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MLC

Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
101 Pleasant Street
Concord, NH 03301
TEL. (603) 271-3495
FAX (603) 271-1953

March 15, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Education to enter into a **sole source** contract with FACTS Education Solutions, LLC (VC #368095), Lincoln, NE, in the amount not to exceed $956,340, to deliver fiscal agent services on behalf of the New Hampshire Department of Education (NHED) to eligible participants of the sponsored training for LETRS Elementary Educators and LETRS Early Childhood Educators being provided through the contract with Lexia Learning Systems, LLC. Effective upon Governor and Council approval through September 30, 2024. 100% Federal Funds.

Funds are available in the accounts titled ESSER II-CRRSA Act 2021 and ESSER III-ARP Act 2021 for FY23 and are anticipated to be available in FY24 and FY25, upon the availability and continued appropriation of funds in the future operating budget with the authority to adjust encumbrances between fiscal years within the price limitation through the Budget Office without further Governor and Council approval, if needed and justified.

	FY23	FY24	FY25	Total
06-56-56-562010-19580000-072-509075 Grants Federal	$380,000	$11,000	$0	$391,000
06-56-56-562010-24370000-072-509073 Grants Federal	$0	$365,340	$200,000	$565,340
Total	$380,000	$376,340	$200,000	$956,340

EXPLANATION

This contract is **sole source** because NHED determined that FACTS Education Solutions, LLC (FACTS) is the only vendor that the department was able to identify that could implement the objectives of the contract in the time frame that is needed. NHED reached out to several vendors and none of them were able to provide NHED fiscal agent services meeting the federal and state compliance requirements of the

Covid-19 relief funding source. Multiple documents will need to be collected, reviewed, and finalized in order to issue payment in a short period of time while ensuring compliance with the process. FACTS has demonstrated through work on other programs their ability to act as a fiscal agent in a reliable manner.

FACTS will provide services including establishing an application process, which encompasses collecting and verifying all required documents according to an NHED internal policy process, maintaining accounting records for payments of all stipends, providing timely and accurate tax reporting to the appropriate parties, providing customer service for applicants with questions, and ultimately issuing payments to approved applicants.

Eligible participants of the sponsored training for LETRS Elementary Educators and LETRS Early Childhood Educators will be eligible for a stipend payment according to the internal NHED stipend policy, which includes a passing grade of unit testing, employment verification, tax documents completion and upload, as well as a direct deposit/ACH information request form.

These contracted services will result in an incentive for educators and participants, committed to improving reading outcomes for NH students, with the support needed to successfully complete this rigorous and intense programming that they are choosing to participate in during their free time.

Respectfully submitted,

Frank Edelblut
Commissioner of Education

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Education		1.2 State Agency Address 25 Hall Street, Concord, NH 03301	
1.3 Contractor Name FACTS Education Solutions LLC		1.4 Contractor Address 121 S. 13th St. Suite 201, Lincoln, NE 68508	
1.5 Contractor Phone Number 402-458-3085	1.6 Account Number See Exhibit C	1.7 Completion Date September 30, 2024	1.8 Price Limitation $956,340
1.9 Contracting Officer for State Agency Jessica Lescarbeau, Administrator		1.10 State Agency Telephone Number 603-271-0058	
1.11 Contractor Signature Date: March 13, 2023		1.12 Name and Title of Contractor Signatory Patrick Haggarty, Ed.D President	
1.13 State Agency Signature Date: 3/20/2023		1.14 Name and Title of State Agency Signatory Frank Edelblut, Commissioner of Education	
1.15 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)* By: Director, On:			
1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)* By: On: 3/20/2023 Elizabeth Brown, Attorney			
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number: G&C Meeting Date:			

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2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

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8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

10.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

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Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000 per occurrence and $2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A *("Workers' Compensation").*

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

17. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

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Exhibit A

Special Provisions

Additional Exhibits D-G

Federal Certification 2 CFR 200.415

Required certifications include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

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Exhibit B
Scope of Services

FACTS Education Solutions, LLC (FACTS) shall deliver fiscal agent services on behalf of the New Hampshire Department of Education (NHED) to eligible participants of the sponsored training for LETRS Elementary Educators and LETRS for Early Childhood Educators.

NHED has contracted with Lexia Learning Systems, LLC, to provide literary training. NHED has offered stipends to individuals who successfully complete the literacy training program pursuant to the terms of the "Lean into Literacy LETRS Stipend Policy" attached hereto as Appendix 1. FACTS agrees to take all steps necessary to pay the applicable stipends to all eligible participants of the NHED Learn into Literacy Program.

FACTS will provide the following services:

1. Provide an application process consistent with the terms of eligibility as set forth in the Lean into Literacy LETRS Stipend Policy including but not limited to the following requirements:
    a. Ensuring that all necessary documentation is uploaded and verified before processing awards directly to the recipient.
    b. All required documentation to receive the stipend will be uploaded to the FACTS system, where FACTS will approve or decline the applications and issue stipend payments.
    c. Application window will be open for 30 days after the completion of each eligible phase. NHED will provide FACTS periodic updates of the scheduling of phases.
    d. Pay stub or verification from current employer confirming employment at a New Hampshire public, public chartered or private school, or eligible childcare center.
    e. Completion of a W-9 form.
    f. Official enrollment in either the NHED sponsored Two-Year LETRS program for Elementary Educators, or One-Year LETRS for Early Childhood Educators program.
    g. Satisfied the appropriate score on the applicable Posttest.

2. Maintain separate accounting records for payment of all stipends.

3. For each stipend paid under the Lean into Literacy LETRS Stipend Policy, FACTS shall maintain the following records and submit monthly reports to NHED with the following information:
    a. The date the application was received by FACTS;
    b. The date FACTS made a determination of eligibility for a stipend payment (which shall not be more than 30 days after receipt of an application for stipend)
    c. The name and mailing address of the payee
    d. The amount of the payment
    e. The check number or other unique identification of the payment
    f. The date the payment was mailed or otherwise delivered to the payee
    g. The date the payment is cleared or paid out of the account set aside to pay Lean into Literacy LETRS Stipends
    h. The date of any stop payment requested by a stipend recipient
    i. Cumulative amounts of payments authorized by FACTS
    j. Cumulative amounts of fees charged by FACTS for processing applications and issuing stipends
    k. Available funds not encumbered

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Exhibit B Continued

4. Provide appropriate and timely tax reporting to participants and to the Internal Revenue Service and appropriate state tax authority for all stipends paid.

5. Provide Customer Service associates who are available for questions from applicants Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.

6. Reporting to NHED that includes customizable reports with information provided in paragraph 3 herein.

EXHIBIT C
Method of Payment

Fees

- NHED shall pay FACTS a one-time implementation fee of $20,000 to set up the system, application process, required compliance documents, and communication to applicants in advance of the first stipend reimbursement phase opening upon Governor and Council approval.
- FACTS shall earn an Application Fee equal to One Hundred Dollars ($100) for each completed application. A completed application is a stipend application that has been received, reviewed, approved, and the stipend paid by FACTS.

Billing Schedule

- Due upon Governor and Council Approval
  - One-time implementation fee in the amount of Twenty Thousand Dollars ($20,000).
- Due by invoice
  - A monthly invoice shall be submitted to NHED at $600 per each Approved Application ($500 stipend payment plus the $100 Application Fee).

Limitation on Price: The State's obligation under this contract, including Stipends paid to applicants and the one-time implementation fee shall not exceed $956,340.

Funding Source: Funds to support this request are available in FY23 in the account titled ESSER II – CRRSA Act 2021 and are anticipated to be available in FY24 in ESSER II- CRRSA Act 2021 and ESSER III – ARP 2021, FY25 ESSER III- ARP, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust encumbrances between Fiscal Years through the Budget Office without further Governor approval, if needed and justified:

	FY 23	FY 24	FY 25	Total
06-56-56-562010-19580000-072-509075 Grants Federal	$380,000	$11,020	$0	$391,020
06-56-56-562010-24370000-072-509073 Grants Federal	$0	$365,320	$200,000	$565,320
Total	$380,000	$376,340	$200,000	$956,340

Method of Payment:

Payment is to be made monthly on the basis of invoices which are supported by a summary of activities/completed deliverables that have taken place aligned with the scope of services and in accordance with the terms of the contract. If otherwise correct and acceptable, payment will be made for 100% of the expenditures listed. A final invoice is due within 30 days of the end of this contract. Payment will be subject to funds availability. In the event that funds are not available, NHED shall immediately notify FACTS. Invoices and reports shall be submitted to:

Jessica Lescarbeau, Administrator IV

Jessica.l.lescarbeau@doe.nh.gov

EXHIBIT D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at $250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach
A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements
The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Environmental Protection
(This clause is applicable if this Contract exceeds $150,000. It applies to Federal-aid contracts only.)
The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials
In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired in the preceding fiscal year exceeded $10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Exhibit E

Federal Debarment and Suspension

a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:

   1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;

   2. Does not have a proposed debarment pending;

   3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and

   4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.

c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.

d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

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Exhibit F

Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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 any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.

b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and 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 the "Disclosure of Lobbying Activities" form in accordance with its instructions

https://www.gsa.gov/forms-library/disclosure-lobbying-activities

c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed $100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.

e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub- Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information(including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Revised 6-25-21

Contractor Initials PJH
Date March 13, 2023

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that FACTS EDUCATION SOLUTIONS, LLC is a Arizona Limited Liability Company registered to transact business in New Hampshire on July 30, 2021. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: **877453**

Certificate Number: **0006129942**

IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 27th day of February A.D. 2023.

David M. Scanlan

Secretary of State

Business Information

Business Details

Business Name: FACTS EDUCATION SOLUTIONS, LLC

Business ID: 877453

Business Type: Foreign Limited Liability Company

Business Status: Good Standing

Business Creation Date: 07/30/2021

Name in State of Formation: FACTS EDUCATION SOLUTIONS, LLC

Date of Formation in Jurisdiction: 05/22/2014

Principal Office Address: 121 S. 13th Street, Suite 100, Lincoln, NE, 68508, USA

Mailing Address: 121 S. 13th Street, Suite 100, Lincoln, NE, 68508, USA

Citizenship / State of Formation: Foreign/Arizona

Last Annual Report Year: 2023

Next Report Year: 2024

Duration: Not Stated

Business Email: CLS-CTARMSEvidence@wolterskluwer.com

Phone #: 303-696-3323

Notification Email: CLS-CTARMSEvidence@wolterskluwer.com

Fiscal Year End Date: NONE

Principal Purpose

S.No	NAICS Code	NAICS Subcode
1	Educational Services	Professional and Management Development Training

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Principals Information

Name/Title	Business Address
James D Kruger / Manager	121 S. 13th Street, Suite 100, Lincoln, NE, 68508, USA
Nelnet Business Solutions, Inc / Member	121 S. 13th Street, Suite 100, Lincoln, NE, 68508, USA
Jeffrey R Noordhoek / Manager	121 S. 13th Street, Suite 100, Lincoln, NE, 68508, USA
Timothy Tewes / Manager	121 S. 13th Street, Suite 100, Lincoln, NE, 68508, USA
Terry J. Heimes / Manager	121 S. 13th Street, Suite 100, Lincoln, NE, 68508, USA

Page 1 of 1, records 1 to 5 of 5

FACTS
EDUCATION SOLUTIONS

02/27/2023

New Hampshire Department of Education (NHED)
25 Hall Street Street
Concord, NH 03301

To whom it may concern,

I hereby certify that said authority executed on May 1, 2017 has not been amended or repealed and remains in full force and effect as of the date of the contract to which this certificate is attached. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation and that this authorization **shall remain valid for thirty (30)** days from the date of execution.

Elizabeth Shelton, Vice President, Accounts & Contracts 02/27/2023

ACTION BY WRITTEN CONSENT
OF THE SOLE MEMBER OF
FACTS EDUCATION SOLUTIONS, LLC

The undersigned, constituting the sole member ("the Member") Nelnet Business Solutions, Inc., of FACTS Education Solutions, LLC, an Arizona limited liability company ("the Company") does hereby adopt the following resolutions by written consent without a meeting, in accordance with Section 10-704 of the Arizona Corporations and Associations Statutes, effective as of the 1st day of May, 2017, notwithstanding the date of execution:

1. Appointment of Officer.

WHEREAS, the Member of the Company has determined in connection with the business of the Company that it is in the best interests of the Company to appoint the named officer of the Company to carry on the business on behalf of the Company:

NOW THEREFORE, BE IT RESOLVED, that following individual is hereby designated as an authorized person and shall have full power and authority to act on behalf of the Member, in the capacity holding the office adjacent to the names below:

Patrick Haggarty	President

SOLE MEMBER of FACTS Education Solutions, LLC

Nelnet Business Solutions, Inc.

Name: William J. Munn
Title: Secretary

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/28/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
HUB International Great Plains, LLC
11516 Miracle Hills Drive
Suite 100
Omaha NE 68154

CONTACT NAME: Mardi Whitley
PHONE (A/C, No, Ext): 402-964-5567 FAX (A/C, No):
E-MAIL ADDRESS: mardi whitley@hubinternational com

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A	Travelers Commercial Insurance	36137
INSURER B	Charter Oak Fire Insurance Company	25615
INSURER C		
INSURER D		
INSURER E		
INSURER F		

INSURED
FACTS Education Solutions, LLC
100 N. 56th Street, Suite 306
Lincoln NE 68504

NELN NC-01

COVERAGES — CERTIFICATE NUMBER: 1412845567 — REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			[redacted]	1/1/2023	1/1/2024	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE L MIT APPL ES PER:						GENERAL AGGREGATE	$ 10,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	X OTHER: Sexual Abuse $5M							$
B	AUTOMOBILE LIABILITY			[redacted]	1/1/2023	1/1/2024	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			[redacted]	1/1/2023	1/1/2024	EACH OCCURRENCE	$ 15,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 15,000,000
	DED X RETENTION $ -0-							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			[redacted]	1/1/2023	1/1/2024	X PER STATUTE OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N (Mandatory in NH)	N / A					E.L. EACH ACC DENT	$ 1,000,000
	If yes, describe under DESCR PTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
A	Property Coverage Special Cause of Loss			[redacted]	1/1/2023	1/1/2024	Blkt Bldg/Cnts Replacement Cost Agreed Value	$507,360,610 $25,000 Deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

State of New Hampshire, Department of Education
25 Hall St
Concord NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Jeffrey E Barnett

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