform the Work under this Agreement within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Consultant's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after the notice, or such longer period as may be specified in such notice; or

(iv) Consultant's representations and covenants regarding compliance with "Tax Laws" as set forth in Section 29 of this Agreement are false or become false because Consultant fails to comply with any Tax Laws during the term of this Agreement.

**b. The Board's Remedies for Consultant's Default.** In the event Consultant is in default under Section 13.a, the Board may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:

(i) termination of this Agreement under Section 13.e(ii);

(ii) withholding all monies due for Work and Work Products that Consultant 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 the Board may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Consultant was not in default under Sections 13.a, then Consultant shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 13.e(i).

**c. Default by the Board.** The Board shall be in default under this Agreement if:

(i) The Board fails to pay Consultant any amount pursuant to the terms of this Agreement, and the Board fails to cure such failure within thirty (30) calendar days after Consultant's notice or such longer period as Consultant may specify in such notice; or

(ii) The Board commits any material breach or default of any covenant, warranty, or obligation under this Agreement, and such breach or default is not cured within thirty (30) calendar days after Consultant's notice or such longer period as Consultant may specify in such notice.

**d. Consultant's Remedies for Treasury's Default.** In the event the Board terminates the Agreement under Section 13.e(i), or in the event the Board is in default under Section 13.c and whether or not Consultant elects to exercise its right to terminate the Agreement under Section 13.e(iii), Consultant'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 Agreement 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 the Board, less previous amounts paid and any claim(s) that the Board has against Consultant. In no event shall Treasury or the Board be liable to Consultant for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Consultant exceed the amount due to Consultant under this Section 13.d, Consultant shall pay immediately any excess to the Board upon written demand provided in accordance with Section 20.

**e. Termination.**

(i) **The Board's Right to Terminate at its Discretion.** At its sole discretion, the Board may terminate this Agreement:

(A) For its convenience upon thirty (30) days' prior written notice by the Board to Consultant;

(B) Immediately upon written notice if the Board 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 Board's purchase of the Work or Work Products under this Contract is prohibited or the Board is prohibited from paying for such Work or Work Products from the planned funding source.

**(ii) The Board's Right to Terminate for Cause.** In addition to any other rights and remedies the Board may have under this Agreement, the Board may terminate this Agreement immediately upon written notice by the Board to Consultant, or at such later date as may be established 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) Consultant is in default under Section 13.a(i) because Consultant 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) Consultant is in default under Section 13.a(ii) because Consultant no longer holds a license or certificate that is required for it to perform services under the Agreement and Consultant has not obtained such license or certificate within fourteen (14) calendar days after Treasury's notice or such longer period as Treasury may specify in such notice; or

(C) Consultant is in default under Section 13.a(iii) because Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Agreement within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Consultant's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after Treasury's notice, or such longer period as may be specified in such notice.

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

(A) The Board is in default under Section 13.c(i) because the Board fails to pay Consultant any amount pursuant to the terms of this Agreement, and the Board fails to cure such failure within thirty (30) calendar days after Consultant's notice or such longer period as Consultant may specify in such notice; or

(B) The Board is in default under Section 13.c(ii) because it commits any material breach or default of any covenant, warranty, or obligation under this Agreement, fails to perform its commitments hereunder within the time specified or any extension thereof, and the Board fails to cure such failure within thirty (30) calendar days after Consultant's notice or such longer period as Consultant may specify in such notice.

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

**f. Consultant's Tender Upon Termination.** Upon receiving a notice of termination of this Agreement, Consultant shall immediately cease all activities under this Agreement, unless the Board expressly directs otherwise in such notice of termination. Upon termination of this Agreement, Consultant shall deliver to the Contract Administrator specified in this Contract all documents, information, works-in-progress and other property that are or would be deliverables had the Agreement been completed. Upon request from the Contract Administrator, Consultant shall surrender to anyone the Contract Administrator designates, all documents, research or objects or other tangible things needed to complete the Work.

**14. Records Maintenance; Access.** Consultant shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Consultant shall maintain any other records pertinent to this Contract in such a manner as to clearly document Consultant's performance. Consultant acknowledges and agrees that Treasury, the Board and the Oregon Secretary of State's Office and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of Consultant that are pertinent to this Contract to perform examinations and audits and make excerpts and transcripts. Unless instructed otherwise by the Contract Administrator, Consultant shall retain and keep accessible all such fiscal records, books, documents, papers, plans, 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. Upon written instruction from the Contract Administrator, Consultant shall not retain, but will return to Treasury or the Board or destroy, any of the foregoing materials specifically designated by the Contract Administrator for return or destruction.

**15. Compliance with Applicable Law.** Consultant 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, Consultant 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.

**16. Foreign Consultant.** If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant 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. Consultant 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 Treasury, the Board, nor Consultant 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 Treasury, the Board or Consultant, respectively. Consultant 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, 15, 18, 23, and 26.

**19. Time is of the Essence.** Consultant 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 personal delivery, facsimile, electronic mail or mailing the same, postage prepaid, to the other party at the address, number or e-mail address set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section 20. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile or electronic mail shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against the Board or Treasury, such facsimile or electronic transmission must be confirmed by telephone notice to the Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

**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 Treasury or the Board (or any other agency or department of the State of Oregon) and Consultant 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 Agent or 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. Confidentiality.**

**a.** At all times during the term of this Contract and thereafter, Consultant shall maintain strict confidentiality with respect to any and all information of a confidential, proprietary or secret nature that Consultant, in the course of performance of the Work, has in its possession, including but not limited to information relating to the State of Oregon or local governments' financial, accounting, investment, and information technology matters, and the security measures or mechanisms used to protect such information ("Confidential Information."). All such information is confidential and Consultant shall hold such information using at least the same degree of care as it uses in maintaining the confidentiality of its own information of a similar nature. Unless permitted by the Treasury or the Board in writing or required by law, Consultant shall not disclose any Confidential Information, directly or indirectly, to any party, its counsel or any representatives, or use it in any way, except as provided in this Contract or as required to perform the Work. Any disclosure of Confidential Information contrary to this provision will constitute a material breach of this Contract and a violation of the standard of care to be exercised by Consultant hereunder.

b. The foregoing restrictions shall not apply to Confidential Information that (i) was lawfully in the possession of Consultant without an obligation of confidentiality prior to disclosure of the information by Treasury or the Board, (ii) was, or at any time becomes, available in the public domain other than through a violation of this Contract, (iii) was independently developed by Consultant; or (iv) is disclosed pursuant to an order to do so by a court issued subpoena or similar court order

**25. Non-Disclosure Agreements.** The Contract Administrator must approve access to any information technology or network of Treasury before any Consultant personnel are granted access to the Treasury's network or any single system therein. The Contract Administrator may condition approval of access to the network upon execution of a Non-Disclosure Agreement in a form satisfactory to the Contract Administrator.

**26. 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 the Board to enforce any provision of this Contract shall not constitute a waiver by the Board of that or any other provision.

**27. Oregon False Claims Act.**

a. Consultant acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action or conduct by Consultant pertaining to this Contract that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Contract, Consultant certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Contract. In addition to other liabilities that may be applicable, Consultant further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Consultant.

b. Without limiting the generality of the foregoing, Consultant represents and warrants that:

i. Consultant's representations, certifications, and other undertakings in this Contract are not False Claims Act Violations; and

ii. None of Consultant's performance under this Contract, including but not limited to any invoices, reports, or other deliverables in connection with its performance of this Contract, will constitute False Claims Act Violations.

c. For purposes of this Section 27., a "False Claims Act Violation" means a false claim as defined by ORS 180.750(2) or anything prohibited by ORS 180.755.

d. Consultant shall immediately report in writing, to Treasury or the Board, any credible evidence that a principal, employee, agent, subcontractor, subgrantee, or other person has made a false claim or committed a prohibited act under the Oregon False Claims Act, or has committed a criminal or civil violation of laws pertaining to fraud, bribery, gratuity, conflict of interest, or similar misconduct in connection with this Contract or any moneys paid under this Contract.

e. Consultant understands and agrees that any remedy that may be available under the Oregon False Claims Act shall be in addition to any other remedy available to the State of Oregon, the Board or Treasury under any other provision of law, or this Contract.

**28. Amendments.** The Board may amend this Contract to the extent permitted by applicable statutes and administrative rules to, among other revisions, extend its term or modify the compensation, to delete services or to add any services that are within the scope of work, if any, or any combination of the foregoing. The parties may not waive, supplemented or amended the terms of the Contract, in any manner whatsoever, except by written amendment signed by all parties and for which all necessary State of Oregon approvals have been obtained.

**29. Key Personnel.** Contractor acknowledges and agrees that the Board selected Contractor, and is entering into this Contract, because of the special qualifications of Contractor's key people. In particular, the Board through this Contract is engaging the expertise, experience, judgment, and personal attention of \_\_\_\_\_ ("Key Person"). Contractor's Key Person shall not delegate performance of the management powers and responsibilities she is required to provide under this Contract to another (other) Contractor employee(s) without first obtaining the written consent of the Contract Administrator. Further, Contractor shall not re-assign or transfer the Key Person to other duties or positions such that the Key Person is no longer available to provide his or her expertise, experience, judgment, and personal attention, without first obtaining the Contract Administrator's prior written consent to such re-assignment or transfer. In the event Contractor requests the approval of a re-assignment or transfer of Key Person, the Contract Administrator shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for any Key Person.

**30. Certifications and Signature of Consultant's Authorized Representative.**

THIS CONTRACT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF CONTRACTOR.

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

The undersigned certifies under penalty of perjury both individually and on behalf of Consultant that:

A. The undersigned is a duly authorized representative of Consultant, has been authorized by Consultant to make all representations, attestations, and certifications contained in this Contract and to execute this Contract on behalf of Consultant;

B. By signature on this Contract for Consultant, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Consultant and that Consultant is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 local taxes administered by the Department of Revenue under ORS 305.620 and all applicable tax laws of any political subdivision of this state.

C. To the best of the undersigned's knowledge, Consultant has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts.

D. Consultant and Consultant's employees and agents are not included on the list titled "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/t11sdn.pdf>; and

E. Consultant is bound by and will comply with all requirements, terms and conditions contained in this Contract.

Consultant (print Legal Entity name): \_\_\_\_\_

DBA (if any) \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

By (print name): \_\_\_\_\_ Title: \_\_\_\_\_

Consultant Address: \_\_\_\_\_

Contact Telephone Number: \_\_\_\_\_ FID #: \_\_\_\_\_

Contact E-Mail Address: \_\_\_\_\_

**31. Signature of State's Authorized Representative.**

State of Oregon acting by and through  
**The Office Retirement Savings Board**  
**350 Winter Street NE Suite 100**  
**Salem, OR 97301**

Authorized Signature: \_\_\_\_\_

Title

Date

Treasury Contract Administrator:

Telephone Number:

E-Mail Address: @ost.state.or.us

**DEPARTMENT OF JUSTICE**

Approved by: \_\_\_\_\_, Senior Assistant Attorney General via email on \_\_\_\_\_

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**EXHIBIT A**  
**STATEMENT OF WORK**

**Part I. General Information.**

In 2015, the Oregon Legislative Assembly enacted House Bill 2960 (the “2015 Act”) calling for the establishment of a state administered retirement savings program (the “Plan” or “Program”) that provides employees with automatic enrollment, payroll deduction, and automatic annual contribution escalation, all on a flexible, opt-out basis. The Plan is governed by an appointed board and will be run by a private-sector provider, with a minimum employer role.

The 2015 Act provides that the Oregon Retirement Savings Board (the “Board”) shall establish a plan in compliance with these intended rules. The plan developed and established by the Oregon Retirement Savings Board under section 2 of this 2015 Act must:

- A. Allow eligible individuals employed for compensation in this state to contribute to an account established under the plan through payroll deduction.
- B. Require an employer to offer its employees the opportunity to contribute to the plan through payroll deductions unless the employer offers a qualified retirement plan, including but not limited to a plan qualified under section 401(a), section 401(k), section 403(a), section 403(b), section 408(k), section 408(p) or section 457(b) of the Internal Revenue Code.
- C. Provide for automatic enrollment of employees and allow employees to opt out of the plan.
- D. Have a default contribution rate set by the board by rule.
- E. Offer default escalation of contribution levels that can be increased or decreased within the limits allowed by the Internal Revenue Code.
- F. Provide for contributions to the plan to be deposited directly with the investment administrator for the plan.
- G. Whenever possible, use existing employer and public infrastructure to facilitate contributions to the plan, recordkeeping and outreach.
- H. Require no employer contributions to employee accounts.
- I. Require the maintenance of separate records and accounting for each plan account.
- J. Provide for reports on the status of plan accounts to be provided to plan participants at least annually.
- K. Allow for account owners to maintain an account regardless of place of employment and to roll over funds into other retirement accounts.
- L. Pool accounts established under the plan for investment.
- M. Be professionally managed.
- N. Provide that the State of Oregon and employers that participate in the plan have no proprietary interest in the contributions to or earnings on amounts contributed to accounts established under the plan.
- O. Provide that the investment administrator for the plan is the trustee of all contributions and earnings on amounts contributed to accounts established under the plan.
- P. Not impose any duties under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) on employers.
- Q. Keep administration fees in the plan low.
- R. Allow the use of private sector partnerships to administer and invest the contributions to the plan under the supervision and guidance of the board.
- S. Allow employers to establish an alternative retirement plan for some or all employees.
- T. The plan, the board, each board member and the State of Oregon may not guarantee any rate of return or any interest rate on any contribution. The plan, the board, each board member and the State of Oregon may not be liable for any loss incurred by any person as a result of participating in the plan.

The Board shall coordinate with the efforts of other states as those states pursue legal guidance for similar retirement savings programs.

The Board will also undertake outreach to small businesses and future Plan participants. Read more here:

<http://www.oregon.gov/treasury/Program/pages/default.aspx> The 2015 Act envisions that the Plan will be made available to Oregonians on July 1, 2017.

**Part II. Work; Acceptance Criteria; Deliverables and Delivery Schedule.**

**A. SCOPE OF SERVICES**

Consultant shall provide ongoing, comprehensive, full-service retainer and consulting services (the “Services”) to the Board and Treasury which include but may not be limited to:

- 1) Draft and recommendation of investment policy at the Program and investment option level, keeping in mind the unique nature of the participant base served
- 2) Portfolio analytics and attribution analyses
- 3) Investment manager/investment fund research and searches
- 4) Investment manager/investment fund monitoring and reporting
- 5) General program analysis for effectiveness and competitiveness
- 6) General research
- 7) Board education & special topics
- 8) Other projects as specified by the Board

Consultant shall provide Program pre-launch Services to Treasury and the Board to include at a minimum:

- 1) Assist in the drafting of an RFP for the provider(s) who will perform and provide administrative recordkeeping and investment management services for the Program – RFP scheduled for early September, 2016
- 2) Assist in the assessment of responding candidates, providing analysis and recommendations to the Board on potential service providers – October and November 2016
- 3) Assist in negotiation and retention of service provider(s) – December 2016
- 4) Program Implementation Support, including assistance with development and execution of Program implementation and launch strategies – 1Q2017 through completion of launch period

## **B. DELIVERABLES**

### **TASK 1. GENERAL AND INVESTMENT CONSULTING**

- a. Quarterly Performance Reporting. On a quarterly basis, Consultant shall monitor, review, and evaluate all investment funds and options used in the Program and provide a formal report of such review and evaluation.
- b. On-going Monitoring. Consultant shall continuously monitor investment funds used in the Program for adverse events such as key person departures, significant changes in organizational ownership, significant client losses, and other negative product concerns. Advise Treasury and the Board as to the continuing appropriateness of an investment manager or investment fund or option when concerns are identified about such manager, fund or option.
- c. Investment Manager Searches. Consultant shall assist Treasury and the Board with investment manager search activity and make recommendations to the Board regarding the hiring of any investment manager.
- d. Current Trends and Issues. Consultant shall keep Treasury and the Board informed about current investment and administration trends and issues in the defined contribution industry.
- e. Requests for Proposals. Consultant may be asked to provide assistance on drafting requests for proposal (“RFP”) for more complex investment vehicles such as stable value or target-date retirement funds and evaluating the responses submitted.
- f. Transitions. The Consultant may be asked to assist in the transition of administrative or investment management services or assets from one provider to another.
- g. Fiduciary Duties. Consultant will act as a fiduciary to the Plan under the standards promulgated by the U. S. Securities and Exchange Commission applicable to investment advisors.

### **TASK 2. PLAN ADMINISTRATION**

- a. RFP Development and Review of Responses - The Consultant shall, at the request of Treasury, assist in developing requests for proposal for third-party administrative and recordkeeping services, evaluating responses to those proposals, making recommendations to Treasury and the Board for action, and assisting in contract negotiations.
- b. Plan Design – The Consultant shall provide input and advice to Treasury with respect to Plan design including:
  - 1) The expansion of the Program to include new services or product offerings;
  - 2) Technical/Retirement Services – on an as-needed basis, evaluate and provide commentary with respect to a variety of tax, technical and retirement plan issues for use in day-to-day administration of the Plan and research of related matters; and

- 3) Providing expert advice and analysis with respect to the following:
  - i. Proposed or actual federal legislation and regulations affecting state administered retirement plans;
  - ii. Potential modifications to Program's provisions;
  - iii. Questions which may arise from time to time in the administration of the Plan concerning the interpretation of federal rules and policies and their applicability to Program;
  - iv. A broad range of questions related to retirement or tax-deferred saving concepts or issues not necessarily directly related to state administered retirement plan or defined contribution plan administration; and
  - v. Administrative rules governing the Plan such as participant trading restrictions.
- c. Communications – The Consultant may be asked to provide assistance with communications including:
  - 1) Design and review of communications materials promoting the Plan or educating participants regarding various aspects of the Plan;
  - 2) Development of marketing strategies for the Plan. Marketing strategies may be geared towards encouraging participation in the Plan as well as educating participants regarding various aspects of the Plan; and
  - 3) Development and evaluation of participant assessments such as surveys and customer satisfaction evaluations.
- d. IRS Audit - The Consultant may be asked to assist in responding to an IRS audit.

**TASK 3. PROGRAM IMPLEMENTATION SUPPORT:**

- a. **Implementation Coordination.** The Consultant shall provide implementation coordination support, including:
  - 1) Oversight of the master project plan coordinating the efforts of all parties to the Program rollout, including service providers, the State, and other key actors.
  - 2) Confirmation and monitoring of launch-critical milestones, identification of interdependencies, and early identification, escalation and resolution support for launch-related issues.
- b. **Documentation.** The Consultant shall assist Treasury staff in determining and drafting documentation such as policies and internal procedures required to support the program on an operating basis; this documentation shall be a supplement to the Oregon Revised Statutes and Administrative Rules and shall facilitate effective operation of the program, and to procedural documentation developed by the Program's investment and administrative service providers.
- c. **Rollout Support.** The Consultant shall assist Treasury staff and Program providers in establishing a Program rollout approach that meets the needs of participants and stakeholders on a state-wide basis and over a specific period of time.

**TASK 4. ANNUAL REVIEW OF INVESTMENTS, STRUCTURE, AND PROGRAM EFFECTIVENESS:**

**Annual Reporting to the Board.** The Consultant shall work with Treasury staff to prepare and present to the Board a comprehensive annual report covering:

- 1) The effectiveness of the current Program in meeting program goals, and an analysis and recommendations for improvement where appropriate, including, but not limited to: a) participation rates and results across eligible populations by demographic cut, b) Program structure and overall offering, c) operating and service provider satisfaction levels using independent measures, d) Program costs and fees compared to competitive alternatives, and more as identified and agreed
- 2) Performance and suitability assessment of the various investment options and underlying fund managers.
- 3) Recommended changes to overall Program structure including the investment policies, fund and option additions, deletions, and allocation modifications, and performance objectives and standards for each investment fund and option.
- 4) The appropriateness of the asset allocation structures used for the target-date retirement funds employed by the Plan.

**Part III. Special Considerations.**

Consultant must be registered with and maintain registration as an Investment Adviser with the U.S. Securities and Exchange Commission.

**Part IV. Payment Provisions.**

- A. The compensation for Work accomplished under this Contract shall not exceed a maximum of \_\_\_\_\_.
- B. Quarterly payments may be made to Consultant over the period of the Contract upon receipt of the Consultant's detailed billing statement. The Board reserves the right to request, in writing, full itemization and receipts for, but not limited to, any or all labor and/or direct costs billed by the Consultant. Consultant shall provide receipts within five (5) business days of request. Payment shall not be released until all requested receipts have been received from the Consultant. All invoices and other forms of claims for payment must be submitted no more than once per month ATTN: Oregon State Treasury, 350 Winter Street NE Suite 100, Salem, OR 97301-3896 or emailed to **ost.accounting@ost.state.or.us**. Failure to present claims in proper form within 60 days after the end of the month in which the work is performed shall constitute a waiver on the part of Consultant to present such claim thereafter or to receive payment therefore. Any overdue payments by the Board for an approved billing statement shall be in accordance with ORS 293.462.
- C. Consultant shall complete all Work as defined in this Exhibit A to the satisfaction of the Treasury and the Board. If Consultant expends all time allowed under the Contract and fees incurred have reached the maximum compensation allowed under Section 3(a) of the Contract, but the Work and Work Products are not complete or are not satisfactory, Consultant shall complete the Work to Treasury's and the Board's satisfaction without further compensation. The Board may, by written amendment to the Contract, increase the maximum compensation payable under this Contract for any substantial, approved increase in the scope, character, schedule or complexity of services as outlined in this Exhibit A. Consultant may petition the Board for such an amendment, or the Board may initiate the action on its own. Any amendment must receive all necessary State approvals prior to commencement of any such work by the Consultant.
- D. The Board reserves the right to withhold final payment equal to ten percent (10%) of the total contract amount until all required Work is completed and accepted by the Board.
- E. The Board shall make final payment of any balance due Consultant promptly upon verification of completion and acceptance of the Work by the Board. The Board, or its duly authorized agents, may audit Consultant's records prior to payment of the final billing.
- F. If Consultant is a nonresident alien as defined in 26 USC § 7701(b)(1)(B), then Consultant shall, upon execution of this Contract, deliver to Treasury a completed and signed W-8 form, 8233 form, or W-9 form, as applicable, from the Internal Revenue Service ("IRS"), as evidence that the Board is not required by 26 USC 1441 to withhold part of Consultant's payment. Such forms are currently available at <http://www.irs.gov>. The Board may withhold payments to Consultant pending Treasury's receipt from Consultant of the applicable, completed and signed form. If Treasury does not receive the applicable, completed and signed form from Consultant, or if the IRS provides notice to Treasury or the Board that Consultant's information on the form provided is incorrect, the Board will withhold as federal income tax 30% of all amounts owed to Consultant under this Contract.
- G. Funds Available and Authorized; Payments. Consultant understands and agrees that the Board's payment of amounts under this Contract is contingent on the Board receiving funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow the Board, in the exercise of its reasonable administrative discretion, to make payments under this Contract.

**Part V. Travel and Other Expenses.**

- (a) The Board may reimburse Consultant, within the not to exceed amount identified in Part IV of this Exhibit A, for travel only when the travel is essential to the normal discharge of Contractor's responsibilities under this Contract. Consultant shall conduct all travel in the most efficient and cost-effective manner resulting in the best value to the Board. The travel must comply with all the requirements set forth in this section and must be for official v business only. Consultant shall provide Treasury or the Board with receipts for all travel expenses except meals. All Consultant representatives will fly "coach class," unless Consultant personally pays the difference. All Consultant representatives will be limited to economy or compact sized rental vehicles, unless Consultant personally pays the difference.
- (b) All out-of-state travel must be approved in advance, and in writing, by the Treasury or the Board. In addition to meals and lodging, out-of-state travel expenses will be reimbursed for airfare and rental vehicles only if Consultant is acting within the course and scope of its duties under this Contract, and in furtherance of the Work.

(c) The Board may reimburse travel and other expenses of the Consultant at the rates set forth in the Oregon Accounting Manual as of the date Consultant incurred the travel or other expenses. The Oregon Accounting Manual is available at <http://www.oregon.gov/DAS/SCD/SARS/policies/oam/40.10.00.PO.pdf>

**EXHIBIT B  
INSURANCE REQUIREMENTS**

**INSURANCE REQUIREMENTS:**

Consultant shall obtain at Consultant's expense the insurance specified in this Exhibit B to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Consultant 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 Treasury. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Consultant shall pay for all deductibles, self-insured retention and self-insurance, if any.

**WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

All employers, including Consultant, shall provide workers' compensation insurance as required by applicable workers' compensation laws for persons performing work under this Contract including Employers' Liability Insurance with limits not less than \$500,000 each accident. Consultant shall require and ensure that each of its subcontractors complies with these requirements.

**PROFESSIONAL LIABILITY :**

**Required by the Board**  **Not required by the Board.**

Professional Liability insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract in an amount not less than \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Consultant shall provide Tail Coverage as stated below.

**COMMERCIAL GENERAL LIABILITY:**

**Required by the Board**  **Not required by the Board.**

Commercial General Liability Insurance covering bodily injury, death and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage. Coverage shall be written on an occurrence basis in an amount of not less than \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.

**FIDUCIARY LIABILITY**

**Required by Agency**  **Not required by Agency**

Fiduciary Liability insurance covering breaches in fiduciary duties related to the services or fiduciary responsibility to be provided under this Agreement in an amount not less than \$\_\_\_\_\_ per occurrence. Annual aggregate limit shall not be less than \$\_\_\_\_\_. If coverage is on a claims-made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage or the Consultant shall provide Tail Coverage as stated below.

**AUTOMOBILE LIABILITY INSURANCE:**

**Required by Treasury**  **Not required by Treasury.**

Automobile Liability Insurance covering all owned, non-owned, or hired vehicles with a combined single limit of not less than \$2,000,000 for bodily injury and property damage.

**ADDITIONAL INSURED:**

The Commercial General Liability insurance and Automobile Liability insurance required under this Contract shall include the State of Oregon, the Oregon State Treasury, the Oregon Retirement Savings Board and their officers, employees and agents as Additional Insureds but only with respect to Consultant's activities to be performed under this Contract.

**TAIL COVERAGE:**

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Consultant shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of (i) Consultant's completion and the Board's acceptance of all Services required under this Contract, or, (ii) The expiration of all warranty periods provided under this Contract.

**CERTIFICATE(S) AND PROOF OF INSURANCE:**

Consultant shall provide to Treasury Certificate(s) of Insurance for all required insurance before performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, the Oregon State Treasury, the Oregon Retirement Savings Board and their officers, employees and agents as a Certificate holder and as Endorsed Additional Insured, specify that Consultant shall pay for all deductibles, self-insured retention and self-insurance, if any, that all coverage shall be primary and non-contributory with any other insurance and self-insurance, and confirm that either an extended reporting period of at least 24 months is provided on all claims made policies or that tail coverage is provided. As proof of insurance Treasury has the right to request copies of insurance policies relating to the insurance requirements in this Contract.

**NOTICE OF CHANGE OR CANCELLATION:**

The Consultant or its insurer must provide at least 30 days' written notice to the Board before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**INSURANCE REQUIREMENT REVIEW:**

Consultant agrees to periodic review of insurance requirements by Treasury or the Board under this Contract and to provide updated requirements as mutually agreed upon by Consultant and the Board.