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REQUEST FOR QUOTE (RFQ) #2013-02

Project Name:	Accounting Services- Internal Bank Agreed Upon Procedures
RFQ Due Date/Time:	June 3, 2013 5:00 PM PST
OUS Procurement Contact:	Ian Best, OUS Contract Manager
Phone:	(503) 725-5770
Email:	PACS@ous.edu
Addenda/Modifications posted (as necessary):	http://secure.ous.edu/bid

IMPORTANT NOTICE

Read this document carefully. By submitting a Quote in response to this Request for Quotes (“RFQ”) you acknowledge that you have read, understand, and agree to comply with all the provisions of this document. The Oregon University System (“OUS”) may modify the RFQ, or make relevant information available to potential Quoters. It is the responsibility of potential Quoters to refer daily to the OUS Current Business and Bidding Opportunities website (<https://secure.ous.edu/bid/>) to check for any available addenda, responses to clarifying questions, or solicitation cancellations.

SECTION I. INTRODUCTION

The OUS is seeking quotes from an independent accountant to provide accounting services (“Services”). The Services will consist of the completion of the agreed upon procedures further described in the Scope of Work section of this RFQ (“Agreed Upon Procedures”).

BACKGROUND

The Oregon State Board of Higher Education (“Board”) is charged with oversight of the seven public universities in Oregon.¹ The OUS and its Chancellor’s Office carry out the policies adopted by the Board. The Chancellor’s Office is a separate accounting and operating entity within OUS.

In order to efficiently and effectively carry out the treasury management function the Board established an Internal Bank within the Chancellor’s Office in March 2010. The Internal Bank’s primary objectives are to maximize OUS’s investment returns within a prudent level of risk while assuring necessary liquidity, to provide financing necessary for approved OUS capital purchases, and to minimize OUS’s cost of capital within a prudent level of risk. According to the most recently available OUS audited financial statements dated June 30, 2012, the amount of cash and investments managed by the Internal Bank total approximately

¹ Eastern Oregon University in La Grande, Oregon Institute of Technology in Klamath Falls, Oregon State University in Corvallis and Bend, Portland State University in Portland, Southern Oregon University in Ashland, University of Oregon in Eugene, and Western Oregon University in Monmouth.

\$764 million. The total debt managed by the internal bank was approximately \$727 million as of June 30, 2012.

OUS Treasury Operations (“OUS Treasury”) is a functional area within the OUS Controller’s Division and coordinates activities with each campus and the Oregon State Treasury. The Oregon State Treasury maintains the bank accounts for OUS and is responsible for executing the investment policy and issuing debt on behalf of OUS.

OUS Treasury is led by the OUS Director of Treasury Operations, who supervises four full-time employees, and reports to the Associate Vice Chancellor for Finance and Administration and Controller, who in turn reports to the Vice Chancellor for Finance and Administration.

The OUS Director of Treasury Operations reports quarterly to the Internal Bank Oversight Committee (“Oversight Committee”) on the financial and operating performance of the Internal Bank. The Oversight Committee is made up of the Vice Presidents for Finance and Administration at each institution and is chaired by the OUS Vice Chancellor for Finance and Administration.

OUS Treasury activities are divided into three primary functions – cash, investment, and debt. Additional information on each function follows:

1. Cash operations include responsibility for policy and procedures, treasury cash account reconciliation, cash balance monitoring, monthly reimbursement process, and cash flow projections.
2. Investment operations include responsibility for policy and procedure, endowment management and accounting, investment management and accounting, investment of excess cash, and reporting.
3. Debt operations include responsibility for policy and procedures, bond and certificate of participation issuance and accounting, debt service management and accounting, fiscal analysis, and maintenance of tax exempt status. It also includes any corresponding loans made to OUS institutions.

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SECTION II. SCOPE OF WORK

1. SCOPE OF WORK

The successful Quoter (hereafter referred to as “Contractor”) will be awarded a contract to provide the Services. Services must be conducted in accordance with the below specified Agreed Upon Procedures over the internal control activities associated with accounting for debt related activity.

Agreed Upon Procedures

Contractor’s Services will consist of the Agreed Upon Procedures set forth below. Contractor shall:

1. Verify cash equivalents as shown on the internal bank’s financial statement to either source documents or an audited financial statement.
2. Verify investments as shown on the internal bank’s financial statements to either source documents or an audited financial statement.
3. Verify loans to institutions as shown on the internal bank’s financial statements to subsidiary ledgers including unamortized premiums/discounts, interest received, amortization of premiums/discounts, interest accruals, and unrealized gain/loss on investments.
4. Review three permanent loans, three temporary loans, and three line of credit loans to their source documents and ensure that approvals were obtained in accordance with policy.
5. Verify deposits and interest payable to OUS entities as shown on the internal bank’s financial statements to either source documents or an audited financial statement.
6. Trace five different XI-F bond series (should be at least one containing new money and one containing refundings) to ensure that they are being accurately allocated to the internal bank or appropriately excluded from the internal bank. Include all corresponding premiums/discounts, accreted interest, capitalized issuance costs, principal differences from refundings, interest expense, and accrued interest payable.
7. Review one quarter’s investment income distribution processes and worksheets and verify that investment income was distributed according to the corresponding policy.
8. Review five individually held investments and ensure that all income received from the investments was properly incorporated into the quarter’s investment income distribution process.
9. Verify operating expenses as shown on the internal bank’s financial statements to the System’s accounting records.
10. Verify that other liabilities and mezzanine capital as shown on the internal bank’s financial statement to the System’s accounting records.

The Contractor must provide its written Agreed Upon Procedures report to Board no later than July 19, 2013 for review (“AUP Report”). The OUS Chief Auditor will review the AUP Report, and may make comments. The Contractor shall complete any additional work required by the Chief Auditor’s comments within ten business days. The AUP Report should include recommendations for any internal control improvements discovered through the Agreed Upon Procedures.

2. TERM

The contract with the successful Quoter is expected to begin in early June and extend to **September 30, 2013**. OUS reserves the right to terminate any contract awarded through this RFQ upon 30 days notice.

3. PAYMENT

Contractor shall submit invoices to the OUS for its services performed in the preceding month. Payment of Contractor invoices by OUS is normally made within 30-45 days of receipt of complete and accurate invoices. Contractor terms may not require payment in less than 30 days after receipt of invoice by OUS. Any late payment or delinquency fees shall be in accordance with ORS 293.462.

4. TRAVEL

OUS will not reimburse for travel expenses. Quoters should include travel costs in their Quote (if any).

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SECTION III.
QUOTE CONTENT and DELIVERY

Quotes that do not contain all the information requested in this and other sections may be rejected as non-responsive. Quoters must clearly identify the costs associated with the Scope of Work.

1. QUOTE CONTENT

Quotes should be short and concise and must include the following:

- a. **Title Page and/or Cover Letter.** The title page and/or cover letter should indicate the date, subject, name of the Quote, address, telephone number, e-mail address, name and title of the Quote's contact person as well as a signature of an authorized official with the authority to negotiate and contractually bind the Quoter.
- b. **Required Information Form.** Complete the Required Information Form for Proposers (Section IV). Please respond by restating each section and thereafter providing the requested information in order beginning with question 1.
- c. **Quoter Tax Laws and Non-discrimination Certification.** This form is provided in Section VII and must be signed by an authorized signatory.

2. DELIVERY OF QUOTES

Complete Quotes (including all attachments) must be emailed to the OUS per the contact information provided on page 1 of this RFQ. Quotes must be electronically received by the Closing Date and Time indicated on page 1 of this RFQ. **The email subject line must be as follows: "Response to RFQ #2013-02."** Quotes delayed or lost by email system filtering or failures may be considered at the OUS's sole discretion. All pages requiring signature shall be scanned and emailed with the Quote.

If email is not possible and pre-approval of alternate method is obtained from the OUS, a hard copy (mail or hand-delivery) or fax may be submitted. It is the responsibility of the Quoter to confirm receipt or delivery of any Quote. No late Quotes will be accepted. Incomplete Quotes that don't minimally include the above information may be rejected if it is in the best interest of OUS to do so.

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**SECTION IV.
REQUIRED INFORMATION FORM
RFQ #2013-02**

Please submit the following information in order beginning with section #1. Please be specific with names and numbers.

1. Statement of Qualifications

Quoters must certify to each of the following: 1) the firm is authorized to transact business in the State of Oregon; 2) meets the requirements to practice in the State of Oregon (as set forth in ORS 673.010 to 673.990 and enforced by the Oregon Board of Accountancy); and 3) possesses all current licenses and certifications necessary to perform and provide all of Services described in this Scope of Work.

2. Executive Summary and Background Information

Quoters should highlight the skills and/or qualifications that make them ideally suited to complete the Scope of Work set forth in this RFQ, and should include a description of relevant skills and a discussion of previous projects similar to the Services contemplated in this RFQ. This section should also include a description of the office(s) that will provide support to the OUS.

Quoters should include a brief summary of the firm including the following information:

- a. Years in business.
- b. Principal place of business.
- c. Office locations.
- d. Number of employees at location performing Services.
- e. A description of experience in performing Agreed Upon Procedures related to treasury operations of similar nature and complexity.
- f. A summary of your past experience with OUS and describe what distinguishes your company from other firms performing the Agreed Upon Procedures.
- g. A list of specific persons who would be responsible for the Services contemplated in this RFQ. Resumes for each individual with supervisory responsibility over the Services must be included as an appendix to the Quote. Resumes must include information on professional certifications or licensure.

3. Pricing

This subsection should contain a description of the total proposed cost for the Scope of Work to be rendered including a description of how that price has been calculated. All Quotes must include a detailed pricing break down including labor pricing broken down by number of hours and rate per hour for each labor skill set necessary to complete the Services.

Quotes should also include pricing for any additional Agreed Upon Procedures suggested in the Quote. If Quotes suggest additional services, the fees for the additional services must be clearly identified.

Quotes that include more transparency in regards to pricing and services included in the Quote will be considered favorably by OUS.

4. Work Plan

Quoters should include a preliminary work plan for completing each portion of the Scope of Work set forth in this RFQ (“Work Plan”). The Work Plan should include anticipated timing of data collection, report generation, and delivery of work product. Work Plans including more detail will be looked upon favorably by the OUS. The Work Plan should include the following:

1. A demonstrated understanding of the Services to be performed.
2. The approach and methodology that will be used to perform Agreed-Upon Procedures.
3. A detailed timeline for completion of fieldwork activities and delivery of final AUP Report.

In addition to the Agreed Upon Procedures outlined in the scope of work, the proposer is invited to add additional procedures they believe would be beneficial to the objective of improving the accuracy and consistent application of internal bank accounting processes.

5. References

At least 4 professional references including contact information should be provided with a brief indication of how these references relate to this RFQ. The OUS reserves the right to check all references of Quoters, including those not provided by Quoters, or no references. Provide four references from clients for whom your firm has provided similar Services to those contemplated in this RFQ during the last five years, including the following:

1. One client that has newly engaged the firm within the last 36 months.
2. One long-term client who your firm has serviced for more than 36 months.

Include client name, contact person, address and phone number for each reference. Do not include references from institutions that are part of OUS.

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SECTION V.
QUOTE EVALUATION

1. EVALUATION

Quotes will be evaluated for completeness, clarity, and compliance with this RFQ. Quotes considered complete will be evaluated to determine if they comply with the administrative, contractual, and technical requirements of the RFQ. If the Quote is unclear, Quoters may be asked to provide written clarification. OUS will award each Contract to the Quote which it feels provides the best value based on all relevant considerations.

Quotes that include more transparency in regards to pricing and Services included in the Quote will be considered favorably by the evaluation committee.

Criteria for Selection. Proposals will be evaluated based on the following criteria.

a.	Background Information <i>Consideration of service capabilities, relevant previous experience, prior experience with the higher education and treasury operations, and proposed team</i>	40
b.	Scope of Work <i>Consideration of whether Work Plan will be effective, comprehensive, and timely</i>	20
c.	Cost Summary <i>Consideration of proposed fee(s)</i>	20
d.	Quality and Responsiveness of Proposal <i>Consideration of the overall responsiveness, professionalism, clarity and concise nature of submitted materials, which will be considered representative of ability to produce similar reports during the Contract</i>	20
	Total Available Points	100 points

References

Selection of a Proposal may be contingent on a review of the Proposer’s references. Information provided by references submitted by a Proposer, as well as other references identified by the OUS, may prevail in final selection, regardless of preliminary scoring results.

Quotes that include more transparency in regards to pricing and services included in the quote will be considered favorably by the evaluation committee.

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SECTION VI.
GENERAL PROVISIONS

The OUS reserves the right to reject any and all Quotes received as a result of this RFQ. Oregon Administrative Rules (“OAR”) Chapter 580, Divisions 61 and 62 govern the procurement process for the OUS.

1. Modification or Withdrawal of Quote: Any Quote may be modified or withdrawn at any time prior to the closing deadline, provided that a written request is received by the OUS prior to the Closing Date. The withdrawal of a Quote will not prejudice the right of a Quoter to submit a new Quote.

2. Informal Procurement: The Oregon University System (OUS) Purchasing Rules, Policies and Guidelines allows the OUS to use an “Informal Procurement Process” for all purchases of supplies, equipment, and trade and professional services where the cost will not exceed \$150,000. The budget for the services included in the RFQ should not exceed \$150,000.

3. Protests of Specifications: Protests of the RFQ specifications may be made only if a term or condition of the RFQ violates applicable law. Protests of Specifications must be received in writing prior to the date and time indicated in the Schedule of Events at the address or email address listed on page 1 of this RFQ. Protests may not be faxed. Protests of the RFQ specifications must include the reason for the protest and any proposed changes to the requirements.

4. Requests for Clarification and Requests for Change: Quoters may submit questions regarding the specifications of the RFQ. Questions must be received in writing prior at the address or email address listed on page 1 of this RFQ. Requests for changes must include the reason for the change and any recommended modifications to the RFQ requirements.

The purpose of this requirement is to permit the OUS to correct, prior to consideration of the Quotes, RFQ terms or technical requirements that may be improvident or which unjustifiably restrict competition.

The OUS will consider all requested changes and, if appropriate, amend the RFQ. The OUS will post reasonable notice in accordance with Section 5 “Addenda” below.

5. Addenda: If any part of this RFQ is amended, addenda will be provided on the OUS Current Business and Bidding Opportunities website (<https://secure.ous.edu/bid/>). Quoters are exclusively responsible for checking the OUS Current Business and Bidding Opportunities website to determine whether any addenda have been issued. **By submitting a Quote, each Quoter thereby agrees that it accepts all risks and waives all claims associated with or related to its failure to obtain any addendum or addendum information.**

6. Acceptance of Contractual Requirements: Failure of the selected Quoter to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of the OUS.

7. Public Records: Quotes are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFQ and one copy of each original Quote received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Quote contains any information that is considered a **TRADE SECRET** under the Oregon Revised Statutes (“ORS”) 192.501(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING QUOTE AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

“This information 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.”

By submitting a Quote in response to this RFQ, Quoters acknowledge and agree that any information not set apart and labeled as described above is not a trade secret under ORS 192.501(2) and may be subject to disclosure under the Oregon Public Records Law. 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 192.500(1). Therefore, non-disclosure of documents or any portion of a document submitted as part of a Quote, including those labeled as Trade Secrets, may depend upon official or judicial determinations made pursuant to the Public Records Law.

8. Investigation of References: The OUS reserves the right to investigate all references in addition to supplied references and investigate past performance of any Quoter with respect to its successful performance of similar services, compliance with specifications and contractual obligations, completion or delivery of a project on schedule, and lawful payment of subcontractors and employees. The OUS may postpone the award or the execution of the contract after the announcement of the apparent successful Quoter in order to complete its investigation. Information provided by references may prevail in final selection, regardless of preliminary scoring results.

Despite its right to investigate all Quoter references, the OUS is not obligated to utilize references as part of its evaluation criteria and may decline to investigate or consider references. Any decision made by the OUS in regards to the use of references, including restricting the consideration of references to only Finalists, will not be considered grounds for protest.

9. RFQ Preparation Costs: Cost of developing the Quote, providing copies of work samples, attendance at an interview (if requested by the OUS) or any other such costs are entirely the responsibility of the Quoter and will not be reimbursed by the OUS. By submitting a Quote, each Quoter thereby accepts all risks, and waives all claims, associated with or related to the costs it incurs in Quote preparation, submission, and participation in the solicitation process.

10. Clarification and Clarity: The OUS reserves the right to seek clarification of each Quote or to make an award without further discussion of Quotes received. Therefore, it is important that each Quote initially be submitted in the most complete, clear, and favorable manner possible.

11. Right to Reject Quotes: The OUS reserves the right to reject any or all Quotes if such rejection would be in the public interest. Whether such rejection is in the public interest will be solely determined by the OUS.

12. Cancellation: The OUS reserves the right to cancel or postpone this RFQ at any time or to award no contract.

13. Quote Terms: All Quotes, including any price quotations, will be valid and firm through the period of contract execution.

14. Usage: It is the intention of the OUS to utilize the services of the successful Quoter(s) to provide services as outlined in the below Scope of Work.

15. Sample Contract: Submission of a Quote in response to this RFQ indicates Quoter’s willingness to enter into a contract containing substantially the same terms listed in Exhibit A – State Board of Higher Education Professional Services Contract, attached hereto. No action or response to the sample contract is required

under this RFQ. Any objections to the sample contract terms should be raised in accordance with Paragraph 4 – Protest of Specifications – Request for Changes. **If the selected Quoter will not agree to the OUS standard contract terms or if the OUS determines, in its sole discretion, that the selected Quoter will not agree to acceptable contract terms within a reasonable period of time, the OUS may cancel the selection and award the contract to the next highest ranking Quoter.**

16. Review for Responsiveness: Upon receipt of all Quotes, the OUS Director of Contracting and Purchasing or designee will determine the responsiveness of all Quotes before submitting them to the evaluation committee. If a Quote is incomplete or unresponsive in part or in whole, it may be rejected and, if rejected, will not be submitted to the evaluation committee. The OUS reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived when determining if an error is grounds for disqualifying a Quote. The Quoter’s contact person identified in the Quote will be notified by the OUS to communicate the reason(s) the Quote is non-responsive. One copy of the Quote will be archived.

17. Rejections and Withdrawals. The OUS reserves the right to reject any or all Quotes or to withdraw any item from the award.

18. RFQ Incorporated into Contract. This RFQ will become part of the final contract between the Board and the selected Quoter (also referred to herein as the “Contractor”). The Contractor will be bound to perform according to the terms of this RFQ, its Quote, and the terms of Exhibit A.

19. Communication Blackout Period. Except as called for in this RFQ, Quoters may not communicate about this RFQ with members of the evaluation committee or any employees of the OUS until the apparent successful Quoter is selected and all protests, if any, have been resolved. The contact person designated by the “General Information” section of this RFQ is exempted from this blackout period. If any Quoter initiates or continues contact in violation of this provision, the OUS may, in its sole discretion, reject that Quoter’s Quote and remove it from consideration for award of a contract under this RFQ.

20. Prohibition on Commissions. The OUS will contract directly with organizations capable of performing the requirements of this RFQ. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Quote process.

21. Ownership of Quotes. All Quotes in response to this RFQ are the sole property of the OUS and subject to the provisions of ORS 192.410-192.505 (the Public Records Act).

22. Clerical Errors in Awards. The OUS reserves the right to correct inaccurate awards resulting from its clerical errors.

23. Rejection of Qualified Quotes. Quotes may be rejected in whole or in part if they limit or modify any of the terms and conditions and/or specifications of the RFQ. Any terms contained in Quotes that conflict with or modify the terms of this RFQ and sample contract are expressly rejected unless specifically adopted in writing by the OUS.

24. Collusion. By responding, the Quoter states that the Quote is not made in connection with any competing Quoter submitting a separate response to the RFQ, and is, in all aspects, fair and without collusion or fraud.

25. Evaluation Committee: Quotes will be evaluated by a committee consisting of representatives from the OUS Chancellor's Office and other interested parties, as appropriate. The committee may include representatives from the OUS campuses. The committee's recommendations will be forwarded to the OUS Chancellor's Office for final approval.

26. Commencement of Work: The contractor shall commence no work until all insurance requirements have been met and a contract has been fully executed.

27. Contract Award

OUS reserves the right to not award either contract if it is in the best interest of OUS to do so. Pursuant to OAR 580-061-0155, OUS reserves the right to select the Quote that, in the collective opinion of the evaluation team, offers the best overall benefit, convenience, functionality and service at the best-value cost to OUS for the RFQ. In the event that Quotes do vary significantly, OUS reserves the right to conduct follow-up discussions with all, or a select number, of Quoters.

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**SECTION VII.
FORM AND SAMPLE CONTRACT TERMS**

**BIDDER/PROPOSER
TAX LAWS AND NON-DISCRIMINATION CERTIFICATION
RFQ #2013-02**

I, the undersigned, have read all of the terms and conditions of this Request for Quotes, and I understand that if awarded the contract, I and the firm represented herein shall be bound by its terms and conditions and representations made in this response. I certify that Quotes has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts.

Certified Minority, Women, and Emerging Small Business

For statistical purposes only, please indicate if your firm is an Oregon certified minority, women, or emerging small business: **DBE** **MBE** **WBE** **ESB**

Certificate of Compliance with Tax Laws

I, the undersigned,
(Check one)

- hereby certify under penalty of perjury as provided in ORS 305.385(6), that, I am not in violation of any of the tax laws described in ORS 305.380(4).
- hereby certify that I am authorized to act on behalf of the Contractor, and affirm, under penalty of perjury as provided in ORS 305.385(6), that, to the best of my knowledge, the Contractor is not in violation of any of the tax laws described in ORS 305.380(4).

For purposes of this certification, "tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Oregon Department of Revenue under ORS 305.620.

Business Designation (check one):

- | | |
|--|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Sole Proprietor | <input type="checkbox"/> Governmental/Non-Profit |
| <input type="checkbox"/> Limited Partners | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> Limited Liability Company | |

Tax Identification Number (Federal TIN): _____

Signature: _____ Date: _____

Name: _____ Title: _____

Firm: _____

Address: _____

City/State/Zip: _____ Phone: () _____

e-mail: _____ Fax: _____

Exhibit A – State Board of Higher Education Professional Services Contract

(The following terms and conditions will govern the contract entered into by the selected Quoter(s) and OUS. Do not submit a Quote in response to either RFQ if you are unable or unwilling to sign a contract including the following provisions.)

STATE BOARD OF HIGHER EDUCATION STANDARD PERSONAL/PROFESSIONAL SERVICES CONTRACT PROVISIONS

1. ACCESS TO RECORDS. Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. The Oregon Department of Higher Education, Oregon Secretary of State, and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for 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.

2. AVAILABILITY OF FUNDS. Board certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current biennial appropriation or expenditure limitation, provided, however, that continuation of this contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the Board's reasonable administrative discretion, to continue to make payments under this Contract.

3. CAPTIONS. The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.

4. COMPLIANCE WITH APPLICABLE LAW. Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), title VI of the civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the state on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate Board official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.

5. DISCLOSURE OF SOCIAL SECURITY NUMBER. Contractor must provide Contractor's Social Security number unless Contractor provides a federal tax ID number. The number is requested pursuant to ORS 305.385 and OAR 150-305-100. Social Security numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

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

7. GOVERNING LAW. This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between Board and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Marion County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. **CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

8. HAZARD COMMUNICATION. Contractor shall notify Board prior to using products containing hazardous chemicals to which Board employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon Board's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.

9. INDEMNITY, RESPONSIBILITY FOR DAMAGES. Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from the conduct of work under this Contract, or from any act, omission, or neglect of Contractor, its subcontractors, or employees. Contractor shall save, defend, indemnify, and hold harmless the State of Oregon, the State Board of Higher Education, their officers, agents, employees, and members from all claims, suits and actions of any nature resulting from or arising out of the activities or omissions of Contractor or its subcontractors, officers, agents, or employees acting under this Contract. Contractor shall have control of the defense and settlement thereof, but 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 Board, 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 Board. 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, is not adequately defending its interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense. Board reserves all rights to pursue any claims it may have against the Contractor if Board elects to assume its own defense. Provided, however, the provisions of this **Section 9** do not include indemnification by the Contractor of the Board for the Board's activities.

10. INDEPENDENT CONTRACTOR STATUS. The service(s) to be rendered under this Contract are those of an independent contractor. Although the Board reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, Board cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the work. Contractor is not to be considered an agent or employee of Board for any purpose, and neither Contractor nor any of Contractor's agents or employees are entitled to any of the benefits that Board provides its employees. Contractor will be solely and entirely responsible for its acts and for the acts of its agents or employees during the performance of this Contract. If Contractor is providing personal services as an individual, Contractor: (1) Is engaged as an independent contractor and will be responsible for any Federal or State taxes applicable to this payment, (2) Will not be eligible for any Federal Social Security, State Worker's Compensation, unemployment insurance, or Public Employees Retirement System benefits from this Contract payment; (3) Is not an officer, employee, or agent of the State as these terms are used in ORS 30.265 and will not be under the direction and control of Board; (4) Is not currently employed by the Federal Government and the amount charged does not exceed the normal charge for the type of service provided if payment is to be charged against Federal funds and; (5) Must furnish Form 8233 in duplicate with this Contract if Contractor is a non-resident alien and claims

exemption from Federal Withholding tax. The Board will report the total amount of all payments to Contractor, including any expenses, in accordance with Federal Internal Revenue Service and State of Oregon Department of Revenue regulations. (Also see Exhibit C.)

11. INSURANCE. Contractor shall provide insurance as indicated on Exhibit B, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon. The State of Oregon, acting by and through the Board and their officers and employees shall be included as an additional insured in said insurance policy. If any of the liability insurance is arranged on a “claims made” basis, “tail” coverage will be required at the completion of this Contract for a duration of 24 months.

12. LIMITATION OF LIABILITIES. Except for liability arising under or related to sections 15(A) or 23(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.

13. NOTICES. Except as otherwise expressly provided in this Contract, notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Contractor or Board at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against the Board, facsimile or email transmission must be confirmed by telephone notice to Board’s supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

14. OWNERSHIP OF WORK PRODUCT. All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of Board. Board and Contractor intend that such Work Product be deemed “work made for hire” of which Board shall be deemed the author. If for any reason the Work Product is not deemed “work made for hire”, Contractor hereby irrevocably assigns to Board all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as Board may reasonably request in order to fully vest such rights in Board. Contractor forever waives any and all rights relating to the Work Product, 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.

15. REPRESENTATIONS AND WARRANTIES. (A) Contractor’s Representations and Warranties. Contractor represents and warrants to Board that (1) Contractor has the power and authority to enter into and perform this Contract, (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards, (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. (B) Warranties Cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

16. SURVIVAL. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in the Section titled “Effective Date and Duration”, and Sections 1, 7, 9, 12, 14, 15, 16, and 23.

17. SEVERABILITY. 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.

18. SUBCONTRACTS AND ASSIGNMENTS. Contractor 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 obtaining prior written approval from the Board. In addition to any provisions the Board may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 9, 14, and 27 as if the subcontractor were the Contractor. Board's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

19. SUCCESSORS IN INTEREST. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

20. TAX COMPLIANCE CERTIFICATION. Contractor hereby affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of Contractor's knowledge, the Contractor is not in violation of any of the tax laws described in ORS 305.380(4). For purposes of this certification, "tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Oregon Department of Revenue under ORS 305.620.

21. TERMINATIONS. (A) This Contract may be terminated at any time by mutual consent of the parties or by Board at its discretion upon thirty (30) days' notice to the Contractor. (B) In addition, the Board may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the Board, if (i) Federal or state laws, rules, regulations or guidelines are modified, changed, or interpreted in such a way that either the work under this Contract is prohibited or Board is prohibited from paying for such work from the planned funding source; or (ii) Any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed. (C) This Contract may also be immediately terminated by Board for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from Board, fails to correct such failure within ten business days.

22. TERMINATION DUE TO NONAPPROPRIATION OF FUNDS. If sufficient funds are not provided in future legislatively approved budgets of Board (or from applicable Federal, state, or other sources or by allotment) to permit Board in the exercise of its reasonable administrative discretion to continue this Contract, or if Board or the program for which this Contract was executed is abolished, the Board may terminate this Contract without further liability by giving Contractor not less than thirty (30) days notice. In determining the availability of funds from the Oregon Legislature for this Contract, Board may use the budget adopted for it by the Joint Ways and Means Committee of the Oregon Legislative Assembly.

23. REMEDIES. (A) In the event of termination pursuant to Sections 21(A) and (B)(i) and 22, Contractor's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by the Board, less previous amounts paid and any claim(s) which the Board has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor shall pay any excess to Board on demand. (B) In the event of termination pursuant to Sections 21(B)(ii) or (C), Board shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under these subsections, the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 21(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless Board expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to Board all documents, information, works-in-progress and other property that are or would be deliverables had the Contract work been completed. Upon Board's request, Contractor shall surrender to anyone Board designates, all documents, research or objects or other tangible things needed to complete the work.

24. NO THIRD PARTY BENEFICIARIES. Board and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

25. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence under this Contract.

26. FOREIGN CONTRACTOR. If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

27. FORCE MAJEURE. Neither Board nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond, respectively, Board's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

28. WAIVER. The failure of Board to enforce any provision of this Contract shall not constitute a waiver by Board of that or any other provision.

29. RECYCLING. In the performance of this Contract the Contractor shall use, to the maximum extent economically feasible, recycled paper.

30. CONFLICT OF INTEREST. The Contractor shall not engage in any activity or accept any employment, interest, or contribution that would, or would reasonably appear to, directly or indirectly conflict in any manner or degree with the performance of its services hereunder without Board's prior written consent. Contractor will request Board's written consent through the methods provided in Section 13 of this Contract. If Board does not respond within 14 days of receipt of a request for written approval sent in accord with this section, Board will have waived their rights to such prior consent solely in regards to the matter for which they received notice but failed to respond.

31. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES AND ALL NECESSARY STATE APPROVALS HAVING BEEN OBTAINED. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Certification: I, under penalties of perjury, do hereby certify that (a) the number shown on this form is my correct taxpayer ID (or I am waiting for the number to be issued to me), and (b) I am not subject to backup withholding because (i) I am exempt from backup withholding or (ii) I have not been notified by the Internal Revenue Service that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified me that I am no longer subject to backup withholding.

I, the undersigned also (a) agree to perform the work required by Exhibit A in accordance with the terms and conditions; (b) certify under penalty of perjury that I/my business am not/is not in violation of any Oregon tax laws; (c) certify that I am an independent contractor as defined in ORS 670.600; (d) certify that I am authorized to act on behalf of Contractor; (e) the statements contained in Exhibit C attached hereto are true and correct; and (f) understand that the Board has adopted policies applicable to contractors that prohibit sexual harassment and accept that my company and its employees are required to adhere to the Chancellor's

Office and/or institution's policy prohibiting sexual harassment in their interactions with members of the Oregon University System community.

EXHIBIT A
PROFESSIONAL SERVICES CONTRACT
Contract # [REDACTED]

SCOPE OF WORK

Services must be conducted in accordance with the below specified Agreed Upon Procedures over the internal control activities associated with accounting for debt related activity.

Agreed Upon Procedures

Contractor's Services will consist of the Agreed Upon Procedures set forth below. Contractor shall:

1. Verify cash equivalents as shown on the internal bank's financial statement to either source documents or an audited financial statement.
2. Verify investments as shown on the internal bank's financial statements to either source documents or an audited financial statement.
3. Verify loans to institutions as shown on the internal bank's financial statements to subsidiary ledgers including unamortized premiums/discounts, interest received, amortization of premiums/discounts, interest accruals, and unrealized gain/loss on investments.
4. Review three permanent loans, three temporary loans, and three line of credit loans to their source documents and ensure that approvals were obtained in accordance with policy.
5. Verify deposits and interest payable to OUS entities as shown on the internal bank's financial statements to either source documents or an audited financial statement.
6. Trace five different XI-F bond series (should be at least one containing new money and one containing refundings) to ensure that they are being accurately allocated to the internal bank or appropriately excluded from the internal bank. Include all corresponding premiums/discounts, accreted interest, capitalized issuance costs, principal differences from refundings, interest expense, and accrued interest payable.
7. Review one quarter's investment income distribution processes and worksheets and verify that investment income was distributed according to the corresponding policy.
8. Review five individually held investments and ensure that all income received from the investments was properly incorporated into the quarter's investment income distribution process.
9. Verify operating expenses as shown on the internal bank's financial statements to the System's accounting records.
10. Verify that other liabilities and mezzanine capital as shown on the internal bank's financial statement to the System's accounting records.

The Contractor must provide its written Agreed Upon Procedures report to Board no later than July 19, 2013 for review ("AUP Report"). The OUS Chief Auditor will review the AUP Report, and may make comments. The Contractor shall complete any additional work required by the Chief Auditor's comments within ten business days. The AUP Report should include recommendations for any internal control improvements discovered through the Agreed Upon Procedures.

CONSIDERATION

- a. Payment for all work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the total maximum sum of \$ [REDACTED]. Invoices may be submitted to [REDACTED].

- b. Interim payments shall be made to Contractor following Board's review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the Board will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs work subject to the amendment.
- c. Contractor shall submit monthly invoices for work performed. The invoice **shall describe all work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed.** The billings shall also include the total amount billed to date by Contractor prior to the current invoice. The OUS will reimburse Contractor through direct deposit to Contractor's account upon completion of the Chancellor's Office Authorization Agreement for Direct Deposit.

TRAVEL AND OTHER EXPENSES

Travel and other expenses will not be reimbursed by Board.

SAMPLE

**EXHIBIT B
INSURANCE**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

1. Required by Board of Contractor with one or more workers, as defined by ORS 656.027.

Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.

2. Required by Board Not required by Board.

Professional Liability insurance with a combined single limit, or the equivalent, of not less than **\$2,000,000** for each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract.

3. Required by Board Not required by Board.

General Liability insurance with a combined single limit, or the equivalent, of not less than **\$1,000,000** for each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the State of Oregon, Board and divisions, officers, and employees are Additional Insureds but only with respect to the Contractor's services to be provided under this Contract.

4. Required by Board Not required by Board.

Automobile Liability insurance with a combined single limit, or the equivalent, of not less than **Oregon Financial Responsibility Law (ORS 806.060)** for each accident for Bodily Injury and Property Damage, including coverage for owned, hired vehicles, as applicable.

5. Certificates of Insurance. As evidence of the General Liability and Automobile Liability insurance coverage required by this Contract, the Contractor shall furnish an endorsement from the insurance company naming the State of Oregon, the State Board of Higher Education, the Oregon University System, and their officers, employees and members as additional insureds with respect to the work of this Contract. Insuring companies or entities are subject to State acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the State. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

6. Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to Board at the following address: OUS Director of Contracting and Purchasing, P.O. Box 751 Portland OR 97207-0751.

EXHIBIT C
CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR

(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent and meets the following standards:

1. Registered under ORS Chapter 701 to provide services for which such registration is required.
2. Filed all federal and state income tax returns in the name of my business or a business Schedule C as part of the personal income tax return, for the previous year, or expect to file federal and state income tax returns, for services performed as an independent contractor in the previous year.
3. Furnish the tools or equipment necessary for the contracted labor or services.
4. Authority to hire and fire employees who perform the labor or services.
5. Represent to the public that the services are to be provided by independently established business as four (4) or more of the following circumstances exist. **Check four or more of the following:**
 - A. The labor or services are primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence, which is set aside as the location of the business.
 - B. Commercial advertising or business cards are purchased for the business, or I have a trade association membership;
 - C. Telephone listing is used for the business that is separate from the personal residence listing.
 - D. Services are performed only pursuant to written contracts.
 - E. Services are performed for two or more different persons within a period of one year.
 - F. I assume financial responsible for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the services to be provided.

Contractor Signature _____ Date _____