

STATE OF NEBRASKA SERVICE CONTRACT AWARD

State Purchasing Bureau
1526 K Street, Suite 130
Lincoln, Nebraska 68508

Telephone: (402) 471-6500
Fax: (402) 471-2089

CONTRACT NUMBER
89163 04

PAGE 1 of 1		ORDER DATE 12/16/19	
BUSINESS UNIT 9000		BUYER NANCY STORANT (AS)	
VENDOR NUMBER: 1998845			
VENDOR ADDRESS: HP INC 1501 PAGE MILL RD PALO ALTO CA 94304-1126			

AN AWARD HAS BEEN MADE TO THE VENDOR/CONTRACTOR NAMED ABOVE FOR THE SERVICES AS LISTED BELOW FOR THE PERIOD:

MAY 26, 2020 THROUGH DECEMBER 31, 2021

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE VENDOR/CONTRACTOR AND THE STATE OF NEBRASKA.

Awarded from NASPO Value Point Master Agreement 140596

Contract to supply and deliver Copiers, Printers and Managed Print Services to the State of Nebraska from date of award through December 31, 2021 per the terms, conditions and specifications of the NASPO ValuePoint Master Agreement.

Payment Terms: Net 45

(For State Agencies - State agencies are not allowed to purchase Copiers, or Managed Print Services directly from this contract. Please contact the Copy Services at 402-471-2912)

(For the File - This RFP and Contract are bid and awarded by the State of Colorado. All backup bids, etc. are retained by the State of Colorado, Purchasing Division.)

The pricing on this Contract is a not-to-exceed rate.

Group A - MFD, A3
Group B - MFD, A4
Group D - Single-Function Printers
Group E - Large/Wide Format Equipment
Group F - Scanners
Managed Print Services (MPS)
Supplies
Software

Vendor Contact: Debra Lee;
Phone: 847-537-0344
email: Debra.Lee@HP.com

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	COPIERS AND MANAGED PRINT SERVICES	1,000,000.0000	\$	1.0000	1,000,000.00
Total Order					1,000,000.00

5/24/20
pk
Nancy Storant
BUYER
MATERIEL ADMINISTRATOR

COPIERS & MANAGED PRINT SERVICES

Led by the State of Colorado

Master Agreement #: **140596**

Contractor: **HP INC.**

Participating Entity: **STATE OF NEBRASKA**

State Of Nebraska: **Contract 84163 O4**

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

- Group A – MFD, A3
- Group B – MFD, A4
- Group D – Single-function Printers
- Group E – Large/Wide Format Equipment
- Group F – Scanners
- Managed Print Services (MPS)
- Supplies
- Software

Master Agreement Terms and Conditions:

1. **Scope:** This addendum covers the Copiers and Managed Print *Services* led by the State of Colorado for use by state agencies that have been approved by the State of Nebraska Printing Services and other entities located in the Participating 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 institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Nebraska. State Agencies may not purchase from this contract without prior approval from the State of Nebraska Printing Services. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

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

Contractor

Name:	Debra Lee
Address:	HP Inc., C/O NACCO, 10400 Energy Drive, Spring, TX. 77389
Telephone:	847-537-0344 (Cell 847-922-2977)
Fax Number:	847-572-1336
Email:	Debra.lee@hp.com

Participating Entity

Name:	State of Nebraska State Purchasing Bureau
Address:	1526 K Street, Suite 130
Telephone:	402-471-0974
Email:	nancy.storant@nebraska.gov

4. Participating Entity Modifications or Additions to The Master Agreement: Modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

No changes to the terms and conditions of the Master Agreement are required.

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

5. Lease Agreements: Customers which are State agencies may not lease products. Eligible customers may lease products as follows:

(a) Lease Terms: Equipment Leases are subject to the Terms and Conditions as set forth in the Master Agreement, unless otherwise agreed to. To initiate a Lease, Purchasing Entity may issue a Purchase Order ("PO") and reference the type of lease (FMV, \$1 Buyout, or Straight Lease) on the PO and shall execute either the Master Agreement Attachment A (Hewlett-Packard Financial Services, Master Lease Purchase Agreement) or Master Agreement Attachment B (Hewlett-Packard Financial Services, Master FMV Lease Agreement).

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- (b) Third Party Leasing Company: Contractor shall use a Third-Party leasing company for all Lease transactions, specifically Hewlett-Packard Financial Services ("HPFS"). However, all contractual obligations shall remain with the Contractor.
- (c) HPFS holds all rights title and interest in and to: (i) the Products subject to the Lease Agreement; (ii) all payments and other amounts due and to become due thereunder with respect to the Products; and (iii) all rights and remedies under this Participating Addendum with respect to the Products, such payments and other amounts due.
- (d) End of Term Notification: Contractor must notify a Purchasing Entity, in writing, of their End of Term options at least sixty (60) to ninety (90) days prior to the end of any Initial Lease Term. Such notification may include, but not be limited to, the following:
- i. Any acquisition or return options, based on the type of Lease agreement;
 - ii. Any renewal options, if applicable; and/or
 - iii. Hard drive removal and surrender cost, if applicable.
- (e) End of Term Options: If a Purchasing Entity desires to exercise a purchase, renewal, or return of the Equipment, it shall give Contractor at least thirty (30) calendar days written notice prior to the expiration of such Lease term. Notwithstanding anything to the contrary, if Purchasing Entity fails to notify Contractor of its intent with respect to the exercise of a purchase, renewal, or return of the Equipment, the Initial Lease Term shall be terminated on the date as stated in the Order and removal of the Product will be mutually arranged.
6. Resellers: All contractors and resellers authorized in the State of Nebraska, as shown on the dedicated Contractor (cooperative contract) website, are approved to accept orders and provide sales, service support, and invoicing 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 Master Agreement.
7. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Participating Addendum 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.

All orders should contain the following (1) "PO subject to NASPO ValuePoint Contract # 140596 & State Contract # 84163 O4"; (2) Purchaser's, Address, Contact, & Phone-Number; (3) Purchase order amount; (4) If applicable, type of Lease (FMV, \$1 Buy Out, or Straight

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lease) and monthly payment; (5) Itemized list of accessories; (6) Service program and rates; and (7) Attached SOW Template if applicable.

8. Product Installation & Invoicing: Unless otherwise agreed to by both parties, signing the delivery and acceptance ("D&A") certificate constitutes Acceptance of the Product(s) and allows Contractor to invoice for the Product(s). Failure to sign the D&A or reject the Product(s) within the foregoing five (5) day period shall be deemed as Acceptance by the Purchasing Entity.

Final inspection and approval of all work required under the contract shall be performed by the designated State officials.

Contractor will provide timely billing and Purchasing Entity will notify Contractor, in writing, of any billing concern. In order for Contractor to generate accurate service invoices, Purchasing Entities shall provide meter reads within the Contractor(s) requested timeframe. Such requested timeframe must be reasonable.

Invoices that are generated without receiving the proper meter read information from the Purchasing Entity will not be considered inaccurate. Invoices for payments must be sufficiently detailed to support payment.

The Purchasing Entity shall provide written notice of any alleged invoicing issue(s) and the Contractor will be allowed a thirty (30) calendar day cure period to address any such issue. Failure on the Contractor(s) part to maintain accurate invoicing shall result in a \$25.00 per instance credit on the following month's invoice.

The terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

Neb. Rev. Stat. §§81-2403 states, "[n]o goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency."

9. Software: Purchasing Entities that acquire software shall be subject to the license agreements distributed with such software. Software subscriptions shall not be subject to automatic renewals. Purchasing Entities shall have the option to finance software

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subscriptions by utilizing Contractor lease rates. Notwithstanding the foregoing, in the event of a conflict in language between an end user license agreement (EULA) and the Master Agreement, the language in the Master Agreement will supersede and control. In addition, any language in a EULA which violates a Participating State's constitution or a statute of that state; or violates the laws of a local entity making a purchase, will be deemed void, and of no force or effect, as applied to the Participating Entity or Purchasing Entity.

10. Maintenance Service Level Agreements: Purchasing Entities are subject to the Contractor "Maintenance Service Level Agreement" provided in Participating Addendum **Exhibit A**.
11. Managed Print Services ("MPS") Level Agreement: Purchasing Entities are subject to the Contractor "Managed Print Service Level Agreement". Contractor(s) may not provide MPS maintenance or repair Services on any Devices that are being leased or rented to a Purchasing Entity by another Manufacturer, unless they have a written agreement with the Manufacturer to do so.
12. MPS Statement of Work Template: All MPS engagements shall require the Contractor and Purchasing Entity to complete a detailed statement of work, similar to the format provided in Participating Addendum Attachment D (**MPS Statement of Work**), and it must be approved by both parties prior to the initiation of any engagement.
13. Participating Entity Additional Provisions

I. GENERAL TERMS AND CONDITIONS

A. GENERAL

The contract resulting from this solicitation shall incorporate the documents listed in section 1.3 (Master Agreement Order of Precedence) of the Master Agreement and any amendments to this participating addendum.

Unless otherwise specifically stated in a future contract amendment, in case of any conflict between the incorporated documents, an amendment to the participating addendum with the most recent date will have highest priority, followed by the order outlined and described in section 1.3 (Master Agreement Order of Precedence) of the Master Agreement.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.

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B. NOTIFICATION

Communications regarding the executed contract shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth below, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or five (5) calendar days following deposit in the mail.

Either party may change its address for notification purposes by giving notice of the change, and setting forth the new address and an effective date.

Contractor

HP Inc.
Attn: General Counsel
1501 Page Mill Road
Palo Alto, CA 94304-1126

Participating Entity

State of Nebraska
Attn: Nancy Storant
1526 K Street, Suite 130
Lincoln, NE 68508

C. BUYER'S REPRESENTATIVE

The State reserves the right to appoint a Buyer's Representative to manage [or assist the Buyer in managing] the contract on behalf of the State. The Buyer's Representative will be appointed in writing, and the appointment document will specify the extent of the Buyer's Representative authority and responsibilities. If a Buyer's Representative is appointed, the Contractor will be provided a copy of the appointment document, and is expected to cooperate accordingly with the Buyer's Representative. The Buyer's Representative has no authority to bind the State to a contract, amendment, addendum, or other change or addition to the contract.

D. GOVERNING LAW (Statutory)

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore

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subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this agreement must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable state and federal laws and regulations.

E. BEGINNING OF WORK

The contractor shall not commence any billable work until a valid contract has been fully executed by the State and the successful Contractor. The Contractor will be notified in writing when work may begin.

F. AMENDMENT

This Contract may be amended in writing, within scope, upon the agreement of both parties.

G. CHANGE ORDERS OR SUBSTITUTIONS

The State and the Contractor, upon the written agreement, may make changes to the contract within the general scope of the solicitation. Changes may involve specifications, the quantity of work, or such other items as the State may find necessary or desirable. Corrections of any deliverable, service, or work required pursuant to the contract shall not be deemed a change. The Contractor may not claim forfeiture of the contract by reasons of such changes.

The Contractor shall prepare a written description of the work required due to the change and an itemized cost sheet for the change. Changes in price shall be governed by the Master Agreement # 140596.

No change shall be implemented by the Contractor until approved by the State, and the Contract is amended to reflect the change and associated costs, if any. If there is a dispute regarding the cost, but both parties agree that immediate implementation is necessary, the change may be implemented, and cost negotiations may continue with both Parties retaining all remedies under the contract and law.

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In the event any product is discontinued or replaced upon mutual consent during the contract period or prior to delivery, the State reserves the right to amend the contract or purchase order to include the alternate product at the same price.

*****Contractor will not substitute any item that has been awarded without prior written approval of SPB*****

H. VENDOR PERFORMANCE REPORT(S)

The State may document any instance(s) of products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications. The State Purchasing Bureau may contact the Vendor regarding any such report. Vendor performance report(s) will become a part of the permanent record of the Vendor.

I. NOTICE OF POTENTIAL CONTRACTOR BREACH

If Contractor breaches the contract or anticipates breaching the contract, the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

J. BREACH

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time.

K. NON-WAIVER OF BREACH

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

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L. SEVERABILITY

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

M. INDEMNIFICATION

1. GENERAL

The Contractor agrees to defend, settle claims, indemnify, and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all third party claims ("the Third Party Claims"), sustained or asserted against the State for personal injury, death, or property loss or damage, to the extent caused by the willful misconduct or negligence of the Contractor, resulting from this contract, except to the extent such Contractor liability is attenuated by any action of the State which directly and proximately contributed to the Third Party Claims, and provided the State provides reasonable notice to Contractor of such Third Party Claims, cooperates with Contractor in the defense of the Third Party Claims, and grants Contractor sole defense of such Third Party Claims. In connection with such Third Party Claims, Contractor will pay all defense costs, settlement amounts, court awarded damages (including court costs and reasonable attorneys' fees), and third party costs incurred by the State at the request of Contractor in connection with the defense of the Third Party Claim.

2. INTELLECTUAL PROPERTY

The Contractor agrees it will, at its sole cost and expense, defend, settle claims, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to, the actual or alleged infringement or misappropriation by an HP-branded product or service of any patent, copyright, trade secret, trademark, or confidential information of any third party; provided, however, the State gives the Contractor prompt notice in writing of the claim.

If a judgment or settlement is obtained or reasonably anticipated against the State's use of any intellectual property for which the Contractor has indemnified the State, the Contractor shall, at the Contractor's sole option, cost and expense, promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State's behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. If these options are not available, Contractor will refund to the State the amount paid for the affected product in the first year or the depreciated value thereafter or, for support services, the balance of any pre-paid amount or, for professional services, the amount paid.

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Contractor is not responsible for claims resulting from any unauthorized use of the products or services.

3. **PERSONNEL**

The Contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker's compensation, and employee benefits relating to any of the personnel, including subcontractor's and their employees, provided by the Contractor, insofar as they arise from their performance of Contractor's obligations under the Participating Addendum.

4. **SELF-INSURANCE**

The State of Nebraska is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this agreement, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 – 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this agreement to the extent provided by law.

5. The Parties acknowledge that Attorney General for the State of Nebraska is required by statute to represent the legal interests of the State, and that any provision of this indemnity clause is subject to the statutory authority of the Attorney General.

6. **Limitation of Liability**

Only to the extent permitted by law, Contractor's liability to Participating Entity under this PA is limited to the greater of \$1,000,000 or the amount payable by Participating Entity to Contractor for the relevant Order. Neither Participating Entity nor Contractor will be liable for lost revenues or profits, downtime costs, loss or damage to data or indirect, special or consequential costs or damages. This provision does not limit either party's liability for: unauthorized use of intellectual property, death or bodily injury caused by their negligence; acts of fraud; willful repudiation of the Participating Addendum; nor any liability which may not be excluded or limited by applicable law.

N. ASSIGNMENT, SALE, OR MERGER

Either Party may assign the contract upon mutual written agreement of the other Party. Such agreement shall not be unreasonably withheld.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor's business. Contractor agrees to cooperate with the State in executing amendments to the contract to allow for the

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transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.

O. CONTRACTING WITH OTHER NEBRASKA POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. §81-145, to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be contractually obligated or liable for any contract entered into pursuant to this clause. A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

P. FORCE MAJEURE

Neither Party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or manmade event outside the reasonable control and not the fault of the affected Party ("Force Majeure Event"). The Party so affected shall immediately make a written request for relief to the other Party, and shall have the burden of proof to justify the request. The other Party may grant the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted Party's own employees will not be considered a Force Majeure Event.

Q. CONFIDENTIALITY

Information exchanged under this Participating Addendum will be treated as confidential if identified as such at disclosure or if it is of the type presumed confidential and is not already public which would include, trade secrets, internal operations, Contractor's internal and undisclosed data, , prototypes, engineering drawings, , test results, or other information of commercial value. and if the information may be lawfully withheld from disclosure to third parties.. Contractor shall use its best efforts in designating its own confidential information as confidential and communicating such designation to the State. All materials and information provided or acquired shall be handled in accordance with federal and state law, and ethical standards. Should said confidentiality be breached by a Party, the Party shall notify the other Party immediately of said breach and take immediate corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is

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prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

R. EARLY TERMINATION

The Participating Addendum may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate this Participating Addendum at any time.
2. The State, in its sole discretion, may terminate this Participating Addendum for any reason upon thirty (30) calendar day's written notice to the Contractor. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the contract. In the event of termination the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate this Participating Addendum immediately for the following reasons:
 - a. if directed to do so by statute;
 - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
 - c. a trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court;
 - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders;
 - e. an involuntary proceeding has been commenced by any Party against the Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Contractor has consented, either expressly or by operation of law, to the entry of an order for relief, or (iii) the Contractor has been decreed or adjudged a debtor;
 - f. a voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code;
 - g. Contractor intentionally and without authorization discloses confidential information of the State, the nature of which would cause damage to the State's interest if made publicly available;
 - h. Contractor has or announces it will discontinue support of the deliverable, and makes available to the State no goods or services including technically equivalent features; and,
 - i. In the event funding is no longer available, in accordance with Section 13.III.D of this Participating Addendum.

NASPO ValuePoint
PARTICIPATING ADDENDUM

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S. CONTRACT CLOSEOUT

Upon Participating Addendum closeout for any reason the Contractor shall within 30 days, unless stated otherwise herein:

1. Transfer all completed or partially completed deliverables to the State, provided the Contractor has received from the Participating Entity all payments which are due for such deliverables;
2. Transfer ownership and title to all completed or partially completed deliverables to the State, provided the Contractor has received from the Participating Entity all payments which are due for such deliverables;
3. Return to the State all information and data, unless the Contractor is permitted to keep the information or data by contract or rule of law. Contractor may retain one copy of any information or data as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures;
4. Commercially reasonable cooperation with any successor Contractor, person or entity in the assumption of any or all of the obligations of this contract;
5. Commercially reasonable cooperation with any successor Contractor, person or entity with the transfer of information or data related to this contract;
6. Return or vacate any state owned real or personal property; and,
7. Return all data in a mutually acceptable format and manner.

Nothing in this Section should be construed to require the Contractor to surrender intellectual property, real or personal property, or information or data owned by the Contractor for which the State has no legal claim.

T. ENTIRE AGREEMENT

The Master Agreement and this PA represents the parties' entire understanding with respect to its subject matter and supersedes any previous communication or agreements that may exist.

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II. CONTRACTOR DUTIES

A. INDEPENDENT CONTRACTOR / OBLIGATIONS

The Contractor is solely responsible for fulfilling the contract. The Contractor or the Contractor's representative shall be the sole point of contact regarding all contractual matters.

The Contractor shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Contractor uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the Contractor's proposal shall not be changed without the prior written approval of the State, provided such approval is not unreasonably withheld. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

All personnel assigned by the Contractor to the contract shall be employees of the Contractor or a subcontractor, and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor or the subcontractor respectively.

With respect to its employees, the Contractor agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law;
3. Damages incurred by Contractor's employees within the scope of their duties under the contract,;
4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law;
5. Determining the hours to be worked and the duties to be performed by the Contractor's employees; and,
6. All claims against Contractor by any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Contractor, its officers, agents, or subcontractors or subcontractor's employees)

If the Contractor intends to utilize any subcontractor, the subcontractor's level of effort, tasks, and time allocation should be clearly defined in the contractor's proposal. The

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Contractor shall agree that it will not utilize any subcontractors not specifically included in its proposal in the performance of the contract without the prior written authorization of the State, such authorization not to be unreasonably withheld.

The State reserves the right, for a lawful reason and good cause, to require the Contractor to reassign or remove from the project any Contractor or subcontractor employee. The State shall make a request for removal to Contractor in writing. Contractor shall first have the opportunity to address and remedy the State's concerns prior to removing such Contractor or subcontractor employee. If the State's concerns cannot be addressed or remedied without removing such Contractor or subcontractor employee, such Contractor or subcontractor employee will be removed by the Contractor.

Contractor shall insure that the terms and conditions contained in any contract with a subcontractor does not conflict with the terms and conditions of this contract.

The Contractor shall include a similar provision, for the protection of the State, in the contract with any Subcontractor engaged to perform work on this contract.

B. EMPLOYEE WORK ELIGIBILITY STATUS

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <http://das.nebraska.gov/materiel/purchasing.html>
2. The completed United States Attestation Form should be submitted with the solicitation response.
3. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

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4. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

**C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY
EMPLOYMENT / NONDISCRIMINATION (Statutory)**

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State of Nebraska, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §48-1101 to 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all Subcontracts for goods and services to be covered by any contract resulting from this solicitation.

D. COOPERATION WITH OTHER CONTRACTORS

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to reasonably cooperate with such other contractors or individuals, and shall not commit or permit any act which may interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.

E. DISCOUNTS

Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the proposal. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

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F. PERMITS, REGULATIONS, LAWS

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Contractor shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the execution of the contract. The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

No transfer of ownership of any intellectual property will occur under this Agreement. The State grants Contractor a non-exclusive, worldwide, royalty-free right and license to any intellectual property that is necessary for Contractor and its designees solely to perform the ordered services. If deliverables are created by Contractor specifically for Customer and identified as such in Supporting Material, Contractor hereby grants the State a worldwide, non-exclusive, fully paid, royalty-free license to reproduce and use copies of the deliverables internally.

G. CONFLICT OF INTEREST

By submitting a proposal, bidder certifies that no relationship exists between the bidder and any person or entity which either is, or gives the appearance of, a conflict of interest related to this Request for Proposal or project.

Bidder further certifies that bidder will not employ any individual known by bidder to have a conflict of interest nor shall bidder take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its contractual obligations hereunder or which creates an actual or appearance of conflict of interest.

If there is an actual or perceived conflict of interest, bidder shall provide with its proposal a full disclosure of the facts describing such actual or perceived conflict of interest and a proposed mitigation plan for consideration. The State will then consider such disclosure and proposed mitigation plan and either approve or reject as part of the overall bid evaluation.

H. STATE PROPERTY

The Contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the Contractor's use during the performance of the contract. The Contractor shall reimburse the State for any loss or damage of such property; normal wear and tear is expected.

I. SITE RULES AND REGULATIONS

The Contractor shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on State premises. If the

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Contractor must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to in writing between the State and the Contractor.

J. ADVERTISING

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its goods or services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

K. NEBRASKA TECHNOLOGY ACCESS STANDARDS (Statutory)

Contractor shall review the Nebraska Technology Access Standards, found at <http://nitc.nebraska.gov/standards/2-201.html> and ensure that products and/or services provided under the contract are in compliance or will comply with the applicable standards to the greatest degree possible. In the event such standards change during the Contractor's performance, the State may create an amendment to the contract to request the contract comply with the changed standard at a cost mutually acceptable to the parties.

L. DRUG POLICY

Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

M. WARRANTY

Despite any clause to the contrary, the Contractor represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, the Contractor shall, for a period of thirty (30) calendar days from performance of the service, if notified by the State within said 30 day period, perform the services again, at no cost to Customer, or if Contractor is unable to perform the services as warranted, Contractor shall reimburse Customer the fees paid to Contractor for the unsatisfactory services. The Master Agreement and this PA states all remedies for warranty claims. To the extent permitted by law, Contractor disclaims all other warranties.



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N. REPORTS

The Contractor shall also provide to the State of Nebraska participating agency quarterly utilization reports containing information as set forth in the Master Agreement, which at a minimum, shall include the following information pertaining to State of Nebraska Utilization:

1. Purchase order number;
2. Description;
3. Quantity; and
4. Price

These reports will be provided in Excel format as prescribed in the Master Agreement and sent via email on a quarterly basis as follows:

<u>Period End</u>	<u>Report Due</u>
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

O. ADMINISTRATIVE FEE /REBATE

The Contractor agrees to provide a quarterly administrative fee in the form of a check. The fee will be payable to the State of Nebraska for an amount equal to one-quarter of one percent (.25%) of the net sales and service fees (net of any returns, credits, or adjustments under this Addendum) for the quarterly period. The Contractor's NASPO ValuePoint pricing to the State shall not be adjusted to offset for the equivalent fee amount. Payments shall be made in accordance with following schedule:

<u>Period End</u>	<u>Fee Due</u>
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

The Contractor agrees to provide an Administrative Fee report, reflecting new sales to the State during the associated fee period. The report shall be in the format developed by the Lead State and as agreed to by the Contractor. The report will be provided in secure electronic format and/or submitted electronically to the State contact listed in the Addendum.



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P. ADMINISTRATIVE FEE/REBATE REMITTANCE LOCATION

All Administrative Fees/Rebates will be sent to the following address:

State Purchasing Bureau
c/o Central Finance, Administrative Services
1526 K Street, Suite 240
Lincoln, NE 68508

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III. PAYMENT

A. TAXES

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

B. PAYMENT (Statutory)

Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2403). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

C. LATE PAYMENT (Statutory)

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408).

D. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Statutory)

The State's obligation to pay amounts due on the Contract for a fiscal year following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

E. RIGHT TO AUDIT (First Paragraph is Statutory)

The State shall have the right to audit the Contractor's performance of this contract upon a thirty (30) days' written notice. Contractor shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. (Neb. Rev. Stat. §84-304 et seq.) The State may audit and the Contractor shall maintain, the Information during the term of the contract and for a period of five (5) years after the

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completion of this contract or until all issues or litigation are resolved, whichever is later. The Contractor shall make the Information available to the State at Contractor's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Contractor so elects, the Contractor may provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract, regardless of the form or the Information, how it is stored, or who possesses the Information. Under no circumstance will the Contractor be required to create or maintain documents not kept in the ordinary course of contractor's business operations, nor will contractor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to contractor.



The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. If a previously undisclosed overpayment exceeds one-half of one percent (.5%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Contractor, the Contractor shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety (90) days of written notice of the claim. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.



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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:	Contractor: HP Inc.
Signature: 	Signature: 
Name: Doug Carlson	Name: Colleen F Lively
Title: Materiel Administrator	Title: Contracts Administrator
Date: 5/29/2020	Date: 5/15/2020

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Ted Fosket
Telephone:	(907) 723-3360
Email:	tfosket@naspovaluepoint.org

Please email fully executed PDF copy of this document to:
PA@naspovaluepoint.org
to support documentation of participation and posting in appropriate data bases.