

# **Solicitation JP14001**

## **Data Communications Products & Services**

**Bid designation: Public**

State of Utah



**State of Utah**

## Bid JP14001 Data Communications Products & Services

Bid Number JP14001  
Bid Title Data Communications Products & Services

Bid Start Date In Held  
Bid End Date Aug 30, 2013 11:00:00 AM MDT  
Question & Answer End Date Jul 26, 2013 11:00:00 AM MDT

Bid Contact Jennifer A Porter  
Purchasing Agent  
DAS/State Purchasing  
jenniferporter@utah.gov

Contract Duration 5 years  
Contract Renewal 2 annual renewals

Bid Comments **Do not contact the WSCA-NASPO Contract Administrator or other RFP Sourcing Committee members with questions relating to this solicitation. All question pertaining to this RFP must be submitted through BidSync. All responses will be posted through BidSync. Please read the RFP requirements thoroughly to ensure proposal response is compliant.**  
**Clarification on terms and conditions attached to the RFP: WSCA-NASPO Terms and Conditions will apply to the Master Agreements that result from this RFP. The State of Utah - Attachment A Information Technology Terms and Conditions will apply specifically to the Participating Addendum's (PA's) Utah signs and is not specific to the WSCA-NASPO Master Agreement. Other States may have their own terms and conditions that will be addressed specifically when their PA's are executed.**

### Item Response Form

Item JP14001-01-01 - JP14001 - Data Communications Products & Services  
Quantity 1 contract  
Prices are not requested for this item.  
Delivery Location State of Utah  
No Location Specified

Qty 1

#### **Description**

Do not contact the WSCA-NASPO Contract Administrator or other RFP Sourcing Committee members with questions relating to this solicitation. All question pertaining to this RFP must be submitted through BidSync. All responses will be posted through BidSync. Please read the RFP requirements thoroughly to ensure proposal response is compliant. Prices & Percentages discounts must be submitted using the RFP Attachment C - Cost Sheet provided. Do not include prices or percentage discounts in the technical portion of the response.

# STATE OF UTAH



## **SOLICITATION NO. JP14001**

Data Communications Products & Services

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RESPONSES DUE NO LATER THAN:

**Aug 30, 2013 11:00:00 AM MDT**

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RESPONSES MAY BE SUBMITTED ELECTRONICALLY TO:

[www.bidsync.com](http://www.bidsync.com)

RESPONSES MAY BE MAILED OR DELIVERED TO:

State of Utah  
Division of Purchasing  
3150 State Office Building, Capitol Hill  
Salt Lake City, Utah 84114-1061

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# State of Utah Request for Proposal

Legal Company Name (include d/b/a if applicable) <input type="text"/>	Federal Tax Identification Number <input type="text"/>	State of Utah Sales Tax ID Number <input type="text"/>	
Ordering Address <input type="text"/>	City <input type="text"/>	State <input type="text"/>	Zip Code <input type="text"/>
Remittance Address (if different from ordering address) <input type="text"/>	City <input type="text"/>	State <input type="text"/>	Zip Code <input type="text"/>
Type Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government <input type="checkbox"/>	Company Contact Person <input type="text"/>		
Telephone Number (include area code) <input type="text"/>	Fax Number (include area code) <input type="text"/>		
Company's Internet Web Address <input type="text"/>	Email Address <input type="text"/>		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered) <input type="text"/>	Days Required for Delivery After Receipt of Order (see attached for any required minimums) <input type="text"/>		
The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes <input type="checkbox"/> No <input type="checkbox"/> . If no, enter where produced, etc. <input type="text"/>			

Offeror=s Authorized Representative=s Signature

Date

Type or Print Name

Position or Title

## NOTICE

When submitting a response (proposal, quote or bid) electronically through BidSync, it is the sole responsibility of the supplier to ensure that the response is received by BidSync prior to the closing date and time. Each of the following steps in BidSync MUST be completed in order to place an offer:

- A. Login to [www.bidsync.com](http://www.bidsync.com);
- B. Locate the bid (solicitation) to which you are responding;
  - a. Click the "Search" tab on the top left of the page;
  - b. Enter keyword or bid (solicitation) number and click "Search";
- C. Click on the "Bid title/description" to open the Bid (solicitation) Information Page;
- D. "View and Accept" all documents in the document section;
- E. Select "Place Offer" found at the bottom of the page;
- F. Enter your pricing, notes, other required information and upload attachments to this page;
- G. Click "Submit" at the bottom of the page;
- H. Review Offer(s); and
- I. Enter your password and click "Confirm".

Note that the final step in submitting a response involves the supplier's acknowledgement that the information and documents entered into the BidSync system are accurate and represent the supplier's actual proposal, quote or bid. This acknowledgement is registered in BidSync when the supplier clicks "Confirm". BidSync will post a notice that the offer has been received. This notice from BidSync MUST be recorded prior to the closing date and time or the response will be considered late and will not be accepted.

Be aware that entering information and uploading documents into BidSync may take considerable time. Please allow sufficient time to complete the online forms and upload documents. Suppliers should not wait until the last minute to submit a response. It is recommended that suppliers submit responses a minimum of 24 hours prior to the closing deadline. The deadline for submitting information and documents will end at the closing time indicated in the solicitation. All information and documents must be fully entered, uploaded, acknowledged (Confirm) and recorded into BidSync before the closing time or the system will stop the process and the response will be considered late and will not be accepted.

Responses submitted in BidSync are completely secure. No one (including state purchasing staff) can see responses until after the deadline. Suppliers may modify or change their response at any time prior to the closing deadline. However, all modifications or changes must be completed and acknowledged (Confirm) in the BidSync system prior to the deadline. BidSync will post a notice that the modification/change (new offer) has been received. This notice from BidSync MUST be recorded prior to the closing date and time or the response will be considered late and will not be accepted.

Utah Code 46-4-402(2) Unless otherwise agreed between a sender (supplier) and the recipient (State Purchasing), an electronic record is received when: (a) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and (b) it is in a form capable of being processed by that system.

## REQUEST FOR PROPOSAL - INSTRUCTIONS AND GENERAL PROVISIONS

- 1. SUBMITTING THE PROPOSAL:** (a) The Utah Division of Purchasing and General Services (DIVISION) prefers that proposals be submitted electronically. Electronic proposals may be submitted through a secure mailbox at BidSync (formerly RFP Depot, LLC) ([www.bidsync.com](http://www.bidsync.com)) until the date and time as indicated in this document. It is the sole responsibility of the supplier to ensure their proposal reaches BidSync before the closing date and time. There is no cost to the supplier to submit Utah's electronic proposals via BidSync. (b) Electronic proposals may require the uploading of electronic attachments. The submission of attachments containing embedded documents is prohibited. All documents should be attached as separate files. (c) If the supplier chooses to submit the proposal directly to the DIVISION in writing: The proposal must be signed in ink, sealed, and delivered to the Division of Purchasing, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 by the "Due Date and Time." The "Solicitation Number" and "Due Date" must appear on the outside of the envelope. All prices and notations must be in ink or typewritten. Each item must be priced separately. Unit price shall be shown and a total price shall be entered for each item offered. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing offer. Unit price will govern, if there is an error in the extension. Written offers will be considered only if it is submitted on the forms provided by the DIVISION. (d) Proposals, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section R33-3-209. (e) Facsimile transmission of proposals to DIVISION will not be considered.
- 2. PROPOSAL PREPARATION:** (a) Delivery time of products and services is critical and must be adhered to as specified. (b) Wherever in this document an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or equivalent" apply. "Or equivalent" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by the DIVISION. If the supplier lists a trade name and/or catalog number in the offer, the DIVISION will assume the item meets the specifications unless the offer clearly states it is an alternate, and describes specifically how it differs from the item specified. All offers must include complete manufacturer's descriptive literature if quoting an equivalent product. All products are to be of new, unused condition, unless otherwise requested in this solicitation. (c) Incomplete proposals may be rejected. (d) Where applicable, all proposals must include complete manufacturer's descriptive literature. (e) By submitting the proposal the offeror certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices offered are correct. (f) This proposal may not be withdrawn for a period of 60 days from the due date.
- 3. FREIGHT COST:** Suppliers are to provide line item pricing FOB Destination Freight Prepaid. Unless otherwise indicated on the contract/purchase order, shipping terms will be FOB Destination Freight Prepaid.
- 4. SOLICITATION AMENDMENTS:** All changes to this solicitation will be made through written addendum only. Answers to questions submitted through BidSync shall be considered addenda to the solicitation documents. Bidders are cautioned not to consider verbal modifications.
- 5. PROTECTED INFORMATION:** Suppliers are required to mark any specific information contained in their offer which they are claiming as protected and not to be disclosed to the public or used for purposes other than the evaluation of the offer. Each request for non-disclosure must be made by completing the "Confidentiality Claim Form" located at: <http://www.purchasing.utah.gov/contract/documents/confidentialityclaimform.doc> with a specific justification explaining why the information is to be protected. Pricing and service elements of any proposal will not be considered proprietary. All material becomes the property of the DIVISION and may be returned only at the DIVISION's option.
- 6. BEST AND FINAL OFFERS:** Discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Prior to award, these offerors may be asked to submit best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by a competing offeror.
- 7. SAMPLES:** Samples of item(s) specified in this offer, brochures, etc., when required by the DIVISION, must be furnished free of expense to the DIVISION. Any item not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the offeror's expense.
- 8. AWARD OF CONTRACT:** (a) The contract will be awarded with reasonable promptness, by written notice, to the responsible offeror whose proposal is determined to be the most advantageous to the DIVISION,

taking into consideration price and evaluation factors set forth in the RFP. No other factors or criteria will be used in the evaluation. The contract file shall contain the basis on which the award is made. Refer to Utah Code Annotated 65-56-408. (b) The DIVISION may accept any item or group of items, or overall best offer. The DIVISION can reject any or all proposals, and it can waive any informality, or technicality in any proposal received, if the DIVISION believes it would serve the best interests of the DIVISION. (c) Before, or after, the award of a contract the DIVISION has the right to inspect the offeror's premises and all business records to determine the offeror's ability to meet contract requirements. (d) The DIVISION will open proposals publicly, identifying only the names of the offerors. During the evaluation process, proposals will be seen only by authorized DIVISION staff and those selected by DIVISION to evaluate the proposals. Following the award decision, all proposals become public information except for protected information (see number 5 above). A register of proposals and contract awards are posted at <http://purchasing.utah.gov/vendor/bidtab.html>. (e) Estimated quantities are for bidding purposes only, and not to be interpreted as a guarantee to purchase any amount. (f) Utah has a reciprocal preference law which will be applied against offerors offering products or services produced in states which discriminate against Utah products. For details see Section 63G-6-404 and 63G-6-405, Utah Code Annotated. (g) Multiple contracts may be awarded if the DIVISION determines it would be in its best interest.

**9. DEBRIEFING OF UNSUCCESSFUL OFFERORS:**

State Purchasing does not conduct face to face or teleconference debriefings. All debriefings are to be conducted in writing. A debrief request must be submitted in writing to the Purchasing Agent within seven (7) calendar days of the award notification or rejection notification made through written correspondence or posted on BidSync. The debrief response will be limited to critiquing the strength/weakness of an offeror's proposal based on the evaluation criteria. The debriefing is intended as a courtesy to offerors, providing feedback to be used for future opportunities. Comparisons between proposals or evaluations of other proposals will not be allowed.

**10. DIVISION APPROVAL:** Contracts written with the State of Utah, as a result of this proposal, will not be legally binding without the written approval of the Director of the DIVISION.

**11. 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 this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the DIVISION.

**12. ENERGY CONSERVATION AND RECYCLED PRODUCTS:** The contractor is encouraged to offer Energy Star certified products or products that meet FEMP (Federal Energy Management Program) standards for energy consumption. The State of Utah also encourages contractors to offer products that are produced with recycled materials, where appropriate, unless otherwise requested in this solicitation.

**13. GOVERNING LAWS AND REGULATIONS:** All State purchases are subject to the Utah Procurement Code, Title 63 Chapter 56 U.C.A. 1953, as amended, and the Procurement Rules as adopted by the Utah State Procurement Policy Board. These are available on the Internet at [www.purchasing.utah.gov](http://www.purchasing.utah.gov). By submitting a bid or offer, the bidder/offeror warrants that the bidder/offeror and any and all supplies, services equipment, and construction purchased by the State shall comply fully with all applicable Federal and State laws and regulations, including applicable licensure and certification requirements.

**14. SALES TAX ID NUMBER:** Utah Code Annotated (UCA) 59-12-106 requires anyone filing a bid with the state for the sale of tangible personal property or any other taxable transaction under UCA 59-12-103(1) to include their Utah sales tax license number with their bid. For information regarding a Utah sales tax license see the Utah State Tax Commission's website at [www.tax.utah.gov/sales](http://www.tax.utah.gov/sales). The Tax Commission is located at 210 North 1950 West, Salt Lake City, UT 84134, and can be reached by phone at (801) 297-2200.

(Revision Date: 05 Nov 2012 - RFP Instructions)



WSCA-NASPO Data Communications Solicitation # JP14001

# **The State of Utah Division of Purchasing and General Services**

In conjunction with



Request for Proposals

**JP14001**

# **WSCA-NASPO Master Agreement for DATA COMMUNICATIONS PRODUCTS & SERVICES**

July 1, 2013

**WSCA-NASPO Data Communications Services Solicitation # JP14001**

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## WSCA-NASPO Data Communications Solicitation # JP14001

**REQUEST FOR PROPOSAL  
DATA COMMUNICATIONS PRODUCTS AND SERVICES CONTRACT  
Solicitation # JP14001 Revised 5/30/2013**

**Section 1: WSCA-NASPO Solicitation General Information****1.1 Purpose of Request for Proposal (RFP)**

The State of Utah, Division of Purchasing is requesting proposals in conjunction with WSCA-NASPO Cooperative Purchasing Organization, LLC (WSCA-NASPO). The purpose of this request for proposal is to establish master agreements with qualified manufacturers to provide Data Communications products and services outlined in the specifications for all participating States. The services resulting from the award of this solicitation are to be available to all state entities, cities, counties, higher education, school districts and other political subdivisions on an as needed basis under the same pricing and terms and conditions agreed to in the Master Agreement.

It is anticipated that this RFP may result in Master Agreement awards to multiple contractors.

While the primary purpose of this solicitation is to select a proposer(s) who can offer the Products or Services for all Participating States, proposers are permitted to submit a proposal on more limited geographical areas, but not less than one entire Participating State. Proposers must clearly describe the geographical limits (e.g. by State name) if proposing a geographical area less than that of all Participating States. However, if a proposer elects to submit a Proposal for a single State then the proposer must be willing to supply the entire State and will not be allowed to add additional States following award or at any time during the term of the contract or any renewals.

A Participating State may evaluate and select a proposer for award in more limited geographical areas (e.g. A single state) where judged to be in the best interests of the State or States involved.

Each participating entity shall select the authorized contractor(s) they choose to do business with during the participating addendum process. A participating entity may require the authorized contractor(s) to submit additional information regarding their firm as part of the selection process during the execution of a participating addendum. This information could include, but is not limited to; partners or resellers approved under their PA, business references, number of years in business, technical capabilities, and the experience of both their sales and installation personnel.

Each participating entity has the option to select one or more product categories or services from the resulting Master Agreement(s) during the execution of the participating addendum process.

Each participating entity has the option to negotiate an expanded product line within the product category offering and within the scope of this RFP during the Participating Addendum process. Any additional incremental discounts available to a Participating Entity, if offered, may be provided at the discretion and as the sole legal obligation of the Contract provider or their Authorized Sub-Contractor to the Participating Entity and negotiated during the Participating Addendum process. All Participating entities have the right to put dollar limits and certain line item, parts or on the total amount purchased per occasion on their individual PA's as they deem appropriate.

The resulting Master Agreement will be awarded with the understanding and agreement that it is for the sole convenience of the participating entities. The participating entities reserve the right to obtain like goods or services from other sources when necessary.

This RFP is designed to provide interested proposers with sufficient basic information to submit proposals meeting minimum requirements, but is not intended to limit a proposal's content or exclude any relevant or essential data. Suppliers are encouraged to expand upon the specifications to evidence service and capability.

## WSCA-NASPO Data Communications Services Solicitation # JP14001

### 1.2 WSCA-NASPO Background Information

WSCA-NASPO is a cooperative purchasing organization of all 50 states, the District of Columbia and the organized US territories. WSCA-NASPO is a subsidiary of the National Association of State Procurement Officials (NASPO). NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. For more information consult the following websites [www.wsca-naspo.org](http://www.wsca-naspo.org) and [www.naspo.org](http://www.naspo.org)

Obligations under master agreements that result from this cooperative procurement are limited to those states and other eligible entities that execute a Participating Addendum:

#### **63G-6a-2105. Participation of a public entity or a procurement unit in agreements or contracts of procurement units -- Cooperative purchasing -- State cooperative contracts.**

(2) A public entity may obtain a procurement item from a state cooperative contract or a contract awarded by the chief procurement officer under Subsection (1), without signing a participating addendum if the quote, invitation for bids, or request for proposals used to obtain the contract includes a statement indicating that the resulting contract will be issued on behalf of a public entity in Utah.

Financial obligations of Participating States (Entities) are limited to the orders placed by the departments, agencies and institutions of that Participating State (Entity) having legally available funds. Participating States incur no financial obligations on behalf of its political subdivisions, other governmental entities or other eligible entities.

Unless otherwise specified in the solicitation or a Participating Addendum, the resulting master price agreement(s) will be permissive.

This RFP is designed to provide interested Offerors with sufficient basic information to submit proposals meeting minimum requirements, but is not intended to limit a proposal's content or exclude any relevant or essential data. Proposals must be succinct, concise, and as short as possible to allow for efficient evaluation. Blanket marketing material and unnecessary elaborate brochures or representations beyond what is sufficient to present a complete and effective proposal are not acceptable.

Offerors must respond to any or all of the 12 categories that follow. The following product and service categories are included in this RFP:

1. Data Center Application Services
2. Networking Software
3. Network Management and Automation
4. Network Optimization and Acceleration
5. Optical Networking
6. Routers
7. Security
8. Storage Networking
9. Switches
10. Wireless
11. Unified Communications
12. Services

### 1.3 Objective

The objective of this RFP is to obtain deeper volume price discounts than are obtainable by an individual state or local government entity. This discount is based on the collective volume of potential purchases by the numerous state and local government entities. The savings realized by the contractor in managing one comprehensive WSCA-NASPO Master Agreement rather than numerous state and local contracts should result in the most attractive service level and discounts available in the marketplace.

The Master Agreement(s) resulting from this procurement may be used by state governments (including

## WSCA-NASPO Data Communications Solicitation # JP14001

departments, agencies, institutions), institutions of higher education, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and other eligible entities subject to approval of the individual state procurement director and local statutory provisions.

Participation by political subdivisions, other government entities and other eligible participants is with the authorization or acknowledgement of the specific state chief procurement official, and the execution of a Participating Addendum.

#### 1.4 Solicitation Background

This is a rebid for the current for the WSCA-NASPO Data Communications Equipment, Supplies and Services contracts. Eight (8) Manufacturers currently have Master Contracts to provide Data Communications Equipments, Supplies and Services. They are as follows:

Alcatel-Lucent – AR1466  
Brocade Communications – AR214  
Cisco Systems – AR233  
Enterasys Networks, Inc. – AR1471  
Extreme Networks – AR1471  
Hewlett-Packard - AR1464  
Juniper Networks – AR229  
Meru Networks – AR218

Although the State of Utah and WSCA-NASPO does not guarantee any usage or spend under these contracts, for bid purposes only, the total combined spend on these contracts for 2012 was \$204 million dollars.

#### 1.5 Issuing Office and Solicitation Number

The State of Utah, Division of Purchasing is the issuing office for this document and all subsequent addenda relating to it. The reference number for the transaction is Solicitation # JP14001. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

#### 1.6 WSCA-NASPO Contract Administrator

The WSCA-NASPO Contract Administrator designated by WSCA-NASPO and the State of Utah, Division of Purchasing and General Services is:

Name: Jennifer Porter  
State of Utah Division of Purchasing and General Services  
State Office Building, Capitol Hill  
Room 3150  
Salt Lake City, UT 84114-1061  
Email: [jenniferporter@utah.gov](mailto:jenniferporter@utah.gov)  
Phone: 801-538-3064  
Fax: 801-538-3882

#### 1.7 Proposal Submittal

Offers must be received, according to instructions, by the posted due date and time. Offers received after the deadline will be non-responsive.

**Proposals are due August 30, 2013 at 11:00 am MST**

**Questions will be accepted until July 26, 2013 at 11:00 am MST**

**Data Communication RFP Release Webinar is scheduled for July 11, 2013.** Webinar details will be

**WSCA-NASPO Data Communications Services Solicitation # JP14001**

posted on the WSCA-NASPO website ([www.wsca-naspo.org](http://www.wsca-naspo.org)).

The preferred method of submitting your original 'master' proposal packet is electronically in Microsoft Word and Excel through BidSync, ([www.bidsync.com](http://www.bidsync.com)), or you may mail or drop off your hard copies to the address noted in Section 1.6 of this RFP on or before the due date and time. The original 'master' proposal packet shall include a separate document or sealed envelope labeled "SOLICITATION # JP14001 Cost Schedule" that contains the pricing document. Please note that the State of Utah Division of Purchasing office is closed on Saturday and Sunday and therefore does not accept deliveries on those days.

When submitting an offer electronically through BidSync, please allow sufficient time to complete the online forms and upload documents. The solicitation will end at the closing time listed in the offer. If you are in the middle of uploading your documents at the closing time, the system will stop the process and your offer will not be received by the system. It is recommended that the submission process be completed the day prior to the due date, with the knowledge that any changes/updates will be accepted through the due date and time.

Electronic offers may require the uploading of electronic attachments. BidSync's site will accept a wide variety of document types as attachments. However, the submission of documents containing embedded documents (zip files), mov, wmp, and mp3 files are prohibited. All documents should be attached as separate files.

BidSync customer support may be contacted at (800) 990-9339 for guidance on the BidSync site.

Respondents are responsible for ensuring that their BidSync registration information is current and correct. The State of Utah accepts no responsibility for missing or incorrect information contained in the vendor registration in BidSync. Incorrect or missing vendor registration information may result in failure to receive notification from BidSync regarding this procurement.

In addition to the original 'master' proposal packet submission, Respondents are required to send one (1) hard copy and one (1) electronic version (Microsoft Word and Excel) of the complete proposal, **excluding pricing information**, to each of the evaluation team members listed below. Each proposal packet shall be marked with the solicitation number and be in accordance with the submittal requirements. The original 'master' sent to the WSCA-NASPO Master Agreement Administrator identified in Section 1.6 of this RFP will prevail in resolving any discrepancies.

Alaska – Ted Fawcett  
Contracting Officer  
[ted.fosket@alsaka.gov](mailto:ted.fosket@alsaka.gov)

California - Bonnie Bahnsen  
[bonnie.bahnsen@dgs.ca.gov](mailto:bonnie.bahnsen@dgs.ca.gov)

Nevada – Marti Marsh  
Purchasing Officer  
[mmarsh@admin.nv.gov](mailto:mmarsh@admin.nv.gov)

New Jersey – Vicente Azarcon  
Procurement Specialist  
[vicente.azarcon@treas.state.nj.us](mailto:vicente.azarcon@treas.state.nj.us)

Utah – Jennifer Porter  
Purchasing Agent  
State of Utah  
[jenniferporter@utah.gov](mailto:jenniferporter@utah.gov)

**1.8 Current State Participants**

The States currently participating in the existing contracts are: Alaska, Arkansas, California, Colorado, Delaware, District of Columbia, Hawaii, Idaho, Iowa, Kentucky, Louisiana, Minnesota, Missouri, Montana, Nevada, New Jersey, Oklahoma (Grand River Dam Authority), Oregon, South Dakota, Utah, Washington, Wisconsin and Wyoming.

## WSCA-NASPO Data Communications Solicitation # JP14001

States with "Intent to Participate" – The following states have executed an Intent to Participate thru WSCA-NASPO, which simply indicates that they want to be formally listed in the published Request for Proposal as participating in the solicitation process: California, Hawaii, Minnesota, Missouri, Montana, Nevada, New Jersey, South Carolina, South Dakota, Utah, Vermont and Washington. All 56 NASPO members are eligible to participate in all WSCA-NASPO contracts when and if they decide they want to, in accordance with their individual statutory requirements.

### 1.9 Governing Laws and Regulations

This procurement is conducted by the State of Utah, Division of Purchasing & General Services, in accordance with the Utah Procurement Code. These are available at the Internet website [www.purchasing.utah.gov](http://www.purchasing.utah.gov) for the State of Utah's Division of Purchasing & General Services.

The laws of the State of Utah will govern all Master Agreements that result from this procurement unless the Data Communications Products and Services Provider and participating entity agree in a Participating Addendum that the laws of another jurisdiction will govern purchases made by purchasing entities within the jurisdiction of the participating entity.

### 1.10 Length of Contract

The Master Agreement(s) resulting from this RFP will be for a period of five years (initial term). The Master Agreement(s) may be extended beyond the original Master Agreement period for a two (2) year period, by mutual agreement.

### 1.11 Pricing Structure

**Pricing Structure:** Pricing for the WSCA-NASPO Master Agreements shall be based on the Percent Discount off the current global MSRP Schedule applicable to United States customers.

### 1.12 Price Guarantee Period

**Price Guarantee Period:** The Data Communication Provider's Discount rate shall remain in effect for the term of the WSCA-NASPO Master Price Agreement.

### 1.13 Price Escalation

**Equipment, Supplies and Services:** Data Communications provider may update the pricing on their MSRP price list one time every year after the first year of the original contract term. The WSCA-NASPO Contract Administrator will review a documented request for a Price Schedule price list adjustment only after the Price Guarantee Period.

### 1.14 Price Reductions

In the event of a price decrease in any category of product at any time during the contract in a Provider's Price Schedule, including renewal options, the WSCA-NASPO Contract Administrator shall be notified immediately. All Price Schedule price reductions shall be effective upon the notification provided to the WSCA-NASPO Master Agreement Administrator.

### 1.15 Usage Reporting Requirement

All Data Communication Provider's will be required to provide quarterly usage reports to the WSCA-NASPO Contract Administrator or designee. The initiation and submission of the quarterly reports are the responsibility of the Data Communication Contract Provider. You are responsible to collect and report all sales data including your resellers and partners sales associated with your Master Agreement. There will be no prompting or notification provided by the WSCA-NASPO Contract Administrator. Quarterly reports must coincide with the quarters in the fiscal year as outlined below:

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Quarter #1:	July 1 through September 30, due annually by October 30.
Quarter #2:	October 1 through December 31, due annually by January 30.
Quarter #3:	January 1 through March 31, due annually by April 30.
Quarter #4:	April 1 through June 30, due annually by July 30.

Respondents must identify the person responsible for providing the mandatory usage reports. This contact information must be kept current during the Master Agreement period. The WSCA-NASPO Contract Administrator must be notified if the contact information changes. The contact information for the person responsible for the mandatory quarterly usage reporting must be specified per Section 3.1.5.

The purpose of the Master Agreement usage-reporting requirement is to aid in Master Agreement management. The specific report content, scope, and format requirements will be provided to the awarded Data Communications Products and Services Provider's during Master Agreement execution. Some WSCA-NASPO States may require additional reporting requirements. Those requirements will be addressed through the individual participating entity's Participating Addendum process. Failure to comply with this requirement may result in Master Agreement cancellation.

### **1.16 Standard Contract Terms and Conditions**

Any Master Agreement resulting from this RFP will include, but will not be limited to, the WSCA-NASPO Standard Master Agreement Terms and Conditions, the State of Utah Additional Terms and Conditions (Appendix A) and any additional terms and conditions specific to WSCA-NASPO participating addendums for participating entities. The WSCA-NASPO Master Agreement Terms and Conditions and State of Utah Additional Terms and Conditions will take highest precedence in any contract resulting from this solicitation. Vendors must clearly identify exceptions to the WSCA-NASPO Standard Master Agreement Terms and Conditions and the State of Utah Additional Terms and Conditions in the bid submission. Vendor exceptions must include proposed solution language. Failure to submit exceptions and/or solution language will constitute vendor acceptance of WSCA-NASPO and State of Utah Additional Terms and Conditions. No third party terms and conditions will be allowed in resulting contracts awarded under this solicitation. Additional vendor terms and conditions must be submitted with the solicitation bid response for legal review and contract applicability. Submission of vendor terms and conditions with a bid response does not guarantee acceptance. Vendor terms and condition will not include any reference to website URLs that house additional terms and conditions. All terms and conditions associated with resulting contracts will be identified and attached to the WSCA-NASPO Master Agreement. The State of Utah reserves the right to accept, reject, and/or negotiate vendor terms and conditions after the award(s) have been made if it is in the best interest of the State of Utah. Participating States reserve the right to negotiate vendor terms and conditions during the Participating Addendum process. Vendor terms and conditions included with a bid response are limited to a maximum of 10 pages (8<sup>1/2</sup> x 11 inch paper, 10 pt Arial font, and single sided). Failure to adhere to these terms and conditions requirements may result in vendor disqualification.

### **1.17 Questions**

All questions must be submitted through BidSync. Answers will be given via the BidSync website. Questions received after the Question/Answer period will not be answered. No agency employee, board member, or evaluation committee member should be contacted concerning this solicitation during the solicitation posting and selection process. Failure to comply with this requirement may result in vendor disqualification.

### **1.18 Discussions with Respondents (Oral Presentation)**

An oral presentation by a Respondent to clarify a proposal may be required at the sole discretion of the WSCA-NASPO Master Agreement Administrator. However, the WSCA-NASPO Contract Administrator may award a Master Agreement based on the initial proposals received without discussion with the Respondent. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the Respondents expense.

### **1.19 Protected Information**

The Government Records Access and Management Act (GRAMA), Utah Code Ann., Subsection 63-2-304,



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provides in part that:

the following records are protected if properly classified by a government entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63-2-308 (Business Confidentiality Claims);

(2) commercial information or non-individual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63-2-308;

\* \* \* \* \*

(6) records the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except that this Subsection (6) does not restrict the right of a person to see bids submitted to or by a governmental entity after bidding has closed; ....

GRAMA provides that trade secrets, commercial information or non-individual financial information may be protected by submitting a Claim of Business Confidentiality.

**To protect information under a Claim of Business Confidentiality, the Respondent must:**

1. provide a written Claim of Business Confidentiality at the time the information (proposal) is provided to the State, and
2. include a concise statement of reasons supporting the claim of business confidentiality (Subsection 63-2-308(1)).
3. submit an electronic "redacted" (excluding protected information) copy of your proposal response. Copy must clearly be marked "Redacted Version." Failure to submit a redacted version may result in release of your entire proposal.

A Claim of Business Confidentiality may be appropriate for information such as client lists and non-public financial statements. **Pricing and service elements cannot be protected. An entire proposal cannot be protected under a Claim of Business Confidentiality or Proprietary. Failure to comply with this requirement may result in your proposal being ruled Non-Responsive** and no longer considered. The claim of business confidentiality must be submitted with your proposal on the form which may be accessed at:

[www.purchasing.utah.gov/contract/documents/confidentialityclaimform.doc](http://www.purchasing.utah.gov/contract/documents/confidentialityclaimform.doc)

To ensure the information is protected, the Division of Purchasing asks the Respondent to clearly identify in the Executive Summary and in the body of the proposal any specific information for which a Respondent claims business confidentiality protection as "PROTECTED".

All materials submitted become the property of the State of Utah. Materials may be evaluated by anyone designated by the State as part of the sourcing team. Materials submitted may be returned only at the State's option.

**1.20 WSCA Administrative Fee**

The Contracted Supplier must pay a WSCA-NASPO administrative fee of one quarter of one percent (.025%) in accordance with the terms and conditions of the contract. The WSCA-NASPO administrative fee shall be submitted quarterly and is based on the actual sales of all products and services in conjunction with your quarterly reports. The WSCA-NASPO administrative fee must be included when determining the pricing offered. The WSCA-NASPO administrative fee is not negotiable and shall not be added as a separate line item on an invoice.

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Additionally, some WSCA-NASPO participating entities may require that an administrative fee be paid directly to the WSCA-NASPO participating entity on purchases made by purchasing entities within that State. For all such requests, the fee percentage, payment method and payment schedule for the participating entity's administrative fee will be incorporated in the Participating Addendum. Data Communications Provider will be held harmless, and may adjust (increase) the WSCA-NASPO Master Agreement pricing by the fee percentage for that participating entity accordingly for purchases made by purchasing entities within the jurisdiction of the State. All such agreements may not affect the WSCA-NASPO fee or the prices paid by the purchasing entities outside the jurisdiction of the participating entities requesting the additional fee.

### 1.21 Interest

Any payments that a Contracted Supplier makes or causes to be made to WSCA-NASPO after the due date as indicated on the Quarterly Report schedule shall accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full. The right to interest on late payments shall not preclude WSCA-NASPO from exercising any of its other rights or remedies pursuant to this agreement or otherwise with regards to Data Communication Provider's failure to make timely remittances.

### 1.22 Proposal Offer Firm

Responses to this RFP, including proposed discounts offered will be considered firm for one hundred and sixty (160) days after the proposal due date. By signature (electronic or otherwise) and submission of a proposal, the person signing verifies that they are authorized to submit the proposal and bind the firm to provide the products/services in the proposal and potential Master Agreement.

### 1.23 Cancellation of Procurement

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the State of Utah, Division of Purchasing and General Services determines such action to be in the best interest of the State of Utah.

### 1.24 Right to Waive

The sourcing team reserves the right to waive minor irregularities at its sole discretion.

### 1.25 Right to Accept All or Portion

It is our intent to accept the entire line of Data Communications Equipment and Services (included in the scope) from the awarded Data Communications Providers, however we reserve the right to accept all or a portion of a Respondents proposal.

### 1.26 Service Line Additions and Updates

During the term of the contract, Data Communications Providers may submit a request to update the awarded items (within the scope listed in IDENTIFY SECTION) as new technology is introduced, updated or removed from the market. The Master Agreement Administrator will evaluate requests and update the contract offering via written amendment as appropriate. The Data Communications Service Provider shall update the dedicated website, price lists, and catalogs to reflect approved changes. Pricing must utilize the same pricing structure as was used for services falling into the same service category.

### 1.27 Right to Publish

Throughout the duration of this procurement process and Master Agreement term, Respondents, Data Communications Providers and their authorized contractors must secure from the WSCA-NASPO Contract Administrator prior approval for the release of any information that pertains to the potential work or activities covered by this procurement or the Master Agreement. The Data Communications Provider shall not make any representations of WSCA-NASPO'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 of the WSCA-NASPO Contract

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Administrator. Failure to adhere to this requirement may result in disqualification of the Respondents proposal or termination of the Master Agreement for cause

### 1.28 Changes in Representation

The Contracted Supplier must notify the WSCA-NASPO Contract Administrator of changes in the Contracted Supplier's key administrative personnel, to the extent that there may be adverse impacts to the contract. The WSCA-NASPO Contract Administrator reserves the right to require a change in Contracted Supplier(s) representatives if the assigned representative(s) is not, in the opinion of the WSCA-NASPO Contract Administrator, meeting the terms and conditions of the contract.

### 1.29 E-Rate Requirement

All award contractors must commit to participation in the Federal Communication Commission's E-rate discount program established under authority of the Federal Telecommunications Commission Act of 1996. Participation in, and implementation of, this program must be provided without the addition of any service or administration fee by the contractor.

### 1.30 Section 508 Compliant

Respondents must meet all Federal and State regulations required to these type of products including but limited to accessible products by describing their support of the applicable provisions of the Workforce Investment Act of 1998, Section 508.

### 1.31 Glossary

**Authorized Contractor: The Prime Contractor as listed as Contractor** under the resulting Master Agreement(s) as a result of this RFP.

**Authorized Sub Contractor:** sub Contractor, Reseller, Partner, etc. Authorized by the Contractor (Prime) to sell only the products and services listed under the Master Agreement (s) established as a result of this RFP. This authorized sub contractor must have the authority and ability to accurately reflect the ability of the Respondent to meet the requirements detailed in this RFP.

**WSCA-NASPO Contract Administrator:** A dedicated person with the authority and ability to manage compliance with the scope and terms and conditions for this contract.

**Mandatory Minimum Requirements:** Requirements that must be met in order to be considered for further evaluation. Mandatory minimum requirements are non-negotiable. An offer that does not meet the mandatory minimum requirements will be disqualified from further consideration.

**Participating Addendum:** A Participating Addendum must be executed by any State that decides to adopt a WSCA-NASPO Master Agreement.

A Participating Addendum shall be executed for each contractor by the individual State desiring to use their contract.

Additional States may be added with the consent of the contractor and the Lead State (on behalf of WSCA-NASPO) through execution of Participating Addendums.

A Participating Addendum allows for each Participating State to add terms and conditions that may be unique to their State.

The Participating State and the Contractor shall negotiate and agree upon any additional terms and conditions prior to the signing and execution of the Participating Addendum.

States are not mandated to sign a Participating Addendum with all awarded vendors.

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**Participating Entity:** A State that has indicated intent to participate in the solicitation process, or after award, a State that has executed a participating addendum.

**Purchasing Entity:** Any end-user in a participating State that is eligible to use the Master Agreement(s) through the participating addendum, including but not limited to State Agencies, Counties, Cities, Education, and other entities.

**Qualified Entity:** An entity that is eligible to use the Master Agreement(s).

**Usage Report Administrator:** A contractor's person responsible for the quarterly sales reporting and payments described in Section 1.15 Usage Reporting Requirement.

**Volume Discount:** A percentage discount offered by the seller to the buyer for purchasing a stated dollar amount of Data Communications services and products to be delivered at one time or for a specified period.

**Sourcing Team:** The technical and business team charged with setting requirements for the Data Communications procurement, and its subsequent evaluation.

## Section 2: General Proposal Requirements and Information

### 2.1 Proposal Content and Format Requirements

Proposals must be detailed and concise. Unless otherwise stated in your proposal as an "exception", Respondents agree to comply with every section, subsection, attachment and addendum of this RFP. Each proposal must be submitted in Microsoft Word or Excel, labeled and organized in a manner that is congruent with the section number, headings, requirements, and terminology used in this RFP. Proposal documents must be Arial font size 10. Respondent responses that are limited to a specified number of pages are referring to single sided pages. As an example, a response that is limited to a document that is no more than two pages long may be submitted on one double sided page, but not two double sided pages.

### 2.2 RFP Revisions

Revisions, if any, and all written questions and the State's answers, will be posted on the BidSync website. Solicitation documents will not be mailed to prospective Proposers. Respondents must register (free of charge) as a vendor with BidSync in order to have access to the RFP and related documents. Respondents are responsible for ensuring that their registration information is current and correct. The State of Utah accepts no responsibility for missing or incorrect information contained in the supplier's registration information on BidSync. The State of Utah accepts no responsibility for a prospective Respondent not receiving solicitation documents and/or revisions to the solicitation. It is the responsibility of the prospective Respondent to obtain the information provided through BidSync.

### 2.3 Right to Waive

The State of Utah reserves the right to waive any informality or technicality in any proposal.

### 2.4 Proposals Become Property of the State of Utah

All proposal contents become the property of the State of Utah. All proposal content is proprietary during the proposal evaluation process. Upon Master Agreement award, the successful Respondents' proposals will be open to public inspection, by request, with the exception of any proposal content that is marked as "proprietary or confidential" by the Respondent. All content designated as "proprietary or confidential" must be supported by documentation as to the rationale for the proprietary nature of the information.

### 2.5 News Releases

News releases or other public disclosure of information pertaining to this RFP or the statewide contracts may not be published without the prior written permission of the State of Utah.

### 2.6 State Seal Use

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The Utah [Great Seal Rule](#) states, in section R622-2-3.Custody and Use, that "no facsimile or reproduction of the Great Seal may be manufactured, used, displayed, or otherwise employed by anyone without the written approval of the Lieutenant Governor."

Other participating States have similar rules that must be adhered to by Respondents or interested parties.

### **Section 3: Data Communications Provider Mandatory Minimum Requirements**

#### **3.1 General Information**

This section contains requirements that must be addressed in order for your proposal to be considered for the evaluation phase of this RFP. All of the items described in this section are non-negotiable. Respondents are required to complete:

#### **Mandatory Requirements (M)**

All Respondents must meet the **(M)** requirements listed in this section, and explain how the requirement is met. A 'no' response on the acceptance document or omission of the required explanation will disqualify the service from further evaluation.

##### **3.1.1 Equipment Offering**

**(M)** Identify Equipment Offering in sections 5.2.1-5.3.0.

##### **3.1.2 Service Offering**

**(M)** Identify Service Offerings for all products offered in Sections 5.2.1-5.3.0.

##### **3.1.3 Insurance Requirement**

**(M)** This pertains to the State of Utah insurance requirements. Other Participating States may identify different insurance requirements during the participating addendum process.

Data Communications Provider's and their authorized contractors shall procure and maintain insurance which shall protect the authorized contractor and The State and/or purchasing entity (as an additional insured) from any claims from bodily injury, property damage, or personal injury covered by the indemnification obligations set forth herein. The Data Communications Provider's authorized contractor shall procure and maintain the insurance policies described below at their own expense and shall furnish to the procurement manager, upon award, an insurance certificate listing the participating State(s) as certificate holder and as an additional insured. The insurance certificate must document that the Commercial General Liability insurance coverage purchased by the authorized contractor to include contractual liability coverage applicable to this Master Agreement. In addition, the insurance certificate must provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in all States); a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements) and an acknowledgment of notice of cancellation to the participating States.

Authorized contractor is required to maintain the following insurance coverage's during the term of the WSCA-NASPO Master Agreement:

- 1) Workers' Compensation Insurance – The Data Communications Provider's authorized contractor must comply with Participating State's requirements and provide a certificate of insurance.
- 2) Commercial General Liability Policy per occurrence - \$1,000,000. Coverage to include bodily injury and property damage combined single limit.
- 3) Business Automobile Policy to include but not limited to liability coverage on any owned, non-

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owned, or hired vehicle used by Data Communications Provider's authorized contractor personnel in the performance of this Master Agreement. The business automobile policy shall have the following limits of liability: Per Occurrence - \$1,000,000, Annual Aggregate - \$3,000,000, Annual Aggregate applying to products and services - \$3,000,000. Coverage must include premises and operations, bodily injury and property damage, personal and advertising injury; blanket contractual, products and services, owner named as an additional insured. The State of Utah must be listed as an additional insured.

Within 10 days of contract award, the Contracted Supplier and/or Authorized Contractor must submit proof of certificate of insurance that meets the above requirements or the Participating States requirements.

### 3.1.4 Delivery

**(M)** The prices offered shall be the delivered price to any WSCA-NASPO purchasing entity. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance (*within 30 days after delivery for external damage and 30 days for any concealed damage*) when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. 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 shall be shipped without charge.

### 3.1.5 Service Offering Documentation

**(M)** Upon request, user and/or technical documentation should be supplied for all procured products and services. Manuals may be available via the Contracted Supplier's website. The manual shall contain user and technical instructions appropriate to the service.

### 3.1.6 Data Communications Provider Contract Administrator and Usage Report Administrator

**(M)** The Contracted Supplier shall provide a Contract Administrator to manage compliance with the scope and terms and conditions for this contract. The following information, at a minimum, regarding the Contract Administrator shall be provided:

- a. Administrator's number of years experience in the Data Communications Services business.
- b. Confirmation that the Data Communications Provider Contract Administrator has authority to enforce the scope of work and terms and conditions of the resulting contract.

The Contracted Supplier shall also provide a Usage Report Administrator responsible for the quarterly sales reporting described in Section 1.15 Usage Reporting Requirement.

### 3.1.7 eMarket Center Cooperation

**(M)** To be eligible for contract award, the Contractor must agree to cooperate with WSCA-NASPO and SciQuest (and any authorized agent or successor entity to SciQuest) with uploading a hosted catalog or integrating a punchout site. The contract requirements are in section 7.

## Section 4: Data Communications Provider Qualifications

### 4.1 General Information:

Provide any pertinent general information about the depth and breadth of the Offeror's product and service offerings and their overall use and acceptance in the Data Communications marketplace.

### 4.2 Warranty

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Specify the Offeror's standard warranty offerings for the products and services proposed in the response to this RFP.

**4.3 Website**

Award contractors are required to establish and maintain a website applicable to the WSCA/NASPO contract which will allow Participating States to see applicable contract price list, discounts on said price list, approved resellers or partners for their state and any additional information that may be required to assist the participating states in obtaining information concerning the contract award. The State of Utah representing WSCA/NASPO reserves the right to require the award contractor to add additional items to assist in this process. Specify Websites used by the Offeror to facilitate customer ordering under awarded contracts. This is a mandatory requirement.

**4.4 Customer Service**

Specify the Offeror's standard customer service policies and detail the escalation process used to handle customer-generated issues.

**4.5 Firm**

- a. Provide a brief history of your firm including the following:
  1. Number of years providing Data Communications Services being offered in response to this RFP.
  2. Number of separate services provided in each of the area categories described in this RFP.
- b. Describe specifically what makes your firm a stable long term partner for WSCA-NASPO.
- c. Describe specifically what information the Data Communications Provider contract administrator would provide at annual meetings with an entity that has executed a participating addendum.
- d. Describe how you plan to implement the contract including having a single point of contact to perform and manage all aspects of this contract.
- e. Describe in detail your firm's escalation management plan including contact information.

**4.6 Authorized Sub Contractor Relationships**

Respondents may propose the use of Servicing Subcontractors or partners however, the Contractor shall remain solely responsible for the performance under the terms and conditions of the Contract if Servicing Subcontractors are utilized. This includes sales report information. The Contractor will be responsible to collect, and report this information from all partners or resellers representing your contract.

- a. Briefly describe what your firm requires from potential contractors to become an "Authorized Data Communications Reseller". Provide an Authorized Contractor List.
- b. Describe in detail how your firm currently measures an authorized contractors' performance.
- c. Describe in detail the process for revoking a designation as a sub contractor from an authorized contractor for issues related to customer service, or other authorized contractor performance related issues.
- d. Describe in detail how your firm will support and assist an authorized contractor in improving their performance and the corrective action process.

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- e. Describe in detail the process that your firm uses to track and respond to issues and concerns from both your authorized contractors and from participating entities.
- f. Describe in detail how your firm will track, report and verify sales from your designated Data Communication partners and authorized contractors.

**Section 5: Service Offering Qualifications****5.1 General Information**

This section contains mandatory minimum requirements that must be met in order for your proposal to be considered for the evaluation phase of this RFP. All of the items described in this section are non-negotiable. Respondents are required to complete:

**Mandatory Requirements (M)**

All Respondents must meet the **(M)** requirements listed in this section, and explain how the requirement is met. A 'no' response on the acceptance document or omission of the required explanation will disqualify the service from further evaluation.

**5.1.1 General Business Requirements**

Each provider must meet the following mandatory general business requirements:

**5.1.2 Terms and Conditions**

**(M)** Respondents *must* indicate their acceptance of the State of Utah Standard Terms and Conditions in addition to the WSCA-NASPO Terms and Conditions attached to this RFP as Attachment A and Attachment B. Any exceptions to these terms and conditions must be clearly identified in bid response and during the question and answer period on BidSync. Significant exceptions may constitute grounds for rejecting Respondent proposals.

**5.1.3 Experience**

**(M)** Respondents *must* be able to provide reference service contracts from a minimum of five government or commercial customers for their Data Communications Product and Services offerings. Government references are preferred. References must include environments and complexity that is similar in scope to those described within this RFP. Any proposals from Respondents that cannot meet these requirements will not be considered. The Respondent must provide specific contact information describing their reference service contracts, which may be verified.

**5.1.4 Financial Stability**

**(M)** The Data Communications Product and Services vendor *must* provide audited financial statements to the State and should meet a minimum Dun and Bradstreet (D&B) credit rating of 4A2 or better, or a recognized equivalent rating. Please provide the Respondent's D&B Number and the composite credit rating. The State reserves the right to verify this information. If a branch or wholly owned subsidiary is bidding on this RFP, please provide the D&B Number and score for the parent company that will be financially responsible for performance of the agreement. Prime contractors working on behalf of Respondents must submit financial statements that demonstrate financial stability, and adequate working capital, but do not need to meet 4A2 credit rating requirements.

**5.1.5 Other General Responsibilities**



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**(M)** The Respondent *must* provide the personnel, equipment, tools, and expertise to meet the requirements in this RFP.

**(M)** Computer applications and Web sites *must* be accessible to people with disabilities, and *must* comply with Participating entity accessibility policies and the Americans with Disability Act.

**(M)** Applications and content delivered through Web browsers must be accessible using current released versions of multiple browser platforms (such as Internet Explorer, Firefox, Chrome, and Safari) at minimum.

## 5.2 Data Communications Services – Requirements

Offerors may respond to any of the sections where they have substantive product offerings that address the scope detailed in each Section from 5.2.1-5.3.0. All Offerors must include a response to section 5.31 services, that addresses products proposed in 5.2.1-5.3.0.

Products may be used by the states in branch offices, main government offices and data centers, and by overall government data communications providers offering carrier class services. Responses should consider this breadth of use and users.

The scope and context of this solicitation **does not include endpoints such as cell/smart phones, other mobile devices or devices designed exclusively for use by individual users**. It is focused on the equipment and software infrastructure required to support provisioning of a variety of network services within a modern digital network. The user context will vary from branch offices through enterprise and statewide data communication network installations. Respondents should offer a range of solutions that are appropriate for installations of varying size and complexity.

**5.2.1 DATA CENTER APPLICATION SERVICES •** Application networking solutions and technologies that enable the successful and secure delivery of applications within data centers to local, remote, and branch-office users using technology to accelerate, secure, and increase availability of both application traffic and computing resources.

**5.2.1.1 Virtualized Load Balancers •** Virtual devices that act like a reverse proxy to distribute network and/or application traffic across multiple servers to improve the concurrent user capacity and overall reliability of applications. Capabilities should include:

- SSL (Secure Sockets Layer) Off-loading
- Caching capabilities
- Layer 4 Load Balancing
- Layer 7 Load Balancing
- Detailed Reporting
- Supports multiple load balancers in the same system for multiple groups
- Supports TLS1.2

**5.2.1.2 WAN Optimization •** An appliance utilizing a collection of techniques for increasing data-transfer efficiencies across wide-area networks (WAN). Capabilities should include:

- CIFS (Common Internet File System) acceleration
- Data Compression

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- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization

**5.2.2 NETWORKING SOFTWARE** • Software that runs on a server and enables the server to manage data, users, groups, security, applications, and other networking functions. The network operating system is designed to allow shared file and printer access among multiple computers in a network, typically a local area network (LAN), a private network or to other networks. Networking software capabilities should include:

- Restartable Process
- High availability options
- Targeted operating systems, i.e. DC, campus, core, wan, etc.
- Operating System Efficiencies

**5.2.2.1 Network Management and Automation** • Software products and solutions for data center automation, cloud computing, and IT systems management.

**5.2.2.2 Data Center Management and Automation** • Software products and solutions that capture and automate manual tasks across servers, network, applications, and virtualized infrastructure.

**5.2.2.3 Cloud Portal and Automation** • Software products and solutions for cloud management with policy-based controls for provisioning virtual and physical resources.

**5.2.2.4 Branch Office Management and Automation** • Software products and solutions for management of branch offices. Capabilities include remote troubleshooting, device management, WAN performance monitoring.

**5.2.3 NETWORK OPTIMIZATION AND ACCELERATION** • Devices and tools for increasing data-transfer efficiencies across wide-area networks.

**5.2.3.1 Dynamic Load Balancing** • An appliance that performs a series of checks and calculations to determine which server can best service each client request in order to select the server that can successfully fulfill the client request and do so in the shortest amount of time without overloading either the server or the server farm as a whole.

**5.2.3.2 WAN Acceleration** • Appliance that optimizes bandwidth to improve the end user's experience on a wide area network (WAN). Capabilities should include:

- CIFS acceleration
- Data Compression
- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization

**5.2.3.3 High Availability and Redundancy** • Limits any disruption to network uptime should an appliance face unforeseen performance issues. Transparently redistributes workloads to surviving cluster appliances without impacting communication throughout the cluster.

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**5.2.4 OPTICAL NETWORKING** • High capacity networks based on optical technology and components that provide routing, grooming, and restoration at the wavelength level as well as wavelength based services.

- 5.2.4.1 Core DWDM (Dense Wavelength Division Multiplexing) Switches** • Switches used in systems designed for long haul and ultra long-haul optical networking applications.
- 5.2.4.2 Edge Optical Switches** • Provide entry points into the enterprise or service provider core networks.
- 5.2.4.3 Optical Network Management** • Provides capabilities to manage the optical network and allows operators to execute end-to-end circuit creation.
- 5.2.4.4 IP over DWDM (IPoDWDM)** • A device utilized to integrate IP Routers and Switches in the OTN (Optical Transport Network).

**5.2.5 ROUTERS** • A device that forwards data packets along networks. A router is connected to at least two networks, commonly two LANs or WANs or a LAN and its ISP's network. Routers are located at gateways, the places where two or more networks connect, and are the critical device that keeps data flowing between networks and keep the networks connected to the Internet.

- 5.2.5.1 Branch Routers** • A multiservice router typically used in branch offices or locations with limited numbers of users and supports flexible configurations/feature. For example: security, VoIP, wan acceleration, etc.
- 5.2.5.2 Network Edge Routers** • A specialized router residing at the edge or boundary of a network. This router ensures the connectivity of its network with external networks, a wide area network or the Internet. An edge router uses an External Border Gateway Protocol, which is used extensively over the Internet to provide connectivity with remote networks.
- 5.2.5.3 Core Routers** - High performance, high speed, low latency routers that enable Enterprises to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV and Video on Demand (VoD), and Software as a Service (SaaS).
- 5.2.5.4 Service Aggregation Routers** • Provides multiservice adaptation, aggregation and routing for Ethernet and IP/MPLS networks to enable service providers and enterprise edge networks simultaneously host resource-intensive integrated data, voice and video business and consumer services.
- 5.2.5.5 Carrier Ethernet Routers** • High performance routers that enable service providers to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV, Video on Demand (VoD), and Software as a Service (SaaS).

## 5.2.6 SECURITY

- 5.2.6.1 Data Center and Virtualization Security Products and Appliances** • Products designed to protect high-value data and data center resources with threat defense and policy control.
- 5.2.6.2 Intrusion Detection/Protection and Firewall Appliances** • Provide comprehensive inline network firewall security from worms, Trojans, spyware, key loggers, and other malware. This includes Next-Generation Firewalls (NGFW), which offer a wire-speed integrated network platform that performs

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deep inspection of traffic and blocking of attacks. Intrusion Detection/Protection and Firewall Appliances should provide:

- Non-disruptive in-line bump-in-the-wire configuration
- Standard first-generation firewall capabilities, e.g., network-address translation (NAT), stateful protocol inspection (SPI) and virtual private networking (VPN), etc.
- Application awareness, full stack visibility and granular control
- Capability to incorporate information from outside the firewall, e.g., directory-based policy, blacklists, white lists, etc.
- Upgrade path to include future information feeds and security threats
- SSL decryption to enable identifying undesirable encrypted applications (Optional)

- 5.2.6.3 Logging Appliances and Analysis Tools** • Solutions utilized to collect, classify, analyze, and securely store log messages.
- 5.2.6.4 Secure Edge and Branch Integrated Security Products** • Network security, VPN, and intrusion prevention for branches and the network edge. Products typically consist of appliances or routers.
- 5.2.6.5 Secure Mobility Products** • Delivers secure, scalable access to corporate applications across multiple mobile devices.
- 5.2.6.6 Encryption Appliances** • A network security device that applies crypto services at the network transfer layer - above the data link level, but below the application level.
- 5.2.6.7 On-premise and Cloud-based services for Web and/or Email Security** • Solutions that provide threat protection, data loss prevention, message level encryption, acceptable use and application control capabilities to secure web and email communications.
- 5.2.6.8 Secure Access** • Products that provide secure access to the network for any device, including personally owned mobile devices (laptops, tablets, and smart phones). Capabilities should include:
- Management visibility for device access
  - Self-service on-boarding
  - Centralized policy enforcement
  - Differentiated access and services
  - Device Management

**5.2.7 STORAGE NETWORKING** • High-speed network of shared storage devices connecting different types of storage devices with data servers.

- 5.2.7.1 Director Class SAN (Storage Area Network) Switches and Modules** • A scalable, high-performance, and protocol-independent designed primarily to fulfill the role of core switch in a core-edge Fibre Channel (FC), FCOE or similar SAN topology. A Fibre Channel director is, by current convention, a switch with at least 128 ports. It does not differ from a switch in core FC protocol functionality. Fibre Channel directors provide the most reliable, scalable, high-performance foundation for private cloud storage and highly virtualized environments.
- 5.2.7.2 Fabric and Blade Server Switches** • A Fibre Channel switch is a network switch compatible with the Fibre Channel (FC) protocol. It allows the creation of a Fibre Channel fabric, which is currently the core component of most SANs. The fabric is a network of Fibre Channel devices, which allows many-to-many

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communication, device name lookup, security, and redundancy. FC switches implement zoning; a mechanism that disables unwanted traffic between certain fabric nodes.

**5.2.7.3 Enterprise and Data Center SAN and VSAN (Virtual Storage Area Network) Management** • Management tools to provisions, monitors, troubleshoot, and administers SANs and VSANs.

**5.2.7.4 SAN Optimization** • Tools to help optimize and secure SAN performance (ie. Encryption of data-at-rest, data migration, capacity optimization, data reduction, etc.

**5.2.8 SWITCHES** • Layer 2/3 devices that are used to connect segments of a LAN (local area network) or multiple LANs and to filter and forward packets among them.

**5.2.8.1 Campus LAN – Access Switches** • Provides initial connectivity for devices to the network and controls user and workgroup access to internetwork resources. The following are some of the features a campus LAN access switch should support:

- Security
  - i. SSHv2 (Secure Shell Version 2)
  - ii. 802.1X (Port Based Network Access Control)
  - iii. Port Security
  - iv. DHCP (Dynamic Host Configuration Protocol) Snooping
- VLANs
- Fast Ethernet/Gigabit Ethernet
- PoE (Power over Ethernet)
- link aggregation
- 10 Gb support
- Port mirroring
- Span Taps
- Support of IPv6 and IPv4
- Standards-based rapid spanning tree
- Netflow Support (Optional).

**5.2.8.2 Campus LAN – Core Switches** • Campus core switches are generally used for the campus backbone and are responsible for transporting large amounts of traffic both reliably and quickly. Core switches should provide:

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Security
  - i. SSHv2
  - ii. MacSec encryption
  - iii. Role-Based Access Control Lists (ACL)
- Support of IPv6 and IPv4

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- 1/10/40/100 Gbps support
- IGP (Interior Gateway Protocol) routing
- EGP (Exterior Gateway Protocol) routing
- VPLS (Virtual Private LAN Service) Support
- VRRP (Virtual Router Redundancy Protocol) Support
- Netflow Support.

**5.2.8.3 Campus Distribution Switches** • Collect the data from all the access layer switches and forward it to the core layer switches. Traffic that is generated at Layer 2 on a switched network needs to be managed, or segmented into Virtual Local Area Networks (VLANs), Distribution layer switches provides the inter-VLAN routing functions so that one VLAN can communicate with another on the network. Distribution layer switches provides advanced security policies that can be applied to network traffic using Access Control Lists (ACLs).

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Security (SSHv2 and/or 802.1X)
- Support of IPv6 and IPv4
- Jumbo Frames Support
- Dynamic Trunking Protocol (DTP)
- Per-VLAN Rapid Spanning Tree (PVRST+)
- Switch-port auto recovery
- NetFlow Support or equivalent

**5.2.8.4 Data Center Switches** • Data center switches, or Layer 2/3 switches, switch all packets in the data center by switching or routing good ones to their final destinations, and discard unwanted traffic using Access Control Lists (ACLs), all at Gigabit and 10 Gigabit speeds. High availability and modularity differentiates a typical Layer 2/3 switch from a data center switch. Capabilities should include:

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Ultra-low latency through wire-speed ports with nanosecond port-to-port latency and hardware-based Inter-Switch Link (ISL) trunking
- Load Balancing across Trunk group able to use packet based load balancing scheme
- Bridging of Fibre Channel SANs and Ethernet fabrics
- Jumbo Frame Support
- Plug and Play Fabric formation that allows a new switch that joins the fabric to automatically become a member
- Ability to remotely disable and enable individual ports
- Support NetFlow or equivalent

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- 5.2.8.5 Software Defined Networks (SDN) - Virtualized Switches and Routers •** Technology utilized to support software manipulation of hardware for specific use cases.
- 5.2.8.6 Software Defined Networks (SDN) •** Controllers - is an application in software-defined networking (SDN) that manages flow control to enable intelligent networking. SDN controllers are based on protocols, such as OpenFlow, that allow servers to tell switches where to send packets. The SDN controller lies between network devices at one end and applications at the other end. Any communications between applications and devices have to go through the controller. The controller uses multiple routing protocols including OpenFlow to configure network devices and choose the optimal network path for application traffic.
- 5.2.8.7 Carrier Aggregation Switches •** Carrier aggregation switches route traffic in addition to bridging (transmitted) Layer 2/Ethernet traffic. Carrier aggregation switches' major characteristics are:
- Designed for Metro Ethernet networks
  - Designed for video and other high bandwidth applications
  - Supports a variety of interface types, especially those commonly used by Service Providers
- Capabilities should include:
- Redundant Processors
  - Redundant Power
  - IPv4 and IPv6 unicast and multicast
  - High bandwidth
  - Low latency
  - Hot swappable power supplies and fans
  - MPLS (Multiprotocol Label Switching)
  - BGP (Border Gateway Protocol)
  - Software router virtualization and/or multiple routing tables
  - Policy based routing
  - Layer 2 functionality
    - i. Per VLAN Spanning Tree
    - ii. Rapid Spanning Tree
    - iii. VLAN IDs up to 4096
    - iv. Layer 2 Class of Service (IEEE 802.1p)
    - v. Link Aggregation Control Protocol (LACP)
    - vi. QinQ (IEEE 802.1ad)
- 5.2.8.8 Carrier Ethernet Access Switches •** A carrier Ethernet access switch can connect directly to the customer or be utilized as a network interface on the service side to provide layer 2 services.

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- Hot-swappable and field-replaceable integrated power supply and fan tray
- AC or DC power supply with DC input ranging from 18V to 32 VDC and 36V to 72 VDC
- Ethernet and console port for manageability
- SD flash card slot for additional external storage
- Stratum 3 network clock
- Line-rate performance with a minimum of 62-million packets per second (MPPS) forwarding rate
- Support for dying gasp on loss of power
- Support for a variety of small form factor pluggable transceiver (SFP and SFP+) with support for Device Object Model (DOM)
- Timing services for a converged access network to support mobile solutions, including Radio Access Network (RAN) applications
- Support for Synchronous Ethernet (SyncE) services
- Supports Hierarchical Quality of Service (H-QoS) to provide granular traffic-shaping policies
- Supports Resilient Ethernet Protocol REP/G.8032 for rapid layer-two convergence

**5.2.9 WIRELESS** • Provides connectivity to wireless devices within a limited geographic area. System capabilities should include:

- Redundancy and automatic failover
- IPv6 compatibility
- NTP Support

**5.2.9.1 Access Points** • A wireless Access Point (AP) is a device that allows wireless devices to connect to a wired network using Wi-Fi, or related standards. Capabilities should include:

- 802.11a/b/g/n
- 802.11n
- 802.11ac
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)
- UL2043 plenum rated for safe mounting in a variety of indoor environments
- Support AES-CCMP (128-bit)
- Provides real-time wireless intrusion monitoring and detection

**5.2.9.2 Outdoor Wireless Access Points** • Outdoor APs are rugged, with a metal cover and a DIN rail or other type of mount. During operations they can tolerate a wide temperature range, high humidity and exposure to water, dust, and oil. Capabilities should include:

- Flexible Deployment Options
- Provides real-time wireless intrusion monitoring and detection
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)

**5.2.9.3 Wireless LAN Controllers** • An onsite or offsite solution utilized to manage



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light-weight access points in large quantities by the network administrator or network operations center. The WLAN controller automatically handles the configuration of wireless access-points. Capabilities should include:

- Ability to monitor and mitigate RF interference/self-heal
- Support seamless roaming from AP to AP without requiring re-authentication
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic
- System encrypts all management layer traffic and passes it through a secure tunnel
- Policy management of users and devices provides ability to de-authorize or deny devices without denying the credentials of the user, nor disrupting other AP traffic
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic

**5.2.9.4 Wireless LAN Network Services and Management** • Enables network administrators to quickly plan, configure and deploy a wireless network, as well as provide additional WLAN services. Some examples include wireless security, asset tracking, and location services. Capabilities should include:

- Provide for redundancy and automatic failover
- Historical trend and real time performance reporting is supported
- Management access to wireless network components is secured
- SNMPv3 enabled
- RFC 1213 compliant
- Automatically discover wireless network components
- Capability to alert for outages and utilization threshold exceptions
- Capability to support Apple's Bonjour Protocol / mDNS
- QoS / Application identification capability

**5.2.9.5 Cloud-based services for Access Points** • Cloud-based management of campus-wide WiFi deployments and distributed multi-site networks. Capabilities include:

- Zero-touch access point provisioning
- Network-wide visibility and control
- RF optimization,
- Firmware updates

**5.2.9.6 Bring Your Own Device (BYOD)** • Mobile Data Management (MDM) technology utilized to allow employees to bring personally owned mobile devices (laptops, tablets, and smart phones) to their workplace, and use those devices to access privileged government information and applications in a secure manner. Capabilities should include:

- Ability to apply corporate policy to new devices accessing the network resources, whether wired or wireless
- Provide user and devices authentication to the network

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- Provide secure remote access capability
- Support 802.1x
- Network optimization for performance, scalability, and user experience

**5.3.0 UNIFIED COMMUNICATIONS (UC)** • A set of products that provides a consistent unified user interface and user experience across multiple devices and media types. Unified Communications that is able to provide services such as session management, voice, video, messaging, mobility, and web conferencing. It can provide the foundation for advanced unified communications capabilities of IM and presence-based services and extends telephony features and capabilities to packet telephony network devices such as IP phones, media processing devices, Voice over IP (VoIP) gateways, and multimedia applications. Additional services, such as unified messaging, multimedia conferencing, collaborative contact centers, and interactive multimedia response systems, are made possible through open telephony APIs. General UC solution capabilities should include:

- High Availability for Call Processing
- Hardware Platform High Availability
- Network Connectivity High Availability
- Call Processing Redundancy

**5.3.0.1 IP Telephony** • Solutions utilized to provide the delivery of the telephony application (for example, call setup and teardown, and telephony features) over IP, instead of using circuit-switched or other modalities. Capabilities should include:

- Support for analog, digital, and IP endpoints
- Centralized Management
- Provide basic hunt group and call queuing capabilities
- Flexibility to configure queue depth and hold time, play unique announcements and Music on Hold (MoH), log in and log out users from a queue and basic queue statistics (from the phone)
- E911 Support

**5.3.0.2 Instant messaging/ Presence** • Solutions that allow communication over the Internet that offers quick transmission of text-based messages from sender to receiver. In push mode between two or more people using personal computers or other devices, along with shared clients, instant messaging basically offers real-time direct written language-based online chat. Instant messaging may also provide video calling, file sharing, PC-to-PC voice calling and PC-to-regular-phone calling.

**5.3.0.3 Unified messaging** • Integration of different electronic messaging and communications media (e-mail, SMS, Fax, voicemail, video messaging, etc.) technologies into a single interface, accessible from a variety of different devices.

- Ability to access and manage voice messages in a variety of ways, using email inbox, Web browser, desktop client, VoIP phone, or mobile phone
- Visual Voicemail Support (Optional)

**5.3.0.4 Contact Center** • A computer-based system that provides call and contact routing for high-volume telephony transactions, with specialist answering “agent” stations and a sophisticated real-time contact management system. The definition includes all contact center systems that provide inbound contact handling capabilities and automatic contact distribution, combined with a high degree of sophistication in terms of dynamic contact traffic management.

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**5.3.0.5 Communications End Points and Applications**

- Attendant Consoles
- IP Phones

**5.3.0.6 UC Network Management** • Provides end-to-end service management for Unified Communications. Capabilities include testing, performance monitoring, configuration management, and business intelligence reporting.

**5.3.0.7 Collaboration** • Voice, video, and web conferencing; messaging; mobile applications; and enterprise social software.

**5.3.0.8 Collaborative Video** • A set of immersive video technologies that enable people to feel or appear as if they were present in a location that they are not physically in. Immersive video consists of a multiple codec video system, where each meeting attendee uses an immersive video room to “dial in” and can see/talk to every other member on a screen (or screens) as if they were in the same room and provides call control that enables intelligent video bandwidth management.

**5.3.0.8.1 Content Delivery Systems (CDS)** • A large distributed system of servers deployed in multiple data centers connected by the Internet. The purpose of the content delivery system is to serve content to end-users with high availability and high performance. CDSs serve content over the Internet, including web objects (text, graphics, URLs, and scripts), downloadable objects (media files, software, documents), applications (e-commerce, portals), live streaming media, on-demand streaming media, and social networks.

**5.3.0.8.2 Physical Security** • Technology utilized to restricting physical access by unauthorized people to controlled facilities. Technologies include:

- a. Access control systems
- b. Detection/Identification systems, such as surveillance systems, closed circuit television cameras, or IP camera networks and the associated monitoring systems.
- c. Response systems such as alert systems, desktop monitoring systems, radios, mobile phones, IP phones, and digital signage
- d. Building and energy controls

**5.3.1 SERVICES** • For each Category above (5.21-5.30), the following services should be available for procurement as well at the time of product purchase or anytime afterwards.

**5.3.1.1 Maintenance Services** • Capability to provide technical support, flexible hardware coverage, and smart, proactive device diagnostics for hardware.

**5.3.1.2 Professional Services**

- Deployment Services
  - § Survey/ Design Services • Includes, but not limited to, discovery, design, architecture review/validation, and readiness assessment.
  - § Implementation Services • Includes, but not limited to, basic installation and configuration or end-to-end integration and deployment.

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§ Optimization • Includes, but not limited to, assessing operational environment readiness, identify ways to increase efficiencies throughout the network, and optimize Customer's infrastructure, applications and service management.

- Remote Management Services • Includes, but not limited to, continuous monitoring, incident management, problem management, change management, and utilization and performance reporting that may be on a subscription basis.
- Consulting/Advisory Services • Includes, but not limited to, assessing the availability, reliability, security and performance of Customer's existing solutions.
- Data Communications Architectural Design Services • Developing architectural strategies and roadmaps for transforming Customer's existing network architecture and operations management.
- Statement of Work (SOW) Services • Customer-specific tasks to be accomplished and/or services to be delivered based on Customer's business and technical requirements.

### 5.3.1.3 Partner Services • Provided by Contractor's Authorized Partners/Resellers.

- Subject to Contractor's approval and the certifications held by its Partners/Resellers, many Partners/Resellers can also offer and provide some or all of the Services as listed above at competitive pricing, along with local presence and support. As the prime, Contractor is still ultimately responsible for the performance of its Partners/ Resellers. Customers can have the option to purchase the Services to be directly delivered by Contractor (OEM) or its certified Partners/Resellers.

### 5.3.1.4 Training • Learning offerings for IT professionals on networking technologies, including but not limited to designing, implementing, operating, configuring, and troubleshooting network systems pertaining to items provided under the master agreement.

## 5.3.2 ADDING PRODUCTS

The ability to add new equipment and services is for the convenience and benefit of WSCA-NASPO, the Participating States, and all the Authorized Purchasers. The intent of this process is to promote "one-stop shopping" and convenience for the customers and equally important, to make the contract flexible in keeping up with rapid technological advances. The option to add new product or service categories and/items will expedite the delivery and implementation of new technology solutions for the benefit of the Authorized Purchasers.

After the contracts are awarded, additional IT product categories and/or items may be added per the request of the Contractor, a Participating State, an Authorized Purchaser or WSCA-NASPO. Additions may be ad hoc and temporary in nature or permanent. All additions to an awarded Contractor or Manufacturer's offerings must be products, services, software, or solutions that are commercially available at the time they are added to the contract award and fall within the original scope and intent of the RFP (i.e., converged technologies, value adds to manufacturer's solution offerings, etc.).

**5.3.2.1 New Product from Contractors •** If Contractor, a Participating State, an Authorized Purchaser or WSCA-NASPO itself requests to add new product categories permanently, then all awarded Contractors (Manufacturers) will be notified of the proposed change and will have the opportunity to work with WSCA to determine applicability, introduction, etc. Any new products or services must be reviewed and approved by the WSCA-NASPO Contract Administrator.

**5.3.2.2 Ad Hoc Product Additions •** A request for an ad hoc, temporary addition of a product

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category/item must be submitted to WSCA-NAPOS via the governmental entity's contracting/purchasing officer. Ad hoc, temporary requests will be handled on a case-by-case basis.

**5.3.2.3 Pricelist Updates** • As part of each Contractor's ongoing updates to its pricelists throughout the contract term, Contractor can add new SKUs to its awarded product categories that may have been developed in-house or obtained through mergers, acquisitions or joint ventures; provided, however, that such new SKUs fall within the Contractor's awarded product categories.

## Section 6: Evaluation

### 6.1 General Information

Proposals will be evaluated for completeness and compliance with the requirements of this RFP by a sourcing team. The sourcing team may engage additional qualified individuals during the process to assist with technical, financial, legal, or other matters.

Except at the invitation of the sourcing team, no activity or comments from Offerors regarding this RFP shall be discussed with any member of the sourcing team during the evaluation process. An Offeror who contacts a member of the sourcing team in reference to this RFP may have its proposal rejected.

Each proposal must be submitted in Microsoft Word or Excel, or PDF labeled and organized in a manner that is congruent with the section number, headings, requirements, and terminology used in this RFP. Proposal documents must be use Arial font size 10. All proposals must be submitted in electronic form.

### 6.2 Administrative Requirements Compliance

The sourcing team will evaluate each proposal for compliance with administrative requirements. Non compliance with any of these requirements will render a proposal non-responsive. Only those proposals that pass the administrative requirements will be evaluated further.

In order to pass the Administrative Requirements, the following must be received by due date and time associated with this RFP as listed in Bid Sync.

#### 6.2.1 References

Vendor must provide a least three current account references for which your company provides similar Data Communications services for private, state and/or large local government clients (preferably government/public entities). **Offerors are required to submit Attachment B - Reference Form, for business references. The business providing the reference must submit the Reference Form directly to the State of Utah, Division of Purchasing.** It is the offeror's responsibility to ensure that completed forms are received by the State of Utah Division of Purchasing on or before the proposal submission deadline for inclusion in the evaluation process. Business references not received, or not complete, may adversely affect the offeror's score in the evaluation process. The Purchasing Division reserves the right to contact any or all business references for validation of information submitted.

### 6.3 Minimum Scope Requirements Compliance

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The sourcing team will evaluate each proposal that passed the administrative requirements for compliance with Section 5.2 Data Communications Services – Requirements. Scope requirements are evaluated in terms of the breadth and depth of the offeror proposal for each of the section 5.2.1-5.3.0 Scope categories. Only those proposals in each section that score 70% or better will move on to cost evaluation.

### 6.4 Evaluation Criteria

The following table details how each proposal shall be evaluated on a basis of 100 points.

An evaluation committee comprised of representatives from some WSCA-NASPO member States will be appointed by the WSCA-NASPO Contract Administrator to perform the proposal evaluation.

All Offeror's proposals will be initially reviewed for compliance with the mandatory general requirements in Section 3 and Sections 5.1.1-5.1.5 stated within the RFP. Any proposal failing to meet one or more mandatory requirement(s) will be considered non-responsive and deemed "unacceptable", and will be eliminated from further consideration.

Those proposals deemed "acceptable" or "potentially acceptable" will be evaluated against the following proposal evaluation criteria using a point-based scoring methodology. Proposal evaluation criteria are listed in relative order of importance:

#### 6.4.1 Cost – (bid sheets including discounts off list price attached) – 30%

Given that technology products generally depreciate over time and go through typical product lifecycles, it is more favorable for customers to have prime contracts be based on minimum discounts off the Offeror's' commercially published pricelists versus fixed pricing. In addition, Offerors must have the ability to update and refresh their respective price books, as long as the agreed-upon discounts are fixed. Minimum guaranteed contract discounts do not preclude an Offeror and/or its authorized resellers from providing deeper or additional, incremental discounts at their sole discretion.

**6.4.1.1 Refurbished Equipment** – Many IT manufacturers offer refurbished equipment at a substantially lower cost with attractive warranties that also address risk concerns some customers may have with refurbished gear. Offerors may add an optional provision for manufacturer-certified refurbished equipment to be available for procurement under this contract. This offering will not be evaluated as part of the cost scoring process.

#### 6.4.2 Demonstrate ability to provide products and services within scope of the RFP (Section 5.2-5.31) – 25%

#### 6.4.3 Qualifications, technical ability, maintenance, training and value added services – 10%

#### 6.4.4 Ability to supply to WSCA / NASPO member states/geographical coverage -10%

#### 6.4.5 Offer profile and references (i.e., financial stability, presence in marketplace, adequate staff, marketing efforts etc.) – 20%

#### 6.4.6 Administrative (i.e., report generating ability, e-commerce, account reps, problem resolution, customer satisfaction, website hosting and other administrative related issues) – 5%

At the option of the evaluation committee the WSCA-NASPO Contract Administrator may initiate discussion(s) with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposal(s), however, proposals may be evaluated without

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such discussion(s). Such discussion(s) is not to be initiated by Offerors.

Based on the competitive range of the evaluation scores, the evaluation committee may choose to make a "finalist list" of offeror's; if opted for, all offeror's will be notified of their status at this juncture by the Procurement Manager.

Finalist Offeror's may be required, at the option of the evaluation committee, to present their proposals and possibly demonstrate their Internet website to the evaluation committee. The Procurement Manager will schedule the time and location for each Offeror presentation. Each Offeror presentation will be of equal duration for all offeror's and may also include an additional amount of time reserved for questions/answers.

The sourcing team will evaluate each proposal that has passed the administrative requirements and met or exceeded the Section 3 and Section 5.1.1-5.1.5 Mandatory Requirements.

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**WSCA-NASPO Data Communications Equipment and Associated Products #JP14001**

**Firm Name:** \_\_\_\_\_

**Section Number:** \_\_\_\_\_

**Evaluator:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Score will be assigned as follows:**

0 = Failure, no response

1 = Poor, inadequate, fails to meet requirement

2 = Fair, only partially responsive

3 = Average, meets minimum requirement

4 = Above average, exceeds minimum requirement

5 = Superior

		<b>Score (0-5)</b>	<b>Weight</b>	<b>Points</b>
<b>1. Demonstrated Ability to meet scope of requirements (25 points possible)</b>		-----	-----	
<b>Scope and Variety of products provided</b>	8 points possible		X 1.6	
<b>Experience and technical ability of manufacturer</b>	7 points possible		X 1.4	
<b>Maintenance Program</b>	2 points possible		X .40	
<b>Training Program</b>	2 points possible		X .40	
<b>Service Program</b>	2 points possible		X .40	
<b>Demonstrate Effective Reseller Program managed by the manufacturer in WSCA / NASPO States</b>	4 points possible		X .80	
<b>2. Demonstrate Qualifications and Technical Ability (10 points possible)</b>		-----	-----	
<b>Technical Staff Qualifications</b>	2 points possible		X .40	
<b>Maintenance Staff Qualifications</b>	2 points possible		X .40	
<b>Training Staff Qualifications</b>	2 points possible		X .40	
<b>Technical Suitability of Products</b>	4 points possible		X .80	
<b>3. Demonstrate ability to supply WSCA / NASPO member States (10 points possible)</b>	10 points possible		X 2	
<b>4. Company profile and references (20 points)</b>		-----	-----	
<b>Financial Statements and Records</b>	10 points possible		X 2	
<b>References, Reputation, Breadth and Depth of Offering</b>	10 points possible		X 2	
<b>5. Demonstrate ability to provide administrative support (5 points possible)</b>	5 points possible		X 1	
<b>6. Cost (30 points possible)*</b>	30 points	-----	-----	<b>* Inserted</b>



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<b>Services (10 Points)</b>	possible			<b>by</b>
<b>Product Offering Discount Percentage (20 points)</b>				<b>Purchasing</b>
<b>TOTAL EVALUATION POINTS</b>	<b>(100 points possible)</b>		<b>Total</b>	

\* Purchasing will use the following cost formula for the "Services": The points assigned to each Offeror's cost proposal will be based on the lowest proposal price. The offeror with the lowest Proposed Price will receive 100% of the price points. All other Offerors will receive a portion of the total cost points based on what percentage higher their Proposed Price is than the Lowest Proposed Price. An Offeror who's Proposed Price is more than double (200%) the Lowest Proposed Price will receive no points. The formula to compute the points is: Cost Points x (2- Proposed Price/Lowest Proposed Price).

Purchasing will use the following cost formula for the "Product Offering Discount Percentage": The points assigned to each Offeror's cost proposal will be based on the highest discount percentage. The Offeror with the highest discount percentage will receive 100% of the price points. All other Offerors will receive a portion of the total cost points based on what percentage lower their discount percentage is than the highest discount percentage. An Offeror who's Proposed percentage discount is less than double (200%) the highest discount percentage will receive no points. The formula to compute the points is: Cost Points x (2- Highest Proposed Discount/Proposed Discount).

## Section 7: Master Agreement Terms and Conditions/Exceptions

### 7.1 WSCA-NASPO Master Agreement Terms and Conditions

**7.1.1** The WSCA-NASPO Contract Administrator referred to in section 2 of the WSCA-NASPO Master Agreement Terms and Conditions is Debra Gunderson, State of Utah Division of Purchasing and General Services. This RFP represents the WSCA-NASPO Contract Administrator's written approval of the modifications, waivers, alterations, amendments, and supplements to the Master Agreement Terms and Conditions made in this RFP and this Section 7.

**7.1.2** Except as limited in this section or elsewhere in this RFP, Participating Entities who execute a Participating Addendum may alter, modify, supplement, or amend the WSCA-NASPO Master Agreement Terms and Conditions as necessary to comply with Participating Entity law or policy with respect to their orders under the Master Agreement. A Contractor may not deliver Products or perform services under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The WSCA-NASPO Terms and Conditions are applicable to any order by a Participating Entity, except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way 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 Participating Entity and Contractor, may be included in the commitment voucher (e.g. purchase order or contract) used by the Participating Entity to place the order.

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**7.1.3** The term Purchasing Entity and Participating Entity shall both mean "Participating Entity" as that term is defined in WSCA-NASPO Master Agreement Terms and Conditions.

**7.1.4** With respect to section 11, Indemnification, the terms of any Participating Addendum may alter, modify, supplement, or amend the language in section 11 and may include a limitation of liability mutually agreeable to the Participating Entity and the Contractor.

**7.1.5** With regard to section 20, Participants, Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the approval of the Chief Procurement Official of the state where the Participating Entity is located. Contractors may upon request obtain a copy of the written authorization from the WSCA-NASPO Contract Administrator.

**7.2 Offeror Exceptions to Terms and Conditions**

**7.2.1** The Lead State discourages exceptions to contract terms and conditions in the RFP, attached Participating Entity terms and conditions (if any), and the WSCA-NASPO Master Agreement Terms and Conditions. As specified in this RFP, exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Lead State (and its evaluation team), the proposal appears to be conditioned on the exception or correction of what is deemed to be a deficiency or unacceptable exception would require a substantial proposal rewrite to correct. Moreover, Offerors are cautioned that award may be made on receipt of initial proposals without clarification or an opportunity for discussion, and the nature of exceptions would be evaluated. Further, the nature of exceptions will be considered in the competitive range determination if one is conducted. Exceptions will be evaluated to determine the extent to which the alternative language or approach poses unreasonable, additional risk to the state, is judged to inhibit achieving the objectives of the RFP, or whose ambiguity makes evaluation difficult and a fair resolution (available to all vendors) impractical given the timeframe for the RFP.

**7.2.2** The Lead State will entertain exceptions to contract terms and conditions in this RFP, including the WSCA-NASPO Master Agreement Terms and Conditions. Offerors are strongly encouraged to be judicious in identifying exceptions.

**7.2.3** Based on the market research conducted by the Lead State, the following provisions are intended to frame the contours of exceptions that may be acceptable, additional risk so long as the Offeror's exceptions are specified with sufficient particularity.

**7.2.4** The Lead State will consider Offeror standard terms for inspection and acceptance, so long as a reasonable time for acceptance is stated. However, the Participating Entities right to exercise revocation of acceptance under its Uniform Commercial Code must be preserved. Submit the standard terms with the offer and describe generally how commerciality in their use is established, e.g., identify publicly-available catalogs where the warranty terms are used and how long they have been in use.

**7.2.5** The Lead State will consider standard warranty and/or maintenance terms, but the alternative warranty and/or maintenance will be evaluated to determine whether they provide comparable protection to the warranty specified in section 30 of the WSCA-NASPO Master Agreement Terms and Conditions. Provide the terms of the warranty and maintenance in the offer. Also describe generally how commerciality is established for those terms, e.g., publicly-available catalogs the warranty terms are used and how long

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they have been in use. Provide one reference from a customer having comparable sales volume who is using the warranty and maintenance provisions, where the warranty term has expired, and who has exercised rights under the warranty.

**7.2.6 Intellectual property.** The Lead State will consider license terms and conditions that as a minimum convey to Participating Entities a nonexclusive, irrevocable, perpetual, paid-up, royalty free license to use software or other intellectual property delivered with or inherent in the commodity or service, and to transfer the license rights to third parties for government purposes. Provide the terms of the license, including any terms that cover third party intellectual property used in the Offeror's solution. Offerors should be aware that Participating Entities using federal funds may be required to negotiate additional or different terms to satisfy minimum rights requirements of their federal grants.

**7.2.7 Any limitation of liability provision – including any exclusion of damages clause –** proposed by an Offeror to be the default limitation of liability provision under the Master Agreement must preserve a reasonable amount of direct damages for breach of contract, additionally permit the Participating Entity to recoup amounts paid for supplies or services not finally accepted (as in the case of advance or progress payments, if used), and preserve the right of the Participating Entity to be held harmless from costs of litigation as well as ultimate liability within limits agreed by the parties.

Moreover, any limitation of liability clause proposed by an Offeror should be reciprocal, cover lost profits, and exclude claims or liability arising out of intellectual property infringement, bodily injury (including death), damage to tangible property, and data breach. Include the text of any such language if proposed. Further, provide contact information for a public entity, or private entity if no public entity exists, where the limitation of liability clause (or another clause substantially similar) operated to limit liability. If no such example exists, provide contact information for a state, or if no state exists, a higher education institution, or if none exists, a city or county represented by counsel in the negotiations who has agreed to the proposed terms and conditions.

**7.2.8** The enumerated examples in subsection 7.2 are not intended to limit the ability of Offerors to propose additional, reasonable exceptions. For any other exception, where the exception is based on claims of standard or normal commercial practice, provide contact information for a state, or if no state exists, a higher education institution, or if none exists, a city or county represented by counsel in the negotiations who has agreed to the proposed terms and conditions.

### **7.3 WSCA-NASPO eMarket Center**

**7.3.1** In July 2011, WSCA-NASPO entered into a multi-year agreement with SciQuest, Inc. whereby SciQuest will provide certain electronic catalog hosting and management services to enable eligible WSCA-NASPO entity's customers to access a central online website to view and/or shop the goods and services available from existing WSCA-NASPO Cooperative Contracts. The central online website is referred to as the WSCA-NASPO eMarket Center Contractor shall either upload a hosted catalog into the eMarket Center or integrate a punchout site with the eMarket Center.

#### **Supplier's Interface with the eMarket Center**

There is no cost charged by SciQuest to the Contractor for loading a hosted catalog or integrating a punchout site.

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At a minimum, the Contractor agrees to the following:

1. **Implementation Timeline:** WSCA-NASPO eMarket Center Site Admin shall provide a written request to the Contractor to begin enablement process. The Contractor shall have fifteen (15) days from receipt of written request to work with WSCA-NASPO and SciQuest to set up an enablement schedule, at which time SciQuest's technical documentation shall be provided to the Contractor. The schedule will include future calls and milestone dates related to test and go live dates. The contractor shall have a total of Ninety (90) days to deliver either a (1) hosted catalog or (2) punch-out catalog, from date of receipt of written request.
2. **Definition of Hosted and Punchout:** WSCA-NASPO and SciQuest will work with the Contractor, to decide which of the catalog structures (either hosted or punch-out as further described below) shall be provided by the Contractor. **Whether hosted or punch-out, the catalog must be strictly limited to the Contractor's awarded contract offering (e.g. products and/or services not authorized through the resulting cooperative contract should not be viewable by WSCA-NASPO Participating Entity users).**
  - a. Hosted Catalog. By providing a hosted catalog, the Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to SciQuest, such as Tab Delimited Text files. In this scenario, the Contractor must submit updated electronic data annually to the the eMarket Center for WSCA-NASPO Contract Administrator's approval to maintain the most up-to-date version of its product/service offering under the cooperative contract in the eMarket Center.
  - b. Punch-Out Catalog. By providing a punch-out catalog, the Contractor is providing its own online catalog, which must be capable of being integrated with the eMarket Center as a. Standard punch-in via Commerce eXtensible Markup Language (cXML). In this scenario, the Contractor shall validate that its online catalog is up-to-date by providing a written update quarterly to the Contract Administrator stating they have audited the offered products/services and pricing listed on its online catalog. The site must also return detailed UNSPSC codes (as outlined in line 3) for each line item. Contractor also agrees to provide e-Quote functionality to facilitate volume discounts.
3. **Revising Pricing and Product Offerings:** Any revisions (whether an increase or decrease) to pricing or product/service offerings (new products, altered SKUs, etc.) must be pre-approved by the WSCA-NASPO Contract Administrator and shall be subject to any other applicable restrictions with respect to the frequency or amount of such revisions. However, no cooperative contract enabled in the eMarket Center may include price changes on a more frequent basis than once per quarter. The following conditions apply with respect to hosted catalogs:

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- a. Updated pricing files are required by the 1<sup>st</sup> of the month and shall go into effect in the eMarket Center on the 1<sup>st</sup> day of the following month (i.e. file received on 1/01/14 would be effective in the eMarket Center on 2/01/14). Files received after the 1<sup>st</sup> of the month may be delayed up to a month (i.e. file received on 11/06/14 would be effect in the eMarket Center on 1/01/15).
  - b. Contract Administrator-approved price changes are not effective until implemented within the eMarket Center. Errors in the Contractor's submitted pricing files will delay the implementation of the price changes in eMarket Center.
4. Supplier Network Requirements: Contractor shall join the SciQuest Supplier Network (SQSN) and shall use the SciQuest's Supplier Portal to import the Contractor's catalog and pricing, into the SciQuest system, and view reports on catalog spend and product/pricing freshness. The Contractor can receive orders through electronic delivery (cXML) or through low-tech options such as fax. More information about the SQSN can be found at: [www.sciquest.com](http://www.sciquest.com) or call the SciQuest Supplier Network Services team at 800-233-1121.
5. Minimum Requirements: Whether the Contractor is providing a hosted catalog or a punch-out catalog, the Contractor agrees to meet the following requirements:
  - a. Catalog must contain the most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the cooperative contract; and
  - b. The accuracy of the catalog must be maintained by Contractor throughout the duration of the cooperative contract between the Contractor and the Contract Administrator; and
  - c. The Catalog must include a Lead State contract identification number; and
  - d. The Catalog must include detailed product line item descriptions; and
  - e. The Catalog must include pictures when possible; and
  - f. The Catalog must include any additional WSCA-NASPO and Participating Addendum requirements.\*
6. Order Acceptance Requirements: Contractor must be able to accept Purchase Orders via fax or cXML.

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- a. The Contractor shall provide positive confirmation via phone or email within 24 hours of the Contractor's receipt of the Purchase Order. If the Purchasing Order is received after 3pm EST on the day before a weekend or holiday, the Contractor must provide positive confirmation via phone or email on the next business day.
  
7. UNSPSC Requirements: Contractor shall support use of the United Nations Standard Product and Services Code (UNSPSC). UNSPSC versions that must be adhered to are driven by SciQuest for the suppliers and are upgraded every year. WSCA-NASPO reserves the right to migrate to future versions of the UNSPSC and the Contractor shall be required to support the migration effort. All line items, goods or services provided under the resulting statewide contract must be associated to a UNSPSC code. All line items must be identified at the most detailed UNSPSC level indicated by segment, family, class and commodity. More information about the UNSPSC is available at: <http://www.unspsc.com> and <http://www.unspsc.com/FAQs.asp#howdoesunspscwork>.
  
8. Applicability: Contractor agrees that WSCA-NASPO controls which contracts appear in the eMarket Center and that WSCA-NASPO may elect at any time to remove any supplier's offering from the eMarket Center.
  
9. The WSCA-NASPO Contract Administrator reserves the right to approve the pricing on the eMarket Center. This catalog review right is solely for the benefit of the WSCA-NASPO Contract Administrator and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices (and approved fees) required by the Master Agreement.

\* Although suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple contracts applicable to different WSCA-NASPO Participating Entities. For example, a supplier may have different pricing for state government agencies and Board of Regents institutions. Suppliers have the ability and responsibility to submit separate contract pricing for the same catalog if applicable. The system will deliver the appropriate contract pricing to the user viewing the catalog.

Several WSCA-NASPO Participating Entities currently maintain separate SciQuest eMarketplaces, these Participating Entities do enable certain WSCA-NASPO Cooperative Contracts. In the event one of these entities elects to use this WSCA-NASPO Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and WSCA-NASPO to implement the catalog. WSCA-NASPO does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate SciQuest catalogs.

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## Attachment B – Reference Form

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**Solicitation Number JP14001  
WSCA-NASPO Data Communications RFP**

**Please complete the following:**

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**(Full Name of Company Requesting Reference)**

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**(Your Company Name)**

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to the State of Utah, Division of Purchasing, via email to [teutsler@utah.gov](mailto:teutsler@utah.gov) or by fax to the attention of Tara Eutsler at 801-538-3882, no later than \_\_\_\_\_, 2011, and **must not** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the State of Utah, Division of Purchasing, at [dgundersen@utah.gov](mailto:dgundersen@utah.gov) . When contacting the State, please be sure to include the solicitation number listed at the top of this page.

**CONFIDENTIAL INFORMATION WHEN COMPLETED**

Company providing reference:	
Contact Name and Title/Position:	
Contact Telephone Number:	
Contact Email Address:	

**QUESTIONS:**

1. In what capacity have you worked with this firm in the past?

COMMENTS:

2. How would you rate this firm’s knowledge and expertise?

\_\_\_\_\_ (3=Excellent; 2=Satisfactory; 1=Unsatisfactory; 0=Unacceptable)

COMMENTS:

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3. How would you rate this firm’s flexibility relative to changes in the project scope and timelines?

\_\_\_\_\_ (3=Excellent; 2=Satisfactory; 1=Unsatisfactory; 0=Unacceptable)

COMMENTS:

4. What is your level of satisfaction with materials produced by this firm?

\_\_\_\_\_ (3=Excellent; 2=Satisfactory; 1=Unsatisfactory; 0=Unacceptable)

COMMENTS:

5. How would you rate the dynamics/interaction between firm and your staff?

\_\_\_\_\_ (3=Excellent; 2=Satisfactory; 1=Unsatisfactory; 0=Unacceptable)

COMMENTS:

6. Who were the firm’s principal representatives involved in your project and how would you rate them individually? Please comment on the skills, knowledge, behavior or other factors on which you based the rating? (3=Excellent; 2=Satisfactory; 1=Unsatisfactory; 0=Unacceptable)

Principal Representative’s Name: \_\_\_\_\_

Rating:

Principal Representative’s Name: \_\_\_\_\_

Rating:

Principal Representative’s Name: \_\_\_\_\_

Rating:

COMMENTS:

7. How satisfied are you with the manner in which the firm handled confidential, personal, and sensitive information?

\_\_\_\_\_ (3=Excellent; 2=Satisfactory; 1=Unsatisfactory; 0=Unacceptable)

COMMENTS:

8. With what aspect(s) of this firm’s services are you most satisfied?

COMMENTS:



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**9.** With which aspect(s) of this firm's services are you least satisfied?  
COMMENTS:

**10.** Would you recommend this firm's services to your organization again?  
COMMENTS:

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## Attachment C – Cost Schedule

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### Solicitation Number JP14001 WSCA-NASPO Data Communications RFP

**Product Offerings By Category.** Specify *Discount Percent %* Offered for products in each category from section 5. Highest discount will apply for products referenced in detail listings for multiple categories. Provide a detailed product offering for each category.

#### 5.2.1 DATA CENTER APPLICATION SERVICES Discount % \_\_\_\_\_

- 5.2.1.1 Virtualized Load Balancers
- 5.2.1.2 WAN Optimization

#### 5.2.2 NETWORKING SOFTWARE Discount % \_\_\_\_\_

- 5.2.2.1 Network Management and Automation
- 5.2.2.2 Data Center Management and Automation
- 5.2.2.3 Cloud Portal and Automation
- 5.2.2.4 Branch Office Management and Automation

#### 5.2.3 NETWORK OPTIMIZATION AND ACCELERATION Discount % \_\_\_\_\_

- 5.2.3.1 Dynamic Load Balancing
- 5.2.3.2 WAN Acceleration
- 5.2.3.3 High Availability and Redundancy

#### 5.2.4 OPTICAL NETWORKING Discount % \_\_\_\_\_

- 5.2.4.1 Core DWDM (Dense Wavelength Division Multiplexing) Switches
- 5.2.4.2 Edge Optical Switches
- 5.2.4.3 Optical Network Management
- 5.2.4.4 IP over DWDM (IPoDWDM)

#### 5.2.5 ROUTERS Discount % \_\_\_\_\_

- 5.2.5.1 Branch Routers
- 5.2.5.2 Network Edge Routers

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- 5.2.5.3 Core Routers
- 5.2.5.4 Service Aggregation Routers
- 5.2.5.5 Carrier Ethernet Routers

### 5.2.6 SECURITY Discount % \_\_\_\_\_

- 5.2.6.1 Data Center and Virtualization Security Products and Appliances
- 5.2.6.2 Intrusion Detection/Protection and Firewall Appliances
- 5.2.6.3 Logging Appliances and Analysis Tools
- 5.2.6.4 Secure Edge and Branch Integrated Security Products
- 5.2.6.5 Secure Mobility Products
- 5.2.6.6 Encryption Appliances
- 5.2.6.7 On-premise and Cloud-based services for Web and/or Email Security
- 5.2.6.8 Secure Access

### 5.2.7 STORAGE NETWORKING Discount % \_\_\_\_\_

- 5.2.7.1 Director Class SAN (Storage Area Network) Switches and Modules
- 5.2.7.2 Fabric and Blade Server Switches
- 5.2.7.3 Enterprise and Data Center SAN and VSAN (Virtual Storage Area Network) Management
- 5.2.7.4 SAN Optimization

### 5.2.8 SWITCHES Discount % \_\_\_\_\_

- 5.2.8.1 Campus LAN – Access Switches
- 5.2.8.2 Campus LAN – Core Switches
- 5.2.8.3 Campus Distribution
- 5.2.8.4 Data Center Switches
- 5.2.8.5 Software Defined Networks (SDN) - Virtualized Switches and Routers
- 5.2.8.6 Software Defined Networks (SDN) • Controllers.
- 5.2.8.7 Carrier Aggregation Switches
- 5.2.8.8 Carrier Ethernet Access Switches

### 5.2.9 WIRELESS Discount % \_\_\_\_\_

- 5.2.9.1 Access Points
- 5.2.9.2 Outdoor Wireless Access
- 5.2.9.3 Wireless LAN Controllers
- 5.2.9.3 Wireless LAN Network Services and Management
- 5.2.9.4 Cloud-based services for Access Points

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5.2.9.5 Bring Your Own Device (BYOD)

5.3.0 UNIFIED COMMUNICATIONS (UC) Discount % \_\_\_\_\_

- 5.3.0.1 IP Telephony
- 5.3.0.2 Instant messaging/ Presence
- 5.3.0.3 Unified messaging
- 5.3.0.4 Contact Center
- 5.3.0.5 Communications End Points and Applications
- 5.3.0.6 UC Network Management
- 5.3.0.7 Collaboration
- 5.3.0.8 Collaborative Video
  - 5.3.0.8.1 Content Delivery Systems (CDS)
  - 5.3.0.8.2 Physical Security

Average Discount Percentage for all Product Bid Categories Discount % \_\_\_\_\_

5.3.1 SERVICES For each category (5.2.1-5.3.0) provide post sale on site service and consulting rates that are inclusive of travel, lodging and meals. Remote access rates for non-warranty and consultation services must be expressed as a separate net hourly labor rate.

Maintenance Services

Onsite Hourly Rate \$ \_\_\_\_\_

Remote Hourly Rate \$ \_\_\_\_\_

Professional Services

- Deployment Services Onsite Hourly Rate \$ \_\_\_\_\_

Remote Hourly Rate \$ \_\_\_\_\_

- Consulting/Advisory Services Onsite Hourly Rate \$ \_\_\_\_\_

Remote Hourly Rate \$ \_\_\_\_\_

- Architectural Design Services Onsite Hourly Rate \$ \_\_\_\_\_

Remote Hourly Rate \$ \_\_\_\_\_

- Statement of Work Services Onsite Hourly Rate \$ \_\_\_\_\_

Remote Hourly Rate \$ \_\_\_\_\_

Partner Services

Onsite Hourly Rate \$ \_\_\_\_\_

Remote Hourly Rate \$ \_\_\_\_\_

Training Deployment Services

Onsite Hourly Rate \$ \_\_\_\_\_

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**Online Hourly Rate \$ \_\_\_\_\_**



## WSCA-NASPO Master Agreement Terms and Conditions

### **1. AGREEMENT ORDER OF PRECEDENCE:**

The Master Agreement shall consist of the following documents:

1. A Participating Entity's Participating Addendum ("PA");
2. WSCA-NASPO Master Agreement Terms and Conditions;
3. The Statement of Work;
4. The Solicitation; and
5. Contractor's response to the Solicitation.

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. 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. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the Solicitation, or terms listed or referenced on the Contractor's website, in the Contractor quotation/sales order or in similar documents subsequently provided by the Contractor.

**2. AMENDMENTS** The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA-NASPO Contract Administrator.

**3. ASSIGNMENT/SUBCONTRACT** Contractor shall 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 WSCA-NASPO Contract Administrator.

**4. CANCELLATION** Unless otherwise stated in the special terms and conditions, any Master Agreement may be canceled by either party upon 60 days notice, in writing, prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the special terms and conditions of this solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and

accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the Master Agreement due to Contractor default may be immediate.

## **5. CONFIDENTIALITY, NON-DISCLOSURE AND INJUNCTIVE RELIEF**

**5.1 Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing the Product under this Master Agreement, be exposed to or acquire information that is confidential to Participating Entity or Participating Entity's clients. 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 (a) any Participating Entity records, (b) personnel records, and (c) information concerning individuals, is confidential information of Participating Entity ("Confidential Information"). 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. Confidential Information does not include information that (a) is or becomes (other than by disclosure by Contractor) publicly known; (b) is furnished by Participating Entity to others without restrictions similar to those imposed by this Master Agreement; (c) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (d) is obtained from a source other than Participating Entity without the obligation of confidentiality, (e) is disclosed with the written consent of Participating Entity or; (f) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

**5.2 Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and not to 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 the performance of this Master Agreement to Participating Entity hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Participating Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Participating Entity 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 Participating Entity in seeking injunctive or other equitable relief in the name of Participating Entity or Contractor against any such person. Except as directed by Participating 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 Participating Entity's request, Contractor shall turn over to Participating Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. 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.

**5.3 Injunctive Relief.** Contractor acknowledges that breach of this Section, including disclosure of any Confidential Information, will cause irreparable injury to Participating Entity that is inadequately compensable in damages. Accordingly, Participating 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 Participating Entity and are reasonable in scope and content.

**6. 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 this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by WSCA-NASPO.

## **7. DEFAULTS & REMEDIES**

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

- i. Nonperformance of contractual requirements; or
- ii. A material breach of any term or condition of this Master Agreement; or
- iii. Any representation or warranty by Contractor in response to the solicitation or in this Master Agreement proves to be untrue or materially misleading; or
- iv. 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
- v. Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 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 shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

c. 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 Lead State shall have the right to exercise any or all of the following remedies:

- i. Exercise any remedy provided by law; and
- ii. Terminate this Master Agreement and any related Contracts or portions thereof; and
- iii. Impose liquidated damages as provided in this Master Agreement; and
- iv. Suspend Contractor from receiving future bid solicitations; and
- v. Suspend Contractor's performance; and



- vi. Withhold payment until the default is remedied.
- d. 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 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.

**8. DELIVERY** Unless otherwise indicated in the Master Agreement, the prices are the delivered price to any Participating State agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. 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 shall be shipped without charge.

**9. FORCE MAJEURE** Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. WSCA-NASPO may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

**10. GOVERNING LAW** This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the state sponsoring and administering the procurement. The construction and effect of any Participating Addendum or order against the Master Agreement(s) shall be governed by and construed in accordance with the laws of the Participating Entity's State. Venue for any claim, dispute or action concerning an order placed against the Master Agreement(s) or the effect of an Participating Addendum shall be in the Purchasing Entity's State.

**11. INDEMNIFICATION** The Contractor shall defend, indemnify and hold harmless WSCA-NASPO, the Lead State and Participating Entities along with their officers, agencies, and employees as well as any person or entity for which they may be liable from and against claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement. This section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement

**12. INDEMNIFICATION - INTELLECTUAL PROPERTY** The Contractor shall defend, indemnify and hold harmless WSCA-NASPO, the Lead State and Participating Entities along with their officers, agencies, and employees as well as any person or entity for which they may be liable

("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 ("Intellectual Property Claim"). The Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless:

(1) 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; or

(c) reasonably required, in order 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

(2) it would be reasonably expected to use the Product in combination with such product, system or method.

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 it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. 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 it 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. This section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

**13. INDEPENDENT CONTRACTOR** The contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA-NASPO or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA-NASPO or the states, except as expressly set forth herein.

**14. INDIVIDUAL CUSTOMER** Except to the extent modified by a Participating Addendum, each Participating 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, including but not limited to, any indemnity or to recover any costs allowed in the Master Agreement and applicable Participating Addendum for their purchases. Each Participating Entity will be responsible for

its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Participating Entity individually.

**15. INSURANCE** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's 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.

Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

- a) Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
- b) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

Contractor shall pay premiums on all insurance policies. Such policies shall also reference this Master Agreement and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Participating Entity by the Contractor.

Prior to commencement of the work, Contractor shall provide to the Participating Entity a written endorsement to the Contractor's general liability insurance policy that (i) names the Participating Entity as an additional insured, (ii) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named Participating Entity has been given at least thirty (30) days prior written notice, and (iii) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the Participating Entity as secondary and noncontributory.

Contractor shall furnish to Participating Entity copies of certificates of all required insurance within thirty (30) calendar days of the Participating Addendum's effective date and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at State's sole option, result in this Master Agreement's termination.

Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement.

**16. LAWS AND REGULATIONS** Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

**17. LICENSE OF PRE-EXISTING INTELLECTUAL PROPERTY** Contractor grants to the Participating Entity a nonexclusive, perpetual, royalty-free, irrevocable, unlimited license to publish, translate, reproduce, modify, deliver, 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 license shall be subject to any third party rights in the Pre-existing Intellectual Property. Contractor shall obtain, at its own expense, on behalf of the Participating Entity, written consent of the owner for the licensed Pre-existing Intellectual Property.

**18. NO WAIVER OF SOVEREIGN IMMUNITY** In no event shall this Master Agreement, any Participating Addendum or any contract or any purchase order issued thereunder, or any act of a Lead State or a Participating Entity, be a waiver by the Participating Entity of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on 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 it must be brought and adjudicated solely and exclusively within the United States District Court for the Participating State. This section applies to a claim brought against the Participating State only to the extent Congress has appropriately abrogated the Participating State's sovereign immunity and is not consent by the Participating State to be sued in federal court. This section is also not a waiver by the Participating 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.

**19. ORDER NUMBERS** Master Agreement order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

**20. PARTICIPANTS** WSCA-NASPO is the cooperative purchasing arm of the National Association of State Procurement Officials. It is a cooperative group contracting consortium for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia and the organized US territories. Obligations under this Master Agreement are limited to those Participating States who have signed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting award(s) will be permissive.

**21. ENTITY PARTICIPATION** Use of specific WSCA-NASPO cooperative Master Agreements by state agencies, political subdivisions and other entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to 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.

**22. PAYMENT** Payment for completion of a contract order is normally made within 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. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

**23. PUBLIC INFORMATION** This Master Agreement and all related documents are subject to disclosure pursuant to the Participating Entity's public information laws.

**24. RECORDS ADMINISTRATION AND AUDIT** The contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the contractor for costs authorized by this Master Agreement. These records will be retained by the contractor for at least four years after the Master Agreement terminates, or until all audits initiated within the four years have been completed, whichever is later. The contractor agrees to allow WSCA-NASPO, State and Federal auditors, and state agency staff access to all the records of this Master Agreement and any order placed under this Master Agreement, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

**25. REPORTS and ADMINISTRATIVE FEES** The contractor shall submit quarterly reports to the WSCA-NASPO Contract Administrator showing the quantities and dollar volume of purchases by each participating entity.

The contractor must pay a WSCA-NASPO administrative fee of one quarter of one percent (.25%) in accordance with the terms and conditions of the Master Agreement. The WSCA-NASPO administrative fee shall be submitted quarterly and is based on sales of products and services. The WSCA-NASPO administration fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

Additionally, some States may require that an additional fee be paid directly to the State on purchases made by procuring entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated in a Participating Addendum that is made a part of the Master Agreement. The contractor may adjust the Master Agreement pricing accordingly for purchases made by procuring agencies within the jurisdiction of the State. All such agreements may not affect the WSCA-NASPO administrative fee or the prices paid by the procuring agencies outside the jurisdiction of the State requesting the additional fee.

**26. STANDARD OF PERFORMANCE AND ACCEPTANCE** The Standard of Performance applies to all Product(s) purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the Participating Entity. The Acceptance Testing period shall be thirty (30) calendar days or other time period identified in the solicitation or the Participating Addendum, starting from the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the Standard of Performance during the initial period of Acceptance Testing, Participating Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the Standard of Performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the Standard of Performance issue(s). If after the cure period, the Product still has not met the Standard of Performance Participating Entity may, at its option: (1) declare Contractor to be in breach and terminate the Order; (2) demand replacement Product from Contractor at no additional cost to Participating Entity; or, (3) continue the cure period for an additional time period agreed upon by the Participating Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be accepted and no charges shall be paid until the Standard of Performance is met. The warranty period will begin upon Acceptance.

**27. SYSTEM FAILURE OR DAMAGE** In the event of system failure or damage caused by the Contractor or its Product, the Contractor agrees to use its best efforts to restore or assist in restoring the system to operational capacity.

**28. TITLE OF PRODUCT** Upon Acceptance by the Participating Entity, Contractor shall convey to Participating Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include an irrevocable and perpetual license to use the Embedded Software in the Product. If Participating Entity subsequently transfers title of the Product to another entity, Participating Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Participating Entity or Participating Entity's transferee.

**29. WAIVER OF BREACH** Failure of Lead State or Participating Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State or Participating 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 breach of any terms or requirements shall 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 or Participating Addendum.

**30. WARRANTY** The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes

for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Participating Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Participating 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. 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.

**31. ASSIGNMENT OF ANTITRUST RIGHTS** Contractor irrevocably assigns to a Participating Entity 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 to the Contractor for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

Contractor shall require any subcontractors hired to perform any of Contractor's obligations, under this Master Agreement or Participating Addendum, to irrevocably assign to a Participating Entity, as third party beneficiary, any right, title or interest that has accrued or which may accrue 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 to the subcontractor for the purpose of carrying out the subcontractor's obligations to the Contractor in pursuance of this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

**32. WSCA-NASPO eMARKET CENTER** Awarded responders are required to participate in the WSCA-NASPO eMarket Center and, working through WSCA-NASPO's contractor (SciQuest), connect with the eMarket Center. The ideal situation would be to use either a hosted (by SciQuest) or Punchout Level 2 catalog configurations, but actual requirements will be determined by the Lead State Contract Administrator, WSCA-NASPO, WSCA-NASPO's contractor (SciQuest) and the awarded contractor, after award. Participation does not require an awarded responder to have any special level of technology or technological understanding.

## **Definitions**

**Acceptance** - means a written notice from a purchasing entity to contractor advising Contractor that the Product has passed its Acceptance Testing. Acceptance of a product for which acceptance testing is not required shall occur following the completion of delivery, installation, if required, and a reasonable time for inspection of the product, unless the Purchasing Entity provides a written notice of rejection to contractor.

**Acceptance Testing** - means the process for ascertaining that the Product meets the standards set forth in the section titled Standard of Performance and Acceptance, prior to Acceptance by the Purchasing Entity.

**Contractor** - means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

**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.

**Lead State** - means the State conducting this cooperative solicitation and centrally administering any resulting Master Agreement with the permission of the Signatory States.

**Master Agreement** - means the underlying agreement executed by and between the Lead State, as WSCA-NASPO contract administrator, acting on behalf of WSCA-NASPO, and the Contractor, as now or hereafter amended.

**Order** - means any purchase order, sales order, or other document used by a Participating Entity to order the Products.

**Participating Addendum** - means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements ,e.g. ordering procedures specific to the Participating Entity, other terms and conditions.

**Participating Entity** - means a state, or other legal entity, properly authorized by a state to enter into the Master Agreement or Participating Addendum or who is authorized to order under the Master Agreement or Participating Addendum.

**Product** - Any equipment, software (including embedded software), documentation, or deliverable supplied or created by the Contractor pursuant to this Master Agreement.

**WSCA-NASPO** -is a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for all states and the District of Columbia. WSCA-NASPO is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO).

#### **Additional Definitions and Alternative Terms for Consideration**



Below are additional definitions and alternative terms for consideration by the sourcing teams depending upon the nature of the solicitation and negotiations between the Contractor and Vendor.

**Embedded Software** - means one or more software applications which permanently reside on a computing device.

**Machine Code** - means microcode, basic input/output system code, utility programs, device drivers, diagnostics, and another code delivered with a computing device for the purpose of enabling the function of the computing device, as stated in its published specifications.

(revised March 2013)

**ATTACHMENT A**  
**STATE OF UTAH STANDARD INFORMATION TECHNOLOGY TERMS AND CONDITIONS**  
**(FOR WSCA CONTRACTS and DTS RELATED CONTRACTS)**

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63G-6, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** The Contractor and any and all supplies, services, equipment, and construction furnished under this contract will comply fully with all applicable Federal and State laws and regulations, including applicable licensure and certification requirements.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process, and to sole sources that are included within a Request for Proposal. It does not apply to Invitation for Bids or to the Multi-Step Process.

**1. Status Verification System**

- (1) Each offeror and each person signing on behalf of any offeror certifies as to its own entity, under penalty of perjury, that the named Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of the contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including UCA Section 63G-12-302.
- (2) The 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 Section 63G-12-302 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) The State will not consider a proposal for award, nor will it make any award where there has not been compliance with this Section.
- (4) Manually or electronically signing the Proposal is deemed the Contractor's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws including UCA Section 63G-12-302.

**2. Indemnity Clause for Status Verification System**

- (1) Contractor (includes, but is not limited to any Contractor, Design Professional, Designer or Consultant) shall protect, indemnify and hold harmless, the State and its officers, employees, agents, representatives and anyone that the State 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.
- (2) Notwithstanding Section 1. above, Design Professionals or Designers under direct contract with the State shall only be required to indemnify the State for a liability claim that arises out of the design professional's services, unless the liability claim arises from the Design Professional's negligent act, wrongful act, error or omission, or other liability imposed by law except that the design professional shall be required to indemnify the State in regard to subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Design Professional, and includes all independent contractors, agents, employees or anyone else for whom the Design Professional may be liable at any tier.

6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
7. **CONFLICT OF INTEREST WITH STATE EMPLOYEES:** In addition to the provisions of State of Utah Terms and Conditions # 6, Conflict of Interest, the Contractor certifies that no person in the State's employment, directly or through subcontract, will receive any private financial interest, direct or indirect, in the contract. The Contractor will not hire or subcontract with any person having such conflicting interest.
8. **CONTRACTOR ACCESS TO SECURE STATE FACILITIES / CRIMINAL CONVICTION INFORMATION / FORMER FELONS:** The Contractor shall provide (at its own expense) the State with sufficient personal information about its agents or employees, and the agents and employees of its subcontractors (if any) who will enter upon secure premises controlled, held, leased, or occupied by the State during the course of performing this contract so as to facilitate a criminal record check, at State expense. "Sufficient personal information" about its agents or employees, and the agents and employees of its subcontractors (if any) means for the Contractor to provide to the State Project Manager, in advance of any on-site work, a list of the full names of the designated employees, including their social security number, driver license number and the state of issuance, and their birth date. Thereafter, on their first site visit, each contractor employee expected to work on-site shall be fingerprinted by the State, and the State is authorized to conduct a federal criminal background check based upon those fingerprints and personal information provided. Contractor, in executing any duty or exercising any right under this contract, shall not cause or permit any of its agents or employees, and the agents and employees of its subcontractors (if any) who have been convicted of a felony and misdemeanors other than minor

misdeemeanors to enter upon any premises controlled, held, leased, or occupied by the State. A felony and misdemeanor are defined by the jurisdiction of the State of Utah, regardless of where the conviction occurred.

- 9. DRUG-FREE WORKPLACE:** The Contractor agrees to abide by the Department of Technology Services (DTS) drug-free workplace policies while on State of Utah premises. DTS will provide the Contractor with a copy of these written "drug-free workplace policies" upon request.
- 10. CODE OF CONDUCT:** When Contractor employees are working on-site, the Contractor agrees to follow and enforce DTS Policy 2000-001 Code of Conduct. If Contractor is working at facilities controlled by other State agencies, Contractor agrees to follow and enforce the Code of Conduct Policy of these other State agencies when Contractor is providing services at these facilities under provisions of this contract. The Contractor will assure that each employee or volunteer under Contractor's supervision receives a copy of such Code of Conduct, and a signed statement to this effect must be in each Contractor or Subcontractor employee's/volunteer's file and is subject to inspection and review by the State's monitors. Upon request, DTS agrees to provide Contractor with a copy of any applicable codes of conduct. If a Contractor or Subcontractor is working at any State agency which has a Code of Conduct applicable to this Contract, the DTS Project Manager will provide the Contractor with a copy in advance of the Contractor's on-site contract services performance.
- 11. INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State of Utah, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the acts or negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence. The parties agree that if there are any Limitations of the Contractor's Liability, including a limitation of liability for anyone for whom the Contractor is responsible, such Limitations of Liability will not apply to injuries to persons, including death, or to damages to property.
- 12. EMPLOYMENT PRACTICES CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 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; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
- 13. TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon sixty (60) days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
- In the event of such termination, and professional services apply to the contract; the Contractor shall be compensated for services properly performed under this Contract up to the effective date of the notice of termination. The Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the State is limited to full payment for all work properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of the Contractor having to terminate contracts necessarily and appropriately entered into by the Contractor pursuant to this Contract. Contractor further acknowledges that in the event of such termination, all work product, which includes but is not limited to all manuals, forms, contracts, schedules, reports, and any and all documents produced by Contractor under this Contract up to the date of termination are the property of the State and shall be promptly delivered to the State.
- 14. SUSPENSION OF WORK:** Should circumstances arise which would cause the State to suspend the work, but not terminate the contract, this will be done by formal notice. The work may be reinstated upon advance formal notice from the State.
- 15. NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
- 16. SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is 11736850-010-STC, located at <http://purchasing.utah.gov/contract/documents/salestaxexemptionformsigned.pdf>. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.

**17. SECURE PROTECTION AND HANDLING OF DATA:**

1. **Network Security:** Contractor agrees at all times to maintain network security that - at a minimum - includes: network firewall provisioning, intrusion detection, and regular third party penetration testing. Likewise Contractor agrees to maintain network security that conforms to one of the following:
  - a. Those standards the State of Utah applies to its own network, found at <http://www.dts.utah.gov>;

- b. Current standards set forth and maintained by the National Institute of Standards and Technology, includes those at: <http://web.nvd.nist.gov/view/ncp/repository/>; or
    - c. Any generally recognized comparable standard that Contractor then applies to its own network and approved by DTS in writing.
  2. **Data security:** Contractor agrees to protect and maintain the security of the State of Utah data with protection that is at least as good as or better than that maintained by the State of Utah. These security measures included but are not limited to maintaining secure environments that are patched and up to date with all appropriate security updates as designated, (ex. Microsoft Notification).
  3. **Data Transmission:** Contractor agrees that any and all transmission or exchange of system application data with the 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).
  4. **Data Storage:** Contractor agrees that any and all State of Utah data will be stored, processed, and maintained solely on designated target servers approved of by DTS and that no State of Utah data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless such medium is part of the Contractor's designated backup and recovery process.
  5. **Data Encryption:** Contractor agrees to store all State of Utah backup data as part of its designated backup and recovery process in encrypted form, using no less than 128 bit key.
  6. **Password Protection.** Contractor agrees that any portable or laptop computer that has access to a State of Utah network, or stores any non-public State of Utah data is equipped with strong and secure password protection.
  7. **Data Re-Use:** Contractor agrees that any and all data exchanged shall be used expressly and solely for the purpose enumerated in this Contract. Contractor further agrees that no State of Utah data of any kind shall be transmitted, exchanged or otherwise passed to other Contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by DTS.
  8. **Data Destruction:** The Contractor agrees that upon termination of this Agreement it shall erase, destroy, and render unreadable all State of Utah data from all non-state computer systems and backups, and certify in writing that these actions have been completed within 30 days of the termination of this Agreement or within 7 days of the request of DTS, whichever shall come first.
- 18. NOTIFICATION AND DATA BREACHES:** Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally-identifiable information or other events requiring notification in accordance with *DTS Policy 5000-1250-PR1 Computer Incident Reporting Procedure* (copy available upon request). In the event of a data breach of any Contractor's security obligations or other event requiring notification under applicable law (Utah Code Annotated § 13-44-101 thru 301 et al), Contractor agrees at its own expense to assume responsibility for informing all such individuals in accordance with applicable laws and to indemnify, hold harmless and defend the State of Utah against any claims, damages, or other harm related to such Notification Event.
- 19. CHANGE MANAGEMENT:** Contractor agrees to comply with DTS Change Management Policy 4000-0004. This DTS policy requires that any work performed by the Contractor that has the potential to cause any form of outage, or modify the State's infrastructure architecture must first be reviewed by the DTS Change Management Committee, and coordinated accordingly. The DTS Project Manager will inform the Contractor if this change control requirement is applicable. Following this notification, any failure by the Contractor that causes outages or data security breaches caused by the Contractor as a direct result of failure to comply, will result in the Contractor's liability for the damages.
- For reference purposes, the latest version of DTS Change Management Policy 4000-0004 is detailed at <http://dts.utah.gov/policies/documents/4000-0004changemanagementpolicy.pdf>.
20. **PUBLIC INFORMATION:** Contractor agrees that the contract, related Sales Orders, and Invoices will be public documents, and may be available for distribution. Contractor gives the State express permission to make copies of the contract, related Sales Orders, and Invoices in accordance with the State of Utah Government Records Access and Management Act (GRAMA). Except for sections identified in writing and expressly approved by the State Division of Purchasing, Contractor also agrees that the Contractor's response to the solicitation will be a public document, and copies may be given to the public under GRAMA laws. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
  21. **CREDITING STATE IN ADVERTISING / PUBLICITY:** Any publicity given to the project or services provided herein shall identify the State of Utah's managing agency as the sponsoring agency and shall not be released without prior written approval by that State agency's Project Manager.
  22. **STATE AGENCY WEB SITE BRANDING:** The Contractor agrees to use the DTS logo, or a newer version if replaced in the future, on websites produced under terms of this contract. Contractor further agrees to allow a State agency to also utilize their own web site branding and logo, if requested by that State agency.
  23. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
  24. **PROMPT PAYMENT DISCOUNT:** Offeror may quote a prompt payment discount based upon early payment; however, discounts offered for less than 30 days will not be considered in making the award. Contractor shall list Payment Discount Terms on invoices. The prompt payment discount will apply to payments made with purchasing cards and checks. The date from which discount time is calculated will be the date a

correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date will be the date of acceptance of the merchandise.

## 25. PAYMENT:

1. Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. After 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 a maximum of the interest rate paid by the IRS on taxpayer refund claims, plus two percent, computed similarly as the requirements of Utah Code Annotated Section 15-6-3. The IRS interest rate is adjusted quarterly, and is applied on a per annum basis, on the invoice amount that is overdue.

2. The contract total may be changed only by written amendment executed by authorized personnel of the parties. Unless otherwise stated in the Contract, all payments to the Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's purchasing card (major credit card). The State of Utah will not allow the Contractor to charge end users electronic payment fees of any kind.

3. The acceptance by the Contractor of final payment without a written protest filed with the State within ten (10) working days of receipt of final payment shall release the State from all claims and all liability to the Contractor for fees and costs of the performance of the services pursuant to this Contract.

4. Overpayment: The Contractor agrees that if during or subsequent to the contract performance, a CPA audit, or a State agency audit determines that payments were incorrectly reported or paid the State may adjust the payments. The Contractor shall, upon written request, immediately refund to DTS any such overpayments. The Contractor further agrees that the State shall have the right to withhold any or all subsequent payments under this or other contracts that the Contractor may have with the State until recoupment of overpayment is made.

5. Payment withholding: the Contractor agrees that the adequate reporting, record keeping, and compliance requirements specified in this contract are a material element of performance and that if the Contractor's record keeping practices, compliance, and/or reporting to DTS are not conducted in a timely and satisfactory manner, DTS may withhold part or all payments under this or any other contract until such deficiencies have been remedied. This includes, but is not limited to, Contractors failure to provide timely invoicing, and/or other requirements described elsewhere within this contract. In the event of the payment(s) being withheld, DTS agrees to provide ten (10) day advance Notice to the Contractor of the deficiencies that must be corrected in order to bring about the release of withheld payment. Contractor shall have ten (10) days thereafter to correct the cited reporting or record keeping practice deficiencies or the contract may be terminated.

**26. COPYRIGHT:** The contractor agrees that any and all Deliverables prepared for the State of Utah as required by this contract, to the extent to which it is eligible under copyright law in any country, shall be deemed a work made for hire, such that all rights, title and interest in the work and Deliverables shall be exclusively owned by the State of Utah. State of Utah reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal or State Government purposes, such software, modifications and documentation. To the extent any Deliverable is deemed not to be, for any reason whatsoever, work made for hire, Contractor agrees to assign and hereby assigns all right title and interest, including but not limited to copyright patent, trademark and trade secret, to such Deliverables, and all extensions and renewals thereof, to the State of Utah. Contractor further agrees to provide all assistance reasonably requested by the State of Utah in the establishment, preservation, and enforcement of its rights in such Deliverables, without any additional compensation to Contractor. Contractor agrees to and hereby, to the extent permissible, waives all legal and equitable rights relating to the Deliverables, including without limitation any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications.

**27. OWNERSHIP, PROTECTION AND USE OF RECORDS:** Except for confidential medical records held by direct care providers, the State shall own exclusive title to all information gathered, reports developed, and conclusions reached in performance of this Contract. The Contractor may not use, except in meeting its obligations under this contract, information gathered, reports developed, or conclusions reached in performance of this Contract without the express written consent of the State. The improper use or disclosure of any information concerning a State of Utah client, or a State of Utah employee for any purpose not directly connected with the administration of the State, or the Contractor's responsibilities with respect to services purchased under this agreement, is prohibited except on written consent of the state agency employee, state agency client, their attorney, or their responsible parent or guardian. The Contractor will be required to sign a Confidential Information Certification form in situations where they will be given access to confidential computerized records. The Contractor agrees to maintain the confidentiality of records it holds as agent for the State as required by Government Records Access and Management Act ("GRAMA"), or other applicable federal or state law. The State of Utah shall own and retain unlimited rights to use, disclose, or duplicate all information and data (copyrighted or otherwise) developed, derived, documented, stored, or furnished by the Contractor under the Contract. The Contractor, and any subcontractors under its control, expressly agrees not to use confidential client, or confidential federal, state, or local government data, without prior written permission from the State of Utah Project Manager and appropriate officials of the State Agency.

**28. OWNERSHIP, PROTECTION, AND USE OF CONFIDENTIAL FEDERAL, STATE, OR LOCAL GOVERNMENT INTERNAL BUSINESS PROCESSES AND PROCEDURES:** 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 the Contractor, Contractor's employees, or their Subcontractors, unless prior written consent has been obtained in advance from the State of Utah Project Manager.

**29. 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 State and must be delivered to the State within 30 working days after termination or completion of the contract, regardless of the reason for contract termination, and without restriction or limitation to their future use. Any State data that may be returned under provisions of this clause must either be in the format as originally provided, or in a format that is readily usable by the State or that can be formatted in a way that it can be used. Costs for all of these described items will be considered as included in the basic contract compensation of the work described used by the State.

- 30. CONFIDENTIALITY:** Contractor, and anyone for whom the Contractor may be liable, must maintain the confidentiality of any non-public personal information. Personal information includes, but is not limited to, names, social security numbers, birth dates, address, credit card numbers and financial account numbers. The State reserves the right to identify additional reasonable types or categories of information that must be kept confidential by the Contractor and anyone for whom the Contractor may be liable. This duty of confidentiality shall be ongoing and survive the term of this contract.
- 31. TERMINATION UPON DEFAULT:** In the event this contract is terminated as a result of a default by the Contractor, the State may procure or otherwise obtain, upon such terms and conditions as the State deems appropriate, services similar to those terminated, and Contractor shall be liable to the State for any and all damages arising there from, including, but not limited to, attorneys' fees and excess costs incurred by the State in obtaining similar services.
- 32. PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, 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, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63G-6-1002, Utah Code Annotated, 1953, as amended).
- 33. WORKERS' COMPENSATION:** The Contractor shall furnish proof to the State, upon request and maintain during the life of this contract, workers' compensation insurance for all its employees as well as any subcontractor employees related to this contract.
- 34. LIABILITY INSURANCE:** The Contractor agrees to provide and to maintain during the performance of the contract, at its sole expense, a policy of liability insurance. The limits of the policy shall be no less than \$1,000,000.00 for each occurrence and \$3,000,000.00 aggregate.

It shall be the responsibility of the Contractor to require any of their Subcontractor(s) to secure the same insurance coverage as prescribed herein for the Contractor.

- 35. ENTIRE AGREEMENT:** This Agreement, including all Attachments, and documents incorporated hereunder, and the related State Solicitation constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of this Agreement shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of the State. The parties agree that the terms of this Agreement shall prevail in any dispute between the terms of this Agreement and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this Agreement.
- 36. SURVIVORSHIP:** This paragraph defines the specific contractual provisions that will remain in effect after the completion of or termination of this contract, for whatever reason: (a) State of Utah Standard IT Terms and Conditions # 2, Contract Jurisdiction, Choice of Law, and Venue; (b) State of Utah Standard IT Terms and Conditions # 17, Secure Protection and Handling of Data; (c) State of Utah Standard IT Terms and Conditions # 18, Notification and Data Breaches; (d) State of Utah Standard IT Terms and Conditions # 26, Copyright; (e) State of Utah Standard IT Terms and Conditions #27, Ownership, Protection, and Use of Records, including Residuals of such records; and (f) State of Utah Standard IT Terms and Conditions # 28, Ownership, Protection, and Use of Confidential Federal, State, or Local Government Internal Business Processes, including Residuals of such confidential business processes; (g) State of Utah Standard IT Terms and Conditions # 29, Ownership, Protection, and Return of Documents and Data Upon Contract Termination or Completion; and (h) State of Utah Standard IT Terms and Conditions # 30, Confidentiality.
- 37. WAIVER:** The waiver by either party of any provision, term, covenant or condition of this Contract shall not be deemed to be a waiver of any other provision, term, covenant or condition of this Contract nor any subsequent breach of the same or any other provision, term, covenant or condition of this Contract.

**If professional services are applicable to this solicitation/contract, the following terms and conditions apply:**

- 38. TIME:** The Contractor shall complete the scope of services work in a manner to achieve any milestones identified in the procurement documents related to this Contract and the attachments to this Contract. The full scope of services work shall be completed by any applicable deadline stated in the solicitation.
- 39. TIME IS OF THE ESSENCE:** For all work and services under this Contract, time is of the essence and Contractor shall be liable for all damages to the State of Utah and anyone for whom the State of Utah may be liable, as a result of the failure to timely complete the scope of work required under this Contract.
- 40. CHANGES IN SCOPE:** Any changes in the scope of the services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by duly authorized representatives of 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 services.
- 41. PERFORMANCE EVALUATION:** The State of Utah may conduct a performance evaluation of the Contractor's services, including specific personnel of the Contractor. References in the Contract to Contractor shall include Contractor, Contractor's subcontractors, or subconsultants at any tier, if any. Results of any evaluation will be made available to the Contractor.

- 42. WAIVERS:** No waiver by the State or Contractor of any default shall constitute a waiver of the same default at a later time or of a different default.
- 43. INSURANCE:**
1. To protect against liability, loss and/or expense in connection with the performance of services described under this Contract, the Contractor shall obtain and maintain in force during the entire period of this Contract without interruption, at its own expense, insurance as listed below from insurance companies authorized to do business in the State of Utah and with an A.M. Best rating as approved by the State of Utah Division of Risk Management.
  2. The following are minimum coverages that may be supplemented by additional requirements contained in the solicitation for this Contract or provided in an Attachment to this Contract; if no insurance limits are identified in the solicitation, insurance minimums will default to Section 44. Liability Insurance Requirements:
    - (1) Worker's Compensation Insurance and Employers' Liability Insurance. Worker's compensation insurance shall cover full liability under the worker's compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction.
    - (2) Professional liability insurance in the amount as described in the solicitation for this Contract, if applicable.
    - (3) Any other insurance described in the solicitation for this Contract, if applicable.
  3. 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 statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.
  4. 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.
- 44. STANDARD OF CARE:** The services of Contractor and its subcontractors and subconsultants at any tier, if any, 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. The Contractor shall be liable to the State of Utah for claims, liabilities, additional burdens, penalties, damages or third party claims (i.e. another Contractor's claim against the State of Utah), to the extent caused by wrongful acts, errors or omissions that do not meet this standard of care.
- 45. STATE REVIEWS, LIMITATIONS:** The right of the State to perform plan checks, plan reviews, other reviews and/or comment upon the services of the Contractor, as well as any approval by the State, shall not be construed as relieving the Contractor from its professional and legal responsibility for services required under this Contract. No review by the State or any entity/user, approval or acceptance, or payment for any of the services required under this Contract shall be construed to operate as a waiver by the State of any right under this Contract or of any cause of action arising out of the performance or nonperformance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the wrongful acts, errors and/or omissions of the Contractor or its subcontractors or subconsultants at any tier, if any.

(Revised July 1, 2013)

## Question and Answers for Bid #JP14001 - Data Communications Products & Services

### OVERALL BID QUESTIONS

There are no questions associated with this bid. If you would like to submit a question, please click on the "Create New Question" button below.