

STATE OF TEXAS §

COUNTY OF TRAVIS §

<b>Division/Org Code:</b>	110/701	<b>Program Name:</b>	Texas Permanent School Fund
<b>Speed Chart:</b>	6A012	<b>Legal/Funding Authority:</b>	Texas Constitution, Article VII
<b>Payee Name:</b>	FactSet Research Systems Inc.	<b>Contract #:</b>	3321
<b>Payee ID ISAS</b>	11333625470	<b>PO #:</b>	34514

## TEXAS EDUCATION AGENCY STANDARD CONTRACT

### ARTICLE I. PARTIES TO CONTRACT

This agreement is entered into by and between the Texas Education Agency ("TEA"), a Texas State Agency, and FactSet Research Systems Inc. of 601 Merritt 7 Norwalk, CT 06851 ("Contractor").

### ARTICLE II. PERIOD OF CONTRACT

TEA shall pay Contractor for the reasonable and approved costs incurred by Contractor in connection with the Contract Project during the period beginning 09/01/2015 and ending 12/31/2018, unless extended or terminated as otherwise provided for in this contract. Upon written mutual agreement of both parties, this contract may be extended for six (6) additional one-year terms to commence on the first day after the original contract period.

### ARTICLE III. PURPOSES OF CONTRACT

Contractor shall perform all of the functions and duties set described herein and in the appendices to this Contract, which are attached hereto and incorporated by reference.

### ARTICLE IV. PAYMENT UNDER CONTRACT

Subject to the availability to TEA of funds for the purpose(s) of this contract, TEA shall pay to Contractor by State of Texas warrant(s) an amount not to exceed \$865,000.00 for the Initial Term for the performance, satisfactory to the TEA, of Contractor's functions and duties under this Contract. Payment to Contractor by TEA will be made only in accordance with the relevant appendices to this Contract, which are attached hereto and incorporated herein by reference.

### ARTICLE V. GENERAL AND SPECIAL PROVISIONS OF CONTRACT

Attached hereto and incorporated herein by reference are the General Provisions and the Special Provisions indicated below with an "X" beside each:

- ☒ Special Provisions A, Program Specific Provisions
- ☒ Special Provisions B, Historically Underutilized Business Subcontracting Plan

☐ Contractor is certified as a Historically Underutilized Business as defined in V.T.C.A., TX Government Code, §2161.001 (attach Certification.) If not certified, call the Texas Building and Procurement Commission at (512) 463-5872 or write TBPC (HUB), PO Box 13047, Austin, Texas 78711-3047 to learn about the HUB certification.

Pursuant to Section 2252.901 of the Texas Government Code, Contractor certifies that it is not a former employee of TEA or that Contractor has not been an employee of TEA for twelve (12) months prior to the beginning date of this contract.

Contractor must make full disclosure of intent to employ or subcontract with an individual who is a former employee/retiree of TEA other than through Contractor's standard recruitment activities not specifically aimed at any such former employee/retiree of TEA. Within the first twelve months of leaving employment at TEA, a former employee/retiree selected by the Contractor for employment or subcontracting, shall not perform services on a project or fill a position that the former employee/retiree worked on while employed at TEA.

Contractor shall be an independent contractor for matters relating to this Contract. Contractor and its employees are not employees of TEA for any purpose and shall not be entitled to participate in any plan, arrangement, or distribution by TEA pertaining to or in connection with any pension, bonus, or other benefit extended to TEA employees.

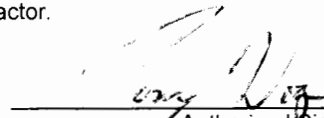
ARTICLE VI. ENTIRE CONTRACT

This contract together with the documents including but not limited to Appendices, Attachments, Exhibits, Proposal Responses, mentioned herein and incorporated by reference, contains the entire agreement between the parties relating to the rights granted and the obligations assumed in it. Any oral representations or modifications concerning this contract shall be of no force or effect unless contained in a subsequent amendment executed by both parties.

AGREED and accepted on behalf of Contractor effective beginning on the date of the Contract as specified above and as indicated by signature below of a person authorized to bind Contractor.

Typed name: TORREY MOORE

Typed title: VP - SALES MGR

  
Authorized Signature


**This section reserved for TEA use.**

I, an authorized official of the Texas Education Agency, hereby certify that this contract is in compliance with the authorizing program statute and applicable regulations and authorize the services to be performed as written above.

AGREED and accepted on behalf of Agency this 1st day of October 2015 (month/year) by a person authorized to bind Agency.

Return three (3) copies with original signature to:  
Catherine A. Civiletto  
Deputy Executive Administrator  
Texas Education Agency

400 West 15<sup>th</sup> Street 11<sup>th</sup> Floor  
Austin, Texas 78701

  
Shirley Beauleu, Associate Commissioner  
Finance/ CFO

Page #3 APPENDIX 1 HAS BEEN REMOVED BECAUSE IT IS  
MARKED CONFIDENTIAL

## GENERAL PROVISIONS

A. As used in these General Provisions:

- **Contract** means TEA's Standard Contract, and all of TEA's attachments, appendices, schedules (including but not limited to the General Provisions and the Special Provisions), amendments and extensions of or to the Standard Contract;
- **Agency or TEA** means the Texas Education Agency;
- **Contractor** means the party or parties to this Contract other than TEA, including its or their officers, directors, employees, agents, representatives, consultants and subcontractors, and subcontractors' officers, directors, employees, agents, representatives and consultants;
- **Project Administrator** means the respective person(s) representing TEA or Contractor, as indicated by the Contract, for the purposes of administering the Contract Project;
- **Contract Project** means the purpose intended to be achieved through the Contract;
- **Amendment** means a Contract that is revised in any respect, and includes both the original Contract, and any subsequent amendments or extensions thereto.
- **Major Contract** means any contract over \$10 million cumulative over the life of the contract.

B. **Contingency:** The Contract(s), including any amendments, extensions or subsequent contracts are executed by TEA contingent upon the availability of appropriated funds by legislative act. Notwithstanding any other provision in this Contract or any other document, this Contract is void upon the insufficiency (in TEA's discretion) or unavailability of appropriated funds. In addition, this Contract may be terminated by TEA at any time for any reason upon notice to Contractor. Expenditures and/or activities for which Contractor may claim reimbursement shall not be accrued or claimed subsequent to receipt of such notice from TEA.

C. **Indemnification:** Contractor shall indemnify, hold harmless the State of Texas, its officers, agents and employees, and the Texas Education Agency, its officers, and employees and contractors, from and against all claims, actions, suits, demands, proceedings, costs, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract. Contractor shall coordinate its defense with the Texas Attorney General as requested by TEA.

This paragraph is not intended to and shall not be construed to require contractor to indemnify or hold harmless the State or TEA for any claims or liabilities resulting from the negligent acts or omissions of TEA or its employees.

D. **Subcontracting:** Contractor shall not assign, transfer or subcontract any of its rights or responsibilities under this Contract without prior formal written amendment to this Contract properly executed by both TEA and Contractor. Any changes to the HUB Subcontracting Plan (HSP) must be approved by the Agency HUB Coordinator before staffing changes are initiated.

E. **Encumbrances/Obligations:** All encumbrances, accounts payable, and expenditures shall occur on or between the beginning and ending dates of this Contract. All goods must have been received and all services rendered during the Contract period in order for Contractor to recover funds due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.

F. **Records Retention:** Contractor shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Contractor in connection with the Contract. These records and accounts shall be retained by Contractor and made available for programmatic or financial audit by TEA and by others authorized by law or regulation to make such an audit for a period of not less than five (5) years from the date of completion of the Contract Project or the date of the receipt by TEA of Contractor's final claim for payment or final expenditure report in connection with this Contract, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed.

G. **Sanctions for Failure to Perform or for Noncompliance:** If Contractor, in TEA's sole determination, fails or refuses for any reason to comply with or perform any of its obligations under this Contract, TEA may impose such sanctions as it may deem appropriate. This includes but is not limited to the withholding of payments to Contractor until Contractor complies; the cancellation, termination, or suspension of this Contract in whole or in part; and the seeking of other remedies as may be provided by this Contract or by law. Any cancellation, termination, or suspension of this Contract, if imposed, shall become effective at the close of business on the day of Contractor's receipt of written notice thereof from TEA.

H. **Contract Cancellation, etc.:** If this Contract is cancelled, terminated, or suspended by TEA prior to its expiration date, the reasonable monetary value of services properly performed by Contractor pursuant to this Contract prior to such cancellation, termination or suspension shall be determined by TEA and paid to Contractor as soon as reasonably possible.

I. **Refunds Due to TEA:** If TEA determines that TEA is due a refund of money paid to Contractor pursuant to this Contract, Contractor shall pay the money due to TEA within thirty (30) days of Contractor's receipt of written notice that such money

is due to TEA. If Contractor fails to make timely payment, TEA may obtain such money from Contractor by any means permitted by law, including but not limited to offset, counterclaim, cancellation, termination, suspension, total withholding, and/or disapproval of all or any subsequent applications for said funds.

- J. **State of Texas Laws:** In the conduct of the Contract Project, Contractor shall be subject to laws or rules of the State of Texas pertaining to and or governing this Contract and the Contract Project. This Contract constitutes the entire agreement between TEA and Contractor for the accomplishment of the Contract Project. This Contract shall be interpreted according to the laws of the State of Texas except as may be otherwise provided for in this Contract.
- K. **HUB Subcontracting Plan:** Pursuant to 34 TAC 201.14 -18 and TGC 2161, Contractors shall maintain business records documenting compliance with the HUB subcontracting plan (HSP) and shall submit a compliance report to the contracting agency monthly, in the format required by the Agency. The compliance report submission shall be required as a condition for payment. If the Contractor subcontracts any part of the contract in a manner that is not consistent with its HUB subcontracting plan, the selected respondent must submit a revised HUB subcontracting plan before subcontracting any of the work under the contract. If the Contractor subcontracts any of the work without prior authorization and without complying with this section, the Contractor is deemed to have breached the contract and is subject to any remedial actions provided by Government Code, Chapter 2161, and other applicable state law.
- L. **Signature Authority; Final Expression; Superseding Document:** Contractor certifies that the person signing this Contract has been properly delegated this authority. The Contract represents the final and complete expression of the terms of agreement between the parties. The Contract supersedes any previous understandings or negotiations between the parties. Any representations, oral statements, promises or warranties that differ from the Contract shall have no force or effect. The Contract may be modified, amended or extended only by formal written amendment properly executed by both TEA and Contractor.
- M. **Antitrust:** By signing this Contract, Contractor, represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such firm, corporation or institution has, (1) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly the Proposal to any competitor or any other person engaged in such line of business during the procurement process for this Contract.
- N. **Family Code Applicability:** By signing this Contract, Contractor, if other than a state agency, certifies that under Section 231.006, Family Code, that Contractor is not ineligible to receive payment under this Contract and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate. TEA reserves the right to terminate this Contract if Contractor is found to be ineligible to receive payment. If Contractor is found to be ineligible to receive payment and the Contract is terminated, Contractor is liable to TEA for attorney's fees, the costs necessary to complete the Contract, including the cost of advertising and awarding a second contract, and any other damages or relief provided by law or equity.
- O. **Dispute Resolution:** The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by TEA and Contractor to attempt to resolve all disputes arising under this Contract. The parties may agree to mediation of their dispute at any time. The Agency's participation in mediation or any other dispute resolution process shall not waive any of the Agency's contractual or legal rights and remedies, including but not limited to sovereign immunity.
- P. **Interpretation:** In the case of conflicts arising in the interpretation of wording and/or meaning of various sections, parts, Appendices, General Provisions, Special Provisions, Exhibits, and Attachments or other documents, the TEA Contract and its General Provisions, Appendices and Special Provisions shall take precedence over all other documents which are a part of this Contract.
- Q. **Public Information:** The TEA is subject to the provisions of the Texas Public Information Act. If a request for disclosure of this Contract or any information related to the goods or services provided under the Contract or information provided to the TEA under this Contract constituting a record under the Act is received by the TEA, the information must qualify for an exception provided by the Texas Public Information Act in order to be withheld from public disclosure. Contractor authorizes the TEA to submit any information contained in the Contract, provided under the Contract, or otherwise requested to be disclosed, including information Contractor has labeled as confidential proprietary information, to the Office of the Attorney General for a determination as to whether any such information may be exempt from public disclosure under the Act. If the TEA does not have a good faith belief that information may be subject to an exception to disclosure, the TEA is not obligating itself by this Contract to submit the information to the Attorney General. It shall be the responsibility of the Contractor to make any legal argument to the Attorney General or appropriate court of law regarding the exception of the information in question from disclosure. The Contractor waives any claim against and releases from liability the TEA, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by the Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act.

To the extent that this Contract requires the creation or exchange of information that is not excepted from disclosure under the Texas Public Information Act, Contractor agrees to make all such information available to TEA for no additional charge in a format that is accessible by the public. Unless otherwise specified elsewhere in this Contract, the required format for the information will be an electronic flat file that can be (and, upon request from TEA, will be) delivered by Contractor and received by TEA through the parties' normal contact email addresses.

- R. **Venue and Jurisdiction:** Subject to and without waiving any of the Agency's rights, including sovereign immunity, this Contract is governed by and construed under and in accordance with the laws of the State of Texas. Venue for any suit concerning this solicitation and any resulting contract or purchase order shall be in a court of competent jurisdiction in Travis County, Texas.
- S. **Severability:** In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, the invalid provision will be deemed severable and stricken from the Contract as if it had never been incorporated herein. The remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.
- T. **Assignment of Contract:** This Contract may not be assigned, sold, or transferred without express written consent of the TEA Purchasing, Contracts, and Agency Services (PCAS) Division. An attempted assignment without notice to TEA will constitute a material breach of contract.
- U. **Excluded Parties List System:** The Texas Education Agency and the Contractor must adhere to the directions provided in the President's Executive Order (EO) 13224, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, which may be viewed at <http://www.whitehouse.gov/news/orders>. That Executive Order prohibits any transaction or dealing by United States persons, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of those persons listed in the General Services Administration's Excluded Parties List System (EPLS) which may be viewed on the System for Award Management (SAM) site at <http://www.Sam.gov>.
- V. **Suspension and Debarment:** Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal, state or local government entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement. If Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract.
- W. **Proprietary or Confidential Information:** Contractor will not disclose any information to which it is privy under this Contract without the prior consent of the agency. Contractor will indemnify and hold harmless the State of Texas, its officers and employees, and TEA, its officers and employees for any claims or damages that arise from the disclosure by Contractor or its contractors of information held by the State of Texas.
- X. **Independent Contractor:** Contractor shall serve as an independent contractor in providing services under this Contract. Contractor's employees are not and shall not be construed as employees or agents of the State of Texas.
- Y. **Contractor Performance:** All state agencies must report unsatisfactory Contractor performance on purchases over \$25,000. Contractor s who are in default or otherwise not in good standing under any other current or prior contract with TEA at the time of selection will not be eligible for award of this contract. A Contractor's past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of §§2155.074, 2155.075, 2156.007, 2157.003, and 2157.125, Gov't Code. Contractor s may fail this selection criterion for any of the following conditions: A score of less than 90% in the Contractor Performance System, currently under a Corrective Action Plan, having repeated negative Contractor performance reports for the same reason, having purchase orders that have been cancelled in the previous 12 months for non-performance (i.e. late delivery, etc.). TEA may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Contractor Performance Tracking System (as authorized by 34 Texas Administrative Code §20.108), TEA may examine other sources of Contractor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Any such investigations shall be at the sole discretion of TEA, and any negative findings, as determined by TEA, may result in non-award to the Contractor.

Agencies report satisfactory and exceptional Contractor performance to assist in determining best value. In accordance with Texas Government Code, §2155.074 and §2155.75, Contractor performance may be used as a factor in future contract awards.

Contractor performance information is located on the CPA website at [http://www.window.state.tx.us/procurement/prog/contractor\\_performance/](http://www.window.state.tx.us/procurement/prog/contractor_performance/)

Z. **Termination:** This Contract shall terminate upon full performance of all requirements contained in this Contract, unless otherwise extended or renewed as provided in accordance with the Contract terms and conditions.

i. **Termination for Convenience:** TEA may terminate this Contract at any time, in whole or in part, without penalty, by providing fifteen (15) calendar days advance written notice to the other Party. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TEA shall be liable for reimbursing only those expenses incurred by the Contractor that are permitted, properly performed under this Contract and were incurred prior to the effective termination date.

ii. **Termination for Cause/Default:** If the Contractor fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any of the terms or conditions of the Contract, TEA may, upon written notice of default to the Contractor, immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law or under the Contract.

TEA may exercise any other right, remedy or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract, or to recover damages for the breach of any agreement being derived from the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless TEA notifies the Contractor in writing prior to the exercise of such remedy.

The Contractor shall remain liable for all covenants and indemnities under the Contract. The Contractor shall be liable for all costs and expenses, including court costs, incurred by TEA with respect to the enforcement of any of the remedies listed herein.

iii. **Termination Due to Changes in Law:** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either Party cannot reasonably fulfill this Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under this Contract.

iv. **Rights upon Termination or Expiration of Contract:** In the event that the Contract is terminated for any reason, or upon its expiration, TEA shall retain ownership of all associated work products and documentation obtained from the Contractor under the Contract.

v. **Survival of Terms:** Termination of the Contract for any reason shall not release the Contractor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.

vi. **Contract Transition:** In the event a subsequent competitive solicitation is awarded to a New Contractor, the Outgoing Contractor shall hand-over to the New Contractor all "Works" including but not limited to the following: data, materials, database access, intellectual property, source code, training materials, access to websites, asset transfer, and maintenance of service commitments. The purpose of transition planning is to ensure a seamless and continuous service when changing from one contract to another. The Outgoing Contractor will begin shipping, transmitting or providing access to all appropriate materials and data to the New Contractor within 10 days of announcement of award at the New Contractor's expense for data processing and production, packing and shipping. The Outgoing Contractor will be responsible for providing the services identified in the Contract until all records have been completely transferred to the New Contractor. The Outgoing Contractor is responsible for performing due diligence to ensure that all the transition activities are identified and completed during the Contract Transition.

The Outgoing Contractor shall submit to TEA requested reports and data. TEA will not release the final invoice until all materials are returned to TEA or their designee. The TEA Project Manager shall approve the Transition Plan prior to its implementation. The Transition Plan must minimize the impacts on continuity of operations and maintain communication with the TEA Project Manager and the New Contractor.

AA. **Amendments:** All Amendments to this Contract will be in a manner as prescribed by the Project Administrator of the Agency and will be made on AMENDMENT TO TEXAS EDUCATION AGENCY CONTRACT form supplied by TEA and signed by both parties. An amendment to this Contract will become effective on the date of signature of TEA or the effective date shown on the Amendment document whichever is first.

BB. **Audit:** Pursuant to Section 2262.154 of the Texas Government Code, Contractor understands and agrees that (1) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract; (2) acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and (3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

Contractor further agrees that acceptance of funds under this contract acts as acceptance for TEA to conduct an audit or investigation in connection with those funds. Contractor, subcontractors, and any entities receiving funds through this contract shall cooperate fully with TEA in the conduct of the audit or investigations, including providing all records pertaining to this contract that are requested.

CC. **Force Majeure:** Except as otherwise provided, neither Contractor nor TEA shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this Contract caused by *force majeure*. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. *Force majeure* is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such *force majeure* or otherwise waive this right as a defense.

DD. **Abandonment or Default:** If the Contractor defaults on the Contract, Texas Education Agency reserves the right to cancel without notice and either re-solicit or re-award the Contract to the next best responsive Contractor. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the Agency based on the seriousness of the default.

EE. **Payment:** Payment for services described in this Contract is contingent upon satisfactory completion of the services.

1. Payment for goods or services purchased with State-appropriated funds will be issued by electronic Direct Deposit from the State Treasury. Direct Deposit is the preferred method of payment. Any payment owed by an Agency must be transmitted electronically to the Contractor no later than 30 days after the later of:

- a. Day on which the Agency received the goods;
- b. Date the performance of the service under the contract is completed; or
- c. Day on which the Agency received the complete and correct invoice for goods or services.

Invoices must be submitted to:

[TEAAccountsPayable@tea.state.tx.us](mailto:TEAAccountsPayable@tea.state.tx.us) and to [PSFInvoices@tea.state.tx.us](mailto:PSFInvoices@tea.state.tx.us)

Additional information and a Direct Deposit Authorization application may be found at:  
<https://fm.xcpa.state.tx.us/fm/payment/index.php>.

2. Unless otherwise stated, payment under this Contract will be made upon performance of services based upon submission of an expenditure report/invoice, properly prepared and certified, outlining expenditures by cost category. Include the contract number, purchase order number, and the Texas Comptroller of Public Accounts Texas Identification Number (TIN) on all invoices/expenditure reports.
3. All goods must have been received and all services rendered by the ending date of this Contract in order for Contractor to include these costs as either expenditures or as accounts payable and, thereby, recover funds due.
4. Contractor who is indebted or owes delinquent taxes to the State will have any payments under the Contract applied toward the debt or delinquent taxes owed the State until the amount is paid in full, regardless of when the debt or delinquency was incurred. TEA shall determine whether a payment law prohibits the Comptroller from issuing a warrant or initiating an electronic funds transfer to a person before TEA enters into a written contract with that person.

Contractor may verify their account status by accessing the Comptroller's website at:

[https://fm.xcpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=indebted&page=persons\\_indebted](https://fm.xcpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=indebted&page=persons_indebted)

FF. **Point of Contact and Escalation:** All notices, reports, and correspondence required by this Contract shall be in writing and delivered to the following representatives of TEA and contractor or their successors in office:

**TEA**

B. Holland Timmins  
Executive Administrator and CIO  
Permanent School Fund  
Texas Education Agency

**CONTRACTOR**

Torrey Wogen  
Vice President, Senior Sales Manager  
FactSet  
816 Congress Ave, Suite 800



1701 N. Congress Avenue  
Austin, TX 78701

Austin, TX 78701  
With Copy to:  
Rachel Stern  
General Counsel  
FactSet  
601 Merritt 7  
Norwalk, CT 06851

*The Texas Government Code and Family Code sites referenced in this document may be viewed at:*  
<http://www.statutes.legis.state.tx.us/>

*The Texas Administrative Code site referenced in this document may be viewed at:*  
[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.viewtac](http://info.sos.state.tx.us/pls/pub/readtac$ext.viewtac)

## SPECIAL PROVISIONS - A

- A. The Definitions of terms in the General Provisions are incorporated herein.
- B. All amendments to this Contract will be in a manner as prescribed by the Project Administrator of the Agency and will be made on AMENDMENT TO TEXAS EDUCATION AGENCY CONTRACT form supplied by TEA.
- C. Any amendment to this Contract will become effective upon execution by both parties.
- D. The attached *Master License Agreement, with schedules* is of a program nature and is incorporated herein by reference and is therefore made a part of this contract:

Factset® Master Client License Agreement

Pages 12 through 18

Schedule A – List of Fees and Services

Pages 19 through 20

This document, taken together with all sections of the Standard Contract, comprises the entire agreement between the Texas Education Agency ("TEA") and Vendor.

In the event of a conflict between the provisions of the Standard Contract and the Master License Agreement, the terms of the Master License Agreement will prevail.

- E. The parties have agreed to changes in some of the General Provisions in this Contract. Each of these changes as set forth below shall apply to this Contract notwithstanding anything to the contrary in any other provision in this Contract.
  - 1. Paragraph C (**Indemnification**) is hereby deleted in its entirety.
  - 2. Paragraph F (**Records Retention**) is hereby deleted in its entirety.
  - 3. Paragraph G (**Sanctions for Failure to Perform or for Noncompliance**) is hereby deleted in its entirety.
  - 4. Paragraph I (**Refunds Due to TEA**) is hereby deleted in its entirety.
  - 5. Paragraph K (**HUB Subcontracting Plan**), first sentence, is hereby replaced in its entirety as follows: "Pursuant to 34 TAC 201.14 -18 and TGC 2161, Contractors that subcontract any part of the contract shall maintain business records documenting compliance with the HUB subcontracting plan (HSP) and shall submit a compliance report to the contracting agency monthly, in the format required by the Agency."
  - 6. Paragraph P (**Interpretation**) is hereby deleted in its entirety.
  - 7. Paragraph Q (**Public Information**) is hereby replaced in its entirety as follows: "The TEA is subject to the provisions of the Texas Public Information Act. If a request for disclosure of this Contract or any information related to the goods or services provided under the Contract or information provided to the TEA under this Contract constituting a record under the Act is received by the TEA, the information must qualify for an exception provided by the Texas Public Information Act in order to be withheld from public disclosure. Contractor authorizes the TEA to submit any information contained in the Contract, provided under the Contract, or otherwise requested to be disclosed, including information Contractor has labeled as confidential proprietary information, to the Office of the Attorney General for a determination as to whether any such information may be exempt from public disclosure under the Act. If the TEA does not have a good faith belief that information may be subject to an exception to disclosure, the TEA is not obligating itself by this Contract to submit the information to the Attorney General. TEA shall provide Contractor with notice contemporaneous to submitting any such information to the Office of the Attorney General. It shall be the responsibility of the Contractor to make any legal argument to the Attorney General or appropriate court of law regarding the exception of the information in question from disclosure. The Contractor waives any claim against and releases from liability the TEA, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by the Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act.

To the extent that this Contract requires the creation or exchange of information that is not excepted from disclosure under the Texas Public Information Act, Contractor agrees to make all such information available to TEA for no additional charge in a format that is accessible by the public. Unless otherwise specified elsewhere in this Contract,

the required format for the information will be an electronic flat file that can be (and, upon request from TEA, will be) delivered by Contractor and received by TEA through the parties' normal contact email addresses."

8. Paragraph W (**Proprietary or Confidential Information**) is hereby deleted in its entirety.
9. Paragraph Z (**Termination**) is hereby replaced in its entirety as follows: "This Contract shall terminate upon full performance of all requirements contained in this Contract, unless otherwise extended or renewed as provided in accordance with the Contract terms and conditions. If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either Party cannot reasonably fulfill this Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under this Contract."
10. Paragraph CC (**Force Majeure**) is hereby replaced in its entirety as follows: "Except as otherwise provided, neither Contractor nor TEA shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this Contract caused by *force majeure*. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. *Force majeure* is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation or other causes that are beyond the reasonable control of either party."
11. Paragraph DD (**Abandonment or Default**) is hereby deleted in its entirety.

## FactSet® Master Client License Agreement

FactSet - Master Client License Agreement							
Licensor:	FactSet Research Systems Inc.			Date:	01 September 2015		
Licensee:	Texas Education Agency			Acct. ID:	7663		
Address:	Texas Permanent School Fund 1701 North Congress Avenue Austin, TX 78701						
Licensee Contact:	Catherine A. Civileto	Telephone :	512-463-9201	Facsimile:	512-463-9432	Email :	catherine.civiletto@tea.texas.gov
Billing Contact:	Dana Cooper	Telephone	512-463-5127	Facsimile:	512-463-9432	Email	PSFInvoices@TEA.Texas.gov

The Licensor on behalf of itself and its affiliates agrees to provide and Licensee agrees to subscribe to the services described below according to the terms and conditions below and on any Schedules to this Agreement.

### 1. License of Databases, Consulting and Software

- a. Subject to the terms and conditions of this Agreement and any Schedules to this Agreement (which are incorporated by reference and made a part hereof), Licensor grants to Licensee the limited, nonexclusive, nontransferable rights to use the software, hardware, consulting services and databases (the "Service") listed and described in the applicable Schedules, as such Schedules may be amended from time to time, under this Agreement.
- b. All proprietary rights, including intellectual property rights, in the software, databases, and all related documentation and consulting documentation (the "Licensed Materials") will remain the property of Licensor or its third-party data/software suppliers ("Suppliers"), as applicable.

### 2. Restrictions of Use; Proprietary Rights

- a. Licensor provides the Service solely and exclusively for Licensee's own internal use and for business purposes only in Licensee's business at the site(s), business units and for the number of Licensee employees with a unique password/user IDs to access the Service ("Authorized Users"). For the avoidance of doubt, the use of common workstations, kiosks, shared passwords, general library passwords and the like is expressly prohibited hereunder. Licensee will not use or permit any individual or entity under its control to use the Service, the Licensed Materials or any of their respective component parts for any unlawful or unauthorized use or purpose. Upon written notice to Licensor, and subject to any additional terms set out in any Schedule to this Agreement, Licensee may provide access to individuals employed by a third party entity acting as Licensee's agent and performing work for Licensee ("Agent"), as long as Licensee complies with the following provisions: Licensee represents and warrants that (i) Agent will comply with the terms of this Agreement; (ii) it has written authorization from applicable Suppliers for Agent's access to Supplier data; and (iii) Licensee pays all applicable fees and charges for Agent's use of the Service. Upon commencement of Agent's use of the Service, Licensee shall be deemed to have made the representations and warranties enumerated above, and accepts full liability for Agent's use of the Service. If Licensee breaches the foregoing representation, Licensor may terminate this Agreement, consider it a material breach and pursue any and all remedies in respect of such breach.
- b. Licensee is solely responsible for obtaining all required authorizations from Suppliers for products received through the Service that require Supplier authorization. Licensee agrees that Licensor has the right to immediately terminate Licensee's access at any time during the term of the Agreement to any Supplier product for which Licensee does not hold a valid authorization.

Licensee agrees that Licensor is a distributor of certain third-party data/software products and Licensor does not purport to grant and Licensee does not receive any rights with respect to those products, except as expressly granted under this Agreement. All rights not expressly granted to Licensee under this Agreement; all such rights are expressly reserved for Licensor and its Suppliers. Licensee agrees that it will be subject to all additional terms and conditions regarding the use of the databases posted at [www.factset.com/about/resources/thirdpartyterms](http://www.factset.com/about/resources/thirdpartyterms). Licensee hereby represents and warrants that it has obtained direct, contractual authorization from applicable Suppliers, and Licensee represents, warrants and covenants that during the term of this Agreement it shall maintain such authorization, as necessary to use the Licensed Materials in any manner not expressly authorized by this Agreement. Licensee shall promptly notify Licensor of the loss of any such authorization during the term of this Agreement.

- c. Except as permitted under this Agreement or under a written agreement with a Supplier, Licensee agrees that it will not copy, transfer, distribute, reproduce, reverse engineer, decrypt, decompile, disassemble, create derivative works from or make any part of the Service, including the data received from the Service, available to others. Licensee may use Insubstantial Amounts of the Licensed Materials on an ad hoc basis in the normal conduct of its business for use in reports, memoranda and presentations to Licensee's employees, customers, agents and consultants, but Licensor, its Suppliers and their respective affiliates reserve all ownership rights and rights to redistribute the data and databases. "Insubstantial Amounts of the Licensed Materials" means an amount of the Licensed Materials that (i) has no independent commercial value as a database, (ii) could not be used by Licensee as a substitute for the Service or any part of it, (iii) is not separately marketed by Licensee, an affiliate of Licensee or a third-party source, and (iv) is not regularly or systematically retrieved in a manner that does not satisfy clauses (i), (ii) and (iii) of this definition. Licensor will have the right to require Licensee to cease its use of the Service immediately if, in the sole reasonable judgment of Licensor, Licensor believes that Licensee's use involves more than an Insubstantial Amount of the Licensed Materials.
- d. Licensor represents and Licensee acknowledges that the Service and its component parts were developed, compiled, prepared, revised, selected and arranged by Licensor, its Suppliers or their respective affiliates through the application of methods and standards of judgment developed and applied through the expenditure of substantial time, effort, money and originality and that they constitute valuable intellectual property and trade secrets of Licensor and its Suppliers. At Licensor's expense and reasonable request, Licensee agrees to cooperate with Licensor and its Suppliers to protect the proprietary rights in the software and databases during the term of this Agreement. Licensee covenants to (i) retain all copyright, trademark, service mark and other proprietary notices contained in the Service on any copy made by Licensee; and (ii) not modify the Licensed Materials in a way that would constitute an infringement of any third party intellectual property rights. Licensee agrees to notify Licensor promptly in writing of any unauthorized access or use of which Licensee becomes aware of or any claim that the Service or any component parts infringes on any copyright, trademark or other contractual or statutory or common law right. Neither party will use any trademarks, service marks, names, logos, or other identifiers of the other party or the Suppliers or their respective affiliates without the prior written permission of the relevant party, except Licensee may use Licensor's name for the purpose of source attribution of data from the Service used in any reports, materials or presentations. In addition, neither party may use the other party's trademarks: (i) in, as or as part of that party's own trademarks or those of any third parties, (ii) in a manner likely to cause confusion, or (iii) in a manner that implies inaccurately that a party sponsors, endorses or is otherwise connected with the other party's own activities, products or services. Licensee will not, under any circumstances, remove any

trademarks, copyrights or other related visual marks and logos from the information provided or from any reproduction or redistribution of such information. Licensor may reference Licensee as a client in standard marketing materials.

### **3. Delivery**

- a. Licensor represents and warrants, as to its proprietary portions of the Licensed Materials that it has and will have during the term of this Agreement all the rights necessary to deliver such portions of the Licensed Materials to Licensee. Licensor represents and warrants, as to the portions of the Licensed Materials obtained from Suppliers, that Licensor has and will have and during the term of this Agreement valid licenses with the Suppliers to deliver the Licensed Materials.
- b. Licensor may in its sole discretion update or change the Service in accordance with general updates or changes made to its standard Service. Licensor will provide periodic information about the Service to Licensee by electronic mail, and Licensee hereby acknowledges its desire to receive such material. Licensee shall notify Licensor in writing if does not wish to receive such material.

### **4. Fees**

- a. Licensee will pay in accordance with the Texas Prompt Pay Act, Chapter 2251 of the Texas Government Code, upon receipt of properly prepared invoices. Late payments will be subject to interest pursuant to the Texas Prompt Pay Act. Licensee must notify Licensor in writing of any questioned or disputed invoices within sixty (60) days of the due date of the invoice, otherwise Licensee will be deemed to have agreed to the accuracy of the amount owed to Licensor.
- b. At Licensee's option and with Licensor's consent, Licensee may pay for the Service in commission dollars through the broker-dealer of its choice. If Licensee chooses to pay for the Service with commission dollars using Licensor's broker-dealer, FactSet Data Systems, Inc. ("FDS"), Licensee will direct commission dollars in the amount of the Fees to FDS via Goldman, Sachs & Co. as clearing broker. Licensee will direct the commission dollars to FDS within a reasonable time pursuant to applicable laws, including without limitation, any fiduciary obligation Licensee may have to its managed accounts.
- c. After the Initial Term, Licensor may, upon ninety (90) days' prior written notice to Licensee, amend the Agreement using an "Amendment to Texas Education Agency Contract Form" supplied by TEA to raise the Fees for the Service once each year on January 1st, by the greater of 3% or the percentage increase in the United States Bureau of Labor Statistics' Consumer Price Index (CPI-U) as of December 31<sup>st</sup> each year. In no event will Licensor increase the Fees for the same Service more than once during any twelve (12) month period other than as necessitated by an increase in fees from Suppliers, and then only in the amount of such increase. If Licensee elects to receive additional Service pursuant to Section 5(a) below, then the Fees may increase accordingly. Licensee acknowledges that the Schedules do not include additional fees for products that require separate authorization with Suppliers.
- d. Licensor will discontinue the availability to Licensee of all or any portion of the Service as a result of a general discontinuation by Licensor and, in such case, refund to Licensee the pro-rata share of any prepaid Fees relating to the discontinued Service.
- e. Licensee represents and warrants to Licensor that it is a tax exempt entity, an integral Part of the State of Texas and has provided an exemption certificate to Licensor. Unless Licensee has provided Licensor with a valid and applicable exemption certificate, Licensee will promptly reimburse Licensor for any and all sales, use, excise, services, consumption and other taxes or duties which Licensor is required to collect from the Licensee and which are assessed on the Fees (collectively, "Taxes"). Licensee and Licensor will: (i) each bear sole responsibility for all taxes,

assessments and other real property related levies on its owned or leased real property and personal property (including software), franchise and privilege taxes on its business, and taxes based on its net income or gross receipts and (ii) reasonably cooperate to more accurately determine each party's tax liability and to minimize such liability to the extent legally permissible.

## **5. Term**

- a. The initial term of this Agreement shall be from 01 September 2015 through 31 December 2018 unless extended or terminated as provided for in this Agreement. Upon written mutual agreement of both parties, this contract may be extended for up to three (3) additional two (2) year terms to commence on the first day after the original period. Such contract extension will be executed on an "Amendment to Texas Education Agency Contract Form" supplied by TEA. Licensee may use additional software, hardware, consulting or database services provided Licensee pays any Fees in connection with such additional software, consulting or database services pursuant to Section 4 above. Such addition of services will be considered an amendment to this agreement and will be executed in writing on an "Amendment to Texas Education Agency Contract Form" supplied by TEA with a revised Schedule attached.
- b. Licensee may cancel its use of all or any portion of the Service subject to the applicable minimum set forth on a Schedule at any time, effective at the end of the third calendar month after which written notice is received by Licensor. If Licensee cancels a portion of the Service, an "Amendment to Texas Education Agency Contract Form" supplied by TEA will be executed with a revised Schedule attached. Either party may terminate this Agreement if the other party materially breaches this Agreement and fails to cure or correct such breach within thirty (30) days after receiving written notice from the non-breaching party. Either party may terminate this Agreement immediately upon the bankruptcy of or bankruptcy-related event of the other party.
- c. Upon termination of this Agreement, Licensee will cease using all the Licensed Materials, return any Licensor hardware upon request and at Licensor's expense, and expunge all data and software from its storage facilities and destroy all documentation, except such copies of data to the extent required by law and Insubstantial Amounts of the Licensed Materials used in the ordinary course of business. Licensee will undertake to destroy or overwrite copies of data stored in archived backup media in the ordinary course of Licensee's business, in accordance with its standard information retention policies. Upon request by Licensor, Licensee will certify the destruction in writing and provide evidence of cessation of use. For a period of one year following the termination of this Agreement, Licensee will allow Licensor, its affiliates, Suppliers and their respective agents to have reasonable access to any place at which the Service is or was used by an end user for the sole purpose of affirming that Licensee has ceased using and has properly destroyed all copies of the Licensed Materials except those required by law and Insubstantial Amounts of the Licensed Materials used in the ordinary course of business. This right will be exercised not more than once, upon reasonable prior written notice, during normal local business hours, and pursuant to any reasonable security or confidentiality provisions at Licensee's request. If Licensee breaches any of the terms of this Section 5(c), Licensee agrees that Licensor will suffer irreparable harm for which Licensor cannot be adequately compensated with money damages. Licensee therefore irrevocably consents to the grant of injunctive relief to Licensor to enforce these provisions and agrees that Licensor will not be required to post a bond related to the injunctive relief.
- d. Licensee may not use, or assist any third party in using, any portion of the Service in any way to compete with any product or Service then being offered by Licensor. If Licensor believes, in good faith, that the Licensee's service or product competes with Licensor's product or Service through

the following means, including but not limited to: (i) losing a subscription, whether existing or potential, to the Service or any proprietary component of the Service, or (ii) interfering with the rights of Licensor or its affiliates with respect to existing subscriptions, then Licensor may terminate this Agreement, consider the activity a material breach of this Agreement and pursue any and all remedies for the breach. As a condition of receipt of the Services, Licensee may not use any part of the Service (e.g., index values) to create a proprietary financial instrument or to list on its exchange facilities, if any, a financial instrument based on an index or the return of a financial instrument based on an index.

## **6. Indemnification**

- a. Except to the extent such claims or demands result from the fraud, gross negligence or willful misconduct of Licensee, Licensor will indemnify and hold harmless Licensee against all claims or demands by and liabilities to third parties, including without limitation reasonable attorney's fees, arising from or in connection with Licensor's breach of any of its representations, warranties or covenants in this Agreement.
- b. Licensor's indemnity obligations are subject to the following: (i) Licensee shall promptly notify Licensor in writing of the claim; (ii) subject to the right of the Texas Attorney General under Texas law to participate in the defense of Licensee, Licensor shall have sole control of the defense and all related settlement negotiations with respect to the claim (provided that Licensor may not settle any claim unless it unconditionally releases Licensee of all liability); and (iii) Licensee shall cooperate to the extent necessary, and reasonably for the defense of such claim.

## **7. Warranties and Disclaimers**

- a. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICE IS PROVIDED "AS IS" AND ALL REPRESENTATIONS, WARRANTIES, TERMS AND CONDITIONS, ORAL OR WRITTEN, EXPRESS OR IMPLIED (BY COMMON LAW, STATUTE OR OTHERWISE), IN RELATION TO THE SERVICES ARE HEREBY EXCLUDED AND DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. IN PARTICULAR, LICENSOR AND SUPPLIERS DISCLAIM IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND MAKE NO WARRANTY OF ACCURACY, COMPLETENESS, TIMELINESS, FUNCTIONALITY, RELIABILITY OR SPEED OF DELIVERY OF THE SERVICE. LICENSEE AGREES THAT THE SERVICE IS NOT INVESTMENT ADVICE AND ANY OPINIONS OR ASSERTION CONTAINED IN THE SERVICE DO NOT REPRESENT THE OPINIONS OR BELIEFS OF LICENSOR OR ITS AFFILIATES OR ANY OF THEIR RESPECTIVE EMPLOYEES. The information and data contained in the Service are derived from sources deemed reliable. Neither Licensor nor any of its Suppliers or their respective affiliates warrant that the Service will be uninterrupted, error free, or completely secure. Licensor, its Suppliers and their respective affiliates expressly disclaim any liability for any loss or injury caused in whole or in part by negligence or any other error made by human or machine concerning the production, compilation or distribution of the Service. Licensee expressly assumes the entire risk for the results and performance of the Service.
- b. None of Licensee, Licensor, the Suppliers or their respective affiliates will have any liability for any lost profits or indirect, special, consequential, punitive or exemplary damages, (except as otherwise expressly provided herein), even if advised in advance of the possibility of these types of damages. Further, the cumulative liability of Licensee will not exceed the Fees payable by



Licensee to Licensors under this Agreement during the twelve-month period prior to the occurrence of the event leading to the Licensee's liability. The cumulative liability of Licensors will not exceed the Fees paid by Licensee to Licensors under this Agreement during the twelve-month period before the occurrence of the event causing Licensors' liability, and this amount will be Licensee's exclusive remedy.

- c. Neither party will be liable to the other party for any delay or default resulting from FORCE MAJEURE, which will include any circumstances beyond the reasonable control of the party affected, including, but not limited to, computer line or transmission failures, computer viruses, power outages, or acts of terrorism.
- d. Licensors do not grant a service-level agreement with this License.

#### **8. Assignment**

This Agreement may not be assigned or otherwise transferred by either party, including any assignment by operation of law, without the prior written consent of the other party, which will not be unreasonably withheld. Notwithstanding the foregoing, Licensors may assign this Agreement to an affiliate due to corporate organizational requirements.

#### **9. Entire Agreement and Survival**

Except as expressly permitted in this Agreement, no changes, modifications or waivers of this Agreement will be binding upon either party unless made in writing on an "Amendment to Texas Education Agency Contract Form" supplied by TEA and duly signed by both parties. This Agreement taken together with the TEA Standard Contract Terms and Conditions constitutes the entire Agreement between the parties and supersedes all previous or contemporaneous agreements, whether written or oral, between the parties with respect to any subject matter covered by this Agreement. The Schedules are a part of this Agreement and are incorporated by reference. Licensee agrees to be bound by the Schedules as they may be amended pursuant to this Agreement. The parties may execute this Agreement in any number of counterparts. Licensee represents that the individual that has executed and delivered this Agreement, and Schedules, on its behalf is authorized to do so. Licensee may translate this Agreement into other languages for its convenience, but the controlling language will be English. The following provisions of this Agreement will survive the termination of this Agreement and any attached Schedule: Section 5c, Section 6, Section 7, Section 9, Section 10, Section 11, and Section 12.

**10. Notices**

All notices under this Agreement will be in writing and deemed delivered on the earlier of the date of actual delivery or five (5) days after mailing to the contact representative indicated on page 5 of the TEA Standard Contract General Terms and Conditions section. Notices delivered via electronic mail will be deemed delivered only once acknowledged by non-automatic electronic mail response.

**11. Governing Law and Forum**

This Agreement will be governed by, construed and enforced pursuant to the laws of the State of Texas and will be subject to the exclusive jurisdiction of that state without regard to conflicts of laws principles. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by both parties to attempt to resolve all disputes arising under this Agreement.

**12. Confidential Information**

- a. "Confidential Information" means any information, other than information that is generally available in the public domain (other than by breach of this Agreement or other confidentiality obligations) obtained under or in connection with this Agreement and the attached Schedules, including, the Licensed Materials. Except to the extent required by law or legal process, Licensee and Licensor will not disclose any Confidential Information to any third party without the prior written consent of the other party, affording the other party the opportunity to object. The terms and conditions, but not the existence, of this Agreement will constitute Confidential Information.
- b. In the event that Licensor or any of its affiliates are served with any non-party subpoenas or other requests for information in connection with any disputes involving Licensee, whether formal or informal (including arbitration proceedings), Licensor will provide written notice to Licensee prior to the date specified for compliance. Licensee will then take whatever steps it deems appropriate to quash or limit the requested disclosure or seek a protective order preserving the confidentiality of any information belonging to Licensee, its affiliates or their respective clients. In addition, Licensee will be responsible for the full costs incurred by Licensor and its affiliates in responding to any such requests or subpoenas (including time charges for their personnel and any attorney's fees uncured by Licensor or its affiliates).

PAGES #19 AND 20 HAVE BEEN REMOVED BECAUSE THEY ARE MARKED  
CONFIDENTIAL





# HUB Subcontracting Plan (HSP)

## QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

➤ If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources, complete:

- ☐ Section 1 - Respondent and Requisition Information
- ☐ Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources
- ☐ Section 3 - Self Performing Justification
- ☐ Section 4 - Affirmation

➤ If you will be awarding any portion of the work you have to offer under the contract to another vendor, complete the below and please contact TEA for additional forms.

- ☐ Section 1 - Respondent and Requisition Information
- ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract
- ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors
- ☐ Section 2 c. - Yes
- ☐ Section 4 - Affirmation



## SPECIAL PROVISIONS B

# HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- 11.2 percent for heavy construction other than building contracts,
- 21.1 percent for all building construction, including general contractors and operative builders' contracts,
- 32.9 percent for all special trade construction contracts,
- 23.7 percent for professional services contracts,
- 26.0 percent for all other services contracts, and
- 21.1 percent for commodities contracts.

- - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

### SECTION 1: RESPONDENT AND REQUISITION INFORM

- a. Respondent (Company) Name: FactSet Research Systems Inc State of Texas VID #: 11333625470  
Point of Contact: Torrey Wogen Phone #: 512-582-5906  
E-mail Address: twogen@factset.com Fax #: \_\_\_\_\_
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☒ - No
- c. Requisition #: Proprietary Bid Open Date: \_\_\_\_\_  
(mm/dd/yyyy)

Enter your company's name here: FactSet Research Systems, Inc.

Requisition #: \_\_\_\_\_

**SECTION 2: SUBCONTRACTING INTENTIONS RESPONDENT**

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including goods and services, will be subcontracted. Note: In accordance with 34 TAC §20.11., an "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

☐ - Yes, I will be subcontracting portions of the contract. (If Yes, complete Item b, of this SECTION and continue to Item c of this SECTION.)

☒ - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources (If No, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a <u>continuous contract</u> * in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract</u> * in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than twelve subcontracting opportunities, a continuation sheet is available online at <http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>).

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

☐ - Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

☐ - No (If No, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you do not have a continuous contract\* in place with for five (5) years or less meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements".

☐ - Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)

☐ - No (If No, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

**\*Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: FacSet Research Ssystems Inc Requisition #: \_\_\_\_\_

**SECTION 3: SELF PERFORMING JUSTIFICATION** (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4)

Check the appropriate box (Yes or No) that indicates whether your response/proposal contains an explanation demonstrating how your company will fulfill the entire contract with its own resources.

- ☒ - Yes (If Yes, in the space provided below list the specific page(s)/section(s) of your proposal which explains how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)
- ☐ - No (If No, in the space provided below explain how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)

The FactSet service is proprietary to FactSet and cannot be provided by any other parties.

**SECTION 4: AFFIRMATION**

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature

Torrey Wogen

Printed Name

VP-Sales Mgr

Title

09/22/2015

Date

(mm/dd/yyyy)