

**North Carolina State Board of Education/University of North Carolina
Master Agreement Version 001
June 2003**

This Master Agreement is between the North Carolina State Board of Education (NCSBE) and The University of North Carolina (UNC) (hereinafter “the parties”).

WHEREAS, the parties desire to facilitate and simplify the process of contracting with each other, and

WHEREAS, the parties agree to be bound by the terms and conditions contained in this Master Agreement, and

WHEREAS, it is anticipated that the parties will execute Task Orders between one another under this Master Agreement, and

WHEREAS, the parties desire to enter into this Master Agreement for the mutual benefits reasonably expected to be gained therefrom;

NOW THEREFORE, the parties hereto mutually agree as follows:

I. Definitions:

- A. **Task Order:** A Task Order consists of an “NCSBE/UNC Task Order Form” and the appendices attached thereto which set out the elements deemed generally appropriate to establish meaningful and prudent contractual relationships which collectively constitute an obligation for the **NCSBE** to pay to the amounts described and for the **Recipient** to perform the work defined. A copy of the “NCSBE/UNC Task Order Form” is attached hereto as Appendix 1.
- B. **Prime Agreement:** An agreement between **NCSBE** and a Funding Source which provides funding for a Task Order.
- C. **Recipient:** A constituent institution of UNC, the UNC General Administration or an affiliated entity of the UNC General Administration.
- D. **Funding Source:** A Funding Source is a third party which provides the funding to **NCSBE** which **NCSBE** uses to pay for the services specified in a Task Order.

E. Days: A day shall mean a calendar day.

II. Master Agreement

The parties agree that the Master Agreement shall govern the parties' performance under any Task Order. This Master Agreement may be modified only by written amendments by and between **NCSBE** and **UNC**, which have been duly executed by the authorized representative of each of the parties. A Task Order may not supersede the terms and conditions of the Master Agreement unless the Task Order expressly specifies the term or condition of the Master Agreement that is to be superseded.

III. Representations, Certification and Assurances

- A. If any of the services rendered under a Task Order are to be paid with federal funds, the **Recipient** hereby certifies that the organization and its principals are not suspended or debarred from doing business with the federal government.
- B. The **Recipient** hereby certifies no federally appropriated funds have been or will be paid to any person influencing an officer or employee of any agency, Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with a contract. If any funds other than federally 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, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Prime Award, grant, contract or cooperative agreement, the **Recipient** must complete and submit to the required entity the Standard Form – LLL, “Disclosure Form to Report Lobbying.”
- C. The **Recipient** has implemented a written and enforced conflict of interest policy consistent with the National Science Foundation Policy, “Investigator Financial Disclosure Policy,” as published in the Federal Register, July 11, 1995, and with subsequent amendment to the policy.
- D. The **Recipient** is in compliance with the Drug-Free Workplace Act of 1988, Public Law 100-690, Title V, Subtitle D. 34 CFR Part 85, and Subpart F.

- E. **Recipient** must comply with Title VI and VII of the Civil Rights Act of 1964, and Executive Order 11246 and certifies that it has a valid Assurance of Compliance on file with the DHHS (Form HHS 441).
- F. Any activity under a Task Order that involves the use of human subjects is governed by applicable policies and federal regulations. The **Recipient** agrees that any human subject research protocol conducted under a Task Order must be reviewed and approved by a designated Institutional Review Board (IRB) and certifies that this IRB is in full compliance with all relevant federal regulations.
- G. Pursuant to the Animal Welfare Act and the Public Health Service Policy on Humane Care and Use of Laboratory Animals, **Recipient** agrees that any animal research protocol conducted under a Task Order must be reviewed and approved by the **Recipient's** Institutional Animal Care and Use Committee (IACUC) and certifies that this IACUC is in full compliance with all federal regulations and has an approved Assurance on file with DHHS.

IV. Family Educational Rights & Privacy Act

Student educational records are subject to 20 U.S.C. 1232g, Family Rights and Privacy Act (FERPA) and are not disclosable except in very limited circumstances. The **Recipient** will ensure that every employee responsible for carrying out the terms of a Task Order that involves the use of student educational records or data that is identifiable to individual students is aware of the confidentiality requirements of federal law. In addition, every such employee must sign a confidentiality acknowledgement that indicates that he or she understands the legal requirements for confidentiality. The **Recipient** is responsible for the actions of its employees and must take all precautions necessary to ensure that no violations occur. Access to personally identifiable student education information will be limited to those employees who must have access to it in order to perform their responsibilities pursuant to a Task Order.

V. Examination of Records

The **Recipient** must retain financial records, supporting documents and other records pertinent to a Task Order in accordance with applicable laws and policies, but at least for three (3) years from the date of submission of the final expenditure report. Records pertaining to audits, appeals, litigation or settlement of claims

arising out of performance of a Task Order must be retained in accordance with applicable laws and policies, but at least until such audits, appeals, litigation or claims have been settled. The **Recipient** agrees that **NCSBE** has the right to inspect, review and audit all financial records, supporting documents and other documents applicable to a Task Order at all reasonable times, unless such disclosure is prohibited by law.

VI. Audit

Audits will be conducted in compliance with standards established by the North Carolina Office of State Auditor and where applicable OMB Circular A-133.

VII. Modification of Task Orders

Task Orders may be modified only by written amendments by and between **NCSBE** and the **Recipient**, which have been duly executed by the authorized representative of each of the parties. The **NCSBE** Project Coordinator and **Recipient** Principal Investigator may make minor modifications that do not: (a) change the intent of the Task Order including the **Recipient** Scope of Work; (b) increase or decrease the **Recipient's** total compensation; (c) change the method of payment; (d) increase or decrease the total cost of the project; or (e) change the starting or ending dates of the Task Order. Any minor modifications must be recorded in writing and signed by the Project Coordinator and the Principal Investigator and placed on file with the Contract Administrator for the **NCSBE** and the **Recipient**.

VIII. General Characteristics of Contracts

- A. **Rebudgeting:** **NCSBE** shall provide **Recipient** the same rebudgeting authority for the Task Order as **NCSBE** has been granted in the prime agreement.
- B. **Facilities and Administrative Costs Recovery:** Task Orders shall include total project costs including any facilities and administrative costs allowable to the **Recipient**. **NCSBE** will include those facilities and administrative costs in its reimbursement to the **Recipient** unless the Funding Source disallows the reimbursement.

- C. Fiscal Matters: The Task Order shall specify the method for presentation of invoices. **NCSBE** shall accept or reject **Recipient's** invoices within fourteen (14) days after presentation. **NCSBE** shall reimburse **Recipient** for effort performed under a Task Order as described on the **NCSBE/UNC** Task Order Cover Sheet within thirty (30) days of acceptance of an invoice. **NCSBE** shall be deemed to have accepted an invoice unless it notifies the Principal Investigator or the **Recipient** Contract Administrator within fourteen (14) days of presentation that the invoice has been rejected.
1. **NCSBE**, in its sole judgment, shall determine whether costs are allowable under a Task Order in accordance with any applicable laws and regulations. Costs for which prior approval is required will be contingent upon **NCSBE** receiving like approval of those specific costs from the **Funding Source**. In the event **Recipient** is in noncompliance with OMB Circular A-133, **NCSBE** may withhold payment of invoices pending favorable resolution of the noncompliance issue.
 2. If, after **NCSBE** has reimbursed **Recipient** for an expenditure, the **Funding Source** or its authorized representative rules through audit exception or other formal review that the expenditures from funds allocated to the **Recipient** for direct and/or indirect costs were not made in compliance with stated terms and conditions of a Task Order, then the **Recipient** shall reimburse **NCSBE** in the amount of the disallowed expenditure.
 3. A Task Order is not binding on the parties until **NCSBE** has assigned a Contract Number to it. The **NCSBE's** assignment of a contract number shall signify it has allocated and encumbered sufficient funds to cover the compensation due **Recipient** under the Task Order. It is understood and agreed between the **Recipient** and **NCSBE** that the payment of compensation specified in a Task Order is dependent upon and subject to the availability of funds to **NCSBE** for the purpose set forth in a Task Order. Should such funds not be available, the **NCSBE** shall immediately notify the **Recipient's** Contract Administrator and the parties shall modify or terminate the Task Order to account for the unavailability of funds. If the parties cannot agree on the terms of the modification or termination, then **NCSBE** shall terminate the Task Order under Paragraph XIV A of the Master Agreement. In the event of termination under this Paragraph,

Recipient's recovery shall be limited to the relief specified in Paragraph XIV A of the Master Agreement. **NCSBE** shall not be liable to **Recipient** for damages of any kind (general, special or consequential) as a result of such termination.

IX. Ownership of Contract Products

- A. Products: **Recipient** agrees that all products, records and data tapes produced under a Task Order become the property of **NCSBE**. The **Recipient** reserves the right to use all products, records and data tapes produced under the Task Order for its teaching, research and publication purposes.
- B. Copyright: The **Recipient** retains copyright when publications or similar materials are developed by **Recipient's** personnel from work supported in whole or in part by a Task Order. Any such copyrighted materials are subject to (a) a royalty-free, non-exclusive, and irrevocable license to **NCSBE** to reproduce, distribute, display, perform and make derivative work so long as such uses are for its internal or noncommercial education and research purposes; and (b) if required by the prime agreement, a royalty-free, non-exclusive, and irrevocable license to the **Funding Source** to reproduce, translate, publish, use and dispose of such materials.
- C. Publication: **Recipient** or its investigators are free to publish papers dealing with the results of the work performed under a Task Order. However, **NCSBE** must be given fifteen (15) days to review such papers prior to any publication thereof.

X. Key Personnel

- A. The **NCSBE** shall designate a Project Coordinator. The Project Coordinator shall review **Recipient's** performance of the Task Order, have authority to make modifications in accordance with Paragraph VII of the Master Agreement, and accept or reject invoices.
- B. The **Recipient** shall designate a Principal Investigator. The Principal Investigator shall be responsible for the overall technical matters of a Task Order and shall have the authority to make modifications in accordance with Paragraph VII of the Master Agreement.

- C. **NCSBE** and the **Recipient** shall each designate a Contract Administrator. The Contract Administrators shall be responsible for all matters relating to the interpretation and administration of the Task Order.
- D. The **Recipient** agrees that it has, or will secure at its own expense, all personnel required to perform the services set forth in a Task Order. The **Recipient** shall not hire, employ or contract with any person currently employed by **NCSBE** to furnish any material or perform any service on a Task Order without first assuring compliance with applicable laws of the State of North Carolina and regulations of the State Personnel Commission relating to dual or secondary employment by State employees. In the event the **Recipient** hires, employs, or contracts with any employee of **NCSBE** to perform services set forth in the Task Order, that fact will be immediately reported in writing with reference to the Contract Number, to the Contract Administrator.
- E. The **Recipient** shall not substitute for any Principal Investigator identified as such by name or title or any other person identified as “Key Personnel” in the Task Order without prior written approved from the **NCSBE** Project Coordinator.

XI. Subcontracting

The **Recipient** shall not subcontract work to be performed under a Task Order without the prior written approval of the **NCSBE** Project Coordinator.

XII. Contract Transfer

The **Recipient** shall not transfer any interest in this agreement without prior written agreement from **NCSBE**.

XIII. Liability

Parties’ liability for torts is limited in accordance with the North Carolina Tort Claims Act, N.C. General Statute Sec. 143-291, *et seq.*

XIV. Termination

- A. **NCSBE Right to Terminate Without Cause:** **NCSBE** may terminate a Task Order, without cause, by giving thirty (30) days written notice to **Recipient's** Contract Administrator prior to effective date of such termination delivered by fax, express, priority or first class mail. The **Recipient** must stop work under the Task Order no later than the date specified in the notice. The **Recipient** will submit an invoice to **NCSBE** in accordance with Paragraph VIII.C. of the Master Agreement for all work performed as of the stop work date specified in the notice. In the event of termination under this Paragraph, **Recipient** will also be reimbursed for all noncancellable commitments incurred prior to the **Recipient's** receipt of the notice of termination and any unavoidable costs incurred after notice of termination. Employment or personal services contracts for personnel acquired to perform services set forth in a Task Order will contain language such that upon termination of the Task Order in accordance with Paragraph XIV of the Master Agreement, the corresponding employment or personal services contract may be terminated at the discretion of **Recipient**.
- B. **NCSBE Right to Terminate for Cause:** If, through any cause, the **Recipient** fails to fulfill in a timely or proper manner the obligations under a Task Order, **NCSBE** will thereupon have the right to terminate a Task Order by giving written notice to the **Recipient's** Contract Administrator and Principal Investigator of such termination and by specifying the effective date thereof. The termination will be effective ten (10) days after it is received by the **Recipient's** Contract Administrator. In such event, the **Recipient** will receive just and equitable compensation for any work satisfactorily completed work. Notwithstanding, the **Recipient** shall not be relieved of liability to **NCSBE** for damages sustained by **NCSBE** by virtue of any breach of the Task Order or failure to perform, and **NCSBE** may withhold payment to the **Recipient** for the purpose of set-off until such time as the exact amount of damages due **NCSBE** from such breach or failure can be determined. Damages, as used in this Paragraph of this Agreement, shall mean the reasonable additional cost to **NCSBE** of obtaining a substitute to complete the services **Recipient** agreed to perform in the Task Order plus any penalties imposed upon the **NCSBE** by the Funding Source that are attributable to the **Recipient's** breach of contract.

C. **Recipient Right to Terminate:** **Recipient** shall have the right to terminate this agreement if, due to circumstances beyond its control, it does not have the capacity to continue to provide the services agreed to in the Task Order. Such circumstances include, but are not limited to, loss of key personnel when a replacement satisfactory to both **NCSBE** and the **Recipient** is not available or loss of necessary resources. In such event, **Recipient** shall notify the **NCSBE's** Contract Administrator within 10 days of **Recipient's** Contract Administrator's determination that **Recipient** does not have the capacity to continue to provide the agreed to services. In this event, payment from **NCSBE** to **Recipient** and liability for damages, if any, will be determined in accordance with Paragraph XIV B. above, unless **NCSBE** and **Recipient** agree otherwise.

XV. Severability

In the event any term or condition of the Master Agreement is negated or vacated for any reason whatsoever all other provisions of the Master Agreement shall remain fully valid and enforceable.

XVI. Governing Law

The laws of the State of North Carolina govern validity and interpretation of the provisions, terms, and conditions of the NCSBE/UNC Master Agreement and all Task Orders issued thereunder.

XVII. Incorporation

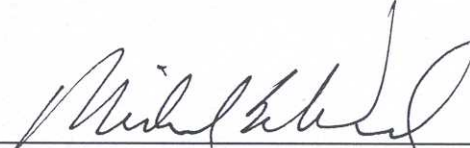
The parties mutually agree to set forth in attachment or incorporation by reference this Master Agreement in subsequent Task Orders by and between the parties hereto.

XVIII. Survivability

Paragraph V Examination of Records, VI Audit, IX Ownership of Products, XII Contract Transfer, XIII Liability, XVI Governing Law of the NCSBE/UNC Master Agreement and others as outlined in an individual Task Order will survive the termination of this Master Agreement.

IN WITNESS WHEREOF, the parties have caused this Master Agreement 01-01 to be executed as of the date first written by their duly authorized representative.

THE NORTH CAROLINA STATE BOARD OF EDUCATION

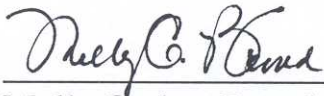


Michael E. Ward, Superintendent

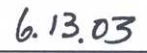


Date

THE UNIVERSITY OF NORTH CAROLINA



Molly Corbett Broad, President



Date

TASK ORDER
Issued Under the North Carolina State Board of Education, University of North Carolina
Master Agreement, Version 001

Project Personnel

UNC Institution

Principal Investigator

University
Name, Title
Address
City, State, Zip
Phone, fax
Email

NCSBE

Project Coordinator

North Carolina Department of Public Instruction
Name, Title
Address
City, State, Zip
Phone, fax
Email

Contract Administrator

University
Name, Title
Address
City, state, zip
Phone, fax
Email

Contract Administrator

North Carolina Department of Public Instruction
Name, Title
Address
City, State, Zip
Phone, fax
Email

Project Description

Project Title:

Project Contact for University:

Project Start/End Dates: _____ through _____

Incorporation

The Terms and Conditions of the NCSBE/UNC Master Agreement are incorporated by reference. This Task Order also includes any Appendices or addendums attached hereto, including Appendix A "Recipient Scope of Work," Appendix B "the Funding Source Award Notice," (if applicable), Appendix C "Special terms and conditions," and Appendix D "Detailed Budget – including allowable Facilities and Administrative Cost recovery."

IN WITNESS THEREOF, the parties have caused the Task Order to be executed by their authorized representatives.

ATTEST:

FOR THE NORTH CAROLINA STATE BOARD OF EDUCATION:

Deputy State Superintendent

Date

State Superintendent

Date

UNC INSTITUTION:

Authorizing Official Signature

Date

Attorney General's Signature (if Task Order amount \$100,000 and over)

Date

TASK ORDER NO. _____
____ New ____ Modification No. ____

NCSBE CONTRACT ORDER NO. _____
Amendment No. _____

Funding Information

Total Project Costs:
Total funding to date:
Cost share required with this action:
Cost share to date:

Funding Source:
Agency #:
CFDA#:
Title:

Recipient Fiscal Agent

Name, Title
Address
City, state, zip
Phone, fax,
Email

Special Terms and Conditions

<input type="checkbox"/> Special Terms and Conditions Continued in Appendix C

Invoicing

Cost reimbursement under this Task Order will require periodic invoices submitted no more frequently than monthly and a final invoice submitted within 30 days of the project end date listed on page 1. All invoices are subject to the approval of the "NCSBE Project Coordinator." Invoices are to be *addressed* to NCDPI, Accounts Payable, 6339 Mail Services Center, Raleigh, NC 27699-6339, but *mailed* to the Project Coordinator listed on page 1 of this Task Order.