

State of Utah Cooperative Contract

PARTICIPATING ADDENDUM

PROCUREMENT ASSISTANCE SUPPORT SERVICES (PASS) AND IT RESEARCH, ADVISORY, AND CONSULTING (IT RAC) SERVICES

State of Utah Contract #: PA5097

Master Agreement #: DPC-1428523190-SA-21-PASS_ITRAC

Contractor: Gartner, Inc

Participating Entity: **STATE OF UTAH**

Participating Entity Contract #PA5097

Participating Addendum Terms and Conditions:

1. Scope: This addendum covers Procurement Assistance Support Services (PASS) and IT Research, Advisory, and Consulting (IT RAC) services led by the NASPO for use by state agencies and other entities located in the State of Utah authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official. An amendment to this PA is not required when offerings are adjusted in the Master Agreement, so long as all additions remain within the master agreement's original scope.
2. Pricing: The pricing and rates from the Master Agreement shall flow down to this PA. An amendment to this PA is not required when pricing in the Master Agreement is adjusted / updated.
3. Administrative Fee: One-half (1/2) percent (.50%) and will apply per Section 35 of Attachment A.
4. Contract Effective Dates: This PA is effective upon final signature of both parties, and expires upon the expiration or termination of the NASPO agreement. A contract amendment is not necessary in the event of the renewal or extension of the Master Agreement, so long as such renewal/extension was originally provided within the solicitation supporting the master agreement.
5. Order of Precedence:
Attachment A: Terms and Conditions for Goods and Services
Attachment B: Master Agreement
Any conflicts between Attachment A and the other Attachments will be resolved in favor of Attachment A.

All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.

Utah State Procurement Code, Procurement Rules, and Contractor's response to solicitation #Doc1428590914.
6. Participation: This NASPO Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Utah. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
7. Subcontractors: All contactors, dealers, and resellers authorized in the State of Utah, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO Master Agreement. The Contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
8. Orders: Any order placed by an Eligible User for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

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

Contractor

Name:	Will McGuire
Address:	56 Top Gallant Road, Stamford, CT 06902
Telephone:	571-683-4482
Email:	will.mcguire@gartner.com
Vendor Number:	VC0000108034
Commodity Codes:	91832

State of Utah Division of Purchasing

Name:	State of Utah, Division of Purchasing, Arlene Truman
Address:	4315 South 2700 West Fl 3, Taylorsville, UT 84129-2128
Telephone:	801-957-7159
Email:	amtruman@utah.gov

10. ADDITIONAL TERMS AND CONDITIONS
 The following terms and conditions will apply to this participating addendum.

ATTACHMENT A: STATE OF UTAH COOPERATIVE STANDARD INFORMATION TECHNOLOGY TERMS AND CONDITIONS

Modifications to: 1, 14, 15, 16, 17, 18, 19, 22, 23, 25, 28, 29, 31, 32, 43, 53, 54

This is a State Cooperative Contract for information technology products and services. DTS policies referenced by number in this Attachment are only applicable to the Executive Branch and are available at <https://dts.utah.gov/policies>. All other policies and codes of conduct are available upon request.

1. DEFINITIONS:

- a) **“Access to Secure State Facilities, Data, or Technology”** means Contractor will (a) enter upon secure premises controlled, held, leased, or occupied by State of Utah or Eligible User; (b) maintain, develop, or have access to any deployed hardware, software, firmware, or any other technology, that is in use by State of Utah or Eligible User; or (c) have access to or receive any State Data or Confidential Information.
- b) **“Authorized Persons”** means the Contractor’s employees, officers, partners, Subcontractors, or agents of Contractor who need Access to Secure State Facilities, Data, or Technology to enable the Contractor to perform its responsibilities under this Contract.
- c) **“Background IP”** means intellectual property (IP) owned or controlled prior to the effective date of this Contract or that IP developed or acquired from activities independent of the services performed under this Contract, including but not limited to (a) methodologies, processes, technologies, algorithms, software, or development tools used in performing the Services, and (b) processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of Contractor in the course of performing the Services or creating the Custom Deliverables, other than portions that specifically incorporate proprietary or Confidential Information or Custom Deliverables of Eligible User.
- d) **“Contract”** means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference.
- e) **“Contract Period”** means the term of this Contract, as set forth in the Contract Signature Page(s).

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- f) **Contract Signature Page(s)** means the cover page that the Division and Contractor sign.
- g) **Contractor** means the individual or entity identified on the Contract Signature Page(s). “Contractor” includes Contractor’s agents, officers, employees, partners, contractors, and Subcontractors at any level.
- h) **Custom Deliverables** means the original product that Contractor is required to design, develop, or customize and deliver to the Eligible User as specifically described under this Contract or an associated statement of work for which all interest and title shall be transferred to and owned by the Eligible User. This includes every original invention, design, development, customization, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registrable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor pursuant to this Contract. The term “original product” is defined as deliverables originally produced based on the SOW(s) attached or incorporated into this PA5097 and all updates, upgrades, and modifications of such products.
- i) **Data Breach** means the unauthorized access or acquisition of State Data that compromises the security, confidentiality, or integrity of State Data.
- j) **Division** means the State of Utah Division of Purchasing.
- k) **DTS** means the Utah Division of Technology Services.
- l) **Eligible User(s)** means the State of Utah’s government departments, institutions, agencies, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts.
- m) **Federal Criminal Background Check** means a fingerprint-based, nationwide background check conducted and processed by the FBI.
- n) **Federal Data** means all information that originated with a federal entity, including tax information.
- o) **Good** means any deliverable not classified as a Custom Deliverable or Service.
- p) **Intellectual Property Rights** means all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and other protection afforded by law to inventions, models, designs, technical information, and applications.
- q) **Non-Public Data** means records or data that are not subject to distribution to the public. Access is restricted because it includes information that is protected by state or federal law. Non-Public Data includes, but is not limited to, a person’s name; government-issued identification numbers (e.g., Social Security, driver’s license, passport); financial account information; or Protected Health Information.
- r) **Procurement Item** means a Good, a supply, Services, Custom Deliverable, construction, or technology that Contractor is required to deliver to the State of Utah under this Contract, including software and Software as a Service.
- s) **Protected Health Information** (PHI) is as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and its implementing regulations.
- t) **Response** means the Contractor’s bid, proposals, quote, or any other document used by the Contractor to respond to the State Entity’s Solicitation.
- u) **Security Incident** means the unauthorized access to State Data that may result in the use, disclosure, or theft of State Data.
- v) **Services** means the furnishing of labor, time, or effort by Contractor, and may include installation, configuration, implementation, technical support, warranty maintenance, and other support services.

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- w) **“Solicitation”** means an invitation for bids, request for proposals, notice of sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into this Contract.
- x) **“Single Sign On”** means the authentication and authorization system operated by the State of Utah for accessing resources operated either by the State or a third party on behalf of the State.
- y) **“X [Software, Platform, Infrastructure, Network, etc.] as a Service (SaaS)”** means an application running on a Contractor’s or State’s cloud infrastructure which is accessible from various client devices through a client interface (e.g. a Web browser, Web-based email, a program interface etc.) For clarity, the State does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
- z) **“State Data”** means Data that is created, controlled, maintained, owned, or in any way originating from or on behalf of the State of Utah, including confidential information, Non-Public Data, and all data that is the output of computer processing or other electronic manipulation of any data created, controlled, maintained, or in any way originating from the State of Utah, regardless of where such data or output is stored or maintained.. “State of Utah” means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities and instrumentalities, boards, commissions, elected or appointed officers, employees, agents, authorized volunteers, and where applicable, Eligible Users.
- aa) **“StateRAMP dba GovRAMP”** means State Risk and Authorization Management Program, which provides a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services used by state and local governments, public education institutions, and special districts enabling these organizations to validate the security of their third-party IaaS (Infrastructure as a Service), PaaS (Platform as a Service), and/or SaaS (Software as a Service) solutions which process, transmit, store the organization’s data or which could impact data security GovRAMP’s security verification model is based on NIST 800-53 Rev. 5 published by the National Institute of Standards and Technology (NIST).
- bb) **“GovRAMP Verified Status”** means a status indicating that a service provider has met all GovRAMP security requirements related to that status and has been provided with an authorization established by the GovRAMP governing boards including but not limited to Ready, Core, Authorized or Provisionally Authorized.
- cc) **“GovRAMP Progressing Snapshot”** means a program within the GovRAMP framework that utilizes a predetermined set of NIST 800-53 controls for quarterly evaluations and monthly advisory calls. This program aims to identify and address deficiencies in the security of cloud products, ensuring continuous improvement and compliance with GovRAMP standards.
- dd) **“Subcontractors”** includes contractors, manufacturers, distributors, suppliers, or consultants, at any tier, that are under the direct or indirect control or responsibility of Contractor, including a person or entity that is, or will be, providing goods or performing services pursuant to this Contract.

2. ESSENTIAL PROVISIONS:

- a. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** This Contract shall be governed solely by the laws of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Exclusive venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County. (UCA § 63G-6a-1203(4)(f)(ii))
- b. **LAWS:** Contractor and all Goods and Services delivered under this Contract will comply with all applicable federal and state of Utah laws, including applicable licensure and certification requirements.
- c. **SOVEREIGN IMMUNITY:** The Division and the State of Utah do not waive any protection, right, defense or immunity under the Governmental Immunity Act of Utah, Utah Code §§ 63G-7-101 to 904, as amended, the Eleventh Amendment to the Constitution of the United States, or otherwise, from any claim or from the jurisdiction of any court. If a claim must be brought in a federal forum, then the party bringing the claim shall file it and seek to adjudicate it exclusively within the United States District Court for the District of Utah. This paragraph applies only to a claim brought against DTS or the State of Utah to the extent Congress has

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abrogated the State of Utah's sovereign immunity. Furthermore, this paragraph is not consent by DTS or the State of Utah to be sued in federal court.

- d. **PUBLIC INFORMATION:** This Contract and any purchase orders, invoices, pricing lists, and the Response are public records available for disclosure in accordance with the State of Utah's Government Records Access and Management Act (GRAMA, Utah Code 63G-2-101 et seq.), except to the extent classified as protected in accordance with UCA § 63G-2-309. GRAMA takes precedence over any statements of confidentiality or similar notations. Neither the Division, the Eligible User nor the State of Utah will inform Contractor of any request for a copy of this Contract, including any purchase orders, invoices, pricing lists, or the Response.
 - e. **CREDITING THE DIVISION IN PUBLICITY:** Any publicity given to this Contract shall identify the Division as the managing agency and shall not be released without prior written approval from the Division.
 - f. **SALES TAX EXEMPTION:** Goods, Custom Deliverables, and Services purchased by some Eligible Users are being paid from that Eligible User's funds and used in the exercise of that Eligible User's essential functions as a State of Utah governmental entity. Any such Eligible Users will provide Contractor with a copy of its sales tax exemption number upon request.
 - g. **SEVERABILITY:** A declaration or order by any court that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
 - h. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, provided that the amendment is within the Scope of Work of this Contract, is within the scope/purpose of the Solicitation, and is attached and made part of this Contract. Automatic renewals are prohibited and are deemed void even if listed elsewhere in this Contract. (UCA § 63G-6a-1203(4)(h))
 - i. **DEBARMENT:** Defer to NASPO MA Terms and Conditions but for the following: If the Contractor cannot certify the statement contained in the NASPO MA Terms and Conditions, attach a written explanation for review by the Lead State.
 - j. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** This Contract may be terminated in whole or in part at the sole discretion of the Division or Eligible User upon thirty days written notice, if the Division or Eligible User determines that (a) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (b) that a change in available funds affects the Division or Eligible User's ability to pay under this Contract. A change of available funds includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or an order of the President, the Governor, or Executive Director.
 - k. The Division or Eligible User, as applicable, will reimburse Contractor for the Goods or Services properly ordered and delivered until the effective date of said notice. The Division and Eligible User are not liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of the notice.
 - l. **ENTIRE AGREEMENT:** This Contract is the entire agreement between the parties, and supersedes any prior and contemporaneous agreements and understandings between the parties, whether oral or written.
 - m. **WAIVER:** Defer to NASPO MA Terms and Conditions.
 - n. **CHANGES IN SCOPE:** Any changes in the scope of work to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of work.
 - o. **TRAVEL COSTS:** Unless otherwise agreed to in the contract, all travel costs associated with the delivery of Services will be paid in accordance with the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to the Contractor for correction.
3. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by an Eligible User to Contractor. These records shall be retained by Contractor for at least six (6) years after final payment (per Utah Administrative Code R33-12-605 and UCA § 78B-2-309), or until all audits initiated within the six (6) years have been completed,

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whichever is later. Contractor shall allow, at no additional cost, State of Utah auditors, federal auditors, Eligible Users or any firm identified by the Division, access to all such records. Contractor must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and Contractor is not permitted to offset identified overcharges by alleged undercharges to Eligible Users.

4. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM"**: This Status Verification System, also referred to as "E-verify", requirement only applies to contracts issued through a request for proposal process and to sole sources that are included within a request for proposal.
 - 1) Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including UCA § 63G-12-302, Utah Code, as amended.
 - 2) Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) Contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including UCA § 63G-12-302, Utah Code, as amended, and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."
 - 3) Contractor's failure to comply with this section will be considered a material breach of this Contract.
 - 4) Contractor shall protect, indemnify, and hold harmless the Division, the Eligible Users, and the State of Utah, and anyone that the State of Utah may be liable for, against any claim, damages, or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Subcontractor at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.
5. **CONFLICT OF INTEREST**: Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless written disclosure has been made to the Division.
6. **INDEPENDENT CONTRACTOR**: Defer to NASPO MA Terms and Conditions.
7. **CRIMINAL BACKGROUND SCREENING**: Depending on the Eligible User's policy, each employee of Contractor and Subcontractor may be required to successfully complete a Federal Criminal Background Check, prior to being granted Access to Secure State Facilities, State Data, or Technology. Contractor or the applicable employee shall provide Eligible Users with sufficient personal information (at Contractor's expense) so that a Federal Criminal Background Check may be completed by the Eligible User, at Eligible User's expense. The Eligible User will provide Contractor with forms which must be filled out by Contractor and returned to the Eligible User. Each employee of Contractor or a Subcontractor who will have Access to Secure State Facilities, State Data, or Technology must be fingerprinted by the Eligible User or local law enforcement a minimum of one week prior to needing access. At the time of fingerprinting, said employee shall disclose all felony or misdemeanor convictions. Eligible Users may conduct a Federal Criminal Background Check based upon the fingerprints and personal information provided and use this same information to complete a Name Check in the Utah Criminal Justice Information System (UCJIS) at least every two years. Eligible Users may revoke Access to Secure State Facilities, Data, and Technology granted in the event of any negative results. Contractor and the employee or subcontractor shall immediately notify Eligible Users if an arrest or conviction for a felony or misdemeanor of any person that has Access to Secure State Facilities, State Data or Technology occurs during the Contract Period. Eligible Users will determine in its discretion if such person's Access to Secure State Facilities, State Data, or Technology shall remain in effect. Felony and misdemeanor are defined by the laws of the State of Utah, regardless of where the conviction occurred. (DTS Policy 2000-0014 Background Investigations)
8. **DRUG-FREE WORKPLACE**: Contractor shall abide by the Eligible User's drug-free workplace policies while on the Eligible User's or the State of Utah's premises.
9. **CODE OF CONDUCT**: If Contractor is working at facilities controlled or owned by the State of Utah, Contractor shall follow and enforce the agency applicable code of conduct. Contractor will ensure that each employee receives a copy of the policies and applicable codes of conduct. (DTS Policy 2000-0001 Code of Conduct, DTS Policy 1000-

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0003 Acceptable Use of Information Technology Resources)

10. INDEMNITY AND LIABILITY

- a. **Indemnity Clause:** Defer to NASPO MA Terms and Conditions.
 - b. **Governmental Immunity Act:** In accordance with the Constitution of the State of Utah and the Governmental Immunity Act of Utah ("the Act", Utah Code §§ 63G-7-101 to 904, as amended), the Division and the State of Utah have no liability for the operations, acts, or omissions of the Contractor or any third party. Any indemnity obligations of the Division, Eligible Users, or the State of Utah are subject to the Constitution of the State of Utah and the Act and limited to claims that arise from and to the extent caused by the negligent acts or omissions of the Division or the Eligible Users in the performance of the Division's or the Eligible User's obligations under this Contract.
- 11. Intellectual Property Indemnification:** The Parties defer to the NASPO ValuePoint Master Agreement for Assistance and Support Services through North Carolina as the lead state, master agreement number DPC-1428523190-SA-21-PASS_ITRAC, Attachment A, section XII (B).
- 12. HARDWARE WARRANTY: THE STATE OF UTAH DOES NOT ACCEPT ANY PROCUREMENT ITEM "AS-IS".** The Parties defer to the NASPO ValuePoint Master Agreement for Assistance and Support Services through North Carolina as the lead state, master agreement number DPC-1428523190-SA-21-PASS_ITRAC, Attachment A, section X (B).
- 13. SOFTWARE WARRANTY: THE STATE OF UTAH DOES NOT ACCEPT ANY PROCUREMENT ITEM "AS-IS".** CONTRACTOR WARRANTS FOR A PERIOD OF **NINETY DAYS** FROM THE DATE OF ACCEPTANCE THAT THE SOFTWARE PORTIONS OF THE GOODS AND CUSTOM DELIVERABLES THAT CONTRACTOR DIRECTLY OR INDIRECTLY PROVIDES WILL: (A) PERFORM IN ACCORDANCE WITH THE SPECIFIC CLAIMS PROVIDED IN THE RESPONSE; (B) BE SUITABLE FOR THE ORDINARY PURPOSES FOR WHICH SUCH GOODS AND CUSTOM DELIVERABLES ARE USED; (C) HAVE BEEN PROPERLY DESIGNED AND MANUFACTURED; AND (D) BE FREE OF SIGNIFICANT DEFECTS. CONTRACTOR SHALL PROVIDE THE ELIGIBLE USER WITH BUG FIXES, INCLUDING INFORMING THE ELIGIBLE USERS OF ANY KNOWN SOFTWARE BUGS OR SOFTWARE DEFECTS THAT MAY AFFECT THE STATE'S USE OF THE SOFTWARE.
- 14. WARRANTY REMEDIES:** The Parties defer to the NASPO ValuePoint Master Agreement for Assistance and Support Services through North Carolina as the lead state, master agreement number DPC-1428523190-SA-21-PASS_ITRAC, Attachment A, section X (C).
- 15. UPDATES AND UPGRADES** Contractor grants to the Eligible User a non-exclusive, non-transferable license to use upgrades and updates provided by Contractor during the Contract Period. Upgrades and updates are subject to the terms of this Contract. The Eligible User reserves the right to accept updates and upgrades at its discretion and to determine if such updates comply with the requirements in the Contract scope of work. Contractor shall keep any applicable hardware, software, middleware, and application plugins up to date and in a state of good repair. All patches, critical vulnerabilities, and/or hardware issues must be addressed based on response times by criticality as laid out in the SOW. If the State hosts the solution, then Contractor may request such maintenance from the DTS hosting team.
- 16. BUG FIXING AND REMOTE DIAGNOSTICS:** Contractor shall use commercially reasonable efforts to provide work-around solutions or patches to reported software problems. With the Eligible User's prior written authorization, Contractor may perform remote diagnostics to work on reported problems.
- 17. TECHNICAL SUPPORT AND MAINTENANCE:** If technical support and maintenance is required by the Contract, Contractor will use commercially reasonable efforts to respond to the Eligible User in a reasonable time, and in all events, in accordance with the specific timeframes detailed in the Contract, when the Eligible User makes technical support or maintenance requests.
- 18. PHYSICAL DELIVERY:** Defer to NASPO MA Terms and Conditions but for the following: All deliveries under this Contract will be F.O.B. Destination Freight Prepaid and Allowed, unless specifically negotiated otherwise and explicitly written in this contract, with all transportation and handling charges paid for by Contractor.

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- 19. ELECTRONIC DELIVERY:** Contractor may electronically deliver any Good or Custom Deliverable to the Eligible User or provide any Good and Custom Deliverable for download from the Internet, if pre-approved in writing by the Eligible User. Contractor shall ensure the confidentiality of electronic deliveries in transit. Contractor warrants that all electronic deliveries will be free of known malware, bugs, Trojan horses, etc.
- 20. ACCEPTANCE PERIOD:** A Good, Custom Deliverable, or Service furnished under this Contract shall function in accordance with the specifications identified in this Contract and Solicitation. If the Goods and Custom Deliverables delivered do not conform to the specifications identified in this Contract and Solicitation ("Defects"), the Eligible User shall within thirty (30) calendar days of the delivery date ("Acceptance Period") notify Contractor in writing of the Defects. Upon receiving notice, Contractor shall use reasonable efforts to correct the Defects within fourteen (14) calendar days ("Cure Period"). The Eligible User's acceptance of a Good, Custom Deliverable, or Services occurs at the end of the Acceptance Period or Cure Period, whichever is later.

If after the Cure Period, a Good, Custom Deliverable, or Service still has Defects, then the Eligible User may, at its option: (a) declare Contractor to be in breach and terminate this Contract; (b) demand replacement conforming Goods, Custom Deliverables, or Services from Contractor at no additional cost to the Eligible User; or (c) continue the Cure Period for an additional time period agreed upon by the Eligible User and Contractor in writing. Contractor shall pay all costs related to the preparation and shipping of the replacement products. No products shall be deemed accepted and no invoices shall be paid until acceptance. The warranty period will begin upon the end of the Acceptance Period.

- 21. SECURE PROTECTION AND HANDLING OF STATE DATA** If Contractor is given access to State Data, the protection of State Data shall be an integral part of the business activities of Contractor, and Contractor shall ensure that there is no inappropriate or unauthorized use of State Data. Contractor shall safeguard the confidentiality, integrity, and availability of the State Data and comply with the conditions of the attached Gartner Information Security Addendum.:
- a. **Network Security:** Contractor shall maintain network security that, at a minimum, includes: network firewall provisioning, intrusion detection, and regular third-party penetration testing.
 - b. **State Data Security:** Contractor shall protect and maintain the security of State Data with protection that is at least as good as or better than that described in the Gartner Information Security Addendum. These security measures included but are not limited to maintaining secure environments that are patched and up to date with all appropriate security updates. Data access must incorporate the principles of test privilege and be physically and technologically controlled.
 - c. **State Data Transmission:** Contractor shall ensure all transmission or exchange of system application data with the Eligible User and State of Utah and/or any other parties expressly designated by the State of Utah, shall take place via secure means (ex. HTTPS or FTPS).
 - d. **State Data Storage:** All State Data will be stored and maintained in data centers in the United States. No State Data will be processed on or transferred to any portable or laptop computing device or portable storage medium, except for devices that are used and kept only at Contractor's United States data centers, unless such medium is part of the Contractor's designated backup and recovery process. The parties mutually agree that this provision is not intended to limit Contractor's ability to perform administrative tasks outside of the continental United States. Contractor shall ensure that all State or Eligible User Data remains secure and compliant with this provision, implementing appropriate safeguards to prevent unauthorized access or transfer of State or Eligible User Data during these administrative activities.
 - e. **Access:** Contractor shall permit its employees and Subcontractors to remotely access non-State Data only as required to provide technical support.
 - f. **State Data Encryption:** Contractor shall store all data provided to Contractor, including State, as well as any backups made of that data, in encrypted form using no less than 128 bit key and include all data as part of a designated backup and recovery process.
 - g. **Authentication:** Authentication and Network Security shall comply with sections 4.5 and 4.8 of the Gartner Information Security Addendum.
 - h. **Confidential Information Certification:** Contractor shall sign a Confidential Information Certification form prior to being given access to confidential computerized records.

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i. State Data Re-Use: All data exchanged shall be used expressly and solely for the purpose enumerated in this Contract. No State Data of any kind may be transmitted, exchanged, or provided to other contractors or third parties except on a case-by-case basis as specifically agreed to in writing by the Eligible User.

j. State Data Destruction: After ensuring compliance with Section 32 (Ownership, Protection, and Return of Documents and Data) of this Attachment A, Contractor shall erase, destroy, and render unreadable all State Data from all non-state computer systems and backups, and certify in writing that these actions have been completed within thirty (30) days of the expiration or termination of this Contract or within seven (7) days of the request of the Eligible User, unless the Eligible User provides Contractor with a written directive otherwise. The Eligible User's written directive may require that certain data be preserved in accordance with applicable law. Upon Contractor's request within the thirty (30) day time frame, the Eligible User shall provide reasonable assistance to Contractor to confirm what specific State Data should be erased, destroyed or rendered unreadable.

k. Services Shall Be Performed Within the United States: ALL OF THE SERVICES RELATED TO STATE DATA SHALL BE PERFORMED WITHIN THE BORDERS AND JURISDICTION OF THE UNITED STATES. The parties mutually agree that this provision is not intended to limit Contractor's ability to perform administrative tasks outside of the continental United States. Contractor shall ensure that all State or Eligible User Data remains secure and compliant with this provision, implementing appropriate safeguards to prevent unauthorized access or transfer of State or Eligible User Data during these administrative activities.

l. Federal Data Protection: Contractor shall store all Federal Data in a manner that, at all times, is physically and electronically secure from access by unauthorized persons. Contractor shall employ both physical and technological barriers to prevent unauthorized retrieval of Federal Data via computer, remote terminal, or other means. Federal Data must be subject to separation-of-duties protocols and provided only to those with a need to know.

- 1) Contractor shall store each query for Federal Data in Contractor's system (including read-only and system access events that do not result in a change to data or a new transaction) as a separate record, not overlaid by subsequent records. All viewing of Federal Data must be recorded by a fully-automated audit trail system, which can be via an online query, automated report, batch processing, or any other logical means. Access to the audit file must be restricted to authorized users with a need to know and be maintained for a minimum of three years or the amount of time required by a federal agency, whichever is greater.
- 2) Contractor shall delete, purge, destroy, or return to the State of Utah all Federal Data upon termination of the Contract with no output retained by Contractor. If immediate purging is not possible, Contractor shall certify that any Federal Data in physical or electronic storage will remain safeguarded to prevent unauthorized disclosure. Contractor agrees to abide by all relevant federal laws, restrictions on access, use, disclosure, and security requirements in the State's data exchange agreement with the social security administration, including receipt of security awareness training by Contractor's employees who have access to Federal Data through this Contract. Contractor shall permit the State to conduct, at least once every three years and upon prior notice, a review to verify that the Contract is in compliance with the State's agreement with the social security administration.
- 3) Federal Data may be used only for the purpose of carrying out the provisions of the Contract. Federal Data must be treated as confidential and may not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract.
- 4) All computer systems receiving, processing, storing, or transmitting Federal Data must meet the requirements set forth by the applicable federal agency

22. SECURITY INCIDENT OR DATA BREACH NOTIFICATION: Contractor shall inform the Eligible User of any Security Incident or Data Breach within seventy-two (72) hours. This notification will be made to the Client email address (usual point of contact for business communications to client and DTS-SOC@utah.gov and (801) 538-3011). After confirmation and as information emerges, Contractor shall provide Eligible User a summary report consisting of sufficient detail to enable Eligible User to comply with applicable legal and regulatory requirements resulting from such a Security Incident or Data Breach. Such summary report shall include at minimum: (a) facts of the incident, such as date, time, description, how the Security Incident was detected; (b) Impact to services provided to the Eligible User and/or Eligible User data affected; (c) Root cause

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of the incident (when known); and (d) Description of any actions Contractor has taken or will take to minimize the likelihood of recurrence.

- a. **Incident Response:** Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement and seeking external expertise as Contractor deems necessary, defined by law or contained in this Contract. Discussing Security Incidents with the Eligible User should be handled on an urgent as-needed basis, as part of Contractor's communication and mitigation processes, defined by law or contained in this Contract.
 - b. **Security Incident Reporting Requirements:** Contractor shall promptly report a Security Incident to the Eligible User.
 - c. **Breach Reporting Requirements:** As required by UCA § 13-44-202 or any other law, Contractor shall immediately notify the Eligible User of a Data Breach that affects the security of State Data.
- 23. DATA BREACH.** In the event of a data breach, liability for notification, remedial costs, and damages are the responsibility of the Party whose environment was breached.
- 24. DATA BREACH RESPONSIBILITIES:** Contractor shall comply with all applicable laws that require the notification of individuals in the event of a Data Breach, In the event of a Data Breach or other event requiring notification under applicable law (UCA § 13-44-101 thru 301 et al), Contractor shall: (a) cooperate with the Eligible User by sharing information relevant to the Data Breach; (b) promptly implement necessary remedial measures, if necessary; and (c) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in relation to the Data Breach. If the Data Breach requires public notification, all communication shall be coordinated with the Eligible User. Contractor is responsible for all notification and remedial costs and damages.
- 25. STATE INFORMATION TECHNOLOGY POLICIES:** If Contractor is providing an Executive Branch Agency of the State of Utah with Goods or Custom Deliverables, Contractor shall comply with policies and procedures that meet or exceed those DTS follows for internally developed goods and deliverables to minimize security risk, ensure applicable Utah and Federal laws are followed, address issues with accessibility and mobile device access, and prevent outages and data breaches within the State of Utah's environment. Contractor shall comply with the following DTS Policies:
- a. **DTS Policy 4000-0001, Enterprise Application and Database Deployment Policy:** A Contractor developing software for the State to develop and establish proper controls that will ensure a clear separation of duties between developing and deploying applications and databases to minimize security risk; to meet due diligence requirements pursuant to applicable Utah and federal regulations; to enforce contractual obligations; and to protect the State's electronic information and information technology assets.
 - b. **DTS policy 4000-0002, Enterprise Password Standards Policy:** A Contractor developing software for the State must ensure it complies with the password requirements of the Enterprise Password Standards Policy.
 - c. **DTS Policy 4000-0003, Software Development Life Cycle Policy:** A Contractor developing software for the State shall work with DTS in implementing a Software Development Lifecycle (SDLC) that addresses key issues of security, accessibility, mobile device access, and standards compliance.
 - d. **DTS Policy 4000-0004, Change Management Policy:** Goods or Custom Deliverables furnished or Services performed by Contractor which have the potential to cause any form of outage or to modify DTS's or the State of Utah's infrastructure must be reviewed by the DTS Change Management Committee. Any outages or Data Breaches which are a result of Contractor's failure to comply with DTS instructions and policies will result in Contractor's liability for all damages resulting from or associated with the outage or Data Breach.
- 26. CONFIDENTIALITY:** This section does not apply to records where disclosure is regulated under Federal or State laws.

GRAMA applies only to records, therefore if information (other than Non-Public Data, Public Health Information, or State Data) is disclosed orally by either party which either party wishes to remain confidential, then each party shall adhere to the following:

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Each party will: (a) limit disclosure of any such information to Authorized Persons who have a need to know such information in connection with the current or contemplated business relationship between the parties to which this Contract relates, and only for that purpose; (b) advise its Authorized Persons of the proprietary nature of the information and of the obligations set forth in this Contract and require such Authorized Persons to keep the information confidential; (c) shall keep all information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any such information received by it to any third parties, except as otherwise agreed to in writing by the disclosing party. Each party will notify the other of any misuse or misappropriation of such information that comes to said party's attention.

This duty of confidentiality shall be ongoing and survive the Contract Period.

27. Reserved

28. OWNERSHIP IN INTELLECTUAL PROPERTY: The Parties defer to the NASPO ValuePoint Master Agreement for Assistance and Support Services through North Carolina as the lead state, master agreement number DPC-1428523190-SA-21-PASS_ITRAC, Attachment A, section XI (B)..

29. OWNERSHIP IN CUSTOM DELIVERABLES: The Parties defer to the NASPO ValuePoint Master Agreement for Assistance and Support Services through North Carolina as the lead state, master agreement number DPC-1428523190-SA-21-PASS_ITRAC, Attachment A, section XI (B). Custom Deliverables, excluding Contractor's Background IP, Custom Deliverables may not be marketed or distributed without written approval by the Eligible User. Nothing in this Contract prevents Contractor from consulting with or for other entities.

Contractor shall grant to the Eligible User a perpetual, irrevocable, royalty-free license to use Contractor's Background IP as defined above, solely for the Eligible User to use the Custom Deliverables.

30. LICENSE FOR GOODS: For the Goods delivered that include Contractor's scripts and code and are not considered Custom Deliverables, Contractor grants the Eligible User a non-exclusive, non-transferable, irrevocable, perpetual right to use, copy, and, without the right to sublicense, for the Eligible User's internal business operation under this Contract

31. OWNERSHIP, PROTECTION, AND USE OF RECORDS: The Eligible User shall own exclusive title to all information and data gathered, reports developed, and conclusions reached by the Eligible User in performance of this Contract. Contractor may not use, except in meeting its obligations under this Contract, information gathered, reports developed, or conclusions reached by the Eligible User in performance of this Contract without the express written consent of the Eligible User. This includes information in anonymized or aggregated formats.

32. OWNERSHIP, PROTECTION, AND USE OF DATA: The Parties defer to the NASPO ValuePoint Master Agreement for Assistance and Support Services through North Carolina as the lead state, master agreement number DPC-1428523190-SA-21-PASS_ITRAC, Attachment A, section XI (C). Contractor, and any Subcontractors under its control, expressly agrees not to use Non-Public Data without prior written permission from the Eligible User.

33. OWNERSHIP, PROTECTION, AND USE OF CONFIDENTIAL FEDERAL, UTAH, OR LOCAL GOVERNMENT INTERNAL BUSINESS PROCESSES AND PROCEDURES: In the event that the Eligible User provides Contractor with confidential federal or state business processes, policies, procedures, or practices, pursuant to this Contract, Contractor shall hold such information in confidence, in accordance with applicable laws and industry standards of confidentiality, and not to copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose such information to third parties or use such information for any purpose whatsoever other than the performance of this Contract. The improper use or disclosure by any party of protected internal federal or state business processes, policies, procedures, or practices is prohibited. Confidential federal or state business processes, policies, procedures, or practices shall not be divulged by Contractor or its Subcontractors, except for the performance of this Contract, unless prior written consent has been obtained in advance from the Eligible User.

34. OWNERSHIP, PROTECTION, AND RETURN OF DOCUMENTS AND DATA UPON CONTRACT TERMINATION OR COMPLETION: All documents and data pertaining to work required by this Contract will be the property of the Eligible User, and must be delivered to the Eligible User upon its request at any time during the Contract Period, as well as within thirty (30) working days after termination or expiration of this Contract, and without restriction or

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limitation to their future use. Any State Data returned under this section must either be in the format as originally provided, in a format that is readily usable by the Eligible User, or formatted in a way that it can be used. The Contractor shall pay the costs for returning documents and data to the Eligible User except as specified in this Contract.

35. ORDERING AND INVOICING: All orders will be shipped promptly in accordance with the delivery schedule. Contractor will promptly submit invoices (within 30 days after shipment or delivery of goods or services, with the exclusion of end of fiscal year invoicing for Executive Branch Agencies) to the appropriate Eligible User. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to an order under this Contract. The prices paid by the Eligible User shall not exceed prices listed in this Contract. The Eligible User shall adjust or return any invoice reflecting incorrect pricing. For Executive Branch Agencies, Contractor must send all invoices no later than July 10, or the last working day prior, to the State for all work completed or items received during the State's fiscal year of July 1-June 30.

36. PAYMENT AND NOTICE:

- a. Payments will be made within thirty (30) days from the date a correct invoice is received. For Executive Branch Agencies, a correct invoice will contain the contract and purchase order numbers as indicated in Section 33. After sixty (60) days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest on overdue, undisputed account charges up to the interest rate paid by the IRS on refund claims, plus two percent, computed in accordance with UCA § 15-6-3, Utah Prompt Payment Act of Utah Code, as amended.
- b. The contract costs may be changed only by written amendment. All payments to Contractor will be remitted by mail, by electronic funds transfer, or by the Eligible User's purchasing card (major credit card). Eligible Users will not pay electronic payment fees of any kind.
- c. Any written protest of the final contract payment must be filed with the Eligible User within ten (10) working days of receipt of final payment. If no protest is received, the Eligible User, the Division, and the State of Utah are released from all claims and all liability to Contractor for fees and costs pursuant to this Contract.
- d. Overpayment: If during or subsequent to the Contract an audit determines that payments were incorrectly reported or paid by the Eligible User to Contractor, then Contractor shall, upon written request, immediately refund to the Eligible User any such overpayments.

37. CONTRACTOR'S INSURANCE RESPONSIBILITY: The Contractor shall maintain the following insurance coverage:

- a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
- b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate.
- c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
- d. If the Procurement Item is Software as a Service, Cyber Security Coverage from an insurance company that meet or exceeds industry standards. The insurance policy must cover data breach and privacy/cyber liability including technology errors and omissions and professional liability. The limits may not be less than \$5,000,000.00 aggregate.
- e. Other insurance policies specified in the Solicitation.

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Certificate of Insurance, showing up-to-date coverage, shall be on file with the State before the Contract may commence. Failure to provide proof of insurance as required will be deemed a material breach of this Contract.

Contractor's failure to maintain this insurance requirement for the Contract Period will be grounds for immediate termination. (UCA § 63G-6a-1203)

ADDITIONAL INSURANCE REQUIREMENTS:

- f. Professional liability insurance in the amount as described in the Solicitation for this Contract, if applicable.
 - g. Any other insurance policies described or referenced in the Solicitation for this Contract.
 - h. Any type of insurance or any increase of limits of liability not described in this Contract which the Contractor requires for its own protection or on account of any federal, Utah, or local statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.
 - i. The carrying of insurance required by this Contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this Contract or any applicable law, statute, rule, regulation, or order. Contractor must provide proof of the above listed policies within thirty (30) days of being awarded this Contract.
- 29. ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Division.
- 30. TERMINATION:** Defer to NASPO MA Terms and Conditions but for the following: If the Contractor cannot certify the statement contained in the NASPO MA Terms and Conditions, attach a written explanation for review by the Lead State.
- 31. TERMINATION UPON DEFAULT:** In the event this Contract is terminated for default by Contractor, the Division may procure Goods, Custom Deliverables, or Services similar to those terminated, and Contractor shall be liable to the Division for any and all reasonable cover costs and damages. Notwithstanding the foregoing, the Contractor shall be entitled to payment for all Services performed pursuant to this Contract up to and including the effective date of termination.
- 32. SUSPENSION OF WORK:** The Division may suspend Contractor's responsibilities under this Contract without terminating this Contract by issuing a written notice. Contractor's responsibilities may then be reinstated upon written notice from the Division.
- 33. DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the Division to declare Contractor in default of this Contract for nonperformance of contractual requirements or a material breach of any term or condition of this Contract. The Division will issue a written notice of default and may provide a fourteen (14) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the Division may exercise any remedy provided by law; terminate this Contract and any related contracts or portions thereof; (c) impose liquidated damages, if liquidated damages are listed in the contract; (d) suspend or debar Contractor from receiving future solicitations; or (e) demand a full refund of the Goods, Custom Deliverables, or Services furnished by Contractor that are defective or Services that were inadequately performed.
- 34. FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God, or war which is beyond that party's reasonable control. The Division may immediately terminate this Contract after determining such delay will reasonably prevent successful performance of this Contract.
- 35. CONFLICT OF TERMS:** Contractor terms and conditions must be attached to this Contract. No other terms and conditions will apply to this Contract, including terms listed or referenced on a Contractor's website, quotation/sales order, purchase orders, or invoice. In the event of any conflict in the contract terms and conditions, the order of precedence is: (a) This Attachment A; (b) the Division's Contract Signature Page(s); (c) State of Utah's Additional Terms and Conditions, if any; and (c) Contractor Terms and Conditions, if any. Attachment A will be given precedence over any provisions including, limitation of liability, indemnification, standard of care, insurance, or warranty, and will not be nullified by or exception created by more specific terms elsewhere in this Contract.
- 36. SURVIVORSHIP:** The contractual provisions that will remain in effect after expiration or termination of this Contract are: (a) Contract Jurisdiction, Choice of Law, and Venue; (b) Secure Protection and Handling of State Data; (c)

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Data Breach Responsibilities; (d) Ownership in Custom Deliverables; (e) Ownership, Protection, and Use of Records, including Residuals of such records; and (f) Ownership, Protection, and Use of Confidential Federal, Utah, or Local Government Internal Business Processes, including residuals of such confidential business processes; (g) Ownership, Protection, and Return of Documents and Data Upon Contract Termination or Completion; (h) Confidentiality; (i) Conflict of Terms; and (j) any other terms that by their nature would survive the expiration, completion, or termination of this contract.

37. RELEVANT STATE AND FEDERAL LAWS

- a. **Conflict of Interest with State Employees:** Contractor shall comply and cooperate in good faith with all conflict of interest and ethic laws, including UCA § 63G-6a-2404, Utah Procurement Code, as amended.
- b. **Procurement Ethics:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, products, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or who in any official capacity participates in the procurement of such supplies, services, products, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (UCA § 63G-6a-2404, Utah Procurement Code, as amended).
- c. **Contact Information:** Per UCA §§ 63G-6a-110 and 35A-2-203, the State shall make Contractor's contact information available to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may post information regarding Contractor's job vacancies on its website.
- d. **Employment Practices:** Contractor shall abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the work place. Contractor shall abide by any other laws, regulations, or orders that prohibit the discrimination of any kind of any of Contractor's employees.
- e. **Compliance with Accessibility Standards:** Contractor shall comply with the Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973. Contractor shall comply with Utah Administrative Code R895-14-3(3), which states that contractors developing new websites or applications for State agencies are required to meet accessibility guidelines subject to rule R895 and correct any items that do not meet these guidelines at no cost to the agency. Contractor shall comply with Utah Administrative Code R895-14-4(2), which states that contractors proposing IT products and services shall provide Voluntary Product Accessibility Template® (VPAT™) documents.

38. RIGHT TO MONITOR PERFORMANCE AND AUDIT

- a. The Parties defer to the NASPO ValuePoint Master Agreement for Assistance and Support Services through North Carolina as the lead state, master agreement number DPC-1428523190-SA-21-PASS_ITRAC, Attachment A, section XIV (A).
- b. **GovRAMP Continuous Monitoring** Only applicable if Contractor will provide cloud services—the Contractor will be required to grant access to GovRAMP Continuous Monitoring and reporting upon intent to award for a product utilizing a GovRAMP Security Progressing Snapshot, Core, Ready, Provisionally Authorized or Authorized status throughout the life of the contract. The Division reserves the right to request and review all Third-Party Assessment Organization (3PAO) audits, risk assessments, vulnerability assessments, and penetration tests of the contractor's environment. The contractor shall respond to all flaws discovered by providing a mutually agreed upon timeframe to resolve the issue and/or implement a compensating control.

39. TIME IS OF THE ESSENCE: The Services shall be completed and Goods and Custom Deliverables delivered by any applicable deadline stated in this Contract. Time is of the essence.

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- 40. **STANDARD OF CARE:** For Services of Contractor which require licenses and certifications, such Services shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract.
- 41. **LARGE VOLUME DISCOUNT PRICING:** Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.
- 42. **ELIGIBLE USER PARTICIPATION:** Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Goods based upon the same terms, conditions and prices of this Contract.
- 43. **INDIVIDUAL CUSTOMERS:** Each Eligible User that purchases Goods from this Contract will be treated as if they were individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.
- 44. **QUANTITY ESTIMATES:** The Division does not guarantee any purchase amount under this Contract. Estimated quantities are for Solicitation purposes only and are not to be construed as a guarantee.
- 45. **ORDERING:** Orders will be placed by the using Eligible User directly with Contractor. All orders will be shipped promptly in accordance with the terms of this Contract.

46. REPORTS AND FEES:

- a. **Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a check, EFT or online payment through the Division’s Automated Vendor Usage Management System. Checks will be payable to the “State of Utah Division of Purchasing” and will be sent to State of Utah, Division of Purchasing, Attn: Cooperative Contracts, PO Box 141061, Salt Lake City, UT 84114-1061. The Administrative Fee will be the amount listed in the Solicitation and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.
- b. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the dollar volume of purchases by each Eligible User. The quarterly report will be provided in secure electronic format through the Division’s Automated Vendor Usage Management System found at: <https://statecontracts.utah.gov/Vendor.Report> **Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

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

- c. **Fee Payment:** After the Division receives the quarterly utilization report it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.
- 47. **Timely Reports and Fees:** If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.
- 48. **ANTI-BOYCOTT ACTIONS:** In accordance with Utah Code 63G-27 et seq., Contractor certifies that it is not currently engaged in any “economic boycott” nor a “boycott of the State of Israel” as those terms are defined in Section 102. Contractor further certifies that it has read and understands 63G-27 et. seq., that it will not engage in any such boycott action during the term of this Contract, and that if it does, it shall promptly notify the State in



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writing.

49. END USER AGREEMENTS: If Eligible Users are required by Contractor to sign an End User Agreement before participating in this Contract, then a copy of the End User Agreement must be attached to this Contract as an attachment. An End User Agreement must reference this Contract, and may not be amended or changed unless approved in writing by the Division. Eligible Users will not be responsible or obligated for any early termination fees if the End User Agreement terminates as a result of completion or termination of this Contract.

50. COMPLIANCE WITH NIST Contractor agrees to maintain compliance with commonly accepted industry standards ISO/IEC 27001, NIST SP 800-171. If Contractor is developing software for the State or providing Goods or Custom Deliverables or performing Services which have the potential to cause any form of outage or to modify any State of Utah infrastructure, Contractor shall comply with current standards set forth and maintained by the National Institute of Standards and Technology, NIST 800-53 (Rev 5 or current version). For cloud solutions, Contractor shall comply with either FedRAMP or GovRAMP requirements at a Public Control Baseline of (Low, Moderate, or High), as applicable. All cloud service products that process, store, transmit and/or could impact government data must either be FedRAMP authorized or enrolled in the GovRAMP Progressing Snapshot Program or demonstrate compliance with a GovRAMP status (Ready, Provisionally Authorized, or Authorized) with a Public Control Baseline of (Low, Moderate, or High), as required by the State of Utah. Requirements related to each status are outlined below.

1. **GovRAMP Progressing Security Snapshot Program** Only applicable if Contractor will provide cloud services Products without a GovRAMP status of Core, Ready, Authorized, or Provisionally Authorized, must enroll in the GovRAMP Progressing Security Snapshot Program, complete quarterly Snapshots, and provide monthly progress reporting to GovRAMP until GovRAMP Core, GovRAMP Ready, GovRAMP Provisionally Authorized, or GovRAMP Authorized status is obtained. If a GovRAMP Core, Ready, Authorized or Provisionally Authorized status is required, it must be obtained within the timeframes established in the corresponding solicitation or contract documents. Subsequent Security Snapshots should reflect progress toward increased security controls and GovRAMP status. Government must be granted visibility and access through GovRAMP for continuous monitoring as requested.
2. **GovRAMP Core** Only applicable if Contractor will provide cloud services Products with a GovRAMP Core status must maintain GovRAMP Core status for the duration of the contract, unless a higher status is required by the corresponding solicitation or contract documents. Government must be granted visibility and access through GovRAMP for continuous monitoring as requested.
3. **GovRAMP Ready** Only applicable if Contractor will provide cloud services Products with GovRAMP Ready status must maintain GovRAMP Ready status for the duration of the contract. Government must be granted visibility and access through GovRAMP for continuous monitoring as requested.
4. **GovRAMP Authorized and GovRAMP Provisionally Authorized** Only applicable if Contractor will provide cloud services Products with GovRAMP Authorized or GovRAMP Provisionally Authorized status must maintain either a GovRAMP Authorized status or a GovRAMP Provisionally Authorized status for the duration of the contract. Government must be granted visibility and access through GovRAMP for continuous monitoring as requested.

If the contractor fails to maintain or achieve the security requirements outlined above, the Contractor may be subject to liquidated damages and/or the Division may reevaluate the terms of the contract and determine whether the failure to comply justifies contract termination.

51. USE OF AI OR STATE SUB DOMAIN: The following policy shall govern where applicable to the generative AI technology available to licensed users Contractor must inform the Eligible Users of any generative Artificial Intelligence ("AI") in the Goods or Services being contracted for prior to providing those Goods or Services to the

State of Utah Cooperative Contract
PARTICIPATING ADDENDUM
PROCUREMENT ASSISTANCE SUPPORT SERVICES (PASS) AND IT
RESEARCH, ADVISORY, AND CONSULTING (IT RAC) SERVICES
 State of Utah Contract #: PA5097

State. Additionally, The parties acknowledge the use of generative AI, known as AskGartner, as a component of Contractor's ITRAC deliverables. Utilization of generative AI in the creation of Goods and Services impacting the State's Intellectual Property Rights shall include annotations sufficient to comply with DTS POLICY 4000-0008 Enterprise Generative AI Policy.

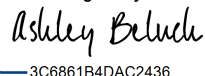
- a. Contractor is prohibited from using Eligible Users materials or data in generative AI queries without prior written permission from the Eligible User, as well as from building or training proprietary generative AI programs. Contractor attests that its AI models use only properly licensed material. Should Contract be found in violation of this requirement, Contractor shall fully indemnify and defend Eligible Users from all claims related thereto. Furthermore, should Contractor learn that Eligible Users materials or Data has been used in generative AI queries without permission from the Eligible User, Contractor shall immediately notify the Eligible Users of the use and cover the full expense of any remediation.
- b. Contractor shall support usage of a utah.gov subdomain according to R895-4 for Goods and Services that will be made available to non-state users.

52. PUBLICITY and WEBSITE BRANDING: Contractor shall submit to the Division for written approval all advertising and publicity matters relating to this Contract. Contractor shall only use the approved executive branch agency, and/or State of Utah logo on websites produced under terms of this Contract. It is within the Division's sole discretion whether to provide approval, which approval must be in writing

53. DEVELOPMENT, TEST, AND PRODUCTION ENVIRONMENTS:RESERVED

(Revision Date: 06/30/2025)

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

Participating Entity: State of Utah	Contractor: Gartner Inc.
Signature:  <small>DocuSigned by: C38BE9DAC528424...</small>	Signature:  <small>DocuSigned by: 3C6861B4DAC2436</small>
Name: Windy Aphayrath	Name: Ashley Beluch
Title: Chief Procurement Officer	Title: senior contracts specialist
Date: 4/3/2026	Date: March 31, 2026



NASPO ValuePoint Master Agreement
For
Procurement Assistance and Support Services (PASS)

A Contract for the NASPO ValuePoint Cooperative Purchasing Program
Acting by and through the **State of North Carolina (Lead State)**

Division of Purchase & Contract

**325 N Salisbury St.
Raleigh, NC 27603**

And

Gartner, Inc.

**56 Top Gallant Road
Stamford, CT 06902-7700**

Master Agreement Number:

DPC-1428523190-SA-21-PASS_ITRAC

Effective Dates:

January 19, 2026 – January 18, 2029,

With the option of three (3) annual renewals.

Total contract term not to exceed six (6) years.

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- 1) Execution Page
- 2) Attachment A – NASPO ValuePoint Master Agreement Terms and Conditions
- 3) Attachment B – Scope of Work
- 4) Attachment C – Labor Rates/Price Sheet




Procurement Lead: Sandy Anderson Sandy.anderson@doa.nc.gov 984-236-0216	REQUEST FOR BEST AND FINAL OFFER NO. DPC-1428523190-SA-BAFO
	Offers will be received until:
	Issue Date: November 26, 2025
	Commodity Number: 8010 – Management Advisory Services 8110 – Professional Engineering Services 80 – Management and Business Professionals and Administrative Services
	Description: Procurement Assistance Support Services (PASS) and IT Research, Advisory, and Consulting (IT RAC) services. For Nationwide Use of All Participating State Entities
See page 2 for Submission Instructions	

NOTICE TO VENDOR: Offers submitted in response to this Best and Final Offer (BAFO) for the furnishing and delivering the goods and services described herein, shall be received as soon as practicable. Refer to page two for submission instructions. Offers are subject to rejection unless submitted on this form.

EXECUTION: In compliance with this Request for BAFO, along with the terms and conditions in the original solicitation, as maybe modified herein, the undersigned offers and agrees to furnish any or all goods and services which are offered, at the prices agreed upon and within the time specified herein. Pursuant to GS §143-54 and §143-59.2 and under penalty of perjury, the undersigned Vendor certifies that this offer has not been arrived at collusively or otherwise in violation of Federal or North Carolina law and this offer is made without prior understanding, agreement, or connection with any firm, corporation, or person submitting an offer for the same commodity, and is in all respects fair and without collusion or fraud.

Failure to execute/sign offer prior to submittal shall render offer invalid. Late offers will not be accepted.

VENDOR: GARTNER INC		EMAIL: americascontracts.cons1@gartner.com	
STREET ADDRESS: 56 Top Gallant Rd		P.O. BOX: .	ZIP: .
CITY & STATE & ZIP: Stamford, CT 06902-7700		TELEPHONE NUMBER: 239-940-7261	TOLL FREE TEL. NO: .
TYPE OR PRINT NAME & TITLE OF PERSON SIGNING: Alexandra Canizales		FAX NUMBER: .	
AUTHORIZED SIGNATURE:  <small>Alexandra Canizales (Jan 9, 2026 10:36:20 EST)</small>		DATE: 01/09/2026	

Offer valid for ninety (90) calendar days from date of opening unless otherwise stated here: 180 days.

ACCEPTANCE OF OFFER: If the State accepts any or all parts of this offer, an authorized representative of the Agency shall affix his/her signature to the Vendor’s response to this Request for BAFO. The acceptance shall include the response to this BAFO, any provisions and requirements of the original Solicitation which have not been superseded herein, and the North Carolina General Terms and Conditions. These documents shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful Vendor(s).

FOR STATE USE ONLY: Offer accept and Contract awarded this date of 01/09/2026, as indicated on the attached certification, by Sandy Anderson
 (Authorized Representative of NCDQA – Purchase & Contract)

SUBMISSION INSTRUCTIONS: Vendor shall submit its offer directly to the Procurement Lead identified at the top. Any files submitted shall not be password protected and shall be capable of being copied to other media.

REQUEST FOR BEST AND FINAL OFFER (BAFO):

This request is to solicit a best and final offer from Vendor for PASS and IT RAC services. The offer should integrate the previous response to the Solicitation and any changes listed below. Any individual Vendor may receive a different number of BAFO requests than other Vendors.

Specific requests begin on the next page. Vendor may copy requests onto additional pages, as needed, to provide sufficient space for its response. The sections from the original terms that have been modified are listed below:

- **Section V – ValuePoint Provisions - Most Favored Customer.** Removed and replaced with “obligation to act in good faith”
- **Section VII – Ordering.** Clarifies period of performance on subscriptions.
- **Section X – Warranty.** Slight adjustment to the warranty provisions and how far they extend.
- **Section XI – Product Title/Intellectual Property.** Clarifying who owns the IP and what the information may be used for.
- **Section XII – Indemnification and Limitation of Liability.** Limitation of Liability was added to the terms and conditions.
- **Section XIV – General Provisions – Special Research & Advisory Terms.** Terms applicable to the subscription and IT research services that are provided under the awarded category.

This BAFO hereby replaces the original Attachment A Terms and Conditions as it was published within the solicitation and intended to be Attachment A as part of the Master Agreement, with the modified and agreed upon Attachment A Terms and Conditions.

North Carolina and Vendor agree upon adjustments to the terms and conditions based upon exceptions submitted by Vendor which are shown and reflected in Attachment A and is included below for reference. Changes to the above Sections will be reflected in the terms as shown below.

Attachment A – Master Agreement Terms and Conditions

The following terms will be included in and apply to any Master Agreement resulting from this RFP.

I. DEFINITIONS

- A. **Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.
- B. **Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.
- C. **Contract Administrator** is a representative of the Lead who is responsible for the functions that are performed after all parties have signed a contract, including any modifications to the contract.
- D. **Contract Manager** is a representative of the Lead State or awarded vendor who ensures compliance with the contract terms and conditions while giving attention to the achievement of the stated output and outcome of the contract.
- E. **Embedded Software** means one or more software applications which permanently reside on a computing device.
- F. **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
- G. **Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- H. **Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.
- I. **NASPO ValuePoint** is a division of the National Association of State Procurement Officials (“NASPO”), a 501(c)(3) corporation. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the Lead State.
- J. **Order** or **Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.
- K. **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- L. **Participating Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.
- M. **Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.
- N. **Product** or **Products and Services** means any equipment, software (including embedded software), documentation, service, or other deliveries supplied or created by the Contractor pursuant to this Master Agreement. The term Product includes goods and services.
- O. **Purchasing Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

II. Term of Master Agreement

- A. **Initial Term.** The initial term of this Master Agreement is for three (3) years. The term of this Master Agreement may be amended beyond the initial term for three (3) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance. The Lead State may, prior to execution, adjust the effective date or duration of the initial term or renewal period of any Master Agreement for the purpose of making the Master Agreement coterminous with others.
- B. **Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.
- C. **Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period if in the judgment of the Lead State a follow-on competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

III. Order of Precedence

- A. **Order.** Any Order placed under this Master Agreement will consist of the following documents:
 - 1. A Participating Entity's Participating Addendum ("PA");
 - 2. NASPO ValuePoint Master Agreement, including all attachments thereto;
 - 3. A Purchase Order or Scope of Work/Specifications issued against the Master Agreement;
 - 4. The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;
 - 5. Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.
- B. **Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.
- C. **Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. Participating Addenda will not include a term of agreement that exceeds the term of the Master Agreement.

IV. Participants and Scope

- A. **Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.
- B. **Applicability of Master Agreement.** NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum, subject to Section III. For the purposes of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g., purchase order or contract) used by the Purchasing Entity to place the Order.
- C. **Authorized Use.** Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities is subject to applicable state law and the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official
- D. **Obligated Entities.** Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate

in through execution of a Participating Addendum. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.

- E. Notice of Participating Addendum.** Contractor shall email a fully executed PDF copy of each Participating Addendum to pa@naspo.valuepoint.org to support documentation of participation and posting in appropriate databases.
- F. Eligibility for a Participating Addendum.** Eligible entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent of the Chief Procurement Official of the state where the entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists; the entity must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- G. Prohibition on Resale.** Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.
- H. Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement and as the Participating Entity has in the Participating Addendum, including but not limited to any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.
- I. Release of Information.** Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan.
- J. No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent.

V. NASPO ValuePoint Provisions

- A. Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.
- B. Administrative Fees**

 - 1. NASPO ValuePoint Fee.** Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.
 - 2. State Imposed Fees.** Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.
- C. NASPO ValuePoint Summary and Detailed Usage Reports**

 - 1. Sales Data Reporting.** In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum ("Sales Data"). Timely and complete reporting of

Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.

2. **Summary Sales Data.** "Summary Sales Data" is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.
3. **Detailed Sales Data.** "Detailed Sales Data" is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.
4. **Sales Data Crosswalks.** Upon request by NASPO ValuePoint, Contractor shall provide to NASPO ValuePoint tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data ("Crosswalks"). Customer Crosswalks must include a list of existing and potential Purchasing Entities and identify for each the appropriate customer type as defined by NASPO ValuePoint. Product Crosswalks must include Contractor's part number or SKU for each Product in Offeror's catalog and identify for each the appropriate Master Agreement category (and subcategory, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level commodity code, and (if applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor's customer lists and product catalog change.
5. **Executive Summary.** Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

D. NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

1. **Staff Education.** Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the master agreement and participating addendum process, and the manner in which eligible entities can participate in the Master Agreement.
2. **Onboarding Plan.** Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.
3. **Annual Contract Performance Review.** Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.
4. **Use of NASPO ValuePoint Logo.** The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.
5. **Obligation to Act in Good Faith.** The parties acknowledge that this Master Agreement and its terms and pricing have been negotiated for the benefit of the parties, NASPO ValuePoint, Participating Entities, and Purchasing Entities. Apart from a Participating Addendum or Order, Contractor shall not intentionally induce a potential Participating Entity or Purchasing Entity to enter into a separate agreement, the pricing and terms of which are derived from this Master Agreement, for the purpose of avoiding compliance with Contractor's obligations under Section V. Nothing in this Section 5 shall prohibit Contractor from contracting with an entity with substantially

similar pricing and terms if such pricing and terms are independently negotiated with the entity or are consistent with pricing and terms ordinarily offered by Contractor to public sector customers

E. NASPO ValuePoint eMarketPlace

1. The NASPO ValuePoint cooperative provides an eMarketPlace for public entities to access a central online platform to view and/or purchase the goods, services, and solutions available from NASPO ValuePoint's cooperative Master Agreements. This eMarketPlace is provided by NASPO at no additional cost to the Contractor or public entities. Its purpose is to facilitate the connection of public entities with Contractors who meet the requisite needs for a good, service, or solution by that entity through a NASPO ValuePoint Master Agreement.
2. Contractor shall cooperate in good faith with NASPO, and any third party acting as an agent on behalf of NASPO, to integrate Contractor's industry presence by either an electronic hosted catalog, punchout site, or providing eQuotes through the NASPO eMarketPlace, per the Implementation Timeline as further described below.
3. Regardless of how Contractor's presence is reflected in the eMarketPlace (i.e., hosted catalog, punchout site, or eQuote), Contractor's listed offerings must be strictly limited to Contractor's awarded contract offerings through the NASPO award. Products and/or services not authorized through the resulting NASPO cooperative contract should not be viewable by NASPO ValuePoint eMarketPlace users. Furthermore, products and/or services not authorized through a Participating Addendum should not be viewable by NASPO ValuePoint eMarketPlace users utilizing that Participating Addendum. The accuracy of Contractor's offerings through the eMarketPlace must be maintained by Contractor throughout the duration of the Master Agreement.
4. Contractor agrees that NASPO controls which Master Agreements appear in the eMarketPlace and that NASPO may elect at any time to remove any of Contractor's offerings from the eMarketPlace.
5. Contractor is solely responsible for the accuracy, quality, and legality of Contractor's Content on the eMarketPlace. "Content" means all information that is generated, submitted, or maintained by Contractor or otherwise made available by Contractor on the eMarketPlace, including Contractor catalogs. Contractor's Content shall comply with and accurately reflect the terms and pricing of this Master Agreement.
6. Contractor's use of the eMarketPlace shall comply with the eMarketPlace's Terms of Use.
7. Contractor is solely responsible for the security and accuracy of transactions facilitated through the eMarketPlace, including the assessment, collection, and remittance of any sales tax.
8. Lead State reserves the right to approve all pricing, catalogs, and information on the eMarketPlace. This catalog review right is solely for the benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices required by the Master Agreement.
9. NASPO Participating Entities may have their own procurement system, separate from the NASPO eMarketPlace, that enables the use of certain NASPO Master Agreements. In the event one of these entities elects to use this NASPO ValuePoint Master Agreement (available through the eMarketPlace) but publish to their own eMarketPlace, Contractor agrees to work in good faith with the entity and NASPO to implement the catalog.
10. In the event a Participating Entity has entity-specific catalog requirements set forth in its Participating Addendum (e.g., entity-specific pricing, restrictions in the scope of offerings, etc.), Contractor shall ensure its eMarketPlace Content for that Participating Entity accurately reflects and is compliant with these requirements.
11. Implementation Timeline: Following the execution of Contractor's Master Agreement, NASPO will provide a written request to Contractor to begin the onboarding process into the eMarketPlace. Contractor shall have fifteen (15) days from receipt of written request to work with NASPO to set up an enablement schedule, at which time the technical documentation for onboarding shall be provided to Contractor. The schedule will include future calls and milestone dates related to test and go live dates.
 - a. Contractor's NASPO eMarketPlace account with eQuoting functionality shall minimally be established within thirty (30) days following the written request.
 - b. Contractor shall deliver either a (1) hosted catalog or (2) punchout site, pursuant to the mutually agreed upon enablement schedule.
 - c. NASPO will work with Contractor to decide which structures between hosted catalog, punchout site, and/or eQuoting as further described below will be provided by Contractor.

4. No retroactive adjustments to prices or rates will be allowed.
 5. During Master Agreement term Contractor (Offeror) may extend greater discounted pricing to the Purchasing Entity as order details as purchasing volume, equipment type, location, etc. become known.
 6. Price increase requests shall be submitted in writing to the Contract Manager, which shall include the reason(s) for the request and contain supporting documentation for the need. Price increases will be negotiated and agreed to by both the State and Vendor in advance of any price increase going into effect. The Lead State is not obligated to accept pricing adjustments or increases and reserves the right to accept or reject them in part or in whole. Price de-escalation or decreases may be requested by the Lead State at any time
- B. Payment.** Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within thirty (30) days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.
- C. Leasing or Alternative Financing Methods.** The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

VII. Ordering

- A. Order Numbers.** Master Agreement order and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- B. Quotes.** Purchasing Entities may define entity-specific or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an “as needed” basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity’s rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost, and other factors considered.
- C. Applicable Rules.** Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities’ rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.
- D. Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- E. Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.
1. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof. Subscription based services may be purchased up to the Master Agreement Expiration date and extend to one year beyond the expiration of the Master Agreement. The period of performance for consulting services may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement.
 2. Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.
 3. Financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.
 4. Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation, or termination of this Master Agreement, or in any manner inconsistent with this Master Agreement’s terms.
 5. Orders for any separate indefinite quantity, task order, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

F. Order Form Requirements. All Orders pursuant to this Master Agreement, at a minimum, must include:

1. The services or supplies being delivered;
2. A shipping address and other delivery requirements, if any;
3. A billing address;
4. Purchasing Entity contact information;
5. Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;
6. A not-to-exceed total for the products or services being ordered; and
7. The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.

G. Communication. All communications concerning administration of Orders placed must be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

H. Contract Provisions for Orders Utilizing Federal Funds. Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

VIII. Shipping and Delivery

A. Shipping Terms. All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.

1. Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.

B. Minimum Shipping. The minimum shipment amount, if any, must be contained in the Master Agreement. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered will be shipped without charge.

C. Inside Deliveries. To the extent applicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (e.g., scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.

D. Packaging. All products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

IX. Inspection and Acceptance

A. Laws and Regulations. Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.

B. Applicability. Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.

C. Inspection. All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.

1. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use.
 2. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.
- D. Failure to Conform.** If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect the reduced value of services performed.
- E. Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Product meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.
1. The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.
 2. If the Product does not meet the standard of performance or specifications during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met.
 3. Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.
 4. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section.
 5. No Product will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

X. Warranty

- A. Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply.
- B. Warranty.** The Contractor warrants that it shall perform the services in good faith and in a professional manner. CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE INFORMATION IN THE DELIVERABLES HAS BEEN OBTAINED FROM SOURCES THAT CONTRACTOR BELIEVES TO BE RELIABLE. ALL DELIVERABLES SPEAK AS OF THE DATE OF DELIVERY TO THE PURCHASING ENTITY
- C. Breach of Warranty.** Upon breach of the warranty set forth above, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made.
- D. Rights Reserved.** The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- E. [This section intentionally omitted.]**

XI. Intellectual Property

- A. [This section intentionally omitted.]**
- B.** The Purchasing Entity retains all rights, title and interest in any and all derivative works or compilations of Contractor's Works or Documents, created both independently or in party with the Contractor, its employees, agents, or subcontractors. Contractor shall assign to Purchasing Entity ownership of any Products and Services originally created for and submitted to the Purchasing Entity, provided, however, that Contractor may use, reproduce, display and distribute

excerpts and data from the Products or Services, either alone or together with other material, in the ordinary course of Contractor's business, so long as such excerpts and data do not identify Purchasing Entity by name or contain any of the Purchasing Entity's confidential or proprietary information, and provided further that Contractor retains all right, title and interest in and to its processes, benchmarking data and data collection tools, assessment models and pertinent methodologies such as Strategic Planning, Contractor's copyrighted proprietary research and other pre-existing materials and data, such as Data Collection Templates and Survey Tools for Applications and Infrastructure, and benchmark comparisons ("Preexisting Intellectual Property"). Nothing contained in this Agreement shall preclude Contractor from rendering services to others or developing work products that are competitive with, or functionally comparable to, the Services. Contractor shall not be restricted in its use of ideas, concepts, know-how, data and techniques acquired or learned in the course of performing the Services, provided that Contractor shall not use or disclose any of the Purchasing Entity's confidential information. Notwithstanding the foregoing, no license or right is granted to Contractor to use or sublicense the Deliverables themselves, except as expressly authorized in writing by the Purchasing Entity.

- C. License of Pre-Existing Intellectual Property.** Contractor grants to the Purchasing Entity, for internal purposes only, a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property. Notwithstanding the foregoing, Each Party retains all rights, title, and interest in any and all of the intellectual property rights, including copyrights, patents, trade secrets, and service marks, if any in the Products and Services provided to the other Party, its employee(s), agents or subcontractors(s) for any purpose in and under this Master Agreement or any Participating Addendum.

XII. Indemnification and Limitation of Liability

- A. General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property directly caused by the negligence or willful misconduct of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.
- B. Intellectual Property Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").
1. The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
 - a. provided by the Contractor or the Contractor's subsidiaries or affiliates;
 - b. specified by the Contractor to work with the Product;
 - c. reasonably required to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or
 - d. reasonably expected to be used in combination with the Product.
 2. The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.
 3. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.

4. Unless otherwise set forth herein, Section XII. Indemnification, B. Intellectual Property Indemnification is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.
- C. **Limitation of Liability.** In no event will either party be liable for any consequential, indirect, special, or incidental damages such as damages for lost profits, business failure or loss, arising out of this Agreement, whether or not such party has been advised of the possibility of such damages. Except with respect to Contractor's obligations under Section XII (Indemnification), Contractor's entire liability arising out of an Order shall be limited to and shall not exceed two (2) times the amount paid to Contractor by the Purchasing Entity in the 12 months preceding the act or omission giving rise to the claim, or \$2,000,000, whichever is greater.

XIII. Insurance

- A. **Term.** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.
- B. **Class.** Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.
- C. **Coverage.** Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:
1. Contractor shall maintain Commercial General Liability insurance covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence and \$2 million general aggregate;
 2. Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- D. **Notice of Cancellation.** Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.
- E. **Notice of Endorsement.** Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.
- F. **Participating Entities.** Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.
- G. **Furnishing of Certificates.** Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.
- H. **Disclaimer.** Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

A. Records Administration and Audit

1. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as will adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General),

- and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.
2. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.
 3. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

B. Confidentiality, Non-Disclosure, and Injunctive Relief

1. **Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.
 - a. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information").
 - b. Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information.
 - c. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity; or (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.
2. **Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement.
 - a. Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.
 - b. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person.
 - c. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at

Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information.

d. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits, and evidence of the performance of this Master Agreement.

3. **Injunctive Relief.** Contractor acknowledges that Contractor's breach of Section B. Confidentiality, Non-Disclosure, and Injunctive Relief, 2. Non-Disclosure would cause irreparable injury to the Purchasing Entity that cannot be inadequately compensated in monetary damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.
4. **Purchasing Entity Law.** These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.
5. **NASPO ValuePoint.** The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line-item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to this Master Agreement. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.
6. **Public Information.** This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

C. Assignment/Subcontracts

1. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.
2. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.

D. **Changes in Contractor Representation.** The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

E. **Independent Contractor.** Contractor is an independent contractor. Contractor has no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and shall not to hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

F. **Cancellation.** Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision will not affect the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

G. **Force Majeure.** Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.

H. Defaults and Remedies

1. The occurrence of any of the following events will be an event of default under this Master Agreement:

- a. Nonperformance of contractual requirements;
 - b. A material breach of any term or condition of this Master Agreement;
 - c. Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading;
 - d. Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
 - e. Any default specified in another section of this Master Agreement.
2. Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.
3. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:
- a. Any remedy provided by law;
 - b. Termination of this Master Agreement and any related Contracts or portions thereof;
 - c. Assessment of liquidated damages as provided in this Master Agreement;
 - d. Suspension of Contractor from being able to respond to future bid solicitations;
 - e. Suspension of Contractor's performance; and
 - f. Withholding of payment until the default is remedied.
4. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.
- I. **Waiver of Breach.** Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order will not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, any Participating Addendum, or any Purchase Order.
- J. **Debarment.** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in public procurement or contracting by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.
- K. **No Waiver of Sovereign Immunity**

1. In no event will this Master Agreement, any Participating Addendum or any contract or any Purchase Order on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.
2. This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

L. Governing Law and Venue

1. The procurement, evaluation, and award of the Master Agreement will be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award will be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.
2. Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum will be in the Purchasing Entity's state.
3. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

M. Assignment of Antitrust Rights. Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

N. Survivability. Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.

O. Special Research & Advisory Terms

These Subscription Terms and Conditions (the "Terms and Conditions") below shall apply exclusively to the procurement and provision of Contractor's subscription-based products and services by Purchasing Entities. In the event of a conflict between these Terms and Conditions and any other terms of the Master Agreement herein or any other applicable contract or agreement, these Terms and Conditions shall govern the use of such subscription-based products and services.

1. **Service Orders.** Service Orders (formerly called Service Agreements) set forth the Service(s) to be provided by Contractor (as more fully described in one or more "Service Descriptions"), the term of Purchasing Entity's license for such Services, and the fees payable by Purchasing Entity. Service Orders are non-cancelable and may be terminated only for material breach by either party, upon 30 days prior written notice, if the breach is not cured within the notice period. A Service Description describes each Service purchased including the service name, levels of access and deliverables for each Service, sets forth any additional terms unique to a specific Service, is accessible via the hyperlink listed in the Service Order for the Service purchased in a Service Order or as attached to each Service Order, and in each case is incorporated by reference in the Service Order. Contractor may periodically update the service names, levels of access and the deliverables for each Service. If Purchasing Entity adds Services or upgrades the level of service or access, an additional Service Order will be required.
2. **Ownership and Use of the Services.** Contractor owns and retains all rights to the Services not expressly granted to Purchasing Entity. Only the individuals named in the Service Order (each a "Licensed User") may access the Services. Each Licensed User will be issued a unique password, which may not be shared. Purchasing Entity agrees to review and comply with the Contractor Usage Policy, which is accessible to all Licensed Users via the "Policies" section of Contractor.com. Among other things, the Contractor Usage Policy describes how Purchasing Entity

may substitute Licensed Users, excerpt from and/or share Contractor research documents within the Purchasing Entity internally, and quote or excerpt from the Services externally.

3. **DISCLAIMER OF WARRANTIES.** THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CONTRACTOR EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR AS TO ACCURACY, COMPLETENESS OR ADEQUACY OF INFORMATION. PURCHASING ENTITY RECOGNIZES THE UNCERTAINTIES INHERENT IN ANY ANALYSIS OR INFORMATION THAT MAY BE PROVIDED AS PART OF THE SERVICES, AND ACKNOWLEDGES THAT THE SERVICES ARE NOT A SUBSTITUTE FOR ITS OWN INDEPENDENT EVALUATION AND ANALYSIS AND SHOULD NOT BE CONSIDERED A RECOMMENDATION TO PURSUE ANY COURSE OF ACTION. CONTRACTOR SHALL NOT BE LIABLE FOR ANY ACTIONS OR DECISIONS THAT PURCHASING ENTITY MAY TAKE BASED ON THE SERVICES OR ANY INFORMATION OR DATA CONTAINED THEREIN. PURCHASING ENTITY UNDERSTANDS THAT IT ASSUMES THE ENTIRE RISK WITH RESPECT TO THE USE OF THE SERVICES.
4. **Confidential Information.** Each party agrees to keep confidential any information communicated by the other party in connection with these Service Terms that (i) is clearly marked confidential if provided in written form, (ii) is preceded by a statement that such information is confidential, if provided in oral form, and such statement is confirmed in writing within 30 days of its initial disclosure, or (iii) can be determined to be confidential by a reasonable person based upon the nature of the information disclosed and the circumstance of disclosure. This obligation of confidence shall not apply to any information that: (1) is in the public domain at the time of its communication; (2) is independently developed by the receiving party; (3) entered the public domain through no fault of the receiving party subsequent to the disclosing party's communication to the receiving party; (4) is in the receiving party 's possession free of any obligation of confidence at the time of the disclosing party's communication to the receiving party; or (5) is communicated by the disclosing party to a third party free of any obligation of confidence. Additionally, the receiving party may disclose such information to the extent required by legal process.
5. **Data Protection.** In performing its obligations under the Service Order, Contractor and Purchasing Entity will each comply with all applicable data privacy legislation. In providing the Services, Contractor shall comply with its global privacy policy available at Contractor.com/privacy.
6. **Miscellaneous**
 - a. **Assignability.** Service Orders and these Service Terms and the rights granted to Purchasing Entity hereunder may not be assigned, sublicensed or transferred, in whole or in part, by either party without the prior consent of the other party, except to a successor to substantially all of the business or assets of a party by merger or acquisition. Where consent is required, it will not be unreasonably withheld.
 - b. **Use of Name, Trademark, and Logo.** Absent the prior written consent of the other party, neither party shall use the name, trademarks, or logo of the other in promotional materials, publicity releases, advertising, or any other similar publications or communications.
 - c. **No Third Party Beneficiaries.** The Service Order and these Service Terms are for the benefit of the parties only. No third party shall have the right to (i) rely on the Services provided by Contractor, or (ii) seek to impose liability on Contractor as a result of the Services.

Attachment B SCOPE OF WORK

Contractor was awarded and is eligible to provide services in the following categories:

1. **Procurement Assistance Support Services**
 2. **IT Research, Advisory, and Consulting (IT RAC) Services**
 3. **Value Add / Support Services**
-

I. **Definitions**

The following definitions apply to the Master Agreement.

- A. **Action Plan** is the comprehensive research summary completed by the Contractor which outlines the insights found and provides the steps needed to convert an organization's current structure and processes into a Category Management structure.
- B. **À la carte basis** means a separate price for each service offered by the Contractor.
- C. **Best value** as defined for purposes of this solicitation means the most advantageous offer determined by evaluating and comparing all relevant criteria in addition to price so that the offer meeting the overall combination that best serves the Lead State is selected. These criteria may include, in addition to others, the total cost of ownership, performance history of the vendor, quality of goods or services, delivery and proposed technical performance.
- D. **Contract Administrator** representative of the Lead State who is responsible for the functions that are performed after all parties have signed a contract, including any modifications to the contract.
- E. **Contract Manager**: A representative of the Lead State or awarded vendor who ensures compliance with the contract terms and conditions while giving attention to the achievement of the stated output and outcome of the contract.
- F. **Construction** means the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. The term includes the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property. **NOTE: ANY RESULTING CONTRACT TO THIS RFP WILL NOT INCLUDE SERVICES TO SUPPORT CONSTRUCTION PROCUREMENT.**
- G. **Contractor** means the person having a contract with a governmental body.
- H. **Fixed-price basis** means an established price agreed upon by the Contractor and Purchasing Entity, by agreement or by authority, as the price to be charged for a specified number of services.
- I. **Goods** means all property, including but not limited to equipment, equipment leases, materials, supplies, printing, insurance, and processes, including computer systems and software, excluding land or a permanent interest in land, leases of real property, and office rentals.
- J. **Governmental body** means any department, commission, council, board, bureau, authority,

committee, institution, legislative body, agency, government corporation, or other establishment or office of the executive, legislative, or judicial branch, city or county of any U.S. State.

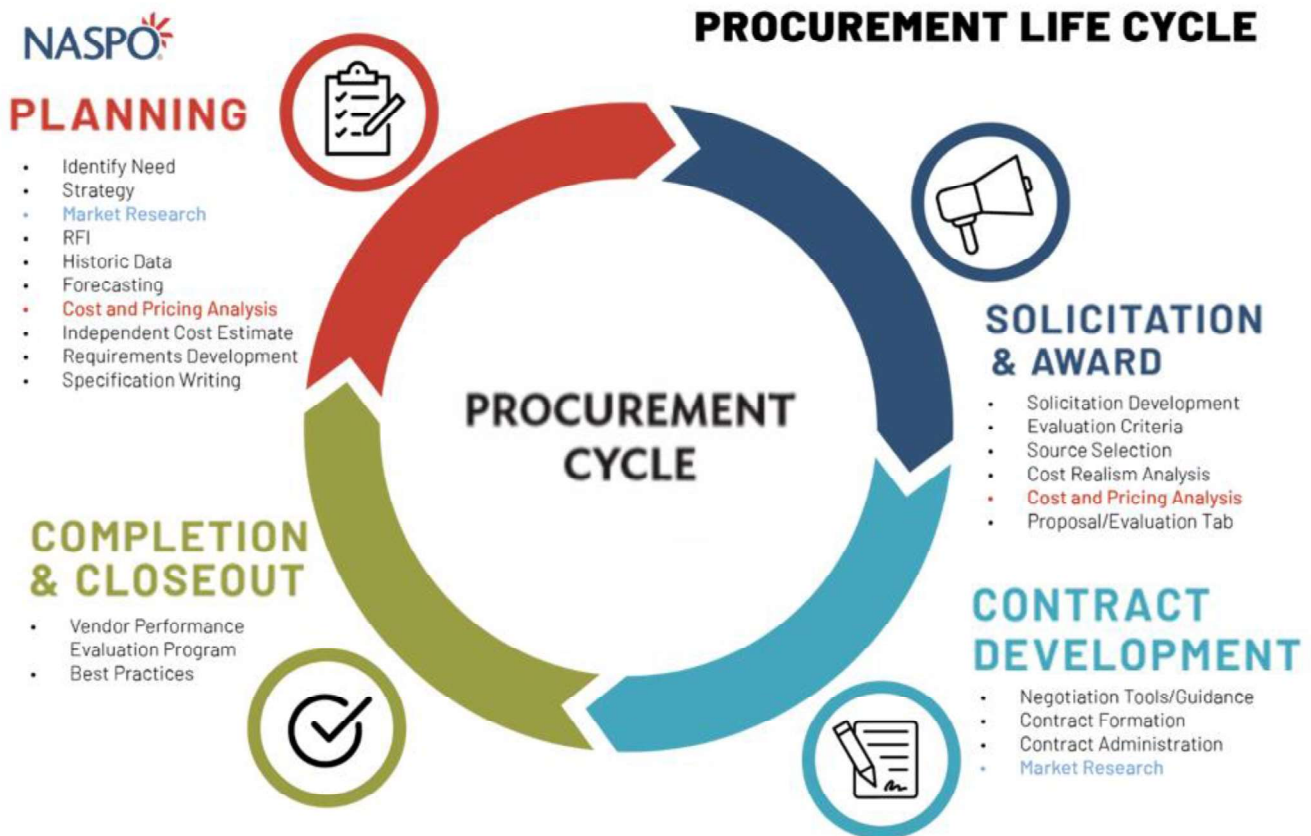
- K. **Grant** means 1. A transfer of federal government funds to state or local governments to support or stimulate programs authorized by federal or state laws in order to accomplish objectives that are locally defined and managed under a broad federal or state program. 2. The furnishing of assistance by a jurisdiction, whether financial or otherwise, to any person to support a program authorized by law; does not include an award whose primary purpose is to procure supplies, services, or construction.
- L. **Inherently Governmental Duties** means those duties which shall only be performed by a government employee.
- M. **IT Consulting Services** means services provided by firms who focus on providing the following services: writing, testing and supporting custom software; planning and designing integrated hardware, software and communication infrastructure; and on-site management of computer systems and data processing facilities.
- N. **Key Performance Indicator (KPI)** means how a quantifiable measure is utilized to assess the success of a Contractor in meeting strategic goals and objectives for performance.
- O. **Lead State** means the State conducting this cooperative procurement, evaluation, and award, which for this procurement is North Carolina.
- P. **Market Research** means the gathering and studying of data relating to consumer preferences and purchasing power. In relation to the procurement life cycle, Market Research means the examination of available sources of information to find available sources of supply to meet the needs of any given procurement.
- Q. **Market Research Plan** means the process that one will follow to gather, analyze, and interpret information about a particular market. The plan would define market research approaches and include different types of market research to undertake for maximum impact.
- R. **Offeror** means the company or firm who submits a proposal in response to this Request for Proposal.
- S. **Prime Contractor** means the Contractor awarded a contract in either award category, PASS or IT RAC.
- T. **Proposal** means the official written response submitted by an Offeror in response to this Request for Proposals.
- U. **Proposer** has the same meaning as Offeror.
- V. **Request for Proposals or "RFP"** means the entire solicitation document, including all parts, sections, exhibits, attachments, and Addenda.
- W. **Statement of Work** defines the services to be delivered by the Contractor. Note: For the purposes of this RFP, statement of work describes the services within a Task Order when requesting quotes from awarded Contractor(s).

- X. **Subcontractor** means a Contractor contracted for work by the Prime Contractor.
- Y. **Target Market** means a particular group of consumers at which a product or service is aimed.
- Z. **Task Order** means work needed by a Participating Entity to be performed by the Contractor. The Task Order document contains information about the expected performance of services (Statement of Work), timeline and deliverable(s).

II. Introduction

The objective is to provide a wide range of professional procurement support services to all fifty states, District of Columbia, and US territories (that choose to participate) in the areas of planning and market research; pre-award and source selection; post-award contract management; policy support; category management; and vendor performance review planning and other support services.

The diagram below depicts services that support procurement activities based on a general procurement lifecycle. The list of potential services within a procurement life cycle **includes but is not limited** to the following items:



This portfolio is intended to supplement resources to assist procurement personnel to obtain the desired goods and/or services. For example, if the agency has the need to procure IT consulting services, the Procurement Assistance and Support Services (PASS) Contractor(s) will assist in writing specifications and/or develop an RFP and/or provide any other procurement support services that will provide the Purchasing Entity with a resulting contract for such good or service.

It is important to recognize that the government/state/city organization has fundamental inherent government functions that should not be delegated to a Contractor. When it relates to procurement, government personnel should be making final decisions. Federal Procurement Law defines inherent functions as those to be performed only by government employees. The State of North Carolina, Department of Administration (DOA) recommends this guidance as a good procurement policy and considers the following responsibilities as inherently governmental functions:

- Determining what supplies or services are to be acquired by the Government;
- Approving any solicitation documents, to include documents defining requirements, specifications, incentives, and evaluation criteria;
- Negotiating;
- Awarding contracts;
- Approving post-award contract changes to include, but not limited to, ordering changes in contract scope, schedule, budget;
- Responding to evaluations of Contractor performance and accepting or rejecting Contractor products or services; and
- Terminating contracts.

It is the responsibility of the Purchasing Entity placing the order to make the determination if an action must be performed by the government or may be performed by a Contractor. Ordering activities must require prospective Contractors to identify potential conflicts of interest and address those, prior to task order award. For more information, see Attachment B Scope of Work.

III. **Contractor Responsibility**

The Contractor shall be able to provide **all services in both Procurement Assistance Support Services (PASS) and IT Research, Advisory, and Consulting (IT RAC)** as described below. If the Contractor does not maintain the subject matter expert in-house, it will be their responsibility to secure the services needed as the Prime Contractor.

IV. **General Requirements**

Contractors shall be responsible for meeting the general requirements applicable across all categories. These requirements include:

- Experience
- Customer Service
- Management
- Quality Control
- Personnel/Staffing

Contractors are expected to maintain the highest standards of these requirements throughout the life of the contract and must require all Subcontractors to attest to the same standards of service.

V. **Task Orders**

During the Master Agreement term, Contractor may be required to provide services for a particular project(s), which is agreed to via a Task Order(s). The Participating Entity shall define the specific objective(s) to be performed by the Contractor including but not limited to; the project scope of work, and implementation schedule milestone(s) including payment milestones.

A. Participating Entity Initial Project Needs Assessment:

1. Upon Participating Entity's request, Contractor shall schedule at a mutually agreed date and time, an initial Participating Entity needs assessment consultation meeting ("Needs Assessment Meeting").
2. Prior to the initial Needs Assessment Meeting, Participating Entity may provide Contractor an agenda including but not limited to, the following items:
 - a. An introduction of Participating Entity participants;
 - b. An overview of potential project scope(s) and/or statement of work deliverables, an overview of Participating Entity's intended outcomes, goals and objectives, an overview of post project management deliverables to ensure completion and/or implemented.
3. Within three (3) business days upon the completion of the Needs Assessment Meeting, Contractor shall provide Participating Entity a summary of the deliverables to be incorporated into a task order. The task order(s) document must include but not be limited to:
 - a. Identification of Participating Entity stakeholders and/or Participating Entity project management supervisor(s)
 - b. A breakdown of labor categories and hours. If requested, resumes of personnel assigned to the task order.
 - c. The proposed total cost pursuant to the Task Order; and
 - d. Specific anticipated benefits, cost savings, and anticipated outcomes for each Participating Entity approved service(s).

B. Statement of Work Development:

1. In collaboration with Contractor, Participating Entity shall finalize the statement of work.
2. Statement of Work requirements include, but are not limited to:
 - a. A description of the project objective(s), scope of work(s), timeline, milestone(s) and/or implementation schedule(s), total cost summary including in person training or virtual requirements as requested by Participating Entity.
 - b. Specific Contractor Deliverables including, but not limited to, reports, charts, graphs, presentations, and deliverables as required by the Participating Entity.
 - c. Goal and outcome measures.

C. Contract Services

1. Status reports (as required by the Purchasing Entity): The Contractor shall provide, electronically, a Monthly Status Report (MSR). Distribution of this report will be determined by the Purchasing Entity. The MSR shall focus on contractual items, such as travel cost expenditures, performance, personnel, schedules, and recap all problems, issues, concerns, and actions taken over the report period. The format of the MSRs shall be agreed to by Purchasing Entity. The Contractor shall prepare a MSR that includes:

- Overall status of services and capabilities
- Schedule for new activities
- Existing and potential problem areas and proposed resolution and timelines
- Proposed recommendations for improvements/enhancements to service, capabilities, management procedures, as appropriate

Deliverable: The Contractor shall provide the Monthly Status Reports no later than the 15th day of each succeeding month, commencing no later than 45 days after contract award or as agreed by the Purchasing Entity.

2. Quarterly In-Process/Status Reviews (IPRs) (as requested by the purchasing entity): The Contractor shall organize and present quarterly (IPRs) as requested. The method and schedule for these reviews shall be in the Contractor's Program Management Plan approved by the purchasing entity. The objectives of these reviews are to track project progress, identify and resolve issues, and identify project risks and mitigation strategies. The Contractor shall submit to the purchasing entity an "Action Item Report" 15 days after the meeting has taken place that documents what was agreed to by the purchasing entity and Contractor and what the Contractor is doing to resolve outstanding issues, all of which would not impact the contract price or costs, schedule or terms and conditions of the contract.

The Contractor shall present the following at each review:

- a. Review of all open items and issues.
- b. Status of each outstanding task.
- c. Data collected from continuous evaluation of the work performed using benchmarks and metrics designed to improve its quality, user-satisfaction, and cost effectiveness, including information on "lessons learned" and best practices.
- d. Self-assessment of their performance against the performance measures delineated in the Performance Management Plan (PMP) to include the methods, metrics and data used
- e. Contractor recommendation to the Government on changes to the contract for improving the overall quality of services, to include implementation plans, schedules, savings, avoidances, benefits, and impacts associated with the recommendation(s).

D. Services – Purchasing Entity Furnished Materials and Facilities

Facilities, Supplies and Services - Work may be performed at a Purchasing entity provided facility, digital or telework (offsite). Basic facilities such as work space and its associated operating requirements (i.e., phones, desks, utilities, information technology, consumable and general-purpose office supplies) may be provided while working in a Purchasing Entity facility. Information - The Purchasing Entity may provide information, material and forms unique to the Purchasing Entity for supporting the task. All Purchasing Entity unique information related to a requirement, which is necessary for Contractor performance, may be made available to the Contractor. The Purchasing Entity will identify the point of contact for identification of any required information to be supplied by the Purchasing Entity.

Documentation - All existing documentation, relevant to a task accomplishment, may be made

available to the Contractor. The Contractor will be required to prepare documentation in accordance with defined guidelines provided by the Purchasing Entity.

E. Travel

The Contractor may be required to travel in performance of orders issued under this contract.

The Contractor shall be reimbursed actual cost of all travel conducted while providing the services in accordance with statements of work and respective Purchasing Entities' regulations. Allowable travel and State per diem charges will be agreed upon at the time work is requested. Thus, all travel shall be pre-approved.

The Contractor shall perform all travel necessary to accomplish the tasks contained in a task order. At a minimum, the Contractor shall be prepared to travel in conjunction with studies, vendor site visits, and to provide support at Purchasing Entity meetings. All travel requirements shall be approved in advance by the Purchasing Entity. The Contractor shall be responsible for making all travel arrangements.

Costs for transportation may be based upon mileage rates, actual costs incurred, or a combination thereof, provided the method used results in a reasonable charge. Travel costs shall be considered reasonable and allowable only to the extent that they do not exceed, on a daily basis, the maximum State per diem rates in effect at the time of the travel.

If the additional expenses are not justified and approved by the Participating Agency, Contractor will be responsible for paying the difference.

F. Post Award Management Plan

1. **Quality Control.** The Contractor shall provide quality services/products and management oversight of all processes. The Contractor shall provide accurate data/reports and meet task order objectives, with emphasis on overall success and positive impact to the acquisition program and organizational mission. The Contractor shall provide for the management and support of personnel, to include training, guidance, and supervision of qualified personnel to accomplish the task order.
2. **Performance Management Plan (PMP).** The Contractor shall develop and maintain throughout the contract, a Performance Management Plan (PMP), that shall be used as a foundation for technical direction, resources management planning and the method of assuring quality performance during this contract. The plan shall include the approval process to replace any key personnel, when applicable.
3. The PMP shall include, but not be limited to, the following information:
 - Planned initiatives and key events
 - Staffing Plan
 - Contractor/Government Organizational relationships, including Subcontractors and problem escalation process
 - Subcontract Management (if applicable)

The PMP shall be approved by the Lead State Contract Administrator (CA), and there will be no deviation from the PMP, unless agreed to by the Contractor and CA. Where the Contractor identifies deviations from the plan, the Contractor shall provide the supporting

rationale necessitating the deviation, in a written submission to the CA. It is the Contractor's responsibility to keep the PMP up-to-date.

Deliverable: The Performance Management Plan shall be submitted for approval to the CA no later than 90 days after contract award.

G. Additional Contractor Requirements

- Each Contractor shall:
 - Adhere to its Contract with the Lead State and Purchasing Entities;
 - Provide all labor, materials and equipment necessary to meet the RFP Requirements;
 - Communicate contract requirements to its Subcontractors' personnel and direct and coordinate project activities to ensure that the services progress efficiently and are completed on schedule;
 - Ensure that it is current with all payments and registration fees and similar financial obligations owed to the Lead State and Purchasing Entities during the term of its Contract with the Lead State and Purchasing Entities;
 - Fully cooperate and maintain effective communication with the Lead State and Purchasing Entities and cooperate in the resolution of problems, suspected problems or potential problems;
 - Comply with all required reporting both to NASPO as well as any State with an executed Participating Addendum.

VI Service Expectations

The following describes the expectations within each award category and expected outputs for each subcategory that are within the scope of work of the Master Agreement. These services are actions that may be utilized throughout the procurement lifecycle and may be required at any phase.

Category: Procurement Assistance Support Services (PASS)

Subcategory 1	Procurement Strategy/Strategy Plan
Subcategory 2	Independent Government Cost Estimate
Subcategory 3	Specifications/Scope of Work Review
Subcategory 4	Market Research
Subcategory 5	Cost & Pricing Analysis
Subcategory 6	Solicitation Review or Preparation
Subcategory 7	Source Selection
Subcategory 8	Cost Realism Analysis
Subcategory 9	Contract Development/Contract Formation
Subcategory 10	Contract Management
Subcategory 11	Vendor Performance Evaluation Program

1. Subcategory One – Procurement Strategy/Strategy Plan

The procurement team is made up of stakeholders that will participate in developing the procurement strategy plan. Stakeholders are individuals who have an interest in the needed goods or services. These individuals provide a significant contribution to the effort based on their subject matter expertise of the project scope or deliverables. Depending on the complexity of the procurement, support services may be needed to develop the plan. Services within this category are as follows:

1. Procurement Plan Development/Review. Contractor shall provide services to include advice and recommendations for all elements in the plan, including approaches, options, strategies, risks, contracting methods, competition, sources, cost, milestone schedule, etc. If not available in-house, the subject-matter-expert(s) shall be obtained/contracted by the awarded Contractor(s) for this category. The plan should contain the following information:

Acquisition Background

- Description of Requirement/Statement of Need
- Conditions
- Background and Contract History
- Contract Type: Unit costs or lump sum
- Performance Period
- Capability and capacity of Performance
- Estimated Schedule
- Estimated cost/budget

Plan of Action

- Service Description
- Potential Sources
- Market Research Results/Interested Sources
- Acquisition Approach
- Competition
- Source Selection Procedures
- Contracting Considerations or Incentives
- Other Considerations

Contract Administration

Surveillance: Monitoring timelines with milestones
Monitoring performance during contract period
Verifying contractor's performance of SOW through checklist(s)

2. Research/Reports. The Contractor shall research existing Government-wide contracts for available products and services. Contractor shall evaluate different approaches to and sources for acquisition support. Contractor shall research available suppliers and compare the services and costs of obtaining support from different providers. Information gathered shall be provided in a report form for use the development of a procurement plan.

Contractor shall provide advice and recommendation for all elements in procurement plans, including approaches, options, strategies, risks, contracting methods, competition, sources, cost, milestone schedule, etc. Research existing Government-wide contracts for available products and services. Evaluate different approaches to and sources for procurement support. Research available suppliers and compare services and costs of obtaining support from the different providers.

Outputs: Written acquisition/procurement plans.

2. Subcategory Two – Independent Government Cost Estimate

An Independent Government Cost Estimate (IGCE) is a tool developed by government personnel to estimate the costs incurred by a Contractor in the performance of a contract. An IGCE is generated by the government, who may utilize and obtain input from an outside Contractor. Such Contractor remains confidential and will not be allowed to respond to a solicitation for which it participated in the IGCE in any manner whatsoever. The IGCE is an unbiased realistic cost estimate that reflects a clear understanding of the requirements. IGCEs serve various functions as:

- A projected, anticipated, or probable cost;
- A benchmark for establishing cost/price analysis;
- An analysis of reasonable and required resources to perform the contract; and
- A justification for decisions made throughout the procurement life cycle.

Specifically, IGCEs are used to project and reserve funds for acquisitions, determine if assumptions in a cost proposal are based on the same or similar assumptions, and determine fair and reasonable pricing.

This category of services is for **consultation and/or assistance in the development** of IGCEs. Government agencies do not always have sufficient resources or expertise to conduct these cost estimates on their own and may rely on third party Contractors to generate these reports on their behalf. Contractors providing these services under the resultant cooperative agreement shall be required to sign non-disclosure agreements and may not have a vested interest in the contract for which the Contractor is generating the estimate. Contractor must be unbiased and objective in its approach and methodologies.

Services within this category are as follows:

1. Data Collection. Contractor shall collaborate with the agency to gain a thorough understanding of the contract scope of work for which the IGCE is being generated. Contractor shall establish a plan that identifies stakeholders and other resource requirements necessary to generate the

IGCE, including a schedule that specifies the start date and delivery date for the final report, and a list of all potential sources of information required to complete the cost estimate.

At a minimum, the Contractor shall request and receive the following information:

- Statement of Work (SOW) and supporting scope documents (solicitations, drawings, plans, etc.)
- Any agency-developed cost estimates or contractor cost proposal and technical approach.
- Basis of Estimate (BOE), including a description of the scope, methodologies, references and defining deliverables, assumptions and exclusions, clarifications, adjustments, and level of uncertainty.

Other documentation or information that is useful in performing an IGCE include, but are not limited to:

- Past purchases of similar products or services
- Market research and knowledge of current economic conditions
- Proposal narrative, including background
- Work Breakdown Structure (WBS) and WBS Dictionary
- Project schedule
- Risk management plan
- Rates for fees or other mark-ups
- Lists of government-furnished property, equipment or services
- Cost estimate back-up documentation such as contracted labor rates and associated mark-ups, subcontracted quotes, specification sheets, purchase orders, and catalog cut sheets

2. Sufficiency Review. Once all requested information has been received, Contractor shall review the information for sufficiency to ensure adequate quantity and quality of data exists to develop an accurate and effective IGCE. The Sufficiency Review serves to:

- Determine all costs involved in performing the contract scope of work, including any direct and indirect costs as well as contractor profits and fees.
- Examine the information to ensure that it meets the technical requirements for its intended purpose.
- Determine whether the information is clearly documented, well organized, and presented at an appropriate level of detail, and that summary documents are traceable to the supporting documentation.
- Look at the depth and breadth of the supporting documents, and data contained therein.

The Sufficiency Review may determine that certain documentation is insufficient for proceeding with the cost estimate. In such instances, Contractor shall notify the agency, provide a list of the documents that are insufficient, and provide reasons for the finding or specific information needed to make the document acceptable.

3. Data Analysis. Data Analysis consists of two components: review and analysis. The review component consists of an in-depth examination and qualitative analysis of all the sufficient information requested and received as part of Data Collection. Contractor shall conduct a

thorough review of the SOW, agency-developed cost estimates or contractor-developed cost estimate or proposal, BOE, and any other sufficient information received. Contractor shall apply the appropriate estimating methodologies to the data to generate the IGCE.

Once the IGCE is generated, the estimate must be validated. Contractor shall employ the appropriate cost-validation techniques to test the cost estimate and determine whether it is reasonable and includes all necessary costs. Some commonly-accepted techniques include spot checking and preparing a check estimate. Offerors shall detail in their proposals the cost-validation techniques they utilize to validate cost estimates.

4. **Results Reporting.** Contractor shall prepare an in-depth IGCE report detailing its findings. The IGCE report prepared by the Contractor shall describe the BOE and provide the agency with recommendations based on the findings to assist in decision-making throughout the procurement life cycle. Contractor may be required to update the IGCE report as the acquisition progresses through the different phases of the procurement life cycle.

Contractor shall provide services that may include but are not limited to research and analysis of past purchases of similar products or services, current market value of the products or services, or other agency purchases of similar products and services.

Outputs: IGCEs.

3. Subcategory Three – Specifications/Scope of Work Review

After a need is determined, the quality, price and the performance of a product or service depend almost entirely on the purchase description used to communicate the requirement. If a specification was used as a method of describing the requirement, which mostly happens for services, that specification must be clear and concise. Challenges by potential suppliers, costly delays in completing a project or unnecessary problems further down the line are, in most instances, attributed to an improper, inadequate description of definition or requirements. The additional effort spent at the beginning of the procurement lifecycle increases the probability of full satisfaction in meeting the needs of the end-user, procurement and contract specialist and Contractor/supplier.

This category of services is for the **review and/or assistance in development** of a scope of work (SOW) or specification(s). If not available in-house, the technical specification development by a subject-matter-expert shall be obtained/contracted by the awarded Contractor(s) for this category. Services within this category are as follows:

1. **Review Services.** Provide recommendation to amend/develop specifications/SOW to produce correct, clear, and concise obligations of all parties with respect to the needed goods or services. Review services shall include verification, validation, and recommendation so that the SOW/specifications for needed goods and/or service clearly identify how the specification/SOW may be amended/changed to reflect the following:
 - The wording of the scope shall be precise.
 - The overall message should be clear and understandable.
 - The specification should simplify the process.
 - The tolerances should be reasonable.
 - The scope/specification should provide a relatively easy process to verify acceptance or rejection.

- The specification should be exact.
 - The specification should not be restrictive, but be broad enough to allow competition. If, however, there is justification for a restrictive specification/SOW, the report/recommendation shall provide a clear explanation for the need of the restrictive specification.
 - The specification/SOW should provide some built-in flexibility that is applicable to the industry.
2. Requirement Analysis. Requirement analysis is value analysis applicable to the writing of specifications or SOW to eliminate products and services that are not cost effective. The Contractor shall identify and make recommendations to specifications or SOW to ensure that an agency will obtain the best products or services that are available in the market at fair and reasonable prices. Requirement analysis services shall include review, analysis and recommendation and clearly identify how the specification/scope of work may be amended/changed to reflect the following, as applicable:
- Eliminate a requirement that is not cost effective.
 - Improve the quality level without impacting the cost(s).
 - Describe requirement(s) of quality standards to increase the service life.
 - Achieve total value, i.e. not only initial expense as the award factor.
3. Specification Writing (Technical). Contractors' support team members shall possess strong communication skills and expertise in needed topics and programs. In addition, technical writers must have the skills to research and effectively interview subject matter experts (SMEs), if they are not the SMEs themselves. The technical writer should gather information and communicate complicated ideas in a clear and informative manner.

Contractor(s) shall be able to provide specification writing services for all types of specifications, such as design, specifications, performance specifications, or market grades to name a few.

The Contractor shall assist in the development and preparation of pre-award Request for Information (RFI), Statements of Work (SOW), Statements of Objective (SOO) and other requirements documents. This effort includes assisting in researching and drafting specifications and standards, including Performance-based Work Statements (PWS); developing performance measures, providing consultation and recommendations; and coordinating requirements documents. Note: State to state may vary on what they call SOW, i.e. statement of work, statement of need, scope of work, etc.

Outputs: SOWs; SOOs; PWSs; and related documents, i.e. restrictive specifications justification.

Surveillance: Monitoring timelines with milestones
 Monitoring performance during contract period
 Verifying contractor's performance of SOW through checklist(s)

4. Subcategory Four – Market Research

Market Research is a necessary step to identify available sources to meet the needs of any given solicitation. Market research refers to the examination of available sources to find the available sources of supply which may identify critical business requirements. Due to limited resources or timing, agencies may require the assistance of an outside Contractor to provide necessary data to develop a solicitation that will reach the widest distribution possible.

This category of services is for **consultation and/or assistance with market research services**. Services within this category are as follows:

Market Research Services – Contractor shall research available suppliers and compare the services and costs of obtaining goods or services from different providers. Information gathered shall be provided in a report form for use in the development of a competitive solicitation. The Contractor shall provide advice and recommendation for all elements in market research, including approaches, options, strategies, risks, methods, competition, sources, cost, milestone, etc. Research existing Government-wide contracts for available products and services. Research available suppliers and compare services and costs of obtaining support from the different providers.

The market research team should consider the following:

-
- The overall budget for the project should be clearly stated and the funding source should be identified prior to commencement of services.
- The Market Research Plan should be agreed upon by all parties before any commencement of services.
- The methodology to be used should be clearly specified and agreed upon by all parties.
- The research should have a simplified process.
- The target markets should be clearly identified.
- The research should be broad enough to capture the largest possible data set.
- The research should not be overly restrictive.
- The research should provide some built-in flexibility that is applicable to industry.

Outputs: Market research documentation.

5. Subcategory Five – Cost & Pricing Analysis

A Cost & Pricing Analysis conducted before a Request for Proposal (RFP) is released will assist a State in determining how to capture all costs related to a project, determine which method is best for evaluating cost, and if the budget for said project is realistic. Cost & Pricing Analysis is a key component to predicting the viability of a project. Because of limited resources or timing, agencies may require the assistance of an outside Contractor to assist with a Cost & Pricing Analysis for stakeholder review.

Cost & Pricing Analysis may also be conducted after BAFOs are received. Cost & Pricing Analysis may also be conducted post award for contract renewals, modifications, or assistance in determination of termination due to non-compliance with contract terms.

This category of services is for **consultation and/or assistance with cost & pricing analysis services**. Services within this category are as follows:

Cost & Pricing Analysis – Contractor shall assist in developing estimated cost and price elements for the work to be performed to prepare analyses for Stakeholders to make sound decisions on the financial viability of a project.

Cost & Pricing Analysis services shall include, but are not limited to:

- Developing plans and alternatives for effective price competition
- Informing states of impact of budget on technical, contract, and pricing outcomes
- Developing approach for State's/Stakeholder' budget planning
- Developing cost proposal solicitation documents to aid states in the development of the RFP
- Analyzing contracts/programs to assess price competitiveness
- Providing alternatives and research for stakeholders
- Providing estimates (case-by-case based on need of State/Stakeholder).
- Demonstrating value of RFP and/or new system/product to State/Stakeholder
- Providing a Make-or-buy analysis
- Providing a Go, no-go analysis
- Developing and analyzing BAFO requests
- Determining that the prices submitted by Offerors are acceptable, fair and reasonable
- Providing cost analysis during RFP evaluation – services performed to help States/Stakeholders analyze the cost proposals of several vendors to find best value
- Developing evaluation support documentation to help States/Stakeholders validate the reasonableness of proposed labor rates as well as indirect rates (fringe, overhead, general and administrative, and materials)
- Performing independent review of each cost element within an Offeror's cost proposal
- Providing post-award services (contract renewals, modifications, assistance in determination of termination if not in compliance with contract terms)
- Burn Rate Analysis
- Analysis of Change Orders & Modifications
- Award fee/incentive fee analysis
- Closeout payment analysis

Outputs: Cost and pricing analyses.

6. Subcategory Six – Solicitation Review or Preparation

The solicitation document is the official document inviting the vendor community to respond to the needs of the government entity. The solicitation should foster competition and ensure fair and equitable treatment of interested parties. Competition has multiple levels. Competition exists not only in prices but also in the technical competence of the vendors and in the quality of their products or services. The request for proposal process allows the opportunity for vendors to submit innovative solutions, increasing the Government's latitude of choice and assuring the reasonableness of costs.

This category of services is for the **review and/or development** of a solicitation document. Services within this category would be as follows:

1. Review Services Contractor shall provide recommendation to amend/develop any part of the solicitation document to produce correct, clear, and concise obligations of all parties with respect to the needed goods or services. Review services shall include verification, validation, recommendation to improve at minimum the following sections of the solicitation:
 - Scope of work, statement of work or specifications.
 - Standard bid/proposal clauses such as bid guarantee, indemnification, intellectual property rights, insurance, etc.

- Evaluation criteria.
 - Bidder/Offeror qualifications.
 - Proposal format.
 - Administrative and Technical Response Requirements.
 - Price and Cost sheets.
 - Contract administration, post award.
 - Payment terms.
2. RFP Development. Contractor shall develop and prepare the solicitation document, which may be a request for quotes (RFQ), request for proposals (RFP), including two-step process solicitation or any other hybrid solicitation within the system of that State. The solicitation shall include all appropriate solicitation terms and conditions applicable

Outputs: Solicitations

7. Subcategory Seven – Source Selection

The nature of the source selection planning process, the techniques for obtaining information, the procedures used in evaluation, and the decision-making methods vary from procurement to procurement. Source selection planning entails: preparing to receive bids or proposals, preparing to apply evaluation criteria, and determining standards to select a Contractor. Proposals are often separated into technical and price sections with each evaluated separately. Evaluation may be complex, requiring a panel of experts. Some proposal evaluation may require a consultant's assistance. The Source Selection Plan (SSP) should include: evaluation criteria, evaluation standards, weighting system, screening system, and source selection process.

This category of services is for **assistance in preparation of a source selection plan and source selection activities**. Services within this category are as follows:

Source Selection – Contractor shall develop and prepare source selection plans, in accordance with State statute and rules; instruct evaluation team members on roles and responsibilities; act in the capacity of an advisory role during the evaluation, which may include cost estimating or technical subject matter expertise; ensure Conflict of Interest/Nondisclosure forms are signed; prepare evaluation sheets or score sheets; and prepare draft of source selection decision memorandum.

Outputs: Source Selection Plans (SSP), Evaluation Sheets

8. Subcategory Eight – Cost Realism Analysis

Cost Realism Analysis is usually conducted after cost proposals have been received in response to a RFP. Cost Realism Analysis may be requested by States to determine if all components of cost have been contemplated from all vendors. Determining if cost proposals are acceptable and fair will assist States in a successful evaluation and award of a contract which is in the best interest of the State. Cost realism is about the system of logic, the assumptions about the future, and the reasonableness of the historical basis of the estimate. It's about the estimating information (cost data) that makes up the foundation of the estimate.

This category of services is for **consultation and/or assistance with cost realism analysis services**. Services within this category are as follows:

Cost Realism – The Contractor shall independently review and evaluate specific elements of each Offeror’s proposed cost estimate to determine whether the cost estimate is realistic for the work to be performed; reflects a clear understanding of the requirements; and is consistent with the unique methods of performance and materials described in the Offeror’s technical proposal. Cost realism analysis is conducted by evaluating the supportive data that form the bases of the individual elements of cost to determine probable cost of the performance. The probable cost shall be used for the purposes of evaluation to determine the best value. The probable cost is determined by adjusting each Offeror’s proposed cost, and fee when appropriate, to reflect any additions or reductions in cost elements to realistic levels based on the results of the cost realism analysis.

Probable Cost Estimate: is the Purchasing Entity's estimate of what it will cost for the Offeror to complete the contract based on the Purchasing Entity's evaluation of the offeror's technical proposal and proposed costs. This estimate is complimentary with and must be performed in conjunction with all cost realism analyses and is a principal product of the Purchasing Entity in the source selection evaluation process.

Cost Realism services shall include, but are not limited to:

- Determining the Offeror’s price is realistic for the work proposed
- Understanding and implementation of contract risk factors
- Developing a Purchasing Entity’s probable cost estimate
- Conducting cost to technical realism analysis

Outputs: Cost realism analyses.

9. Subcategory Nine - Contract Development/Contract Formation

The goal of contract development is to reduce in writing contract goals, contract type and contract elements. Identification of contract goals include the description of goods or services; delivery information (if applicable); protection of the financial interests of the agency; and any potential areas of dispute such as defining acceptance, handling wrong product, delays, personality conflicts, breach, payment or changes in a contract. The goals also include change order procedures.

The Contractor shall provide assistance to the government entity in the formulation of the contract between the awarded vendor and government entity.

This category of services is for **consultation and/or assistance with contract development**. Services within this category are as follows:

Contract Development

Requirements of the contractor, and/or their sub-contractor will include:

- A general working knowledge of each individual state’s procurement rules and regulations.
- A general working knowledge of the entity’s General Terms and Conditions.
- Appropriate staff with the level of experience to handle the different needs or difficulties of the contract.
- To be able to work with the state entity to develop a schedule for completion of the contract.

- Must have existing legal staff available to vet the contract for each entity's legal requirements.
- Must be able to interact with the awarded vendor's attorney to produce a contract that is amicable to both parties.
- Must be able to format the contract to the entity's preference.
- Must provide pricing for the different levels of staffing that will provide service.
- Will be required to be available to administer and manage supplemental agreements or legal issues that arise out of the formation of the contract for the duration of the contract.

Outputs: Contract documentation.

10. Subcategory Ten – Contract Management

Contract management refers to post-award type activities, such as contract implementation, contract administration, measurement of work completion and payment computation. Moreover, it involves the monitoring of a contract, making important changes and modifications to the contract and dealing with related problems. Activities in contract management facilitate a positive working relationship between the government customer, procurement staff, and the contractor for the successful implementation of the contract award. Acquisition consultants can assist the government procurement staff and program managers in various capacities of administration and facilitation with the contractor, not including any inherent governmental duties.

Services within this category are as follows:

1. Contract Administration. Manage the relationship between the Contractor and end user, including the monitoring contract fulfillment on the part of government agencies. Development of the Contract Administration Plan (CAP) which will define how the contract will be administered. Monitor contractor compliance with terms of the contract, including site visits and labor interviews.

The CAP provides a mechanism to reconcile the various contract documents and the order of precedence into a management tool that can be used to focus and govern implementation activities. The plan itself will vary based on the complexity, risk, and scope along with the requirements of each contract. In many cases a CAP should only be developed for high-risk or highly complex procurements. The frame of the plan should focus on the Who, What, When, Where, and How of contract administration. CAPs generally address a common set of topics, with particular emphasis on process, output and outcome. In government contract management, there may be less emphasis on the "process" the contractor uses to achieve the goals of the contract than of the achievement of the expected outputs and outcomes.

While Contract Administration Plans generally share a similar structure, the inclusion of each topic into the CAP should be chosen based on necessity rather than out of formality. Contract Administration Plan topics may include:

- Project description
- Period of performance
- Schedule, critical milestones and/or delivery dates
- Critical path tasks and deliverables

- Roles and responsibilities
- Data and reporting
- Inspection and acceptance
- Personnel requirements
- Testing
- Warranty provisions
- Watch list items
- Special terms and conditions
- Insurance
- Process for managing change and issue resolution

Outputs: Performance Workplan or CAP; Documentation of Contract Performance such as Observation Record, Compliance Record, Discrepancy Record, Unsatisfactory Performance Report, Summary Evaluation Report, Contractor Status Report.

2. Vendor Performance Plan Development/Review. The Contractor shall have experience drafting comprehensive plans outlining the agency and vendor responsibilities and requirements in an easy to understand document. The plan must describe processes needed and recommend tools that will guide the contracting agency through the vendor performance evaluation. The plan shall include, but not be limited to, how to:

- Improve communication between buyers and vendors regarding performance
- Encourage better performance and accountability through incentives and penalties
- Enable performance analysis through Key Performance Indicators (KPI) and benchmarking
- Capture performance data
- Identify strategic priorities and set targets
- Capture performance data
- Meet strategic priorities and improve programs

The plan shall include the method for scoring and weighting the evaluation criteria and how scores shall be tied to an award or incentive fee determination along with penalties. The plan shall explain how Contractors must receive evaluation criteria, be informed of their performance during the contract, be debriefed at the end of the contract and deal with appeals.

3. Contract Modifications. Assist in the preparation of incentive and award fees. Incentive fees are typically dependent upon the performance over a given period and are usually taken in relation to a benchmark index. Award fees provides an additional profit or fee amount that may be awarded, in whole or in part, based upon periodic evaluations of ongoing contractor performance. Assist in review of directed changes, formal changes to the original contract resulting from the buyer's actions or directions that impact the cost or schedule for performance. Determine if a constructive change has occurred, that is, any action or inaction on the part of the agency that have not been made through a formal change order, which causes the Contractor to perform additional work outside the scope of the original contract. Contractor can assist government procurement staff and program managers in review and recommendation to make the appropriate contract modification.

Outputs: Award or incentive fee determinations; contract modification determination.

11. Subcategory Eleven – Vendor Performance Evaluation Program

Contract closeout involves several activities. Unlike a purchase order where receipt of the items ordered and subsequent payment constitute closure, a contract requires documentation to the contract file that includes a written report with the description and analysis of the Contractor's performance. A quality vendor performance review (aka performance evaluation) assesses how the vendor is performing against Key Performance Indicators (KPI)'s and Service Level Agreements (SLA)'s established in the vendor's contract. However, it can also show non-contractual performance issues, such as incidents that aren't measured by a service level.

This category for services is for the assistance in the development and implementation of a Vendor Performance Evaluation Program. This does not include vendor performance evaluation for construction contracts. Services within this category are as follows:

Evaluation Program. The contractor shall understand and have insights into the requirements needed to develop a vendor performance evaluation program. The contractor shall work with the contracting agency to determine information that is useful in creating a vendor performance evaluation to include, but not limited to:

- When the vendor performance evaluation is needed and how often it should be measured.
- The KPI's, such as contract compliance, customer satisfaction, cost competitiveness, cost control, continuous improvements, and timeliness should be clearly identified along with formulation of templates for the evaluation which shall become standardized.

Output: Key Performance Indicators, Vendor Performance Evaluation Program.

Category: IT Research, Advisory, and Consulting (IT RAC) Services

At a minimum, Contractor should be able to meet the following:

Contractor will provide Information Technology Research, Consulting, and Advisory services. Information Technology topics may include, but are not limited to, the following:

IT business advice, objective IT research, and IT data that is thematic, prescriptive, and executable, and that provides a comprehensive perspective on the rapidly changing IT environment. Sponsors of research must be identified. Access to an online database containing IT research articles. The database should contain at least 1,000 articles or more including white papers, research reports, webinars, bulletins, summaries, and any other IT research oriented documents published within the last five years.

Response to over-the-phone inquiries regarding published articles and direction on other available resources. Advisory services regarding strategic and tactical planning for customer's IT policy development. On-site workshops, advisory engagements, and conferences on IT related topics.

IT topics may include, but are not limited to, the following:

- Planning and establishing IT policies, procedures, and best practices
- Establishing and implementing IT governance
- Review of new and emerging Information Technologies
- Assistance with IT Procurement and acquisition decisions for IT hardware and software
- Software licensing and Asset Management

- Application/system development
- Data analytics, data management, and business intelligence
- Information security
- Strategic planning and Enterprise Architecture
- Evaluations of industry issues, products, and major trends in the marketplace
- IT Benchmarking
- Digital transformation and Digital Government Services
- IT talent, recruiting, and retention
- TelCom, IP telephony, and call center solutions
- Disaster recovery and business continuity
- Cloud computing
- Mobile device strategy and management
- Emergency response and radio communications
- Enterprise CRM

Value Add / Support Services as described below may also be included to support the IT RAC award.

Category: Value Add/Support Services

Listed below are examples of additional value add services Contractor may provide under the Master Agreement. These services are optional. Should a Contractor wish to provide these services, they must submit a list of additional value add services they offer and prices for these services.

The list of value add services includes but is not limited to the following items:

Value Add 1	Procurement Policy and Digital Procurement Transformation
Value Add 2	Category Management
Value Add 3	Change Management and Procurement Transformation Assistance
Value Add 4	Procurement Training
Value Add 5	Project Management
Value Add 6	Grants Assistance and Management

1. Value Add 1 – Procurement Policy and Digital Procurement Transformation

A Purchasing Entity is governed by its states’ procurement statutes and rules. Each departmental head is responsible for planning his/her projected procurement needs on an annual basis. A departmental procurement policy provides guidance a purchasing entity should follow to comply with its procurement code. Assistance may be necessary in preparing guidelines and for future planning/implementation for digital transformation.

Services within this category are as follows:

Procurement Policy Writing – Contractor shall assist in developing a high-level overall plan embracing the general goals and acceptable procedures as it relates to the expenditure of governmental funds.

Procurement Policy services shall include, but not be limited to, writing procedures for:

- Appointing and paying consultants
- Appointing and paying temporary staff
- Appointing and paying casual workers
- Procurement planning for goods and services
- Vendor Selection, to include:
 - Selection criteria
 - Use of dealers and sole suppliers
 - Recurring purchases
- Procurement Processes
- Procurement Controls

Digital Procurement Transformation Assistance. – Contractor shall assist in researching opportunities for digital procurement transformation, which may include radical reconceptualization and reorganization of procurement strategy, processes, people, skill sets and support systems, triggered by new and emerging digital technologies. Assistance may include, but not be limited to, studying the following areas of digital transformation:

- Business Model Transformation
- Process Transformation
- Domain Transformation
- Organization Transformation – see Category Fourteen

Outputs: Policy analysis and briefings. Policy guides and handbooks. Transformation analysis and white paper.

2. Value Add 2 – Category Management

Category management is a strategic approach to purchasing that allocates a government's procurement resources into specific categories of spending to be analyzed by category managers and aligned with the marketplace through in-depth spend and market analyses.

The main objective of Category management is to build efficiencies and maximize purchasing decisions across the agency by reducing duplication in the contracting process; better leveraging the government's buying power, and promoting the use of innovative and best in class solutions.

By consolidating purchases into main areas of spend, category management serves to move the government away from managing purchases and evaluating prices individually across multiple purchasing units to more directly managing entire categories of common spend to deliver better value for the entire agency.

This category for services is for the **assistance in development and implementation of** an action plan for Category Management or Product and Service Catalogs. If not available in-house, the action plan development or implementation by a subject-matter-expert shall be obtained/contracted by the awarded contractor(s) for this category. Services within this category are as follows:

1. Data analysis. The Contractor shall have knowledge of principles and practices in public procurement including category management and have a clear understanding of various types of

commodities and government services. Contractor shall be well versed in data analysis including the collecting of historical procurement data and analyzing agency spend data and procurement needs. The contractor shall also conduct in depth spend analysis using the agency's existing code structure (NIGP, NAICS, UNSPC or other). If no code structure exists, the vendor will help to consolidate minor categories and identify major categories of spending.

2. Supplier analysis. The Contractor shall have in-depth knowledge of the supplier marketplace and current economic conditions. The contractor will conduct market analysis to align the identified major categories of spending with the marketplace. Suppliers in the marketplace will be analyzed on their market share, historical changes and overall business health. Emphasis will be put on identifying suppliers that are looking to gain market share and can be leveraged for best prices; and identifying overlaps in suppliers to consolidate categories.
3. Action plan development. The Contractor shall have experience developing specifications and scopes of work aimed at creating efficiencies and reducing costs, developing and executing procurement strategies, driving process improvements and effectively instituting key performance metrics. The contractor shall develop, draft and assist in the execution of an action plan that details the findings of the data and supplier analyses and provide recommendations for implementing category management organization/agency-wide. Action plans should be inclusive of procurement organization and process changes, including timelines and flow charts of how the organization will move from its existing purchasing structure into a category management structure.

The action plan shall include but not be limited to:

- The purpose, strategic mission and vision associated with the new organization direction and structure of the organization/agency.
 - The development of an ongoing program to analyze purchasing trends, develop options to reduce costs, improve timely delivery, and enhance the purchasing agencies supplier management strategies, including; performance tracking, benchmarking and planning for future category adjustments.
 - The development of a system by which the agency can monitor and track spending data including but not limited to information pertaining to what the agency buys, who it buys it from and what it pays.
 - The step-by-step walkthrough and explanation of requirements for a phased in approach to reorganizing the existing workforce and hiring additional employees to successfully implement a Category Management organization/agency/office structure.
4. Organizational restructure. The contractor shall have knowledge of staffing and management practices as it relates to structuring and organizing a workforce for Category Management. The contractor will be responsible for identifying, communicating and working with stakeholders to identify category managers, category workforce and acquisition workforce. As these stakeholders are identified, the contractor shall collaborate to share the knowledge of the analyses, create insights and trainings designed to serve all stakeholders and align staff with the strategic vision. The contractor will assist in overseeing all hiring and management decisions during implementation to ensure that staffing choices align with the Category Management structure. The contractor will assist in the development of staff evaluations designed to encourage

performance and competency within the organization/agency. Upon completion of the restructuring the contractor shall conduct “a lessons learned” and benchmark/milestones presentation to empower the organization/agency to move forward without the need of continuing assistance or consultation.

5. Product and Service Catalogs. The contractor shall have knowledge and experience in e-sourcing and strategic sourcing, including the building of catalogs to consolidate purchasing categories and create ease of access for purchasing agencies. The Contractor shall follow the steps for category management including data and supplier analysis and the creation of an action plan designed for the implementation of organization/agency wide electronic catalog services. The contractor may assist in the development of specifications and evaluation metrics for selecting an appropriate e-catalog provider. The contractor shall also assist in the creation of data collection procedures to track catalog purchases and consolidate catalog categories.

The Contractor shall assist in the planning and implementation of a Category Management procurement process and structure. This effort including assisting in data and supplier analysis as well as the restructuring and staffing of the workforce needed to meet the need of a Category Management system. The contractor may rely on third party tools, methods and best practices to properly empower the contracted organization. All information and insights gathered including the best perceived path forward will be summarized in an action plan, the overarching document for this category that explains all necessary steps to move forward. After the delivery and acceptance of the action plan, the contractor may assist agencies in implementing the changes proposed, including, but not limited to, establishing measurements to track and grow the categories. This includes coming up with benchmarks, projecting future opportunities for efficiencies and category streamlining, creating dashboards and data analytic tools to track the progress of category spend against the benchmarks and creating supplier performance metrics to evaluate suppliers as the categories mature.

Organizations/Agencies may contract through this category for the development of a Product and Services Catalog. The catalog service can be contracted as a stand-alone service or in addition to the Category Management system. Contractors shall deliver an action plan similar to that required for Category Management outlining the steps needed to implement an online Catalog. After delivery and acceptance of the action plan, the contractor may assist in the implementation of the Product and Services Catalog including but not limited to the acquisition of required software and the rollout of the Catalog to the vendor community.

Outputs: Action Plan, Dashboards and other Data Tracking Tools, Product and Services Catalog

3. Value Add 3 – Change Management/Procurement Transformation Assistance

Change management in procurement is a process of adapting changes to a department’s way of conducting business. The change could be through new leadership, changes in the procurement law, or digitalization/technology driven. When introducing and managing change, it requires integration, retirement of an old system or process, while adopting new procedures, processes, and workflow. The first step is to prepare a business case, which may include an executive summary, the purpose of the project, option and risks for accomplishing goals, estimated effort and cost of change(s), and timescale for completion. The second step is to assess vendors, users and processes. The third step is to implement changes. And last is to manage the changes. All this information would be described in the organizational change management plan.

The Contractor may not only assist in developing the plan but assist throughout the process by

implementing and managing the plan and steps to reach the final goal.

The Contractor shall assist in the process of implementing changes and improvements to the way an organization procures goods and services. For digital procurement transformation see Category Twelve.

Outputs: Organizational Change Management Plan: Business Case; Vendor, User and Process Assessment; Solution.

4. Value Add 4 – Procurement Training

The Scope of Services provided may include training for any phase of the Procurement Life Cycle and cannot stand alone. In other words, a task order cannot be only for training. Training services resulting from this contract will be available on an as needed basis.

The Contractor must provide a separate line-item pricing for the training.

Unless otherwise agreed upon between the Participating Entity and any Contractor, the Participating Entity will be responsible for providing the following:

1. Training Area: Participating Entity will provide or make available; training locations as may be necessary or appropriate for the Contractor to perform the obligations, inclusive of a virtual platform. Pricing will not be based on a subscription as in content creation or LMS.
2. Equipment: All Equipment necessary to conduct training, if applicable, and as specified in any Task Order.

Outputs: Training Guidance/Manual; Training Videos; Tool Kits

5. Value Add 5 – Project Management

Contractor shall provide project management services inclusive of planning and execution of a particular public sector procurement project(s) and deliverables pursuant to the Participating Entity's Task Order. Project management in procurement is further defined as tangible actions, processes, outcomes and deliverables performed by Contractor's Project Manager I and/or Project Manager II pursuant to Participating Entity's Task Order with the exception of information technology procurement activities which are prohibited.

At a minimum, and in addition to the minimum required qualifications of Contractor's Project Manager I and Project Manager II labor categories, Contractor staff in these positions shall possess extensive knowledge and experience in the design, development, active oversight and management, administration including development and presenting of procurement project management reports as required by the Participating Entity.

The Contractor shall develop, maintain, and provide Participating Entity a PMP per the Contractor performance metric specified below. The PMP shall include but is not limited to the following elements:

1. Planning, Logistics and Performance Oversight:

- a. Structure of Contractor management and oversight of all Project Manager I and/or Project Manager II positions deployed per Task Order
- b. Delineation of responsibilities of Project Manager I and/or Project Manager II positions deployed per Task Order
- c. Resume of Project Manager I and/or Project Manager II positions deployed per Task Order
- d. Letters of commitment of Project Manager I and/or Project Manager II positions deployed per Task Order
- e. Determination of onsite versus offsite performance. If onsite, start date and equipment available for Project Manager I and/or Project Manager II positions deployed per Task Order
- f. Oversight of Project Manager I and/or Project Manager II positions deployed per Task Order
- g. The Contractor shall describe its plan to manage offsite and onsite Contractor Parties without Participating Entity direct supervisor or interference throughout the Task Order term and/or periods of Performance. Contractor shall provide a description of quality control processes and procedures planned (to include any certifications and quality management systems used), as well as the quantitative metrics intended, to execute and monitor compliance with Contract requirements and Deliverables. Contractor shall provide a strategy to address retention of Contractor Parties and necessary equipment throughout the Task Order Term and/or periods of Performance. Contractor shall include a plan to include but not limited to; address assigning Contractor Parties by the Notice to Proceed date, mitigation of the unavailability of equipment, overall Contractor readiness, availability, scalability and logistical deployment of Contractor Parties and equipment.
- h. Quality Control, Assurance and Compliance Plan (“QCP”)
- i. Contractor’s QCP plan and strategy overview for PMP activities performed per Task Order
- j. Other as directed by Participating Entity per Task Order.

Upon review, the Participating Entity reserves the right to direct changes to this plan and request subsequent plans at no additional cost.

Outputs: Project Management Plan (“PMP”):

6. Value Add 6– Grants Assistance and Management

Contractors shall provide consulting services and/or training related to procurement using federal funding and/or federal grant requirements. This shall include uniform guidance under 2 CFR 200, Build America, Buy America (BABA) requirements, or specific federal requirements related to grants by:

- US Department of Defense (DoD)
- Federal Aviation Administration (FAA)
- Federal Transit Administration (FTA)
- Center for Medicaid Services (CMS)
- Federal Highway Administration (FHWA)

- National Highway Transportation Safety Administration (NHTSA)
- Federal Motor Carrier Safety Administration (FMCSA)
- US Department of Agriculture (USDA)
- Housing and Urban Development (HUD)
- Other federal programs as identified in a specific SOW

Contractors may assist with grant application, inclusive of writing scope of work. Contractors may assist with project and subrecipient management/administration. Contractors may assist with reports on outcomes and grant closeout. Assistance with managing federal grant funds provide compliance with Federal grant rules and analysis of procurement standards, financial management standards, subawards and subrecipient relationship management, allowable costs and cost allocation systems, property management, and audit management and resolution.

Outputs: Grant Application; Grant Reports ; Grant Management Report

VII. Minimum Qualifications of Labor Categories

1. Whether specifically stated, all labor categories shall exhibit the following qualities:
 - i. Proficiency in MS Office (Word, Excel, PowerPoint and Outlook).
 - ii. Effective oral and written communication skills.
 - iii. Ability to work independently or in a team environment.
 - iv. Exhibit a high degree of professionalism in the production of deliverables and in interactions with fellow employees and client personnel.
2. Selected Labor Categories are consolidations and serve multiple specialties that fulfill the needed services in the acquisition lifecycle.
3. The Minimum Qualifications are not intended to be exhaustive or all inclusive. They are intended to allow placement of appropriately skilled personnel.
4. Additional duties may also be included per Labor Categories that are not specifically listed, (i.e., Other duties as assigned).
5. Experience for degrees is acceptable on a year-to-year equivalent basis.

There are sixteen (16) Labor Categories for Procurement Assistance Support Services (PASS) and eight (8) Labor Categories for IT Research, Advisory, and Consulting Services.

PASS Labor Categories highlighted in **BLUE**

IT Research, Advisory, and Consulting Services highlighted in **GREEN**

PASS LABOR CATEGORIES	
Labor Category	Minimum Qualification(s)
Program Director (Key Personnel)	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university in a related field. • Ten (10) or more years of progressive experience in managing significant projects and processes. • Must have the ability to manage and direct large and complex project tasks covering contract administration which may include acquisition planning, RFP/IFB preparation, market research, cost and price analysis, evaluation of performance, contract termination, and contract closeout. • Ability to research and define multiple project scopes, schedules, and targets. • Provides expert advice and guidance to agency senior level staff members. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Project Management certification • Master's Degree or higher
Program Manager	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university in a related field. • Eight (8) or more years of providing management for multiple projects/tasks and ongoing operational efforts • Must have the ability to provide technical knowledge on the effectiveness and efficiency of government programs. • Able to apply advanced or specialized knowledge of the nature of agency programs and activities, agency policies and objectives • Possessing the analytical and evaluative methods and techniques for assessing program development and execution. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Project Management certification • Master's Degree or higher

Subject Matter Expert III	<p>Must have at a minimum:</p> <ul style="list-style-type: none">• Bachelor's Degree or higher from an accredited college or university in a related field.• Fifteen (15) or more years of progressive experience and possess extensive knowledge when advising on large and high complex project/programs.• Must have the ability to analyze project requirements and develop strategic solutions and plans to meet agency's needs.• Able to provide highly technical and specialized guidance concerning solutions to complex problems.• Demonstrates executive decision-making skills and judgment.• Applies principles and methods of the subject matter to specialized solutions. <p>Preferred Qualifications</p> <ul style="list-style-type: none">• Project Management certification• Master's Degree or higher
Subject Matter Expert II	<p>Must have at a minimum:</p> <ul style="list-style-type: none">• Bachelor's Degree or higher from an accredited college or university in a related field.• Eight (8) or more years of progressive experience and possess extensive knowledge when advising on large and high complex project/programs.• Must have the ability to analyze project requirements and develop strategic solutions and plans to meet agency's needs.• Able to provide highly technical and specialized guidance concerning solutions to complex problems.• Demonstrates executive decision-making skills and judgment.• Applies principles and methods of the subject matter to specialized solutions. <p>Preferred Qualifications</p> <ul style="list-style-type: none">• Project Management certification• Master's Degree or higher

<p>Subject Matter Expert I</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university in a related field. • Five (5) or more years of progressive experience • Must have the ability to analyze project requirements and develop strategic solutions and plans to meet agency’s needs. • Able to provide highly technical and specialized guidance concerning solutions to complex problems. • Applies principles and methods of the subject matter to specialized solutions. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Project Management certification • Master’s Degree or higher
<p>Acquisition Support Specialist III (Key Personnel)</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university in a related field. • Eight (8) or more years of providing a broad range of complex acquisition management support services. • Must have the ability read and interpret each State’s acquisition policy, regulations, and directives and apply those interpretations fully and legally to all activities described in the Statement of Work (SOW.) • Able to analyze cost and pricing data, assistance in proposal evaluations, and assistance in preparing contract negotiations. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Certification from a nationally recognized organization such as NCMA, UPPCC or DAU. • Master’s Degree or higher in Business Administration, Business Law, or Public Administration
<p>Acquisition Support Specialist II</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university in a related field. • Five (5) or more years of providing a broad range of complex acquisition management support services. • Must have the ability read and interpret each State’s acquisition policy, regulations, and directives and apply those interpretations fully and legally to all activities described in the Statement of Work (SOW.) • Able to analyze cost and pricing data, assistance in proposal evaluations, and assistance in preparing contract negotiations.

	<p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Certification from a nationally recognized organization such as NCMA, UPPCC or DAU. • Master’s Degree or higher in Business Administration, Business Law, or Public Administration
<p>Acquisition Support Specialist I</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university in a related field. • Three (3) or more years of providing a broad range of complex acquisition management support services. • Must have the ability read and interpret each State’s acquisition policy, regulations, and directives and apply those interpretations fully and legally to all activities described in the Statement of Work (SOW.) • Able to analyze cost and pricing data, assistance in proposal evaluations, and assistance in preparing contract negotiations. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Certification from a nationally recognized organization such as NCMA, UPPCC or DAU. • Master’s Degree or higher in Business Administration, Business Law, or Public Administration
<p>Analyst III</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university in a related field. • Seven (7) or more years of relevant experience in developing and applying analytic methodologies. • Ability to lead the application of analytic techniques and assist in defining the project objectives, methodologies, and principles. • Perform a wide variety of analytical tasks with the continuous improvement of processes, personnel, organization, system, or training. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Business Data Analytics Certificate, Cost Estimator/Analyst Certification, CPA License • Master’s Degree
	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university in a related field. • Five (5) or more years of relevant experience in developing and applying

<p>Analyst II</p>	<p>analytic methodologies.</p> <ul style="list-style-type: none"> • Ability to lead the application of analytic techniques and assist in defining the project objectives, methodologies, and principles. • Perform a wide variety of analytical tasks with the continuous improvement of processes, personnel, organization, system, or training. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Business Data Analytics Certificate, Cost Estimator/Analyst Certification, CPA License • Master’s Degree
<p>Analyst I</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university in a related field. • Three (3) or more years of relevant experience in developing and applying analytic methodologies. • Ability to lead the application of analytic techniques and assist in defining the project objectives, methodologies, and principles. • Perform a wide variety of analytical tasks with the continuous improvement of processes, personnel, organization, system, or training. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Business Data Analytics Certificate, Cost Estimator/Analyst Certification, CPA License
<p>Project Manager II</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university. • Eight (8) or more years of relevant experience in leading discussions; contributing questions and answers; raising issues, risks, and concerns; and developing and giving presentations. • Organizes, directs, and coordinates the planning and production of all contracts and/or task support activities. Prepares project estimates and work plans using best practices and principles. Ensures success project completion through responsibilities associated with staffing, project planning, project financials, risk management, and staff direction and oversight. Manages and oversees work performance on large size task orders or manages is a senior project manager. Prepares and maintains the project schedule and budget. Prepares and delivers status reports to the client. Serves as the primary point of contact for the client on any sized project. Manages staff, budget, and prioritization of tasks. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Bachelor’s degree and eight (8) years of general experience or fourteen (14) years of general experience with a high school diploma or G.E.D. • Demonstrates strong interpersonal and communication skills.

<p>Project Manager I</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor's Degree or higher from an accredited college or university. • Five (5) years of experience in a related field. • Performs day-to-day management of a single project or significant task assigned on a larger program. Manages and oversees work performance on small to medium size task orders or manages a portion of a larger task under the guidance of a more senior project manager. Assists in preparing and maintaining the project schedule and budget. Assist in preparing and delivering status reports to the client. For small to medium-size projects, can serve as the primary point of contact for the client. Assists in managing staff, budget, and prioritization of tasks. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Bachelor's degree and five (5) years of general experience or eleven (11) years of general experience with a high school diploma or G.E.D.
<p>Instructor/Trainer II</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Associate degree and five (5) years of experience in the field of teaching processes, instruction and/or operational experience. • Provides services as an instructor/trainer to include facilitating and providing, in an academic environment, platform instruction and applied training in specific areas of curriculum. • Coordinate and monitor presentations for missions, exercises, and experiments. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Associate's degree and five (5) years of experience in the field of teaching processes, instruction and/or operational experience or nine (9) years of experience in the field of teaching processes, instruction and/or operational experience with a high school diploma or G.E.D.
<p>Instructor/Trainer I</p>	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Associates degree and two (2) years of experience in the field of teaching processes, instruction and/or operational experience. • Assist with providing services as an instructor/trainer to include facilitating and providing, in an academic environment, platform instruction and applied training in specific areas of curriculum. • Assist with coordinating and monitoring presentations for missions, exercises, and experiments. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Associates degree and two (2) years of experience in the field of teaching processes, instruction and/or operational experience or seven (7) years of experience in the field of teaching processes, instruction and/or operational experience with a high school diploma or G.E.D.

Administrative	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • High school diploma + eight (8) years of experience. • Experience in administrative support positions. • Arranges meetings, copies, and produces deliverables, etc. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Associates degree + four (4) years of experience
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IT RESEARCH, ADVISORY AND CONSULTING LABOR CATEGORIES

Labor Category	Minimum Qualification(s)
Project Manager (Key Personnel)	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor’s Degree or higher from an accredited college or university. • Five (5) years in a related field. • Performs day-to-day management of a single project or significant task on a larger program. Manages and oversees work performance on small to medium size task orders or manages a portion of a larger task under the guidance of a more senior project manager. Assists in preparing and delivering status reports to the client. For small to medium-size projects, can serve as the primary point of contact for the client. Assists in managing staff, budget, and prioritization of tasks. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Bachelor’s degree and five (5) years of general experience or eleven (11) years of general experience with a high school diploma or G.E.D.
System Architect (Software/Data/Database) I	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor’s degree in computer science, software engineering, or a relevant field. • Three (3) years of experience as a software developer, system analyst. • Has knowledge of system architecture principles and design patterns, experience with software development methodologies, understands database concepts and data modeling, and proficiency in at least one programming language. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Master’s degree in computer science or related field. • Eight (8) years of experience as a software developer or systems analyst. • Professional-level certifications (AWS Certified Solutions Architect or other applicable).

IT RESEARCH, ADVISORY AND CONSULTING LABOR CATEGORIES	
Labor Category	Minimum Qualification(s)
Cloud Subject Matter Expert	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor’s degree in computer science, information technology, or a related field. • Five (5) years working in cloud computer platforms. • Has a demonstrated ability to design, implement, and manage cloud-based solutions. Hands-on experience with core cloud services like compute, storage, networking, and security. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Professional-level certification such as AWS Certified Solutions Architect, Azure Certified Solutions Architect Expert, or GCP Certified Professional Cloud Architect or other.
IT Subject Matter Expert	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor’s degree in computer science, information technology, or a related field. • Five (5) years of practical experience in a specific IT domain, demonstrating in-depth knowledge of relevant technologies and practices. • Proficient in the specific IT tools, systems, and plays relevant to their area of expertise. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Extensive knowledge and understanding of complex IT concepts, including industry best practices and emerging trends.
Technology Consultant I	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> • Bachelor’s degree in computer science, information technology, or a related field. • Three (3) years of experience as an IT consultant, preferably in a technology-based company or firm. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> • Bachelor’s degree in computer science, information technology, or a related field and five (5) years of experience as an IT consultant.

IT RESEARCH, ADVISORY AND CONSULTING LABOR CATEGORIES	
Labor Category	Minimum Qualification(s)
Technology Consultant II	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> Bachelor’s degree in computer science, information technology, or a related field. Eight (8) or more years of experience as an IT consultant, preferably in a technology-based company or firm. Additional training in computer programming, computer engineering, and mathematics. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> Master’s degree in computer science, information technology, or a related field.
Cyber Security Specialist	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> Bachelor’s degree in a computer-related or technology field. Three (3) or more years in a cybersecurity role, such as network administration, security analysis, or penetration testing. Ability to analyze complex situations, identify potential threats, and devise solutions. Understand core cybersecurity concepts like network security, access controls, threat analysis, and common vulnerabilities. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> Professional certification such as CISSP, Certified Ethical Hacker (CEH), CompTIA Security+.
Administrative	<p>Must have at a minimum:</p> <ul style="list-style-type: none"> High school diploma + eight (8) years of experience. Experience in administrative support positions. Arranges meetings, copies, and produces deliverables, etc. <p>Preferred Qualifications</p> <ul style="list-style-type: none"> Associates degree + four (4) years of experience

Attachment C – Labor Rates/Price Sheet

AWARD CATEGORY 1 - PROCUREMENT ASSISTANCE SUPPORT SERVICES			
SECTION 1		SECTION 2	
HOURLY PRICING PER LABOR CATEGORY		MAXIMUM ANNUAL PERCENTAGE INCREASE REQUEST ON LABOR RATES	
Labor Categories	Fully Burdened Hourly Rate for Year 1 (Price Guarantee Period)	Maximum Annual Percentage Increase Request (not guaranteed or approved)	0.50%
Program Director (Key Personnel)	\$515.00		
Program Manager	\$395.00		
Subject Matter Expert III	\$562.00		
Subject Matter Expert II	\$278.00		
Subject Matter Expert I	\$164.00		
Acquisition Support Specialist III (Key Personnel)	\$433.00		
Acquisition Support Specialist II	\$234.00		
Acquisition Support Specialist I	\$110.00		
Analyst III	\$278.00		
Analyst II	\$195.00		
Analyst I	\$110.00		
Project Manager II	\$358.00		
Project Manager I	\$195.00		
Instructor/Trainer II	\$110.00		
Instructor/Trainer I	\$90.00		
Administrative	\$90.00		

AWARD CATEGORY 2							
IT RESEARCH, ADVISORY, AND CONSULTING SERVICES							
SECTION 1		SECTION 2		SECTION 3		SECTION 4	
HOURLY PRICING PER LABOR CATEGORY		MAXIMUM ANNUAL PERCENTAGE INCREASE REQUEST ON LABOR RATES		DISCOUNT OFF LICENSE/SUBSCRIPTION RATES		MAXIMUM ANNUAL PERCENTAGE INCREASE REQUEST ON SUBSCRIPTION RATES	
Labor Categories	Fully Burdened Hourly Rate for Year 1 (Price Guarantee Period)	Maximum Annual Percentage Increase Request on Labor Rates (not guaranteed or approved)	0.50%	Percentage Discount Offered on Subscription/Licenses	1.5%	Maximum Annual Percentage Increase Request on Subscription Rates (not guaranteed or approved)	4%
Project Manager	\$358.00						
System Architect (Software/Data/Database) I	\$110.00						
Cloud Subject Matter Expert	\$256.00						
IT Subject Matter Expert	\$395.00						
Technology Consultant I	\$234.00						
Technology Consultant II	\$433.00						
Cyber Security Specialist	\$195.00						
Administrative	\$90.00						










Gartner, Inc. - Master Agreement DPC-1428523 190-SA-21-PASS_ITRAC

Final Audit Report

2026-01-09

Created:	2026-01-08
By:	Sandy Anderson (sandy.anderson@doa.nc.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA0IO8e365Gq5yZnfuu-tOPBtpTSw_X90Z

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Gartner Information Security Addendum

This Gartner Information Security Addendum sets out the technical and organizational measures and controls (“**Security Measures**”) which apply to the provision of Gartner’s services. Any capitalized terms not defined in this addendum have the meaning given to those terms under the agreement dated April 1, 2026 between *Gartner, Inc.* having office at *56 Top Gallant Road, Stamford, CT 06902* (“Gartner”) and *the State of Utah* having office at *4315 South 2700 West Fl 3, Taylorsville, UT 84129* (“Client”) for Gartner services.

1. INFORMATION SECURITY CONTROLS

- 1.1 **Client Data:** Gartner maintains commercially reasonable information security controls and safeguards consistent with commonly accepted industry standards designed to protect Gartner’s systems used to manage, process or store Client Data against unauthorized access, modification, destruction, interference or downtime. Such controls and safeguards are consistent with the measures Gartner uses to protect its own data of similar importance. Gartner maintains similar types of controls and safeguards across its environments, whether they are cloud-hosted or otherwise. “**Client Data**” shall mean data that is created, controlled, maintained, owned, or in any way originating from or on behalf of the State of Utah, including confidential information, Non-Public Data, and all data that is the output of computer processing or other electronic manipulation of any data created, controlled, maintained, or in any way originating from the State of Utah, regardless of where such data or output is stored or maintained.. “State of Utah” means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities and instrumentalities, boards, commissions, elected or appointed officers, employees, agents, authorized volunteers, and where applicable, Eligible Users.
- 1.2 **Governance:** Gartner’s Chief Information Security Officer (CISO) leads the Gartner Information Security Program and develops, reviews and approves (together with relevant internal stakeholders) Gartner’s Security Policies and Standards.
- 1.3 **ISMS:** Gartner has implemented a formal Information Security Management System (ISMS) in order to protect the confidentiality, integrity, authenticity, and availability of Gartner data and information systems, and to ensure the effectiveness of security controls over data and information systems that support operations.
- 1.4 **Encryption:** Gartner uses encryption and security protocols consistent with commonly accepted industry standards for data transmission.
 - (a) Encryption of Client Data - Gartner encrypts Client Data at-rest using AES 256-bit (or better) encryption. Gartner uses Transport Layer Security (TLS) 1.2 (or better) for Client Data in-transit to/from the Service over untrusted networks.
 - (b) Encryption Key Management - Gartner’s encryption key management involves regular rotation of encryption keys. Gartner logically separates encryption keys from Client Data.
 - (c) In Gartner’s cloud environments, data at rest is encrypted by utilizing the native encryption services offered by the cloud provider.
- 1.5 **Patch Management:** Gartner maintains and implements a risk based prioritised patch management policy for patching devices, servers, systems or other network elements that store Client Data.
- 1.6 **Asset Management:** Gartner has processes in place designed to control management of IT assets throughout the asset lifecycle (i.e., disposal, review, maintenance). This includes both information assets (e.g., software) and physical assets, such as equipment. The policy includes requirements for the allocation, operation, maintenance and disposal of assets. Gartner regularly undergoes a periodic review of the asset tracking system by internal teams to ensure integrity of the data.
- 1.7 **Acceptable Use:** Gartner has in place acceptable use of hardware and software policies which are provided to Gartner personnel.
- 1.8 **Risk Management:** Gartner at least annually evaluates and monitors its exposure to security risks and emerging security threats and takes measures to address those risks and threats.
2. **Client Data Security:** Gartner will ensure that while performing the Services, Gartner preserves Client Data in accordance with all applicable laws, Gartner’s data retention policy and industry standards applicable to discovery and document production. Business records not subject to a current Legal Hold are deleted or destroyed at the end of the applicable retention period or when no longer needed for legitimate business purposes. For client confidential information, Gartner deletes the information upon client request, or as stipulated

in the contractual agreement. For personal information, the data subjects can directly request that their personal information be deleted by contacting the Gartner privacy team (privacy@gartner.com).

3. PERSONNEL AND VENDOR CONTROLS

- 3.1 **Employee Screening:** Where appropriate and permitted under applicable law, Gartner performs background checks on its employees who have access to Client Data or information systems.
- 3.2 **Vendor Management:** Gartner assesses the information and data security controls of its vendors using a risk-based due-diligence process which is meeting or exceeding the requirements of NIST 800.171 and GovRAMP, as applicable.
- 3.3 **Security Awareness:** On an annual basis, Gartner conducts security awareness training for its personnel, covering security procedures designed to protect Client Data. Gartner revises training materials in alignment with widely recognized security industry standards.

4. PHYSICAL SECURITY

- 4.1 Gartner's general offices, which have dedicated Gartner networks, are protected by a combination of access control, intrusion detection, and video surveillance. In Gartner's serviced offices, where there is no Gartner networking equipment, security protections are on the device level as described in section 4. Gartner employs and supports a layered security model covering perimeter and internal barriers. Gartner sites are protected by a combination of access controls, intrusion detection systems, visitor management as well as video surveillance. Access to Gartner facilities is carefully monitored, recorded and restricted to authorized personnel only. Gartner visitor management protocols ensure that all visitors are documented, escorted and adhere to security procedures during their visit.
- 4.2 Gartner may also use additional security measures such as specific access permissions for specific locations within the premises, video surveillance or security personnel.

5. SYSTEM ACCESS CONTROLS

- 5.1 **Access Provisioning:** Gartner maintains an access control policy to limit access to Client Data or systems that host Client Data to authorized personnel only. Any request to change user access to Client Data or systems that host the Client Data is reviewed on a case-by-case basis.
- 5.2 **Access De-provisioning:** Gartner maintains a process to revoke user access to Client Data or systems that host the Client Data in instances where Gartner personnel no longer need such access (e.g. termination, change in role, job function), including privileged access. Access removal requests are documented.
- 5.3 Gartner has unique IDs for all users and separate accounts for privileged access. Unique IDs no longer in use are deactivated.
- 5.4 **Passphrase Management:** Gartner's passphrase handling and management procedures which may include:
- (a) Temporary or Vendor default passwords are changed after first use;
 - (b) requiring passphrases to be changed at a regular interval or upon system compromise;
 - (c) requiring passphrases to meet specific length and re-use requirements; and
 - (d) require passphrases to remain stored in an encrypted form (e.g., hashed).
- 5.5 **MFA:** Gartner requires the use of multi-factor authentication (MFA) for critical applications or systems.
- 5.6 **Firewall:** Gartner protects their environment using industry standard firewall or security groups technology with deny-all default policies to prevent egress and ingress network traffic protocols other than those that are business required.
- 5.7 **Logging & Monitoring:** Gartner maintains security related event logs and monitors services at multiple levels (e.g. network, operating system, database and application) following commonly accepted industry standard

practices.

- 5.8 **Network Security:** External user access is controlled via virtual private network (VPN) and transport layer security (TLS) for web portal access. All non-employee access includes automatic expiration dates. Wi-Fi access and VPN access require passwords and appropriate two factor authentication mechanisms. Gartner's Wi-Fi systems use protocols aligned with Wi-Fi Protected Access 2 (WPA2) with extensible authentication protocol (EAP) extensions for authentication.
- 5.9 **Mobile Security:** Gartner prioritises mobile security, implementing policies aligned with industry standards. Gartner Mobile Device Management (MDM) solution ensures robust device security and enforces standards for proprietary data access, enhancing overall data protection. Any Client Data transferred to or held by Gartner will be stored and maintained in data centers in the United States. No Client Data will be processed or transferred to any portable or laptop computing device or portable storage medium, except for devices that are used and kept only at Gartner's United States locations.
- 5.10 **Change Management:** Gartner follows a documented IT Change Management Policy. Changes to production IT infrastructure necessitate a documented change ticket via the change management platform, ensuring due diligence, necessary approvals, and communication.
- 5.11 Gartner will use commercially reasonable efforts to protect services that host or process Client Data against denial-of-service (DOS) attacks by implementing denial-of-service mitigation solutions.

6. MALWARE AND VIRUS PROTECTION

- 6.1 Gartner maintains robust anti-virus/malware protection and detection software consistent with commonly accepted industry best practices.
- 6.2 Gartner implements tools to perform automatic virus and malware scanning checks on email attachments that are sent to or received from external sources, which are designed to identify and remove attachments containing malicious code.
- 6.3 Gartner uses network based spam filtering aimed at reducing the risk of spam being used for malware attacks.
- 6.4 On an annual basis, Gartner conducts internal and external security testing of Gartner devices and any Gartner systems hosting Client Data (collectively, "**Security Scans**"). Where Security Scans find an unacceptable risk Gartner takes steps to remediate such risk within a reasonable period.

7. VULNERABILITY MANAGEMENT

Gartner uses a vulnerability management process that leverages external vendors, as well as a suite of security scanning and penetration testing tools to identify, validate, and prioritise vulnerabilities. A designated security team is responsible for tracking and ensuring vulnerability remediation. Once a vulnerability requiring remediation has been identified, it is logged and prioritised based on its severity, and an owner is assigned. The security team tracks such vulnerabilities until remediation is verified.

8. BUSINESS CONTINUITY

- 8.1 **Business Continuity Plan:** Gartner maintains a business continuity plan consistent with commonly accepted industry best practices designed to support Gartner's ability to operate its ordinary business processes in the event of a disruption, failure or interruption to Gartner's main IT systems. Gartner annually reviews and tests its business continuity plan.
- 8.2 **Backup & Recovery:** Gartner undertakes appropriate backups of Client Data that it hosts and has data recovery mechanisms in place in relation to Client Data hosted by Gartner.
- 8.3 **Business Impact Analysis:** Gartner carries out business impact analysis (BIA) to identify risks and threats to the Gartner organisation, its products and services, and key business functions. Based on the BIA, Gartner develops its business continuity and disaster recovery strategies and plans, identifies and trains recovery teams, and conducts exercises to validate those plans and team capabilities.

9. SECURE DEVELOPMENT AND SECURE TECHNOLOGY MANAGEMENT

- 9.1 Gartner follows the secure software development and code review practices to prevent harm from malware, such as from viruses, worms, date bombs, time bombs, or shut down devices. Software will be developed using secure application development policies and procedures aligned with industry standard practices such as the OWASP Top Ten (or a substantially equivalent standard). Personnel responsible for secure application design and development receive appropriate training regarding secure application development practices.

10. CERTIFICATIONS AND COMPLIANCE

- 10.1 Gartner undergoes independent third-party audits and reviews on a regular basis aimed at ensuring Gartner products and services are reliable, safe and of high quality. As part of the audit and review process, independent auditors examine Gartner's data centres, infrastructure and operations to verify Gartner's security, privacy and compliance controls.
- 10.2 Certifications
- (a) **ISO/IEC27001:** Gartner maintains controls in accordance with commonly accepted industry standards (e.g. ISO/IEC 27001, NIST SP 800-171) related to its provision or delivery of products and/or services to the Client. To the extent that Gartner chooses not to continue adherence with one or more of these standards, Gartner will adopt or maintain an equivalent, industry-standard framework
 - (b) **Cloud SOC Reports:** Gartner uses third-party co-location facilities to support technology services in an environment that provides flexibility, scalability, and security. These data centers are SOC 2 Type II certified and reports are obtained and reviewed by Gartner annually.
 - (c) **National Institute of Standards and Technology (NIST) 800-171:** Gartner understands the importance of protecting Controlled Unclassified Information (CUI). Gartner has established uniform policies and practices to ensure alignment with NIST Special Publication 800-171. In addition to defining and implementing safeguard requirements for CUI, Gartner maintains an up-to-date System Security Plan (SSP) and Plan of Action and Milestones (POAM) to ensure compliance with NIST 800-171.
- 10.3 Upon the Client's written request and no more than once per calendar year, Gartner will provide a pre-populated industry standard information security questionnaire (e.g., SIG Lite) to the Client along with certificate (i.e. ISO27001) as applicable. If Client requests to fill their questionnaire template, Gartner agrees to respond to such a questionnaire as soon as commercially reasonable. Clients who purchase multiple products under one or more agreements will coordinate requests into a single questionnaire per calendar year.
- 10.4 Any information provided to Client under this clause 9 is the confidential information of Gartner.

7.1.1

11. INFORMATION SECURITY INCIDENTS

- 11.1 "Security Incident" means actual or reasonable degree of certainty, based on Gartner's due diligence, of unauthorized use, destruction, loss, control, alteration, acquisition, exfiltration, theft, retention, disclosure of, or access to, Client Data for which Gartner is responsible. Security Incidents do not include unsuccessful access attempts or attacks that do not compromise the confidentiality, integrity, or availability of Client Data, including (without limitation) unsuccessful log-in attempts, unsuccessful pings, port scans unsuccessful denial of service attacks, and other unsuccessful network attacks on firewalls or networked systems.
- 11.2 **Incident Response Plan:** Gartner maintains an information security incident response plan and follows that plan if a Security Incident occurs. The security incident response plan includes:
- (a) response procedures such as reporting, analysis, monitoring, and remediation/resolution of Security Incidents; and
 - (b) processes for verifying, classifying, prioritising and documenting such confirmed incidents.
- 11.3 **Incident Reporting:** Gartner will promptly and no later than 72 hours notify Client of any Security Incident impacting client data. This notification will be made to the Client email address (usual point of contact for business communications to client) and to:
- Email -- DTS-SOC@utah.gov
Phone – (801) 538-3011

Web - cybercenter.utah.gov

. After confirmation and as information emerges, Gartner shall provide Client a summary report consisting of sufficient detail to enable Client to comply with applicable legal and regulatory requirements resulting from such a security incident. Such summary report shall include at minimum:

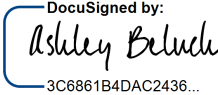
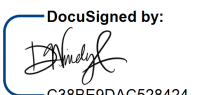
- (a) facts of the incident, such as date, time, description, how the security incident was detected.
- (b) Impact to services provided to the client and/or Client data affected.
- (c) Root cause of the incident (when known).
- (d) Description of any actions Gartner has taken or will take to minimize the likelihood of recurrence.

11.4 Except for any notification made to law enforcement or as otherwise required by applicable law, Gartner shall not make or permit any statements concerning security incidents involving Client Data, information systems or assets to a third-party without the written authorization from Client, unless the statements do not identify or could not reasonably be used to identify Client as being impacted by the incident.

12. CHANGES TO SECURITY MEASURES

. Client acknowledges that Gartner may change its Security Measures from time to time, including as a result of changes in law, industry standards or certification requirements, provided that any such changes do not materially decrease the overall security of Client Data hosted by Gartner. Should any Security Measures be objectionable to Client, Client may identify the unacceptable Security Measure(s) and request that it be brought into acceptable parameters. If Gartner cannot or will not comply with Client’s request, Client shall have the right to terminate the Participating Addendum immediately.

Authorization: By its signature, each person executing this addendum on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this addendum.

Entity	Gartner	Client
Authorized Signature:	 3C6861B4DAC2436...	 C38BE9DAC528424...
Name of Signatory:	Ashley Beluch	Windy Aphayrath
Title of Signatory:	Senior Contracts Specialist	Chief Procurement Officer
Date:	March 31, 2026	4/3/2026