Amended Agenda for Executive and Audit Committee Meeting
PSU Market Center Building
1600 SW 4th Avenue
Gold Conference Room, 541
Wednesday, 5/27/2015
2:00 - 4:00 PM PT

1. Call to Order/Roll/Declaration of Quorum

2. Consent Agenda
   a. Approval of Minutes from December 2, 2014 Meeting
      Minutes from December 2, 2014 Meeting - Page 2
   b. Approval of Minutes from Joint Executive & Audit and Finance & Administration Meeting from February 12, 2015
      Minutes from Joint E&A and F&A February 12, 2015 Meeting - Page 5
   c. Approval of Minutes from February 12, 2015 Meeting
      Minutes from February 12, 2015 Meeting - Page 6
   d. Approval of Minutes from April 8, 2015 Meeting
      Minutes from April 8, 2015 Meeting - Page 7

3. Audit Update
   a. Progress on Audit Plan
   b. Athletics Audit

4. Proposed Board Policy on Evaluation of the President
   Cover Sheet: Approval of Board Policy Regarding Evaluation of the President - Page 9
   Policy Regarding Presidential Evaluation - Page 10

5. Proposed Revision and Renewal of President's Contract
   Cover Sheet: Approval of New Employment Agreement with President - Page 12
   President Wiewel Employment Agreement - Page 14

6. Acknowledgment of Institutional Responsibilities Under Program Participation Agreement Related to Title IV Financial Assistance Programs
   Cover Sheet: Approval of Resolution Acknowledging Institutional Responsibilities Under Program Participation Agreement Related to Title IV Financial Assistance Programs - Page 23
   Resolution Acknowledging Institutional Responsibilities Under Program Participation Agreement Related to Title IV Financial Assistance Programs - Page 24

7. Adjourn
December 2, 2014
Market Center Building
1600 SW 4th Ave, Suite 541 – Gold Conference Room
8:00-9:00 am

Minutes

Committee Members present: Pete Nickerson, Tom Imeson, Margaret Kirkpatrick, Rick Miller, Gale Castillo (arrived at 8:15am), Wim Wiewel

Committee Members not present: None.

PSU Staff present included: David Reese, David Terry, Rachel Martinez, and Shelley Winn

1. CALL TO ORDER/ROLL/ DECLARATION OF QUORUM

Chair Nickerson called the meeting to order at 8:08 am and the Board Secretary took role. A quorum was present, and the meeting, having been duly convened, was ready to proceed with business.

2. APPROVAL OF THE MARCH 5, 2014 MEETING MINUTES

ACTION: Kirkpatrick moved that the March 5, 2014 minutes be approved. Miller seconded the motion. The motion passed unanimously.

3. INTRODUCTION TO DAVID TERRY, DIRECTOR OF INTERNAL AUDIT

David Terry introduced himself and provided a brief overview of his work history and current position.

4. SUMMARY OVERVIEW OF INTERNAL AUDIT (TERRY)

David Terry presented a summary overview of Internal Audit and explained the definition of internal auditing approved by the Institute of Internal Auditors.

A Risk Assessment and Audit Plan will be prepared annually and presented to the Board for approval. The objective of the assessment and plan is to identify audits that will provide the most value to PSU by reducing the risk of operational inefficiencies and ineffectiveness, increase the reliability and transparency of financial reports, mitigate the risk of misappropriation of assets, and mitigate the risk of non-compliance.
The workflow of the internal audit process was reviewed. Terry then discussed EthicsPoint and the hotline complaint process.

Terry stated that he has no impairments to his independence or objectivity for the 2015 planned audits.

5. REVIEW AND APPROVAL OF INTERNAL AUDIT CHARTER AND AMENDMENT TO EXECUTIVE AND AUDIT COMMITTEE CHARTER AND RECOMMENDATION TO THE FULL BOARD (TERRY)

Terry recommended minor changes to the Executive and Audit Committee charter in order to be in compliance with the International Standards for the Professional Practice of Internal Auditing.

President Wiewel suggested the name of the office be “Internal Audit Office” or IAO to avoid confusion with OIA (Office of International Affairs). The committee agreed that the documents should be revised accordingly.

ACTION: Kirkpatrick made a motion to approve the Internal Audit Charter and the proposed revision to the Executive and Audit Committee Charter and recommend approval to the full Board. Miller seconded the motion. The motion passed unanimously.

6. REVIEW AND APPROVAL OF ANNUAL RISK ASSESSMENT AND AUDIT PLAN AND RECOMMENDATION TO THE FULL BOARD (TERRY)

Terry has completed a Risk Assessment and Audit Plan and discussed his findings with the Committee. Terry recommends four audits in 2015: Athletics, Research and Strategic Partnerships, Financial Aid, and Housing and Residence Life. In addition, Terry intends to perform a consulting project related to University Advancement, based on a request by President Wiewel. The 2016 projects are tentative and may be subject to re-prioritizing.

After discussion by the Committee, it was decided that the annual audit plan should match the fiscal year, rather than the calendar year, in future years. Terry will make the necessary changes for next year’s audit plan.

ACTION: Rick Miller made a motion to approve the Internal Audit Plan and recommend approval to the full Board. Gale Castillo seconded the motion. The motion passed unanimously.


President Wiewel presented goals for his 2014-15 evaluation and referenced the memo in the materials. The indicators are primarily a template developed and used by OUS. There are 13 indicators listed, some are goals, and some are indicators, and some are leadership and management changes. President Wiewel added numbers 11 (Sponsored Research Expenditures), 12 (Philanthropy), and 13 (Financial Indicator TBA).
8. **EXECUTIVE SESSION: DISCUSSION REGARDING REVIEW AND EVALUATION OF THE PRESIDENT**

At 8:58 am, Chair Nickerson convened an executive session pursuant to ORS 192.660(2)(i), which allows the Board of Trustees, and its Executive and Audit Committee, to meet in executive session to review and evaluate the employment-related performance of the chief executive officer of the University.

At 9:16 am, Chair Nickerson announced that the executive session had concluded and the meeting was again open to the public.


**ACTION:** Gale Castillo made a Motion to approve the President’s 2014-15 Goals and Presidential Evaluation Process and recommended approval to the full Board. Margaret Kirkpatrick seconded the motion. The motion passed unanimously.

Chair Nickerson stated the Executive and Audit Committee and the full Board will need to develop a policy to govern the evaluation of the president in future years. In the current year, however, the Board will follow the established metrics and process.

10. **HOUSEKEEPING ITEMS (NICKERSON)**

Irving Levin is the Board member assigned to the University Strategic Planning Committee.

The replacement for student Trustee Pamela Campos-Palma was discussed. Nominee Maria Carolina Gonzalez-Prats is scheduled for Senate confirmation on December 9, 2014. Pending confirmation, her appointment is expected to be effective December 12.

Chair Nickerson asked if the E&A Board was opposed to having meetings at different locations around campus. The need for accommodation of large audiences and technology was noted.

Chair Nickerson and the committee discussed having a generic e-mail address available to the public. Committee members support the establishment of a generic e-mail address. Chair Nickerson will follow up.

Chair Nickerson and the committee discussed the format for voting. Some members have requested that the chair call for abstentions during votes. The bylaws do not address this point.

Chair Nickerson adjourned the meeting at 9:29 am.
Minutes

Committee members present: Erica Bestpitch, Gale Castillo, Tom Imeson, Margaret Kirkpatrick (left at 8:10 am), Rick Miller, Pete Nickerson, Christine Vernier, and Wim Wiewel (ex officio, non-voting)

Committee members not present: Irving Levin and Peter Stott.

PSU staff present: Dave Reese, Shelley Winn, and Susan Klees.

1. CALL TO ORDER/ROLL/DECLARATION OF QUORUM

Chair Nickerson called the meeting to order at 8:04 am and the Board Secretary took role. A quorum was present, and the meeting, having been duly convened, was ready to proceed with business.

2. 2014 ANNUAL FINANCIAL REPORT PRESENTATION BY JEAN BUSHONG, CLIFTONLARSONALLEN LLP

Ms. Jean Bushong of CliftonLarsonAllen LLP presented the 2014 Annual Financial Report. Committee members and Ms. Bushong engaged in a thorough discussion and explanation of the report. She explained the roles and responsibilities, methodology, and the findings of the report and answered clarifying questions.

ACTION: Chair Nickerson called for a vote to accept the 2014 Annual Financial Report and to recommend adoption to the full Board on March 12, 2015. Miller made a motion to accept the report. Imeson seconded. There was no further discussion. The motion passed unanimously.

3. ADJOURN

With no further comments or questions from the committee, Chair Nickerson adjourned the meeting at 9:10 am.
Feb 12, 2015
Market Center Building: 1600 SW 4th Ave, Suite 541 – Gold Conference Room
7:45 am – 8:00 am

Minutes

Committee Members Present: Gale Castillo, Tom Imeson, Margaret Kirkpatrick, Pete Nickerson, Wim Wiewel (ex officio, non-voting)

Committee Members not present included: Rick Miller

PSU Staff present included: David Reese, Shelley Winn, and Susan Klees

1. CALL TO ORDER/ROLL/DECLARATION OF QUORUM

Chair Nickerson called the meeting to order at 7:48 am and the Board Secretary took role. A quorum was present, and the meeting, having been duly convened, was ready to proceed with business.

2. BOARD OFFICER RECOMMENDATIONS FOR FY 15-16

Board Secretary David Reese explained that the Committee was required to consider recommendations for Board Officers for FY 14-15 and make those recommendations for the Board’s consideration at the Board’s March 12, 2015 meeting. Recommendations forwarded to the Board Secretary by members of the Board include the recommendation for Pete Nickerson to serve as Chair and for Tom Imeson to serve as Vice-Chair. Chair Nickerson opened the floor for discussion and for other proposed changes or other nominations. There was no further discussion, proposed changes or other nominations.

ACTION: Chair Nickerson called for a vote on the recommendations. The present committee members unanimously agreed to nominate Pete Nickerson and Tom Imeson as Chair and Vice-Chair, respectively, to the full Board on March 12, 2015.

3. ADJOURN

With no further comments or questions from the committee, Chair Nickerson adjourned the meeting at 7:52 am.
April 8, 2015
Market Center Building
1600 SW 4th Ave, Suite 541 – Gold Conference Room
3:30 pm

Minutes

Committee Members Present: Gale Castillo, Tom Imeson, Margaret Kirkpatrick, Rick Miller (by phone)
Pete Nickerson, Wim Wiewel (ex officio, non-voting)

Committee Members not present included: None.

PSU Staff present included: Don Forsythe, Dave Reese, Keven Reynolds, and Shelley Winn.

1. CALL TO ORDER/ROLL/DECLARATION OF QUORUM

Chair Nickerson called the meeting to order at 3:31 pm and the Board Secretary took role. A quorum was present, and the meeting, having been duly convened, was ready to proceed with business.

2. APPROVAL OF RESOLUTION APPROVING INTERNAL FINANCING FOR SCHOOL OF BUSINESS ADMINISTRATION AND STOTT CENTER/VIKING PAVILION PROJECTS

President Wiewel explained that the State is expected to issue the Article XI-G bonds for both projects in May 2015. In that case, the University will need to provide evidence of its qualified matching funds to the State Treasurer and the State’s Bond Counsel on or near April 21, 2015.

At the January 30, 2015 meeting, the plan of finance for the projects presented to the Board anticipated using approximately $6.5 million of Internal Financing for matching purposes to provide a bridge for pledged philanthropic gifts not yet received. The plan assumed approximately $23.5 million of qualified match in hand, prior to Internal Financing. However, as of March 31, 2015, the University had approximately $21.6 million of qualified matching funds in hand. Additional amounts have been pledged or are subject to restrictions that prevent counting such funds for matching purposes. As a result, the revised plan of finance for the projects estimates a need for as much as $8.37 million of Internal Financing.

The success of these capital projects depends upon issuance of the full amount of Article XI-G bonds authorized by the Legislature. In order to assure that the University can provide evidence of qualified matching funds necessary for the issuance of the full amount of authorized bonding on the date required by the State, the University is seeking authorization to use up to $8.7 million of Internal

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Financings, if necessary, notwithstanding the limitations of Section V of the Debt Policy. This amount is higher than required by the most recent financing plan in order to provide some allowance for the possibility of either unanticipated delay in the collection of scheduled pledges between now and the date required for match verification or a determination by the State that disqualifies use for matching purposes of any portion of the funds on hand. $8.7 million is the maximum amount anticipated to be required; it is likely that the full amount will not be necessary.

The limit for Internal Financings under Section V of the Debt Policy is 10% of the core cash balance of the University’s general operating bank account. Currently, that limit is $7,540,970. Using $8.7 million of Internal Financing for matching purposes would cause the total amount of Internal Financings to exceed the Debt Policy limit by approximately $1.16 million, and would cause the amount of Internal Financings to equal approximately 11.5% of the University’s core cash balance.

The University anticipates that it will repay Internal Financing amount that is in excess of the otherwise applicable Debt Policy limit as soon as practicable with appropriate philanthropic contributions.

President Wiewel and Vice President Kevin Reynolds request that the Executive and Audit Committee, on behalf of the full board, approve the Resolution authorizing up to $8.7 million of Internal Financing, if necessary, for the School of Business and Stott Center/Viking Pavilion projects, notwithstanding the limitations of Section V of the Debt Policy.

Trustee Rick Miller stated that he would abstain from voting due to the potential of a perceived of interest arising from his involvement with the School of Business project.

ACTION: Tom Imeson moved that the Committee approve the Resolution on behalf of the Board. Gale Castillo seconded the motion. Castillo, Imeson, Kirkpatrick and Chair Nickerson voted aye. Miller abstained. The motion was approved.

3. ADJOURN

With no further comments or questions from the committee, Chair Nickerson adjourned the meeting at 3:52 pm.
AGENDA ITEM: 4

DATE: May 27, 2015

TITLE: Approval of Board Policy Regarding Evaluation of the President

SUMMARY OF ITEM: At its meeting on December 11, 2014, the Board requested that the Executive and Audit Committee return to the full Board in June 2015 with a Board policy on presidential evaluation.

The attached draft policy on presidential evaluation was prepared in consultation with the Board Chair and the President. It is derived from principles and examples contained in the AGB publication *Assessing Presidential Effectiveness* (Morrill, 2010).

REQUESTED COMMITTEE ACTION: Approve the Policy Regarding Evaluation of the President

ATTACHED DOCUMENTS: Policy Regarding Evaluation of the President

BACKGROUND READING: None
**Evaluation of the President**

It is the policy of the Board to review the performance of the President annually.

The primary purposes of the annual review is to enable the President to strengthen his or her performance and effectiveness in leading the institution to success and to allow the President and the Board to set mutually agreeable goals. The review process is not intended as a substitute for regular, ongoing communication about progress toward goals between the President and the Board.

Annual reviews will inform decisions regarding compensation, although compensation adjustments are not necessarily awarded simultaneously with a positive performance review. Adjustments to, or renewal of, the President’s contract will be handled as a separate matter, taking into account presidential performance, peer-group comparisons and other factors.

The annual review process will occur on a July 1-June 30 cycle. The annual review will cover the preceding year.

The criteria for evaluation and information responsive to those criteria will be based principally on the President’s self-assessment with respect to goals mutually set by the Board and President for the year in review.

The retrospective elements of the President’s self-assessment will customarily include:

- A copy of the mutually-agreed upon goals, with a description of efforts to meet them and the President’s progress assessment.

- A description of other personal or institutional achievements of which the Board should, or might, be informed by the President as aspects of performance or accomplishment.

- Identification of significant institutional or personal challenges the President faced over the course of the review year that affected progress toward goals, with particular focus on those that are likely to persist into the upcoming year or beyond.

- Comments regarding the vice presidents and other equivalent University officers who report directly to the President.

- Key areas in which the Board has been especially supportive.

The prospective elements of the President’s self-assessment will customarily include:

- Goals the President proposes for him/herself and the institution over the course of the upcoming year and for three to five years.
• The President’s professional development plans and any associated requests of the Board.

• The President’s assessment of the University’s principal current opportunities and challenges.

• Key areas in which the President would especially benefit from Board support.

**Review Process**

The President will submit his or her self-assessment to the Board Chair by June 30 of each year. The Board Chair and the President will then meet to discuss the self-assessment. The Board Chair may seek confidential input and comments from trustees or members of the University community at any point during the evaluation process.

The President’s self-assessment will be provided to the Executive and Audit Committee, along with any other information determined by the Board Chair. The Executive and Audit Committee will then meet in executive session for the purpose of evaluating the President, during which the President is to present his or her self-assessment and engage in a discussion with the Committee regarding both the retrospective and prospective elements of the assessment. The President may be excluded from any portion of the executive session at the discretion of the Board Chair.

Following the meeting of the Executive and Audit Committee, the Board Chair will prepare an evaluation of the President and a summary of the Committee’s comments. The evaluation and self-assessment will be shared with the full Board prior to the Board’s September meeting.

At the Board’s September meeting, the President will present to the Board for approval the goals that the President proposes for him/herself and for the institution for the upcoming year and for three to five years. The full Board will then go into an executive session to discuss the evaluation of the President. The President may be excluded from any portion of an executive session at the discretion of the Board Chair. The Board Chair will communicate to the President both verbally and in writing the conclusions of the evaluation and any recommendations, concerns, or priorities arising out of the evaluation.

On a three to five year basis, the Executive and Audit Committee will hire a consultant to perform a comprehensive performance review of the President, including a 360 degree review. A comprehensive review of this nature should generally be performed prior to renewal of the President’s contract. When a comprehensive review is performed, it is to be incorporated into the annual review process described above, with such adjustments to the schedule as may be necessary.

The Board will periodically review and, as necessary or desirable, revise this policy and its associated procedures in light of experience gained, best practices, and legal developments as applicable.
AGENDA ITEM: 5

DATE: May 27, 2015

TITLE: Approval of New Employment Agreement with President Wim Wiewel

SUMMARY OF ITEM:
Chair Pete Nickerson and President Wim Wiewel have discussed and agreed that a new employment agreement with the President is appropriate. The Chair and President are in agreement regarding the terms contained in the attached agreement, and now seek input and concurrence from the Committee.

The proposed employment agreement utilizes a new template, based on AGB’s Model Employment Agreement for university presidents, modified to incorporate terms from the President’s current contract and Oregon law, as applicable.

The key points of the agreement are:

1. It is a three-year agreement, beginning July 1, 2015 and continuing until June 30, 2018.
2. President Wiewel has requested that his compensation not be increased in the new agreement. Therefore, the President’s compensation (salary, deferred compensation, automobile stipend, etc.) is unchanged. The Board reserves the right to change the President’s compensation in the context of its annual performance reviews of the President.
3. President Wiewel may take a one-year sabbatical, with full pay, following his presidency, with an obligation to return to the faculty after the sabbatical for at least one academic year at 0.5 FTE or greater. This is a new provision. The current contract with President Wiewel does not address his eligibility for a sabbatical, although University policy generally provides that employees with academic rank are eligible for a sabbatical following six years of service.
4. The contract details the terms under which President Wiewel may continue to serve as a tenured faculty member following his presidency. Although the current contract includes the ability to remain on the faculty, it does not include details regarding the terms of a faculty appointment.
5. All other elements of the agreement are substantively unchanged.
REQUESTED COMMITTEE ACTION: Approve the new Employment Agreement with President Wiewel and recommend it to the full Board for approval

ATTACHED DOCUMENTS: Employment Agreement

BACKGROUND READING: None
THIS EMPLOYMENT AGREEMENT (the “Agreement”) is entered into this ___ day of June, 2015 (the “Effective Date”), by and between Portland State University (the “University”) and Marinus Wilhelmus Wiewel (the “President”). The University and President collectively are referred to as the “Parties.”

WHEREAS, the University desires to employ the President as the President of the University and the President desires to accept such employment on the terms and conditions set forth herein;

NOW, THEREFORE, the Parties, intending to be legally bound, hereby agree as follows:

1. Employment. The University agrees to employ Marinus Wilhelmus Wiewel and Marinus Wilhelmus Wiewel accepts employment as President of the University. During the term of this Agreement (as defined in Section 1.1), the President shall perform such duties for and render such services to the University as are customary and incidental to the position of President, or such other duties or services as may be from time to time assigned to him by the University’s Board of Trustees (the “Board”) and which are consistent with such position. The President shall report and be accountable exclusively to the Board. The President agrees to use best efforts to carry out the duties and responsibilities required by this Agreement and to devote substantially all of the President’s business time, attention, and energy in doing so.

1.1 Term of Agreement. This Agreement commences on July 1, 2015 and ends, unless terminated as provided elsewhere in this Agreement, on June 30, 2018 (the “Term”).

1.2 Compensation.
   (a) Base and Supplemental Salary. For all the services rendered by the President hereunder 1) the University shall pay the President a base salary (“Base Salary”), at the annual rate of $260,700.00 effective July 1, 2015, and 2) the University shall pay the President a supplemental salary funded by the University’s recognized foundation (“Supplemental Salary”) at the annual rate of $141,000.00 effective July 1, 2015. Both the Base Salary and the Supplemental Salary shall be earned, accrued, and paid in installments at such times (but not less often than monthly) as the University customarily pays its other professional staff, in a manner consistent with how the University customarily pays its other professional staff. The President’s performance shall be reviewed annually pursuant to the Board’s Policy on Presidential Evaluation. Based upon such review, the President may be awarded an increase in annual Base Salary or Supplemental Salary at the sole discretion of the Board.
   (b) Deferred Compensation. The University’s recognized foundation shall fund annually the sum of $138,300.00 in deferred compensation to be credited to the President’s account in the Oregon Public Universities Supplemental Retirement Plan or, if necessary, to his account in a tax-qualified excess benefit plan that would be excess to the Oregon Public Universities Supplemental Retirement Plan. Each annual credit will vest on June 30 of
each year, beginning June 30, 2016, provided that the President is President at all times during the 12 month period ending on June 30 of each year.

1.3 **Benefits.** The President shall receive the same benefits as those provided to other University employees, currently including, but not limited to, medical, dental, disability, life and retirement benefits, accrual of vacation and sick leave, and staff fee privileges, subject to the eligibility requirements of such plans and programs. Nothing in the Agreement, however, shall prevent the University from amending or terminating any employee retirement, welfare benefit, or any other employee benefit plan or program as the University deems appropriate.

1.4 **Supplemental Benefits.** In addition to the benefits provided in Section 1.3, the University shall provide the President the following benefits:

(a) **Automobile.** During the Term, and in lieu of a University-provided vehicle, the President shall receive a monthly vehicle stipend of $750.00 funded by the University’s recognized foundation. By accepting the monthly stipend, the President agrees that he is not entitled to any vehicle-related expense reimbursement when on University business or to a University owned vehicle for the discharge of his duties as President. Subject to applicable rules, policies, and procedures, this section does not apply when the President requires the use of a rental vehicle.

(b) **Travel and Related Expenses.** The President and the President’s spouse shall be entitled to reimbursement of reasonable and documented expenses related to the President’s employment by the University, on the same basis as other professional staff. Payment will be made on behalf of the President’s spouse only when the presence of the spouse is of benefit to the interests of the University. All travel will be in accordance with applicable University policies.

(c) **Sabbatical.** The President may take a twelve (12) month sabbatical leave upon the President ceasing to be the President for any reason, except if the President is terminated for cause as provided in Section 2.5. The applicable salary and benefits during the sabbatical leave shall be 1) the Base Salary, 2) the Supplemental Salary, and 3) the benefits under paragraphs 1.3, 1.4(a), and 1.4(b) as they are each in effect at the expiration or termination of this Agreement. The President will be deemed to have satisfied his obligation to return following the sabbatical leave if he completes one academic year as a faculty member at 0.5 FTE or greater.

1.5 **Academic Rank and Tenure.** The President has been appointed as a tenured Professor in the College of Urban and Public Affairs. Upon expiration or termination of this Agreement, the President’s employment as a tenured professor will continue at his option. The President may elect to continue employment as a tenured faculty member at any FTE level from 0.5 FTE to 1.0 FTE, at his option. Should the President continue as a tenured faculty member after completion of any sabbatical taken as provided in Section 1.4(c), his nine-month salary as a Professor, at 1.0 FTE, shall be the 9-month equivalent of his 12-month Base
Salary as President at the expiration or termination of this Agreement, calculated pursuant to the University’s standard methodology. In addition, the President shall receive the same benefits as all other tenured professors.

1.6 Housing. As a term and condition of employment and for the benefit and convenience of the Board and the University, the President shall reside during the Term of this Agreement at the Zehntbauer House, located at 11650 SW Military Road, Portland, Oregon (the “Presidential Residence”). The University shall pay all utilities (including telephone service, cable and Internet access) taxes, insurance, and expenses of maintenance and upkeep for the Presidential Residence; provided, however, that the President shall bear the cost of insuring his or his family members’ personal property. It is understood by the Parties that the Presidential Residence shall be used for University-related business and entertainment purposes on a reasonable and continuing basis and that all costs associated with such entertainment shall be borne by the University. The President’s family will be permitted to occupy the Presidential Residence under the same terms and condition for up to ninety (90) days following the President’s death or permanent disability. The President and his family shall vacate the Presidential Residence no later than thirty (30) days after he ceases his role as President for any reason other than death or permanent disability. The University shall pay reasonable and documented moving expenses for the President and his family upon the President ceasing to be President for any reason, except if the President is terminated for cause as provided in Section 2.5. In the event of the President’s death, the University shall pay such expenses for the President’s family.

1.7 Board Service, Public Speaking, and Other Outside Activities. As permitted by ORS 351.067, the Board permits the President to engage in outside activities such as serving on for-profit and non-profit boards of directors, delivering speeches, writing, and consulting services to the extent these outside activities comport with the mission of the University, do not interfere with the performance of the President’s obligations contained herein, and are consistent with applicable laws and University policies regarding conflicts of interest. Compensation and reimbursement of expenses received by the President related to such outside activities is considered official compensation or the reimbursement of expenses for purposes of ORS 244.040. If acceptance of any such compensation or reimbursement of expenses creates a potential conflict of interest, the President shall report the potential conflict in writing to the Board Chair. The President agrees to promptly disclose to the Board Chair each new recurring source of outside earned income and other compensation. The President agrees to disclose annually to the Board Chair the source and amounts of all outside income.
2. **Termination.** The President’s employment shall terminate upon the occurrence of any of the following events:

2.1 **Termination by the University Without Cause.** The University may terminate this Agreement at any time without Cause (“Cause” is defined in Section 2.5) upon no less than ninety (90) calendar days’ prior written notice to the President; provided, however, that in the event such notice is given, the President shall be under no obligation to render any additional services to the University and shall be allowed to seek other employment, subject to the terms, conditions, and covenants of this Agreement. If the University terminates this agreement without Cause:

(a) The President shall be entitled to all amounts earned or accrued under Section 1.2(a) above, that had not yet been paid as of the date of termination.

(b) The President shall be entitled to all other benefits earned or accrued in accordance with the terms of any applicable benefit plans and programs of the University described in Sections 1.2(b) and 1.3 through the date of his termination.

(c) The President shall be entitled to take sabbatical leave as provided in Section 1.4(c) and receive the salary and benefits described in Section 1.4(c).

(d) The President may elect to receive severance pay, contingent upon execution by the President of a Severance Agreement prepared and approved by counsel for the University, which, among other things, releases the University from any and all claims by the President related to this Agreement or the President’s employment. If the President elects to take severance pay, the University shall pay the President one year of the President’s Base Salary then in effect at the time the notice of termination is delivered to the President. The one year Base Salary will be paid to the President in twelve equal monthly installments, each payment to be one-twelfth of the Base Salary described in the preceding sentence. Amounts payable as severance pay under this Section shall be reduced by (1) any salary paid by the University to the President during a sabbatical as provided under Section 1.4, (2) any amounts paid by the President as salary as a professor under Section 1.5, and (3) any amounts received by the President as salary from another source. In addition, the University shall pay the amount due for continued COBRA coverage for the President under the University’s medical and dental plans, should he elect such coverage, for up to one year following the date of termination. Should the President become eligible for medical and dental insurance through another employer prior to the end of one year following the date of termination, the President shall immediately notify the University and the University’s obligation to make such COBRA payments will cease as of the last day of the month prior to the first month for which the President becomes eligible for medical and dental insurance through another employer.

2.2 **Voluntary Termination by the President.** The President may voluntarily terminate this Agreement at any time before the expiration of its Term by giving not less than ninety (90) days’ written notice to the Board Chair. The President shall
reasonably assist the University and Board in the orderly transition of the duties and responsibilities of his position. Upon such termination, the President shall be entitled to any accrued but unpaid Base Salary, Supplemental Salary, and benefits (including sabbatical leave) described in Sections 1.3 and 1.4. The President shall not be entitled to severance pay upon voluntary termination of this Agreement by the President before the expiration of its Term.

2.3 **Disability of the President.** The University may terminate this Agreement if the President is unable to perform the essential functions of his job with or without reasonable accommodation during the Term because of physical or mental injury or illness ("Disability"), subject to any limitations imposed by federal, state or local laws. If the President is disabled, as defined by the federal Americans with Disabilities Act and applicable state or local laws, the University will provide a reasonable accommodation to the President so long as such reasonable accommodation would not impose an undue hardship to the University and would enable the President to satisfactorily perform the essential functions of the position. The President agrees, in the event of a dispute under this Section 2.3 relating to the President’s Disability, to submit to a physical examination by a licensed physician jointly selected by the Board and the President. If the University terminates this Agreement because of the President’s Disability, the President shall be entitled to receive the following:

(a) all amounts earned or accrued under Section 1.2 that had not been paid as of the date of termination; and

(b) all other benefits accrued or earned in accordance with the terms of any applicable benefit plans and programs of the University described in Section 1.3 through the date of termination. The President shall not be entitled to any severance pay in the event he is terminated for Disability.

2.4 **Death of the President.** If the President dies while employed as President by the University, the University shall pay to the President’s executor, legal representative, administrator or designated beneficiary, as applicable, all amounts earned or accrued under Section 1.2 that had not been paid as of the date of death, and all benefits accrued or earned before or upon his death in accordance with the terms of any applicable benefit plans and programs of the University described in Sections 1.3. Except as set forth above, the University shall have no further liability or obligation under this Agreement to the President’s executors, legal representatives, administrators, heirs, or assigns or any other person claiming under or through the President, including (but not limited to) no liability for any severance pay.

2.5 **Termination by the University for Cause.** The University may terminate this Agreement at any time for Cause upon written notice to the President, in which event all payments under this Agreement shall cease, except for: (i) as a lump sum, Base Salary to the extent already accrued and unpaid up to the date of his termination, and (ii) all benefits accrued or earned before his termination in accordance with the terms of any applicable benefit plans and programs of the
University described in Sections 1.3. The President shall forfeit any earned sabbatical leave, as well as any other payment or benefit under this Agreement that has not been paid or accrued as of the date of termination under this Section, and shall not be entitled to any severance pay. Whether the President will be terminated or otherwise sanctioned in his capacity as a tenured faculty member will be determined in accordance with the applicable University policies and procedures for termination and sanction of tenured faculty members. “Cause” shall mean any of the following grounds for termination by the University of this Agreement: (i) the President is convicted of or enters a guilty plea or a plea of no contest to any felony or any crime involving fraud, theft, misuse or misappropriation of money or other property, or moral turpitude; (ii) in the reasonable judgment of the Board, the President has breached in any material respect the terms of this Agreement; (iii) in the reasonable judgment of the Board, the President has neglected or willfully failed or refused to perform material assigned duties in good faith; (iv) in the reasonable judgment of the Board, the President has engaged in gross and willful misconduct with respect to the business affairs of the University; or (v) the President is absent from duty for more than thirty (30) days for reasons other than illness or disability without Board or University consent.

3. **Survivorship.** The respective rights and obligations of the parties under this Agreement shall survive any termination of the President’s employment to the extent necessary to the intended preservation of such rights and obligations.

4. **Indemnification.** The University shall, to the extent legally permissible, defend, save harmless and indemnify the President against all liabilities and expenses (including legal fees) reasonably incurred in connection with the defense of any action, suit, or other proceeding (whether civil, criminal, administrative, or investigative) to which he has been made a party by reason of being or having been President, provided he acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the University. The President is not entitled to indemnification for acts that are adjudicated in such action, suit, or proceeding to be the result of malfeasance in office or willful or wanton neglect of duty.

5. **Notices.** All notices and other communications required or permitted under this Agreement or necessary or convenient in connection herewith shall be in writing and shall be deemed to have been given when hand delivered or mailed by registered or certified mail, as follows (provided that notice or change of address shall be deemed given only when received):

If to the University by mail, to:

Chair, Portland State University Board of Trustees  
Office of the President  
Portland State University  
P.O. Box 751  
Portland, Oregon 97207-0751
With a copy to:

Secretary to the Board of Trustees
Office of the President
Portland State University
P.O. Box 751
Portland, Oregon 97207-0751

If to the University by hand delivery, to:

Chair, Portland State University Board of Trustees
Office of the President
Portland State University
1600 SW 4th Avenue, Suite 850
Portland, Oregon 97201

With a copy to:

Secretary to the Board of Trustees
Office of the President
Portland State University
1600 SW 4th Avenue, Suite 850
Portland, Oregon 97201

If to the President, to:

Marinus Wilhelmus Wiewel
11650 SW Military Road
Portland, Oregon

or to such other names or addresses as the University or the President, as the case may be, shall designate by notice to each other person entitled to receive notices in the manner specified in this Section 5.

6. Contents of Agreement: Amendment and Assignment. This Agreement sets forth the entire understanding between the Parties and cannot be changed, modified, extended or terminated except upon written amendment approved by the Board and executed on its behalf by a duly authorized member of the Board and by the President. All of the terms and provisions of this Agreement shall be binding upon and inure of the benefit of and be enforceable by the respective heirs, executors, administrators, legal representatives, successors, and assigns of the Parties, except that the duties and responsibilities of the President under this Agreement are of a personal nature and shall not be assignable or delegable in whole or in part by the President.
7. **No Conflicting Agreements.** The President represents and warrants that the President is free to enter into and perform this Agreement and the agreements referred to herein and that the President is not a party to any existing agreement within would prevent the President from entering into and performing this Agreement.

8. **Severability.** If any provision of this Agreement or application thereof to anyone or under any circumstances is adjudicated to be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect any other provision or application of this Agreement which can be given effect without the invalid or unenforceable provision or application and shall not invalidate or render unenforceable such provision or application in any other jurisdiction. If any provision is held void, invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

9. **No Waiver of Remedies.** No delay or omission by either party to this Agreement in exercising any right, remedy or power under this Agreement or existing at law or in equity shall be construed as a waiver thereof, and any such right, remedy or power may be exercised by such party from time to time and as often as may be deemed expedient or necessary by such party in its sole discretion.

10. **Beneficiaries/References.** The President shall be entitled, to the extent permitted under any applicable law, to select and change a beneficiary or beneficiaries to receive any compensation or benefit payable under this Agreement following the President’s death by giving the University written notice of such change. In the event of the President’s death or a judicial determination of the President’s incompetence, reference in this Agreement to the President shall be deemed, where appropriate, to refer to the President’s beneficiary, estate or other legal representative, as appropriate.

11. **Miscellaneous.** All section headings used in this Agreement are for convenience only. This Agreement may be executed in counterparts, each of which is an original. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

12. **Withholding.** All payments under this Agreement shall be made subject to applicable tax withholding, and the University shall withhold from any payments under this Agreement all federal, state, and local taxes as the University is required to withhold pursuant to any law or government rule or regulation. The President shall be solely responsible for all federal, state, and local taxes due with respect to any payment received under this Agreement.

13. **Governing Law.** This Agreement shall be governed by and interpreted under the laws of the State of Oregon without giving effect to any conflict of laws provisions.
14. *Section 409A of the Internal Revenue Code.* Notwithstanding anything herein or in the Contract to the contrary, no payments will be made or benefits provided under this Amendment or the Contract in violation of section 409A(2)(b)(i) of the Internal Revenue Code of 1986 (the "Code"). The University will adopt such amendments to this Agreement as are necessary or appropriate to exempt the payments or benefits from section 409A of the Code or to modify such payments or benefits in a manner that maintains the value of this Agreement to you to the maximum extent possible while remaining in compliance with section 409A of the Code.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have executed this Agreement as of the date first above written.

PRESIDENT

PORTLAND STATE UNIVERSITY

______________________________
Marinus Wim Wiewel

______________________________
Peter D. Nickerson
Board Chair

______________________________
David C. Reese
General Counsel and Secretary to the Board
AGENDA ITEM: 6

DATE: May 27, 2015

TITLE: Approval of Resolution Acknowledging Institutional Responsibilities Under Program Participation Agreement Related to Title IV Financial Assistance Programs

SUMMARY OF ITEM: Portland State University is a participant in student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended. When a participating public institution experiences a change in governance, the U.S. Department of Education requires that the new governing authority acknowledge the institution’s continued responsibilities under its program participation agreement (PPA). In a PPA, a university agrees to comply with all laws, regulations and policies governing Title IV financial assistance. The PPA reiterates institutional responsibilities regarding various matters under federal law, such as drug and alcohol abuse, campus public safety, student privacy, and reporting of institutional information. The PPA also states the general terms and conditions for participation in Title IV financial assistance programs.

Portland State University’s current PPA with the U.S. Department of Education, is effective until September 30, 2016. Due to the University’s change in governance, the Committee is asked to approve a resolution acknowledging the university’s responsibilities under the PPA.

The Executive and Audit Committee is empowered to act for the Board between regular Board meetings on all matters except for certain enumerated actions. Acknowledging institutional responsibilities under the PPA is not one of the enumerated activities reserved for the full Board. Because this issue is relatively narrow, this issue is being brought to the Executive and Audit Committee with a request that the Committee act on behalf of the full Board.

REQUESTED COMMITTEE ACTION: Approve the Resolution on behalf of the full Board of Trustees

ATTACHED DOCUMENTS:

1. Draft Resolution
2. Program Participation Agreement

BACKGROUND READING: None.
RESOLUTION ACKNOWLEDGING INSTITUTIONAL RESPONSIBILITIES 
UNDER PROGRAM PARTICIPATION AGREEMENT RELATED TO 
TITLE IV FINANCIAL ASSISTANCE PROGRAMS

Approved by the Executive and Audit Committee 
On Behalf of the Board of Trustees 
May __, 2015

BACKGROUND

A. Portland State University is a participant in student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended.

B. When a participating public institution experiences a change in governance, the U.S. Department of Education requires that the new governing authority acknowledge the institution’s continued responsibilities under its program participation agreement.

C. Portland State University’s current program participation agreement with the U.S. Department of Education, attached as Exhibit A, is effective until September 30, 2016.

RESOLUTION

Now, therefore, be it Resolved by the Board of Trustees, that the Board of Trustees acknowledges Portland State University’s continued responsibilities under the program participation agreement attached as Exhibit A.

APPROVED BY THE EXECUTIVE AND AUDIT COMMITTEE 
ON BEHALF OF THE BOARD OF TRUSTEES 
MAY __, 2015

____________________________
Secretary to the Board
Exhibit A

UNITED STATES DEPARTMENT OF EDUCATION
FEDERAL STUDENT AID
SCHOOL ELIGIBILITY CHANNEL

PROGRAM PARTICIPATION AGREEMENT

Effective Date of Approval:
Approval Expiration Date:
Reapplication Date:

The date on which this Agreement is signed on behalf of the Secretary of Education

September 30, 2016
June 30, 2016

Name of Institution:
Address of Institution:
Cramer Hall Room 341
Portland, OR 97201-0000

Portland State University
1721 South West Broadway

OPE ID Number: 00321600
DUNS Number: 946403920
Taxpayer Identification Number (TIN): 936001786

The execution of this Agreement by the Institution and the Secretary is a prerequisite to the Institution's initial or continued participation in any Title IV, HEA Program.

The postsecondary educational institution listed above, referred to hereafter as the "Institution," and the United States Secretary of Education, referred to hereafter as the "Secretary," agree that the Institution may participate in those student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA Programs) indicated under this Agreement and further agrees that such participation is subject to the terms and conditions set forth in this Agreement. As used in this Agreement, the term "Department" refers to the U.S. Department of Education.

SCOPE OF COVERAGE

This Agreement applies to all locations of the Institution as stated on the most current ELIGIBILITY
AND CERTIFICATION APPROVAL REPORT issued by the Department. This Agreement covers the Institution’s eligibility to participate in each of the following listed Title IV, HEA programs, and incorporates by reference the regulations cited.

- **ACADEMIC COMPETITIVENESS GRANT AND NATIONAL SCIENCE AND MATHEMATICS ACCESS TO RETAIN TALENT GRANT PROGRAMS**, 20 U.S.C. §§ 1070a-1 et seq.; 34 C.F.R. Part 691.

**GENERAL TERMS AND CONDITIONS**

1. The Institution understands and agrees that it is subject to and will comply with the program statutes and implementing regulations for institutional eligibility as set forth in 34 C.F.R. Part 600 and for each Title IV, HEA program in which it participates, as well as the general provisions set forth in Part F and Part G of Title IV of the HEA, and the Student Assistance General Provisions regulations set forth in 34 C.F.R. Part 668.

*The recitation of any portion of the statute or regulations in this Agreement does not limit the Institution’s obligation to comply with other applicable statutes and regulations.*

2. a. The Institution certifies that on the date it signs this Agreement, it has a drug abuse prevention program in operation that it has determined is accessible to any officer, employee, or student at the Institution.

b. The Institution certifies that on the date it signs this Agreement, it is in compliance with the disclosure requirements of Section 485(f) of the HEA (Campus Security Policy and Campus Crime Statistics).

3. The Institution agrees to comply with --

   a. Title VI of the Civil Rights Act of 1964, as amended, and the implementing regulations, 34 C.F.R. Parts 100 and 101 (barring discrimination on the basis of race, color or national origin);

   b. Title IX of the Education Amendments of 1972 and the implementing regulations, 34
C.F.R. Part 106 (barring discrimination on the basis of sex);
d. Section 504 of the Rehabilitation Act of 1973 and the implementing regulations, 34 C.F.R. Part 104 (barring discrimination on the basis of physical handicap); and
f. The Standards for Safeguarding Customer Information, 16 C.F.R. Part 314, issued by the Federal Trade Commission (FTC), as required by the Gramm-Leach-Bliley (GLB) Act, P.L. 106-102. These Standards are intended to ensure the security and confidentiality of customer records and information. The Secretary considers any breach to the security of student records and information as a demonstration of a potential lack of administrative capability as stated in 34 C.F.R. 668.16(c). Institutions are strongly encouraged to inform its students and the Department of any such breaches.

4. The Institution acknowledges that 34 C.F.R. Parts 602 and 667 require accrediting agencies, State regulatory bodies, and the Secretary to share information about institutions. The Institution agrees that the Secretary, any accrediting agency recognized by the Secretary, and any State regulatory body may share or report information to one another about the Institution without limitation.

5. The Institution acknowledges that the HEA prohibits the Secretary from recognizing the accreditation of any institution of higher education unless that institution agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

SELECTED PROVISIONS FROM
GENERAL PROVISIONS REGULATIONS, 34 C.F.R. PART 668.14

An institution's program participation agreement applies to each branch campus and other location of the institution that meets the applicable requirements of this part unless otherwise specified by the Secretary.

(b) By entering into a program participation agreement, an institution agrees that--

(1) It will comply with all statutory provisions of or applicable to Title IV of the HEA, all applicable regulatory provisions prescribed under that statutory authority, and all applicable special arrangements, agreements, and limitations entered into under the authority of statutes applicable to Title IV of the HEA, including the requirement that the institution will use funds it receives under any Title IV, HEA program and any interest or other earnings thereon, solely for the purposes specified in and in accordance with that program;

(2) As a fiduciary responsible for administering Federal funds, if the institution is permitted to request funds under a Title IV, HEA program advance payment method, the institution will time its requests for funds under the program to meet the institution's immediate Title IV, HEA program needs;

(3) It will not request from or charge any student a fee for processing or handling any application, form, or data required to determine a student's eligibility for, and amount of, Title IV, HEA program assistance;

(4) It will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under the Title IV, HEA programs, together with assurances that the institution will provide, upon request and in a timely manner, information relating to the administrative capability
and financial responsibility of the institution to—

(i) The Secretary;

(ii) A guaranty agency, as defined in 34 CFR part 682, that guarantees loans made under the Federal Stafford Loan and Federal PLUS programs for attendance at the institution or any of the institution's branch campuses or other locations;

(iii) The nationally recognized accrediting agency that accredits or preaccredits the institution or any of the institution's branch campuses, other locations, or educational programs;

(iv) The State agency that legally authorizes the institution and any branch campus or other location of the institution to provide postsecondary education; and

(v) In the case of a public postsecondary vocational educational institution that is approved by a State agency recognized for the approval of public postsecondary vocational education, that State agency;

(5) It will comply with the provisions of § 668.15 relating to factors of financial responsibility;

(6) It will comply with the provisions of § 668.16 relating to standards of administrative capability;

(7) It will submit reports to the Secretary and, in the case of an institution participating in the Federal Stafford Loan, Federal PLUS, or the Federal Perkins Loan Program, to holders of loans made to the institution's students under that program at such times and containing such information as the Secretary may reasonably require to carry out the purpose of the Title IV, HEA programs;

(8) It will not provide any statement to any student or certification to any lender in the case of an FFEL Program loan, or origination record to the Secretary in the case of a Direct Loan Program loan that qualifies the student or parent for a loan or loans in excess of the amount that the student or parent is eligible to borrow in accordance with sections 425(a), 428(a)(2), 428(b)(1)(A) and (B), 428B, 428H and 455(a) of the HEA;

(9) It will comply with the requirements of Subpart D of this part concerning institutional and financial assistance information for students and prospective students;

(10) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, it will make available to prospective students, at or before the time that those students apply for enrollment--

(i) The most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements; and

(ii) Relevant State licensing requirements of the State in which the institution is located for any job for which an educational program offered by the institution is designed to prepare those prospective students;

(11) In the case of an institution participating in the FFEL Program, the institution will inform all eligible borrowers, as defined in 34 CFR part 682, enrolled in the institution about the availability and eligibility of those borrowers for State grant assistance from the State in which the institution is located, and will inform borrowers from another State of the source for further information concerning State grant assistance from that State;

(12) It will provide the certifications described in paragraph (c) of this section;

(13) In the case of an institution whose students receive financial assistance pursuant to section 484(d) of the HEA, the institution will make available to those students a program proven successful in assisting students in obtaining the recognized equivalent of a high school diploma;

(14) It will not deny any form of Federal financial aid to any eligible student solely on the grounds that the student is participating in a program of study abroad approved for credit by the institution;

(15) (i) Except as provided under paragraph (b)(15)(ii) of this section, the institution will use a default management plan approved by the Secretary with regard to its administration of the FFEL or Direct Loan programs, or both for at least the first two years of its participation in those programs, if the institution --
(A) Is participating in the FFEL or Direct Loan programs for the first time; or
(B) Is an institution that has undergone a change of ownership that results in a change in control and is participating in the FFEL or Direct Loan programs.

(ii) The institution does not have to use an approved default management plan if --
(A) The institution, including its main campus and any branch campus, does not have a cohort default rate in excess of 10 percent; and
(B) The owner of the institution does not own and has not owned any other institution that had a cohort default rate in excess of 10 percent while that owner owned the institution.

(16) For a proprietary institution, the institution will derive at least 10 percent of its revenues for each fiscal year from sources other than Title IV, HEA program funds, as provided in § 668.28(a) and (b), or be subject to sanctions described in § 668.28(c);

(17) The Secretary, guaranty agencies and lenders as defined in 34 CFR part 682, nationally recognized accrediting agencies, the Secretary of Veterans Affairs, State agencies recognized under 34 CFR part 603 for the approval of public postsecondary vocational education, and State agencies that legally authorize institutions and branch campuses or other locations of institutions to provide postsecondary education, have the authority to share with each other any information pertaining to the institution's eligibility for or participation in the Title IV, HEA programs or any information on fraud and abuse;

(18) It will not knowingly --
(i) Employ in a capacity that involves the administration of the Title IV, HEA programs or the receipt of funds under those programs, an individual who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds, or has been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds;
(ii) Contract with an institution or third-party servicer that has been terminated under section 432 of the HEA for a reason involving the acquisition, use, or expenditure of Federal, State, or local government funds, or that has been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds; or
(iii) Contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been--
(A) Convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds; or
(B) Administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds;

(19) It will complete, in a timely manner and to the satisfaction of the Secretary, surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal collection effort, as designated by the Secretary, regarding data on postsecondary institutions;

(20) In the case of an institution that is co-educational and has an intercollegiate athletic program, it will comply with the provisions of § 668.48;

(21) It will not impose any penalty, including, but not limited to, the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds for which interest or other charges are assessed, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a Title IV, HEA program loan due to compliance with statutory and regulatory requirements of or applicable to the Title IV, HEA programs, or delays attributable to the institution;

(22)(i) It will not provide any commission, bonus, or other incentive payment based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid, to any
person or entity who is engaged in any student recruitment or admission activity, or in making decisions regarding the award of title IV, HEA program funds.

(A) The restrictions in paragraph (b)(22) of this section do not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(B) For the purpose of paragraph (b)(22) of this section, an employee who receives multiple adjustments to compensation in a calendar year and is engaged in any student enrollment or admission activity or in making decisions regarding the award of title IV, HEA program funds is considered to have received such adjustments based upon success in securing enrollments or the award of financial aid if those adjustments create compensation that is based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid.

(ii) Notwithstanding paragraph (b)(22)(i) of this section, eligible institutions, organizations that are contractors to eligible institutions, and other entities may make--

(A) Merit-based adjustments to employee compensation provided that such adjustments are not based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid; and

(B) Profit-sharing payments so long as such payments are not provided to any person or entity engaged in student recruitment or admission activity or in making decisions regarding the award of title IV, HEA program funds.

(iii) As used in paragraph (b)(22) of this section,

(A) Commission, bonus, or other incentive payment means a sum of money or something of value, other than a fixed salary or wages, paid to or given to a person or an entity for services rendered.

(B) Securing enrollments or the award of financial aid means activities that a person or entity engages in at any point in time through completion of an educational program for the purpose of the admission or matriculation of students for any period of time or the award of financial aid to students.

(1) These activities include contact in any form with a prospective student, such as, but not limited to--contact through preadmission or advising activities, scheduling an appointment to visit the enrollment office or any other office of the institution, attendance at such an appointment, or involvement in a prospective student's signing of an enrollment agreement or financial aid application.

(2) These activities do not include making a payment to a third party for the provision of student contact information for prospective students provided that such payment is not based on--

(i) Any additional conduct or action by the third party or the prospective students, such as participation in preadmission or advising activities, scheduling an appointment to visit the enrollment office or any other office of the institution or attendance at such an appointment, or the signing, or being involved in the signing, of a prospective student's enrollment agreement or financial aid application; or

(ii) The number of students (calculated at any point in time of an educational program) who apply for enrollment, are awarded financial aid, or are enrolled for any period of time, including through completion of an educational program.

(C) Entity or person engaged in any student recruitment or admission activity or in making decisions about the award of financial aid means--

(1) With respect to an entity engaged in any student recruitment or admission activity or in making decisions about the award of financial aid, any institution or organization that undertakes the recruiting or the admitting of students or that makes decisions about and awards title IV, HEA program funds; and

(2) With respect to a person engaged in any student recruitment or admission activity or in making decisions about the award of financial aid, any employee who undertakes recruiting or admitting of
students or who makes decisions about and awards title IV, HEA program funds, and any higher level employee with responsibility for recruitment or admission of students, or making decisions about awarding title IV, HEA program funds.

(D) Enrollment means the admission or matriculation of a student into an eligible institution.

(23) It will meet the requirements established pursuant to Part H of Title IV of the HEA by the Secretary and nationally recognized accrediting agencies;

(24) It will comply with the requirements of § 668.22;

(25) It is liable for all--

(i) Improperly spent or unspent funds received under the Title IV, HEA programs, including any funds administered by a third-party servicer; and

(ii) Returns any title IV, HEA program funds that the institution or its servicer may be required to make;

(26) If the stated objectives of an educational program of the institution are to prepare a student for gainful employment in a recognized occupation, the institution will--

(i) Demonstrate a reasonable relationship between the length of the program and entry level requirements for the recognized occupation for which the program prepares the student. The Secretary considers the relationship to be reasonable if the number of clock hours provided in the program does not exceed by more than 50 percent the minimum number of clock hours required for training in the recognized occupation for which the program prepares the student, as established by the State in which the program is offered, if the State has established such a requirement, or as established by any Federal agency; and

(ii) Establish the need for the training for the student to obtain employment in the recognized occupation for which the program prepares the student.

(27) In the case of an institution participating in a Title IV, HEA loan program, the institution --

(i) Will develop, publish, administer, and enforce a code of conduct with respect to loans made, insured or guaranteed under the Title IV, HEA loan programs in accordance with 34 CFR 601.21; and

(ii) Must inform its officers, employees, and agents with responsibilities with respect to loans made, insured or guaranteed under the Title IV, HEA loan programs annually of the provisions of the code required under paragraph (b)(27) of this section;

(28) For any year in which the institution has a preferred lender arrangement (as defined in 34 CFR 601.2(b)), it will at least annually compile, maintain, and make available for students attending the institution, and the families of such students, a list in print or other medium, of the specific lenders for loans made, insured, or guaranteed under Title IV, of the HEA or private education loans that the institution recommends, promotes, or endorses in accordance with such preferred lender arrangement. In making such a list, the institution must comply with the requirements in 34 CFR 682.212(h) and 34 CFR 601.10;

(29) (i) It will, upon the request of an enrolled or admitted student who is an applicant for a private education loan (as defined in 34 CFR part 601.2(b)), provide to the applicant the self-certification form required under 34 CFR 601.11(d) and the information required to complete the form, to the extent the institution possesses such information, including --

(A) The applicant’s cost of attendance at the institution, as determined by the institution under part F of Title IV, of the HEA;

(B) The applicant’s estimated financial assistance, including amounts of financial assistance used to replace the expected family contribution as determined by the institution in accordance with Title IV, for students who have completed the Free Application for Federal Student Aid; and

(C) The difference between the amounts under paragraphs (b)(29)(i)(A) and (29)(i)(B) of this section, as applicable.
(ii) It will, upon the request of the applicant, discuss with the applicant the availability of Federal, State, and institutional student financial aid;

(30) The institution --

(i) Has developed and implemented written plans to effectively combat the unauthorized distribution of copyrighted material by users of the institution's network, without unduly interfering with educational and research use of the network, that include --

(A) The use of one or more technology-based deterrents;

(B) Mechanisms for educating and informing its community about appropriate versus inappropriate use of copyrighted material, including that described in § 668.43(a)(10);

(C) Procedures for handling unauthorized distribution of copyrighted material, including disciplinary procedures; and

(D) Procedures for periodically reviewing the effectiveness of the plans to combat the unauthorized distribution of copyrighted materials by users of the institution's network using relevant assessment criteria. No particular technology measures are favored or required for inclusion in an institution's plans, and each institution retains the authority to determine what its particular plans for compliance with paragraph (b)(30) of this section will be, including those that prohibit content monitoring; and

(ii) Will, in consultation with the chief technology officer or other designated officer of the institution--

(A) Periodically review the legal alternatives for downloading or otherwise acquiring copyrighted material;

(B) Make available the results of the review in paragraph (b)(30)(ii)(A) of this section to its students through a Web site or other means; and

(C) To the extent practicable, offer legal alternatives for downloading or otherwise acquiring copyrighted material, as determined by the institution; and

(31) The institution will submit a teach-out plan to its accrediting agency in compliance with 34 CFR 602.24(c), and the standards of the institution's accrediting agency upon the occurrence of any of the following events:

(i) The Secretary initiates the limitation, suspension, or termination of the participation of an institution in any Title IV, HEA program under 34 CFR 600.41 or subpart G of this part or initiates an emergency action under § 668.83.

(ii) The institution's accrediting agency acts to withdraw, terminate, or suspend the accreditation or preaccreditation of the institution.

(iii) The institution's State licensing or authorizing agency revokes the institution's license or legal authorization to provide an educational program.

(iv) The institution intends to close a location that provides 100 percent of at least one program.

(v) The institution otherwise intends to cease operations.

(c) In order to participate in any Title IV, HEA program (other than the LEAP and NEISP programs), the institution must certify that it--

(1) Has in operation a drug abuse prevention program that the institution has determined to be accessible to any officer, employee, or student at the institution; and

(2)(i) Has established a campus security policy in accordance with section 485(f) of the HEA; and

(ii) Has complied with the disclosure requirements of § 668.47 as required by section 485(f) of the HEA.

(d)(1) The institution, if located in a State to which section 4(b) of the National Voter Registration Act (42 U.S.C. 1973gg-2(b)) does not apply, will make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make those forms widely
available to students at the institution.

(2) The institution must request the forms from the State 120 days prior to the deadline for registering to vote within the State. If an institution has not received a sufficient quantity of forms to fulfill this section from the State within 60 days prior to the deadline for registering to vote in the State, the institution is not liable for not meeting the requirements of this section during that election year.

(3) This paragraph applies to elections as defined in Section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1)), and includes the election for Governor or other chief executive within such State.

(e)(1) A program participation agreement becomes effective on the date that the Secretary signs the agreement.

(2) A new program participation agreement supersedes any prior program participation agreement between the Secretary and the institution.

(f)(1) Except as provided in paragraphs (g) and (h) of this section, the Secretary terminates a program participation agreement through the proceedings in subpart G of this part.

(2) An institution may terminate a program participation agreement.

(3) If the Secretary or the institution terminates a program participation agreement under paragraph (f) of this section, the Secretary establishes the termination date.

(g) An institution's program participation agreement automatically expires on the date that--

(i) The institution changes ownership that results in a change in control as determined by the Secretary under 34 CFR part 600; or

(2) The institution's participation ends under the provisions of § 668.26(a)(1), (2), (4), or (7).

(h) An institution's program participation agreement no longer applies to or covers a location of the institution as of the date on which that location ceases to be a part of the participating institution.

WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

If an institution participates in the William D. Ford Federal Direct Loan (Direct Loan) Program, the institution and its representatives shall comply with the statute, guidelines, and regulations governing the Title IV, Part D, William D. Ford Federal Direct Loan Program as required by 20 U.S.C. §§ 1087a et seq. (Part C) and 34 C.F.R. Part 685.

The institution will:

1. Provide for the establishment and maintenance of a Direct Loan Program at the Institution that will:

   Identify eligible students who seek student financial assistance in accordance with Section 484 of the Higher Education Act of 1965, as amended (the HEA).

   Estimate the need of students as required under Title IV, Part F of the HEA.

   Provide a certification statement of eligibility for students to receive loans that will not exceed the annual or aggregate limits, except the Institution may exercise its authority, under exceptional circumstances identified by the Secretary, to refuse to certify a statement that permits a student to receive a loan, or certify a loan amount that is less than the student's determination of need, if the reason for such action is documented and provided in written form to a student.
Establish a schedule for disbursement of loan proceeds to meet the requirements of Section 428G of the HEA.

Provide timely and accurate information to the Secretary concerning 1) the status of borrowers while students are in attendance, any new information pertaining to the status of student borrowers of which the Institution becomes aware after the student leaves the Institution, and 2) the utilization of Federal funds under Title IV, Part D of the HEA at such times and in such manner as prescribed by the Secretary.

2. Comply with requirements established by the Secretary relating to student loan information with respect to the Direct Loan Program.

3. Provide that students at the Institution and their parents (with respect to such students) will be eligible to participate in the programs under Title IV, Part B of the HEA, Federal Family Education Loan programs, at the discretion of the Secretary for the period during which such Institution participates in the Direct Loan Program, except that a student or parent may not receive loans under both Title IV, Part B and Part D of the HEA for the same period of enrollment.

4. Provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with Institutions of higher education, to ensure that the Institution is complying with program requirements and meeting program objectives.

5. Provide that the Institution will not charge any fees of any kind, regardless of how they are described, to student or parent borrowers for loan application, or origination activities (if applicable), or the provision and processing of any information necessary for a student or parent to receive a loan under Title IV, Part D of the HEA.

6. Provide that the Institution will originate loans to eligible students and parents in accordance with the requirements of Title IV, Part D of the HEA and use funds advanced to it solely for that purpose (Option 2 only).

7. Provide that the note or evidence of obligation of the loan shall be the property of the Secretary (Options 2 and 1 only).

8. Comply with other provisions as the Secretary determines are necessary to protect the interest of the United States and to promote the purposes of Title IV, Part D of the HEA.

9. Accept responsibility and financial liability stemming from its failure to perform its functions under this Program Participation Agreement.

**CERTIFICATIONS REQUIRED FROM INSTITUTIONS**

The Institution should refer to the regulations cited below. Signature on this Agreement provides for compliance with the certification requirements under 34 C.F.R. Part 82, "New Restrictions on Lobbying," 34 C.F.R Part 84, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 34 C.F.R. Part 85, "Governmentwide Debarment and Suspension (Nonprocurement)," and 34 C.F.R. Part 86, "Drug and Alcohol Abuse Prevention." Breach of any of these certifications
constitutes a breach of this Agreement.

PART CERTIFICATION REGARDING LOBBYING; DRUG-FREE
1 WORKPLACE; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG AND ALCOHOL ABUSE PREVENTION

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 C.F.R. Part 82, for persons entering into a Federal contract, grant or cooperative agreement over $100,000, as defined at 34 C.F.R. Part 82, Sections 82.105, and 82.110, 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 Form to Report Lobbying," in accordance with its instructions.

(3) The Institution 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.

2a. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 C.F.R. Part 84, Subpart B, for grantees, as defined at 34 C.F.R. Part 84, Sections 84.200 through 84.230 -

The Institution certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a drug-free workplace statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The Institution's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be
given a copy of the statement required by paragraph (a);
(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will -
(1) Abide by the terms of the statement, and
(2) Notify the employer in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace no more than five calendar days after such conviction;
(c) Notifying the agency, in writing, within 10 calendar days after receiving notice under this subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, DC 20202. Notice shall include the identification number(s) of each affected grant;
(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted -
(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1972, as amended; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

2b. Drug-Free Workplace (Grantees Who Are Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 C.F.R. Part 84, Subpart C, for recipients who are individuals, as defined at 34 C.F.R. Part 84, Section 84.300 -
1. As a condition of the grant, the Institution certifies that it will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity related to the award; and
2. If any officer or owner of the Institution is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity, the Institution will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, DC 20202. Notice shall include the identification number(s) of each affected grant.

3. Debarment, Suspension, and Other Responsibility Matters

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 C.F.R. Part 85, for prospective participants in primary covered transactions as defined at 34 C.F.R. Part 85, Sections 85.105 and 85.110, the Institution certifies that it and its principals:
(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other
offense indicating a lack of business integrity or business honesty that seriously and directly affects their present responsibility.

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

4. Drug and Alcohol Abuse Prevention

As required by the Drug-Free Schools and Communities Act Amendments of 1989, which added section 1213 to the Higher Education Act, and implemented at 34 C.F.R. Part 86, the undersigned Institution certifies that it has adopted and implemented a drug prevention program for its students and employees that, at a minimum, includes--

1. The annual distribution in writing to each employee, and to each student who is taking one or more classes for any kind of academic credit except for continuing education units, regardless of the length of the student’s program of study, of:
   - Standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities.
   - A description of the applicable legal sanctions under local, State or Federal law for the unlawful possession or distribution of illicit drugs and alcohol.
   - A description of the health risks associated with the use of illicit drugs and the abuse of alcohol.
   - A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students.
   - A clear statement that the Institution will impose disciplinary sanctions on students and employees (consistent with local, State and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violation of the standards of conduct. A disciplinary sanction may include the completion of an appropriate rehabilitation program.

2. A biennial review by the Institution of its program to:
   - Determine its effectiveness and implement changes to the program if they are needed.
   - Ensure that its disciplinary sanctions are consistently enforced.

PART CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED TRANSACTIONS

The Institution is to obtain the signatures of Lower Tier Contractors on reproduced copies of the certification below, and retain the signed certification(s) in the Institution's files.
**CERTIFICATION BY LOWER TIER CONTRACTOR**

(1) The prospective lower tier participant certifies by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or Agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

<table>
<thead>
<tr>
<th>Name of Lower Tier Organization</th>
<th>PR/Award Number or Project Name</th>
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<tbody>
<tr>
<td>Name of Authorized Representative</td>
<td>Title of Authorized Representative</td>
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<tr>
<td>Signature of Authorized Representative</td>
<td>Date</td>
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</tbody>
</table>
1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
NOTE: A completed copy of the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions" form must be retained by the Institution. The original blank certification must be returned with the PPA.