

PORTLAND STATE UNIVERSITY
REQUEST FOR QUOTES #19517 – Transmitted and Reflected POL Microscope System

Portland State University (PSU) Purchasing Rules, Policies and Guidelines allows PSU departments to use an "Informal Procurement Process" for all purchases of supplies, equipment, and trade and professional services where the estimated cost exceeds \$25,000 but does not exceed \$100,000. The Informal Procurement Process is the solicitation of a minimum of three competitive quotes. Solicitation shall be accomplished by advertisement on the OUS Procurement Website making a request for vendors to provide a quote. A clearly documented record must be kept per the State of Oregon's records retention rules, showing the vendors contacted, their responses including quote amounts, the basis for selection, evaluation results, and any other pertinent information to the solicitation.

The posting of solicitation on the OUS Procurement Website shall serve as the primary solicitation requirements document which in conjunction with the vendors' written responses and proposals and/or quotes shall satisfy the "clearly documented record" requirement described above. Additionally, depending on the nature of the scope of work of the project and other specific project details, there may be other documented "pertinent information" required to ensure a complete and clearly documented record for the informal solicitation.

PORTLAND STATE UNIVERSITY SHALL CONSIDER VENDOR QUOTES RECEIVED AS VALID FOR ONE HUNDRED TWENTY (120) DAYS.

RFQ ISSUE DATE

February 21, 2012

VENDOR RESPONSE DATE

To be considered for selection, quotations must arrive at Portland State University, Anthropology, College of Liberal Arts and Sciences by **Tuesday, February 28, 2012 at 3pm** local time. Please email or fax your response to the addresses listed below. No other responses will be accepted. The contact information for Anthropology, College of Liberal Arts & Sciences is:

Only email or faxed responses will be accepted:

Department Contact Person(s)	Connie Cash
Department Name	Anthropology, College of Liberal Arts & Sciences
Department Street Address	PO Box 751, MC: ANTH
City, State, ZIP	Portland OR 97207-0751
Contact Person Email Address	cashc@pdx.edu
Contact Person phone number	503.725.3081
Contact Person fax number	503.725.3905

Respondents selected may be requested to provide additional information, either formally or via interview process, to clarify their quotations and to ensure mutual understanding of the scope of work requirements and schedule.

Emerging Small Businesses and Minority and Women Owned Businesses

PSU is committed to increasing opportunities for Emerging Small Businesses and Minority and Women Owned Businesses, and PSU strongly encourages its contractors to use these businesses in providing services and materials for PSU contracts and projects.

EQUIPMENT NEEDED:

The Anthropology Department at Portland State University desires to purchase a Transmitted and Reflected POL Research Microscope System with Camera and Software. The instrument specifications and vendor selection criteria are provided below.

MINIMUM MANDATORY REQUIREMENTS:

The following are the minimum **MANDATORY** requirements that must be met by vendors submitting a Quote Response. Compliance with these requirements must be clearly indicated and the extent of compliance described in detail in the vendors Quote Response. Failure to meet any or all of these requirements will likely result in rejection of vendors Quote Response by PSU:

SPECIFICATIONS:

1. Compound microscope must be of modular design to meet existing and future needs as required by the end user.
2. Microscope must have a built-in and stabilized 12v/100 watt power supply.
3. Microscope must be provided with a 12 volt, 100 watt bulb. 6 volt systems will not provide enough light for this application.
4. Microscope must have two focus functions, including adjustable torque, settable stage height stop and two gear focusing drive mechanism.
5. Microscope must have 5-fold, centrable nosepiece for proper alignment of pol objectives.
6. Microscope must include filtermagazine with daylight filter and Grey N 16 (6.3% permeability).
7. Microscope must include lamphouse with 1 lens collector and heat protection filter with mains cable for control of microscope intensity through microscope stand.
8. Microscope must include advanced conoscopy module including a focusable and centrable Bertrand lens with quartz depolarizer.
9. Microscope must include Analyser that rotates 180 degrees and can be used for both reflected and transmitted light applications.
10. Microscope must include a separate POL illuminator for reflected light brightfield, POL, ICR, FLUO as required in the future and include at least 4 reflector positions. All reflector positions must be centrable.
11. Microscope must include a POL rotating stage with 360 degrees of rotation. Systems without clickstops at 45 degree intervals will not be accepted.
12. Microscope must include object guide for movement of sample upon the POL rotating stage. Must include ultra fine xy control and be suitable for different slide formats, including interchangeable resting buttons at 0.1, 0.3, 0.4 1.0 and 2.0mm for point counting. Scanning area must be no less than 30 x 40mm.
13. Microscope must come with a Reflector P to Smith for screw fixation into the 4 position IL turret.
14. Microscope viewing tube must be designed for use with POL systems and include a phototube for mounting of camera system.
15. Microscope viewing tube must be at 30 degree viewing angle for proper ergonomics.
16. Microscope phototube must have a permanent 50/50 beamsplitter for 50% of light to always be visible to eyepieces and 50% of light to always be visible to the camera port.
17. Microscope must include a second lamphouse consisting of 12v 100w halogen bulb for transmitted light source.
18. Microscope condenser must be no less than 0.9 NA and corrected for use with POL objectives.
19. Microscope must include a lambda plate of one full wave for use within compensator slot included

- in the condenser.
20. Microscope must include a lambda plate of one quarter wave for use within compensator slot included in the condenser.
 21. Microscope must include a Polarizer for transmitted light and must be rotatable 360 degrees. Polarizer must be cable of swinging out of light path while being attached to system for transmission of light for other non-POL light techniques.
 22. Microscope must include a reflected light Polarizer with 3 resting positions at 0, 45 and 90 degrees.
 23. Microscope must include one 5x objective with no less than 0.12 NA and no less than 14.0mm of free working distance. Objective quality must be N Plan or equivalent and be suitable for quantitative polarization with low strain.
 24. Microscope must include one 10x objective with no less than 0.25 NA and no less than 17.6mm of free working distance. Objective quality must be N Plan or equivalent and be suitable for quantitative polarization with low strain.
 25. Microscope must include one 20x objective with no less than 0.4 NA and no less than 1.15mm of free working distance. Objective quality must be N Plan or equivalent and be suitable for quantitative polarization with low strain.
 26. Microscope must include one 50x objective with no less than 0.75 NA and no less than 0.50mm of free working distance. Objective quality must be N Plan or equivalent and be suitable for quantitative polarization with low strain.
 27. Microscope must include one 100x objective with no less than 0.85 NA and no less than 0.33mm of free working distance. Objective quality must be N Plan or equivalent and be suitable for quantitative polarization with low strain.
 28. Microscope must include two 10x by 22mm fov eyepieces. An additional eyepiece must be included that contains a reticule permanently mounted within. An additional reticule for measurement must be included that can be removed or placed in the eyepiece at the discretion of the end user.
 29. Microscope must include a high resolution color microscope camera system with software.
 30. Microscope camera must be no less than 3.1 Mpixels in resolution.
 31. Microscope camera must include a firewire b and HDMI connection. Cameras without these two outputs will not be acceptable.
 32. Microscope camera must come with a standalone power kit to allow for simultaneous live imaging on both an HDMI monitor and a computer screen.
 33. Microscope software must allow for capture and analysis of captured images as well as projection of a live image at no less than 12 frames per second in full HD mode.
 34. Microscope must include a camera mount of 0.55x for use with the above camera to maximize field of view.
 35. Microscope system must include one license of Image Pro Plus v.7.0 image analysis software. Other image analysis programs will not be accepted.
 36. Microscope must come with a dust cover to prevent build up of debris when not in use.
 37. Microscope must have a five year mechanical and optical warranty.
 38. Microscope must have a one year electrical warranty.
 39. On-site installation and training must be provided by employee of manufacturer's authorized distributor.
 40. On-site maintenance and repair must be available from employee of manufacturer's authorized distributor on an annual or semi-annual schedule as required by the end user.
 41. Equipment must be compatible with existing laboratory components to expand utility of components, including photography or video components.

GENERAL REQUIREMENTS:

1. All pricing shall be F.O.B Destination for domestic shipments, or Delivered Duty Paid (DDP) per Incoterms 2010 for international shipments. For international shipments, bidder shall be the Importer of Record (IOR) for customs purposes. All warehousing, delivery, insurance, transportation and handling charges must be included in the quote. All equipment shall be delivered to Portland State University, Portland, OR 97201.

2. Prices quoted shall include all costs for which PSU is responsible.
3. Vendor shall provide a time frame for delivery to PSU.
4. Also include in your quote a short statement regarding your firm's qualifications including number of years in business.

QUOTE AWARD:

Only those quotations meeting the Minimum Mandatory Requirements listed above will be deemed responsive to this RFQ. PSU reserves the right to not award this contract to any of the bidders if it is in the best interest of PSU to do so.

Those quotes which have been deemed responsive will be evaluated based on the following criteria:

Criteria	Details	Points
Overall Price	Budget adherence, educational discount, etc.	50
Performance	Features, quality of construction, etc.	25
Ease of use	User friendly controls, software functionality, etc.	25
		Total Points = 100 Points

PAYMENT/INVOICING:

Payment of vendor invoices by PSU is normally made within 30-45 days of receipt of complete and accurate invoices. The vendor is responsible for ensuring that the invoice clearly references the associated PSU Purchase Order and that all items on the invoice match those listed in the quote response. PSU will not be responsible for paying any invoices that are not complete and accurate. Vendor payment terms may not require payment in less than 30 days after receipt of invoice by PSU and any payment delinquency terms are subject to the provisions of ORS (Oregon Revised Statute) 293.462.

CHANGES AFTER AWARD/ACCEPTANCE OF QUOTE:

After award or acceptance of vendor quote, any changes in the Minimum Mandatory Requirements, General Requirements, or additional work otherwise unforeseen at the time of preparation of this solicitation document and subsequent award, shall be addressed in writing, and signed by authorized representatives of the parties.

BEST AND FINAL OFFER:

Pursuant to OAR 580-061-0155, PSU reserves the right to select the vendor that, in the collective opinion of the evaluation team, offers the best overall benefit, convenience, functionality and service at the best-value cost to PSU. In the event that finalist proposals do vary significantly, PSU reserves the right to conduct discussions with the finalist proposers, to accept best and final offers from those finalists, and to negotiate changes, if it's in PSU's best interest to do so.

PUBLIC RECORDS:

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, shall be kept by PSU and shall be open to public inspection. If a quote contains any information that is considered a trade secret by the Contractor under ORS 192.501(2), each sheet of such information must be clearly marked with the following:

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

The Oregon Public Records Law, ORS 192.501(2), exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies "unless the public interest requires disclosure in the particular instance." Therefore, non-disclosure of documents or any portion of a document submitted as part of a proposal may depend upon official or judicial determinations made pursuant to the Public Records Law. Pricing information cannot be labeled a trade secret and must be open to public inspection. Contractors are requested to mark only specific pages or text in their quote considered a "trade secret" under Public Records Law. Quotes in which the entire document is marked or otherwise identified in its entirety as confidential or a "trade secret" will be rejected.

QUALIFIACATIONS, PROFESSIONALISM AND BEHAVIOR OF CONTRACTOR EMPLOYEES:

All technicians and other Contractor employees performing work on PSU premises shall be highly qualified, skilled professionals who behave in a professional and courteous manner at all times. Contractor employees must have the ability to plan and organize their work efficiently and communicate effectively with PSU staff and other customer contacts in the field.

PSU places a strong emphasis on good customer service and fully expects all of its contractors and vendors to endorse this service ethic when deploying technicians and other employees on the PSU campus. All Contractor technicians and employees shall wear appropriate work attire on the job and shall present themselves in a professional manner in terms of attire and overall appearance.

WARRANTY:

Contractor must guarantee installation work if applicable, must warranty all Contractor provided materials and services, and is required to describe the nature of Contractor's guarantee in the Bid Response or Quote submitted for this solicitation. If applicable, the warranty shall cover manufacturing defects in material and workmanship under normal and proper use, application assurance, and the installation of all materials.

OTHER TERMS AND CONDITIONS:

In addition to all of the requirements above, Contractor shall comply with Portland State University's Standard Contract Terms & Conditions, incorporated within this document (see below).

PSU STANDARD CONTRACT TERMS & CONDITIONS

(The following terms and conditions will govern the agreement entered into by Contractor and PSU, resulting from this RFQ.)

1. DEFINITIONS:

"Agreement" or "Contract" means the entire written agreement between the parties, including but not limited to any Work Order and any subsequent change notices. "Contractor" means a person or organization with whom PSU has contracted for the purchase of goods or services. The terms "Contractor" and "Seller" as used in the Uniform Commercial Code (ORS Chapter 72) are synonymous. "ORS" means Oregon Revised Statutes. "PSU" means the State of Oregon acting

by and through the State Board of Higher Education on behalf of Portland State University, making the purchase and is synonymous with "Buyer" as used in ORS Chapter 12. "PSU" also means another Oregon Public agency if the purchase is being made under a cooperative purchasing program as authorized by ORS 190.240.

2. ACCESS TO RECORDS:

Contractor shall maintain all records pertinent to this agreement in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that PSU, the Oregon Secretary of State's Office, federal government, and their duly authorized representatives shall have access to such fiscal records and other books, documents, paper, plans and writings of Contractor that are pertinent to this Agreement to perform examination and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such records for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this agreement, or until the conclusion of any audit, controversy or litigation arising out of or relating to this agreement, whichever date is later.

3. AMENDMENTS:

The terms of this agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without the prior written approval of PSU..

4. APPROVALS:

No work shall commence under this agreement until the agreement has been approved and signed by all parties.

5. ASSIGNMENT/SUBCONTRACT:

Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this agreement, in whole or in part, without the prior written approval of PSU. No such written approval shall relieve Contractor of any obligations of this agreement, and any transferee or subcontractor shall be considered the agent of Contractor. Contractor shall remain liable as between the original parties to the agreement as if no such assignment had occurred.

6. BREACH OF AGREEMENT:

If Contractor breaches any of the provisions of this agreement, PSU reserves the right to cancel this agreement effective immediately upon written notice to Contractor. Contractor shall be liable for any and all damages, including incidental and consequential damages, suffered by PSU as the result of Contractor's breach of agreement. PSU shall also have any and all remedies provided under the Uniform Commercial Code (ORS chapter 72) in the event of breach of agreement by Contractor.

7. CAPTIONS:

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

8. CASH DISCOUNT:

If PSU is entitled to a cash discount, the period of computation shall commence on the date the entire order is delivered or the date the invoice is received, whichever is later.

9. COMPLIANCE WITH APPLICABLE LAW:

Contractor shall comply with all federal, state, and local laws, codes, regulations and ordinances applicable to the goods to be purchased and the work to be done under this Agreement. Contractor shall comply with the Americans with Disabilities Act of 1990 (Public Law No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659.425, and all regulations and administrative rules established pursuant to the laws. Failure to comply with such requirements shall constitute a breach of Agreement and shall be grounds for agreement cancellation. Damages or costs resulting from noncompliance shall be the sole responsibility of Contractor.

10. CONFIDENTIAL INFORMATION:

Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this contract, be exposed to or acquire information that is confidential to PSU or the State of Oregon. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this contract shall be deemed confidential information of PSU and of State ("Confidential Information"). Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than in the performance of the contract, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor agrees that Contractor will not at any time during or after the term of this contract disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this contract, or at PSU's request, Contractor will turn over to PSU all documents, papers and other material in Contractor's possession which contain Confidential Information.

11. CONFLICT OF INTEREST:

Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that in the performance of this agreement no person having any such interest shall be employed by Contractor.

12. CONSIDERATION:

The consideration paid in this agreement represents the total amount of remuneration for goods and services.

13. DEFAULT:

PSU by written notice of default (including breach of agreement) to Contractor may terminate the whole or any part of this Agreement: (a) If Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or (b) If Contractor no longer holds a license or certificate that is required for Contractor to perform services under the contract, and Contractor has not obtained such license or certificate within ten (10) business days after delivery of PSU's notice; or (c) If Contractor fails to provide services or materials called for by this agreement within the time specified herein or any extension thereof; or (d) If Contractor fails to perform any of the other provisions of this Agreement, or fails to pursue the work so as to endanger performance of this Agreement in accordance with its term and, after receipt of written notice from PSU, fails to correct such failures within 10 days or such longer period as PSU may authorize. The rights and remedies of PSU provided in the above clause related to defaults (including breach of agreement) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement. Contractor shall be liable for any and all damages, including incidental and consequential damages, suffered by PSU as the result of Contractor's breach of agreement. In the event of repeated breach of public and/or private contracts, Contractor shall be subject to possible disqualification as a bidder on future PSU contracts.

14. DELIVERY:

All deliveries shall be F.O.B. destinations with all transportation and handling charges being paid by Contractor. Responsibility and liability for loss or damage shall remain with Contractor until final inspection and acceptance, when responsibility shall pass to PSU except as to latent defects, fraud and Contractor's warranty obligations.

15. ECONOMIC OPPORTUNITIES:

Contractor shall, when applicable, have made good faith efforts to subcontract or establish joint

ventures with or obtain materials to be used in performing the agreement from minority, women, or emerging small business enterprises.

16. FORCE MAJEURE:

Neither party to this agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. PSU may terminate this Agreement upon written notice after determining such delay or default will reasonably prevent successful performance of the agreement. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under this agreement.

17. FOREIGN CONTRACTOR:

If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Oregon Secretary of State Corporation Division all information required relative to this agreement. Contractor shall demonstrate its legal capacity to perform under this agreement in the State of Oregon prior to entering into this agreement.

18. GOVERNING LAW:

This agreement 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, suit or proceeding (collectively "claim") between PSU and Contractor that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Multnomah 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. CONTRACTOR, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

19. INDEMNIFICATION:

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 Agreement, or from any act, omission, or neglect of Contractor, its subcontractors, or employees. Contractor shall save, indemnify, and hold harmless the State of Oregon, the Oregon University System, the State Board of Higher Education, PSU, and their agencies, subdivisions, officers, employees and agents from all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from or arising out of, or relating to the activities or omissions of Contractor or its officers, employees, subcontractors, or agents acting under this agreement.

20. HOURS OF WORK:

The Contractor shall comply with the Oregon Bureau of Labor and Industries rules pertaining to hours of work.

21. INDEPENDENT CONTRACTOR:

The services to be rendered under this agreement are those of an independent contractor. Contractor is not to be considered an agent or employee of PSU for any purpose and neither Contractor nor any of Contractor's agents or employees is entitled to any of the benefits that PSU provides for 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 agreement. This agreement is not intended and nothing contained herein shall be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association between PSU and Contractor, but is rather an agreement between independent parties, these being PSU and the Contractor.

22. NO THIRD PARTY BENEFICIARIES:

PSU and Contractor are the only parties to this agreement and are the only parties entitled to enforce its terms. Nothing in this agreement 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 the agreement.

23. NONDISCRIMINATION:

Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

24. NOTICES AND REPRESENTATIVES:

All notices, certificates, or other communications rendered shall be sufficiently given when delivered or mailed postage prepaid to the representatives of the parties at their designated places of business as follows: a) to PSU at its Purchasing and Contracting Office, as set forth on Page 1 of the solicitation document, and b) to Contractor as set forth on the Bid or Proposal Statement. 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 shall be deemed to be given when satisfactory receipt of the transmission is generated by the transmitting machine. To be effective against PSU, such facsimile transmission must be confirmed by telephone notice to PSU's contracting representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

25. PAYMENT:

Payment for completion of PSU contracts are normally made within 30 days following the date the entire order is delivered or the date the accurate and complete invoice is received, whichever is later. After 45 days, Contractor may assess overdue account charges up to two-thirds of one percent per month (8% per annum) on the outstanding balance per (ORS 293.462).

26. RECYCLED PRODUCTS:

Contractor shall use recyclable products to the maximum extent economically feasible in the performance of this agreement work set forth in this document.

27. RETIREMENT SYSTEM STATUS:

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

28. SAFETY AND HEALTH REQUIREMENTS:

Equipment and services supplied shall comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State Workers' Compensation Department.

29. SEVERABILITY:

If any provision of this agreement 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 agreement did not contain the particular term or provision held to be invalid.

30. SUCCESSORS IN INTEREST:

The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

31. TAX COMPLIANCE CERTIFICATION:

Contractor hereby affirms, under penalty of perjury, as provided in ORS 305.385(6), that to the best of the Contractor's knowledge the Contractor is not in violation of any of the tax laws described in ORS 305.380(4).

32. TAXES – FEDERAL, STATE & LOCAL:

PSU will not be responsible for any taxes coming due as a result of this contract, whether federal, state, or local. It is agreed that the Contractor has anticipated these taxes and included them in the proposal.

33. TERMINATION:

a. This agreement may be terminated for convenience at any time by mutual consent of both parties, or by PSU upon thirty (30) days notice in writing and delivered by certified mail or in person to the Contractor.

b. PSU may also terminate this agreement effective upon delivery of written notice to Contractor or at such later date as may be established by PSU under any of the following conditions:

- i) if federal or state regulations or guidelines are modified or changed in such a way that the materials or services are no longer allowable or appropriate for purchase under this agreement; or,
- ii) if PSU fails to receive funding, appropriations, limitations, allotments, or other expenditure authority as contemplated by the PSU budget or spending plan and PSU determines, in its assessment and ranking of the policy objectives explicit or implicit in the PSU budget or spending plan, that it is necessary to terminate this Agreement.

c. The rights and remedies of PSU provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

34. TIME IS OF THE ESSENCE:

Contractor agrees that time is of the essence under this agreement.

35. WORKERS' COMPENSATION:

Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this agreement are subject employers under the Oregon Workers' Compensation Law, and shall comply with ORS 656.017 which requires Contractor 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.

36. MERGER:

This agreement and attached exhibits and appendices, the RFP, any RFP amendments and Contractor's proposal 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 agreement.

37. WAIVER:

No waiver, consent, modification or change or terms of this agreement shall bind either party unless in writing and signed by both parties and all necessary PSU 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 PSU to enforce any provision of this agreement shall not constitute a waiver by PSU of that or any other provision.

38. WARRANTIES:

Unless otherwise stated, all goods shall be new and unused and shall be provided with a minimum one year warranty. Contractor warrants all goods delivered to be free from defects in labor, material and manufacture and to be in compliance with solicitation specifications. All implied or expressed warranty provisions of the Uniform Commercial Code (ORS chapter 72) are incorporated in this Contract. All warranties shall run to PSU.