MASTER AGREEMENT

THIS AGREEMENT is made this day of [date], 2011, by and between the Commonwealth
of Pennsylvania, acting through the Department of General Services, hereinafter called the
COMMONWEALTH,

and

The Pennsylvania State University, hereinafter called the UNIVERSITY;

WITNESSETH:

WHEREAS, the UNIVERSITY, in furtherance of its academic mission, provides resources
in faculty, practical and academic research, and education services; and,

WHEREAS, the UNIVERSITY has made these resources available to various agencies of the
COMMONWEALTH; and,

WHEREAS, offering such assistance to agencies of the COMMONWEALTH benefits the
UNIVERSITY's academic mission by enabling faculty members to apply the results of their research
and by affording students practical experience in their field of study; and,

WHEREAS, the COMMONWEALTH is a public procurement unit pursuant to Section
1901 of the Commonwealth Procurement Code, 62 P.S. §1901; and,

WHEREAS, the UNIVERSITY, with respect to the services to be performed pursuant to this
Master Agreement, is also a public procurement unit pursuant to Section 1901 of the Commonwealth
Procurement Code, 62 P.S. §1901, because it is acting in furtherance of its educational mission in
performing them; and,

WHEREAS, pursuant to Section 1906(b) of the Commonwealth Procurement Code, 52 P.S.
§1906(b), the UNIVERSITY, as a public procurement unit, may provide the COMMONWEALTH,
as another public procurement unit, with the types of services described above, provided that the
COMMONWEALTH compensates the UNIVERSITY for the expenses of the services in accordance with an agreement between the parties; and

WHEREAS, the parties desire to enter into an agreement for the provision of the services by the UNIVERSITY in exchange for payment by the COMMONWEALTH to compensate the UNIVERSITY for the expenses of the services in accordance with Section 1906(b) of the Commonwealth Procurement Code, 62 P.S. §1906(b).

NOW, THEREFORE, for and in consideration of the foregoing premises and of the mutual promises set forth below, the parties agree, with the intention of being legally bound, as follows:

1. The foregoing recitals are incorporated by reference as a material part of this Agreement.

2. UNIVERSITY shall, in accordance with the terms and conditions of this Agreement, supply and deliver resources and services, as more fully defined in agency work orders issued pursuant to this Agreement, to Commonwealth executive agencies.

3. Commonwealth executive agencies shall procure their requirements for UNIVERSITY resources and services in accordance with the terms and conditions of this Agreement.

4. COMMONWEALTH and UNIVERSITY agree to be bound to the Special Terms and Conditions attached hereto as Exhibit A and made part of this Agreement.

5. UNIVERSITY agrees to comply with the following standard Commonwealth contract provisions, which are attached as Exhibit “B” and made part of this Agreement: Nondiscrimination/Sexual Harassment Clause, Contractor Integrity Provisions, Contractor Responsibility Provisions, Provisions Concerning the Americans with Disabilities Act, and Offset Provision. As used in these provisions, the term “Contractor” refers to the UNIVERSITY.
6. UNIVERSITY agrees to comply with the Pennsylvania Department of Transportation ("PENNDOT") supplemental contract provisions, which are attached as Exhibit "C" and made a part of this Agreement, when providing services to PENNDOT.

7. UNIVERSITY agrees to comply with the Department of Public Welfare ("DPW") supplemental contract provisions, which are attached as Exhibit "D" and made a part of this Agreement, when providing services to DPW.

8. This Agreement will not be effective until all necessary Commonwealth officials as required by law have executed it.

9. Upon execution, this document, together with all exhibits and attachments annexed to it, constitutes the entire agreement between the parties and completely expresses their intent. All prior or contemporaneous agreements are hereby merged into this document. No amendment or modification of this Agreement shall be valid unless it is in writing and duly executed and approved by the parties.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the parties hereto have executed this Master Agreement the date first above written. Execution by the Commonwealth will be as described in Paragraph 4 of Exhibit A.

ATTEST:

[Signature]
Name: Kimberly J. Belcher
Title: Assistant Secretary

DATE: 1/28/11

THE PENNSYLVANIA STATE UNIVERSITY

BY [Signature]
Name: Susan J. Wiedemer
Title: Assistant Treasurer

DATE: 4/26/11

COMMONWEALTH OF PENNSYLVANIA

APPROVED AS TO LEGALITY AND FORM

To be affixed electronically
Chief Counsel DATE

To be affixed electronically
Secretary DATE

To be affixed electronically
Deputy Attorney General DATE

To be affixed electronically
Deputy General Counsel DATE

APPROVED FOR FISCAL RESPONSIBILITY, BUDGETARY APPROPRIATENESS AND AVAILABILITY OF FUNDS:

To be affixed electronically
Comptroller DATE
IN WITNESS WHEREOF, the parties hereto have executed this Master Agreement the date first above written. Execution by the Commonwealth will be as described in Paragraph 4 of Exhibit A.

ATTEST:                          THE PENNSYLVANIA STATE UNIVERSITY

Name:                       DATE
Title:                      

BY__________________________
Name:                       DATE
Title:                      

COMMONWEALTH OF PENNSYLVANIA

APPROVED AS TO LEGALITY AND FORM

To be affixed electronically
Chief Counsel               DATE

To be affixed electronically
Secretary                   DATE

To be affixed electronically
Deputy Attorney General     DATE

To be affixed electronically
Deputy General Counsel      DATE

APPROVED FOR FISCAL RESPONSIBILITY, BUDGETARY APPROPRIATENESS AND AVAILABILITY OF FUNDS:

To be affixed electronically
Comptroller                 DATE
All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 141597

Supplier Name/Address:
PENNsylvania STATE UNIVERSITY
PENNsylvania STATE UNIVERSITY
110 TECHNOLOGY CENTER BLDG
UNIVERSITY PARK  PA  16802  US

Supplier Phone Number: 99999999

Contract Name:
8600 Penn State Master Agreement

Purchasing Agent
Name: Whitse Kay
Phone: 717-757-7675
Fax: 717-753-6241

Please Deliver To:
To be determined at the time of the Purchase Order unless specified below.

Payment Terms
NET 30

Solicitation No.: Issue Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

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Information:

Supplier's Signature ____________________________  Title ____________________________
Printed Name ____________________________  Date ____________________________
General Requirements for all Items:

Header Text
Penn State University Master Agreement are to be defined by individual agencies. Cost and Scope to be individually quoted on an as needed basis. Terms and Conditions will apply to all POs issued from this contract.

Contact Person: Tim Stodart
Telephone: 814-865-1027
fax 814-865-3377
Email: TMS21@psu.edu

Mail to: The Pennsylvania State University,
Office of Sponsored Programs,
110 Technology Center Building,
University Park, PA 16802-7000
Attn: Tim Stodart, Lead Contracts & Proposal Specialist

Issuing Officer:
Kay Whitsel, Commodity Specialist
Dept of General Services, Bureau of Procurement
555 Walnut Street, 6th Floor, Forum Place
Harrisburg, Pa 17101
Phone: 717-787-7675
Email: kwhitsel@state.pa.us

No further information for this Contract
The Pennsylvania State University Master Agreement
Contract number: 4400008014
Agency Request - Work Plan
( Agency to complete and provide to University)
If University Principal Investigator is known, please incorporate their contact info below,
otherwise complete and forward this form to:
JoAnn Parsons
Email: jxp5@psu.edu
Phone: 814-863-0587

Agency and Project Name:

Objective:
This project is to:

Is this a continuation of services? YES NO
If yes, previous Purchase Order Number: ______________________

Time Frame of Project:
From: ________________
To: ________________

Project Site: (Please list location where work will be performed)

Statement of Work: (Include here or as separate attachment)

Confidential Information: (If Agency confidential information will be part of this scope of work, please provide details here. If no Agency confidential information is involved, mark ‘N/A’)
Copyright Ownership: Ownership of materials developed as part of the scope of work for Project Tasks. Agency must check one of the provisions:

___ Work Made for Hire/University Non-Exclusive License

___ Purchase Orders Vesting Title in the University and Granting a Non-Exclusive License to the Commonwealth

Reporting: (Standard reporting is monthly. Only list additional or different reporting requirements that are required for the project)

1.

2.

3.

Federal Pass Through Information:

If funding for this project stems from a Federal Agency, the source of these funds must be disclosed notifying University of the respective percentages of state funds and federal funds that will be utilized for payment for this service. The following information is required or the University may not provide a quote.

Prime Award Number: ______________________

Federal Agency: __________________________

Sub-Agency: ______________________________

Examples: USDA – CSREES or USDA – ARA

USDI-National Park Service or USDI – U.S. Geological Survey

Allowable indirect cost percentage for Federal Agency/Sub-Agency above:

Catalog of Federal Domestic Assistance (CFDA) number (if applicable):

Percentage of federal funding: __________%

Percentage of state funding: __________%

When Commonwealth funds are involved and it is known that agency or the project permits the recovery or partial recovery of indirect costs, please indicate this in the Statement of Work. Some examples where indirect costs are recovered when Commonwealth funds are involved:
PennDOT (currently 25%)
DEP Growing Greener Alternative Fuel Incentive Grant Projects (2%)

If at any time, the funding sources or percentages are changed it is the responsibility of the Agency to notify the University. If Federal funds are increased, the University has the right to revise the indirect costs at that time or anytime that the percentage of Federal Funds has increased. The Agency will be responsible for payment of additional costs associated with the change in funding source or change in funding percentages.

Signature attesting to Funds appropriated for Project:

_________________________________________________________________________
Agency Head or Designee Date

(The Agency has the option to competitively solicit the procurement with other suppliers if the University’s proposed budget is not considered reasonable).
Scope of Work: - Specify the research project period of performance, etc. from Exhibit A, Special Terms and Conditions, Section 3.C.(b) – Scope of Work Requirements.

Cost Information: (attach detailed and summary budgets in Excel format)

The total estimated cost of this project is $______________.

The contract line items and budget line items shall be provided in the following:

Personnel:

Operational (Includes Expendable Equipment and Supplies):

Subcontracting (Includes Purchased Services):

Travel:

Administrative Fees (Sometimes referred as Overhead, Indirect Cost, or F&A):

Capital Equipment:

The University shall provide cost to purchase and the cost to rent the required capital good or capital equipment for the time period of the project. Agency will review and determine the method to acquire the required good or equipment. The decision of rental or purchase shall be at the sole discretion of the Agency. All capital equipment remains commonwealth property.

Management Plan and Staffing:

“Key Personnel” are defined as individuals who contribute to the scientific development or execution of a project in a substantive way. The program director/principal investigator (PD/PI) is always considered Key Personnel. The PD/PI may designate other Key Personnel if applicable and necessary for the Scope of Work. Key Personnel who have not yet been named shall be identified when they join the project. When new Key Personnel are named, the Principal Investigator will notify the Commonwealth Agency in writing prior to charging their time to the project.

Key Personnel:
Approvals:

The Pennsylvania State University Principal Investigator:

<table>
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<tr>
<th>Name and Title</th>
<th>Date</th>
</tr>
</thead>
</table>

The Pennsylvania State University Authorized Official:

<table>
<thead>
<tr>
<th>Associate Vice President for Research, Director of Sponsored Programs</th>
<th>Date</th>
</tr>
</thead>
</table>

Commonwealth Agency Approval to proceed with “Final”.

Agency must check one of the boxes below before forwarding to University in order to receive “final” budget.

- Capital Equipment: □ Purchase  □ Rent

Commonwealth Agency’s Authorized Approver:

Date: ________________________________

Name and Title: ________________________________

Signature: ________________________________
Attachment 3

The Pennsylvania State University Master Agreement
Contract No. 4400008014
FINAL UNIVERSITY Response - Project Template
(To be completed by UNIVERSITY and returned to requesting Commonwealth Agency)

**Scope of Work:**  (Attach the final statement of work)

**Cost Information:**  (Attach the final detailed and summary budgets in Excel format)

**Equipment:**  (Attach the final equipment list)

**Management Plan and Staffing:**  (List Key Personnel)

**Copyright Ownership:**  (Indicate agency's designation)

_____ Work Made for Hire

_____ Purchase Orders Vesting Title in the University and Granting a Non-Exclusive License to the Commonwealth

**Approvals:**

The Pennsylvania State University Principal Investigator:

<table>
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COMMONWEALTH OF PENNSYLVANIA
BUSINESS ASSOCIATE AGREEMENT

WHEREAS, the Commonwealth Agency (Covered Entity) and Pennsylvania State University (Business Associate) intend to protect the privacy and security of certain Protected Health Information (PHI) to which Business Associate may have access in order to provide goods or services to or on behalf of Covered Entity, in accordance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009), the HIPAA Privacy Rule (Privacy Rule), 45 C.F.R. Parts 160 and 164, and the HIPAA Security Rule (Security Rule), 45 C.F.R. Parts 160, 162 and 164, and all other applicable laws; and

WHEREAS, Business Associate may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI can be used or disclosed only in accordance with this Agreement and the standards established by applicable laws; and

WHEREAS, Business Associate may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity that is in electronic form, which PHI must be handled in accordance with this Agreement and the standards established by HIPAA and the Security Rule and other applicable laws; and

NOW, THEREFORE, the parties to this Agreement set forth the following as the terms and conditions of their understanding.

1. Definitions.
   a. “Business Associate” shall have the meaning given to such term under the Privacy and Security Rules, including but not limited to, 45 C.F.R. §160.103.
   b. “Covered Entity” shall have the meaning given to such term under the Privacy and Security Rules, including, but not limited to, 45 C.F.R. §160.103.
   d. “Privacy Rule” shall mean the standards for privacy of individually identifiable health information in 45 C.F.R. Parts 160 and 164.
   e. “Protected Health Information” or “PHI” means any information, transmitted or recorded in any form or medium; (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA and the
HIPAA Regulations in 45 C.F.R. Parts 160, 162 and 164, including, but not limited to 45 C.F.R. §164.501.
g. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 C.F.R. Parts 160, 162 and 164.

2. Stated Purposes For Which Business Associate May Use Or Disclose PHI. The Parties hereby agree that Business Associate shall be permitted to use and/or disclose PHI provided by or obtained on behalf of Covered Entity for the purposes of accomplishing work within the scope of Contract # 4400008014 (Contract) according to the Contract’s terms and except as otherwise stated in this Agreement.

NO OTHER DISCLOSURES OF PHI OR OTHER INFORMATION ARE PERMITTED.

3. BUSINESS ASSOCIATE OBLIGATIONS:

a) Privacy Provisions Applicable to Business Associate. Business Associate shall abide by the privacy provisions of 45 CFR § 164.502(e) related to Covered Entities which are made applicable to the Business Associate by 42 USCS § 17934.

b) Limits On Use And Further Disclosure Established By Agreement And Law. Business Associate hereby agrees that the PHI provided by, or created or obtained on behalf of Covered Entity shall not be further used or disclosed other than as permitted or required by this Agreement or as required by law.

c) Appropriate Safeguards. Beginning as soon as practicable but in no event later that the effective date of the Security Rule, Business Associate shall establish and maintain appropriate safeguards to prevent any use or disclosure of PHI other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that is created, received, maintained, or transmitted on behalf of the Covered Entity.

d) Reports Of Improper Use Or Disclosure. Business Associate hereby agrees that it shall report to the Covered Entity’s Privacy Officer, or his designee, and the Covered Entity’s legal office, within two (2) days of discovery any use or disclosure of PHI not provided for or allowed by this Agreement (unless some more stringent standard applies under this Contract). Business Associate agrees to conduct reasonable diligence to discover improper use or disclosure of PHI.
Such notification shall be written and shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, access, acquired, or disclosed during the improper use or disclosure or Breach. An improper use or disclosure or Breach shall be treated as discovered by the Business Associate on the first day on which it is known to the Business Associate (including any person other than the person committing the breach, that is an employee, officer, or other agent of the Business Associate) or should reasonably have been known to the Business Associate to have occurred.

e) **Reports Of Security Incidents.** In addition to following the breach notification requirements in section 13402 of the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") and related regulations and guidance, Business Associate shall report to Covered Entity’s Privacy Officer, or his designee, within two (2) days of discovery any security incident of which it becomes aware. At the sole expense of Business Associate, Business Associate will comply with all applicable federal and state breach notification requirements.

f) **Subcontractors And Agents.** Business Associate hereby agrees that any time PHI is provided or made available to any subcontractors or agents, Business Associate shall provide only the minimum necessary PHI for the purpose of the covered transaction and shall first enter into a subcontract or contract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of PHI as contained in this Agreement.

g) **Right Of Access To PHI.** Business Associate hereby agrees to allow an individual who is the subject of PHI maintained in a designated record set, to have access to and copy that individual’s PHI within five (5) business days of receiving a written request from the Covered Entity. Business Associate shall provide PHI in the format requested, unless it cannot readily be produced in such format, in which case it shall be provided in standard hard copy. If any individual requests from Business Associate or its agents or subcontractors access to PHI, Business Associate shall notify Covered Entity of same within five (5) business days. Business associate shall further conform with and meet all of the requirements of 45 C.F.R. §164.524 and other applicable laws.

h) **Amendment And Incorporation Of Amendments.** Within five (5) business days of receiving a request from Covered Entity for an amendment of PHI maintained in a designated record set, Business Associate shall make the PHI available and incorporate the amendment to enable Covered Entity to comply with 45 C.F.R. §164.526 and other applicable laws. If any individual requests an amendment from Business Associate or its agents or subcontractors, Business Associate shall notify Covered Entity within five (5) business days.
i) **Provide Accounting Of Disclosures.** Business Associate agrees to maintain a record of all disclosures of PHI in accordance with 45 C.F.R. §164.528, 42 USCS § 17935(c), and other applicable laws. Such records shall include, for each disclosure, the date of the disclosure, the name and address of the recipient of the PHI, a description of the PHI disclosed, the name of the individual who is the subject of the PHI disclosed, the purpose of the disclosure, and shall include disclosures made on or after the date that is six (6) years prior to the request or April 14, 2003, whichever is later. Business Associate shall make such record available to the individual or the Covered Entity within five (5) business days of a request for an accounting of disclosures, or within such other time as may be dictated by applicable law.

j) **Access To Books And Records.** Business Associate hereby agrees to make its internal practices, books, and records relating to the use or disclosure of PHI received from, or created or received by Business Associate on behalf of the Covered Entity, available to the Secretary of Health and Human Services or designee for purposes of determining compliance with the HIPAA Privacy Regulations.

k) **Return Or Destruction Of PHI.** At termination of this Agreement, Business Associate hereby agrees to return or destroy all PHI provided by or obtained on behalf of Covered Entity. Business Associate agrees not to retain any copies of the PHI after termination of this Agreement. If return or destruction of the PHI is not feasible, Business Associate agrees to extend the protections of this Agreement to limit any further use or disclosure until such time as the PHI may be returned or destroyed. If Business Associate elects to destroy the PHI, it shall certify to Covered Entity that the PHI has been destroyed.

l) **Maintenance of PHI.** Notwithstanding Section 5(j) of this Agreement, Business Associate and its subcontractors or agents shall retain all PHI throughout the term of the Agreement and shall continue to maintain the information required under §5(h) of this Agreement for a period of six (6) years after termination of the Agreement, unless Covered Entity and Business Associate agree otherwise.

m) **Mitigation Procedures.** Business Associate agrees to establish and to provide to Covered Entity upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this Agreement or the Privacy Rule. Business Associate further agrees to mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement or the Privacy Rule.

n) **Sanction Procedures.** Business Associate agrees that it shall develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement or other applicable laws.
o) **Grounds For Breach.** Any non-compliance by Business Associate with this Agreement or the Privacy or Security Rules will automatically be considered to be a breach of the Agreement, if Business Associate knew or reasonably should have known of such non-compliance and failed to immediately take reasonable steps to cure the non-compliance.

p) **Termination by Commonwealth.** Business Associate authorizes termination of this Agreement by the Commonwealth if the Commonwealth determines, in its sole discretion, that the Business Associate has violated a material term of this Agreement.

q) **Failure to Perform Obligations.** In the event Business Associate fails to perform its obligations under this Agreement, Covered Entity may immediately discontinue providing PHI to Business Associate. Covered Entity may also, at its option, require Business Associate to submit to a plan of compliance, including monitoring by Covered Entity and reporting by Business Associate, as Covered Entity in its sole discretion determines to be necessary to maintain compliance with this Agreement and applicable law.

r) **Privacy Practices.** The Department will provide and Business Associate shall immediately begin using any applicable form, including but not limited to, any form used for Notice of Privacy Practices, Accounting for Disclosures, or Authorization, upon the effective date designated by the Program or Department. The Department retains the right to change the applicable privacy practices, documents and forms. The Business Associate shall implement changes as soon as practicable, but not later than 45 days from the date of notice of the change.

4. **OBLIGATIONS OF COVERED ENTITY:**

a) **Provision of Notice of Privacy Practices.** Covered Entity shall provide Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with applicable laws, as well as changes to such notice.

b) **Permissions.** Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by individual to use or disclose PHI of which Covered Entity is aware, if such changes affect Business Associate’s permitted or required uses and disclosures.

c) **Restrictions.** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 C.F.R. §164.522 and other applicable laws, to the extent that such restriction may affect Business Associate’s use or disclosure of PHI.
Attachment 5

Data Use Agreement (applicable only if PHI is provided in a limited data set to the UNIVERSITY). When applicable, Commonwealth Agency will provide to UNIVERSITY.
ATTACHMENT 6

LOBBYING CERTIFICATION FORM
Lobbying Certification Form

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for such failure.

SIGNATURE: ____________________________

TITLE: Susan J. Wiedemer, Assistant Treasurer

DATE: 4/26/11
Disclosure Of Lobbying Activities
Management Directive 305.16

The link to the updated Disclosure of Lobbying Activities is indicated below.
http://www.whitehouse.gov/omb/grants/sflllin.pdf

SF-LLL, Disclosure of Lobbying Activities – as revised in 7/1997
DISCLOSURE OF LOBBYING ACTIVITIES Approved by OMB Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 0348-0046 (See reverse for public burden disclosure.)

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<td></td>
<td>Tiers ______, if known:</td>
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<table>
<thead>
<tr>
<th>6. Federal Department/Agency:</th>
<th>7. Federal Program Name/Description:</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>CFDA Number, if applicable: ________</td>
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<thead>
<tr>
<th>8. Federal Action Number, if known:</th>
<th>9. Award Amount, if known:</th>
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<tr>
<th>10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):</th>
<th>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):</th>
</tr>
</thead>
</table>

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1552. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: ____________________________
Print Name: ____________________________
Title: ____________________________
Telephone No.: ____________________________ Date: ____________
INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an office or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State, and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.
Exhibit A

SPECIAL TERMS AND CONDITIONS

These SPECIAL TERMS AND CONDITIONS shall be a part of the Master Agreement between the Commonwealth of Pennsylvania, acting through the Department of General Services ("COMMONWEALTH"), and The Pennsylvania State University ("UNIVERSITY").

1. AGREEMENT SCOPE/OVERVIEW:

This Agreement will govern the provision of resources and services by the UNIVERSITY, in the furtherance of its educational mission, to the COMMONWEALTH. The contract is not to be utilized for conference planning or training.

2. TERM OF AGREEMENT:

The term of this Agreement will commence on the Effective Date (as defined herein) and will have an initial term of five (5) years. The Effective Date shall be fixed after the Agreement has been fully executed by the UNIVERSITY and all signatures required by Commonwealth contracting procedures have been obtained.

3. SERVICES TO BE PROVIDED UNDER THIS AGREEMENT:

A. Purchase Orders:

Commonwealth agencies may issue Purchase Orders against the Agreement. These orders constitute the UNIVERSITY's authority to make delivery. All Purchase Orders received by the UNIVERSITY up to and including the expiration date of the Agreement are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Agreement.

Purchase Orders will not include an 'ink' signature by the Agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the Commonwealth, to authorize the UNIVERSITY to proceed.

Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of Purchase Order may be accomplished through various methods including, but not limited to, XML, electronic mail, or through the Commonwealth's portal. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the UNIVERSITY. Receipt of the electronic or facsimile transmission of the Purchase Order shall
constitute receipt of an order. Orders received by the UNIVERSITY after 4:00 p.m. will be considered received the following business day.

The Commonwealth and the UNIVERSITY specifically agree as follows:

1. No handwritten signature by the Commonwealth shall be required in order for the Agreement or Purchase Order to be legally enforceable.

2. The parties agree that no writing shall be required in order to make the order legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine Purchase Order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Purchase Order or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of genuine Purchase Orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the order or acknowledgement were not in writing or signed by the parties. A purchase order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

3. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

The process described above for the issuance of purchase orders also shall apply to any modifications made thereto.

B. Project Tasks

Commonwealth Agencies shall initiate all Project Tasks, and the UNIVERSITY shall conduct all Project Tasks, through Purchase Orders. All terms and conditions of this Agreement shall apply to Purchase Orders. The UNIVERSITY shall provide the Commonwealth Agency with all research, products, activities and services as specified in the Scope of Work and in accordance with the terms and conditions of this Agreement and its exhibits and attachments.
C. Scope of Work Requirements

The UNIVERSITY shall, in accordance with the terms and conditions of this Agreement, supply and deliver resources and services, as more fully defined in scopes of work set forth in Purchase Orders issued pursuant to this Agreement.

(a) Initiation of Services—The Commonwealth Agency shall initiate a request for services by submitting the scope of work to be provided using the form set forth in Attachment 1 attached to and made a part of this Agreement.

(b) Preparation of Draft Scope of Work—Following the Commonwealth Agency’s discussion of the required Project Task with the UNIVERSITY, the UNIVERSITY shall prepare a draft Scope of Work and cost for the Project Task for review by the Commonwealth Agency using the form set forth in Attachment 2 attached to and made a part of this Agreement. The Scope of Work shall specify the research project and services and their period of performance; and it shall incorporate required progress reports, project management aids, meetings and other requirements as specified by the Commonwealth Agency and mutually agreed upon with the UNIVERSITY. The Scope of Work shall include a project timeline, showing major activities and the estimated time allocated to these activities. The timeframe of the Scope of Work shall incorporate adequate review times as specified by the Commonwealth Agency. The Scope of Work shall identify the Principal Investigator(s) selected by the UNIVERSITY who will perform the work. For each Scope of Work, the Parties will negotiate an estimated percentage of total effort which the Principal Investigator(s) is to provide along with other University Personnel. Interns or other personnel shall be listed by rate per hour.

(c) Cost Information—The UNIVERSITY shall propose detailed cost information in accordance with OMB Circular A-21, Cost Principles for Educational Institutions as part of its proposed budget.

(d) UNIVERSITY Budget Submission:

The UNIVERSITY will include a proposed budget submission with its draft Scope of Work in Attachment 2. The proposed budget submission will include:

1) A detailed cost quote which the Commonwealth Agency will use for the review and evaluation of the project. Equipment detail for equipment rental/purchase prices for review shall be provided.
2) A summary budget broken into the six categories to be used to issue the Purchase Order:

(1) Personnel (includes tuition when requested by the UNIVERSITY and approved by the Commonwealth Agency or DGS when appropriate)

(2) Operational (includes all other direct costs not included and expendable equipment)

(3) Subcontracting (including Purchased Services)

(4) Capital Equipment

(5) Travel

(6) Administrative Fees (when allowable or applicable). Administrative Fees may also sometimes be referred to as Overhead, Indirect Costs, or F&A.

(e) Preparation of Final Scope of Work —

(i) Following review of the draft Scope of Work and cost by the Commonwealth Agency’s Program Manager and resolution of any comments by the UNIVERSITY and approval by any federal governmental entity, if required, the Commonwealth Agency will return a signed Attachment 2 to the University authorizing the University to prepare the final scope of work and final budget submission.

(ii) The University will submit to the Agency a completed Attachment 3 along with the final Scope of Work and the final budget submission including the final equipment list.

(iii) The Agency will create a Purchase Order attaching Attachment 3 and the final Scope of Work, the final equipment list and the final budget submission. The Commonwealth Agency shall not authorize the performance of any work before issuance of a Purchase Order. The Purchase Order must contain the date of commencement of the work. All work must be completed within the time period specified in the Purchase Order and any changes thereto and in accordance with this Agreement.

(iv) Additional Procedures for Project Tasks that total $100,000 or more:

As part of the overall monitoring of the Agreement, DGS will review all Project Tasks that total $100,000 or more. If revisions are made to the original scope after approval, and the total value then exceeds $100,000, it
must first be reviewed by DGS. This review will be conducted to ensure that the Project Task is covered under the Scope of Work and in accordance with the Agreement, and that budgets provided are within the line items of the Agreement and that satisfactory detail of the budget is provided.

The DGS approval process is as follows:

1. Commonwealth Agency will provide Attachments 1, 2 and 3; the final Scope of Work, the final equipment list and the final budget submission to DGS. The Commonwealth Agency will email all documents to the assigned DGS Commodity Specialist for review. If all relative information is provided and appropriate, DGS will attempt to review within five (5) business days. If information is missing or a budget needs to be revised, the DGS Commodity Specialist will contact the appropriate Commonwealth Agency representative or UNIVERSITY representative to obtain the required items to conduct the review.

2. If approved, DGS will return the approval to the Commonwealth Agency to be attached to the Purchase Order.

The final budget is used by the Commonwealth Agency to issue the Purchase Order to the UNIVERSITY. If the UNIVERSITY wishes to shift funds from one cost category to another, the UNIVERSITY must obtain the prior approval of the Commonwealth Agency who will then issue a change order to accomplish the re-budgeting.

D. Payment:

(a) The UNIVERSITY shall send its standard automated cost reimbursable invoice itemized by major budget category to which the invoice refers to the address referenced on the Purchase Order on a monthly basis. The Purchase Order number must be included on all invoices. In addition, the UNIVERSITY shall prepare and submit a corresponding monthly progress report prepared by the UNIVERSITY’S Principal Investigator for the time period of the invoice. Any subcontractor utilized by the UNIVERSITY in the performance of any Purchase Order will be reimbursed in a timely manner. The final invoice for any Purchase Order shall be submitted within sixty (60) days after the completion date.

The UNIVERSITY shall delineate in each Scope of Work and the COMMONWEALTH shall be required to approve the cost for tuition reimbursement by the COMMONWEALTH for UNIVERSITY students performing tasks under the Purchase Order in furtherance of the UNIVERSITY’S academic mission and this Agreement. Tuition reimbursement will be treated as
part of an individual's salary and fringe benefit package for students. Only where
it is a training grant is the UNIVERSITY required to break out tuition costs as a
separate cost in the budget. The COMMONWEALTH will not be charged
overhead on the fringe benefits for graduate students, which includes tuition
reimbursement. The UNIVERSITY calculates its fringe benefit rates, including
the rate for graduate students, in accordance with OMB Circular A-21.

Monthly invoices will be required for payment of all project expenses. All
charges on a submitted invoice must be directly related to work performed on
tasks identified above. All submitted invoices must have supporting justification
for the charges incurred for the given time period. The UNIVERSITY’S
Financial Information Tool (FIT) attached to the invoice is an acceptable form for
the supporting justification. No invoices should be submitted for monthly
expenditures of less than $200. The University should submit the final invoice no
later than sixty (60) days after notification of receipt and acceptance of the
performance of all services by the COMMONWEALTH.

(b) The UNIVERSITY shall be compensated only for work performed in
accordance with each Purchase Order’s scope of work. The UNIVERSITY shall
not be allowed or paid travel or per diem expenses except as specifically set forth
in the Purchase Order and then only in accordance with current Commonwealth
travel policy. The Commonwealth’s travel policies are incorporated by reference
as if physically attached to this Agreement. These policies may be reviewed at the
following web site: www.oa.state.pa.us.

During the existence of this Agreement, COMMONWEALTH shall
reimburse the UNIVERSITY the actual costs for work completed under Purchase
Orders, up to the maximum or not to exceed amount specified in the Purchase
Order and any amendments. Only work conducted after the issuance of a
Purchase Order can be considered for payment.

E. Progress Reports:

Unless stated otherwise in a Purchase Order Scope of Work, the UNIVERSITY’s
Principal Investigator shall prepare and submit monthly progress reports to the
Commonwealth Agency. Any additional reports required by the Commonwealth
Agency and the timeline for their submission will be listed on the Purchase Order.
All progress reports shall be submitted under separate cover from the invoice.

F. Change Orders:

1) The COMMONWEALTH reserves the right to make changes at any time
during the term of the Agreement or any renewals or extensions thereof: a) to notify the
UNIVERSITY that the Commonwealth is exercising any Agreement renewal or
extension option; and b) to modify the time of performance that does not alter the scope
of the Agreement to extend the completion date beyond the Expiration Date of the Agreement or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the UNIVERSITY in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such changes or modifications will not invalidate the Agreement. The UNIVERSITY agrees to provide the service in accordance with the change order. Any dispute by the UNIVERSITY in regard to the performance required by any notification of change shall be handled through the Contract Controversies Provision.

2) The parties may mutually agree to changes within the Scope of Work of a Purchase Order. Any change in the amount to be paid under a Purchase Order as a result of a change in the Scope of Work must be mutually agreed upon by the parties, and in the event the revised cost is $100,000 or more, the DGS Contracting Officer must also review and approve the change to the Scope of Work. Any revised cost as a result of a change to the Scope of Work will be incorporated into the Purchase Order via a written modification.

3) Changes outside of the scope of this Agreement shall be accomplished through the Commonwealth’s normal procurement procedures, and may result in an amended Agreement or a new Agreement. No payment will be made for services outside of the scope of the Agreement for which no amendment has been executed prior to the provision of the services.

4. PERSONAL PROPERTY – EQUIPMENT:

A. Definitions:

1. Expendable property: Goods or equipment that is less than $5,000.00 per item that is necessary for conducting the specific service within the Scope of Work excluding cell phones and related equipment. The COMMONWEALTH will not purchase cell phones or related equipment for the UNIVERSITY. Expendable property includes, but is not limited to, such items as global positioning systems (GPS), computers, microscopes, tractors, and all terrain vehicles (ATV). Expendable property does not include such items as office supplies, safety gear, ATV parts, laboratory supplies, etc.

2. Capital goods and capital equipment: Goods or equipment that exceeds $5,000.00 per item.

B. Ownership:

1. The COMMONWEALTH will retain ownership of expendable property.

In the event that any additional property is purchased after a Purchase Order is received by the UNIVERSITY, the UNIVERSITY will submit a Change to the Scope of Work listing the additional property and a Revised Budget.
2. Capital goods and capital equipment shall be owned by the COMMONWEALTH. Upon cancellation or completion of a project, the Agency shall take possession of such property. Agencies shall use fixed asset funds for purchase under this category.

C. Accounting for personal property — Personal property required by the UNIVERSITY in its performance of this Agreement that is not already owned by the UNIVERSITY must be acquired in the following manner:

1. Expendable items shall be included in the Project Budget as presented to the COMMONWEALTH. The UNIVERSITY will utilize the DGS statewide contract for purchasing of computer equipment.

2. Capital goods and capital equipment of a non-expendable nature which shall be required for use by the UNIVERSITY which the UNIVERSITY does not already possess shall be acquired alternatively either by rental or by purchase. When the UNIVERSITY provides its proposed budget, a price shall be provided on the cost to purchase AND the cost to rent the required capital good or capital equipment for the time period of the project. The Agency will review and determine the method to acquire the required good or equipment. The decision of rental or purchase shall be at the sole discretion of the Agency. A final budget shall be provided to the Agency based on the Agency decision to rent or purchase. If the decision is that the necessary non-expendable property be procured on a rental basis, then the rental cost of such property shall be included in the final budget. If said property is to be purchased, it shall be included in the final budget and, with the approval of the Agency, shall be purchased by the UNIVERSITY in the manner directed by the Agency. The final budget shall be included in the final Scope of Work and shall be attached to the Purchase Order. Title to all such property purchased shall be taken in the name of the Agency and a copy of the Bill of Sale promptly returned to the Agency.

D. Final Report:

Upon cancellation or completion of any purchase order where expendable property, capital goods or capital equipment were acquired by UNIVERSITY, the UNIVERSITY shall provide within sixty (60) days after the completion date a report to the Agency and to DGS consisting of a project summary and an itemized listing of all equipment that was purchased for the project and available for disposition. A copy of the invoice for each item shall be attached to the report.

E. Disposition of Property:

1. Within 60 days of the Agency’s receipt of the final report from the UNIVERSITY, the Agency will arrange for the pick up or delivery (at Commonwealth expense) of COMMONWEALTH owned property.
2. In the event the Agency does not contact the UNIVERSITY about arranging delivery or pick-up of any COMMONWEALTH owned property, such property will become the property of the UNIVERSITY 60 days after receipt of the final report.

5. NOTICES:

Any written notice to any party under this Agreement shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

A. If to the UNIVERSITY:

The UNIVERSITY’S Office of Sponsored Programs:
Tim Stodart, Associate Director
Phone: 814-865-1027
Email: tms21@psu.edu

B. If to the Commonwealth:

1) For notices or inquiries relating to the Agreement to the Commonwealth Contracting Officer:

Bureau of Procurement-Department of General Services
Attn: Kay Whitsel, Commodity Specialist
555 Market Street-6th Floor
Harrisburg, PA 17105

2) For notices related to Purchase Orders, including disputes and claims for payment to the address of the Commonwealth Agency as set forth in the Agency issued Purchase Order.

6. INSURANCE:

A. The UNIVERSITY shall accept full responsibility for the payment of premiums for Workers’ Compensation, Unemployment Compensation, Social Security, and all income deductions required by law for its employees who are performing services under this Agreement.

B. The UNIVERSITY is required to have in place during the term of the Agreement and any renewals or extensions thereof, the following types of
insurance, issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:

1. **Worker's Compensation Coverage** for all of the UNIVERSITY'S employees and those of any subcontractor, engaged in work at the site of the project as required by law.

2. **Public Liability and Property Damage Insurance** to protect the Commonwealth, the UNIVERSITY, and any and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property including the loss of use resulting from any property damage, which may arise from the activities performed under the Agreement or the failure to perform under the Agreement, whether such performance or non-performance be by the UNIVERSITY, by any subcontractor, or by anyone directly or indirectly employed by either. The minimum amounts of coverage shall be $250,000 per person and $1,000,000 per occurrence for bodily injury, including death, and $250,000 per person and $1,000,000 per occurrence for property damage. Such policies shall be occurrence rather than claims-made policies and shall not contain any endorsements or any other form designated to limit and restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.

Prior to commencement of the work under the Agreement and at each insurance renewal date during the term of the Agreement, the UNIVERSITY shall provide the Commonwealth with current certificates of insurance. These certificates or policies shall name the Commonwealth as an additional insured and shall contain a provision that the coverage’s afforded under the policies will not be cancelled or reduced until at least thirty (30) days written notice has been given to the Commonwealth.

The Commonwealth shall be under no obligation to obtain such certificates from the UNIVERSITY. Failure by the Commonwealth to obtain the certificates shall not be deemed a waiver of the UNIVERSITY'S obligation to obtain and furnish certificates. The Commonwealth shall have the right to inspect the original insurance policies.

7. **SUBCONTRACTS:**

The Agency must first approve any subcontract. If the Purchase Order’s Scope of Work and budget has provisions for a specific subcontractor, this constitutes the approval of the awarding Commonwealth executive agency for that subcontract. If the original Purchase Order does not contain reference to a specific subcontractor, then a modification to the Purchase Order is required before initiating the subcontract. Only work in furtherance of
the UNIVERSITY'S academic mission may be subcontracted. If the UNIVERSITY subcontract services either through competitive bid pricing or sole source justification, it should be included with the budget. Purchased services shall be listed as a subcategory of the Subcontract budget line. Purchased Services are defined as “an activity to be performed by a service provider where the activity usually requires specialized training or skills, licensing, or certification by an individual presenting the service provider” and the UNIVERSITY cannot provide this type of services. All subcontractors being used shall be provided in the final budget. No more than 49% of the total dollar value of the Purchase Order can be subcontracted without DGS approval. The UNIVERSITY is prohibited from subcontracting more than 68% of the total dollar value of the Purchase Order.

All subcontracts must include the following provisions of this Agreement in their terms and conditions: Paragraph 11, Ownership Rights; Paragraph 12, Publications; Paragraph 13, Audit and Records Requirements; Paragraph 16, Interests of Members of the Commonwealth and Others; Paragraph 20, Review Rights; Exhibit B; and Exhibit C, as applicable. Additionally, all subcontracts must contain a provision that the UNIVERSITY may terminate the subcontract if the COMMONWEALTH terminates this Agreement for any reason.

8. ASSIGNABILITY:

The UNIVERSITY shall not assign any interest in this Agreement.

9. BACKGROUND CHECKS

To the extent specified in the final Scope of Work agreed upon by the Agency and the UNIVERSITY and contained in the Purchase Order issued by the Agency, this Background Check provision shall apply. The cost for background checks required by the Agency will be a reimbursable cost under the resulting Purchase Order.

a. The UNIVERSITY must arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access.

Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at http://www.psp.state.pa.us/lps/lib/spm/s4-164.pdf The background check must be conducted prior to initial access and on an annual basis thereafter.

b. Before the Commonwealth will permit access to the UNIVERSITY, the UNIVERSITY must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a UNIVERSITY employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the UNIVERSITY shall not assign that employee to any Commonwealth facilities,
shall remove any access privileges already given to the employee and shall not permit
that employee remote access unless the Commonwealth consents to the access, in
writing, prior to the access. The Commonwealth may withhold its consent in its sole
discretion. Failure of the UNIVERSITY to comply with the terms of this Section on
more than one occasion or UNIVERSITY’S failure to appropriately address any single
failure to the satisfaction of the Commonwealth may result in the UNIVERSITY being
deemed in default of its Agreement.

c. The Commonwealth specifically reserves the right of the Commonwealth to conduct
background checks over and above that described herein.

d. Access to certain Capitol Complex buildings and other state office buildings is
controlled by means of card readers and secured visitors’ entrances. Commonwealth
contracted personnel who have regular and routine business in Commonwealth worksites
may be issued a photo identification or access badge subject to the requirements of the
contracting agency and DGS set forth in Enclosure 3 of Commonwealth Management
Access to Certain Capitol Complex Buildings and Other State Office Buildings. The
requirements, policy and procedures include a processing fee payable by the
UNIVERSITY for contracted personnel photo identification or access badges.

10. CONFIDENTIALITY:

A. The UNIVERSITY agrees to protect the confidentiality of the
COMMONWEALTH’S information. The COMMONWEALTH agrees to protect the
confidentiality of UNIVERSITY’S confidential information. In order for information to
be deemed to be confidential, the party claiming confidentiality must designate the
information as “confidential” in such a way as to give notice to the other party. The
parties agree that such confidential information shall not be copied, in whole or in part,
except when essential for authorized use under this Agreement. Each copy of such
confidential information shall be marked by the party making the copy with all notices
appearing in the original. Upon termination or cancellation of this Agreement or any
license granted hereunder, the receiving party will return to the disclosing party all copies
of the confidential information in the receiving party’s possession, (other than one copy
of copyrighted works, which may be maintained for archival purposes only). Both parties
agree that a material breach of these requirements may, after failure to cure within the
time frame specified in this Agreement, and at the discretion of the non-breaching party,
result in termination for default.

The obligations stated in this Section do not apply to information:

a. already known to the recipient at the time of disclosure (insofar as that
information is not otherwise protected by law or regulation, despite such prior
knowledge);
b. independently generated by the recipient and not derived from the information supplied by the disclosing party;

c. known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;

d. disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or

e. required to be disclosed by the recipient by law, regulation, court order, or other legal process.

This Paragraph shall survive the expiration or termination of this Agreement and shall continue to bind both Parties, their employees, successors and assigns.

B. The UNIVERSITY shall not publish or otherwise disclose, except to the Commonwealth and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by or about any particular person or establishment can be identified, except with the consent of such person or establishment. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Agreement for any purpose not connected with the parties' Agreement responsibilities except with the written consent of such recipient, recipient's attorney, or recipient's parent or guardian pursuant to applicable state and federal law and regulations.

C. UNIVERSITY will comply with all federal or state laws related to the use of information that constitutes protected health information (PHI) as defined by the Health Insurance Portability and Accountability Act (HIPAA).

i) To the extent that PHI is provided by the COMMONWEALTH, the Agency, if it is a Covered Entity as defined in HIPAA, will attach to its Purchase Order the Business Associates Agreement, substantially in the form set forth in Attachment 4. It is understood that Attachment 4 is only applicable if PHI is provided to the UNIVERSITY.

ii) To the extent that PHI is provided in a limited data set, the Agency, if it is a covered entity as defined in HIPAA, will attach to its Purchase Order the Data Use Agreement substantially in the form set forth in Attachment 5. It is understood that Attachment 5 is only applicable if PHI is provided in a limited data set to the UNIVERSITY.
11. **OWNERSHIP RIGHTS:**

All proprietary materials and methodologies brought by the UNIVERSITY to the projects and work assignments under this Agreement and all documents, sketches, drawings, designs, works, papers, files, reports, computer programs, data, computer documentation and other tangible materials authored and prepared by UNIVERSITY as the work product covered in the scope of work shall be treated in accordance with the following principles:

**A. PREEXISTING MATERIALS BROUGHT BY THE UNIVERSITY TO PROJECT TASKS:** The COMMONWEALTH shall have no ownership rights to UNIVERSITY'S proprietary materials, data, software, methodologies or other intellectual property that the UNIVERSITY brings to the Projects and work assignments or has previously developed with or obtained from third parties, except insofar as these rights are granted to the COMMONWEALTH below. ("UNIVERSITY PROPERTY");

**B. COPYRIGHT OWNERSHIP – OWNERSHIP OF MATERIALS DEVELOPED AS PART OF THE SCOPE OF WORK FOR PROJECT TASKS:** Since this is a Purchase Order generated Agreement, the Parties shall earmark each purchase order in accordance with one of the following provisions:

1. **Work Made for Hire/UNIVERSITY Non-Exclusive License:**

   (a) Prior to commencement of the work under an individual purchase order, the Parties shall determine whether a purchase order shall be considered a work for hire. All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, data, computer documentation and other tangible materials authored and prepared by the UNIVERSITY as the Work Product covered in the scope of work for the individual Purchase Orders for the Project Tasks (collectively the "Works") including Works developed by subcontractors are the sole and exclusive property of the COMMONWEALTH and shall be considered works made for hire within the meaning of the federal Copyright Act of 1976, as amended, set forth in Title 17 of the United States Code. In the event that such Works do not fall within the specifically enumerated works that constitute works made for hire under the United States copyright laws, the UNIVERSITY agrees to assign and, upon their authorship or creation, expressly and automatically assigns all copyright interests, proprietary rights, and other right, title and interest in and to such Works to the COMMONWEALTH. COMMONWEALTH shall have all rights accrued a holder of copyright under the United States copyright laws including, but not limited to, the exclusive right to reproduce the Works in copies, the right to distribute copies by sale or other transfers, the right to register all copyrights in its own name as author in the United States and in foreign countries, the right to prepare derivative works based upon the Works, and the right to display the Works. Upon completion or termination of this Agreement, all working papers, files and other documentation
shall immediately be delivered by the UNIVERSITY to the COMMONWEALTH. UNIVERSITY warrants that the Works are original and to the best of its knowledge do not infringe the rights of any other work.

(b) Notwithstanding the foregoing, UNIVERSITY and any subcontractors shall retain a royalty free, non-exclusive license to use for research purposes, reproduce, disseminate, publish, prepare derivative works, sublicense (including research sponsors), and to publish the Works for theses, dissertations or journal articles, provided that such usage by University is not designed for commercial and pecuniary gain and is subject to the limitations of Section 12 ("Publications") of this Agreement. University agrees to grant COMMONWEALTH a royalty-free, irrevocable, non-exclusive license to use any derivative works created by the UNIVERSITY and/or its subcontractors based upon the Works created under the scope of a purchase order for internal governmental purposes. All copies of reproductions and publications made pursuant to this license shall bear proprietary notices. This license is conditioned on the licensee’s compliance with the provisions of the intellectual property laws of the United States. COMMONWEALTH reserves all rights not expressly set forth in this Paragraph.

(2) Purchase Orders Vesting Title in the UNIVERSITY and Granting a Non-Exclusive License to COMMONWEALTH: For those Purchase Orders not intended to create works made for hire, the right, title, and interest in any original work of authorship of Intellectual Property (the "Works") developed as part of the scope of work for the Purchase Order shall vest in the UNIVERSITY. The UNIVERSITY shall be accorded all rights provided to the owner of copyright under the federal Copyright Act.

The UNIVERSITY agrees to grant a royalty-free, perpetual, irrevocable, non-exclusive license to COMMONWEALTH to reproduce, disseminate, publish, display, and prepare derivative works based upon the Works including the right to sublicense the Works. If the UNIVERSITY transfers ownership of all or any portion of the Project to another entity, it shall ensure that its successors in interest afford COMMONWEALTH the same license as set forth in this Paragraph. This Paragraph shall survive the term of this Agreement.

C. PATENT OWNERSHIP: The UNIVERSITY and its subcontractors shall retain ownership to patentable items, patents, processes, inventions of discoveries (collectively the "Patentable Items") made by the UNIVERSITY during the performance of this Agreement. Notwithstanding the foregoing, the COMMONWEALTH is granted a non-exclusive, non-transferable, royalty free license to use or practice the Patentable Items. COMMONWEALTH may disclose to third parties any such Patentable Items made by the UNIVERSITY or any of its subcontractors under the scope of work for the Project and work assignments that have been previously publicly disclosed. COMMONWEALTH understands that any third party disclosure will not confer any license under such Patentable Items.
D. **FEDERAL GOVERNMENT INTERESTS:** It is understood that certain funding under this Agreement may be provided by the Federal government. Accordingly, the rights to Works or Patentable Items of UNIVERSITY or its subcontractors hereunder will be further subject to government rights as set forth in 37 C.F.R. Section 401, and other applicable statutes. Notwithstanding the foregoing, the COMMONWEALTH retains the right to share information relating to Works or Patentable Items developed under the scope of work for a wholly state-funded contract with the federal government in accordance with the terms of this Agreement in general and this paragraph relating to ownership rights in particular.

12. **PUBLICATIONS:**

All publications and their dissemination are subject to and governed by the provisions of Section 11, Ownership Rights. Therefore, both parties must adhere to and abide by the terms of their ownership rights or license rights in all instances involving publication. Where publication is authorized under Section 11, both written and oral releases are considered to be within the context of publication. However, the following general provisions apply to any publications not specified as confidential information by COMMONWEALTH. Confidential information is defined in Section 10 of this Agreement; confidential information also includes any information identified by the COMMONWEALTH as COMMONWEALTH'S confidential information in the Purchase Order. The UNIVERSITY reserves the right not to participate in any Purchase Order initiated by COMMONWEALTH that contains confidential information.

(a) Neither party shall publish or otherwise disclose, or permit to be published or disclosed, the project/service results contemplated in this Agreement, or any particulars of thereof, during the period of this Agreement, including supplements, without providing in writing to the other party and, as applicable, to the federal agency providing funding, the opportunity, with a minimum of two (2) weeks' notice, to review and comment for the purpose of identifying any proprietary or confidential information disclosed thereby. Abstracts may be used for notification of intent to present a publication based on the Project Tasks.

Publications, or any parts thereof, released by either party shall give credit to the other party and, as applicable, to the federal agency providing funding, unless, upon failure of agreement on any publication of this Project, either of the parties or the federal agency providing funding, as applicable, requests that its credit acknowledgment be omitted.

(b) All publications by the UNIVERSITY resulting from work funded under this Agreement shall contain a statement in the credit sheet that gives credit to the Commonwealth of Pennsylvania and, to the extent applicable, to the federal agency providing funding.
In addition to the credit specified above at the beginning of this Subparagraph 12(b), all reports must also contain the following disclaimers:

"The contents of this report reflect the views of the author(s) who is (are) responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the [Insert Name of Federal Agency Providing Funding] or the Commonwealth of Pennsylvania at the time of publication. This report does not constitute a standard, specification or regulation."

(c) Subject to the provisions of Subparagraph 12(a) above, publication by the UNIVERSITY shall be within the province of the UNIVERSITY’S policy. However, if the UNIVERSITY does elect to publish, the nonconcurrency, if any, of COMMONWEALTH shall be set forth, if requested by COMMONWEALTH.

(d) This disclaimer identified in Subparagraph 12(b) applies to and must be included in any and all subcontracts.

13. **AUDIT AND RECORDS REQUIREMENTS:**

A. In the event that the Commonwealth executive agency deems it necessary to require a specific audit, all costs incurred in the performance of this Agreement will be subject to audit by the awarding Commonwealth executive agency. If federal funds are involved the appropriate federal agency will be permitted to audit in accordance with OMB Circular A-133. The UNIVERSITY shall be responsible for payment of any and all audit exceptions which are identified during the audit by the Commonwealth executive agency. The Commonwealth executive agency that conducts or contracts for a purchase order specific audit shall arrange for funding the full cost of such a purchase order specific audit.

B. The Commonwealth and the UNIVERSITY agree that audit requirements shall be covered by the Single Audit Act. The UNIVERSITY agrees to comply with the requirements of the Single Audit Act of 1984, as amended, 31 U.S.C. § 7501 et seq., and OMB Circular A-133. The UNIVERSITY shall provide the COMMONWEALTH with a copy of its annual audit report, which shall include any exceptions noted on the audit. The UNIVERSITY will correct all audit exceptions within six months following such audit, and shall advise the COMMONWEALTH, in writing, as soon as all exceptions have been corrected, and that the UNIVERSITY is in compliance with OMB Circular A-133.
C. The UNIVERSITY shall maintain and make available accounting records and other verifiable evidence pertaining to the costs it incurs under this Agreement. The UNIVERSITY shall also require, in any subcontracts entered into for the Agreement, its subcontractors to maintain and make available accounting records and other verifiable evidence pertaining to the costs that they incur under this Agreement.

D. Except for documents delivered to the COMMONWEALTH, the UNIVERSITY shall preserve and make available the records for a period of four (4) years or as required by the COMMONWEALTH from the date of final payment under this Agreement, and for such period, if any, as specified by Paragraphs (1) and (2) below. The University may preserve all records on electronic media in lieu of hardcopy form. Records will be made available for inspection by the COMMONWEALTH, its authorized representatives, the Auditor General, and federal auditors at all reasonable times at the office of the UNIVERSITY or any subcontractor; and copies thereof shall be furnished, as requested.

(1) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of (4) four years or as required by the COMMONWEALTH from the date of any resulting final settlement.

(2) Records which relate to costs under this Agreement as to which exception has been taken by the auditors, shall be retained by the UNIVERSITY until such exceptions have reached final disposition.

E. The provisions of this paragraph shall be applicable to and included in each subcontract hereunder.

14. TERMINATION OF AGREEMENT:

A. This Agreement or any Purchase Order may be terminated by the COMMONWEALTH for non-performance, inadequate performance, non-appropriation of funds, unavailability of funds, or breach of any material terms and conditions by giving written notice to the UNIVERSITY of such termination and specifying the effective date thereof.

B. If this agreement or any Purchase order is breached, the COMMONWEALTH will allow the UNIVERSITY a forty five (45) day period from the date the UNIVERSITY receives written notice of the breach to correct its breach of the agreement or Purchase Order. If the UNIVERSITY does not correct its breach of
the Agreement or Purchase Order as specified, the COMMONWEALTH may terminate the Agreement or Purchase Order in whole or in part upon at least five day’s notice.

C. This Agreement or any Purchase Order may be cancelled without cause by either party upon thirty (30) days’ advance written notice.

D. In the event of termination by the COMMONWEALTH for lack of funds or in the event of termination without cause by either Party, the COMMONWEALTH will reimburse UNIVERSITY for work completed in accordance with the terms and conditions of the Agreement or Purchase Order and for noncancelable commitments.

15. AGREEMENT SUBJECT TO LAWS AND REGULATIONS:

This Agreement is subject to the provisions of all applicable federal, Commonwealth of Pennsylvania, and local laws and regulations and all amendments made thereto. The UNIVERSITY shall comply with all federal and state laws and local ordinances applicable to its work.

16. INTERESTS OF MEMBERS OF THE COMMONWEALTH AND OTHERS:

A. No officer, member, or employee of the Commonwealth or member of its General Assembly who exercises any functions or responsibilities under this Agreement shall participate in any decision relating to this Agreement which affects his/her personal interest or the interest of any corporation, partnership, or association in which he/she is, directly or indirectly, interested; nor shall any such officer, member, or employee of the Commonwealth or member of its General Assembly have any interest, direct or indirect, in this Agreement or the proceeds thereof.

B. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

17. INTEREST OF CONTRACTOR:

The UNIVERSITY hereby assures the COMMONWEALTH 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. The UNIVERSITY
further assures that in the performance of this Agreement, it will not knowingly employ any person having such interest. The UNIVERSITY further certifies to the best of its knowledge and belief that no member of the board of the UNIVERSITY or any of its officers or directors has such an adverse interest.

18. SUSPENSION OR DEBARMENT:

The UNIVERSITY certifies that it is not currently under suspension or debarment by the Commonwealth, any other state, or the federal government.

If the UNIVERSITY enters into any subcontracts under this Agreement with subcontractors who are currently suspended or debarred by the Commonwealth or federal government during the term of this Agreement or any renewals thereof, the COMMONWEALTH shall have the right to require the UNIVERSITY to terminate such subcontracts.

The UNIVERSITY represents that no taxes are owed by it to the Department of Revenue and/or the Department of Labor and Industry.

19. LIABILITY OBLIGATION OF THE UNIVERSITY:

The UNIVERSITY agrees to pay for any loss, liability or expense, which arises out of or relates to the UNIVERSITY’s acts or omissions with respect to its obligations hereunder, where a final determination of liability on the part of the UNIVERSITY is established by a court of law or where settlement has been agreed to by the UNIVERSITY. This provision shall not be construed to limit the UNIVERSITY’s rights, claims or defenses which arise as a matter of law or pursuant to any other provision of this Agreement. This provision shall not be construed to limit the immunity rights of the UNIVERSITY under the Procurement Code 62 PA.C.S.§1911 or otherwise.

20. REVIEW RIGHTS

The COMMONWEALTH and the federal agency providing funding, as applicable, have the right to review and inspect all project activities at any time.

21. INDEPENDENT CONTRACTOR

The UNIVERSITY shall perform its services under this Agreement as an independent contractor.

22. CONTRACT CONTROVERSIES
A. In the event of a controversy or claim arising from the Agreement or from a Purchase Order, as the case may be, the UNIVERSITY must, within six months after the cause of action accrues, file a written claim for determination: 1) with the Commonwealth Contracting Officer for claims pertaining to the Agreement; or 2) with the Commonwealth Agency that issued the Purchase Order for claims pertaining to a Purchase Order. The claim shall state all grounds upon which the UNIVERSITY asserts a controversy exists. If the UNIVERSITY fails to file a claim or files an untimely claim, the UNIVERSITY is deemed to have waived its right to assert a claim in any forum.

B. The Commonwealth Contracting Officer or Commonwealth agency, as the case may be, shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the Commonwealth Contracting Officer or Commonwealth agency, as the case may be, and the UNIVERSITY. The Commonwealth Contracting Officer or Commonwealth agency, as the case may be, shall send his/her written determination to the UNIVERSITY. If the Commonwealth Contracting Officer or Commonwealth agency, as the case may be, fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The Commonwealth Contracting Officer’s or Commonwealth agency’s, as the case may be, determination shall be the final order of the purchasing agency.

C. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the UNIVERSITY may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the UNIVERSITY shall proceed diligently with the performance of the Agreement in a manner consistent with the determination of the Commonwealth Contracting Officer or Commonwealth agency, as the case may be, and the Commonwealth shall compensate the UNIVERSITY pursuant to the terms of the Agreement.

23. ANTI-LOBBYING REQUIREMENT

Public Law 101-121, Section 319, U.S. Code Section 1352, prohibits the recipient or any lower tier subrecipients of a federal contract, grant, loan or cooperative agreement from expending federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the awarding of any federal contract, the making of any federal grant or loan or the entering into of any cooperative agreement. The UNIVERSITY agrees to comply with the Certification of Restrictions on Lobbying attached as Attachment 6 and made part of this Agreement, which an authorized official of the UNIVERSITY has executed.
24. INTEGRATION

Upon execution, this Agreement, together with all exhibits and attachments annexed to it, constitutes the entire agreement between the parties and completely expresses their intent. No amendment or modification of this Agreement shall be valid unless it is in writing and duly executed and approved by the parties.

25. UNIVERSITY CONTACT PERSON

The UNIVERSITY’S Office of Sponsored Programs:
Tim Stodart, Associate Director
Phone: 814-865-1027
Email: tms21@psu.edu
EXHIBIT B

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.

3. The Contractor and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

4. The Contractor and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

5. The Contractor and each subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the contracting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within fifteen (15) days after award of any contract, the Contractor shall be required to complete, sign and submit Form STD-21, the “Initial Contract Compliance Data” form. If the contract is a construction contract, then the Contractor shall be required to complete, sign and submit Form STD-28, the “Monthly Contract Compliance Report for Construction Contractors”, each month no later than the 15th of the month following the reporting period beginning with the initial job conference and continuing through the completion of the project. Those contractors who have fewer than five employees or whose employees are all from the same family or who have completed the Form STD-21 within the past 12 months may, within the 15 days, request an exemption from the Form STD-21 submission requirement from the contracting agency.

6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process.

In furtherance of this policy, Contractor agrees to the following:

1. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.

2. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.

3. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.; the State Adverse Interest Act, 71 P.S. §776.1 et seq.; and the Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq., or to breach any other state or federal law or regulation.

4. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.

5. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq. or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.

6. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.
7. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

8. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor’s financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor’s submission of the contract signed by Contractor.

9. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:

a. Approved in writing by the Commonwealth prior to its disclosure; or

b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or

c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or

d. Necessary for purposes of Contractor’s internal assessment and review; or

e. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or

f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or

g. Otherwise required by law.

10. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with,
convicted of, or officially notified of a governmental determination of any of the following:

a. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

b. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:

   (1) obtaining;
   (2) attempting to obtain; or
   (3) performing a public contract or subcontract.

Contractor’s acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

c. Violation of federal or state antitrust statutes.

d. Violation of any federal or state law regulating campaign contributions.

e. Violation of any federal or state environmental law.

f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.

g. Violation of the Act of June 2, 1915 (P.L.736, No. 338), known as the Workers’ Compensation Act, 77 P.S. 1 et seq.

h. Violation of any federal or state law prohibiting discrimination in employment.

i. Debarment by any agency or department of the federal government or by any other state.

j. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by Section 1641 of the Pennsylvania Election Code) file a report of political
contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars ($1,000) by any individual during the preceding year; or

b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars ($1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commission, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

12. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor’s behalf, no matter the procurement stage, are not exempt and must be reported.

13. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor’s Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.

14. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.

15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.
16. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph 17.

a. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through a act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.

b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.

c. "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.

d. "Financial interest" means:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

e. "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.
f. “Immediate family” means a spouse and any unemancipated child.

g. “Non-bid basis” means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

h. “Political contribution” means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

**CONTRACTOR RESPONSIBILITY PROVISIONS**

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at http://www.dgs.state.pa.us/ or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

AMERICANS WITH DISABILITIES ACT

a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the “General Prohibitions Against Discrimination,” 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor’s failure to comply with the provisions of subparagraph a above.
OFFSET PROVISION

The Contractor agrees that the Commonwealth of Pennsylvania (Commonwealth) may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.
EXHIBIT C

Pennsylvania Department of Transportation Supplemental
Contract Terms and Conditions

For Purchase Orders issued by the Pennsylvania Department of Transportation (PennDOT) the terms and conditions contained herein shall apply.

1. REQUIRED DBE ASSURANCE:

The UNIVERSITY shall not discriminate on the basis of race, color, national origin or sex in the performance of this IGA. The UNIVERSITY shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of United States Department of Transportation-assisted contracts. Failure by the UNIVERSITY to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the COMMONWEALTH deems appropriate. The UNIVERSITY must include this assurance in each subcontract that it signs with a subcontractor.

2. UTILIZATION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES:

One of the stated goals of the Agreement to be addressed through Project Tasks is designing and conducting programs and activities to attract employees at the COMMONWEALTH and students, faculty and staff at universities who reflect the growing diversity of the United States workforce. Accordingly, in furtherance of that particular goal and the other goals of the Agreement, the UNIVERSITY is encouraged to utilize Historically Black Colleges and Universities in Pennsylvania in the performance of Project Tasks.

3. REQUIRED PROVISION:

The UNIVERSITY will comply with the Federal Nondiscrimination and Equal Employment Opportunity Clauses, dated January 1976, and any amendments thereto, which is hereby incorporated by reference as though set forth in full in this Agreement.
EXHIBIT D

Department of Public Welfare Supplemental
Contract Terms and Conditions

To the extent applicable to the performance of the Scope of Work in Purchase Orders issued by the Department of Public Welfare (DPW) the UNIVERSITY will comply with the terms and conditions contained herein. The term “contractor” in this document refers to the “UNIVERSITY”.

1. PROGRAM SERVICES

Definitions of service, eligibility of recipients of service and other limitations in this contract are subject to modification by amendments to Federal, State and Local laws, regulations and program requirements without further notice to the Contractor hereunder.

2. CHILD PROTECTIVE SERVICE LAWS

In the event that the contract calls for services to minors, the contractor shall comply with the provisions of the Child Protective Services Law (Act of November 26, 1975, P.L. 438, No. 124; 23 P.S. SS 6301-6384, as amended by Act of July 1, 1985, P.L. 124, No. 33) and all regulations promulgated thereunder (55 Pa. Code, chapter 3490).

3. PRO-CHILDREN ACT OF 1994

The Contractor agrees to comply with the requirements of the Pro-Children Act of 1994; Public Law 103-277, Part C-Environment Tobacco Smoke (also known as the Pro-Children Act of 1994) requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health care services, day care and education to children under the age of 18, if the services are funded by Federal programs whether directly or through State and Local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for impatient drug and alcohol treatment.

4. MEDICARE/MEDICAID REIMBURSEMENT

A. To the extent that services are furnished by contractors, subcontractors, or organizations related to the contractor/subcontractor and such services may in whole or in part be claimed by the Commonwealth for Medicare/Medicaid reimbursements, contractor/subcontractor agrees to comply with 42 C.F.R.,Part 420, including:
1. Preservation of books, documents and records until the expiration of four (4) years after the services are furnished under the contract.

2. Full and free access to (i) the Commonwealth, (ii) the U.S. Comptroller General, (iii) the U.S. Department of Health and Human Services, and their authorized representatives.

B. Your signature on the proposal certifies under penalty of law that you have not been suspended/terminated from the Medicare/Medicaid Program and will notify the contracting DPW Facility or DPW Program Office immediately should a suspension/termination occur during the contract period.

5. CONTRACTOR RESPONSIBILITY TO EMPLOY WELFARE CLIENTS
(Applicable to contracts $25,000 or more)

A. The successful contractor, within 10 days of receiving the notice to proceed, shall contact the Employment Unit Coordinator in the County Assistance Office in the county where the contractor delivers the service to present, for review and approval, contractor's plan for recruiting and hiring of public assistance recipients for employment under this contract. Contractors which provide services through the contract to more than one county shall present their plan for review and approval to the Central Office of Employment and Training. Such plan shall be submitted on Form PA 778. A copy of the contractor's approved plan shall be returned with 30 days of notice to proceed to the initiating office/facility.

B. Pursuant to the approved plan, the contractor shall make a good faith effort to fill at least 25% of the new or vacant jobs created under this contract with qualified recipients referred by the County Assistance Office Employment Unit Coordinator.

C. Hiring under the approved plan shall be verified by Quarterly Contract Reports on Form PA 1540 to the Employment Unit Coordinator or to the Central Office of Employment and Training for plans covering more than one county. Such reports shall be made in the format approved by the Department.

D. The Department may cancel this contract upon thirty (30) days written notice in the event of contractor's failure to implement or abide by an approved plan.

For engagements where the UNIVERSITY will be in direct contact with DPW facilities, the following terms and conditions will apply:

6. TUBERCULOSIS CONTROL

As recommended by the Centers for Disease Control and the Occupational Safety and Health Administration, effective August 9, 1996, in all State Mental Health and Mental Retardation Facilities, all full-time and part-time employees (temporary and permanent),
including contract service providers, having direct patient contact or providing service in patient care areas, are to be tested serially with PPD by Mantoux skin tests. PPD testing will be provided free of charge from the state MH/MR facility. If the contract service provider has written proof of a PPD by Mantoux method within the last six months, the MH/MR facility will accept this documentation in lieu of administration of a repeat test. In addition, documented results of a PPD by Mantoux method will be accepted by the MH/MR facility. In the event that a contractor is unwilling to submit to the test due to previous positive reading, allergy to PPD material or refusal, the risk assessment questionnaire must be completed. If a contractor refuses to be tested in accordance with this new policy, the facility will not be able to contract with this provider and will need to procure the services from another source.

7. ACT 13 APPLICATION TO CONTRACTOR

Contractor shall be required to submit with their bid information obtained within the preceding one-year period for any personnel who will have or may have direct contact with residents from the facility or unsupervised access to their personal living quarters in accordance with the following:

A. Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal history record information) a report of criminal history information from the Pennsylvania State Police or a statement from the State Police that their central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. 9121(b)(2) (relating to general regulations).

B. Where the applicant is not, and for the two years immediately preceding the date of application has not been a resident of this Commonwealth, the Department shall require the applicant to submit with the application a report of Federal criminal history record information pursuant to the Federal Bureau of Investigation's under Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544, 86 Stat. 1109). For the purpose of this paragraph, the applicant shall submit a full set of fingerprints to the State Police, which shall forward them to the Federal Bureau of Investigation for a national criminal history check. The information obtained from the criminal record check shall be used by the Department to determine the applicant's eligibility. The Department shall insure confidentially of the information.

C. The Pennsylvania State Police may charge the applicant a fee of not more than $10 to conduct the criminal record check required under subsection 1. The State Police may charge a fee of not more than the established charge by the Federal Bureau of Investigation for the criminal history record check required under subsection 2.

The Contractor shall apply for clearance using the State Police Background Check (SP4164) at their own expense. The forms are available from any State Police Substation. When the State Police Criminal History Background Report is received, it must be forwarded to the Department. State Police Criminal History Background Reports not received within sixty (60) days may result in cancellation of the contract.