



FAFSA DATA PORTAL COMPLETION AGREEMENT

High Schools and Eligible Non-Profit Organizations Between School Entity and the Oklahoma State Regents for Higher Education

This agreement is between _____, hereby referred to as "Entity", and the Oklahoma State Regents for Higher Education, hereby referred to as "OSRHE," collectively referred to as "the Parties".

INTRODUCTION

RECITALS

- A. Entity desires that OSRHE render certain research services more fully described herein;
- B. OSRHE has demonstrated expertise in providing such services, has represented that it has the requisite knowledge, skill, experience and other resources necessary to perform such services and is desirous of providing such services for the Entity;
- C. OSRHE desires that students be counseled to complete their educational and higher education financial assistance pursuits; and
- D. the Entity has demonstrated expertise in providing such financial aid counseling and is ideally situated in relation to its students to provide such counseling services to those students attending schools within the Entity.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereby agree as follows:

- 1. **Incorporation of Recitals:** The matters recited above are hereby incorporated into and made a part of this Agreement.
- 2. **Term of Agreement:** This Agreement is for a term commencing on the date of signature and shall terminate upon either party receiving notice from the other pursuant to the notice provision below.
- 3. **Definition of Entity:** Entity shall mean any public, private, parochial, or denominational high school. Entity shall also mean a non-profit organization that 1) is, and continues to be, designated as tax-exempt by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code, 2) has as part of its mission a stated and demonstrated commitment to promoting college access and a record of legitimacy and reliability, 3) provides its services primarily to economically disadvantaged clients, 4) does not charge students, families, other clients, or schools for any of its services, 5) has not itself, nor have any of its affiliates or its parent organization, if any, been administratively or judicially formally accused of committing or determined to have committed fraud or any other material violation of law involving Federal, state, or local government funds, and 6) has submitted a written statement to the state grant agency certifying that each of the above criteria has been met and that the nonprofit organization will immediately notify the state grant agency, in writing, if it does not or cannot continue to meet any of those criteria.
- 4. **Scope of Services:** OSRHE agrees to provide the research services to the Entity set forth in **Exhibit A ("Services")**, in accordance with the terms and conditions of this Agreement. In exchange for the research services provided by OSRHE to Entity, Entity shall use its best efforts to encourage its students to follow through with their higher educational and financial aid pursuits. "Services" means, collectively, the services, deliverables, duties and responsibilities described in Exhibit A of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement. The parties may, from time to time, request changes in the Scope of Services. Any such changes shall be documented by a written amendment to this Agreement signed by both parties.
- 5. **Compensation:** Each party agrees to provide the Services at no cost or at no reimbursement of expenses to the other party.
- 6. **Confidential Information, Dissemination of Information, Ownership, Survival:**
 - A. **Confidential Information:** In performance of this Agreement, both parties shall have access to or receive certain information that is not generally known to others ("Confidential Information"). Each party shall not use or disclose any Confidential Information or any finished or unfinished, documents, screens, reports, writings, procedural manuals, forms, source code, object code, work flow charts, methods, processes, data, data studies, drawings, maps, files, records, computer printouts, designs, equipment descriptions, or other materials prepared or generated as a result of this Agreement ("Work Product") without the prior written consent of the other party. Both parties shall use at least the same standard of care in the protection of the Confidential Information of the other party as each party uses to protect its own Confidential Information, but in any event such Confidential Information shall be protected in at least a commercially reasonable manner.

- B. Highly Confidential Information:** “Highly Confidential Information” means employee, volunteer, student, or teacher data including, but not limited to student identification number, social security number, phone number, email address, gender, ethnicity, race, foster care status, disabilities, school, grade, grade point average, standardized test scores, assessment data, after school activities, highest grade completed, discipline history, criminal history, free or reduced lunch qualifications, housing status, income, household income or payroll information. In performance of this Agreement, both parties shall have access to or receive Highly Confidential Information. Each party shall not use or disclose any Highly Confidential Information without the prior written consent of the other party.
- C. Transmitting and Storing Highly Confidential Information:** Both parties shall:
- i.** When mailing physical copies of Highly Confidential Information, send the Highly Confidential Information in a tamper-proof, labeled container, with a tracking number and a delivery confirmation receipt;
 - ii.** Only mail Highly Confidential Information on electronic media, such as CDs, DVDs, electronic tape, etc., if the Highly Confidential Information is encrypted. Encryption must utilize the Advanced Encryption Standard (“AES”) algorithm with a key of 256 bits or greater (“Encrypt”). The Highly Confidential Information shall only be mailed in accordance with the provisions of Section **i**, above;
 - iii.** Encrypt all Highly Confidential Information prior to transmitting it electronically. OSRHE shall not transmit any unencrypted Highly Confidential Information via email, blackberry, blackjack, instant messages or any other unencrypted protocols;
 - iv.** Not send any password or other information sufficient to allow decryption of Highly Confidential Information with the Encrypted Highly Confidential Information;
 - v.** Keep all *physical* copies (paper or other physical representations) of Highly Confidential Information under lock and key, or otherwise have sufficient physical access control measures to prevent unauthorized access. Neither party shall leave Highly Confidential Information unsecured and unattended at any time;
 - vi.** Encrypt any Highly Confidential Information stored on electronic media, such as CDs, DVDs, tape, flash drives, etc. Further, such electronic media shall be kept locked, or otherwise have sufficient physical access control measures to prevent unauthorized access. Neither party shall leave Highly Confidential Information in any electronic format, including computer databases, unsecured, meaning accessible without a password, and unattended at any time;
 - vii.** Both parties shall take precautions to ensure that access through modems, networks, and the Internet is carefully monitored and limited to authorized users; and
 - viii.** Only authorized users within either organization who have signed a notarized Affidavit of Nondisclosure shall have access to Highly Confidential Information, unless disclosure of Highly Confidential Information to a third party is authorized by the prior written consent of both parties pursuant to Section D below.
- D. Dissemination of Information:** Neither party shall disseminate any Confidential Information or Highly Confidential Information to a third party without the prior written consent of the other party. If either party is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any Confidential Information, Highly Confidential Information or Work Product which may be in that party’s possession, that party shall immediately give notice to the other party and its General Counsel with the understanding that the other party shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party. Neither party shall be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended. Each party shall cause its personnel, staff and subcontractors, if any, to undertake the same obligations regarding confidentiality and dissemination of information as agreed to by both parties under this Agreement. **Neither party shall make any disclosure or publication whereby a sample unit or survey respondent (including students and schools) could be identified or the data furnished by or related to any particular person or school under these sections could be identified.**
- E. Ownership:** All original research results, data, information, records and work product generated under this Agreement, including all tangible or intangible property (collectively “Work Product”) shall be jointly owned by Entity and OSRHE. Each party agrees that all Confidential Information, Highly Confidential Information and preexisting intellectual property shall at all times be and remain the property of the party that supplied it. Each party shall execute all documents and perform all acts that the other party may request in order to assist the other party in perfecting or protecting its rights in and to the Work Product and all intellectual property rights relating to the Work Product.
- F. Use of Confidential Information, Highly Confidential Information, and Work Product:** Each party warrants and represents that it shall not use the Confidential Information, Highly Confidential Information or Work Product, unless in the aggregate, for any purpose not specifically identified in this agreement, including, but not limited to any research project whether internal or external to that party. Any use of the Confidential Information, Highly Confidential Information, or any Work Product not specifically contemplated in this Agreement shall be considered a material breach of this Agreement.
- G. Third Party Confidential Information and Proprietary Information:** Each party agrees not to utilize, analyze, reverse engineer, or otherwise exploit any third party Confidential Information or proprietary information in performing the Services regardless of where that party obtained the third party Confidential Information or proprietary information (even if the third party Confidential Information or proprietary information was provided by the other party) unless that party has previously secured the appropriate authorization in writing from such third party. In accordance with the

provisions of Section 12 of this Agreement, each party hereby agrees to indemnify and hold harmless the other party against any and all claims related to third party Confidential Information and proprietary information in connection with or arising out of the acts or omissions of the indemnifying party or its Staff under this Agreement.

- H. Return or Destruction of Confidential Information and Highly Confidential Information:** Each party shall, at the other party's option, destroy or return all Confidential Information and Highly Confidential Information to the other party upon demand within three (3) business days of demand. In addition, that party shall, at the other party's option, destroy or return all Confidential Information and Highly Confidential Information that belong to the other party within three (3) days of the expiration or termination of this Agreement. In the event the party to which the aforesaid information belongs elects to have the other party destroy the Confidential Information and Highly Confidential Information, that party shall provide an affidavit attesting to such destruction.
- I. Staff and Subcontractors:** Each party agrees to cause its personnel, staff and subcontractors, if any, to undertake the same obligations of confidentiality and ownership agreed to herein by that party.
- J. Oklahoma Open Records Act:** The parties acknowledge that this Agreement and all documents submitted to the Educational Entity related to this contract award are a matter of public record and are subject to the Oklahoma Open Records Act (Title 51 O.S. §§24A.1 – 24A.30 as amended) and any other comparable state and federal laws.
- K. Information Security Procedures:** It is critical that Highly Confidential Information be kept secure and protected from unauthorized disclosure. Therefore, all the Highly Confidential Information shared pursuant to this Agreement must be stored securely so that only authorized users within the organization have access to it. This means that computer data bases should be password protected; that precautions are taken to ensure that access through modems, networks, and the Internet is carefully monitored and limited to authorized users; and that data tapes, disks, paper files and other storage media are kept in secure locations.
- L. Security Incidents:** Each party shall report to the other all known or suspected Security Incidents. "Security Incident" means any unauthorized action by a known or unknown person which, if successfully completed, should reasonably be considered one of the following: a cyber-attack, denial of service (DoS/DDoS), disclosure of confidential customer or other sensitive information, misuse of system access, unauthorized access or intrusion (hacking), malware infection, unsolicited network reconnaissance, or any other activity that directly affects either of the party's Confidentiality, Integrity, and Availability of systems and/or data. "Security Incident" shall also include any contact by a law enforcement agency regarding any data. For purposes hereof, "the Parties" shall include any of their employees, agents, contractors or third parties including, without limitation, any vendors used by them that have access (either authorized or unauthorized) to the data.
- M. Survival:** The provisions of this Section shall survive the termination or expiration of this Agreement and only be ended with the complete and secure disposal of all confidential and / or highly confidential information and with the agreement of both parties.

7. Representations and Warranties of the Parties: Both parties represent and warrant that the following shall be true and correct as of the Effective Date of this Agreement and shall continue to be true and correct during the Term of this Agreement:

Compliance with Laws: The parties are and shall remain in compliance with all applicable federal, state, county, and municipal, statutes, laws, ordinances, and regulations relating to this Agreement, as amended from time to time, including but not limited to the Drug-Free Workplace, the Family Educational Rights and Privacy Act ("FERPA"), the Protection of Pupil Rights Amendment and any others relating to non-discrimination.

Authorization: Each party has taken all action necessary for the approval and execution of this Agreement, and execution by the persons signing on behalf of both parties is duly authorized and has been made with complete and full authority to commit both parties to all terms and conditions of this Agreement which shall constitute valid, binding obligations of each party.

- 8. Liability:** The parties intend that each shall be responsible for its own intentional and negligent acts or omissions to act. The participating Entities that are subject to the Oklahoma Governmental Tort Claims Act shall be responsible for the acts and omissions to act of its officers and employees while acting within the scope of their employment according to the Governmental Tort Claims Act, Title 51 O.S. Section 151 et seq. All other Entities shall be responsible for any damages or personal injury caused by the negligent acts or omissions to act by its officers, employees or agents. Those Entities not covered by and subject to the Oklahoma Governmental Tort Claims Act agree to hold harmless the Oklahoma State Regents for Higher Education of any claims, demands and liabilities from any act or omission on the part of the service provider and/or its agents, servants, and employees in the performance of the contract. In the event of litigation, the prevailing party shall be entitled to its attorney's fees and costs as awarded by a court of competent jurisdiction. It is the express intention of the parties hereto that this agreement shall not be construed as, or given the effect of, creating a joint venture, partnership or affiliation or association that would otherwise render the parties liable as partners, agents, employer-employee or otherwise create any joint and several liability.
- 9. Non-Liability of Entity or OSRHE Officials:** The parties agree that no member, employee, agent, officer or official of either party shall be personally charged by the other party, its members if a joint venture or any subcontractors with any liability or expense under the Agreement or be held personally liable under the Agreement to the other party, its members if a joint venture or any subcontractors.

10. Audit and Document Retention: Subject to state and federal laws regarding the disclosure of student information and the confidentiality provisions of this Agreement, all records referenced above and all records required to be maintained as part of the Services, shall be retained for five (5) years after completion of Services and shall be subject to inspection and audit by the other party. Each party shall include in all subcontractor agreements for Services provisions requiring subcontractors to maintain the above described records and allowing the other party, the Inspector General of the Entity, federal and state auditors the same right to inspect and audit said records as set forth herein. Data received pursuant to this Agreement shall be secured in accordance with standard audit requirements, and the parties shall retain records of access and use of such data for a period of three (3) years following the termination of this Agreement.

11. Notices: All notices required under this Agreement shall be in writing and sent to the addresses and persons set forth below, or to such other addresses as may be designated by a party in writing. All notices shall be deemed received when (i) delivered personally, or (ii) sent by email, or (iii) one day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. Refusal to accept delivery has the same effect as receipt.

ENTITY CONTACT:

Name/Title: _____

High School/Organization: _____

Address: _____

City, State, Zip: _____

Email address: _____

EMAIL SIGNED AGREEMENT TO:

Kelli Kelnar, Assistant Director for Outreach Services
Oklahoma College Assistance Program
kkelnar@ocap.org

In consideration of the mutual covenants and agreements contained in this Agreement, the Parties agree to the terms and conditions set forth herein and have caused this Agreement to be executed by their duly authorized representatives on the dates shown below. This Agreement may be signed in counterparts each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

Entity

By: _____

Date: _____

Printed Name: _____

Title: _____

Superintendent/School Board President/Chief Executive Officer

Oklahoma State Regents for Higher Education

By: _____

Date: _____

Printed Name: Melissa Neal

Title: Executive Director

Oklahoma College Assistance Program

EXHIBIT A

SCOPE OF SERVICES

This Scope of Services shall be conducted pursuant to the terms and conditions of the Research and Data Security Agreement ("Agreement") dated _____ by and between the Oklahoma State Regents for Higher Education ("OSRHE") and _____ (the "Entity"). Defined terms used in this Scope of Services shall have the same meanings as those ascribed to such terms in the Agreement.

In furtherance of the objective outlined in the attached Agreement, the respective parties agree to do the following:

- If a high school, Entity hereby engages OSRHE to conduct an ongoing study to identify those students within the Entity to determine the FAFSA completion status of Entity students.
- If an eligible non-profit, Entity hereby engages OSRHE to conduct an ongoing study to identify students attending qualified schools for whom Entity may be able to provide scholarship aid under its assistance programs. OSRHE's services shall include the determination of FAFSA completion status of such students.

In order to facilitate this study and in accordance with the Family Educational Rights and Privacy Act ("FERPA"), TITLE 20, CHAPTER 31, SUBCHAPTER III, Part 4 § 1232g(b)(1)(F)*, Entity shall provide OSRHE with the following student data in a format specified by OSRHE and no later than December 15th of each year:

1. *District Code
2. *School Code
3. *Student First Name
4. Student Middle Initial
5. *Student Last Name
6. *Date of Birth (YYYYMMDD)
7. *Gender (Male=1, Female=2)

*Required

With the authority provided pursuant to the disclosure provisions in the FAFSA that allow data sharing in order to facilitate the applicant's pursuit of financial aid, OSRHE shall share the following data with Entity:

On a biweekly basis between January and June each calendar year, the OSRHE will perform the FAFSA match so that Entity will be able to determine the FAFSA status of students associated with the Entity.

Shared data shall not be used for any purpose other than those described herein. All data shall be encrypted and securely shared between the parties and no data shall be shared outside of the parties except in the aggregate.

AUTHORIZED USERS

PRIMARY DATA (RECEIVER) POINT OF CONTACT/PRIMARY DATA CUSTODIAN

This person will supply the list of students to be matched.

Printed Name: _____

Title: _____

School/District/Entity Name: _____

Phone Number: _____

Physical Address: _____

Email Address: _____

ADDITIONAL AUTHORIZED USERS (MORE THAN THREE USERS MAY BE DESIGNATED. ATTACH ANOTHER FORM TO INCLUDE ADDITIONAL USERS.)

Name and Title: _____ School/District: _____

Email Address: _____ Phone Number: _____

Name and Title: _____ School/District: _____

Email Address: _____ Phone Number: _____

Name and Title: _____ School/District: _____

Email Address: _____ Phone Number: _____

Authorizing Official

Signed by Entity Designated Signatory: _____

(Must be signed by the person that executed the Research and Data Security Agreement.)

Printed Name and Title: _____

Email Address: _____ Phone Number: _____

Date: _____

EMAIL COMPLETED DOCUMENTS TO:

Kelli Kelnar, Assistant Director for Outreach Services

Oklahoma College Assistance Program

kkelnar@ocap.org