

TECHNICAL ASSISTANCE AGREEMENT

BETWEEN

UNIVERSITY OF PUERTO RICO, MAYAGÜEZ

AND THE

U.S. DEPARTMENT OF THE INTERIOR

U.S. GEOLOGICAL SURVEY

USGS #
10W7TAA0421182

The agreement is established between the University of Puerto Rico, Mayagüez Campus, a public university of the Council of Higher Education of Puerto Rico, Santos, , represented in this act by its Chancellor, Jorge Rivera and the U.S. Geological Survey, a Bureau of the U.S. Department of the Interior,

hereinafter referred to as "USGS," represented in this act by Tom Brocher, Science Director of the Earthquake Hazard Team,

to collaborate in operation of the strong motion recording systems installed in a number of Puerto Rican municipalities by the Puerto Rico Strong Motion Program (PRSMMP) at the University of Puerto Rico, Mayagüez (UPRM). The operation pertains to general and specific inspection and maintenance of approximately 100 free-field stations and about 15 instrumented structures. The work to be performed shall be carried out by personnel (technicians or researchers) from the U.S. Geological Survey.

Whereas, the USGS is authorized to perform Cooperative Technical Assistance with other Federal agencies; units of State or local government; private corporations, industrial organizations; public and private foundations; nonprofit organizations (including universities) under the Stevenson-Wydler Act (15 U.S.C. §3710a as amended);

Whereas, the Technical Cooperation contemplated by this agreement will serve the mission of the USGS, because it will facilitate the acquisition of critical strong-motion recordings needed to achieve its goals for the Earthquake Hazard Reduction Program;

Whereas, the Technical Cooperation is of value to the University of Puerto Rico in its objective to keep the seismic monitoring system technically and properly maintained and operational;

Now therefore, the parties hereto agree that subject to availability and appropriations and in accordance with their respective authorities they shall collaborate to provide inspection and maintenance services in the Puerto Rico Strong Motion Program.

1. PURPOSE

For USGS, the purpose is to acquire critical strong-motion recordings in order to better understand the structural system behavior during earthquakes, thus improve the current design regulations and building codes. For University of Puerto Rico, the purpose is to make sure its seismic monitoring system is properly maintained and operational.

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2. PERIOD OF PERFORMANCE

The term of this agreement becomes effective at the time that the last signature is obtained, to September 30, 2014. The agreement shall be extendable upon mutual agreement by both parties for periods up to 5 years and revocable at any time, including during the initial five year term, upon 30 days written notice delivered by either party to the other party. This contract can also be terminated in agreement of both parts as permitted by the University Laws and Rules and Regulations of the University of Puerto Rico at Mayagüez.

3. FISCAL INFORMATION FOR BILLING

Billing cycle for technical assistance provided by USGS to University of Puerto Rico shall coincide with annual billing cycles of USGS.

Rates for technical assistance shall be a fixed lump sum amount for each year. Expenditures that are not related to the routine maintenance or expenses related to equipment upgrades are not covered in this agreement; hence, should be handled separately, however, the University of Puerto Rico shall not be obligated for any of such "unusual expenditures" unless such are approved in writing, signed by its chancellor, and in advance by the University of Puerto Rico.

4. STATEMENT OF WORK

University of Puerto Rico at Mayagüez: The principal investigator of the Strong Motion Program at the University of Puerto Rico at Mayagüez will be the coordinator of this agreement from Puerto Rico.

USGS: The USGS will provide seismic instrumentation technical staff to inspect and service field seismic instrumentation identified in this agreement as the Puerto Rico Seismic Monitoring System. The USGS technical staff will perform the inspection and maintenance tasks on an as needed basis.

USGS normal maintenance of stations includes inspection, functional testing, and verification of proper function using standard procedures in accordance with current National Engineering Strong-Motion Program (NESMP) operational guidelines. All test records will be collected, evaluated, and permanently transferred to USGS for archival. As needed, maintenance will include such activities as installation of new rechargeable batteries, replacement of recording media, and minor field repairs.

Routine maintenance of digital recorders connected to PRSMP data center via dial-up telephone connection or other telemetry shall include: 1) near real time state of health monitoring of recorder, sensors, and telemetry; 2) download of instrument periodic function tests; 3) maintenance of sufficient on site memory in recorders to ensure that the shaking of the main earthquake can be recorded at the site in the event that telemetry fails during the event, and; 4) near real time recovery of digital seismic recordings with preliminary processing, archival, and dissemination of recordings of engineering interest.

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Recorder or sensor malfunctions that cannot be resolved in the field will cause the malfunctioning unit to be removed by USGS and conveyed to PRSMP for factory servicing. If available, a temporary USGS or PRSMP replacement will be installed, while the removed unit is being repaired. The repaired unit will be reinstalled at a future USGS service visit or by personnel of the PRSMP. The repair costs will be borne by PRSMP.

Post-earthquake services will be performed only after earthquakes of "engineering significance" (i.e., structural significance of level of recorded motion as determined by the USGS and PRSMP). Post-earthquake service involves site visits to recover of strong-motion recordings if it cannot be accomplished remotely. USGS will maintain station metadata needed for proper use of the recorded data as compiled by USGS personnel.

5. ESTIMATE OF COSTS

USGS will annually bill the University of Puerto Rico at Mayagüez a lump sum amount not exceeding \$15,000.00 (which will be pay from the current account of the PRSMP) for all of the work listed in this paragraph being properly completed. This will cover: 1) Reimbursement for air travel, 2) Reimbursement for hotel, 3) Reimbursement for ground transportation, and 4) Reimbursement for materials and equipment. In no event shall the University of Puerto Rico be obligated to pay any amount over \$15,000.00 per federal fiscal year (beginning Oct. 1 and ending Sept. 30) without advance written approval by the University of Puerto Rico at Mayagüez. The PRSMP receives recurrence funds every state fiscal year (July 1st – June 30th) from the Puerto Rico State Legislature. An annex will be prepared previous to each USGS maintenance campaign visit to Puerto Rico certifying the availability of the funds for that particular year, and establishing the details of the work which will be performed by USGS during that particular year. Once the tasks are completed, USGS will provide a bill statement including all receives for which will be asking for reimbursement. The PRSMP will pay to the USGS from its current account running under its fiscal year. The funds for the present state fiscal year are already available.

6. TITLE TO EQUIPMENT

The University of Puerto Rico at Mayagüez shall retain title to any/all equipment used or furnished by it for the Seismic Monitoring System and such equipment will not be tracked in the USGS property database. Any temporary use of USGS property for purposes of maintenance or continuation of operation shall remain property of USGS.

7. TERMINATION

This Agreement can be terminated on 30 days written notice of either party; or, for the University, as permitted by the University Laws and Rules and Regulations of the University of Puerto Rico.

8. PUBLICATIONS/ REPORTS:

Either party will be free to publish the non-proprietary results of the research of the Principal Investigators conducted under this Agreement. The University of Puerto Rico may publish or make available as public records, any information or records that the

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University of Puerto Rico is required to release in accordance with Puerto Rico law. The USGS may publish and use the data it collects in related work.

9. INTELLECTUAL PROPERTY:

The parties do not anticipate the development of new Intellectual Property as part of this technical assistance. But if any inventions materialize, all rights in inventions, including patentable software created in the course of the Statement of Work, shall be the individual property or joint property of the institution employing the respective researcher(s) who made the invention or discovery. Such inventions shall be reported by the researcher according to his institution's policy on patents. In the event that there are joint discoveries the Parties agree to begin to negotiate a separate license agreement within 60 days of any notice from either party that one is requested.

10. NOTICES:

Any notice required to be given or which shall be given under this Agreement shall be in writing and delivered to the parties as follow:

PRSMMP – UPRM	USGS
Technical	Technical
Dr. José A. Martínez-Cruzado	Dr. Erol Kalkan, P.E.
Principal Investigator, Puerto Rico Strong Motion Program, University of Puerto Rico, Mayagüez	Manager - National Engineering Strong Motion Network
Civil Engineering & Surveying Dept.	US Geological Survey
PO Box 9000	345 Middlefield Road, MS 977
Mayagüez, PR 00681-9041	Menlo Park , CA 94025
Phone: 787-832-4040/3401	Phone: 650-329-5146
Fax: 787-831-2745	Fax: 650-329-5163
e-mail: jose.martinez44@upr.edu	e-mail: ekalkan@usgs.gov
DUNS: 143618697	DUNS: 074672841
Administrative	Administrative
Liz Y. Negron, Administrative Assistant, Puerto Rico Strong Motion Program	Lourdes A. Gardner, Administrative Officer
Civil Engineering & Surveying Department	US Geological Survey
University of Puerto Rico at Mayagüez	345 Middlefield Road, MS 977
P.O. Box 9000 Mayagüez, PR 00681	Menlo Park , CA 94025
Phone: 787-832-4040/3406	Phone: 650-329-4852
Fax: 787-831-2745	Fax: 650-329-5163
lizy.negron@upr.edu	lgardner@usgs.gov

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11. INDEPENDENT PARTY:

For purposes of this Agreement and all services to be provided hereunder, each party shall be, and shall be deemed to be, an independent party and not an agent or employee of the other party. Each party shall have exclusive control over its employees in the performance of the work. While in field locations employees shall adhere to the safety and technical requirements imposed by the party controlling the work site.

Neither party shall have authority to make any statements, representations, or commitments of any kind, or take any action, which shall be binding on the other party, except as may be explicitly provided for herein or authorized in writing. Neither party may use the name of the other in advertising or other form of publicity without the written permission of the other.

12. GOVERNING LAW/LIABILITY:

a. The validity and interpretation of this Agreement and the legal relation of the parties shall be governed by applicable Federal and Puerto Rican law. Venue for any initial judicial proceeding shall be in the Federal District Court in the District of Puerto Rico, at Hato Rey. Each party agrees to be responsible for the activities of their employees. USGS accepts responsibility for damage to persons or property caused by the negligent acts or omissions of USGS employees, while acting within the scope of their employment in accordance with the Federal Tort Claims Act, 28 USC §2671-80 and the responsibility/liability of the University of Puerto Rico and Puerto Rico is limited by the Puerto Rico Governmental Immunity Act and Puerto Rican law.

b. The USGS complies with Federal Civil Rights statutes and will comply too with the Puerto Rican Civil Rights statutes consistent with them.

c. NEITHER THE USGS NOR THE UNIVERSITY OF PUERTO RICO MAKE ANY EXPRESS OR IMPLIED WARRANTY AS TO THE CONDITION OF THE RESEARCH, OR THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH, DATA, OR RESULTING WORK PRODUCT INCORPORATING DATA DEVELOPED AND EXCHANGED UNDER THE STATEMENT OF WORK. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THE TECHNICAL ASSISTANCE.

13. ENTIRE AGREEMENT:

This Agreement contains all of the terms of the parties and supersedes all prior agreements and understandings related thereto. This Agreement can be changed or amended only by a written instrument signed by the parties. Due to the specialized nature of the work this Agreement is non-assignable by both parties.

14. DISPUTES:

The signatories to this Agreement shall expend their best efforts to amicably resolve any dispute that may arise under this Agreement. Any dispute that they are unable to resolve

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shall be submitted to the Director or designee of the USGS and to the University of Puerto Rico at Mayagüez Chancellor or designee for resolution.

15. MISCELLANEOUS PROVISIONS:

Pursuant to the Anti-Deficiency Act, 31 U.S.C. §1341 (a)(1), nothing herein contained shall be construed as binding the USGS to expend in any one fiscal year any sum in excess of its appropriations or funding in excess or what it has received for the reimbursable work contracted for by Sponsor.

16. SIGNATORIES REPRESENTATION:

Each signatory below represents that he/she has the requisite authority to bind their respective party.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed, on the last date listed below.

**U.S. GEOLOGICAL
SURVEY**

By:

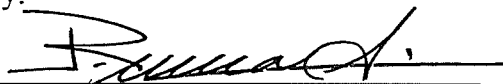


Tom Brocher
Chief Scientist
Western Earthquake Hazards Team
U.S Geological Survey, Menlo Park

Date: January 4, 2010

UNIVERSITY OF PUERTO RICO

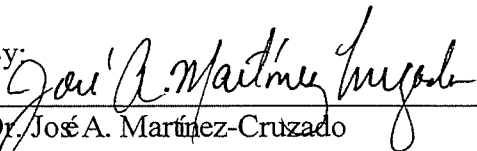
By:



Dr. Jorge Rivera Santos
Chancellor
University of Puerto Rico at Mayagüez
PO Box 9000
Mayagüez, Puerto Rico 00680

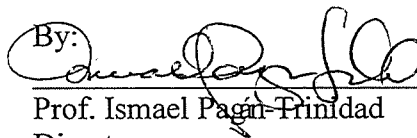
Date: December 16, 2009 ^{MJO}

By:



Dr. José A. Martínez-Cruzado
Coordinator
Puerto Rico Strong Motion Program

By:



Prof. Ismael Pagan-Trinidad
Director
Department of Civil Engineering &
Surveying