Participating Addendum Number NVP_ AR2475
for
CLOUD SOLUTIONS 2016-2026
between
The State of Montana
and
CGI TECHNOLOGIES AND SOLUTIONS INC.

This Participating Addendum (PA) is entered into by the State of Montana (Participating Entity or State) and the following Contractor (each a Party and collectively the Parties) for the purpose of participating in NASPO ValuePoint Master Agreement Number AR2475, executed by Contractor and the State of Utah (Lead State) for Cloud Solutions, effective September 30, 2016 (Master Agreement):

CGI Technologies and Solutions Inc. (Contractor)
5575 DTC Pkwy #135
Greenwood Village, CO 80111

I. PARTICIPATING ADDENDUM CONTACTS AND NOTICE.
For purposes of Contact or any required Notice:

Contractor's contact for this PA is:

Darryl Brown
CGI - Director Consulting Services
Darryl.brown@cgi.com
303 548 7774

Participating Entity's contact for this PA is:

Grace Waring
Contracts Officer
Cooppurchasing@mt.gov
406-444-2516

II. TERM. This PA is effective as of the date of the last signature below and will terminate, renew and extend upon termination, renewal or extension of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein. Any order placed prior to expiration of the Master Agreement shall be subject to the terms of this PA and shall survive both.

III. PARTICIPATION AND USAGE. The NASPO ValuePoint Master Agreement may be used by all State agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Montana. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official. If Contractor becomes aware that an entity's use of this PA is not authorized, Contractor will notify NASPO ValuePoint to initiate outreach to the appropriate parties.

IV. GOVERNING LAW. The construction and effect of this PA and any Purchase Orders (POs) placed hereunder will be governed by, and construed in accordance with, federal laws and Participating Entity's laws. Montana law governs this Contract. The parties agree that any litigation concerning this Contract, including PA and POs, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

V. SCOPE. Except as otherwise stated herein, this PA 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.

a. **Services.** All services available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities.

b. **Contractor Partners**. All subcontractors, dealers, distributors, resellers, and other partners identified on Contractor's NASPO ValuePoint webpage as authorized to provide Products and Services to Participating Entity may provide Products and Services to users of this PA.

c. Leasing. Leasing and Managed Device agreements are allowed if the Participating Entities have the authority to finance a purchase.

VI. AMENDMENTS. (RESERVED)

VII. ENTIRE AGREEMENT. Consistent with Section 43 therein of the Master Agreement, along with its attachments this PA and its Attachments, and any Purchase Orders represent the parties' entire understanding with respect to its subject matter and supersede any previous communication or agreements that may exist.

VIII. ORDER OF PRECEDENCE/ATTACHMENTS. This PA includes the following Attachments:

a. State Attachment A: State's Modifications and Additions to Master Agreement Terms and Conditions;
b. State Attachment B: State Information Technology Terms and Conditions; and
c. State Attachment C: Federal Terms and Conditions.

The Order of Precedence is as established in the Master Agreement and incorporated herein, with this PA and Attachments as first. 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. Except for the terms included in the Attachment(s) hereto, no other terms and conditions shall apply, including terms listed or referenced on Contractor's website, in Contractor's quotations or in similar documents subsequently provided by Contractor, unless otherwise agreed by the Parties. Participating Entity's PA and Attachments shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with Contractor under the terms of the Master Agreement.

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

(Remainder of page intentionally left blank.)

SIGNATURE

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

IN WITNESS WHEREOF, the Parties have executed this PA.

PARTICIPATING ENTITY:

DocuSigned by:
John Thomas
49E3FEF749664B6...
Signature

John Thomas
Printed Name

Chief Procurement Officer
Title

4/29/2024
Date

DocuSigned by:
Katy Brandis
3C947270DF6E49A...
Signature
Legal Counsel

4/23/2024
Date

DocuSigned by:
Kevin Gilbertson
2D9081032F49415...
Signature
Chief Information Officer

4/24/2024
Date

CONTRACTOR:

DocuSigned by:
Linda Powers
75B181A04E7D472...
Signature

Linda Powers
Printed Name

Vice President Consulting Services
Title

4/24/2024
Date

Chief Information Officer Approval:
Contractor is notified that, under the provisions of 2-17-514, MCA, the Department of Administration retains the right to cancel or modify any contract, project, or activity that is not in compliance with the Agency's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard.

State Attachment A: State's Modifications and Additions to Master Agreement Terms and Conditions

The following terms and conditions govern during the term of the Participating Addendum (PA or Contract).

1. PAYMENT TERM (update to Master Agreement terms in Section 21 of Attachment A)

All payment terms are computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. State is allowed 30 days to pay such invoices. All contractors are required to provide banking information at the time of PA execution in order to facilitate State electronic funds transfer payments.

Withholding of Payment. In the event Contractor provides an inaccurate invoice containing inaccurate charges (i.e., the invoice or shipment does not align to the Purchase Order and Agreement), State may in good faith withhold disputed payments under the Contract. The withholding may not be greater than, in the aggregate, fifteen percent (15%) of the total value of the Order. State agrees to pay the portion of the invoice that is accurate within thirty (30) days and provide to Contractor in writing a description of the inaccurate charges within fourteen (14) days of the invoice date. The parties agree to discuss any claimed inaccurate charges within three (3) days of Contractor's receipt of such description. Upon mutual resolution of the accuracy issue, if necessary, Contractor will provide a revised and accurate invoice to State and State will pay such invoice within 30 days of receiving the accurate invoice.

2. OVERDUE INVOICES

If the State fails to pay any invoiced amount that is not the subject of a good faith dispute when due, Contractor may charge interest on the overdue amount at a rate of one percent per month. Interest will begin to accrue on the first day after the payment due date and will accumulate on the outstanding balance on a daily basis until paid in full.

3. U.S. FUNDS

All prices and payments must be in U.S. dollars.

4. REFERENCE TO PA

The Purchase Order number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the PA.

5. STATE OF MONTANA ADMINISTRATIVE FEE

The State of Montana assesses an Administrative Fee of one and one-half percent (1.50%) for all net sales (sales less credits and returns) made under this Contract. The prices paid to Contractor must include the 1.5% Administrative Fee. Contractor shall remit this Administrative Fee concurrent with the Required Usage Reporting described below. The Administrative Fee must be submitted by ACH along with email notification to State of Montana Contracts Officer. This Administrative Fee is effective upon execution of this PA.

6. REQUIRED USAGE REPORTING

Concurrent with the 1.5% Administrative Fee, Contractor shall submit quarterly reports to the Contracts Officer (CO) assigned by State to manage this Contract. Contractor shall provide CO with an electronic usage report (Excel), which must list the following information at the minimum: purchasing entity; description of items purchased; date of purchase; contract price; and the extended price for each transaction. These reports are due no more than 30 days after the end of the quarter as follows:

First Quarter:	July 1 through September 30;
Second Quarter:	October 1 through December 31;
Third Quarter:	January 1 through March 31; and
Fourth Quarter:	April 1 through June 30.

7. TAXES

7.1. **Payment.** Contractor shall pay all property and sales taxes, if any.

7.2. **Exemption.** State is exempt from Federal Excise Taxes (#81- 0302402), except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.I. 111- 148, 124 Stat. 119].

7.3. **Certificate.** All purchasers under this PA shall provide Contractor with a tax exemption certificate for all purchases.

8. DELIVERY

Reserved. Contractor shall make no physical deliveries.

9. INSURANCE

Contractor shall provide the Participating Entity the same insurance as it has provided the State of Utah in the Master Agreement and include the Participating Entity as an additional insured on these policies as it has the State of Utah. Electronic delivery of certificates of insurance and any endorsements shall be sent to the Primary Contact for the Participating Entity.

Contractor warrants that it performs all services using reasonable care and skill and according to its current description (including any completion criteria) contained in this Contract. State agrees to provide timely written notice of any failure to comply with this warranty so that Contractor can take corrective action.

10. RECORD ACCESS AND RETENTION

10.1. **Access to Records.** Contractor shall provide State, the Montana legislative auditor, or its authorized agents sufficient access to any records necessary to audit for Contract compliance. State may terminate this Agreement, without incurring liability, for Contractor's refusal to allow access as required by this Section. (18-1-118, MCA.)

10.2. **Retention Period.** Contractor shall retain all records related to this Contract for 8 years following the termination or expiration of this Contract.

11. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

Contractor shall not assign, transfer or subcontract any portion of this Contract without the express written consent of State, which shall not unreasonably withhold consent. (Section 18-4-141, MCA.) State may not assign, transfer or subcontract any portion of this Contract without the express written consent of Contractor, which shall not unreasonably withhold consent.

12. KEY PERSONNELL – Identification/Substitution of Personnel.

Contractor's key personnel under the project shall be delivery and project managers who will perform the services provided for State under this Contract. Contractor agrees that any key personnel substituted during the term of this Contract must be able to conduct the required work to industry standards and be equally or better qualified than the key personnel originally assigned. State reserves the right to approve Contractor key personnel assigned to work under this Contract and any changes or substitutions to such key personnel. State's approval of a substitution will not be unreasonably withheld. This approval or disapproval shall not relieve Contractor to perform and be responsible for its obligations under this Contract. State reserves the right to require Contractor key personnel replacement. If Contractor key personnel become unavailable, Contractor shall provide an equally qualified replacement in time to avoid delays to the work plan.

Contractor's key personnel are not anticipated to be onsite. However, if Contractor requires personnel to travel to State, Contractor's key personnel shall travel at Contractor's expense and covered under Contractor's commercial general, auto insurance, workers compensation policy. Contractor's key personnel are not employees of State.

13. WARRANTIES

13.1. State and Contractor agree to incorporate the Warranties set forth in the Master Agreement, Attachment E-4 with the following limited modifications and additions.

13.2. **SaaS Services Warranty.**

The following language replaces Section 7.2 of Schedule B to Attachment E-4 of the Master Agreement:

Contractor warrants that during the Order Term: (1) Contractor will provide the SaaS Services in a professional and workmanlike manner consistent with industry standards reasonably applicable to the performance of such SaaS Services; and (2) Contractor will not materially decrease the functionality of the SaaS Services (without State's written consent). If Contractor breaches these warranties, then in addition to other remedies available under this Contract, at law or in equity, Contractor will correct or re-perform the non-conforming SaaS Services at no additional charge to State, provided that no later than thirty (30) calendar days after the breach is first discovered by State, State provides written notice to Contractor of the breach with sufficient detail to allow Contractor to replicate the underlying cause of the breach so that Contractor can correct the breach and cause the SaaS Services to comply with this warranty.

13.3. **Consulting Services Warranty.**

The following language replaces Section 7.3 of Schedule B to Attachment E-4 of the Master Agreement:
Contractor warrants, for a period of thirty (30) days after performance of Consulting Services, that such Consulting Services will be performed in a professional and workmanlike manner consistent with industry standards reasonably applicable to the performance of such Consulting Services. If Contractor breaches this warranty, then without waiving other remedies available under this Contract at law or in equity, Contractor agrees to correct or re-perform, at no additional charge to State, any affected Consulting Services to cause them to comply with this warranty, provided that State provides written notice to Contractor of the breach within the thirty (30) day warranty period.

14. PUBLIC INFORMATION

A. Except as noted below in 14B, this Contract and all related documents are subject to disclosure pursuant to Montana public information laws.

B. Under Montana public information laws, this Contract, referenced documents, including pricing documents, are all deemed public information with the exception of Exhibits C-2 and C-3 to Attachment E-4 which the Contractor deems unique trade secret methodologies, processes and approaches to configuring, implementing and offering additional continuous improvement related to Contractor's proprietary intellectual property.

15. CIO OVERSIGHT

The Chief Information Officer (CIO) for the State of Montana, or designee, may perform oversight activities. Such activities may include the identification, analysis, resolution, and prevention of deficiencies that may occur while performing services. The CIO may require the issuance of a right to assurance or may issue a Stop Work Order.

16. RIGHT TO ASSURANCE

If either party, in good faith, has reason to believe that the other party does not intend to, is unable to, or has refused to perform or continue performing all material obligations under these Terms and Conditions, either party may demand in writing that the other party give a written assurance of intent to perform. Either party's failure to provide written assurance within the number of days specified in the demand (in no event less than ten (10) business days) may, at the other party's option, be the basis for termination and pursuing the rights and remedies available to either party.

17. STOP WORK ORDER

State may, at any time by written order to Contractor require Contractor to stop any or all parts of the required work under a statement of work for the period of days indicated by State after the order is delivered to Contractor. The order must be specifically identified as a Stop Work Order issued under these terms and conditions. Upon receipt of the order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage and State agrees to pay for any work completed or product delivered prior to the stop order. If a Stop Work Order issued under these terms and conditions is canceled or the period of the order or any extension expires, Contractor shall resume work. The State Contract Manager shall make the necessary adjustment in the delivery schedule or price, or both, and the services shall be amended in writing accordingly.

18. BLIND OR VISUALLY IMPAIRED

No state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (18-5-603, MCA.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

19. DEFENSE, INDEMNIFICATION / HOLD HARMLESS

State and Contractor agree to incorporate the Indemnification terms set forth in the Master Agreement, Attachment A, Section 13A. Indemnification with the following limited modifications and additions.

19.1. Indemnities by Contractor

Contractor, at its sole cost and expense, shall defend, indemnify and hold harmless State, the contracting agency, or their officers, officials, directors, agents, employees, while acting within the scope of their employment from any and all third party liability, actions, claims, demands, causes of actions, judgments, suits, settlements, penalties, or fines ("Claims"), and all related costs, court costs, reasonable attorney fees, expert fees, and other expenses for bodily or personal injuries, death or damage to property, arising out of, resulting from, or related to:

A. Any negligent acts or omissions of Contractor, its employees, sub-contractors, assignees, or third-party providers in or in connection with the execution or performance of the Contract and any purchase order issued under the Contract, except for the sole negligence of State; and

B. Tax liability, unemployment insurance, workers' compensation, or expectations of benefits by Contractor, its employees, representatives, agents, or subcontractors in or in connection with the execution or performance of the Contract and any Purchase Orders issued under the Contract.

The following Section clarifies the State's ability to participate in actions involving the State:

19.2. Coordination of Defense

State shall give Contractor prompt notice of any Claim, and at Contractor's expense, State shall cooperate in the defense of any Claim. If Contractor's representation is inadequate in the reasonable judgment of the State, to the extent required under Montana law, the Montana Attorney General may participate in an action involving State. In connection with such claims, Contractor will pay all defense costs, settlement amounts, court awarded damages (including court costs and reasonable attorneys' fees), and third-party costs incurred by State in connection with the defense of the claim.

19.3. State Reimbursement

If Contractor fails to comply with its defense obligations under this Section, State may undertake its own defense. If State undertakes its own defense, Contractor shall reimburse State for all costs to State resulting from: (1) settlements, judgments, losses, damages, liabilities, and penalties, fines; and (2) defense of the Claim, including but not limited to reasonable attorney fees, court costs, and the costs of investigation, discovery, and experts.

20. LIMITATION OF LIABILITY (RESERVED)

The parties shall provide each other the same limitation of liability as it has provided the State of Utah in the Master Agreement.

21. COMPLIANCE WITH LAWS

In performing its duties in this Contract, Contractor shall comply with all federal and State, laws, rules, ordinances, policies, and executive orders applicable to Contractor as a service provider generally.

Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119].

In accordance with 49-3-207, MCA, and Executive Order No. 04-2016, Contractor agrees that:

A. the hiring of persons to fulfill Contractor's duties in this Contract will be made based on merit and qualifications; and

B. there will be no discrimination based on race, color, sex, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

Any subcontracting by Contractor obligates subcontractors to the above.

Nondiscrimination Against Firearms Entities/Trade Associations. Contractor shall not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and Contractor shall not discriminate during the term of the contract against a firearm entity or firearm trade association. This Section shall be construed in accordance with 30-20-301, MCA.

22. CONTRACT TERMINATION

State and Contractor agree to incorporate the Term and Termination terms set forth in the Master Agreement, Attachment A, Section E-4, with the following additions.

22.1. **Reduction of Funding**

State must, by law, terminate this Contract if funds are not appropriated or otherwise made available to support State's continuation of performance of this Contract in a subsequent fiscal period. (18-4-313(4), MCA.) If State or federal government funds are not appropriated or otherwise made available through the State's budgeting process to support continued performance of this Contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, State shall terminate this Contract as required by law. State shall provide Contractor the date State's termination shall take effect. State shall not be liable to Contractor for any payment that would have been payable had the Contract not been terminated under this provision. As stated above, State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date State's termination takes effect. This is Contractor's sole remedy for termination due to non-appropriation of funds. State shall not be liable to Contractor for any other payments or damages arising from termination under this Section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

22.2. **Terrorism, Suspension or Debarment, or Otherwise Ineligible**

State has the absolute right to terminate the Contract without recourse in the following circumstances:

A. Contractor is listed on the prohibited vendors list authorized by Executive Order #13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of the Treasury, Office of Foreign Assets Control;

B. Contractor is suspended or debarred from doing business with the federal government as listed in the System for Award Management maintained by the General Services Administration; or

C. Contractor is found to be ineligible to hold the Contract under the laws of State.

23. EVENT OF BREACH – REMEDIES (RESERVED)

24. WAIVER OF BREACH (RESERVED)

25. FORCE MAJEURE (RESERVED)

26. CONFORMANCE WITH CONTRACT

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the Contract shall be granted without the State Procurement Bureau's prior written consent. Product or services provided that do not conform to the Contract terms, conditions, and specifications may be rejected and returned at Contractor’s expense.

27. MEETINGS

27.1. Technical or Contractual Problems.

Contractor shall meet with State's personnel, or designated representatives, to resolve technical or contractual problems occurring during the Contract term or to discuss the progress made by Contractor and State in the performance of their respective obligations, at no additional cost to State. State may request the meetings as problems arise and will be coordinated by State. State shall provide Contractor a minimum of three full working days’ notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor’s consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor’s failure to make a good faith effort to resolve problems may result in termination of the Contract.

27.2. Progress Meetings

During the term of this Contract, State's Project Manager shall plan and schedule progress meetings with Contractor to discuss Contractor’s and State’s progress in the performance of their respective obligations. These progress meetings will include State’s Project Manager, Contractor’s Project Manager, and any other additional personnel involved in the performance of this Contract as required. At each meeting, Contractor shall provide State with a written status report that identifies any problem or circumstance encountered by Contractor, or of which Contractor gained knowledge during the period since the last such status report, which may prevent Contractor from completing any of its obligations or may generate charges in excess of those previously agreed to by the parties. This may include the failure or inadequacy of State to perform its obligation under this Contract. Contractor shall identify the amount of excess charges, if any, and the cause of any identified problem or circumstance and the steps taken to remedy the same.

27.3. Failure to Notify

If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by State, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

27.4. **State's Failure or Delay**

For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of State's failure or delay in discharging any State obligation, State shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If State agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby and provide for any additional charges by Contractor. This is Contractor’s sole remedy. If State does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

28. TRANSITION ASSISTANCE

Contractor shall provide the Participating Entity the same transition assistance, but *subject to the State of Montana’s laws on Right to Know,* as it has provided the State of Utah in the Master Agreement, Attachment A, Section 31.

29. CHOICE OF LAW AND VENUE

Montana law governs this Contract. The parties agree that any litigation concerning this this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees, except as provided in Master Agreement, Attachment A, Section 13A. Indemnification as modified in Section 19 above.

Nothing in these provisions shall be construed as a waiver of the soveriegnty or governmental immunity the State enjoys, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or a waiver of any defenses to Proceedings or consent to jurisdiction based thereon.

30. AUTHORITY

This Contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

31. SEVERABILITY (RESERVED)

32. WAIVER (RESERVED)

33. PUBLIC DISCLOSURE

The parties agree to adopt the Publicity language set forth in the Master Agreement, Schedule B, Section 12.10 with the following modifications:

Contractor may not use the State seal, any State logo, or claim any State endorsement as to the Contract without prior written approval by State. State has discretion to agree to any press release.

34. SURVIVAL

The parties agree to adopt the Survival language set forth in the Master Agreement, Attachment E-4, Schedule B, Section 9.10 with State's Attachments to the PA incorporated and first in order of precedence if there is a conflict in terms of surviving obligations.

(*The remainder of this page is intentionally left blank)*

STATE ATTACHMENT B MONTANA INFORMATION TECHNOLOGY TERMS AND CONDITIONS

The services provided by the Contractor involve information technology resources.
(Check the box of the highest classification of public and non-public data owned by the State)

- ☐ Public Data – Level 1 mapped to Federal Information Processing Standards (FIPS) 199 LOW
- ☒ Non-public Data – Level 2 mapped to FIPS 199 MODERATE
- ☐ Non-public Data – Level 3 mapped to FIPS 199 HIGH
- ☐ No Data

These services are for:

- ☐ On premise system
- ☒ Cloud system ☒ SaaS ☐ PaaS ☒ IaaS
- ☐ Other: (describe)

No Data	Public Data	Non Public Data	Heading	IT Terms and Conditions
√	√	√	**1. IT Oversight**	***CIO Oversight*** The Chief Information Officer (CIO) for the State of Montana, or designee, may perform oversight activities. Such activities may include the identification, analysis, resolution, and prevention of deficiencies that may occur while performing services. The CIO may require the issuance of a right to assurance or may issue a stop work order. ***CIO Approval*** Contractor is notified that, under the provisions of 2-17-514, MCA, the Department of Administration retains the right to cancel or modify any contract, project, or activity that is not in compliance with the Agency's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard. ***Right to Assurance (Reserved)*** ***Stop Work Order (Reserved)***
√	√	√	**2. Data Classification**	The following definitions are used to classify State data. ***Level 1 Data Mapped to FIPS 199 LOW (Public Data)*** "Level 1 Data" means information available to the general public and eligible for public access. Data that is classified as State of Montana Level 1 would reside

STATE ATTACHMENT B MONTANA INFORMATION TECHNOLOGY TERMS AND CONDITIONS

No Data	Public Data	Non Public Data	Heading	IT Terms and Conditions
				in information systems that are categorized as Low. ***Level 2 Data Mapped to FIPS 199 MODERATE (Non-Public Data)*** "Level 2 Data" means information that disclosure to third parties or the public is governed by specific laws that determine and protect confidentiality. Data that is classified as State of Montana Level 2 would reside in information systems that are categorized as medium. ***Level 3 Data Mapped to FIPS 199 HIGH (Non-public Data)*** "Level 3 Data" means information that, if divulged, could compromise or endanger citizens, employees, or safety assets of State. Data that is classified as State of Montana Level 3 would reside in information systems that are categorized as high.
	√	√	**3. Data Ownership**	***Data Ownership*** State owns all right, title and interest in its data that is related to the services provided. State data may also include data from a third-party. ***Data Access*** Contractor shall not access State of Montana user accounts, or State data, except: (i) in response to service or technical issues; (ii) as required by the express terms of services engagement document; or (iii) at State's written request.
	√	√	**4. Data Usage**	***Data Disclosure - Prohibition*** At no time will any information, belonging to or intended for State, be copied, disclosed, or retained by Contractor or any party related to Contractor for subsequent use in any transaction. ***Confidential Data - Usage*** Contractor will take reasonable steps to limit the use of, or disclosure of, and requests for, confidential State data to the minimum degree necessary to accomplish the services. Protection of personally identifiable information privacy, and sensitive data shall be an integral part of the business activities of Contractor to ensure that there is no inappropriate or unauthorized use of State information at any time. ***Limitation on Usage to Purpose of Services***

STATE ATTACHMENT B MONTANA INFORMATION TECHNOLOGY TERMS AND CONDITIONS

No Data	Public Data	Non Public Data	Heading	IT Terms and Conditions
				Contractor may not use any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service. ***Data Safeguards*** Contractor shall safeguard the confidentiality, integrity, and availability of State information. ***Authorized Personnel*** Only duly authorized personnel will have access to State data and may be required to obtain security clearance from State. ***Subsequent Use*** Contractor shall not use any data for subsequent use that has not been expressly authorized by State.
		√	**5. Data Location**	***Data Location*** Contractor shall not store, process, or transfer any non-public State data outside of the United States, including for back-up and disaster recovery purposes.
√	√	√	**6. Remote Access**	***Remote Access*** Montana information technology resources cannot be accessed by contractors or sub-contractors located outside of the legal jurisdictional boundary of the United States (outside of the United States, its territories, embassies, or military installations).
		√	**7. Breach and Notification**	***Notification to State*** Contractor must notify the State of Montana Chief Information Security Officer immediately and not more than 24 hours of any incident resulting in the destruction, loss, unauthorized disclosure, or alteration of State of Montana data. ***Notification to Person*** Contractor shall comply with 2-6-1503, MCA, including if the data is unencrypted, Contractor shall make reasonable efforts upon discovery or notification of a breach to notify State and work with State to notify any person whose personal information is reasonably believed to have been acquired by an unauthorized person. This notification may be delayed at the request of law enforcement.

STATE ATTACHMENT B MONTANA INFORMATION TECHNOLOGY TERMS AND CONDITIONS

No Data	Public Data	Non Public Data	Heading	IT Terms and Conditions
	√	√	**8. Termination and Suspension of Service**	***Suspension of services*** During any period of suspension, negotiation, or disputes, Contractor shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State data. ***Termination of a portion or of the entire services provided*** In the event of termination of any services or Contract in entirety, Contractor shall not take any action to intentionally alter, erase, or otherwise render inaccessible any State data for a period of 90 days after the effective date of the termination. Within this 90-day timeframe, Contractor will continue to secure and back up State data covered under the provided services. After such 90-day period, Contractor shall have no obligation to maintain or provide any State data. Thereafter, unless legally prohibited, Contractor shall dispose securely of all State data in its systems or otherwise in its possession or control, as specified herein. ***Post-Termination Assistance*** State shall be entitled to any post-termination assistance generally made available with respect to the Services unless a unique data retrieval arrangement has been established as part of the Contract or Service Level Agreement.
		√	**9. Data Disposition**	State's data may be disposed at the termination of services using one of the following methods: ***1. State Removal with Contractor's Tools*** State may remove or destroy State's data using Contractor's tools. ***2. Contractor to Return State Data*** Contractor will account for and return all State data in all of its forms. The data shall be returned in a format acceptable to State. At no time shall any data or processes that either belong to or are intended for the use of State or its officers, agents, or employees, be copied, disclosed, or retained by Contractor. ***3. Contractor to Destroy State Data*** When required by State, Contractor shall destroy all requested data in all of its forms Data shall be permanently deleted, and shall not be recoverable, in

STATE ATTACHMENT B MONTANA INFORMATION TECHNOLOGY TERMS AND CONDITIONS

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				accordance with National Institute of Standards and Technology (NIST) SP 800-88 "Media Sanitization Guidelines." ***4. Certificate of Destruction*** In all cases, Contractor will certify that all State information processed during the performance of the services will be completely purged from all physical and electronic data storage with no output to be retained by Contractor at the time the work is completed, the Contract is terminated, or upon written request of State.
√	√	√	**10. Subcontractor**	Contractor shall be responsible for ensuring its subcontractors' compliance with these terms and conditions.
	√	√	**11. Notification of Legal Requests**	***Notification of Requirement to Access State Data*** Contractor shall contact the State upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to the data of State. ***Legal Request for State Data*** Regarding State of Montana data and processes, Contractor shall not respond to subpoenas, service of process, and other legal requests without first notifying State unless prohibited by law from providing such notice.
		√	**12. Data Encryption**	***In Transit and At Rest*** Contractor shall encrypt all data in transit, regardless of transit mechanism, and at rest. ***Encryption Standards*** Contractor's encryption shall meet validated cryptography standards as specified by the National Institute of Standards and Technology in FIPS 140-2 and subsequent security requirements guidelines. Contractor and State will negotiate mutually acceptable key location and key management details.
	√	√	**13. System Security**	***Contractor Responsibility*** Contractor shall ensure systems delivered are adequately secure. Adequate security is defined to require compliance with federal and State of Montana security requirements and to ensure freedom from those conditions that may impair State's use of its data and information technology or permit unauthorized

STATE ATTACHMENT B MONTANA INFORMATION TECHNOLOGY TERMS AND CONDITIONS

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				access to State's data or information technology. ***State Security Policy, Framework, Standards, and Controls*** State has established security policy, framework, standards, and controls that align with the NIST Cybersecurity Framework. The latest revision of NIST SP 800-53 is used for control adherence evaluation established after developing a security categorization utilizing FIPS PUB 199. ***Managerial, Operational, and Technical Controls*** All computer systems receiving, processing, storing, or transmitting State data must meet the control requirements for the associated security categorization within NIST SP 800-53 (latest revision). To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to State data. ***Independent Security Audits*** Contractor shall provide reasonable proof, through independent audit reports, that the system specified in delivering the services meets or exceeds federal and State security requirements to ensure adequate security and privacy, confidentiality, integrity, and availability of State's data and information technology. ***Annual Assurance*** Annual assurance statements shall be delivered to the Contract Manager. Annual assurance statements must contain a detailed accounting of the security controls implemented.
I	√	√	**14. Security Standard Compliance Certificate**	***Security Certification*** Contractor shall meet, and provide proof of, one or more of the following Security Certifications. • StateRAMP – Authorized Product Certification • FedRAMP - Federal Risk and Authorization Management Program • ISO 27001:2013 • Or other industry recognized certification, as approved by State, only if Contractor cannot provide one of the above certifications.

STATE ATTACHMENT B MONTANA INFORMATION TECHNOLOGY TERMS AND CONDITIONS

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	√	√	**15. Background Check**	***State-Approved Criminal Background Checks*** Contractor warrants that they will only assign employees and subcontractors who have passed a federal or state-approved criminal background check.
√	√	√	**16. Security Awareness**	***Security Training*** Contractor shall demonstrate that: Contractor's officers, employees, agents, subcontractors, and affiliated users, have completed security awareness training within the past 12 months before gaining access to State information technology resources or may complete State-approved annual security awareness training.
√	√	√	**17. Physical Activities and Spoofing**	***Prohibited Activities*** Contractor and its officers, employees, agents, subcontractors, and a attempt to violate the security of State's network or interfere or attem systems, networks, authentication measures, servers or equipment, c State's network by any other user. Such prohibited activity includes: (i) accessing or logging into a server where access is not author (ii) unauthorized probing, scanning, or testing the security or vuln other systems; and (iii) attempting to portray itself as State or an affiliate of State or c access, without authorization, via State's network or systems to any a technology resource not belonging to Contractor or its officers, emplo and affiliated users ("Spoofing"). ***Spoofing Prohibited*** Contractor shall not perform unauthorized Spoofing or scanning of an identity. Systems shall not Spoof the mt.gov domain or engage in Em creation of email messages with a forged sender address, including c State's domain. ***Email Relay*** Contractor agrees to use State's secure email relay for sending emai Outside of secure email relay, Contractor shall not Spoof the MT.gov on the State's secure email relay policy can be found at: https://www.proofpoint.com/us/products/email-security-and-protectio
√	√	√	**18. Blind or Visually Impaired**	***Reserved***

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√	√	√	**19. Sanction**	***Violation of Terms and Conditions*** Violation of these terms and conditions may also be a violation of State and federal law and include both civil and criminal penalties. Depending on the offense, if the offender is an employee of State, the offender may be dismissed from employment and may not be allowed to hold a public office or public employment in the State for a period of one year from the date of dismissal.
√	√	√	**20. Linked Terms and Conditions**	***Terms & Conditions*** The parties specifically agree that any language or provisions contained on either party's website or product schedule, or contained in any "shrinkwrap" or "clickwrap" agreement, shall be of no force and effect and shall not in any way supersede, modify or amend these Terms and Conditions.
√	√	√	**21. Indemnifica-tion**	***Indemnification*** State shall not indemnify Contractor or sub-contractors under any circumstance.

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State Attachment C
Federal Terms and Conditions
(Non-Construction)

NOTE: NO EXCEPTIONS TO THE LISTED FEDERAL TERMS AND CONDITIONS WILL BE CONSIDERED. THE STATE IS NOT PERMITTED TO ALTER THESE TERMS AND CONDITIONS THROUGH OUR FEDERAL PARTNER.

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the contractor/vendor agrees to acceptance of the following Federal Terms and Conditions along with all other provisions that are specific to this solicitation or contract as applicable.

1. Nondiscrimination

Contractor agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this contract, on the ground of race, religion, color, national origin, sex or handicap. Accordingly and to the extent applicable, the Contractor agrees to comply with the following national policies prohibiting discrimination:

a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by DoD regulations at 32 CFR part 195.
b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 {3 CFR, 1964-1965 Comp. pg. 339}, as implemented by Department of Labor regulations at 41 CFR part 60.
c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR part 196.
d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.
e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

2. Lobbying

Contractor agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the State agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

3. Drug-Free Work Place

Contractor agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

4. Environmental Protection

a. Contractor agrees that its performance under this contract shall comply with:
   1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
   2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
   3) The Resources Conservation and Recovery Act (RCRA);
   4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
   5) The National Environmental Policy Act (NEPA);
   6) The Solid Waste Disposal Act (SWDA);
   7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;
   8) To identify any impact this contract may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.

b. In accordance with the EPA rules, the parties further agree that the Contractor/Vendor shall also identify to the state any impact this contract may have on:
   1) The quality of the human environment and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.
   2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.
   3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.
   4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.

5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

5. Use of United States Flag Vessels

Contactor agrees that travel under this contract shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

The Contactor/Vendor agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. Chapter 553), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

6. Debarment and Suspension.

Contractor is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

Contractor agrees to comply with the DOD implementation of 2 CFR part 180 (at 2 CFR 1125) by checking the Excluded Parties List System (EPLS) at the current OMB website to verify (sub)contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The Contractor shall not solicit offers from, nor award contracts to contractors listed in EPLS. This verification shall be documented in the Contractors contract files and shall be subject to audit by Federal and State audit agencies.

7. Buy American Act.

Contractor agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America, and the European Economic Community (EEC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

8. Uniform Relocation Assistance and real Property Acquisition Polices

Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

9. Copeland "Anti-Kickback" Act

Contractor agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this contract, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

10. Contract Work Hours and Safety Standards Act

Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1.5 times the basic rate of pay.

11. Rights to Inventions Made Under a Contract or Agreement.

Any discovery or invention that arises during the course of the contract shall be reported to the non-Federal entity. Contractor/Vendor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

12. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended

Any Contract or subcontract <u>in excess of $150,000</u> must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the State who in turn will report to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

13. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Contractors that bid for an <u>award exceeding $100,000</u> must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

14. System For Award Management and Unique Entity Identification Number Requirements.

Contractor agrees to comply with the System for Award Management (Sam.gov) maintained by the General Services Administration. Contractor shall provide a Unique Entity ID assigned to it.

15. Procurement of recovered materials.

Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

16. 2 C.F.R. 200.326, Appendix II, Required Contract Clauses

2 C.F.R. 200.326, Appendix II, Required Contract Clauses are incorporated by reference as if set forth in full text and are made part of this agreement as applicable. Contractor shall comply with all applicable contract clauses and provide the same clauses in any subcontracts or purchase orders issued in support of this agreement with the state.

17. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

The Contractor agrees it will not provide or use covered telecommunications equipment or services in the performance of this contract in compliance with 2 CFR 200.216. Covered telecommunications equipment or services has the meaning provided in Public Law 115-232, section 889.