PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY
PURCHASING DEPARTMENT
REQUEST FOR PROPOSAL – RFP #950
FOR
AUDITING & NON-AUDITING SERVICES

The Pennsylvania Higher Education Assistance Agency ("PHEAA"), a public corporation and governmental instrumentality organized under the laws of the Commonwealth of Pennsylvania, is requesting that your firm participate in this Request for Proposal ("RFP") #950. Any interested firm ("Respondent") should read this RFP carefully, complete all sections and supply all information requested in this RFP, and timely submit its signed proposal ("Proposal") in accordance with the delivery instructions set forth below and in Section 3.0. Late Proposals will not be considered unless mitigating circumstances are approved by PHEAA.

DELIVERY INSTRUCTIONS

EMAIL one searchable PDF copy of your Proposal to bidresponse@phea.org.

Due by: March 27, 2020 by Noon (EST)

CONTACT FOR RFP INQUIRIES ONLY:

Buyer: Adam J. McNaughton
Phone: 717.720.7778
Email: amcnaugh@phea.org

THE BUYER IDENTIFIED ABOVE IS THE MAIN POINT OF CONTACT AND ALL QUESTIONS REGARDING THIS RFP SHOULD BE EMAILED TO THAT BUYER AT THE EMAIL ABOVE. OTHER REPRESENTATIVES WITHIN PHEAA’S PURCHASING DEPARTMENT OFFICE MAY REQUEST INFORMATION AND ONLY IN THAT CASE SHOULD YOUR RESPONSE BE ADDRESSED TO THAT INDIVIDUAL. DO NOT CONTACT ANY OTHER PHEAA EMPLOYEE OR REPRESENTATIVE REGARDING THIS RFP UNLESS SPECIFICALLY DIRECTED OTHERWISE.

This RFP and Respondent’s Proposal are subject to the non-disclosure agreement your company has entered into with PHEAA and neither this RFP nor any Proposal should be disclosed by Respondent to any third party. If you have received this RFP by any means other than directly from PHEAA’s Purchasing Department please notify the designated Contact for RFP Inquiries and identify how you received this RFP.

PHEAA reserves the right to issue one or more addenda to this RFP, or to request supplemental submissions, until such time as the RFP is awarded or rescinded.

PLEASE NOTE THAT NOTHING IN THIS RFP WILL BE CONSTRUED TO REQUIRE PHEAA TO ISSUE AN AWARD. BY SUBMITTING A PROPOSAL, RESPONDENT ACKNOWLEDGES THAT PHEAA, IN THE EXERCISE OF ITS SOLE AND ABSOLUTE DISCRETION, MAY OR MAY NOT AWARD A CONTRACT FOR THE PRODUCT, SERVICE OR PROJECT DESCRIBED IN THIS RFP.

PHEAA AUTHORIZED SIGNATURE

This is NOT AN ORDER
All returned proposals and related documents must be identified with our proposal number
Rev. 5/13/19

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The selected Respondent (or Respondents, if more than one (1) is selected) under this RFP will be the Respondent whose Proposal is the most advantageous to PHEAA. PHEAA is not bound to accept the lowest priced Proposal if that Proposal is not in the best interest of PHEAA as determined by PHEAA in its sole and absolute discretion. PHEAA reserves the right to negotiate any elements of the selected Respondent’s Proposal as a best and final offer during the contracting phase of the process.

**KEY DATES**

Be advised that these dates are subject to change as PHEAA deems necessary to meet business requirements:

<table>
<thead>
<tr>
<th>DATE</th>
<th>DESCRIPTION</th>
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<tbody>
<tr>
<td>February 27, 2020</td>
<td>RFP Issued</td>
</tr>
<tr>
<td>March 4, 2020</td>
<td>Master Mutual Nondisclosure Agreements signed (if not on file)</td>
</tr>
<tr>
<td>March 9, 8:00 a.m. EST</td>
<td>Questions Emailed to Buyer on page one</td>
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<tr>
<td>March 12, Close of Business</td>
<td>Questions &amp; Answers provided to all potential Respondents</td>
</tr>
<tr>
<td>March 27 @ 12:00 p.m. EST</td>
<td>Proposal Due Date and Time</td>
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<td>Week of March 30th or April 6th</td>
<td>Presentations (Buyer will schedule)</td>
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1.0 RFP DESCRIPTION

PHEAA is seeking proposals from qualified Public Accounting Firms ("firms") capable of providing Audit and Non-Audit services. Further details regarding the services and associated reports or deliverables to be provided can be found in Attachment C. The services requested will be for a total of five (5) years.

Firms shall include, but not be limited to including, in their proposal response the following:

- Discussion of experience working with similar entities and/or in similar industry
- Discussion of experience with performing the types of audits referenced in Attachment C
- Demonstration of approach and commitment to audit quality
- Team knowledge and depth/breadth of experience in similar engagements, including having Federal security clearances (5C).
- Demonstration of the Firms’ active and proven commitment to diversity
- How the firm will engage and work with minority, woman, or disabled veteran-owned companies and history of any prior partnerships with such companies.
  - Having agreements in place with one or more will be considered more favorably in the evaluation of the proposal.
  - Please include the percentage of the contract value that the firm will be using the minority, woman, or disabled veteran-owned companies. Percentages will be considered as part of the proposal scoring, with higher percentages viewed more favorably.
- Scope and pricing of the engagement based on services included in Attachment C

2.0 THE RFP PROCESS

2.1 PROPOSAL CRITERIA
Firms must have a signed Master Mutual Nondisclosure Agreement in place to respond to the RFP. Upon receipt of executed Master Mutual Nondisclosure Agreement, examples and detail as specified in Attachment C will be provided. PHEAA may choose to award a contract in whole or in part based on responses received. To be considered, Respondents must submit a complete Proposal that encompasses any or all of the services outlined in Section 1 of this RFP.

2.2 QUALIFICATION OF RESPONDENTS
Respondent must be a nationally recognized firm with revenues exceeding $1,500 million in revenue annually. However, as noted in section 1.0, respondents are strongly encouraged to partner with minority, woman, or disabled veteran-owned companies. A Respondent who chooses to subcontract any component of the deliverables contemplated in this RFP must comply with the following requirements: (1) PHEAA's written acceptance of the subcontract and the subcontractor; (2) Respondent must be responsible for all deliverables under the contract, regardless of whether or not subcontracted by the Respondent; and (3) Respondent must be the sole point of contact for any issues arising under the contract and/or with the deliverables.

2.3 RFP EVALUATION
PHEAA will evaluate costs, deliverables, timeliness and proposed processes from all the Proposals to determine which Respondent will be awarded a contract ("Awardee"). PHEAA may consider best and final offers as part of the negotiation process with the Awardee. PHEAA may assign points or weighted values to each criterion to standardize the scoring process.

2.4 AGREEMENT WITH AWARDEE
The applicable term for any services to be performed by the firm for PHEAA during the term of the contract shall be specified in the applicable SOW. PHEAA requires that each Proposal submitted in response to this RFP remain valid until an agreement is fully executed between PHEAA and the Awardee. Proposals must be
signed by an official representative of the Respondent who is duly authorized to bind the firm to its provisions. Moreover, the contents of the selected Respondent’s Proposal will become contractual obligations should the RFP result in an agreement, unless PHEAA provides a waiver to Respondent at PHEAA’s sole and absolute discretion.

2.5 OTHER CONSIDERATIONS

Late Submission: Proposals must be received by PHEAA by the Proposal Due Date and Time indicated on Page Three (3).

Errors in Proposal: PHEAA shall not be liable for any errors in Respondent’s Proposal. PHEAA is relying on the information contained in Respondent’s Proposal. It is expected that Respondent carefully reviewed its entire Proposal to ensure that all information is correct and complete. Respondents are liable for all errors or omissions contained in their Proposal. Respondents should follow all instructions carefully so as to avoid the possibility of being disqualified. PHEAA reserves the right, but is not obligated, to overlook minor variations so as not to disqualify a Respondent for non-substantial reasons. PHEAA also reserves the right, in its sole discretion, to seek supplemental information from Respondents.

Release of Claims, Liability and Preparation Expenses: Respondent agrees that PHEAA will not be responsible for any Proposal preparation expenses, submission costs, or any other expenses, costs or damages of whatever nature, incurred as a result of Respondent’s participation in this RFP process. Respondent further understands and agrees that it submits its Proposal at its own risk and expense and releases PHEAA from any claim for damages or other liability arising out of the RFP process.

Proposals Subject to Public Disclosure: Respondent acknowledges, understands, and agrees that any information, proprietary or otherwise, which is provided by Respondent to PHEAA may be subject to disclosure by PHEAA as a 'public record' as required by Pennsylvania's Right-to-Know Law, Act of June 21, 1957, P.L. 390, as amended now or in the future, 65 PS. §67.101 et. seq. Therefore, PHEAA considers all information, documentation and other materials (collectively, "Materials") submitted in response to this RFP to be of a non-confidential and/or non-proprietary nature. By submitting a response, Respondent agrees to release and hold PHEAA harmless from any liability resulting from PHEAA’s disclosure of such information.

Respondent further understands and agrees that the State Trade Secrets Act may not serve as exception to the Pennsylvania Right-to-Know Law; therefore, Respondent agrees to defend any action seeking release of the Materials believed to be trade secrets, and indemnify and hold harmless PHEAA, its agents, officers, representatives, board members, and employees, from any judgments or damages awarded against PHEAA in favor of the party requesting the Materials and any and all costs connected with that defense.

News Releases: News releases pertaining to this RFP MAY NOT be made without the prior written approval of PHEAA, and then only in conjunction with the issuing office and/or under the direction of the PHEAA Public Relations Officer. If such news releases are approved, PHEAA will provide written notification stating the explicit instructions to be followed concerning the news release.

3.0 PROPOSAL INSTRUCTIONS

3.1 PRICING

Pricing to be inclusive of any travel expenses (do not include a separate travel line item), if applicable in your pricing proposal. Please utilize the attached Attachment C – Audit & Non – Audit Services for pricing. Within the attachment is an All Services - Fees Tab. This tab should be used for proposing ALL Audit and Non-Auditing Services. The Services Fees (A and B) Tab should be used to price the grouped services as shown. Please refer to Audit Descriptions Tab which includes a summary description of each of the services being requested. Services to be awarded will either be for all services or could be awarded based on services as...
listed under “A and B”.

Note – Pricing should be provided and included in Attachment C.

4.0 DELIVERY INSTRUCTIONS

4.1 Email one searchable PDF copy of your Proposal, along with the completed pricing template (Attachment C), to bidresponse@pheaa.org on or before the Response Due Date and Time as set forth on Page three (3) of this RFP.
ATTACHMENT A

MANDATORY REQUIREMENTS/RESPONDENT PROPOSAL SIGNATURE AND CERTIFICATION FORM

All of the requirements listed below must be agreed to by the Respondent by checking “YES” for each item. A “NO” response to any of these Mandatory Requirements, or the modification or placement of conditions upon them will result in immediate disqualification of the Respondent’s proposal.

YES NO
☐ ☐ 1. Do you agree to make no further distribution of your response?

☐ ☐ 2. Does your Technical Proposal contain Attachment A – Mandatory Requirements/Respondent Proposal Signature and Certification Form, bearing the original signature of an official of your company authorized to bind your company to your response to this RFP?

☐ ☐ 3. Do you agree that the contents of this RFP and your response thereto may become part of any agreement entered into as a result of this RFP?

☐ ☐ 4. Do you agree that your response will remain valid until an Agreement is fully executed?

☐ ☐ 5. If you do not agree to a term or a condition, have you clearly and conspicuously taken an exception or proposed a deviation of that specific term or condition? Any redlines made to the terms and conditions shall be viewed as proposed modifications only. Award of the RFP is not an indicator that the redlines are accepted.

The undersigned has carefully examined all instructions, requirements, specifications, terms and conditions of this RFP; understands all instructions, requirements, specifications, terms and conditions of this RFP; and hereby offers and proposes to furnish the products and/or services described herein at the prices quoted in Respondent’s Proposal, and in accordance with the requirements, specifications, terms and conditions of this RFP.

The Respondent also certifies:

YES NO
☐ ☐ 1. It is a reputable company regularly engaged in providing products and/or services necessary to meet requirements, specifications, terms and conditions of the RFP.

☐ ☐ 2. It has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the requirements, specifications, terms and conditions of the RFP.

☐ ☐ 3. It is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.

☐ ☐ 4. It is not currently debarred or suspended from doing business with the Federal government, the Commonwealth of Pennsylvania, or any of their respective agencies.

☐ ☐ 5. It shall be bound by all statements, representations, warranties, and guarantees made in its Proposal, including but not limited to, representations as to price, performance, and financial terms.
6. Submission of a proposal indicates the Respondent's acceptance of the evaluation technique and the Respondent's recognition that some subjective judgments may be made by PHEAA as part of the evaluation.

7. All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Respondent acknowledges that PHEAA will rely on such statements, information and representations in selecting the successful Respondent.

Company Name: ____________________________

Street Address: ____________________________

City: __________________ State: ______ Zip: ________________

Phone: __________________ Email: __________________

I certify that I am a duly authorized representative of the Respondent listed above. PHEAA is hereby authorized to request from any individual or company any information it deems necessary to verify any information provided by Respondent in its proposal and to determine the capacity and responsibility of Respondent as a prospective contractor with PHEAA.

Signature: ____________________________
(Must be signed in full in ink by an officer of your company)

Name: ____________________________
(please type or print)

Title: ____________________________
(please type or print)
ATTACHMENT B

Trade Secret/Confidential Proprietary Information Notice

Instructions:

Pennsylvania’s Right-to-Know Law, 65 P.S. §§ 67.101—67.3104, at Section 707(a), requires PHEAA to notify a third party of a request for the public release of the third party’s materials containing trade secrets or confidential proprietary information only if the materials are accompanied, at the time they are submitted to PHEAA, by this form or a document containing similar information. In addition, in order to protect the safety and security of individuals, infrastructure, and information technology systems, PHEAA requires third parties to designate as confidential any information submitted by the third parties that, if disclosed, would be reasonably likely to jeopardize safety or security.

It is the responsibility of the party submitting this form to ensure that all statements and assertions made below are legally defensible and accurate. PHEAA will not provide a submitting party any advice with regard to Pennsylvania’s Right-to-Know Law, 65 P.S. §§ 67.101—67.3104, or laws relating to trade secret or confidential proprietary information.

Name of submitting party: __________________________________________________________

Contact information for submitting party: ______________________________________________

Please provide a brief overview of the materials that you are submitting (e.g. bid proposal, quote, grant application, statement of work, technical schematics): ____________________________

Please provide a brief explanation of why the materials are being submitted to the Commonwealth (e.g. response to bid, RFP or RFQ #12345, documents required to be submitted under law ABC): __________________________________________________________
Please indicate if any information has been included that you believe is exempt from public disclosure by checking the appropriate box below: (Note: Financial information submitted in response to an RFP or RFQ to demonstrate economic capability is exempt from public disclosure in accordance with Section 708(b)(26) of the Right-to-Know Law, 65 P.S. 67.708(b)(26)).

No information has been included that I believe is exempt from public disclosure.

Information has been included that I believe is exempt from public disclosure.

Please provide a list detailing which portions of the material being submitted you believe are exempt from public disclosure. This includes trade secret, confidential or proprietary information, or information that if disclosed would be reasonably likely to jeopardize the safety or security of an individual, infrastructure, or information technology system. Please provide an explanation of why you think those materials constitute a trade secret, confidential or proprietary information, or why disclosure of those materials would be reasonably likely to jeopardize safety or security. Also, please mark the submitted material in such a way to allow a reviewer to easily distinguish between the parts referenced below. (You may attach additional pages if needed.)

**Note:** Without substantial justification, the following information will generally not be considered a trade secret or confidential proprietary information:
- Information submitted as part of a vendor’s solicitation response that does not implicate safety and security, or pertain to specific business practices or product specification.
- Information submitted as part of a vendor’s solicitation response that is otherwise publicly available or otherwise easily obtained.
- Aggregated pricing information for any product or service being purchased by PHEAA.

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<th>Description</th>
<th>Explanation</th>
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Acknowledgment

The undersigned party hereby agrees that it has read and completed this form, and has marked the material being submitted in accordance with the instructions above. The undersigned party acknowledges that PHEAA is not liable for the use or disclosure of trade secret, confidential or proprietary information, or information that if disclosed would be reasonably likely to jeopardize the safety or security of an individual, infrastructure or information technology system, where that data or information has not been accompanied by a specific explanation included with this form.

The undersigned agrees to defend any action seeking release of the materials it believes to be trade secret, confidential or proprietary, or would be reasonably likely to result in a safety or security risk if disclosed. The undersigned also agrees to indemnify and hold harmless PHEAA, its agents and employees, from any judgments awarded against PHEAA in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives so long as PHEAA has possession of the submitted material, and will apply to all costs unless and until the undersigned provides a written statement or similar notice to PHEAA stating that it no longer wishes to exempt the submitted material from public disclosure.

The undersigned acknowledges that PHEAA is required to keep all records for at least as long as specified in its records retention schedule.

The undersigned acknowledges that PHEAA reserves the right to reject the undersigned's claim that the information is trade secret, confidential, proprietary or is reasonably likely to result in a safety or security risk if disclosed, if PHEAA determines that the undersigned has not met the burden of establishing that the information constitutes a trade secret, is confidential, or is otherwise exempt. The undersigned also acknowledges that if only a certain part of the submitted material is found to constitute a trade secret, is confidential or proprietary, or is otherwise exempt, the remainder of the submitted material will become public; only the protected information will be removed and remain nonpublic.

If being submitted electronically, the undersigned agrees that the mark below is a valid electronic signature.

____________________  __________   __________
Signature             Title          Date
EXHIBIT A

NONDISCRIMINATION CLAUSE

During the term of this contract, Contractor agrees as follows:

(1) Contractor shall not discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, handicap, ancestry, national origin, age or sex.

Contractor shall take affirmative action to insure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, handicap, ancestry, national origin, age or sex. Such affirmative action shall include, but is not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employees, agents, applicants for employment, and other persons, a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

(2) During the term of this contract, the Contractor agrees as follows:

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 no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing 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 the 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 paragraph a) above.

(3) Contractor shall, in advertisements or requests for employment placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age or sex.

(4) Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contractor understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.

(5) It shall be no defense to a finding of non-compliance with this nondiscrimination clause that Contractor had delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.

(6) Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under this nondiscrimination clause, Contractor shall then employ and fill vacancies through other nondiscriminatory employment procedures.

(7) Contractor shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor’s noncompliance with the nondiscrimination clause of this contract or with any such laws, this contract may be terminated or suspended, in whole or in part, and Contractor may be declared temporarily ineligible for further Commonwealth contracts, and other sanctions may be imposed and remedies invoked.

(8) Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by, the contracting agency for purposes of investigation to ascertain compliance with the provisions of this clause. If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency.

(9) Contractor shall actively recruit minority and women subcontractors or subcontractors with substantial minority representation among their employees.

(10) Contractor shall include the provisions of this nondiscrimination clause in every subcontract, so that such provisions will be binding upon each Subcontractor.

(11) Contractor obligations under this clause are limited to the Contractor’s facilities within Pennsylvania or, where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

Rev. 4.4.16
EXHIBIT B

SPECIAL TERMS AND CONDITIONS

These Special Terms and Conditions are to be read in conjunction with the Agreement (the “Agreement”) between the Pennsylvania Higher Education Assistance Agency (“PHEAA”) and Contractor, including without limitation any attachments, exhibits or other supplements incorporated into the Agreement. In the event of a conflict between these Special Terms and Conditions and any provision of the Agreement, these Special Terms and Conditions shall prevail. The terms “Government” or “Federal Government” as used herein, each means the United States Government or any of its agencies or instrumentalities, including without limitation the Department of Education.

I. Contractors Debarred, Suspended or Proposed for Debarment. Contractor represents, warrants and certifies that neither Contractor nor any of its principals are currently under suspension or debarment, or proposed for suspension or debarment, by any state or by the Federal Government. If Contractor is subsequently suspended, debarred, proposed for suspension or debarment, or enters into a subcontract under this Agreement with any subcontractor who are currently, or who subsequently become, suspended, debarred or proposed for suspension or debarment, Contractor shall provide prompt written notice thereof to PHEAA, and PHEAA shall have the right to either (i) require Contractor to terminate such subcontracts or (ii) terminate this Agreement.

II. Changes. PHEAA may order changes within the general scope of the Agreement at any time by written notice to Contractor, including without limitation, the description of services to be performed, time or place of performance, or any other change required due to a change made to a contract between PHEAA and the Federal Government. Contractor shall comply with a notice of change upon receipt. Contractor shall be compensated for additional costs incurred as the result of such order and shall credit PHEAA for any savings, as determined by written agreement of the parties. Contractor must assert a right to a compensation adjustment under this clause by providing written notice of its request for adjustment within 30 days of receipt of a written change order. Nothing in this clause shall excuse Contractor from proceeding with the contract as modified by any such change order.

III. Termination for Convenience. Notwithstanding any other provision of this Agreement, PHEAA may immediately terminate this Agreement, in whole or in part, to the extent any item or service provided by Contractor is related to a contract between PHEAA and the Federal Government, and such contract between PHEAA and the Federal Government is terminated in whole or in part. In the event of such termination, PHEAA shall be liable only for work performed prior to termination.

IV. Security Clearances. Contractor understands and agrees that each of its employees, agents or contractors may be required to obtain a Federal security clearance prior to beginning work at a PHEAA location or accessing confidential, proprietary or other restricted or sensitive information from PHEAA. PHEAA may at its sole discretion refuse to allow any of Contractor’s employees, agents or contractors who do not obtain any required security clearance to perform any services under this Agreement.

V. Self-Reporting of Violations. Contractor shall promptly refer to PHEAA and to an appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee or subcontractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

VI. Security Protocol for Reporting Contract Employee Departure from a Contract. Contractor shall immediately notify PHEAA when a Contractor or subcontractor employee no longer provides services under the contract. Such notification shall include, but not be limited to, the following: employee’s first, middle and last name; eQIP number, if available; list of systems to which the employee had access, and any associated user IDs, if available; and termination date.

VII. CONFLICTS OF INTEREST.

(a) Contractor and any subcontractor, employee or consultant of Contractor, by signing the Agreement, certifies that, to the best of its knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational or personal conflict of interest, (see 48 C.F.R. subpart 9.5, for organizational conflicts of interest), or apparent conflict of interest, for the organization or any of its staff, and that Contractor and any subcontractor, employee or consultant has disclosed all such relevant information if such a conflict of interest appears to exist to a reasonable person with knowledge of the relevant facts.
(or if such a person would question the impartiality of the Contractor, subcontractor, employee or consultant). Conflicts may arise in the following situations:

1. Unequal access to information – a potential contractor, subcontractor, employee or consultant has access to non-public information through its performance on a Federal Government contract.

2. Biased ground rules – a potential contractor, subcontractor, employee or consultant has worked, in one Federal Government contract, or program, on the basic structure or ground rules of another Federal Government contract.

3. Impaired objectivity – a potential contractor, subcontractor, employee or consultant, or member of their immediate family (spouse, parent or child) has financial or other interests that would impair, or give the appearance of impairing, impartial judgment in the evaluation of Government programs, in offering advice or recommendations, or in providing technical assistance or other services to recipients of Federal funds.

Contractor must provide the disclosure described above on any actual, potential or apparent conflict of interest regardless of its opinion that such a conflict would not impair their objectivity. In a case in which an actual, potential or apparent conflict is disclosed, PHEAA or the Federal Government will take appropriate actions to eliminate or address the actual, potential or apparent conflict, including but not limited to mitigating or neutralizing the conflict, when appropriate, through such means as ensuring a balance of views, disclosure with the appropriate disclaimers, or by restricting or modifying the work to be performed to avoid or reduce the conflict. In this clause, the term “potential conflict” means reasonably foreseeable conflict of interest.

(b) Contractor, and any subcontractor, employee or consultant, agrees that if impaired objectivity, or an actual, potential or apparent conflict of interest is discovered after the award is made, it will make a full disclosure in writing to PHEAA. This disclosure shall include a description of actions Contractor has taken or proposes to take, after consultation with PHEAA, to avoid, mitigate, or neutralize the actual, potential or apparent conflict.

(c) PHEAA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid the appearance of a conflict of interest. If Contractor was aware of a potential conflict of interest prior to award or discovered an actual, potential or apparent conflict of interest after award and did not disclose or misrepresented relevant information to PHEAA, PHEAA may terminate the contract for default, and PHEAA or the Federal Government may pursue such other remedies as may be permitted by law or this contract. These remedies include imprisonment for up to five years for violation of 18 U.S.C. § 1001, fines of up to $5,000 for violation of 31 U.S.C. § 3802, as well as suspension or debarment from contracting with the Commonwealth of Pennsylvania or Federal Government. Contractor may also be required to reimburse PHEAA or the Government for costs incurred arising from activities related to conflicts of interest. An example of such costs would be those incurred in processing Freedom of Information Act requests related to a conflict of interest.

(d) In cases where remedies short of termination are applied, Contractor or any subcontractor, employee or consultant agrees to eliminate the conflict of interest, or mitigate it to the satisfaction of PHEAA and the Government.

(e) Contractor shall insert in any subcontract or consultant agreement hereunder provisions which shall conform substantially to the language of this clause including specific mention of potential remedies and this paragraph (e).

VIII. Incorporation of Federal Acquisition Regulations by Reference. The following FARs are incorporated by reference as if fully set forth herein, except that the term “Contracting Officer”, wherever it appears in the FARs, shall be replaced by “PHEAA,” the terms “Contractor” shall, include directors, officers, partners, managers, employees, agents and owners of more than five percent (5%) financial interest in Contractor, and the terms “Government” or “Federal Government” each means the United States Government or any of its agencies or instrumentalities, including without limitation the Department of Education.
<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Title</th>
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<tr>
<td>52.203-13</td>
<td>Contractor Code of Business Ethics and Conduct (Dec 2008)¹</td>
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<tr>
<td>52.203-17</td>
<td>Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014)²</td>
</tr>
<tr>
<td>52.203-19</td>
<td>Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)</td>
</tr>
<tr>
<td>52.204-21</td>
<td>Basic Safeguarding of Covered Contractor Information Systems (June 2016)³</td>
</tr>
<tr>
<td>52.204-23</td>
<td>Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and other Covered Entities (Jul 2018)⁴</td>
</tr>
<tr>
<td>52.204-25</td>
<td>Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2019)</td>
</tr>
<tr>
<td>52.215-2</td>
<td>Audit and Records – Negotiation – Alternate I (Mar 2009)</td>
</tr>
<tr>
<td>52.219-8</td>
<td>Utilization of Small Business Concerns (May 2004)⁵</td>
</tr>
<tr>
<td>52.219-9</td>
<td>Small Business Subcontracting Plan (Oct 2015)</td>
</tr>
<tr>
<td>52.222-26</td>
<td>Equal Opportunity (Mar 2007)</td>
</tr>
<tr>
<td>52.222-35</td>
<td>Equal Opportunity for Veterans (Sep 2006)⁶</td>
</tr>
<tr>
<td>52.222-36</td>
<td>Affirmative Action for Workers with Disabilities (Jun 1998)⁷</td>
</tr>
<tr>
<td>52.222-39</td>
<td>Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004)⁸</td>
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<tr>
<td>52.222-41</td>
<td>Service Contract Act of 1965 (Nov 2007)</td>
</tr>
<tr>
<td>52.222-50</td>
<td>Combating Trafficking in Persons (Aug 2007)</td>
</tr>
<tr>
<td>52.222-54</td>
<td>Employment Eligibility Verification (Jan 2009)⁹</td>
</tr>
<tr>
<td>52.224-1</td>
<td>Privacy Act Notification (Apr 1984)¹⁰</td>
</tr>
</tbody>
</table>

¹ Applies only if the Agreement has a value in excess of $5,000,000 and a performance period of more than 120 days.
² Applies only if the Agreements or any purchase order thereunder is expected to have a value in any single year that exceeds the current “simplified acquisition threshold” as defined in FAR 2.101.
³ Applies only if the Contractor may have Federal contract information residing in or transiting through its information system, other than acquisition of commercially available off-the-shelf items.
⁴ Applies as of October 1, 2018, and going forward, to covered articles the US Government will use, or which are used in the development of data or deliverables first produced in the performance of this Contract.
⁵ Applies only if Contractor provides provide further subcontracting opportunities under the Agreement.
⁶ Applies only if the Agreement or any purchase order thereunder has a value equal to or greater than $100,000.
⁷ Applies only if the Agreement or any purchase order thereunder has a value equal to or greater than $10,000.
⁸ Applies only if the Agreements or any purchase order thereunder is expected to have a value in any single year that exceeds the current “simplified acquisition threshold” as defined in FAR 2.101.
⁹ Applies only if the Agreement: (i) has a value in excess of $3,000; (ii) is for services (excluding services to provide only “Commercially available off-the-shelf (“COTS”) items”, as defined in the FAR, or items that would be a COTS item but for minor modifications) performed by the COTS provider and normally provided for that COTS item or is for construction, and (iii) includes work performed in the United States.
¹⁰ Applies only if Contractor will be required to design, develop or operate a system of records on individuals to accomplish a Government function.
IX. Reporting Executive Compensation and First-Tier Subcontract Awards.

(a) Pursuant to FAR (FAR) 52.204-10 (July 2010), PHEAA must report information regarding certain first-tier subcontracts to the Government. Contractor acknowledges this obligation and agrees to provide the information listed in this clause no later than ten (10) after execution of the Agreement:

(1) Unique identifier (DUNS Number) for the Contractor and for the Contractor’s parent company, if applicable.

(2) Contractor’s physical address (street address, city, state, country, nine-digit zip code) as well as the congressional district in which this address is located.

(3) Contractor’s primary performance location (street address, city, state, country, nine-digit zip code) as well as the congressional district in which this location resides.

(4) The applicable North American Industry Classification System code for the goods or services provided.

(5) In addition, Contractor shall provide information summarizing the total compensation and names of each of the five most highly compensated executives for Contractor’s preceding completed fiscal year, if: (i) in its preceding fiscal year, Contractor received: both 80% or more of its annual gross revenues and $25,000,000 or more in annual gross revenue from Federal contracts, subcontracts, loans, grants, subgrants, and cooperative agreements; and (ii) the public does not have access to information about compensation of Contractor’s executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 or Section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access, see U.S. Security and Exchange Commission total compensation filings at [http://www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)

(c) Contractor acknowledges that information reported under this provision will be made public by the Government pursuant to the Federal Funding Accountability and Transparency Act of 2006, as amended by section 6202 of the Government Funding Transparency Act of 2008.

(d) Definitions. As used in this clause:

(1) “Executive” means officers, managing partners, or any other employees in management positions.

(2) “Total compensation” means the cash and noncash dollar value earned by an executive during the Contractor’s preceding fiscal year and includes (for more information see 17 C.F.R. 229.402(c)(2)):

   (i) Salary and bonus.

   (ii) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

   (iii) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

   (iv) Change in pension value. The change in present value of defined benefit and actuarial pension plans.

   (v) Above-market earnings on deferred compensation which is not tax-qualified.

   (vi) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

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11 Applies only if Contractor will be required to design, develop or operate a system of records on individuals to accomplish a Government function.
12 Applies only if Government property is provided to Contractor for performance of the Agreement.
13 Does not apply if the Agreement is valued at less than $25,000, if Contractor is an individual; or if Contractor’s gross receipts in the immediately preceding tax year were less than $300,000.
X. **Precedence of Terms.** These Special Terms and Conditions shall apply in all instances. In the event of any conflict between any of the Special Terms and Conditions and any other provision of the Agreement, including without limitation any General Terms and Conditions, these Special Terms and Conditions shall apply.

Revised: 9/12/2019