

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT

Juniper Networks (US) Inc.
Master Agreement No: AR229
(hereinafter "Contractor")

And

State of Delaware
(hereinafter "Participating State/Entity")

Delaware Contract Number: GSS14579-DATACOMM

Page 1 of 17

1. **Scope:** This addendum covers the Data Communications Products and Services 14-20 contracts led by the State of Utah for use by state agencies and other entities located in the Participating **State/Entity** authorized by that state's statutes to utilize **state/entity** contracts with the prior approval of the state's chief procurement official.
2. **Participation:** Use of specific WSCA-NASPO cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use **state/entity** contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. **Participating State Modifications or Additions to Master Agreement:**
 - a. **MANDATORY INSURANCE REQUIREMENTS (29 Del. C. §6929)**

As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. All contractors must carry the following coverage depending on the type of service or product being delivered.

 - 1) Commercial General Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence.
And
 - 2) Product Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence.
And
 - 3) Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.
And
 - 4) The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.

Before any work is done with the State, a Certificate of Insurance referencing the name and contract number stated herein, shall be filed with the State. The certificate holder is as follows:

State of Delaware
Government Support Services

**PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
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State of Delaware
(hereinafter "Participating State/Entity")

Delaware Contract Number: GSS14579-DATACOMM

Page 2 of 17

**Contract # GSS14579-DATACOMM
100 Enterprise Place, Suite 4
Dover, DE 19904-8202**

Note: The State of Delaware shall not be named as an additional insured.

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

b. SEVERABILITY

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

c. PERMITS AND LICENSES

All necessary permits, licenses, insurance policies, etc. required by local, State or Federal laws, shall be provided by the Vendor at its own expense.

d. STATE OF DELAWARE BUSINESS LICENSE

Prior to commence performance under this agreement, the Contractor shall either furnish Government Support Services with proof of State of Delaware Business Licensure or initiate the process of application, where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P. O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone: 302-577-8778.

<http://revenue.delaware.gov/services/BusServices.shtml>

Information regarding the State of Delaware's decision to enter into this participating addendum will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject your organization to applicable fines and/or interest penalties.

e. EMERGENCY TERMINATION OF AGREEMENT

1) Due to restrictions which may be established by the United States Government on

PARTICIPATING ADDENDUM
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DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
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MASTER AGREEMENT
Juniper Networks (US) Inc.
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And
State of Delaware
(hereinafter "Participating State/Entity")
Delaware Contract Number: GSS14579-DATACOMM

Page 3 of 17

material, or work, a contract may be terminated by the cancellation of all or portions of the contract.

- 2) In the event the Vendor is unable to obtain the material required to complete the items of work included in the contract because of restrictions established by the United States Government and if, in the opinion of the Agency, it is impractical to substitute other available material, or the work cannot be completed within a reasonable time, the incomplete portions of the work may be cancelled, or the contract may be terminated.

f. **Reserved**

g. **NON-PERFORMANCE**

In the event the Vendor does not fulfill its obligations under the terms and conditions of this contract, in addition to proceeding with termination of the contract, the ordering agency may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the Vendor. Under no circumstances shall monies be due the Vendor in the event open market products can be obtained below contract cost. Any monies charged to the Vendor may be deducted from an open invoice.

h. **OPPORTUNITY BUYS**

The Director for the State of Delaware, Office of Management and Budget, Government Support Section can waive use of a central contract pursuant to 29 Del. C. §6911(e). A process has been developed to permit any vendor the opportunity to submit an Opportunity Buy offer to the State for goods and/or services for consideration despite the existence of a central contract. See http://gss.omb.delaware.gov/contracting/documents/agencyboilers/opportunity_buy_flowchart.pdf. The Director will afford any vendor on an existing central contract an opportunity to match or to beat the Opportunity Buy offer made by a non-contracted vendor prior to a waiver being granted.

i. **I FOUND IT CHEAPER**

Director for the State of Delaware, Office of Management and Budget, Government Support Section can waive use of a central contract pursuant to 29 Del. C. §6911(e). A process has been developed to permit any State employee or Vendor to identify a lower price for material and or services for consideration despite the existence of a central contract. See http://gss.omb.delaware.gov/contracting/documents/agencyboilers/opportunity_buy_found_cheaper_flowchart.pdf. The Director will afford any Vendor on an existing central contact an opportunity to match or to beat the I Found It Cheaper suggestion and if not

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
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MASTER AGREEMENT
Juniper Networks (US) Inc.
Master Agreement No: AR229
(hereinafter "Contractor")
And
State of Delaware
(hereinafter "Participating State/Entity")
Delaware Contract Number: GSS14579-DATACOMM

Page 4 of 17

matched or beaten, approve the purchase via a waiver.

j. REQUIRED REPORTS

One of the primary goals in administering this contract is to keep accurate records regarding its actual value/usage. This information is essential in order to update the contents of the contract and to establish proper bonding levels, if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested parties.

A complete and accurate Usage Report (Attachment A) shall be furnished in an Excel format and submitted electronically, quarterly, detailing the purchasing of all items on this contract. The reports shall be submitted and sent as an attachment to vendorusage@state.de.us. Submitted reports shall contain accurate descriptions of the products, goods or services procured, purchasing agency information, including the six-digit department and organization code, quantities procured and prices paid. This report shall include all sales through the Contractor's reseller/dealer network. Any exception to this mandatory requirement or failure to submit complete reports, or in the format required, may result in corrective action, up to and including the possible cancellation of the award. Failure to provide the report with the minimum required information may also negate any contract extension clauses. Additionally, Vendors who are determined to be in default of this mandatory report requirement may have such conduct considered against them, in assessment of responsibility, in the evaluation of future proposals.

k. DELAWARE ECONOMIC IMPACT

Each awarded vendor shall provide an annual report of the economic impact of their operations in Delaware. This report shall be submitted before the end of the third month after the close of the vendor's fiscal year. The following basic information is required under this agreement:

- # of Delaware Locations
- # of Delaware Employees
- Taxes, licenses & Fees Paid to Delaware
 - This may be payroll, franchise, service taxes, etc.
- Major Delaware Investments/ Partnerships
 - Amount paid to Major partners or Suppliers in Delaware
 - Highlight of Delaware MWBE, Veteran, Small Business (SBA criteria) and Disabled Veteran partnerships/ supply chain
 - Rent to Delaware Locations or value of Delaware real property

PARTICIPATING ADDENDUM
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DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
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MASTER AGREEMENT
Juniper Networks (US) Inc.
Master Agreement No: AR229
(hereinafter "Contractor")
And
State of Delaware
(hereinafter "Participating State/Entity")
Delaware Contract Number: GSS14579-DATACOMM

Page 5 of 17

- o Utility Expenses paid to Delaware utilities

The report shall be submitted to contracting@state.de.us.

1. FUNDING OUT or NON-APPROPRIATION

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

m. SERVICING SUBCONTRACTORS

- 1) Contractor may use State-approved Subcontractors or Distributors under this Participating Addendum for sales and service functions as defined herein.
- 2) Contractor shall be responsible for successful performance and compliance with all requirements in accordance with the terms and conditions under this Participating Addendum, even if work is performed by Servicing Subcontractors.
- 3) Contractor will be the sole point of contact with regard to Participating Addendum contractual matters, reporting and administrative requirements.
- 4) For the purposes of this Participating Addendum, Servicing Subcontractors are classified as follows:
 - a) "Authorized Reseller"
 - i. Authorized Resellers may provide quotes, accept purchase orders, fulfill purchase orders, perform maintenance/warranty services and accept payment from ordering agencies for products and associated services offered under this Participating Addendum.
 - ii. Authorized Resellers are responsible for sending a copy of all purchase orders and invoices to the Contractor for compliance with quarterly usage reporting and administrative requirements.
 - iii. All purchase documents to Authorized Resellers shall reference the Participating Addendum Number and the Awarded Vendor as the Contractor.
 - b) "Agent"
 - i. Agents are only authorized to provide quotes, sales assistance, configuration guidance and ordering support for products and associated services offered under this Participating Addendum.
 - ii. Agents are not authorized to accept orders or payments.
- 5) Subject to the approval of the State, Servicing Subcontractors may be added or deleted

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
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MASTER AGREEMENT

Juniper Networks (US) Inc.
Master Agreement No: AR229
(hereinafter "Contractor")

And

State of Delaware
(hereinafter "Participating State/Entity")

Delaware Contract Number: GSS14579-DATACOMM

Page 6 of 17

during the contract term.

- 6) Proposed Servicing Subcontractors, as well as the Contractor, must complete the [Delaware Substitute Form W-9](#).
- 7) State-approved Servicing Subcontractors will be posted on the [State's Contracting website](#).

n. ORDERING PROCEDURE

Contractor is required to have either a local telephone number within the (302) area code, a toll free (800) number, or agree to accept collect calls. Depending on the nature and scope of the event, each State agency or other governmental entity shall be responsible for contacting the awarded vendor directly for all required resources. All consumables delivered by the Contractor and received by a State agency or other governmental entity, become the property of that State agency or entity. Orders may be accomplished by written purchase order, telephone, fax or computer on-line systems. All Purchase Orders **must** include the contract number.

o. BILLING

The Contractor is required to "**Bill as Shipped**" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number. The Contractor shall not charge a late fee that exceeds more than one percent (1%) per month, not to exceed twelve percent (12%) per annum.

Agencies will make every effort to achieve available discount opportunities under this contract. Contractors shall be required to report semi-annually opportunities to enhance the discounts achieved.

p. METHOD OF PAYMENT

- 1) For each P.O. issued as part of this contract, the State will pay Vendor monthly, within thirty (30) days of receipt of the Vendor's billing, the amount which is legitimately earned by the Vendor, and supported by payroll data and an itemized accounting of reasonable reimbursable direct non-salary costs. A current progress report of the work shall accompany each billing.

Final settlement for total payment to the Contractor will be made within thirty (30) days from the date of final written State acceptance of the work and services as agreed to in the P.O.

- 2) No premium time for overtime will be paid without prior written State authorization.

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Juniper Networks (US) Inc.
Master Agreement No: AR229
(hereinafter "Contractor")
And
State of Delaware
(hereinafter "Participating State/Entity")
Delaware Contract Number: GSS14579-DATACOMM

Page 7 of 17

Indirect overhead cost shall not be applied to the premium portion of the overtime.

- 3) The agencies or school districts using this award will authorize and process for payment each invoice within thirty (30) days after the date of receipt of a correct invoice. The State of Delaware intends to maximize the use of the P-Card for payment for goods and services provided under contract. Contractors shall not charge additional fees for acceptance of this payment method and shall incorporate any costs into their proposals. Additionally, there shall be no minimum or maximum limits on any P-Card transaction under the contract. While it is the State's intention to utilize the P-card payment method the State reserves, at its discretion, the right to pay by ACH/ ACI or check. Should the Contractor wish to provide a financial incentive to not process payment by P-Card, they are to prepare a proposal to clearly outline any incentives for alternative payment methods the Contractor is willing to accept.

q. FORMAL CONTRACT AND/OR PURCHASE ORDER

No employee of the Contractor(s) is to begin any work prior to receipt of a State of Delaware Purchase Order signed by authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office. A purchase order, email, telephone, fax or State of Delaware's credit card shall serve as the authorization to proceed with work in accordance with the bid specifications and the special instructions, once it is received by the Contractor(s).

r. MINIMUM WAGE RATES

Work performed under this solicitation may fall under the State of Delaware Minimum Wage Rates or the Delaware Prevailing Wage rates. Prior to issuing a purchase order, the ordering agencies must obtain from the Department of Labor a determination if prevailing wage applies to the project and, if appropriate, what the applicable prevailing wage rates would be for the work to be performed. No work shall proceed without a determination by the Department of Labor. Request for prevailing wage certification can be found at: <http://www.delawareworks.com/industrialaffairs/services/LaborLawEnforcementInfo.shtml#pwl>.

s. PREVAILING WAGE

The prevailing wage law, 29 Del. C. §6960, is enforced by the Department of Labor and states that the specifications for every contract or aggregate of contracts relating to a public works project in excess of \$100,000 for new construction (including painting and decorating) or \$15,000 for alteration, repair, renovation, rehabilitation, demolition or reconstruction (including painting and decorating of building or works) to which this State

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
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MASTER AGREEMENT

Juniper Networks (US) Inc.
Master Agreement No: AR229
(hereinafter "Contractor")

And

State of Delaware
(hereinafter "Participating State/Entity")

Delaware Contract Number: GSS14579-DATACOMM

Page 8 of 17

or any subdivision thereof is a party and for which the State appropriated any part of the funds and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Delaware Department of Labor, Division of Industrial Affairs, to be prevailing in the county in which the work is to be performed. [Prevailing Wage Determination.](#)

t. **TERMINATION OF INDIVIDUAL ORDERS OR PURCHASE ORDERS**

As a central contract, this agreement shall include individual orders from state agencies and other entities authorized by law to procure from this contract. The individual orders may be terminated as follows:

- 1) **Termination for Cause** - If, for any reasons, or through any cause, the Contract or authorized reseller fails to fulfill in timely and proper manner his obligations, or if the Contractor or authorized reseller violates any of the covenants, agreements, or stipulations of this contract, the Agency shall have the right to terminate the P.O. by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor or authorized reseller in the performance of the P.O. shall, at the option of the Agency, become its property, and the Contractor or authorized reseller shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the Agency.
- 2) **Termination for Convenience** - The Agency may terminate the P.O. by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of such termination. In no event may an Agency terminate a P.O. less than 30 days prior to the scheduled ship date. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the department, become its property and the Vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials which are usable to the Agency.
- 3) **Termination for Non-appropriation** - In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Juniper Networks (US) Inc.
Master Agreement No: AR229
(hereinafter "Contractor")
And
State of Delaware
(hereinafter "Participating State/Entity")
Delaware Contract Number: GSS14579-DATACOMM

Page 9 of 17

available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

u. TERMINATION OF PARTICIPATING ADDENDUM

As a central contract, this Participating Addendum may be terminated or canceled in accordance with the Master Agreement Terms and Conditions.

- 1) **Termination for Non-Appropriations** - In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

v. PUBLICATION, REPRODUCTION AND USE OF MATERIAL

No material produced in whole or part under this contract shall be subject to copyright in the United States or in any other country. The State shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this contract; provided, however, that the State agrees not to use any design or engineering plans prepared by the Vendor for anything other than their intended purpose under this Contract. The Vendor shall have the right to publish any and all scientific findings. Appropriate acknowledgment and credit for the State's support shall be given in the publication.

w. RIGHTS AND OBLIGATIONS

The rights and obligations of each party to this agreement shall not be effective, and no party shall be bound by the term of this agreement, unless and until a valid executed purchase order has been approved by the State of Delaware Secretary of Finance, and all reasonable procedures of the State of Delaware Department of Finance have been complied with. A separate purchase order shall be issued for every project or order.

x. ASSIGNMENT OF ANTITRUST CLAIMS

As consideration for the award and execution of this contract by the State, the Vendor hereby grants, conveys, sells, assigns, and transfers to the State of Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired for the State

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT

Juniper Networks (US) Inc.
Master Agreement No: AR229
(hereinafter "Contractor")

And

State of Delaware
(hereinafter "Participating State/Entity")

Delaware Contract Number: GSS14579-DATACOMM

Page 10 of 17

pursuant to this contract.

y. REMEDIES

Except as otherwise provided in this Participating Addendum, all claims, counterclaims, disputes, and other matters in question between the State of Delaware and the Contractor arising out of, or relating to, this addendum, or a breach of it may be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Delaware.

z. AUDIT ACCESS TO RECORDS

The Contractor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Contractor agrees to preserve and make available to the State, upon request, such records for a period of five (5) years from the date services were rendered by the Vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Contractor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Contract. Upon notice given to the Contractor, representatives of the State or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the Contractor's financial records will be borne by the Contractor. Reimbursement to the State for disallowances shall be drawn from the Contractor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

aa. SUBCONTRACTS

Subcontracting is permitted under this Participating Addendum. However, every subcontractor, authorized representative or reseller shall be identified (Attachment C) and agreed to in writing by the State or as are specifically authorized in writing by the Agency during the performance of the contract. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior written approval of the State.

The Contractor shall be responsible for compliance by the subcontractor or reseller with all terms, conditions and requirements of the Master Agreement and this Participating Addendum and with all local, State and Federal Laws. The Contractor shall be liable for any noncompliance by any subcontractor or reseller. Further, nothing contained herein or in any subcontractor agreement shall be construed as creating any contractual relationship

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Juniper Networks (US) Inc.
Master Agreement No: AR229
(hereinafter "Contractor")
And
State of Delaware
(hereinafter "Participating State/Entity")
Delaware Contract Number: GSS14579-DATACOMM

Page 11 of 17

between the subcontractor and the State.

bb. CONTRACTOR EMERGENCY RESPONSE POINT OF CONTACT

The Contractor shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty four (24) hours a day, seven (7) days a week where there is a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the Delaware Emergency Operations Plan dated November 2009 or in the event of a local emergency or disaster where a governmental entity other than a State Agency requires the services of the Contractor.

cc. CONFIDENTIALITY AND DATA INTEGRITY

The Department of Technology and Information is responsible for safeguarding the confidentiality and integrity of data in State computer files regardless of the source of those data or medium on which they are stored: e.g., electronic data, computer output microfilm (COM), tape, or disk. Computer programs developed to process State Agency/School District data will not be modified without the knowledge and written authorization of the Department of Technology and Information. All data generated from the original source data, shall be the property of the State of Delaware. The control of the disclosure of those data shall be retained by the State of Delaware and the Department of Technology and Information.

The Contractor is required to agree to the requirements in the CONFIDENTIALITY AND INTEGRITY OF DATA STATEMENT; Appendix B attached, and made a part of this RFP. Contractor employees, individually, may be required to sign the statement prior to beginning any work.

dd. SECURITY

As computer, network, and information security are of paramount concern, the State wants to ensure that computer/network hardware and software does not compromise the security of its IT infrastructure. Therefore, the Vendor is guaranteeing that any systems or software meets or exceeds the Top 20 Critical Security controls located at <http://www.sans.org/critical-security-controls/>.

ee. ENTERPRISE STANDARDS AND POLICIES

The Contractor agrees to comply with the State of Delaware's Enterprise Standards and Policies as of the date of the Participating Addendum, <http://dti.delaware.gov/information/standards-policies.shtml>.

PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
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And
State of Delaware
(hereinafter "Participating State/Entity")
Delaware Contract Number: GSS14579-DATACOMM

Page 12 of 17

ff. NO PRESS RELEASES OR PUBLIC DISCLOSURE

The State of Delaware reserves the right to pre-approve any news or broadcast advertising releases concerning this agreement, the work performed, or any reference to the State of Delaware with regard to any project or contract performance. Any such news or advertising releases pertaining to this agreement shall require the prior express written permission of the State of Delaware.

The State will not prohibit or otherwise prevent the Vendor from direct marketing to the State of Delaware agencies, departments, municipalities, and/or any other political subdivisions, however, the Vendor shall not use the State's seal or imply preference for the solution or goods provided.

gg. DOCUMENT EXECUTION

The State of Delaware requires completion of the [Delaware Substitute Form W-9](#) to make payments to vendors. Successful completion of this form enables the creation of a State of Delaware vendor record. The Taxpayer ID (SSN or EIN) and Applicant (vendor) name are submitted to the Internal Revenue Service for "matching." If the Taxpayer ID and name do not match, the vendor record cannot be approved.

It is the applicant's responsibility to select the appropriate 1099 Withholding Type and Class. If incorporated, a business is not subject to 1099 reporting unless the business is providing legal or medical services.

4. Lease Agreements

Lease agreements are authorized. Equipment lease agreement terms and conditions included in the Master Agreement have been approved for use by the Participating State and any restrictions or requirements for the use of the lease agreement language in the Master Agreement.

5. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

<u>Lead State</u>	
Name	Jeff Mottishaw
Address	3150 State Office Building Capitol Hill Salt Lake City, UT 84114-1061

**PARTICIPATING ADDENDUM
WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
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MASTER AGREEMENT
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State of Delaware
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Delaware Contract Number: GSS14579-DATACOMM

Telephone	801-538-1287
Fax	801-538-3882
E-mail	jmottishaw@utah.gov

Contractor

Name	Roxanne Bieniek
Address	Juniper Networks, Inc. 10 Technology Park Dr Westford, MA 01886-3140
Telephone	978-589-0636
Fax	978-589-0142
E-mail	rbieniek@juniper.net

Participating Entity

Name	Courtney McCarty
Address	100 Enterprise Place Suite # 4 Dover, DE 19904-8202
Telephone	302-857-4557
Fax	302-739-3779
E-mail	courtney.mccarty@state.de.us

6. **Subcontractors:** All Contactor's dealers and resellers authorized in the State of Delaware, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the WSCA-NASPO Master Price Agreement. The Contractor dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

7. **Orders:** Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from 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.

**PARTICIPATING ADDENDUM
 WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION
 DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-20
 Administered by the State of Utah (hereinafter "Lead State")**

MASTER AGREEMENT
 Juniper Networks (US) Inc.
 Master Agreement No: AR229
 (hereinafter "Contractor")
 And
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 (hereinafter "Participating State/Entity")
 Delaware Contract Number: GSS14579-DATACOMM

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

Participating State: Delaware	Contractor: Juniper Networks (US), Inc.
By: <i>William W. Pickrum</i>	By: <i>Sabiha Churnakala</i>
Name: William W. Pickrum	Name: <i>Sabiha Churnakala</i>
Title: Deputy Director	Title: <i>VP</i>
Date: <i>9/5/14</i>	Date: <i>9/4/2014</i>

Frleigh Crossin
 Approved on behalf of

MA-OB-003162014

