

NASPO ValuePoint
PARTICIPATING ADDENDUM



DATA COMMUNICATION PRODUCTS & SERVICES (2019-2026)

Led by the State of **Utah**

Master Agreement #: AR3229

Participating Addendum #: NVP-AR3229

Contractor: **PALO ALTO NETWORKS, INC.**

Participating Entity: **STATE OF MONTANA**

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

- All products and accessories listed on the Contractor page of the NASPO ValuePoint website.

Master Agreement Terms and Conditions:

1. **Scope:** This addendum covers the *Data Communications Products and Services* led by the State of *Montana* for use by state agencies and other entities located in the Participating State (Participating Entity or State) 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 institution, 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:	Regina Acheampong
Address:	3000 Tannery Way, Santa Clara, CA, 95054
Telephone:	669-261-5126
Email:	racheampon@paloaltonetworks.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.

conditions.

State of Montana Terms and Conditions

ACCESS AND RETENTION OF RECORDS: Contractor agrees to provide the Participating Entity, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). Contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of eight years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the Contract taken by the State or third party.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: Contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the Participating Entity. (Section 18-4-141, MCA.)

AUDIT: At Contractor's written request, but not more frequently than once annually, Contractor may audit State's use of the Products to verify compliance with the terms and conditions of this PA. Any audit shall be limited to the six-month period immediately preceding the beginning date of the audit; shall be scheduled at least sixty (60) 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, the records required to verify compliance, what constitutes proof of license and compliance as described in the Agreement, and shall specify the fees to be paid if such audit reveals that the State's use of the Products 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.

COMPLIANCE WITH LAWS: Contractor shall, in performance of work under this Contract, 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 of the Rehabilitation Act of 1973. 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

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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.

INTELLECTUAL PROPERTY INDEMNIFICATION:

Third-Party Claim. In the event of any claim by any third party against the State that the Products furnished under this Agreement infringe upon or violate any Intellectual Property right, the State shall promptly notify the Contractor. The Contractor shall defend such claim, in the State's name or its own name, as appropriate, but at the Contractor's expense. The Contractor will indemnify the State against all costs, damages, and attorney's fees that accrue as a result of such claim. Such indemnification will be conditional upon the following:

- a. the State will promptly notify the Contractor of the claim in writing; and
- b. the State will allow the Contractor to control, and will cooperate with the Contractor in the defense and any related settlement negotiations, provided that:
 - i. the Contractor will permit the State to participate in the defense and settlement of any such claim, at the State's own expense, with counsel of its choosing; and
 - ii. the Contractor shall not enter into or agree to any settlement containing any admission of or stipulation to any guilt, fault, liability or wrongdoing on the part of the State, its elected and appointed officials, agents or employees without the State's prior written consent.

Product Subject of Claim. If the Products or Documentation furnished is likely to or does become the subject of a claim of infringement of an Intellectual Property Right, then the Contractor shall either procure for the State the right to continue using the alleged infringing product; or modify the product so that it becomes non-infringing; or replace it with one that is at least functionally equivalent and shall not degrade the operation or performance of the Products. If none of the above options may be accomplished within a reasonable time and at commercially reasonable rates or if the use of such product by the State shall be prevented by injunction, the State agrees to return the Product to the Contractor upon written request. The Contractor shall accept the return from the State of the infringing component, along with any other components of any products rendered unusable as a result of the infringing component and refund the full price paid to Contractor as depreciated on a straight line five (5) year basis, commencing on the date the State received such Products, or for subscription based Products, grant the State a refund for the portion of the subscription paid but not used. The State is not precluded from seeking other remedies available to it hereunder and in equity or law for any damages it may sustain due to diminished ability or inability to continue using such product

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Exceptions. Contractor's obligations under this section shall not apply to the extent any claim results from or is based on: (i) modifications to the Products made by a party other than Contractor or its designee; (ii) the combination, operation, or use of the Products with hardware or software not supplied by Contractor, if a claim would not have occurred but for such combination, operation or use; (iii) failure to use the most recent version or release of Products; (iv) Contractor's compliance with the State's explicit or written designs, specifications, instructions; or (v) use of the Products not in accordance with their published specifications.

NEW TECHNOLOGIES: The State reserves the right to purchase other offerings and new offerings related to the products and/or services under this PA.

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

REDUCTION OF FUNDING: Participating Entity must by law terminate this Contract if funds are not appropriated or otherwise made available to support State's continuation of performance of this Contract in 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 Contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, State shall terminate this Contract 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 Contract 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.

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SECURITY REQUIREMENTS: Systems delivered under this PA shall have assurances that they are adequately secure. For purposes of PA approval considerations herein, security is defined as freedom from those conditions that can cause loss of assets with unacceptable consequences. Understandably, no system can be guaranteed as 100% secure. The State of Montana has established control standards and policies that align with the NIST Cybersecurity Framework. NIST SP 800-53, the latest revision is used for control adherence evaluation established after establishing a security categorization utilizing FIPS PUB 199. Annual assurance statements shall be delivered to the Contract Liaison. Annual assurance statements must contain a detailed accounting of the security controls provided and must be in the form of a NIST Security Assessment Report, FedRamp Security Assessment Report, or SOC 2 report. SOC 1 reports may be accepted by exception and where applicable. SOC 3 reports will not be accepted.

Systems delivered under this PA shall have assurances that they are adequately secure according to the appropriate industry security standards.

VENUE: This participating addendum is governed by the laws of Montana. The parties agree that any litigation concerning this 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.)

TAX EXEMPTION: The State 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].

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.

STATE OF MONTANA ADMINISTRATIVE FEE: The State 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 submitted by ACH along with email notification to the State Contracts Officer. This Administrative Fee is effective upon execution of this Participating Addendum.

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

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extended price for each transaction. These reports are due no more than 30 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

DELIVERY: Palo Alto Networks utilizes a channel model for the sale of its Products, and any delivery shall be undertaken by its channel partners. Weekends and holidays excepted, deliveries shall be **F.O.B. DESTINATION**, to the location shown below. The term "F.O.B. destination" as used in this clause, means free of expense to the State and delivered to the location specified. The Contractor shall:

- Pack and mark the shipment to comply with specifications; or if the specifications do not contain specific packing or marking instructions, pack and mark the shipment in accordance with prevailing commercial practices and in such a manner as to ensure delivery in good condition and as required by this IFB;
- Prepare and distribute commercial bills of lading and Material Safety Data Sheets (MSDS) as appropriate;
- Deliver the shipment in good order and condition to the point of delivery specified in the IFB;
- Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the State at the delivery point specified in the IFB;
- Furnish a delivery schedule and designate the mode of delivering carrier; and
- Pay and bear all charges to the specified points of delivery.

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5. Lease Agreements:
“Reserved”.

6. Subcontractors: All contactors, 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 participants in the NASPO ValuePoint Master Agreement. The contractor’s dealer 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.

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

Participating Entity: State of Montana	Contractor:
Signature: <small>DocuSigned by:</small> <small>5FBAAAB9738647B...</small>	Signature: <small>DocuSigned by:</small> <i>Melinda Thompson</i> <small>076D11B782F74FB...</small>
Name: Cheryl Grey	Name: Melinda Thompson
Title: SFSD Administrator	Title: VP, Deputy GC
Date: 5/28/2020	Date: 5/28/2020
Approved as to Legal Content: <small>DocuSigned by:</small> <i>Mike Manion</i> <small>4E9DE9861B4E4EF...</small>	
Date: 5/28/2020	



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: <small>DocuSigned by:</small> <i>Tim Bottenfield</i> <small>EC5F091042A...</small>	
Date: 5/28/2020	

For questions on executing a participating addendum, please contact:
info@naspovaluepoint.org