

STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-14-70-01

Data Communications Products and Services
Utah WSCA-NASPO Master Price Agreement No. AR214
Brocade

This Participating Addendum Number 7-14-70-01 is entered into between the State of California, Department of General Services (hereafter referred to as "State" or "DGS") and Brocade (hereafter referred to as "Contractor") under the lead State of Utah WSCA-NASPO Cooperative Purchasing Organization (WSCA-NASPO) Master Price Agreement Number AR214.

1. Scope

- A. This Participating Addendum covers the purchase of Data Communications Products and Services under the Utah WSCA-NASPO Master Price Agreement Number AR214. The WSCA-NASPO Master Price Agreement is hereby incorporated by reference and shall apply to the purchase of goods and services made under this Participating Addendum.
- B. This Participating Addendum is available for use by all State Departments and California political subdivisions/local governments. A political subdivision/local government is defined as any city, county, city and county, district, or other local governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds.
- C. Each political subdivision/local government is to make its own determination whether this Participating Addendum and the WSCA-NASPO Master Price Agreement are consistent with its procurement policies and regulations.

2. Term

- A. The term of this Participating Addendum shall begin upon signature approval by the State and will end May 31, 2019, or upon termination by the State, whichever occurs first.
- B. Lead State amendments to extend the Master Price Agreement term date are not automatically incorporated into this Participating Addendum. Extension(s) to the term of this Participating Addendum will be through a written amendment upon mutual agreement between the State and the Contractor.

3. Mandatory Statewide Contracts

Product and service categories that are available on mandatory California statewide contracts for information technology (IT) hardware cannot be purchased from this Participating Addendum by State Departments without an exemption. State Departments are responsible for obtaining an exemption from DGS prior to issuing a purchase order.

This restriction is not applicable to political subdivisions/local governments.

4. Terms and Conditions

Terms and conditions listed below are hereby incorporated by reference and made a part of this Participating Addendum as if attached herein and shall apply to the purchase of goods or services made under this Participating Addendum. These include:

- A. General Provisions – Information Technology, GSPD401IT, effective 11/27/2013. The twelve page document can be viewed at:
http://www.documents.dgs.ca.gov/pd/poliproc/gspd401IT13_1127.pdf
- B. American Recovery and Reinvestment Act (ARRA) Supplemental Terms and Conditions, revised 08/10/09. The supplemental terms and conditions for contracts using ARRA funds apply to the ordering agency. If or when Contractor, as a vendor, is notified by ordering agency that a specific purchase or purchases are being made with ARRA funds, Contractor agrees to comply with the data element and reporting requirements that are legally required of providers of goods and related services. Contractor as it relates to purchases under this Participating Addendum is not a subcontractor or subgrantee, but simply a provider of goods and related services. The two page document can be viewed at:
<http://www.documents.dgs.ca.gov/pd/poliproc/ARRATand%20C081009final.pdf>.

5. Order of Precedence

In the event of any inconsistency between the articles, attachments, or provisions which constitute this agreement, the following descending order of precedence shall apply:

- A. California Participating Addendum Number 7-14-70-01
- B. Utah WSCA-NASPO Master Price Agreement Number AR214

6. Available Products and Services

This Participating Addendum includes the following product and service categories:

- A. 5.2.1 – Data Center Applications
- B. 5.2.2 – Networking Software
- C. 5.2.3 – Network Optimization & Acceleration
- D. 5.2.5 - Routers
- E. 5.2.6 – Security
- F. 5.2.7 – Storage Networking
- G. 5.2.8 – Switches
- H. 5.2.9 – Wireless

7. Disallowed Products and Services

- A. Cloud Computing

Cloud computing elements are not allowed under this Participating Addendum. However if State of California terms and conditions are developed for Software as a Service, Infrastructure as a Service, or Platform as a Service, the State reserves the right to amend this Participating Addendum to include such provisions and related goods and services.

- B. These restrictions do not apply to political subdivisions/local governments.

8. Price List

- A. Contractor shall submit a Product and Service Schedule (PSS) identifying all products and services offered under this Participating Addendum for the State's approval.
- B. The PSS shall include the following:
 - 1) Manufacturer Part Number or Item Number
 - 2) List Price
 - 3) Minimum Discount off List Price
 - 4) Contract Price
- C. Contractor shall maintain a website dedicated to this Participating Addendum which contains the State-approved PSS.
- D. Contractor shall submit a written notice of price increases/decreases and a revised PSS for the State's approval prior to updating the Contractor's dedicated website for this Participating Addendum.
- E. State-approved PSS will be posted on the State's eProcurement website.

9. Equipment Additions/Deletions

- A. Contractor may add or delete equipment introduced or removed from the market by the manufacturer under the following conditions:
 - 1) Equipment is within existing awarded categories under the WSCA-NASPO Master Price Agreement;
 - 2) Contractor has obtained prior approval from the Utah WSCA-NASPO Contract Administrator; and
 - 3) Contractor receives written approval from the California State Contract Administrator.
- B. Contractor shall submit a written notice of equipment additions/deletions and a revised PSS for the State's approval prior to updating the Contractor's dedicated website for this Participating Addendum.
- C. Contractor shall not add new categories or groups of equipment or services under this Participating Addendum that were not originally included in the WSCA-NASPO Master Price Agreement.

10. Servicing Subcontractors

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by the Contractor. Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor.

- B. As the prime contractor, contractor is responsible for reports and fees required by the terms and conditions of the WSCA/NASPO Master Price Agreement and State Participating Addendum.
- C. Subject to the approval of the State, subcontractors may be added on a quarterly basis during the term of the contract. Contractors shall notify the State of any deleted subcontractors or changes to current subcontractors contact information at any time during the contract term.
- D. Contractor shall submit a subcontractor list identifying the company name, address, contact name, phone number and email of authorized subcontractors to the State's Contract Administrator for the State's approval prior to updating its California specific contract website.
- E. State-approved Servicing Subcontractor will be posted on the State's eProcurement website.

11. Ordering Agency Responsibilities

- A. State department and political subdivision/local government use of this Participating Addendum is optional.
- B. A User Instructions guide will be prepared and administered by the State Contract Administrator.
- C. Ordering agencies must follow the Contractor Selection and Request for Offer (RFO) process outlined within the User Instructions guide prior to executing orders against this Participating Addendum.

12. Contractor Responsibilities

Contractor must respond to the ordering agency's RFO to be eligible to receive a Purchase Order under this Participating Addendum.

13. Invoicing

The State Participating Addendum Number and Ordering Agency Purchase Order Number shall appear on each purchase order and invoice for all purchases placed under this Participating Addendum.

14. Usage Reporting

- A. Contractor shall submit usage reports on a monthly basis to the State Contract Administrator for all California entity purchases using the report template attached hereto as Attachment A.
- B. The report is due even when there is no activity.
- C. The report shall be an Excel spreadsheet transmitted electronically to the DGS mailbox at PDWSCA@dgs.ca.gov.

- D. Any report that does not follow the required format or that excludes information will be deemed incomplete. Contractor will be responsible for submitting corrected reports within five business days of the date of written notification from the State.
- E. Tax must not be included in the report, even if it is on the purchase order.
- F. Reports are due each month as follows:

Reporting Period and Due Date			
Jan -- Due Feb 15		May -- Due Jun 15	Sep -- Due Oct 15
Feb -- Due Mar 15		Jun -- Due Jul 15	Oct -- Due Nov 15
Mar -- Due Apr 15		Jul -- Due Aug 15	Nov -- Due Dec 15
Apr -- Due May 15		Aug -- Due Sep 15	Dec -- Due Jan 15

- G. Failure to meet reporting requirements and submit the reports on a timely basis shall constitute grounds for suspension of this contract.
- H. Amendments for term extensions may be approved only if all due reports have been submitted to the State.

15. Administrative Fee

- A. Contractor shall submit a check, payable to the State of California, remitted to the WSCA Payment Processing Unit for the calculated amount equal to one percent (0.01) of the sales for the quarterly period.
- B. Contractor must include the Participating Addendum Number on the check. Those checks submitted to the State without the Participating Addendum Number will be returned to Contractor for additional identifying information.
- C. Administrative fee checks shall be submitted to:

State of California
 Department of General Services, Procurement Division
 Attention: WSCA Payment Processing
 707 3rd Street, 2nd Floor, MS 2-202
 West Sacramento, CA 95605

- D. The administrative fee shall not be included as an adjustment to Contractor’s WSCA-NASPO Master Price Agreement pricing.
- E. The administrative fee shall not be invoiced or charged to the ordering agency.
- F. Payment of the administrative fee is due irrespective of payment status on orders or service contracts from a purchasing entity.

G. Administrative fee checks are due for each quarter as follows:

Reporting Period	Due Date
JUL 1 to SEP 30	OCT 31
OCT 1 to DEC 31	JAN 31
JAN 1 to MAR 31	APR 30
APR 1 to JUN 30	JUL 31

H. Failure to meet administrative fee requirements and submit fees on a timely basis shall constitute grounds for suspension of this contract.

16. Contract Management

A. The primary Contractor Contract Manager for this Participating Addendum shall be as follows:

Contractor: Brocade
 Name: Tania Craythorne
 Phone: (408) 333-6226
 Fax: (408) 333-8101
 E-Mail: tmancebo@brocade.com
 Address: 130 Holger Way
 San Jose, CA 95134

B. Should Contractor Contract Manager information change, the Contractor will provide written notice with the updated information to the State Contract Administrator no later than ten business days after the change.

C. The State Contract Administrator for this Participating Addendum shall be as follows:

Name: Bonnie Bahnsen
 Phone: (916) 375-4383
 Fax: (916) 375-4663
 E-Mail: Bonnie.Bahnsen@dgs.ca.gov
 Address: State of California
 Department of General Services
 Procurement Division
 707 Third Street, 2nd Floor, MS 2-202
 West Sacramento, CA 95605

D. Should State Contract Administrator information change, the State will provide written notice with the updated information to the Contractor Contract Manager no later than ten business days after the change.

17. Termination of Agreement

The State may terminate this Participating Addendum at any time upon 30 days prior written notice to the Contractor. Upon termination or other expiration of this Participating Addendum, each party will assist the other party in orderly termination of the Participating Addendum and the transfer of all assets, tangible and intangible, as may facilitate the orderly, nondisrupted business continuation of each party. This provision shall not relieve the Contractor of the obligation to perform under any purchase order or other similar ordering document executed prior to the termination becoming effective.

18. Amendment

No amendment or variation of the terms of this Participating Addendum shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Participating Addendum is binding on any of the parties.

19. Agreement

- A. This Participating Addendum and the Master Price Agreement together with its exhibits and/or amendments, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Participating Addendum and the Master Price Agreement, together with its exhibits and/or amendments, shall not be added to or incorporated into this Participating Addendum or the Master Price Agreement and its exhibits and/or amendments, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and the Master Price Agreement and its exhibits and/or amendments shall prevail and govern in the case of any such inconsistent or additional terms.
- B. By signing below Contractor agrees to offer the same products/and or services as on the Utah WSCA-NASPO Master Price Agreement Number AR214, at prices equal to or lower than the prices on that contract.
- C. IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

STATE OF CALIFORNIA

Brocade

By: [Signature]

By: [Signature]

Name: Jim Butler

Name: Jill Cameron

Title: Deputy Director

Title: SE. DIRECTOR, SALES OPS

Date: September 5, 2014

Date: 8-13-14

BROCADE LEGAL

By: [Signature]
Date: 8-13-14

