

20200810-2095

NASPO ValuePoint
PARTICIPATING ADDENDUM

CLOUD SOLUTIONS 2016-2026
 Led by the State of Utah



Bid Number RFP # CH16012

Master Agreement #: AR2470, dated September 25, 2017 (as now or hereafter amended, restated or otherwise modified, the "Master Agreement")

Contractor: **AT&T Corp. ("Contractor" or "Vendor")**

Participating Entity: **STATE OF ARKANSAS ("State")**

Master Agreement Terms and Conditions:

1. Scope: This Participating Addendum (this "Addendum," "Participating Addendum" or "PA") covers **Cloud Solutions** led by the State of Utah for use by state agencies 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: All eligible purchasers within the State of Arkansas, including State agencies, K-12 educational institutions, and local public procurement units (cities, counties, municipalities), are authorized to purchase Products and Services under the terms and conditions of this Addendum. State agencies **shall** be those defined by Ark. Code Ann. § 19-11-203(30)(A). Political subdivisions **shall** be those defined by Ark. Code Ann. § 19-11-203(19).
3. Access to Cloud Solutions Services Requires State CIO Approval: Unless otherwise stipulated in this Participating Addendum, specific services accessed through the Master Agreement by state executive branch agencies are subject to the authority and prior approval of the State Chief Information Officer's Office. The State Chief Information Officer means the individual designated by the state Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state.
4. Cloud Solutions: All servers and data associated with the Arkansas instance of the Contractor Hosted Solution **must** reside in the continental United States. Contractor **shall** perform all work on the proposed system from within the continental United States of America. The Contractor and its sub-contractors **shall not** access the State's system or data from outside the U.S.
5. The following product offerings comply with the requirements of Section 4 and may be purchased under this PA:
 - a. AT&T Content Delivery Network Service IaaS
 - b. AT&T Managed Security Services - Managed Host-Based Intrusion Detection/Prevention Services Offers
 - c. AT&T Managed Intrusion Detection/Intrusion Prevention Service IaaS
 - d. AT&T Managed Security Services - Premises-Based Firewall Service (PBFW) IaaS

- e. Hosted Voice Service
- f. AT&T Cloud Web Security Services
- g. AT&T Cloud Professional Services
- h. AT&T Contact Center Solutions with inContact
- i. USM Anywhere
- j. Managed Threat Detection & Response
- k. AT&T Distributed Denial Of Service (DDOS) Defense Services IaaS
- l. AT&T Conferencing with Cisco WebEx SaaS
- m. Webex Teams
- n. AT&T Unified Communications

6. Order of Precedence:

- a. Arkansas's Participating Addendum (PA); Arkansas's Participating Addendum **shall not** diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contractor under the Terms of the Master Agreement.
- b. Master Agreement (includes negotiated Terms & Conditions and applicable exhibits to the Master Agreement).
- c. Contractor's response to the Solicitation.
- d. The Solicitation including all Addendums.

These documents **shall** be read to be consistent and complementary. Any conflict among these documents **shall** be resolved by giving priority to these documents in the order listed above. For the avoidance of doubt, subject to the order of precedence set forth above, Participating Entity and Contractor are bound by the terms and conditions of the Master Agreement. Contractor terms and conditions that apply to the Master Agreement are only those that are expressly accepted by the Lead State and **must** be in writing and incorporated as an amendment to the Master Agreement or otherwise attached to the Master Agreement as an Exhibit or Attachment. Notwithstanding the foregoing, subject to Section 10 (Orders) below, ordering documents (purchase orders) may contain transaction-specific terms and each ordering document that is accepted by the Contractor shall become subject to the terms and conditions of this Addendum as to the products and services listed on the ordering document for the Purchasing Entity only. Except as set forth above, no other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the Solicitation, or terms listed or references on the Contractor's website, in the Contractor's quotation/sales order or in similar documents subsequently provided by the Contractor (unless such terms are referenced in the Master Agreement).

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

Contractor

Name:	AT&T
Address:	311 S Akard St. Dallas, TX 75202
Telephone:	214-208-2353
Email:	Donnie.Joe.Powell@att.com

Participating Entity

Name:	Shane Phillips
Address:	1509 W 7 th St 3 rd Floor, Little Rock, AR 72201
Telephone:	501-324-9322
Fax:	501-324-9311
Email:	Jordan.Phillips@dfa.arkansas.gov

8. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT

The following changes are modifying or supplementing the Master Agreement terms and conditions for the purposes of this Addendum and the transactions under it:

- a. **Reporting.** The Contractor **must** provide annual sales/utilization reports electronically to the Office of State Procurement via email to OSP.ITContracts@dfa.arkansas.gov for the fiscal period of July 1 through June 30. The annual report **shall** be due no later than September 1st of each year. The Contract Activity Report format **must** be in Microsoft Excel format. The State **shall** have the right to request such sales/utilization reports to be produced for other timeframes as deemed necessary.

The reports **must** include at a minimum:

- Vendor Contract Number
- State
- Customer Type (State and Local Government, Education (K-12), and Education (Higher-Ed))
- Bill To Name
- Customer PO Number (if applicable)
- Invoice Number
- Order Completion Date
- Product/Service Description
- List price/MSRP
- Discount Applied
- NASPO ValuePoint Price
- Quantity
- Total Price

- b. **Payments.** Payments **shall** be submitted to the Contractor at the address shown on the invoice. Payments should be tendered to the contractor within thirty (30) days of the date of invoice. After the sixtieth (60) day from the date of invoice unless mutually agreed to, interest shall be paid on the unpaid balance due to the Contractor at the rate in accordance with Arkansas Code Annotated §19-11-224. The procuring agency shall make a good-faith effort to pay within thirty (30) days after the date of invoice.
- c. **Records.** Financial and accounting records relevant to State of Arkansas transactions under this Addendum **shall** be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the expiration date and final payment under this Addendum or extension thereof, provided, however, that such

government authorities **shall** provide thirty (30) days written notice to the contractor of its intent to conduct such examination contemplated by this section.

- d. **Governing Law.** The laws of the State of Arkansas **shall** govern this Addendum. Nothing under this Addendum or the Master Agreement shall be deemed or construed as a waiver of the State's right of sovereign immunity.
- e. **Venue and Jurisdiction:** Venue for any claim, dispute, or action concerning an order placed against the contract **shall** be Pulaski County, Arkansas. Any claims against the State, whether sounding in tort or in contract, **shall** be brought before the Arkansas State Claims Commission as provided by Arkansas law, and **shall** be governed accordingly.
- f. **Travel Expenses.** Expenses for travel **shall not** be reimbursed unless specifically permitted under the duties of the contractor. All travel **must** be approved in advance by the State. Expenditures made by the contractor for travel will be reimbursed at the current rate paid by the State, available here:
<http://www.dfa.arkansas.gov/travel/Pages/default.aspx>.
- g. **Software Terms & 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.
- h. **Cancellation.**
 - i. For Convenience. The State may cancel this Addendum for any reason by giving the Contractor written notice of such cancellation sixty (60) days prior to the date of cancellation.
 - ii. For Cause: The State may cancel this Addendum for cause included but not limited to as described in Section 10(B) (Termination/Suspension) of the Master Agreement when the Contractor fails to perform its obligations by giving the Contractor written notice of such cancellation at least thirty (30) days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Addendum, and provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Addendum to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

If upon cancellation the Contractor has provided services which the State has accepted, and there are no funds legally available to pay for the services, the Contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims.

- i. **General Indemnity** The Contractor shall fully defend, indemnify and hold harmless the State of Arkansas and its officers, agencies, and employees, as well as any person or entity for which they may be liable, from and against all third-party claims, damages suits, liabilities, losses, settlements, judgments or causes of action, including reasonable attorneys' fees and related costs incurred by the State, whether brought by an individual or other entity, or imposed by a court of law or administrative action of any federal, state, or local judicial body, for any death, bodily injury, or damage to real or personal property or persons, arising out of or incident to any negligence, willful misconduct, or fraud of the Contractor, its employees, personnel, subcontractors, agents, or volunteers, at any tier, in the performance of its obligations under the Master Agreement and this Participating Addendum. Language in these terms and conditions shall not be construed or deemed as the State's waiver of its right of sovereign immunity. This section is not subject to any limitations of liability in the Master Agreement or in any other document executed in conjunction with the Master Agreement.
- j. **Confidential Information.** Under Arkansas law, the release of public records is governed by The Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Statutes.
- k. **Contingent Fee.** The Contractor guarantees that Contractor has not retained a person to solicit or secure this Addendum upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the Contractor for the purpose of securing business.
- l. **Disclosure.** Under Arkansas law, the Office of State Procurement (OSP) is required to have a copy of EO 98-04 Disclosure Form on file for the Contractor. Contractor must submit the disclosure form prior to entering into this Addendum. Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, shall be a material breach of the terms of this Addendum. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the State.
- m. **Restriction of Boycott of Israel:** Pursuant to Arkansas Code Annotated § 25-1-503, a public entity shall not enter into a contract with a company unless the contract includes a written certification that the person or company is not currently engaged in and agrees for the duration of the contract not to engage in, a boycott of Israel. By signing this Participating Addendum, Contractor agrees and certifies that they do not, and will not for the duration of the Participating Addendum, boycott Israel.
- n. **Vendor Registration.** In order to receive payment, Contract Vendor must register online at <https://www.ark.org/vendor/index.html>
- o. **Technology Access.** When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that

technology meets the statutory Requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

- i. Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means
- ii. Presenting information, including prompts used for interactive communications, in formats intended for non-visual use
- iii. After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired
- iv. Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;
- v. Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact
- vi. Integrating into networks used to share communications among employees, program participants, and the public
- vii. Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired

State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product, including any required reasonable accommodations.

For purposes of this section, the phrase "equivalent access" means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and

customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.

If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

- p. **Shared Technical Architecture.** At the time of, or prior to purchase of any solution pursuant to this PA, the Contractor's solution must comply with the State's shared Technical Architecture Program which is a set of policies and standards that can be viewed at: <http://dis.publishpath.com/policies-standards> and <http://dis.publishpath.com/standards>, respectively. Only those standards which are fully promulgated or have been approved by the Governor's Office apply to this solution.

q. **For Services Only:**

- i. **Equal Opportunity Policy.** In compliance with Arkansas Code Annotated § 19-11-104, if a State agency is purchasing services, the Office of State Procurement (OSP) is required to have a copy of the Contractor's *Equal Opportunity (EO) Policy* prior to entering into this Addendum. *EO Policies* may be submitted in electronic format to the following email address: eeopolicy.osp@dfa.arkansas.gov or Contractor may submit a hard copy with this Addendum. The submission of an *EO Policy* to OSP is a one-time requirement. Contractor is responsible for providing updates or changes to its policy, and for supplying *EO Policies* upon request to other State agencies that must also comply with this statute. If Contractor is not required by law to have an *EO Policy*, Contractor must submit a written statement to that effect.
- ii. **Prohibition of Employment of Illegal Immigrants.** Pursuant to Arkansas Code Annotated § 19-11-105, if a State agency is purchasing certain services, the Office of State Procurement (OSP) is required to have a certification on file from the Contractor stating that the Contractor does not employ or contract with illegal immigrants.

By signing this Participating Addendum, the Contractor agrees and certifies that they do not employ or contract with illegal immigrants and that they will not employ or contract with illegal immigrants during the aggregate term of the Participating Addendum.

- iii. **Performance Standards** Under Arkansas law, all state agencies, boards, commissions, and institutions of higher education must include performance standards when purchasing certain services. Performance standards shall be mutually agreed upon between Contractor and the Purchasing Entity for any applicable services purchased.

9. **Individual Customer:** Each State agency and political subdivision that purchases products/services pursuant to this Addendum as a Purchasing Entity **shall** be treated as if they were a Participating Entity for the purposes of its purchase(s) under this Addendum. Except to the extent modified by a Participating Addendum, each Purchasing Entity **shall** be responsible to follow the terms and conditions of the Master Agreement. Each Purchasing Entity **shall** be responsible for its own charges, fees, and liabilities. Each Purchasing Entity **shall** have the same rights to any indemnity or

to recover any costs allowed in this Addendum for their purchases. The Contractor shall apply the charges to each Purchasing Entity individually.

10. Purchase Order Instructions: All purchase orders issued by Purchasing Entities within the jurisdiction of this Participating Addendum shall include the following:

- NASPO ValuePoint Master Agreement number AR2470
- State contract number [SP-17-0134 4600047325]
- Agency Name, Address, Contact, and Phone-Number
- Applicable approvals
- Orders shall be made out to the Contractor or Subcontractor

A Scope of Work or Statement of Work (SOW) may accompany the Purchase Order.

11. Subcontractors: All dealers, fulfillment partners and resellers authorized in the State of Arkansas, as shown on the dedicated Contractor (cooperative contract) website, and approved by the State of Arkansas, are approved to provide sales and service support to applicable Purchasing Entities. The Contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement. The Contractor will be responsible for any agreements with the subcontractors. The Participating State/Entity is not agreeing to and is not responsible for any terms and conditions with a subcontractor.

Contractor shall submit a request to the State requesting the addition of any subcontractor to perform under this Participating Addendum. Contractor shall also provide the following subcontractor documentation to the State:

- W9 and remittance address (if applicable)
- 98-04 Contract and Grant Disclosure Form
- Equal Opportunity Policy—Required if subcontractor employs more than 25 employees. If subcontractor employs less than 25 employees and is not required by law to have an EO Policy, a statement to that effect is required.
- Illegal Immigrant Certification—
<https://www.ark.org/dfa/immigrant/index.php/user/welcome>
- Israel Boycott Restriction Certification
- Subcontractor's primary contact information.

Subcontractor	Contact Name	Phone	Email

12. Orders:

- a. Any order placed by the Participating Entity or any Purchasing Entity for a product and/or service available pursuant to this Addendum shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement (as modified by this Addendum) unless the parties to the order agree in writing that another contract or agreement applies to such order.
- b. AT&T and Purchasing Entity will ensure that purchase orders issued in connection with this PA refer to the Master Agreement and the PA.

13. Terms: The Participating State/Entity is agreeing to the terms of the Master Agreement only to the extent the terms are not in conflict with Arkansas law or this Participating Addendum.

14. Entire Agreement: This Participating Addendum and the Master Agreement number AR2470 administered by the State of Utah together with its exhibits (including any terms referenced in the Master Agreement), set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. The terms and conditions of this Addendum and the Master Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.
15. Capitalized Terms. Capitalized terms used but not otherwise defined in this Addendum have the meanings ascribed to them in the Master Agreement.
16. Counterpart Execution. This Addendum may be executed in multiple counterparts, each of which shall be deemed to be an original but all of which together shall constitute only one document.
17. Signatures. An original signature to this Addendum that is transmitted by a party via facsimile or other electronic transmission of a scanned document (e.g., .pdf or similar format) shall be a true and valid signature for all purposes hereunder and shall bind the parties to the same extent as that of an original signature.
18. Authority. By signing below, the corresponding individuals represent that he or she is duly authorized by Contractor or Participating Entity, as applicable, to execute the PA on behalf of the respective Party, and that the Contractor and Participating Entity agree to be bound by the provisions hereof.

IN WITNESS WHEREOF, the parties have executed this Addendum, effective as of the first date when it has been executed by both parties below.

Participating Entity: STATE OF ARKANSAS	Contractor: AT&T CORP.
Signature: 	Signature: eSigned - BRANDON TROTTER
Name: Camber Thompson	Name:
Title: Sr. Procurement Mgr.	Title: Contract Specialist CGI
Date: 8/11/2020	Date: 11 Aug 2020 SB415W