



WV Network for Educational Telecomputing

837 Chestnut Ridge Road
Morgantown, WV 26505

Voice: (304) 293-5192
Fax: (304) 293-5540

Purchase Order

43001

Please show this number on all packages and documents related to this order.

P Doc No.:

Page #:

Vendor:
AT&T Mobility National Accounts LLC
PO Box 9004
Carol Stream 60197-9004

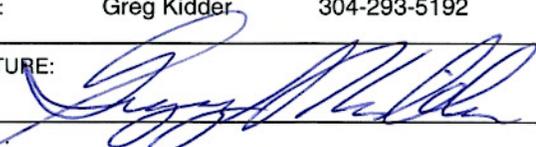
Ship to:
WVNET
837 Chestnut Ridge Road
Morgantown, WV 26505

Invoice to:
Accounts Payable
WVNET
837 Chestnut Ridge Road
Morgantown, WV 26505

WVFIMS:480111

FEIN: 912-016-656

Date	Buyer	Ship Via	F. O. B. Destination	P. O. Date	Terms Net 30	Delivery Date Required
Item	Quantity	U/M	Description		Unit Price	Extended Price
			<p>Open End Contract</p> <p>This contract is to facilitate Higher Education use of WSCA Contract #S1907 through the attached Participating Addendum for AT&T Mobility.</p> <p>Contract Date: September 10, 2012 –October 31, 2016.</p>			

AUTHORIZED AGENT: Greg Kidder 304-293-5192	DISCOUNT	
AUTHORIZED SIGNATURE:  10/12/12	ADDL. CHARGES	
ATTORNEY GENERAL: (if required)	PURCHASE ORDER TOTAL	OPEN END

ACCOUNTING INFORMATION:

This order is tax exempt. Exemption #:550571237

TERMS AND CONDITIONS

1. **ACCEPTANCE:** Vendor shall be bound by this Order and its terms and conditions upon receipt of this Order. This Order expressly limits acceptance to the terms and conditions stated herein. Additional or different terms proposed by the Vendor are objected to and are hereby rejected, unless otherwise provided for in writing by the Institution and approved by the Attorney General.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the Procedural Rules of the Higher Education Policy Commission, Council for Community and Technical Education or Governing Board, whichever has jurisdiction pursuant to W. Va. Code, shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder, may be assigned by the Vendor without the Institution's consent.
4. **INSTITUTION:** For the purposes of these Terms and Conditions, the "Institution" means the institution purchasing goods and services for which a Purchase Order has been lawfully issued to the Vendor.
5. **CANCELLATION:** The Institution may cancel any Purchase Order/Contract upon 30 days written notice to the Vendor.
6. **COMPLIANCE:** Vendor shall comply with all federal, state and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the W. Va. Division of Labor, if applicable.
7. **DELIVERY:** For exceptions to the delivery date as specified in the Order, the Vendor shall give prior notification and obtain the approval of the Institution. Time is of the essence of this Order and it is subject to termination by the Institution for failure to deliver on time.
8. **DISPUTES:** Disputes arising out of the agreement shall be submitted to the West Virginia Court of Claims.
9. **HOLD HARMLESS:** The Institution will not agree to hold the Vendor or any other party harmless because such agreement is not consistent with state law.
10. **MODIFICATIONS:** This writing is the parties' final expression of intent. No modification of this Order shall be binding unless agreed to in writing by the Institution.
11. **NON-FUNDING:** All services performed or goods delivered under this Purchase Order/Contract are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
12. **ORDER NUMBERS:** Contract Order numbers or Purchase Order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices and correspondence.
13. **PAYMENTS AND INTEREST ON LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the West Virginia Code.
14. **RENEWAL:** The Contract may be renewed only upon mutual written agreement of the parties.
15. **REJECTION:** All goods or materials purchased herein are subject to approval of the Institution. Rejection of goods or materials due to nonconformity with the terms, conditions or specifications of this Order, whether held by the Institution or returned to the Vendor, will be at the Vendor's risk and expense.
16. **VENDOR:** For the purposes of these Terms and Conditions, the "Vendor" means the vendor whose quotation, bid, proposal or expression of interest has been accepted and has received a lawfully issued Purchase Order from the Institution.
17. **SHIPPING, PACKING, BILLING & PRICING:** Unless otherwise stated, all goods are to be shipped prepaid, FOB destination. No charges will be allowed for special handling, packing, wrapping, bags, containers, etc., unless otherwise specified. All goods or services shall be shipped on or before the date specified in this Order. Prices are those that are stated in this Order. No price increase will be accepted without written authority from the Institution.
18. **TAXES:** The State of West Virginia (the Institution) is exempt from Federal and State taxes and will not pay or reimburse such taxes.
19. **TERMINATION:** In the event of a breach by the Vendor of any of the provisions of this contract, the Institution reserves the right to cancel and terminate this contract forthwith upon giving written notice to the Vendor. The Vendor shall be liable for damages suffered by the Institution resulting from the Vendor's breach of contract.
20. **WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Order will: (a) conform to the specifications, drawings, samples or other description furnished or specified by the Institution; (b) be merchantable and fit for the purpose intended; (c) be free and clear of all liens, claims and encumbrances of any kind; and/or (d) be free from defect in material and workmanship.

**PARTICIPATING ADDENDUM
UNDER THE
WESTERN STATES CONTRACTING ALLIANCE
WIRELESS COMMUNICATION SERVICES AND EQUIPMENT
BID NUMBER RFP: #S1907**

PARTICIPANT: WEST VIRGINIA NETWORK FOR EDUCATIONAL TELECOMPUTING

This Participating Addendum (the "PA") is made this _____ day of _____, 2012 (the "PA Effective Date"), between West Virginia Network for Educational Telecomputing ("Participant"), and AT&T Mobility National Accounts LLC ("Contractor") (Participant and Contractor are, at times, referred to individually as a "Party" or together as the "Parties").

Section 1. Recitals.

1.1 Contractor and the State of Nevada, acting through its Department of Administration, Purchasing Division, and the participating members of the Western States Contracting Alliance ("WSCA"), and the NASPO Cooperative, are parties to that certain Western States Contracting Alliance contract, #S1907, dated March 15, 2012, successor contract to that certain Western States Contracting Alliance contract number 1523, dated October 10, 2006, as amended, successor contract to that certain Western States Contracting Alliance contract number 10-00115, dated June 29, 2001, as amended (the "Contract").

1.2 Participant wants to participate in the Contract pursuant to the terms and conditions of this PA.

Section 2. Agreement. In consideration of the recitals set forth in §1 above, which are hereby restated and agreed to by the Parties, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, Participant and Contractor hereby agree to the terms and conditions of this PA (the Contract and the PA, together with all Purchase Orders submitted to Contractor by Participating Entity, collectively, the "Agreement"). Unless otherwise defined, capitalized terms in this PA have the meanings ascribed to them in the Contract.

Section 3. Authorized Participating Entities. Participant hereby designates all public and private institutions of higher education within the state of West Virginia as the only authorized Participating Entity(ies) under the Agreement.

Section 4. Purchase Orders. Participating Entity(ies) must issue purchase orders hereunder that reference both Master Agreement #S1907 and the PA. Upon issuance of any such valid purchase order, Participating Entity will be bound by the terms and conditions of the Agreement including, without limitation, the obligation to pay Contractor for Service, Equipment, and related products provided. Notwithstanding the foregoing, any purchase order submitted that does not properly reference the Contract number and/or the PA may be accepted, at Contractor's sole discretion, if Contractor can reasonably ascertain that such purchase order was properly authorized and intended for use with the PA. In such instances, the corresponding purchase order will be similarly valid and binding.

Section 5. Primary Contacts.

Participant:

Name: Gregory A. KIDDER
Title: Chief Procurement Officer
Address: 837 Chestnut Ridge Road
Morgantown, WV 26505
Telephone: 304 293 5192 x288

Lead State:

Name: Teri Smith
Title: Purchasing Officer
Address: 515 E. Musser St., Suite 300
Carson City, NV 89701
Telephone: 775-684-0178

Fax Number: 304 293 5540
E-Mail: gkidder@mail.wvnet.edu

Fax Number: 775-684-0188
E-Mail: tsmith@admin.nv.gov

Contractor Account Team:

Name: DJ SIGMAN
Title: Government Account Executive
Address: 816 LEE STREET
15 FLOOR OFFICES Charleston, WV
25301
Telephone: 304 932 8194
Fax Number: 847 326 3980
E-Mail: ds3355@att.com

Contractor Main:

Name: Twila Lively
Title: Manager, Sales Operations
Address: 2600 Camino Road
San Ramon, CA 94583
Telephone: (925) 487-9945
Fax Number: (510) 261-2155
E-Mail: twilalively@att.com

Section 6. Authority. By signing below, the corresponding Party's representative represents that such person is duly authorized by Contractor or Participant, as applicable, to execute this PA on behalf of the respective Party, and that the Contractor and Participant agree to be bound by the provisions hereof. In addition, Participant represents that it has received the requisite approvals from the applicable Chief Procurement Official and WSCA to participate in the Agreement.

Section 7. Miscellaneous.

7.1 American Recovery and Reinvestment Act of 2009 ("ARRA"). If or when Contractor is notified in writing by ordering entity that a specific purchase or purchases are being made with ARRA funds, Contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB) that are legally required of vendors as providers of goods and services to recipients or sub-recipients of ARRA funds. Each Participating Entity is responsible for informing Contractor in writing prior to ARRA funds being used for a purchase or purchases under the Contract. Contractor will provide the required report, if any, to the ordering entity with the invoice presented to the Participating Entity for payment. Contractor will provide the required report, if any, to the Participating Entity with the invoice presented to the Participating Entity for payment. Contractor, as it relates to purchases under the Contract, is not a sub-contractor, recipient, sub-recipient or sub-grantee, but simply a vendor, as defined in the OMB guidelines, and assumes no responsibilities under ARRA beyond those required of a vendor.

7.2 Employee Benefit Program. Participating Entity(ies) will participate with Contractor in efforts to obtain eligible Employees' participation in the Employee Benefit Program.

Section 8. Notice of Administration Fees. Participant and any and all other Participating Entities under this PA are hereby on notice of the following charges being paid by Contractor under the Contract.

- **WSCA.** Contractor is being charged a WSCA Administration Fee of 1/10th of 1% (one-tenth of one percent) of the Total Wireless Spend, pursuant to the schedule of payments set forth in the Contract.

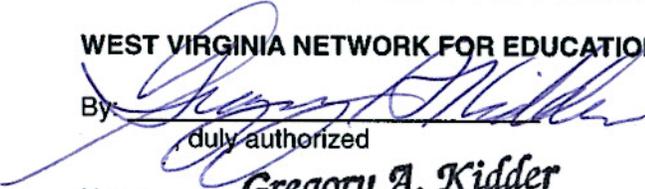
Section 9. WV96. The West Virginia Network for Educational Telecomputing WV96 Agreement Addendum attached as Exhibit A, is incorporated herein by reference.

Section 10. Order of Precedence. The Parties acknowledge and agree that in the event of a conflict between the terms contained in the various documents comprising this Agreement, the following order of precedence will control: (a) this PA; (b) the Master Agreement; and (c) any Purchase Order issued in connection therewith. This section specifically supersedes any order of precedence provisions set forth elsewhere in the Agreement.

Section 11. Entire Agreement. The Agreement sets 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. Except as expressly provided in the Agreement, terms and conditions inconsistent with, contrary or in addition to the terms and conditions of the Agreement shall not be added to or incorporated herein by any subsequent purchase order; and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of the Agreement shall prevail and govern in the case of any such inconsistent or additional terms.

IN WITNESS WHEREOF, the Parties have executed this PA as of the PA Effective Date.

WEST VIRGINIA NETWORK FOR EDUCATIONAL TELECOMPUTING

By: 

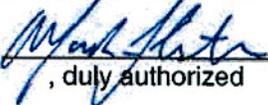
duly authorized

Name: Gregory A. Kidder

Title: Chief Procurement Officer

Date: 9/10/12 WVNET

AT&T MOBILITY NATIONAL ACCOUNTS LLC

By: 

, duly authorized

Name: MARK FLISTER

Title: SR. CONTRACT MANAGER

Date: 8/28/2012

EXHIBIT A

WV-96
Rev 8/12

AGREEMENT ADDENDUM

EXHIBIT A TO WEST VIRGINIA NETWORK PARTICIPATING ADDENDUM UNDER

WSCA MASTER SERVICE AGREEMENT #S1907 WITH AT&T MOBILITY NATIONAL ACCOUNTS LLC

In the event of conflict between this addendum and the Agreement, as it relates to AT&T and the State of West Virginia, this addendum shall control:

1. **DISPUTES** - Any references in the Agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the Agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any provision requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - *Intentionally omitted.*
4. **TAXES** - As a State entity, the Agency is exempt from Federal, State, and local taxes, and will provide proof of its tax-exempt status pursuant to Section 13.1 of the Agreement. Notwithstanding section 4.7 of Attachment AA, the Agency will not pay taxes or governmental fees imposed on any other party, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - *Intentionally omitted.*
6. **INTEREST** - Any provision for interest or charges on late payments is deleted. The Agency has no statutory authority to pay interest or late fees.
7. **NO WAIVER** - Any language in the Agreement requiring the Agency to waive any rights, claims or defenses is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the Agreement may be continued in succeeding fiscal years for the term of the Agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the Agreement shall terminate without penalty on June 30. After that date, the Agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the Agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the Agreement are hereby deleted.
11. **FEES OR COSTS** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the Agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the Agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. The limited liability provisions in Section 23 of the Agreement are acceptable to the Agency. However, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the Agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the Agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current Agreement term.
16. **RENEWAL** - *See Participating Addendum.*
17. **INSURANCE** - Any provision requiring the Agency to purchase insurance for Vendor's property is deleted. The State of West Virginia is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** - Any provision regarding confidentiality of the terms and conditions of the Agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the Agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

ACCEPTED BY:

WV NETWORK FOR EDUCATIONAL TELECOMPUTING

Signed: 

Title: CRO

Date: 9-10-12

AT&T MOBILITY NATIONAL ACCOUNTS LLC

Signed: 

Title: SR CONTRACT MANAGER

Date: 8/28/2012

Approved as to form prior to signature this 20th day of August, 2012 by  Deputy Attorney General

The attached Participating Addendum is a proposed draft presented by AT&T. The terms and conditions herein are subject to change and are offered for a period of no longer than ninety (90) days (November 23, 2012) unless otherwise indicated by AT&T. All information presented herein is intended for use only by AT&T and West Virginia Network for Educational Telecomputing.

After the Agreement is signed please send a scanned copy Mark Flister at mark.flister@att.com.

If executed hardcopies are required, please mail two signed originals to:

AT&T Mobility Contracting
Attn: Mark Flister
7229 Parkway Drive
Hanover, MD 21076

Please do not populate the Effective Date. The Effective Date is the date that AT&T countersigns this Participating Addendum.

Thank you,
Mark Flister
AT&T Mobility
Contract Manager - GEM
(410) 782-2801
mark.flister@att.com