



NASPO ValuePoint

**PARTICIPATING ADDENDUM**

**WIRELESS, DATA, VOICE AND ACCESSORIES**

Led by the state of Utah

Master Agreement #: MA176-1

Contractor: **T-MOBILE USA, INC.**

Participating Entity: **STATE OF MONTANA**

1. Scope: This Participating Addendum ("PA") covers the NASPO ValuePoint Wireless, Data, Voice and Accessories Master Agreement led by the State of Utah (Master Agreement No: MA176-1) (the "Master Agreement") for use by state agencies and other entities, as provided in the Master Agreement, and as more specifically detailed in Paragraph 2, "Participation," below. There were four categories included in the solicitation:

- Category 1: Cellular Wireless Services
- Category 2: Equipment and Accessories
- Category 3: Turnkey Wireless and IoT Solutions offered as a Product
- Category 4: Alternative Wireless Transport Options

Contractor was awarded Categories 1, 2, 3A, and 3C.

Participating Entity has elected to participate in **Categories:**

- Category 1: Cellular Wireless Services
- Category 2: Equipment and Accessories
- Category 3: Turnkey Wireless and IoT Solutions offered as a Product. Montana executive branch agencies are subject to the prior approval of the State of Montana Information Technology Division's (SITSD) before utilizing Category 3. Contractor may not accept any orders from State of Montana executive branch agencies without proof of prior approval or be subject to a Stop Work Order per the terms and conditions listed Exhibit 1. Executive branch agencies are listed in Exhibit 1.

2. Participation: This PA may be used by all state agencies, institutions of higher education, political subdivisions and other entities who are authorized by the State Chief Procurement Official or otherwise eligible to place orders against this PA (collectively "Purchasing Entities"). It will be the responsibility of the Purchasing Entity to comply with any legal or regulatory provisions applicable to the Purchasing Entity. A Purchasing Entity may issue individual releases (Purchase Orders) against this PA on an as-needed basis.

3. Participating Entity Modifications or Additions are incorporated as **Exhibit #1**.

4. Order of Precedence: Except as specifically provided otherwise herein, this PA consists of and precedence is established by the order of the following documents:

- This PA; and
- The Master Agreement (including the Master Agreement Order of Precedence established in the NASPO ValuePoint Master Terms and Conditions).



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## 5. Purchase Order Instructions:

Purchasing Entity purchase orders are binding upon acceptance in writing by Purchasing Entity and T-Mobile. The terms and conditions in any Purchasing Entity-issued purchase order accepted by T-Mobile will have no force or effect other than to denote quantity, the Products or Services purchased, delivery destinations, requested delivery dates and any other information required by this PA. Despite the limitations described in the previous sentence and subject to Section 1 above, it is acknowledged that the Participating Entity and Contractor may from time to time negotiate mutually acceptable additional terms and conditions (in writing) with respect to purchases under Category 3 (Turnkey Wireless and IoT Solutions offered as a Product).

## 6. Purchasing Entity/Contractor rights and duties:

A. Each Purchasing Entity will be treated as if it was an individual customer. Except to the extent modified in this Participating Addendum, each Purchasing Entity: (i) will be responsible for compliance with the terms and conditions of the Master Agreement and this Participating Addendum; (ii) will have the same rights and responsibilities for its purchases as the Lead State has in the Master Agreement; and (iii) will be responsible for paying its own charges and fees and for its liabilities.

B. Contractor shall charge each Purchasing Entity individually and seek recovery from each Purchasing Entity only if those charges, fees or other expenses are not paid.

C. [Reserved]

D. Each Purchasing Entity agrees to the terms of the Master Agreement and this Participating Addendum, including the disclosure of limited account information as part of the contractual reporting requirements to NASPO ValuePoint and/or the Participating Entity for purposes of monitoring the contract and calculating the administrative fee.

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

## Contractor

Name:	David Bezzant
Address:	c/o T-Mobile USA, Inc., 12920 SE 38 <sup>th</sup> Street, Bellevue, WA 98006
Telephone:	(480) 638-2608
Fax:	
Email:	David.Bezzant@T-Mobile.com

## Participating Entity

Name:	Tia Snyder
Address:	125 North Roberts St., Room 165, Helena, MT 59601



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Telephone:	406-444-3315
Email:	tsnyder@mt.gov

8. Software Terms and Conditions: Purchasing Entities that acquire software shall be subject to the license agreements distributed with such software; however, 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 Purchasing Entity's constitution, statute or other applicable law will be deemed void, and of no force or effect, as applied to the Purchasing Entity.

9. Entire Agreement:

This PA (including Exhibit 1) and the Master Agreement are the entire agreement of the parties regarding the subject matter hereof. They supersede all prior agreements, representations, and understandings. No oral understanding or agreement not incorporated into this PA is binding on any of the parties.

10. Amendments:

This PA may only be amended by the parties via a written amendment signed by both parties.

11. Amendment No. 2 to Master Agreement:

In accordance with Amendment No. 2 to the Master Agreement, upon execution of this PA, the parties agree that the terms of any existing Participating Addendum(s) executed by Participating Entity under either: 1) the NASPO ValuePoint Master Agreement #1907 between the State of Nevada and Contractor ("T-Mobile NASPO 1907 Agreement"); or 2) the NASPO ValuePoint Master Agreement #1907 between the State of Nevada and Sprint Solutions, Inc., ("Sprint NASPO 1907 Agreement") will be governed under the terms of this Participating Addendum and Master Agreement No. MA176. Contractor and the Participating Entity agree that this Participating Addendum will supersede and replace any existing Participating Addendum(s) under either T-Mobile NASPO 1907 Agreement or Sprint NASPO 1907 Agreement ("Existing 1907 Participating Addendums") as of the effective date of this PA, subject to the terms herein. The Existing 1907 Participating Addendums will be terminated in their entirety as of the effective date of this PA.

12. Technology Evolution:

- a. In the normal course of technology evolution and enhancement, Contractor continually updates and upgrades its Services, Products and networks. In some instances, these efforts will result in the need to ultimately replace or discontinue certain offerings or technologies. In such event, Contractor will undertake such efforts in a customer-focused and commercially reasonable manner. Accordingly and notwithstanding anything in this PA to the contrary, Contractor reserves the right, in its sole discretion, after providing the notice set forth in subsection 12.b below, to: (a) migrate affected Purchasing Entity to a replacement technology; or (b) discontinue any Service, Product, network standard, or technology without either party being in breach of this Participating Addendum or incurring early termination liability relating to the discontinuance of the affected Service, Product, network standard, or technology.



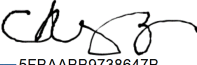




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- b. If Contractor takes any action set forth in subsection 12.a above, Contractor will provide advance notice reasonably designed to inform Purchasing Entity (if affected) of such pending action. The form of Contractor's notice may include providing written notice to any address for the Purchasing Entity (a) listed in the Participating Addendum for Participating Entity (if purchaser is the Participating Entity), (b) Contractor uses for billing, or (c) set forth in a purchase order. Participating Entity agrees that such notice is reasonable and sufficient notice of Contractor's pending action.

The parties have executed this Participating Addendum as of the date of final execution below.

Participating Entity:	Contractor: T-Mobile USA, Inc.
Signature:  DocuSigned by:  5FBAABB9738647B...	Signature:  DocuSigned by:  8F686CC9343743C...
Printed Name:  Cheryl Grey	Printed Name: David Bezzant
Title:  SFSD Administrator	Title: VP, T-Mobile Public Sector
Date:  12/22/2020	Date:  12/22/2020
Approved as to Legal: DocuSigned by:  8E2DE9861B4E4EF...	Legal Approved by: DocuSigned by:  E87F02B5953F42A...
Date:  12/18/2020	Date:  12/22/2020
Chief Information Office Approval: DocuSigned by:  8F686CC9343743C...	
Date:  12/21/2020	

For questions on the Participating Addendum or NASPO ValuePoint cooperative contracting process, please contact the NASPO ValuePoint Cooperative Contract Coordinator assigned to this Portfolio, as provided on this Portfolio's webpage at [www.naspovaluepoint.org](http://www.naspovaluepoint.org) or the NASPO ValuePoint team at [ccc@naspovaluepoint.org](mailto:ccc@naspovaluepoint.org).



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**\*\*\*Attach Exhibit 1 if necessary – Participating Entity Modifications or Additions\*\*\***

***Contractor - email a fully executed PDF copy of this document to:***

***[PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org)***

***To support documentation of participation and posting in appropriate databases***



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**Exhibit #1 to  
Participating Addendum  
State Terms and Conditions**

**ACCESS AND RETENTION OF RECORDS:** Contractor agrees to provide the State of Montana (State), 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 Participating Addendum or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

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

**COMPLIANCE WITH LAWS:** Contractor shall, in performance of work under this Participating Addendum, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 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 accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Participating Addendum 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 Participating Addendum.

**STATE OF MONTANA IT POLICIES AND STANDARDS:** The Contractor is expected to be reasonably familiar with the State of Montana IT environment.

The links below provide information on State of Montana IT strategic plans, current environment, policies, and standards.

State of Montana Information Technology Strategic Plan  
<http://sitsd.mt.gov/Governance/IT-Plans>

State of Montana Information Technology Environment  
<http://sitsd.mt.gov/Services-Support/Enterprise-Architecture>

State of Montana IT Policies



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<http://sitsd.mt.gov/Governance/IT-Policies>**CONTRACT OVERSIGHT:**

**CIO Oversight.** The Chief Information Officer (CIO) for the State of Montana, or designee, may perform contract oversight activities. Such activities may include the identification, analysis, resolution, and prevention of deficiencies that may occur within the performance of its obligations. The CIO may require the issuance of a right to assurance or may issue a stop work order.

**Right to Assurance.** If the State, in good faith, has reason to believe that Contractor does not intend to, is unable to, or has refused to perform or continue performing all material obligations under this Participating Addendum, the State may demand in writing that Contractor give a written assurance of intent to perform. Contractor's failure to provide written assurance within the number of days specified in the demand (in no event less than five business days may, at the State's option, be the basis for terminating this addendum and pursuing the rights and remedies available under this addendum or law.

**Stop Work Order.** The State may, at any time, by written order to Contractor require Contractor to stop any or all parts of the work required by this Participating Addendum for the period of days indicated by the State after the order is delivered to Contractor. The order must be specifically identified as a stop work order issued under this clause. Upon receipt of the order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, Contractor shall resume work. The State Project Manager shall make the necessary adjustment in the delivery schedule or price, or both, and this addendum shall be amended in writing accordingly.

**DEPARTMENT OF ADMINISTRATION POWERS AND DUTIES:** The Department of Administration is responsible for carrying out the planning and program responsibilities for information technology (IT) for state government. (Section 2-17-512, MCA) The Chief Information Officer is the person appointed to carry out the duties and responsibilities of the Department of Administration relating to information technology.

The Department of Administration shall:

- Review the use of information technology resources for all state agencies;
- Review and approve state agency specifications and procurement methods for the acquisition of information technology resources; and
- Review, approve, and sign all state agency IT contracts and shall review and approve other formal agreements for information technology resources provided by the private sector and other government entities.

**DISABILITY ACCOMMODATIONS:** The State does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.



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**FORCE MAJEURE:** Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its commercially reasonable efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than 5 working days after the onset. If the notice is not provided within the 5-day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this Participating Addendum, unless the parties mutually agree that the obligation need not be performed because of the condition.

**HOLD HARMLESS/INDEMNIFICATION:** Contractor agrees to defend, indemnify and hold harmless the State, its elected and appointed officials, and employees, while acting within the scope of their duties as such, from and against all third party claims, liabilities, damages, demands, causes of action of any kind or character (collectively, "Claims"), including the cost of defense thereof, resulting in or allegedly resulting in bodily or personal injuries, death, or damage to tangible property arising out of the negligent or other wrongful act or omission, or allegations related thereto, of Contractor and/or its employees, representatives, assigns, subcontractors, except if the Claims are a result of the sole negligence of the State, under this Agreement.

**INTELLECTUAL PROPERTY:** All patents and other legal rights in or to inventions created in whole or in part under the contract must be available to the State for royalty-free and nonexclusive licensing. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under the Participating Addendum. The State acknowledges and agrees that the Contractor's Services are provided to the State as subscription services and that this provision on "Intellectual Property" does not apply to the provision of Contractor's Services.

**PATENT AND COPYRIGHT PROTECTION:** If a third party makes a claim against the State that the Services furnished under this Participating Addendum by Contractor infringe upon or violate any rights of a third party under U.S. patent or copyright laws, the State shall promptly notify Contractor. Contractor shall defend such third party claim in the State's name or its own name, as appropriate, but at Contractor's expense. Contractor shall indemnify the State against all third-party costs, damages, attorney fees, and all other costs and expenses of litigation that accrue as a result of such third party claim.

Contractor will not be liable for any claim of infringement to the extent based on any of the following by a State indemnitee:

- (a) modification or use of Services other than as contemplated by the Participating Addendum or expressly authorized or proposed by Contractor;
- (b) operation of Services with any operating software other than that supplied by Contractor or authorized or proposed by Contractor; or
- (c) combination or use with other products or services in a manner not contemplated by the contract or expressly authorized or proposed by Contractor.

**PAYMENT TERM:** All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document,





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the State is allowed 30 days to pay such invoices. All contractors will be required to provide banking information at the time of addendum execution in order to facilitate State electronic funds transfer payments.

**REDUCTION OF FUNDING:** The State must by law terminate this Participating Addendum if funds are not appropriated or otherwise made available to support State's continuation of performance of this 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 addendum (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the State shall terminate this addendum as required by law. The State shall provide Contractor the date State's termination shall take effect, which shall not be less than 30 days from the date of such notice unless Montana law mandates a shorter notice period. The State shall not be liable to Contractor for any payment that would have been payable had the addendum not been terminated under this provision. As stated above, the State 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. The State 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.

**VENUE:** The Participating Addendum is governed by the laws of Montana. The parties agree that any litigation concerning the Participating Addendum, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)

**TAX EXEMPTION:** The State of Montana is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119], and any additional fees not subject to the tax exemption.

**STATE OF MONTANA ADMINISTRATIVE FEE:** The State of Montana assesses an Administrative Fee of one and one-half percent (1.50%) for all net sales (sales less taxes, fees, credits, and returns) made under this Participating Addendum. 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 Participating Addendum. The Contractor shall provide CO with an electronic usage report (Excel), which must list the following information at the minimum: purchasing entity; description of items purchased; date of purchase; contract price; and the extended price for each transaction. These reports are due no more than 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

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**NET NEUTRALITY**

**Internet Neutrality Requirements.** Subject to the letter dated January 30, 2020 from James Kirby at T-Mobile (attached as Exhibit 1-A), Contractor shall comply with the State of Montana Executive Order No. 3-2018 providing for Internet neutrality principles.

**Definitions.** As used in this agreement, the following definitions apply:

1. "Broadband Internet Access Service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. This term also encompasses any service that the State finds to be providing a functional equivalent of the service described in the previous sentence, or that is used to evade the protections set forth in this section.
2. "Reasonable Network Management" means a network management practice that has a primarily technical network management justification, but does not include other business practices. A network management practice is reasonable if it is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

In the event of a dispute as to the definition of any other term in this section, a term that is defined in the State Financial Services Division's Internet Neutrality Principles in State Procurement Policy shall have the definition set forth in the Policy.

**Public Disclosure.** Contractor shall publicly disclose to all of its customers in the State of Montana (including but not limited to the State itself) accurate information regarding the network and transport management practices (including cellular data and wireless broadband transport), performance, and commercial terms of its broadband Internet access services sufficient for: a) consumers to make informed choices regarding use of such services and for content, application, service; and b) device providers to develop, market, and maintain Internet offerings. Compliance with the Federal Communications Commission's transparency rule, as amended by 83 Fed. Reg. 7852, 7922 (Feb. 22, 2018), satisfies Contractor's public disclosure requirements under this paragraph.

**Provision of Services.** Contractor shall not, with respect to any customer in the State of Montana (including but not limited to the State itself):

1. Block lawful content, applications, services, or non-harmful devices, subject to reasonable network management that is disclosed to the customer;
2. Throttle, impair or degrade lawful Internet traffic on the basis of Internet content, application, service, or use of a non-harmful device, subject to reasonable network management that is disclosed to the customer;
3. Engage in paid prioritization; or
4. Unreasonably interfere with or unreasonably disadvantage:



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- a. End users' ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of their choice; or
- b. Edge providers' ability to make lawful content, applications, services, or devices available to end users.

**Compliance.** Contractor agrees to provide the State, upon request, at any time during the term of this contract, records, documentation, or any other information as required to demonstrate Contractor's compliance with the requirements of this section.

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**Federal Terms and Conditions  
(Non-Construction)  
Federal****1. NONDISCRIMINATION**

The Contractor agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this contract, on the ground of race, religion, color, national origin, sex or handicap. Accordingly, and to the extent applicable, the Contractor agrees to comply with the following:

- a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by DoD regulations at 32 CFR part 195.
- b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 {3 CFR, 1964- 1965 Comp. pg. 339}, as implemented by Department of Labor regulations at 41 CFR part 60.
- c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR part 196.
- d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.
- e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

**2. LOBBYING**

a. The Contractor agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101- 121 (31 U.S.C. Section 1352) is incorporated by reference and the State agrees to comply with all the provisions

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thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

**3. DRUG-FREE WORK PLACE**

The Contractor agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

**4. ENVIRONMENTAL PROTECTION**

a. The Contractor agrees that its performance under this contract shall comply with:

- (1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
- (2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
- (3) The Resources Conservation and Recovery Act (RCRA);
- (4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
- (5) The National Environmental Policy Act (NEPA);
- (6) The Solid Waste Disposal Act (SWDA);
- (7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;

b. In accordance with the EPA rules, the parties further agree that the Contractor shall also identify to the state any impact this contract may have on:

- (1) The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.
- (2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.
- (3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.
- (4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.

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(5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).

Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

(6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking work source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C300H-3)

**5. USE OF UNITED STATES FLAG VESSELS**

a. The Contactor agrees that travel under this contract shall use U.S.-flag air carriers ( air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

b. The Contactor agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

**6. DEBARMENT AND SUSPENSION**

a. The Contractor shall not make any award or permit any award (sub-contract or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension.

b. The Contractor agrees to comply with the requirements regarding debarment and suspension in Subpart C of the OMB guidance in 2 CFR part 180, as implemented by the DoD in 2 CFR part 1125. The Contractor shall comply with 2 CFR Part 1125 by checking the Excluded Parties List System (EPLS) at [www.sam.gov](http://www.sam.gov) to verify Contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The Contractor shall not solicit offers from, nor award contracts to Contractors listed in EPLS. This verification shall be documented in the Contractor's contract files, and shall be subject to audit by federal/State audit agencies

The Contractor agrees to communicate the requirement to comply with Subpart C to persons at the next lower tier with whom the Contractor enters into transactions that are "covered transactions" under Subpart B of 2 CFR part 180 and the DoD implementation in 2 CFR part 1125.

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**7. BUY AMERICAN ACT**

The Contractor agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

**8. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY POLICES**

The Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

**9. COPELAND "ANTI-KICKBACK" ACT**

The Contractor agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this contract, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

**10. CONTRACT WORK HOURS AND SAFETY STANDARDS**

The Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act.(40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1 1/2 times the basic rate of pay.

**11. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

Any discovery or invention that arises during the course of the contract shall be reported to the non-Federal entity. Contractor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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**12. CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33U.S.C. 1251-1387), AS AMENDED**

Any Contract or subcontract in excess of \$150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the State who in turn will report to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**13. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)**

Contractors that bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non- Federal award.

**14. PROCUREMENT OF RECOVERED MATERIALS**

Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**15. 2 C.F.R. 200.326, APPENDIX II, REQUIRED CONTRACT CLAUSES**

2 C.F.R. 200.326, Appendix II, Required Contract Clauses are incorporated by reference as if set forth in full text and are made part of this agreement as applicable. Contractor shall comply with all applicable contract clauses and provide the same clauses in any subcontracts or purchase orders issued in support of this agreement with the state.





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**16. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

The Contractor agrees it will not provide or use covered telecommunications equipment or services in the performance of this contract in compliance with 2 CFR 200.216. Covered telecommunications equipment or services has the meaning provided in Public Law 115-232, section 889.

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**Executive Branch Agencies**

Department of Administration  
Department of Agriculture  
Board of Public Education  
Department of Commerce  
Department of Corrections  
Deaf and Blind, School for  
Department of Environmental Quality  
Department of Fish, Wildlife and Parks  
Governor's Office  
Historical Society  
Department of Justice  
Department of Labor and Industry  
Department of Livestock  
Department of Military Affairs  
Montana Arts Council  
Department of Natural Resources and Conservation  
Commissioner of Political Practices  
Department of Public Health and Human Services  
Public Service Commission  
Department of Revenue  
Secretary of State  
State Auditor  
State Library  
Department of Transportation



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**Exhibit 1-A**



January 30, 2020

Via Email and Overnight Delivery

**Ms. Tia Snyder**  
Cooperative Purchasing/eMACS Support Unit Supervisor  
State Financial Services Division | State Procurement Bureau  
Department of Administration  
125 N. Roberts St.  
Helena, MT 59601

Re: T-Mobile Documents

Dear Ms. Snyder:

Enclosed are the Montana Standard Terms and Condition redlined by TMUS.

With respect to the Internet Neutrality Requirements, we are prepared to comply with these terms consistent with prior Federal Communications Commission guidance.

As you are aware, there are many factors that may impact and determine the final outcome of net neutrality regulation. Please note that we reserve all rights under any existing or future legislative, agency, or judicial preemption actions eliminating or restricting the ability to enforce state-specific net neutrality requirements.

Very truly yours,

A blue ink signature of James Kirby, written over a blue circular scribble.

James Kirby  
Senior Vice President

cc: Odette Polintan, Managing Corporate Counsel, T-Mobile USA, Inc. Legal Department  
David Bezzant, Senior Director, T-Mobile for Government  
Derek Casebolt, Director, T-Mobile for Government