

Participating Addendum Number 2024-BUS-4606
for
COMPUTER EQUIPMENT, PERIPHERALS & RELATED SERVICES
between
State of Iowa Department of Management
and
Apple Inc.

This Participating Addendum is entered into by State of Iowa Department of Management ("Participating Entity") and the following Contractor (each a "Party" and collectively the "Parties") for the purpose of participating in NASPO ValuePoint Master Agreement Number 23003, executed by Contractor and the State of Minnesota for Computer Equipment, Peripherals & Related Services ("Master Agreement"):

Apple Inc. ("Contractor")
One Apple Park Way
Cupertino, CA 95014

I. PARTICIPATING ADDENDUM CONTACTS.

Contractor's contact for this Participating Addendum is:

Tim Lim
Senior Contracts Negotiator
tim2@apple.com
408-783-7379

Participating Entity's contact for this Participating Addendum is:

Bryan Dreiling
IT Vendor Manager
ocioprocurement@iowa.gov

- II. TERM.** This Participating Addendum is effective as of the date of the last signature below, and will terminate upon termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.
- III. PARTICIPATION AND USAGE.** This Participating Addendum may be used by all state agencies, public educational institutions, institutions of higher education, cities, counties, districts, and other political subdivisions of the state, and nonprofit organizations within the state if authorized herein and by law. Participating Entity has sole authority to determine which entities are eligible to use this Participating Addendum.
- IV. GOVERNING LAW.** The construction and effect of this Participating Addendum and any Orders placed hereunder will be governed by, and construed in accordance with, Participating Entity's laws.
- V. SCOPE.** Except as otherwise stated herein, this Participating Addendum incorporates the scope, pricing, terms, and conditions of the Master Agreement and the rights and obligations set forth therein as applied to the Contractor and Participating Entity and Purchasing Entities. For the avoidance of doubt, the Master Agreement contains Minnesota statutory requirements applicable to the Lead State. Such provisions are not applicable to any Participating Entity other than the Lead State.
- a. Services.** All services available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities. All services provided will be described in one or more of the following documents:
- (i) "Services Descriptions" used to describe any services purchased by an entity;
 - (ii) Any mutually agreed upon Statement of Work ("SOW") executed by the parties.

Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum unless the amendment is rejected by the Participating Entity in writing to Contractor within ten (10) calendar days of the amendment's effective date and is documented thereafter via written amendment hereto. **Any conflict between this Participating Addendum and the Master Agreement will be resolved in favor of the Participating Addendum.**

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VI. ORDERS. Purchasing Entities may place orders under this Participating Addendum by referencing the Participating Addendum Number on an Order. Each Order placed under this Participating Addendum is subject to the pricing and terms set forth herein and in the Master Agreement, including applicable discounts, reporting requirements, and payment of administrative fees to NASPO ValuePoint and Participating Entity, if applicable.

VII. ADMINISTRATIVE FEE.

Excluding all orders at an Apple Retail Store, Contractor shall provide a 1.00% administrative fee on net invoiced sales of products and services made through this Participating Addendum (less any charges for taxes or shipping). This 1.00% administrative fee shall be paid quarterly to the Department of Management, 200 E. Grand Ave, Des Moines, IA 50309, Attn: Business Services Division Administrator. Payment shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Fee Due</u>
June	August 31
September	November 30
December	February 28
March	May 31

VIII. REPORTING REQUIREMENTS.

Excluding all orders at an Apple Retail Store, Apple agrees to provide a quarterly report on net sales of products and services under this Agreement (less any charges for taxes and/or shipping) in accordance with the following schedule:

<u>Period:</u>	<u>Report Due Date:</u>
July - September	October 31
October - December	January 31
January - March	April 30
April - June	July 31

Apple shall indicate the contract number with the quarterly sales report. Reports will be submitted via email to Bryan Dreiling at: ocioprocurement@iowa.gov.

IX. FEDERAL FUNDING REQUIREMENTS. Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. When applicable, a Purchasing Entity will identify in the Order any alternative or additional requirements related to the use of federal funds. Contractor will evaluate federal requirements associated with orders funded with federal funds on a transactional basis.

X. RESERVED.

XI. ATTACHMENTS. This Participating Addendum includes the following attachments:

a. Attachment A: State of Iowa General Terms and Conditions for Goods Contracts

XII. NOTICE. Any notice required herein shall be sent to the following:

For Contractor:

Apple Inc.
U.S. Contracts Operations
One Apple Park Way, MS/581-CNTR
Cupertino, CA 95014
contracts@apple.com

For Participating Entity:

Iowa Department of Management
Division of Information Technology
200 E. Grand Avenue
Des Moines, Iowa 50309
ocioprocurement@iowa.gov

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- XIII. SUBMISSION OF PARTICIPATING ADDENDUM TO NASPO VALUEPOINT.** Upon execution, Contractor shall email a copy of this Participating Addendum and any amendments hereto to NASPO ValuePoint at pa@naspovaluepoint.org. While Participating Entity will maintain the official record of this Participating Addendum, the Parties agree that this Participating Addendum, as amended, may be published on the NASPO ValuePoint website.

SIGNATURE

The undersigned for each Party represents and warrants that this Participating Addendum is a valid and legal agreement binding on the Party and enforceable in accordance with the Participating Addendum's terms and that the undersigned is duly authorized and has legal capacity to execute and deliver this Participating Addendum and bind the Party hereto.

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

CONTRACTOR: Apple Inc.

**PARTICIPATING ENTITY: State of Iowa Department of
Management**

Johnny Mendoza

Signature

Johnny Mendoza

Printed Name

Project Coordinator

Title

3/26/2024

Date

Kraig Paulsen

Signature

Kraig Paulsen

Printed Name

Director, Iowa Department of Management

Title

4-11-24

Date

ATTACHMENT A: State of Iowa General Terms and Conditions for Goods Contracts

1.1 Definitions

The following words shall be defined as set forth below:

“Contract” means the collective documentation memorializing the terms of the Participating Agreement between the State and includes these General Terms for Goods Contracts and the Master Agreement.

“Contractor” means the provider of the goods under the Contract.

“Product” refers to any other products, goods, materials or items that are ordered, developed, produced, delivered, installed, licensed, performed, provided, or otherwise made available, under or through this Contract or Order. The term “Product” includes all related, provided, or supplied Documentation, updates, source code, upgrades, and enhancements.

“Purchasing Instrument” means the documentation issued by the State to the Contractor for a purchase of goods in accordance with the terms and conditions of the Contract. It may include an identification of the items to be purchased, the delivery date and location, the address where the Contractor should submit the invoices, and any other requirements deemed necessary by the State. Any pre-printed contract terms and conditions included on Contractor’s forms or invoices shall be null and void.

“State” means the State of Iowa and all state agencies, boards, and commissions, and any political subdivisions making purchases off of this Contract as permitted.

1.2 Description of Goods

1.2.1 Non-Exclusive Rights

The Contract is not exclusive. The State reserves the right to select other contractors to provide goods similar or identical to goods described in the Contract during the term of the Contract.

1.2.2 No Minimums Guaranteed

The Contract does not guarantee any minimum level of purchases.

1.3 Compensation

1.3.1 Pricing

The Contractor shall submit invoices in accordance with the terms of the Master Agreement. As applicable, the Parties shall comply with applicable Iowa law with respect to making payments hereunder. Payments for goods and services shall be due thirty (30) days from the date of an invoice. After 60 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, if presented at the time of order, with no additional charge.

1.3.2 Volume Incentive

Upon a Purchasing Entity’s purchase of five million (\$5,000,000) of Products in one Order, Contractor will offer one day of Apple Professional Learning Specialist Virtual Support (APLS Virtual Support) to that Purchasing Entity; subject to the terms and conditions of APLS Virtual Support and the related SOW entered into by the parties.

1.4 Limitation of Liability

Parties agree that solely to the extent permitted by applicable Iowa State laws, Master Agreement Terms and Conditions, Exhibit A, Section 35 (Limitations of Liability) shall apply to this Participating Addendum.

1.5 Contract Administration

1.5.1 Compliance with the Law; Nondiscrimination in Employment

The Contractor, its employees, and agents, shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and Iowa Code section 19B.7).

In the event Contractor contracts with third parties for the performance of any of the Contractor obligations under this Contract. Contractor shall inform such third parties of the terms and conditions contained in this section.

Notwithstanding anything in this Contract to the contrary, Contractor's failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend, in whole or in part, this Contract. The State may further declare Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

1.5.2 Amendments

The Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to the Contract must be in writing and fully executed by the parties.

1.5.3 Integration

The Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in the Contract.

1.5.4 Headings or Captions

The paragraph headings or captions used in the Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

1.5.5 Supersedes Former Contracts or Agreements

Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between the State and the Contractor for the goods provided in connection with the Contract.

1.5.6 Severability

If any provision of the Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Contract.

1.5.7 Authorization

Contractor represents that it has the right, power and authority to enter into and perform its obligations under the Contract.

1.5.8 Solicitation

The Contractor warrants that no person or selling agency (except bona fide employees or selling agents maintained for the purpose of securing business) has been employed or retained to solicit and secure the Contract upon an agreement or understanding for commission, percentage, brokerage or contingency.

1.5.9 Clean Air and Water Certification

Contractor certifies that none of the facilities it uses to produce goods provided under the Contract

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are on the Environmental Protection Agency (EPA) List of Violating Facilities. Contractor will notify the State of the receipt of any communication indicating that any of Contractor's facilities are added to the EPA List of Violating Facilities

1.5.10 Taxes

The State is exempt from Federal excise taxes, and no payment will be made for any taxes levied on Contractor's employee's wages. The State is exempt from State and local sales and use taxes on the Deliverables:

https://das.iowa.gov/sites/default/files/acct_sae/man_for_ref/forms/sales_tax_exempt_letter.pdf.

1.5.11 Certification Regarding Sales and Use Tax

By executing the Contract, the Contractor certifies it is either (a) registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by the Iowa Code chapter 423; or (b) not a "retailer" or a "retailer maintaining a place of business in this state" as those terms are defined in Iowa Code subsections 423.1(47) & (48). The Contractor also acknowledges that the State may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the State or its representative filing for damages for breach of contract.

1.5.12 Counterparts

The parties agree that the Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.