

NASPO ValuePoint

PARTICIPATING ADDENDUM**DATA COMMUNICATIONS PRODUCTS & SERVICES (2019-2026)**Led by the State of **Utah**

Master Agreement #: AR3227

Participating Addendum #: NVP-AR3227

Contractor: **CISCO SYSTEMS, INC.**Participating Entity: **STATE OF MONTANA**

The following products or services are included in this contract portfolio:

- All products and services listed on the Contractor page of the NASPO ValuePoint website and/or Contactor's contract website.

Master Agreement Terms and Conditions:

1. **Scope:** This Participating Addendum covers the *Data Communications Products and Services Master Agreement #AR3227* led by the State of *Utah* for use by state agencies and other entities located in the Participating State *[or State Entity]* authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. **Participation:** This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher education, political subdivisions and other entities authorized to use statewide contracts in the State of Montana. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. **Primary Contacts:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Gigi Feril
Address:	170 W Tasman Drive San Jose, CA, 95134
Telephone:	408-424-0712
Email:	nvp-help@cisco.com

Participating Entity

Name:	Amanda Henrich
Address:	PO Box 200135 Helena, MT, 59620-0135
Telephone:	406-444-2516
Email:	coop purchasing@mt.gov

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4. Participating Entity Modifications Or Additions To The Master Agreement

These modifications or additions apply only to actions and relationships within the Participating Entity.

The following changes are modifying or supplementing the Master Agreement terms and conditions.

State of Montana Terms and Conditions

- A. ACCESS AND RETENTION OF RECORDS:** Contractor agrees to provide the Participating Entity, Legislative Auditor, or their authorized agents, access to those sales orders, invoices, and other documents directly related to this Participating Addendum necessary to determine contract compliance. (Section 18-1-118, MCA). Contractor agrees to retain records supporting the services rendered or supplies delivered for a period of eight (8) years after either the completion date of this Participating Addendum or the conclusion of any claim, litigation, or exception relating to this Participating Addendum taken by the State of Montana or third party.
- B. ASSIGNMENT, TRANSFER AND SUBCONTRACTING:** Contractor shall not assign, transfer or subcontract any portion of this Participating Addendum without the express written consent of the department. (Section 18-4-141, MCA.) By entering into this Participating Addendum, the State consents to the assignment and subcontracting rules set forth in the Master Agreement.
- C. AUDIT:** At Contractor's written request, but not more frequently than once annually, Contractor may audit State's use of the Software to verify compliance with the terms and conditions of this PA. Any audit shall be limited to the thirty-six-month period immediately preceding the beginning date of the audit; shall be scheduled at least forty-five (45) days in advance, at a time mutually agreed to by both parties; and shall be conducted during regular business hours at the State's facilities or remotely and shall not unreasonably interfere with the State's business activities. Both parties shall mutually agree in writing when the audit will be conducted, and the records required to verify compliance, and shall specify the fees to be paid if such audit reveals that the State's use of the Software fails to comply with the terms of this Agreement. Each agency, department, or political subdivision of the State shall pay such fees without interest or penalty solely as it relates to this audit provision, and the payment of such fees shall be the Contractor's sole remedy. Each party shall be responsible for their own costs in conducting the audit.
- D. COMPLIANCE WITH LAWS:** Contractor shall, in performance of work under this Participating Addendum fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504

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of the Rehabilitation Act of 1973; all such to the extent applicable to the Contractor's provision of products and services hereunder. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119]. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

- E. DISASTER RECOVERY:** The State of Montana may replicate the Contractor's software onto its servers in its Disaster Recovery Data Center in Miles City, MT, for the purpose of utilizing the State's licenses, at no additional cost, for testing the State of Montana's disaster recovery plans during a 10-day test period, twice annually. The server shall remain in a cold stand-by state, or off, until testing is carried out, or a disaster occurs that shuts down the State's primary data center in Helena, MT. The Miles City Data Center is located approximately 350 miles from Helena. Also, the State shall be prohibited from making additional copies of the software for any other reason without permission.
- F. INTELLECTUAL PROPERTY INDEMNIFICATION:** Intellectual property indemnification shall be as set forth in Attachment A, Section 40.b of the Master Agreement.
- G. NEW TECHNOLOGIES:** The State reserves the right to purchase other offerings and new offerings related to the products and/or services under this PA.
- H. PROHIBITED ACTIVITIES AND SPOOFING:** Contractor and its officers, employees, agents, subcontractors, and affiliated users, shall not violate or attempt to violate the security of the State's network or interfere or attempt to interfere with the State's systems, networks, authentication measures, servers or equipment, or with the use of or access to the State's network by any other user. Such prohibited activity includes (i) accessing or logging into a server where access is not authorized; (ii) unauthorized probing, scanning, or testing the security or vulnerability of the State's network or other systems; and (iii) attempting to portray itself as the State or an affiliate of the State or otherwise attempting to gain access, without authorization, via the State's network or systems to any account or information technology resource not belonging to Contractor or its officers, employees, agents, subcontractors, and affiliated users ("Spoofing"). Contractor shall not perform unauthorized Spoofing or scanning of any kind, including user account identity. Systems shall not Spoof the mt.gov domain or engage in Email Spoofing. Email Spoofing is the creation of email messages with a forged sender

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address. For example, Email Spoofing includes creating or sending emails using the State's domain.

- I. **REDUCTION OF FUNDING:** Participating Entity must by law terminate this Participating Addendum if funds are not appropriated or otherwise made available to support State's continuation of performance of this Participating Addendum a subsequent fiscal period. (18-4-313(4), MCA) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this Participating Addendum (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, State shall terminate this Participating Addendum as required by law. Participating Entity shall provide Contractor the date Participating Entity's termination shall take effect. Participating Entity shall not be liable to Contractor for any payment that would have been payable had the Participating Addendum not been terminated under this provision. As stated above, Participating Entity shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date State's termination takes effect. This is Contractor's sole remedy. Participating Entity shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.
- J. **VENUE:** This Participating Addendum is governed by the laws of Montana. The parties agree that any litigation concerning this Participating Addendum, or an order placed against the Participating Addendum must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)
- K. **TAX EXEMPTION:** State of Montana is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119].
- L. **TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED:** Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (18-5-603, MCA) contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.
- M. **STATE OF MONTANA ADMINISTRATIVE FEE:** The State of Montana assesses an Administrative Fee of one and one-half percent (1.50%) for all net sales (sales less credits and returns) made under this PA. The prices paid to Contractor must include the 1.5% Administrative Fee. The Contractor shall remit this Administrative Fee concurrent with the Required Usage Reporting described below. The Administrative Fee must be

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submitted by ACH along with email notification to the State of Montana Contracts Officer. This Administrative Fee is effective upon execution of this Participating Addendum.

- N. REQUIRED REPORTING:** Contractor shall submit quarterly reports to the Contracts Officer (CO) assigned by the State to manage this contract. Contractor shall provide CO with an electronic usage report (Excel), which must list the following information at the minimum: purchasing entity; description of items purchased; date of purchase; contract price; and the extended price for each transaction. These reports are due no more than 60 days after the end of the quarter.

First Quarter:	July 1 through September 30
Second Quarter:	October 1 through December 31
Third Quarter:	January 1 through March 31
Fourth Quarter:	April 1 through June 30

5. Lease Agreements and Alternative Financing Methods:

Contractor's Master Agreement allows for leasing under Attachment A Section 45. The terms and conditions of the capital lease financing arrangement will be separately negotiated and set forth in an agreement between the purchaser and either Cisco Capital or its designated separate financing partner.

- 6. Subcontractors:** All contractors, dealers, and resellers authorized in the State of *Montana*, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to Purchasing Entities in the NASPO ValuePoint Master Agreement. The contractor's Fulfillment Partners participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

- 7. Orders:** The Master Agreement number and the Participating Addendum Number must appear on every Purchase Order placed under this Participating Addendum.

Purchasers may place orders directly only through Contractor's approved Fulfillment Partners or through Contractor (only on an as-needed basis) for products or services as authorized under this Participating Addendum. Only those Fulfillment Partners approved and listed during the term of Participating Addendum at Contractor's website are authorized to directly provide quotes, receive purchase orders, invoice Customers, and receive payment from purchasers on Contractor's behalf.

Except as otherwise set forth in the qualifying criteria, Contractor will not, directly or indirectly, restrict any Fulfillment Partner's participation or ability to quote pricing for a Customer. The approved Fulfillment Partners will not offer less favorable pricing discounts than the contract discounts established by Contractor under the Master Agreement. However, the Fulfillment Partner may offer any additional incremental discounts to Participating State/Entity, and such additional discounts if offered, may be provided in the

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discretion and as the sole legal obligation of the approved Fulfillment Partner to the Participating State/Entity.

Any order placed by a Participating Entity or Purchasing Entity for a product and/or service under this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order. *For clarity, sales of Contractor's product or services by Contractor or an authorized reseller made under a separate contract, where the applicable quoting or ordering documents reference that separate contract, are not deemed to be sales under this Master Agreement.*

8. The term of this Participating Addendum shall begin on the date of last signature below. The term shall continue for a period ending on the Termination Date of the Master Agreement or when this Participating Addendum is terminated in accordance with the Master Agreement, whichever shall occur first.
9. **Notices:** Notwithstanding anything contained in the Master Agreement to the contrary, all notices required or permitted under this Participating Addendum will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile or electronic mail (in the case of Cisco to Agreement-notice@cisco.com); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. All communications will be sent to the addresses set forth Section 3 of this Participating Addendum (and notices to Cisco shall be further addressed to the Office of the General Counsel, Attn: Contract Notice) or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph, or, in the absence of such an address from Customer, to the address to which the last invoice under this Participating Addendum was sent before notice is served. Notwithstanding the foregoing, notices regarding changes in pricing, Software license terms, policies or programs may be by posting on Cisco.com or by e-mail or fax.
10. **Entire Agreement:** This Participating Addendum and the Master Agreement (including all amendments and attachments thereto) constitute the entire agreement between the parties concerning the subject matter of this Participating Addendum and replaces any prior oral or written communications between the parties, all of which are excluded. There are no conditions, understandings, agreements, representations or warranties, expressed or implied, that are not specified herein. This Participating Addendum may be modified only by a written document executed by the parties hereto.

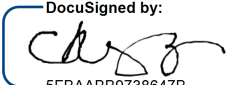


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PARTICIPATING ADDENDUM




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IN WITNESS, WHEREOF, the parties have executed this Addendum as of the last date of execution by both parties below.

Participating Entity: State of Montana	Contractor: Cisco Systems Inc
Signature:  DocuSigned by: 5FBAABB9738647B...	Signature:  DocuSigned by: E1415F7F7EE84DE...
Name: Cheryl Grey	Name: Jenn Pate
Title: SFSD Administrator	Title: Authorized Signatory
Date: 4/1/2021	Date: 4/1/2021
Approved as to Legal Content:  DocuSigned by: DE9861B4E4EF...	
Date: 3/29/2021	

The Contractor is notified that pursuant to Section 2-17-514, MCA, the Department of Administration retains the right to cancel or modify any contract, project, or activity that is not in compliance with the Agency's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard.

Chief Information Officer Approval:  DocuSigned by: D999BB1A7DDC479...	
Date: 3/30/2021	