

**PARTICIPATING ADDENDUM**  
**NASPO ValuePoint (Formerly WSCA-NASPO) COOPERATIVE PURCHASING ORGANIZATION**  
**DATA COMMUNICATIONS PRODUCTS AND SERVICES 14-19**  
**Administered by the State of Utah (hereinafter "Lead State")**

**MASTER AGREEMENT**  
Avaya Inc.  
(hereinafter "Contractor")  
Master Agreement Number: AR603  
And  
The State of Louisiana  
(hereinafter "Participating State")  
Participating State Contract Number: 4400004339

**1. Scope**

This Addendum covers the Data Communications Products and Services 14-19 contracts within the scope of the WSCA-NASPO Master Agreement led by the State of Utah for use by all State Agencies and local government entities, institutions of higher education, and school districts located in the State of Louisiana who are authorized by the State of Louisiana statutes to utilize state contracts.

The Master Agreement, now or hereafter amended in accordance with 5 F below, is incorporated into this addendum as if set forth at length. Capitalized terms not defined in this Participating Addendum shall have the meaning set forth in the Master Agreement. To the extent of a conflict of terms between the Master Agreement and this Participating Addendum, the order of precedence set forth in Section 1 of Attachment A of the Master Agreement shall apply.

**2. Participation**

Use of specific WSCA/NASPO cooperative contracts by state agencies, political subdivisions and other entities (including cooperatives) authorized by an 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 State Chief Procurement Official.

**3. Term**

The term of this Participating Addendum and State Contract Number 4400004339 shall be effective upon the date of final execution below (the "Effective Date") by the State of Louisiana through May 31, 2019, unless otherwise terminated in accordance with the termination provisions of this Participating Addendum or the Master Agreement. This Participating Addendum and State Contract Number 4400004339 may be extended in accordance with the terms and conditions of the Master Agreement.

**4. Non-Exclusive Contract**

The contract shall be non-exclusive and shall not in any way preclude the State of Louisiana from entering into similar contracts and/or arrangements with other vendors or from acquiring similar, equal or like goods and/or services from other entities or sources.

## 5. Changes

- A. The following Product Lines are excluded from purchase under State Contract Number 4400004339:
- Professional Services Section 5.3.1.2, Attachment B, Scope of Work, excluding 5B, 5C and 5D below
  - Partner Services Section 5.3.1.3, Attachment B, Scope of Work
  - Consulting Services, as defined by Louisiana Administrative Code
  - Lease Agreements

B. **Equipment Installation** is limited to the unpacking, inventory, assembly of components, rack mounting of chassis, patch cord/cross connects and powering up of equipment. Vertical and horizontal wiring and cabling materials, equipment room patch panels/frames/racks, etc. and labor charges are specifically excluded from the contract.

C. **Initial Software Configuration** is limited to the configuring of software to support the routing, switching, feature/function assignments and/or security parameters required on the initial turn up of the equipment and software to deliver a functioning network product to the purchaser. Consulting services of any type to include, but not limited to, system design, capacity analysis, network performance evaluation, as well as any ongoing technical support are specifically excluded.

D. **Training** is limited to pre-developed training in support of products available through this participating addendum that is included in a publicly available course catalog of training. **No customized training is allowed.**

E. **Attachment A, Section 2. Amendments**, ADD the following language:

Any further Amendments to the Master Agreement after the Effective Date of this Participating Addendum, that have been approved by the WSCA-NASPO Contract Administrator, will not be applicable to this Participating Addendum and will not be valid unless made in writing as an amendment to this Participating Addendum, signed by the parties and approved as required by the laws of the State of Louisiana. No oral understanding or agreement not incorporated in this Participating Addendum is binding on any of the parties.

F. **Attachment A, Section 3. Assignment/Subcontract**, ADD the following language:

The Contractor shall not assign any interest in this Participating Addendum or State Contract Number 4400004339 by assignment, transfer or novation without prior written consent of the State, which consent shall not be unreasonably withheld. This provision shall not be construed to prohibit the Contractor from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State.

G. **Attachment A, Section 4. Cancellation**, REVISED to read as follows:

**A new Section 4.4 is hereby added as follows: Termination for Cause:** The State may terminate this Participating Addendum, State Contract Number 4400004339, or any

order issued pursuant to State Contract Number 4400004339 for cause based upon the failure of Contractor to comply with the terms and/or conditions of this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339 provided that the State shall give the Contractor written notice specifying the Contractor's failure. If within thirty (30) days after receipt of such notice, the Contractor shall not have corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then the State may, at its option, place the Contractor in default and this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339 shall terminate on the date specified in such notice.

The Contractor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the State to comply with the terms and conditions of this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339, provided that the Contractor shall give the State written notice specifying the State's failure and a reasonable opportunity for the State to cure the defect.

**Section 4.1 is hereby deleted and replaced with the following: Termination for Convenience:** The State may terminate this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339 at any time by giving thirty (30) days written notice to contractor of such termination or negotiating with the Contractor an effective date.

**A new Section 4.5 is hereby added as follows: Termination for Non-Appropriation of Funds:** The continuation of this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339 is contingent upon the continuation of an appropriation of funds by the legislature to fulfill the requirements of this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339. If the legislature fails to appropriate sufficient monies to provide for the continuation of this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriations for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339; this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339 shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

Contractor should be aware that our legislative process is such that it is often impossible to give prior notice of the non-appropriation of funds.

H. **Attachment A, Section 10. Governing Laws, ADD the following language:**

This Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339 shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with

regard to this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339 shall be in the Nineteenth Judicial District Court, parish of East Baton Rouge, State of Louisiana.

**I. Attachment A, Section 22. Invoicing and Payment, ADD the following language:**

**Taxes:** Any taxes, other than State and local sales and use taxes from which the State of Louisiana is exempt, shall be assumed to be included within the total cost.

**Electronic Vendor Payment Solutions:** The State desires to make payment's electronically. The methods of payment may be via the State's LaCarte card (procurement card), EVP method that converts check payments to a Visa credit card account with unique security features and electronic remittance notifications, or EFT payments sent directly from the State's bank directly to the payee's bank. See Attachment A for additional information regarding electronic payment methods.

**Late Payments:** Interest due by a State agency for late payments shall be in accordance with La. R.S. 39:1695 and 13:4202.

**J. Section 23. Public Information, ADD the following language:**

For the purposes of this Participating Addendum, the provisions of the Louisiana Public Records Act (La. R.S. 44.1 et. seq.) will be in effect.

**K. Attachment A, Section 24. Records Administration and Audit, ADD the following language:**

The State Legislative auditor, federal auditors and internal auditors of the State, or others so designated by the State, shall have the option to audit all accounts directly pertaining to this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339 for a period of five (5) years from the date of final payment or as required by applicable State and Federal Law. Records shall be made available during normal working hours for this purpose at Contractor's business location(s) where such records are kept upon at least 30 days prior written notice.

**L. Attachment A, Section 25. Reports and Administrative Fee, ADD the following language:**

Contractor shall submit detailed sales data reports quarterly to the State of Louisiana Contracts Manager. Initiation and submission of the quarterly report to the State of Louisiana is the responsibility of the Contractor without prompting or notification by the State of Louisiana Contracts Manager. Quarterly usage reports must contain total dollar usage figures for the State of Louisiana, per product category, per manufacturer, respectively. Usage figures must be provided per maintenance option. The due dates of each quarterly report are as follows:

First Quarter:	July 1 through September 30, due by October 31
Second Quarter:	October 1 through December 31, due by January 31
Third Quarter:	January 1 through March 31, due by April 30
Fourth Quarter:	April 1 through June 30, due by July 31

The reports shall be in the format developed by the Lead State and supplied to the Contractor.

Contractor shall pay a 1% administrative fee to the State of Louisiana. The fee shall be submitted quarterly as stated above and shall be based on the total net (gross sales minus returns, credits and deductions) sales to the State of Louisiana. The check is to be made payable to the State of Louisiana, Division of Administration, Office of State Procurement and is to be mailed to the Office of State Procurement, Attn: Kara Allen, P. O. Box 94095, Baton Rouge, LA 70804-9095.

**M. Attachment A, ADD the following clauses:**

**Contract Controversies:** Any claim or controversy arising out of this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339, shall be resolved by the provisions of Louisiana Revised Statute 39:1673.

**Code of Ethics:** The Contractor acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the Contracting Party in the performance of services called for in this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339. The Contractor agrees to immediately notify the state if potential violations of the Code of Governmental Ethics arise at any time during the term of this Participating Addendum, State Contract Number 4400004339, or any order issued pursuant to State Contract Number 4400004339.

**6. Louisiana Pricing Schedule ("LAPS") Contract**

State Contract Number 4400004339 has been designated as a Louisiana Pricing Schedule ("LAPS") contract and LAC 34.V.1709 must be followed by Louisiana purchasing entities utilizing the contract.

**7. Primary Contacts**

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

**Contractor**

Name	Linda Grande
Address	4655 Great America Parkway, Santa Clara, CA 95054-1233
Telephone	212-841-4858
Fax	
E-mail	<a href="mailto:lgrande@avaya.com">lgrande@avaya.com</a>

**Participating State**

Name	Felicia Sonnier
Title	Assistant Director-Purchasing
Address	Office of State Procurement P. O. Box 94095 Baton Rouge, LA 70804-9095
Telephone	225-342-8029

Fax	225-342-9756
E-mail	<a href="mailto:felicia.sonnier@la.gov">felicia.sonnier@la.gov</a>

The Parties will keep and maintain current at all times a primary point of contact for administration of this Participating Addendum.

#### **8. Fulfillment Partners**

All Contractor's Fulfillment Partners, as defined in the Master Agreement, authorized by Contractor in the State of Louisiana, as shown on the dedicated Contractor's (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint (formerly WSCA-NASPO) Master Price Agreement, e.g. for direct order taking, processing, fulfillment or provisioning. The Fulfillment Partner's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

Subject to approval of the State of Louisiana, and at the sole discretion of Contractor, Contractor may add Fulfillment Partners at any time during the term of this Participating Addendum. Contractor may designate a minimum of two Fulfillment Partners and no set maximum number of Fulfillment Partners to provide sales and services support. Contractor, in its sole discretion, is not required to add, and may delete upon thirty (30) days written notice, any Fulfillment Partner who does not meet Contractor's established qualifying criteria, or where the addition of the entity would violate any state or federal law or regulation.

#### **9. Orders**

Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Participating Addendum and/or State Contract Number 4400004339 shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.

Purchasers may place orders directly only through Contractor's approved Fulfillment Partners or through Contractor for products or services as authorized under this Participating Addendum. Only those Fulfillment Partners approved and listed during the term of Participating Addendum at Contractor's website are authorized to directly provide quotes, receive purchase orders, invoice Customers, and receive payment from purchasers on Contractor's behalf.

Except as otherwise set forth in the qualifying criteria, Contractor will not, directly or indirectly, restrict any Fulfillment Partner's participation or ability to quote pricing for a Customer. The approved Fulfillment Partners will not offer less favorable pricing discounts than the contract discounts established by Contractor under the Master Agreement. However, the Fulfillment Partner may offer any additional incremental discounts to Participating State/Entity, and such additional discounts if offered, may be provided in the discretion and as the sole legal obligation of the approved Fulfillment Partner to the Participating State/Entity.

The Master Agreement number and the State Contract Number must appear on every Purchase Order placed under this Participating Addendum.

**10. Notices**

Notwithstanding anything contained in the Master Agreement to the contrary, all notices required or permitted under this Participating Addendum will be in writing and will be delivered to the facsimile numbers or the addresses of the relevant party set forth below or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph, or, in the absence of such an address from Customer, to the address to which the last invoice under this Participating Addendum was sent before notice is served. Such delivery will be affected by facsimile, courier or by first-class mail, postage pre-paid.

**FOR CUSTOMER:**

Felicia M. Sonnier  
 Office of State Procurement  
 P. O. Box 94095  
 Baton Rouge, LA 70804-9095  
 FACSIMILE: (225) 342-9756

**FOR AVAYA:**

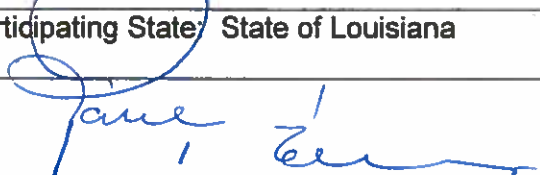

ATTENTION: VICE PRESIDENT, LAW  
 AVAYA INC.  
 4655 GREAT AMERICA PARKWAY  
 SANTA CLARA, CA 95054-1233  
 UNITED STATES  
 FACSIMILE: 408-562-3749

Notwithstanding the foregoing, notices regarding changes in pricing, Software license terms, policies or programs may be by posting on Avaya.com or by e-mail or fax.

**11. Entire Agreement**

This Participating Addendum and the Master Agreement (including all amendments and attachments thereto) constitute the entire agreement between the parties concerning the subject matter of this Participating Addendum and replaces any prior oral or written communications between the parties, all of which are excluded. There are no conditions, understandings, agreements, representations or warranties, expressed or implied, that are not specified herein. This Participating Addendum may be modified only by a written document executed by the parties hereto.

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

Participating State: State of Louisiana	Contractor: Avaya Inc.
By: 	By: 
Name: Paul A. Holmes	Name: Carson Hostetter
Title: Director of State Purchasing	Title: Area Sales Vice President
Date: 10/16/2015	Date: 10/13/15

**ATTACHMENT A – Electronic Vendor Payment Solutions**

In an effort to increase efficiencies and effectiveness as well as be strategic in utilizing technology and resources for the State and vendors, the State intends to make all payments to vendors electronically. The LaCarte procurement card will be used for purchases of \$5,000 and under, and where feasible, over \$5,000. Vendors will have a choice of receiving electronic payment for all other payments by selecting the Electronic Vendor Payment solution (EVP) or Electronic Funds Transfer (EFT). If you receive an award and do not currently accept the LaCarte card or EVP or have not already enrolled in EFT, you will be asked to comply with this request by choosing one the following three options. You may indicate your acceptance below.

The LaCarte Procurement Card uses a Visa card platform. Vendors receive payment from state agencies using the card in the same manner as other Visa card purchases. Vendors cannot process payment transactions through the credit card clearinghouse until the purchased products have been shipped or received or the services performed.

For all statewide and agency term contracts:

- Under the LaCarte program, purchase orders are not necessary. Orders must be placed against the net discounted products of the contract. All contract terms and conditions apply to purchases made with LaCarte.
- If a purchase order is not used, the vendor must keep on file a record of all LaCarte purchases issued against this contract during the contract period. The file must contain the particular item number, quantity, line total and order total. Records of these purchases must be provided to the Office of State Purchasing on request.

EVP method converts check payments to a Visa credit card thereby streamlining payments to your organization. Participants receive a credit card account number with unique security features. This card will have \$0 available funds until an invoice is approved for payment. As payments are approved, electronic remittance notifications are sent via email along with approval to charge the card for that amount. EVP requires no change to current invoice procedures; it is secure, and does not require your bank information.

EFT payments are sent from the State's bank directly to the payee's bank each weekday. The only requirement is that you have an active checking or savings account at a financial institution that can accept Automated Clearing House (ACH) credit files and remittance information electronically. Additional information is available at <http://www.doa.louisiana.gov/OSRAP/EFTforWebsite.pdf> . To facilitate this payment process, you will need to complete and return both EFT enrollment forms found at <http://www.doa.louisiana.gov/ERP/pdfs/LaGov%20AP-03%20-%20EFT%20Vendor%20Enrollment%20Form.pdf> and <http://www.doa.louisiana.gov/OSRAP/EFTforWebsite.pdf>

Please check which option you will accept or indicate if you are already enrolled.

<u>Payment Type</u>	<u>Will Accept</u>	<u>Already enrolled</u>
LaCarte	_____	_____
EVP	_____	_____
EFT	<u>X</u> _____	_____

Carson Hostetter, Area Sale VP  
Printed Name of Individual Authorized

Carson Hostetter  
Authorized Signature for payment type chosen

10/13/15  
Date

Kathy Wren [kwren@avaya.com](mailto:kwren@avaya.com) 405-302-9239  
e-mail address and phone number of authorized individual