

**WESTERN STATES CONTRACTING ALLIANCE
PARTICIPATING ADDENDUM
FOR DATA COMMUNICATIONS EQUIPMENT
BETWEEN
THE STATE OF WASHINGTON, DEPARTMENT OF INFORMATION SERVICES
AND
3Com**

The undersigned hereby represents, acknowledges, and agrees as follows:

1. The undersigned is a "Participating Entity" which shall be defined as Participating Entity states of WESTERN STATES CONTRACTING ALLIANCE (hereafter "Participating Entity"): (i) which requests Data Communications Equipment pursuant to the terms and conditions of the State of Utah Contract AR-1464 (hereafter the "Master Agreement") by executing this Participating Addendum ("PA") number T07-MST-793; and, (ii) whose request for the sale of Data Communications Equipment by 3Com, at its sole discretion, is accepted by 3Com executing this PA.

2. The undersigned Participating Entity is executing this PA for the purpose of purchasing Data Communications Equipment from 3Com ("Contractor"), pursuant to the Master Agreement by and between State of Utah and 3Com. Participating Entity shall be subject to all terms and conditions of this PA and the Master Agreement.

3. Scope: The general purpose of this PA is to provide: Data Communications Equipment, Services, and defined Associated OEM Maintenance.

4. Changes to the Master Agreement specific to the State of Washington are specified in the Attachment(s) to this PA, incorporated herein by this reference.

5. Primary Contact/ Legal Notices:

5.1. Any notice or demand or other communication required or permitted to be given under this PA or applicable law shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, or via facsimile, to the parties at the addresses and fax number provided in this section. For purposes of complying with any provision in this PA or applicable law that requires a "writing," such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form.

5.2. Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

5.3. In the event that a subpoena or other legal process commenced by a third party in any way concerning the Services provided pursuant to this PA is served upon 3Com or Participating Entity, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. 3Com and Participating Entity further agree to cooperate with the other party, at no cost to the cooperating party, in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

5.4. For Participating Entity:

State of Washington Department of Information Services	
Attn: Master Contract Administrator	
Mailing Address:	Street Address:
PO Box 42445	1110 Jefferson Street SE
Olympia, WA 98504	Olympia, WA 98504
Phone: (360) 725-4200	
Fax: (360) 586-1414	
E-mail: mcadmin@dis.wa.gov	

5.5. For 3Com:

3Com	
Attn: Manager, Denise Orosco	
Mailing Address:	
350 Campus Drive	
Marlborough, MA 01752-3064	
Phone: (508) 323-1453	
Fax: (508) 323-1111	Email: Denise Orosco@3com.com

6. This PA together with its Attachment(s) and the Master Agreement, Number AR-1464, together with its Attachments A and B1, (administered by the State of Utah), set forth the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Additionally, the documents incorporated by reference pursuant to Section 6b of contract AR-1464 are expressly excluded. Terms and conditions inconsistent with, contrary, or in addition to the terms and conditions of this PA and the Master Agreement, shall not be added to or incorporated into this PA or the Master Agreement, 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 shall prevail and govern in the case of any such inconsistent or additional terms. All Orders (as defined in Attachment 1) issued by Purchasers (as defined in Attachment 1) within the jurisdiction of this PA shall include Participating Addendum Number T07-MST-793.

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

Approved
State of Washington
Department of Information Services

Signature 
 Roland Rivera
Print or Type Name
 TSD Assistant Director
 Title Date

Approved
3Com

Signature 
 Lawrence S. Langmore
 Senior Director Finance
 Print or Type Name North America Sales
 Title 9-4-2007
 Date

Approved as to Form
State of Washington
Office of the Attorney General

Signature _____
 Suzanne Shaw
 Print or Type Name
 Senior Counsel, AGO
 Title Date

Contractor Information
Contractor's UBI Number:
Minority or Woman Owned Business Enterprise
Yes No <input checked="" type="checkbox"/>
(Certification Number)

**ATTACHMENT 1
WESTERN STATES CONTRACTING ALLIANCE
PARTICIPATING ADDENDUM
FOR
DATA COMMUNICATIONS PRODUCT
BETWEEN
THE STATE OF WASHINGTON, DEPARTMENT OF INFORMATION SERVICES
AND
3Com**

1. DEFINITIONS.

“Acceptance Date” shall mean: (i) for Contractor-installed Products or Products undergoing formal acceptance testing, the date of Purchaser’s written notification to Contractor of acceptance of the Products; (ii) for other Products, the seventh (7th) Business Day after the date of delivery. The Participating Entity will accept the Products that are not Contractor-installed, unless they do not comply with 3Com’s published specifications for the applicable Products.

“Confidential Information” shall mean information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver’s license numbers, medical data, law enforcement records, Purchaser source code, Purchaser network configuration information, or other information which is marked confidential at the time of disclosure.

“Contractor” shall mean 3Com, its employees and agents. It shall also include any Subcontractor retained by Contractor as permitted under the terms of this PA.

“Customer” shall mean the same as “Purchaser”.

“DIS” shall mean the State of Washington, Department of Information Services.

“Effective Date” shall mean the first date this PA is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this PA.

“Order Document”/“Order” shall mean any official State document and attachments thereto specifying Products and Services to be purchased or licensed from Contractor under this PA. Each Order shall specify on its face the types and quantities of Products and/or Services to be furnished by Contractor pursuant to the Order, the delivery date(s), and the installation site(s).

“Participating Addendum” or “PA” shall mean this agreement between the Contractor and the State of Washington, a Participating State, that clarifies the operation of the Master Agreement and may add other state-specific language or other requirements.

“Participating Entity” shall mean a member of WSCA who has indicated its intent to participate, as disclosed in the solicitation, or who subsequently signs a PA.

“Procuring Agency(ies)” shall mean the same as “Purchaser”.

“Product(s)” shall mean data communications equipment, specifically, 3Com switches, associated components, support, software and documentation.

“Proprietary Information” shall mean information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by United States copyright, patent, trademark, or trade secret laws.

“Purchaser” shall mean DIS and any other state agency, or political subdivision (including public schools, colleges

or universities), or qualified non-profit organization of the state of Washington, who have a properly executed Interlocal Cooperative Agreement (Customer Service Agreement) with DIS.

“**Purchasing Entity(ies)**” shall mean the same as “Purchaser”.

“**Service(s)**” shall mean installation, training and maintenance services for eligible Products.

“**Subcontractor**” shall mean one not in the employment of Contractor, who is performing all or part of the business activities under this PA under a separate contract with Contractor. The term “Subcontractor” means Subcontractor(s) of any tier.

2. ORDER OF PRECEDENCE. In the event of any inconsistency in this PA, the inconsistency shall be resolved in the following order of precedence:

- (i) Sections of this PA, including its Attachments;
- (ii) WSCA Master Agreement, Number AR-1464;
- (iii) Contractor’s Response to Request for Proposal (“RFP”) DG7500 (“Response”);
- (iv) Utah’s Request for Proposal DG7500;
- (v) The terms and conditions contained on Purchaser’s Order Documents.

3. FORCE MAJEURE. Contractor, DIS or Purchaser shall not be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of Contractor, DIS or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of Contractor, DIS or Purchaser, or their respective Subcontractors.

4. DELIVERY.

- 4.1. The prices offered shall be the delivered price to any WSCA state agency or political subdivision. Contractor shall ship all Products F.O.B. destination, freight prepaid, with all transportation and handling charges paid by the Contractor. Contractor may not include freight charges on invoicing. Failure to comply with this requirement may result in PA termination for cause. Responsibility and liability for loss or damage shall remain with the Contractor until delivery of Products to Purchasing Entity’s receiving dock, when responsibility shall pass to the Purchaser, except as to latent defects, fraud and Contractor’s warranty obligations.
- 4.2. Whenever a Purchaser does not accept any Product and returns it to the Contractor, all related documentation furnished by the Contractor shall also be returned. The Contractor shall bear all risk of loss or damage with respect to returned Products except for loss or damage directly attributable to the negligence of the Purchaser. Contractor is responsible for the pick-up of returned equipment.

5. NONDISCRIMINATION. The Offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities, and Title 49.60 RCW, Washington Law Against Discrimination. The Offeror further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state’s certification requirements, if any, as stated in the special terms and conditions. This PA may be canceled if the Offeror fails to comply with the provisions of these laws and regulations. The Offeror must include this provision in every subcontract relating to purchases by the States to ensure that Subcontractors are bound by this provision.

6. **ACCEPTANCE TESTING.** Contractor agrees that Purchaser may choose to require formal acceptance testing on Products purchased under this PA. Such acceptance testing criteria shall be mutually negotiated and agreed to by both Purchaser and Contractor on an individual case basis. In that case, no payment will be authorized until the Product has met the standard of performance and has been accepted, in writing, by Purchaser.

7. **TITLE.** Upon receipt of payment Contractor shall convey Purchaser good title to any equipment, free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

8. **RECORDS ADMINISTRATION.** The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this PA. These records will be retained by the Contractor for at least six (6) after the PA terminates, or until all audits or litigation initiated within the six (6) years have been completed, whichever is later.

9. **SURVIVORSHIP.** All license and purchase transactions executed and Services provided pursuant to the authority of this PA shall be bound by all of the terms, conditions, prices and discounts set forth within this PA or the Master Agreement, notwithstanding the expiration of the initial term of this PA or the Master Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this PA and the Master Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this PA or the Master Agreement shall so survive. In addition, the terms of the sections titled Contractor's Commitments, Warranties and Representations; Protection of Purchaser's Confidential Information; Order of Precedence; Publicity; Patents; Copyrights, Etc.; and Disputes shall survive the termination of this PA.

10. **ADVANCE PAYMENT PROHIBITED.** No advance payment shall be made for Products and/or Services furnished by Contractor pursuant to this PA. Notwithstanding the above, payments for maintenance Services may be made in advance on a quarterly or annual basis, at Purchaser's option.

11. **TAXES.** Purchaser will pay sales and use taxes, if any, imposed on the Products and/or Services acquired hereunder. Contractor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property.

12. **CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS.** Any written commitment by Contractor within the scope of this PA shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this PA. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time, and (ii) any warranty or representation made by Contractor in its Response or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to Purchaser.

13. **PROTECTION OF PURCHASER'S CONFIDENTIAL INFORMATION.**

13.1 Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this PA or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other state or federal statutes ("Confidential Information"). Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this PA, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this PA, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors reasonably necessary to further the purpose of this PA. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

13.2 Immediately upon expiration or termination of this PA, Contractor shall, at Purchaser's or DIS' option: (i) certify to Purchaser or DIS that Contractor has destroyed all Confidential Information;

or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser or DIS requires of Contractor to protect Purchaser's Confidential Information.

- 13.3 DIS and Purchaser reserve the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this PA. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.
- 13.4 Violation of this section by Contractor or its Subcontractors may result in termination of this PA and demand for return of all Confidential Information, monetary damages, or penalties.
- 13.5 The obligations imposed by this PA shall not apply to any information that: (a) is already in the possession of, is known to, or is independently developed by Contractor; or (b) is or becomes publicly available through no fault of Contractor; or (c) is obtained by Contractor from a third person without breach by such third person of an obligation of confidence with respect to the Confidential Information disclosed; or (d) is disclosed without restriction by the Purchaser; or (e) is required to be disclosed pursuant to the lawful order of a government agency or disclosure is required by operation of the law.

14. PUBLICITY.

- 14.1. The award of this Contract to Vendor is not in any way an endorsement of Vendor or Vendor's Services by Purchasers and shall not be so construed by Vendor in any advertising or other publicity materials.
- 14.2. Contractor agrees to submit to DIS, all advertising, sales promotion, and other publicity materials relating to this PA and Services furnished by Contractor wherein DIS' or Purchaser's name is mentioned, language is used, or Internet links are provided from which the connection of DIS' or Purchaser's name therewith may, in DIS' or Purchaser's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of DIS *prior* to such use.
- 14.3. Nothing contained in this Section, however, shall be construed to apply to the following: Communications among Purchasers or communications between Purchasers and other agencies and branches of the Washington State Government; and posting by DIS of a copy of this contract on its website(s), together with a notation identifying Vendor as a supplier for the Services.

15. INSURANCE COVERAGE.

- 15.1. Contractor shall, during the term of this PA, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the state of Washington
- 15.2. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this PA, Contractor shall provide written notice of such to DIS within thirty (30) Business Days of Contractor's receipt of such notice. Failure to buy and maintain the required insurance may, at DIS' sole option, result in this PA's termination.
- 15.3. The minimum acceptable limits shall be as indicated below:
 - Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
 - Business Automobile Liability (hired or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than \$1 million per accident;
 - Employers Liability insurance covering the risks of Contractor's employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease;
 - Umbrella policy providing excess limits over the primary policies in an amount not less than \$1 million;

- 15.4. Contractor shall pay premiums on all insurance policies. Such insurance policies certificate(s) shall name DIS as an additional insured on all general liability, automobile liability and umbrella policies. Such insurance certificates shall also reference the Master Agreement number AR-1464 and this PA number, T07-MST-793, and shall have a condition that they not be revoked by the insurer until forty-five (45) calendar days after notice of intended revocation thereof shall have been given to DIS by the insurer.
- 15.5. All insurance provided by Contractor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State subject to the hold harmless/ indemnification agreements under this PA and shall include a severability of interests (cross-liability) provision.
- 15.6. Contractor shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.
- 15.7. Contractor shall furnish to DIS copies of certificates of all required insurance within thirty (30) calendar days of this PA's Effective Date, and copies of renewal certificates of all required insurance within thirty (30) days after the first business day in the month of April for each successive year that this PA or the Master Agreement is in full force and effect. Failure to provide evidence of coverage may, at DIS' sole option, result in this PA's termination.
- 15.8. By requiring insurance herein, DIS does not represent that coverage and limits will be adequate to protect Contractor. Such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the State in this PA.

16. INDUSTRIAL INSURANCE COVERAGE. Prior to performing work under this PA, Contractor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this PA. DIS or Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Contractor, or any Subcontractor or employee of Contractor, which might arise under the industrial insurance laws during the performance of duties and Services under this PA.

17. WAIVER. Waiver of any breach of any term or condition of this PA shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this PA shall be held to be waived, modified, or deleted except by a written instrument signed by the parties.

18. DISPUTES.

- 18.1. In the event a bona fide dispute concerning a question of fact arises between Purchaser and Contractor and it cannot be resolved between the parties, or with the help of the Master Contract Administrator, either party may initiate the dispute resolution procedure provided herein.
- 18.2. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within five (5) business days. The initiating party shall have five (5) business days to review the response. If after this review a resolution cannot be reached, both parties shall have five (5) business days to negotiate in good faith to resolve the dispute.
 - a) If the dispute cannot be resolved after five (5) business days, a panel ("Dispute Resolution Panel") may be requested in writing by either party who shall also identify the first panel member. Within five (5) business days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next five (5) business days.
 - b) The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

c) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

- 18.3. Both parties agree to be bound by the determination of the Dispute Resolution Panel.
- 18.4. Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible
- 18.5. Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this PA that are not affected by the dispute.
- 18.6. If the subject of the dispute is the amount due and payable by Purchaser for Services being provided by Contractor, Contractor shall continue providing Services pending resolution of the dispute provided Purchaser pays Contractor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

19. DIS ADMINISTRATIVE FEE. All purchases made under this PA are subject to a fee (“DIS Administration Fee”), to be collected by Contractor and remitted to DIS. The DIS Administration Fee is one half of one percent (.5% or .005) of the purchase price. The purchase price is defined as total invoice price less sales tax. The DIS Administration Fee shall be invoiced by Contractor to all Purchasers as a separate detailed line item on Purchaser’s invoice. Contractor shall remit the DIS Administration Fee directly to the Master Contract Administrator, along with the PA Activity Report. The check shall be payable to the Department of Information Services.

20. DIS ACTIVITY REPORTING.

- 20.1. Contractor shall submit to the Master Contract Administrator a quarterly report (“Activity Report”) of all Product and/or Service purchases made under this PA. Quarterly reports are to be broken down by each month being reported. The Activity Report shall identify:
 - a) The Participating Addendum (T07-MST-793);
 - b) Each Purchaser making purchases during that quarter;
 - c) The total invoice price, excluding sales tax for each Purchaser;
 - d) The DIS Administration Fee for each Purchaser;
 - e) The sum of all invoice prices, excluding sales tax, for all Purchasers; and
 - f) The sum of all DIS Administration Fees.
- 20.2. The Activity Reports and the DIS Administration Fee shall be due on a quarterly basis in accordance with the following schedule:

<u>For activity in the months:</u>	<u>Report & Fee Due:</u>
January, February, March	April 15 th
April, May, June	July 15 th
July, August, September	October 15 th
October, November, December	January 15 th

- 20.3. This Activity Report may be corrected or modified by the Master Contract Administrator with subsequent written notice to Contractor. Quarterly Activity Reports are required even if no activity occurred. Upon request by DIS, Contractor shall provide, in the format requested, the contact information for all Purchasers during the term of the PA.

21. FAILURE TO REMIT REPORTS / FEES. Failure of Contractor to remit the Activity Report together with the DIS Administration Fee may be considered a failure to perform on the part of Contractor, which may result in DIS terminating this PA with Contractor.

22. INVOICE / PAYMENT.

22.1. Contractor will submit properly itemized invoices to each Purchaser within forty-five (45) days of delivery of Products and/or Services at the address(es) indicated in the Order Document. Invoices shall provide and itemize, as applicable:

- a) The Master Price Agreement number, AR-1464 and Participating Addendum number, T07-MST-793;
- b) Purchaser's name and address and Order Document number;
- c) Contractor name, remittance address, phone number, e-mail address, fax number and Federal Taxpayer Identification Number;
- d) Description of Products, including price, quantity ordered, model and serial numbers;
- e) Date(s) of delivery and/or date(s) of installation and set up;
- f) Price for each item, or manufacturer's list price for each item and applicable discounts;
- g) Description of Services provided, including dates;
- h) Net invoice price for each item;
- i) Applicable taxes;
- j) DIS Administration Fee (0.5% or 0.005 of the total purchase price);
- k) Other applicable charges;
- l) Total invoice price; and
- m) Payment terms including any available prompt payment discounts.

22.2. Payment is normally made within thirty (30) days following the date the Order is received or the date a correct invoice is received, whichever is later. After forty-five (45) days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments may be remitted by mail, or via electronic funds transfer. Payments may be made via a Purchasing Entity's "Purchasing Card."

22.3. Payments for maintenance Services may be made in advance on a quarterly or annual basis, at Purchaser's option. Payment of maintenance Services of less than one (1) month's duration shall be prorated at 1/30th of the basic monthly maintenance charges for each calendar day.

23. TERMINATION FOR NON-APPROPRIATIONS. If funds are not allocated to a Purchaser to continue a maintenance agreement, Purchaser may terminate its maintenance agreement upon thirty (30) days' written notice to Contractor without termination charges, or otherwise work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser agrees to notify Contractor in writing of such non-allocation at the earliest possible time. This section shall not be construed to permit a Purchaser to terminate its maintenance agreement in order to acquire similar Services from a third party.

24. GOVERNING LAW. This PA shall be governed in all respects by the law and statutes of the State of Washington, without reference to conflict of law principles. However, if the Uniform Computer Information Transactions Act (UCITA) or any substantially similar law is enacted as part of the law of the State of Washington, said statute will not govern any aspect of this PA or any license granted hereunder, and instead the law as it existed prior to such enactment will govern. The jurisdiction for any action hereunder shall be exclusively in the Superior Court for the State of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

25. VENDOR'S PROPRIETARY INFORMATION. Contractor acknowledges that DIS and Purchaser are subject to chapter 42.56 RCW and that this PA shall be a public record as defined in chapter 42.56 RCW. Any specific information that is claimed by Contractor to be proprietary ("Proprietary Information") must be clearly identified as such by Contractor. To the extent consistent with chapter 42.56 RCW, DIS and Purchaser shall

maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view Contractor's Proprietary Information, DIS or Purchaser will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DIS or Purchaser will release the requested information on the date specified.



AMENDMENT 10-02
to
Master Contract # T07-MST-793
for
Data Communications Equipment

This Amendment is entered into between the State of Washington, Department of Information Services (DIS) and 3Com.

The parties hereby agree to amend DIS Master Contract # T07-MST-793, the Participating Addendum, as follows:

1. The Participating Addendum is modified by extending the term of the contract by one (1) additional two- (2-) year term through May 31, 2012.

All other provisions of Contract T07-MST-793 shall remain in full force and effect

This Amendment 10-02 shall be effective as of May 31, 2010, regardless of the date signed by DIS.

Approved
Washington State
Department of Information Services

Signature 

Print or Type Name
Scott Smith

Title **Planning and Design Manager** Date **3/26/10**

Approved
3Com

Signature 

Print or Type Name
Jacob Feenstra
Director North American Sales
Operations & Finance

Title _____ Date **3/11/10**



AMENDMENT 11-04
TO
MASTER CONTRACT # T07-MST-793
FOR
WSCA DATA COMMUNICATIONS EQUIPMENT AND SERVICES

Pursuant to Section 23 *Amendments* this amendment is entered into between the DEPARTMENT OF INFORMATION SERVICES, an agency of the state of Washington (DIS), 3COM (Assignor), and HEWLETT-PACKARD COMPANY (Assignee).

The parties agree to amend the Contract as follows:

1. Whereas Assignor has been acquired by Assignee Effective April 29, 2010 Assignor hereby relinquishes, assigns, transfers and delegates to Assignee all rights, title, interest, benefits, duties and obligations held by Assignor under the Contract.

In consideration of the above, the parties agree that by this Amendment:

- a) Assignor confirms the transfer of all its rights, title, interest, benefits, duties and obligations under the Contract to Assignee, and waives any claims and rights that it now has or in the future may have against DIS in connection with the Contract.
- b) Assignee hereby accepts the assignment and agrees to be bound by the term and conditions of the Contract. Assignee also assumes all obligations and Liabilities of, and all claims against, Assignor under the Contract as if Assignee were the original party to the Contract. Assignee warrants it is in a position and promises to fully perform all obligations that may exist and those it may hereafter assume under the Contract.
- c) Assignee ratifies all previous action taken by Assignor pursuant to the Contract, and promises to give them the same force and effect as if the action had been taken by Assignee.
- d) DIS recognizes Assignee as the Assignor's successor in interest in and to the Contract Assignee by this Amendment becomes entitled to an of Assignor's rights, titles, and interests in and to the Contract as if Assignee were the original party to the Contract.
- e) Pursuant to Sections 32 of the Contract, nothing in this Amendment shall be construed as a waiver of any rights DIS may have against Assignor.
- f) Assignor and Assignee agree that DIS is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the Assignment or this Amendment, other than those that DIS in the absence of this transfer or Amendment would have been obligated to pay or reimburse under the terms of the Contract.
- g) This assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns.
- h) The parties agree that from the effective date of this amendment, "Contractor" shall no

longer refer to 3Com, but shall refer to Hewlett-Packard Company.

2. The Primary Contact for Legal Notices in Section 5.5 for 3Com is deleted in its entirety and replaced with the following:

Hewlett-Packard	
Attn: Jane Lacy	
Mailing Address:	
103 Springshade Lane	
Canton, GA 30114	
Phone: (678) 8807899	
Fax:	Email: jane.lacy@hp.com

This amendment is effective upon signature of DIS.. The persons signing below warrant that they have the authority to execute this amendment on behalf of their respective parties.

The parties have read and understand this Amendment 11-04, and by their signatures below, agree to each and every particular.

ACCEPTED

Washington State
Department of Information Services


Signature

Scott Smith
Print or Type Name

TAS PROGRAM COORDINATOR
Planning and Design Manager
12/16/10
Title Date

ACCEPTED

3Com (Assignor)


Signature

Chris Backs
Print or Type Name

CONTRACT NEGOTIATOR 12/2/10
Title Date

ACCEPTED

Hewlett-Packard Company (Assignee)


Signature

Chris Backs
Print or Type Name

CONTRACT NEGOTIATOR 12/2/10
Title Date

AMENDMENT 12-05
to
Master Contract # T07-MST-793
for
Data Communications Equipment

This Amendment is entered into between the State of Washington, Department of Enterprise Services (DES) and Hewlett-Packard Company (Contractor).

The parties hereby agree to amend DES Master Contract # T07-MST-793, the Participating Addendum, as follows:

1. The Participating Addendum is modified by extending the term of the contract by one (1) additional two- (2) year term through May 31, 2014.

All other provisions of Contract T07-MST-793 shall remain in full force and effect

This Amendment 12-05 shall be effective as of May 31, 2012, regardless of the date signed by DIS.

Approved
Washington State
Department of Enterprise Services


Signature

Joyce Turner
Print or Type Name

Director
Title

5/31/12
Date

Approved
Hewlett-Packard Company


Signature

CHRIS BACKS
Print or Type Name

MANAGER
Title

5/29/12
Date

STATE OF UTAH - STATE COOPERATIVE CONTRACT

CONTRACT NUMBER AR1464

1. CONTRACTING PARTIES: This State Cooperative Contract is between the **Division of Purchasing and General Services**, an agency of the State of Utah, and the following CONTRACTOR:

3Com
Name
350 Campus Drive
Address
Marlborough MA 01752-3046
City State Zip

LEGAL STATUS OF CONTRACTOR

- Sole Proprietor
 Non-Profit Corporation
 For-Profit Corporation
 Partnership
 Government Agency

Contact Person Denise Orosco Phone #530-647-0340 Fax # 508-323-1111 Email Denise-Orosco@3Com.com
Federal Tax ID# [REDACTED] Vendor #94823A Commodity Code #20464,20621 & 20623

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide:

WSCA Contract to provide Data Communications Equipment Associated OEM Maintenance and Training per RFP #DG7500.

3. CONTRACT PERIOD: Effective date: June 1, 2007 Termination date: May 31, 2010 unless terminated early or extended in accordance with the terms and conditions of this contract. Renewal options (if any): 2-(2) Year

4. PRICING AS PER THE ATTACHMENT

PAYMENT TERMS: Net 30
DAYS REQUIRED FOR DELIVERY: 30 Days ARO
MINIMUM ORDER: None
FREIGHT TERMS: F.O.B. Destination, Freight Prepaid

5. ATTACHMENT A: Addendum 1
ATTACHMENT B-1: WSCA Terms and Conditions
ATTACHMENT B-2: Changes to WSCA Terms and Conditions
ATTACHMENT C: Price List

Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.

6. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:

- a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
b. Utah State Procurement Code, Procurement Rules, and CONTRACTOR'S response to Bid #DG7500 dated 9/4/06.

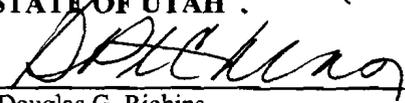
IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE OF UTAH


Contractor's Signature

5-4-2007
Date


Douglas G. Richins

Director, Div. of Purchasing & General Svs.

MAY 09 2007
Date

Lawrence S. Langmore, Senior Director of Finance
Type or Print Name and Title

ATTACHMENT A ADDENDUM 1

This Addendum serves to clarify terms and conditions of the contract between the State of Utah, referred to as STATE, and 3Com, referred to as Contractor. The State of Utah is acting as the Lead State for the procurement process resulting in **WSCA Contracts for Data Communications Equipment, associated OEM Maintenance and Training.**

A. Manufacturer Product Line(s)

This contract authorizes the Contractor to provide the following manufacturer's Data Communications Equipment, Maintenance, and Training, as listed by category. No other equipment or maintenance will be covered under this contract, unless identified in an amendment to the contract. Products covered under this agreement are:

- Routers: 3Com
- Switches: 3Com
- LAN/WAN Wireless: 3Com
- CSU/DSU: 3Com
- Security: 3Com
- Networking Software: 3Com
- Telephony: 3Com
- Training and Maintenance for Above Products: 3Com

B. State of Utah/WSCA Contract Manager

Debbie Gundersen
State of Utah
Division of Purchasing and General Services
State Office Building, Capitol Hill
Room 3150
Salt Lake City, UT 84114-1061

email: dgundersen@utah.gov
Voice: (801) 538-3150
Fax: (801) 538-3882

C. Remittance Address

Submit Directly to Resellers

D. Special Terms and Conditions

The parties agree to amend the terms and conditions as follows:

1. Order of Precedence

The order of precedence for the contract terms will be as follows:

1. Attachment B-2: Changes to WSCA Terms and Conditions
2. Attachment B-1: WSCA Terms and Conditions
3. State of Utah Contract Signature Page (Cover Page)
4. Attachment A: Addendum 1
5. Contractor's Terms and Conditions, if applicable
6. Contractor's Response to BAFO for RFP DG7500, incorporated by reference
7. Contractor's Response to RFP DG7500, incorporated by reference
8. RFP DG7500, incorporated by reference

2. Included Documents

The documents listed in Number 1 are included in the contract. It is agreed that any reference to the "Entire Agreement" includes these documents.

3. Public Information

The contract, including the price lists and the Response to the RFP, will be considered public documents and will be subject to government records policies in each state. The Contractor gives the STATE express permission to make copies of the information specified to provide to other STATE government entities that may use the contract, and to the public, in accordance with general STATE policies, including copies of said information that may be identified as confidential, proprietary, or copyrighted.

4. Arbitration

The STATE will not accept mandatory, binding arbitration. If there are any references to binding arbitration in the Contractor's Response to the RFP, they will be null and void. The parties may agree, on a case by case basis, to voluntary arbitration to resolve contract issues.

5. Contract Period

The contract period, including renewal options, is listed on the STATE OF UTAH - Statewide Contract cover page. Renewals will be agreed to upon written authorization from both parties. All references to automatic renewals will be null and void.

6. Governing Law

This procurement shall be governed and the resulting price agreement construed in accordance with the laws of the State of Utah. The construction and effect of any Participating Addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's State. Venue for any claim, dispute or action concerning the construction and

effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the price agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's State.

7. **Revisions to Contractor's Response to the RFP**
The Contractor's Response to the RFP will be revised as follows:
The following term is added to the terms of the contract.

LIMITATION OF LIABILITY

TO THE FULL EXTENT ALLOWED BY LAW THE PARTIES EXCLUDE ANY LIABILITY, WHETHER BASED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE), FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, OR FOR LOSS OF REVENUE OR PROFITS, LOSS OF BUSINESS, LOSS OF INFORMATION OR DATA, OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE SALE, INSTALLATION, USE, PERFORMANCE, FAILURE OR INTERRUPTION OF THE PRODUCTS PURCHASED OR LICENSED UNDER THIS AGREEMENT. THE EXCLUSIONS STATED IN THIS PARAGRAPH ALSO APPLY TO 3COM'S SUPPLIERS. THE PARTIES AGREE THAT THIS LIMITATION WILL NOT APPLY TO PERSONAL INJURY OR DEATH, OR TO PERSONAL PROPERTY DAMAGE.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT AND WITH THE EXCEPTION OF PERSONAL INJURY OR DEATH, OR PERSONAL PROPERTY DAMAGE, THE MAXIMUM LIABILITY OF EITHER PARTY HEREUNDER SHALL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCTS PURCHASED DURING THE TERM OF THIS AGREEMENT. IN THE CASE OF CUSTOMER'S LIABILITY TO 3COM, THE FOREGOING AMOUNT SHALL BE IN ADDITION TO THE PAYMENTS DUE BY CUSTOMER TO 3COM FOR PRODUCTS PURCHASED HEREUNDER.

THE DISCLAIMER OF LIABILITY WILL NOT BE AFFECTED IF ANY REMEDY PROVIDED HEREIN SHALL FAIL OF ITS ESSENTIAL PURPOSE. CUSTOMER HAS ACCEPTED THE DISCLAIMER OF LIABILITY AS PART OF A BARGAIN TO LOWER THE PRICE OF THE GOODS AND UNDERSTANDS THAT THE PRICE OF THE GOODS WOULD BE HIGHER IF 3COM WERE REQUIRED TO BEAR ADDITIONAL LIABILITY.

E. Contractor Requirements

1. Contractor Responsibility
Contractor is solely responsible for fulfillment of the responsibilities under the terms and conditions of the contract. The procuring agencies will issue purchase orders and make payments to only the named contractors or their respective resellers.
2. Servicing Subcontractors
If using servicing subcontractors for the performance of local marketing, maintenance and/or technical support services in accordance with the terms and conditions of the contract. Servicing subcontractors may not directly accept

purchase orders or payments for products or services from procuring agencies under the terms and conditions of the contract. The authorized procuring agency has the option of choosing whether to purchase the associated OEM maintenance and/or training to support the equipment purchased.

3. WSCA Administration Fee
The contractor must pay a WSCA administration fee of one half of one percent (.50%) in accordance with the terms and conditions of the contract. The WSCA administration fee is not negotiable.
4. Usage Reporting Requirement
Contractor must submit quarterly usage reports to the contract manager. Initiation and submission of the quarterly report is the responsibility of the contractor without prompting or notification by the contract manager. The due dates of each quarterly contract usage report are April 30, July 31, October 31 and January 31. Quarterly usage reports must contain total dollar usage figures for each WSCA member-state (and non-member state), per product category, per manufacturer, respectively. Usage figures must be provided per maintenance option.
5. Change in Contractor Representatives
The State of Utah/WSCA reserves the right to require a change(s) in contractor representatives if the assigned representative(s) is not, in the opinion of the State of Utah's contract manager, meeting its needs adequately.
6. Website Development and Maintenance
Contractor must maintain said website and keep the information current and correct on a timely basis.
7. Rollout and Marketing
Contractor may conduct a marketing effort as described in Contractor's proposal.
8. Right to Publish
Contractor must secure prior approval from the contract manager for permission to release any information that pertains to the potential work or activities relating to this contract. Failure to adhere to this requirement may result in termination of the contract for cause.
9. Contractor's Scope of Equipment and Services
Contractor may only fill contract orders from the scope of equipment and services under contract. Any sale made under this contract by the Contractor of equipment, products or services not explicitly covered by the scope of equipment, products and related services described in Section E may result in contract termination for cause.
10. E-Rate Requirement Contractor must participate in the Federal Communication Commission's E-rate discount program established under authority of the Federal Telecommunications Commission Act of 1996. Participation in, and

implementation of, this program must be provided without the addition of any service or administration fee by the contractor. **3Com has been a leader in shaping and implementing the E-Rate Program. 3Com offers easy-to-use on-line resources and dedicated E-Rate**

11. Freight Terms of Sale F.O.B. Destination, Freight Prepaid

Contractor will ship all products F.O.B. destination, freight included in the product price. Contractor may not include freight charges on invoicing. Failure to comply with this requirement may result in contract termination for cause.

Whenever a procuring agency does not accept any product and returns it to the contractor, all related documentation furnished by the contractor shall be returned also. The contractor shall bear all risk of loss or damage with respect to returned products except for loss or damage directly attributable to the negligence of the procuring agency. Contractor is responsible for the pick-up of returned equipment.

12. Price Guarantee Period

Percentage discount depth from list is not subject to a "price increase request" that would result in a less attractive discount; discounts may only be adjusted by the contractor to reflect a deeper discount(s). The discount is applied to manufacturers current published list price schedule(s).

Maintenance and any training related costs are also guaranteed for the entire contact..

13. Product Revision Requests

Contractor must submit updated price list(s) upon publication, or any other product model changes, addition of new products, product upgrades or services in a timely manner.

Contractor agrees to delete obsolete and discontinued products from the contract price list(s) on a timely basis. Major product model changes will be incorporated into the contract as soon as possible after product introduction, to be offered at the same rate of discount for the appropriate price list and its discount.

14. Maintenance of Current Price List with Discount(s) Applied

Manufacturer's price list(s) must be tailored for WSCA with the WSCA contract discount(s) applied; this must be created and maintained by the contractor on an Internet website hosted by the contractor, at no additional charge(s) to the State of Utah or WSCA. This website will be listed as a link from the WSCA website.

F. Contract Scope of Equipment and Related Services

Any sale by the Contractor of equipment, products or services not explicitly covered by the scope of equipment, products and related services described below (or included in Section A above) may result in contract termination for cause.

Discounts of Manufacturers Price List

3Com’s WSCA Contract pricing is based on discounts off List Price. The discount percentages vary by 3Com Product Category. Details are provided below.

<u>Discount Category</u>	<u>WSCA Discount</u>
D	10%
E	0%
F	30%
J	40%
T	10%
Starter Kits	Discount
J	35%

COST INFORMATION FOR SUPPORT SERVICES AND SERVICE CONTRACTS

3Com currently uses band pricing for services. A WSCA Services Price List is provided in a separate section of our bid.

1. 3Com is offering WSCA a 15% discount off Maintenance Service List Price for networking products.

3Com is offering WSCA a 50% Maintenance GEM discount through TippingPoint’s

GEM program with the exception of the DVGOLD for the X505. The DVGOLD

Maintenance Service for the X505 is being offered at the standard 15% discount off of

Service List Price.

2. 3Com is offering WSCA a 15% discount off Training List Price.

3. 3Com is offering WSCA a 15% discount off Software Upgrade Service and Software Application Support List Prices.

Resolution of Customer Problems

How to engage 3Com's Global Service Organization: Instructions for Global Service can be found at http://www.3com.com/products/en_US/support/index.html. This site provides useful information about all of 3Com's service portals and service tools.

Knowledgebase: Web based technical support solutions database that can answer many technical issues is located at the 3Com Web page <http://knowledgebase.3com.com/>

Frequently Ask Questions for products can be located at
<http://servicefaq.3com.com/>

3Com eSupport: Information about 3Com's eSupport services are available at
<http://csoweb4.3com.com/esupport/help/>.

eSupport services are available at <http://www.3com.com/esupport>

eSupport provides the ability for self service:

- End User Account information registration for warranty services
- Product registration for warranty services
- Initiate request for a Warranty RMA
- Initiate request for Warranty Technical Support
- View status of a open technical support case or open RMA request

3Com's Global Response Center:

- To open a technical support case or RMA request by calling our Global Response Center (GRC):

For warranty and non-contracted customers: (Mon.-Fri. 9am to 8pm EST) Call 3Com service at **1-800-876-3266**. Select the menu option for warranty support.

For contracted customers: call 3Com Global Service at **1-800-876-3266**. Select the menu option for contract support.

- To expedite a request for service you **must** have:
 - A. Your 3Com Master or Site service's contract number (**Required for contracted customers**)
 - B. **Pre-registration of the product for warranty service at**
<http://www.3com.com/esupport>
 - C. Description of problem
 - D. Product software version
 - E. 3Com part number
 - F. Serial number of the product
 - G. Complete error messages (if available)

You will be issued a technical support case number with a severity level by our customer service representative. If a support technician is available, you will be transferred to the technician. If a technician is not available you should receive a callback within 1 hour. Service level entitlements are dependent on the type of warranty or contract coverage.

Case Severity Levels:

- **Severity 1** Production network, Voice system, or sub-systems, or product failure as a result of a 3Com product which results in a critical impact to business operations with no viable work-around; or Repeated and excessive downtime due to 3Com product failure is causing a customer loss of revenue. *End user and 3Com both will commit full-time resources to resolve the situation.*
- **Severity 2** - Production network, Voice system, or sub-systems, or product failure as a result of a 3Com product which results in a service interruption or degradation impacting significant aspects of business operations 3Com and or customer is at potential risk of losing actual or future revenue as a result of 3Com product failure. Workaround may or may not be available. *End user and 3Com both will commit full-time resources during Standard Business Hours to resolve the situation.*
- **Severity 3** - Limited network, Voice system, or sub-systems, or product problem which prevents some functions from meeting the product specifications. Some business operations are impaired, but the network continues to function. Workaround available. *End user and 3Com are willing to commit resources during Standard Business Hours to restore service to satisfactory levels.*

There is no Severity 4.

How to request case escalation:

If you feel that sufficient progress is not being made on your case, or the quality of service is not satisfactory, use the provided case number to escalate to our staff in this sequence:

1. **Duty Manager** - call 800-876-3266 and ask to speak with the 3Com Duty Manager.

Technical Services (Equipment Warranty, Installation, Training, Maintenance Options, Replacement)

Warranty and Service

Many 3Com products including, SuperStack and OfficeConnect switches and hubs provide a lifetime warranty. 3Com further reduces the cost of ownership by bundling service and support with each product. This gives customers quick and easy access to help when they need it most. This bundled service includes telephone support during normal business hours, advance hardware replacement, and access to all of the software updates made available for the product.

The length of the warranty and the level of support services available vary by product. More detail on the warranties available for specific products is included in the Supporting Materials Section of this bid.

Service upgrade options are available for purchase for customers that require 24x7 coverage, a faster response time, or on-site assistance. A comparison chart of our offerings as well as descriptive summaries and pricing information is provided below.

Comparison Chart of Standard Contract Options

Standard Contract Options	On-Site Support	Telephone Support	Software Updates	Hardware Replacement
Guardian SM	☐	☐	☐	☐
Express SM		☐	☐	☐

GuardianSM

For customers who require maximum uptime, Guardian is 3Com's premier support service. The service is provided for single-site as well as multi-site installations in the same country or over multiple national boundaries. The Guardian service contract is an excellent choice for networks running mission-critical applications. Contracted customers receive the highest priority in our technical escalation process and a full range of services. Basic features include:

- ◆ Unlimited telephone support with one-hour response (shorter times available in some locations)
- ◆ An on-site engineer when required; response options of Next Business Day or 4 hours (if available)
- ◆ 24x7 or 8x5 phone options available
- ◆ On-site fault resolution
- ◆ Next Business Day and 4-hour (if available) hardware replacement options available
- ◆ Latest software updates

ExpressSM

Express is a service package designed to let customers leverage their in-house resources with supplemental 3Com support. If you have the staff to troubleshoot and replace components in your network, but also need rapid hardware replacement and telephone technical support, you are a good candidate for Express. Basic features include:

- ◆ Unlimited telephone support with one-hour response
- ◆ Next day advance hardware replacement
- ◆ Door-to-door delivery of replacement products
- ◆ Next Business Day and 4-hour (if available) hardware replacement options available
- ◆ 24x7 or 8x5 phone options available
- ◆ Latest software updates

Installation Services

Hardware installation consists of the following services:

Placement: Unpacking, physical inspection of equipment, and placement in the computer room. Unless otherwise specified, installation does not include the setup of racks, pulling of cables, or other miscellaneous work.

Verification: Any modular system components are inserted and connected. Firmware configuration and parameters are verified; diagnostic self-tests are performed.

Connection to the network: Device is powered up, applicable licensed 3Com software loaded, and tests run to ensure that the device is recognized on the network and its basic configuration is correct. Software configuration optimization, verification of the Telco line, and DSU/CSU cabling and configuration are available for an additional charge.

Service Contract Cost Information

Service pricing is calculated on band pricing. Please refer to the quote tool located on 3Com.com or contact Service_Quotedesk@3com.com.

<http://pa.3com.com/secure/na/secwebdocs.nsf/HTML/ServicePartnerQuoting>

Quarterly or Monthly Billing Surcharge

Standard contract terms are for a minimum of 12 months with payment in advance. Should an exception to this practice be required, the following uplifts apply. A minimum contract annual value of \$2000 applies to any contract with recurring billing.

Monthly billing contract	5% uplift applied to the total value of the contract
Quarterly billing contract	5% uplift applied to the total value of the contract
Multi-year with annual payment contract	5% uplift applied to the total value of the contract

Adding Product to an Existing Contract

Product may be added to an existing contract. Prorate the service prices as follows: Determine the annual service price after applicable discounts and surcharges. Divide this price by 12 to find the monthly price. Multiply the monthly price by the number of months remaining in the existing contract.

Installation Pricing Terms

All Hardware Installation quote requests must be sent to Service_Quotedesk@3com.com for quoting.

Non-Contract Support

Fixed Rate Depot Repair services are available at 35% of the product list price. Advance replacement can be provided for an additional 15% of the product list price.

Technical Support services are available at a per incident fee ranging from \$75 – \$350 for Normal Business Hours and \$750 - \$1000 After Hours and Weekends.

Product Obsolescence Policy

A product is labeled “obsolete” when it can no longer be ordered from 3Com. Many products that are labeled obsolete are simply replaced with a newer revision level of the same product. However, some products are named obsolete when their technical capabilities no longer suit the needs of the marketplace (as indicated by order levels), and therefore no further revisions will be available. To encourage customers to take advantage of new products or technologies, upgrade or exchange promotions are sometimes offered when a given product is labeled obsolete.

Major product obsolescence announcements are communicated to 3Com reseller partners at least 30 days before the effective date through normal vehicles such as newsletters. End-user customers can determine whether products have been declared obsolete by contacting 3Com technical support organizations or their nearest 3Com office. Customers with 3Com service contracts will be monitored regularly.

Product obsolescence has implications for the availability of technical support and other services. A “service availability period” is a period of time for which 3Com will support a given product with a specified service level after its obsolescence date. Service availability periods vary depending on the type of service in question. The table below indicates our standard guidelines; these were established based on analysis of historic usage patterns and commercial feasibility. If resources are available beyond the periods indicated below, 3Com will continue to provide specific services on a case-by-case basis as long as it is commercially reasonable to do so. 3Com honors any existing government or commercial contracts which call for service availability periods that are different from those charted below.

Service Availability Periods

	1 Year	2 Years	3 Years	4 Years	5 Years
Standalone Services					
Sustaining Engineering (hw/sw) ¹					
Training					
Software Telephone support					
Hardware Telephone support					
Spares ²					
Repairs					
End User Service Contracts³					
Guardian SM					
Express SM					

1. 3Com will maintain engineering expertise to develop code fixes and assist with complex problem isolation during this period. Bug fixes may or may not be developed, depending on the severity level and availability of alternate solutions.
2. In some cases, spare components are available for three years or longer; it depends on demand. If customers anticipate needing spares available for longer than two years post-obsolescence, the most conservative approach would be to purchase them in advance and store them on site.
3. The date shown for service contracts refers to the last date service will be provided under a one-year contract. 3Com may elect to discontinue selling 12-month service contracts one year earlier.

Value Added Services

3Com can provide value-added services in all of the WSCA states. These services listed below are typically delivered direct from 3Com with a Statement of Work and may require zone charges for travel depending on the location. Additional value-added services are available from 3Com's authorized WSCA reseller partners.

Examples of 3Com's direct value-added services include:

- Network Integration
 - Project management
 - Third party coordination
 - Installation
- Security Consulting
 - Remote security audits

Full network security analysis

- Wireless Consulting
 - Site surveys
 - Wireless networking engineering
 - Building to building wireless bridge installation
- Network Management Consulting
 - Network assessments
 - OpenView platform integration, 3Com Network Supervisor implementation, and automation scripting
- Customized Training
 - Personalized training courses
 - Installation certification

Training

3Com University connects you to education opportunities at 3Com - all you need to know about 3Com products and solutions, networking technologies, and other related topics.

3Com University's e-Campus gives you plenty of learning options. You can take an online course or download a self-study course whenever and wherever it's convenient. Or, you can sign up to attend an instructor-led class at a specific time and place. It's easy to access course descriptions, as well as schedules, locations, and registration information for classroom sessions. Simply use the Search or Browse tools at the following web site to find courses in the Learning Catalog:

http://www.3com.com/support/en_US/training/index.html

A list of the 3Com University courses currently available is included in the Supporting Materials section of this proposal.

3Com University also offers certification programs, provides information on special learning events and offers additional learning support tools through the 3Com University Bookstore and the 3Com University Learning Assistant.

3Com University has authorized select companies to deliver additional instructor-led training on 3Com products. 3Com University's partnerships with Authorized Technical Education Centers (ATECs) extend the opportunity to learn about 3Com products and solutions.

Resellers and end-users that need training on currently offered or discontinued products can choose from a selection of region-specific instructor-led courses. Details on courses

currently available are included in the Supporting Materials Section of this proposal and on the following web site:

[http://www.3com.com/support/en_US/training/courses/atec/americas_partners.ht
ml](http://www.3com.com/support/en_US/training/courses/atec/americas_partners.html)

Customized training at the Buyers location may be arranged through 3Com's Professional Services Group. The cost for this type of training will vary. Any of the Consultants listed in the 3Com Account Representatives Section may be contacted for more details.

Servicing Sub-Contractors (Resellers)

A list of the Servicing sub-contractors will be posted on the WSCA Website at www.aboutwsca.org and on the Contractor's network website. This list will be updated as changes are made.

ATTACHMENT B-1
Standard Contract Terms and Conditions
Western States Contracting Alliance (WSCA)

Note: For the contract with 3Com and the State of Utah, changes have been made to the following terms: 10, 18, 21, and 22. The changes are listed in Attachment B-2.

1. PARTICIPANTS: Western States Contracting Alliance (“WSCA”) is a cooperative group contracting consortium for state government departments, institutions and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. Obligations under this contract are limited to those Participating States who have signed (and not revoked) an Intent to Contract at the time of award, or who have executed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting price agreement(s) will be permissive.

2. DEFINITIONS:

“Lead State” means the State conducting this cooperative solicitation and centrally administering any resulting price agreement.

“Offer” or “Bid” or “Proposal” refers to the offer submitted in response to a solicitation, whether denominated as an invitation for bid, request for proposal, or otherwise. “Bidder” or “Offeror” similarly refers to the person, company, or other entity submitting the bid or proposal that constitutes an offer capable of acceptance, regardless of the solicitation method used.

“Permissive price agreement” means that placement of orders through the price agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the price agreement without using statutory or regulatory procedures (e.g. invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however, satisfy requirements without using the price agreement so long as applicable procurement statutes and rules are followed.

“Participating Addendum” means a bilateral agreement executed by the contractor and a Participating State that clarifies the operation of the price agreement for the State concerned, e.g. ordering procedures specific to a State, and may add other state-specific language or other requirements.

“Participating State” means a member of WSCA who has indicated its intent to participate as disclosed on the solicitation, or who subsequently signs a Participating

Addendum where contemplated by the solicitation.

“Purchasing Entity” means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a contract for the purchase of goods described in this solicitation. Unless otherwise limited in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and Participants authorized to purchase the goods and/or services described in this solicitation.

3. QUANTITY ESTIMATES: Estimated quantities are informational and not to be construed as a warranty of accuracy of historical or anticipated volumes or a guarantee to purchase any amount.

4. SPECIFICATIONS: Any deviation from specifications must be clearly indicated by offeror, otherwise, it will be considered that the proposal is in strict compliance. When BRAND NAMES or manufacturers’ numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the solicitation says “no substitute.” Offers will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate proposals offering lower quality or inferior performance will not be considered.

5. ACCEPTANCE OR REJECTION OF BIDS AND PROPOSALS: The Lead State reserves the right to accept or reject any or all bids or proposals, or parts of bids or proposals, and to waive informalities therein.

6. SAMPLES: Generally, when required, samples will be specifically requested in the solicitation. Samples, when required, are to be furnished free of charge. Except for those samples destroyed or mutilated during testing, samples will be returned at an offeror’s request, transportation collect.

7. CASH DISCOUNT TERMS: Offeror may quote a cash discount based upon early payment; however discounts offered for less than 30 days will not be considered in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise.

8. TAXES: Offered prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the contractor shall add the sales taxes on the billing invoice as a separate entry.

9. MODIFICATION OR WITHDRAWAL OF BIDS AND PROPOSALS: Bids and proposals may be modified or withdrawn prior to the time set for receipt of bids or proposals. After the time set for receipt of bids or proposals, no proposal may be modified or withdrawn.

10. PATENTS, COPYRIGHTS, ETC: The Contractor shall release, defend, indemnify, and hold harmless WSCA, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities, from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, process, patented or unpatented invention, article or appliance furnished or used in performance of this contract.

11. AWARD: Multiple contracts may be awarded as a result of this solicitation. Awards in requests for proposals (competitive sealed proposals) shall be made to the responsible offeror(s) whose proposals are determined to be the most advantageous to the Participating States, taking into consideration price and the other evaluation factors set forth in the solicitation. Unless otherwise stated in the solicitation, an award in an solicitation denominated as an invitation to bid will be made to the lowest responsive and responsible bidder(s) meeting specifications and all bid terms and conditions. The Participating States reserve the right to award items separately or by grouping items, or by total lot.

12. NON-COLLUSION: By signing the proposal the offeror certifies that the proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the solicitation, designed to limit independent bidding or competition.

13. TERMINATION: Unless otherwise stated in the solicitation, any contract entered into as a result of this solicitation may be terminated by either party upon 60-days notice, in writing, prior to the effective date of the termination. Further, any Participating State may terminate its participation upon 30-days written notice, unless otherwise limited or stated in the special terms and conditions of the solicitation. Any termination under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of any Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order."

14. DEFAULT AND REMEDIES:

A. Any of the following shall constitute cause to declare the contract or any order under this contract in default:

(1) Nonperformance of contractual requirements; or

(2) A material breach of any term or condition of this contract.

B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire agreement), a Participating State (in the case of a breach of the Participating Addendum), the

Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.

C. If the default remains after the opportunity for cure, the non-defaulting party may:

- (1) Exercise any remedy provided by law or equity;
- (2) Terminate the contract or any portion thereof, including any orders issued against the contract;
- (3) Impose liquidated damages, as specified in the solicitation or contract;
- (4) In the case of default by the contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend contractor from receiving future solicitations.

15. LAWS AND REGULATIONS: Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

16. CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions in the solicitation, the special terms and conditions shall govern.

17. REPORTS: The contractor shall submit quarterly reports to the Lead State contract administrator, and upon request to any Participating State, showing the quantities and dollar volume of purchases by each Purchasing Entity.

18. HOLD HARMLESS: The contractor shall release, defend, indemnify and hold harmless WSCA, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities, from and against any damage, cost or liability, including reasonable attorneys fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, its employees or subcontractors or volunteers.

19. ORDER NUMBERS: Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

20. GOVERNING LAW AND VENUE: This procurement shall be governed and the resulting price agreement construed in accordance with the laws of the Lead State. The construction and effect of any Participating Addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's State. Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any

claim, dispute or action concerning an order placed against the price agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's State.

21. DELIVERY: The prices offered shall be the delivered price to any WSCA state agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

22. WARRANTY: As used herein "Purchasing entity" refers to any WSCA state agency or political subdivision. The CONTRACTOR agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the PURCHASING ENTITY under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The CONTRACTOR (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the PURCHASING ENTITY apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the CONTRACTOR warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the PURCHASING ENTITY has relied on the CONTRACTOR'S skill or judgment to consider when it advised the PURCHASING ENTITY about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the PURCHASING ENTITY has not been warned. Remedies available to the PURCHASING ENTITY include the following: the CONTRACTOR will repair or replace (at no charge to the purchasing entity) the product whose nonconformance is discovered and made known to the CONTRACTOR in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the CONTRACTOR will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the PURCHASING ENTITY may otherwise have under this contract with respect to defects.

23. AMENDMENTS: The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Contract Administrator of the Lead State.

24. ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the Contract Administrator of the Lead State.

25. NONDISCRIMINATION: The offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The offeror further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This contract may be canceled if the offeror fails to comply with the provisions of these laws and regulations. The offeror must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

26. SEVERABILITY: If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

27. INSPECTIONS: Goods furnished under this contract shall be subject to inspection and test by the Purchasing Entity at times and places determined by the Purchasing Entity. If the Purchasing Entity finds goods furnished to be incomplete or in compliance with proposal specifications, the Purchasing Entity may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Purchasing Entity, the Purchasing Entity may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Purchasing Entity's rights including the rights and remedies under the Uniform Commercial Code.

28. PAYMENT: Payment for completion of a contract is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a Purchasing Entity's "Purchasing Card".

29. FORCE MAJEURE: Neither party to this contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's

reasonable control. The Lead State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

30. HAZARDOUS CHEMICAL INFORMATION: The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the Purchasing Entity agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

31. FIRM PRICE: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of receipt of bids or proposals. Prices must remain firm for the full term of the contract.

32. EXTENSION OF PRICES: In the case of error in the extension of prices in the proposal, the unit prices will govern.

33. PROPOSAL PREPARATION COSTS: WSCA is not liable for any costs incurred by the offeror in preparation of the bid or proposal.

34. CERTIFICATION REGARDING CONFLICT OF INTEREST: Contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any Participating State to any officer or employee of WSCA or Participating States to secure favorable treatment with respect to being awarded this contract.

35. INDEPENDENT CONTRACTOR: Contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind the Participating States to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.

36. POLITICAL SUBDIVISION PARTICIPATION: Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the WSCA participating states shall be voluntarily determined by the political subdivision. The contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

37. E-RATE COMPLIANCE: Contractor agrees to participate in the Federal Communication Commission's E-rate discount program established pursuant to the Telecommunications Act of 1996, and in accordance with any State and local government E-rate related requirement(s) of the authorized procuring agency.

38. CERTIFICATION REGARDING DEBARMENT: The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by WSCA.

39. RECORDS ADMINISTRATION: The contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the contractor for costs authorized by this contract. These records will be retained by the contractor for at least four years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later.

40. AUDIT OF RECORDS: The contractor agrees to allow WSCA, State and Federal auditors, and state agency staff access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

41. PRICES AS CEILING: Price agreement prices represent ceiling prices for the supplies and services priced in the price agreement. The vendor shall report to the Lead State any price reduction or discount, or other more favorable terms, offered to any Purchasing Entity, and the awarded vendor agrees to negotiate in good faith to reestablish ceiling prices or other more favorable terms and conditions applicable to future orders.

42. STATE PARTICIPATION/UNIQUE TERMS AND CONDITIONS: Apart from the Lead State conducting the solicitation, the States indicated on Attachment A have signified their intent to enter into a price agreement and, except where Attachment A or the solicitation requires execution of a Participating Addendum, are considered Participating States for purposes of this solicitation and the resulting contract. Attachment A of the Solicitation includes any significant State-specific provisions required by the laws, regulations, or procurement practices of the State(s).

Additional States may be added with the consent of the contractor and the Lead State (on behalf of the WSCA Participating States) through execution of a Participating Addendum.

Revision Date: April 2001

Attachment B-2 Changes to WSCA Terms and Conditions

The State of Utah (“State” or “Customer”) and 3Com Corporation (“3Com” or “Contractor”) agree to the following changes to the WSCA Standard Terms and Conditions:

The WSCA Standard Terms and Conditions will be revised as follows:

A. Item 10, PATENTS, COPYRIGHTS, ETC is replaced with following term:
3Com shall, at its own expense, defend or settle any suit or proceeding that is instituted against Customer to the extent such suit or proceeding alleges that any Product sold by 3Com hereunder infringes any duly issued patent or copyright of the United States, and shall pay all damages awarded therein against Customer or agreed upon in settlement by 3Com; provided that Customer (i) gives 3Com immediate notice in writing of any such suit, proceeding or threat thereof; (ii) permits 3Com sole control, through counsel of 3Com’s choice, to answer the charge of infringement and defend and/or settle such suit; and (iii) gives 3Com all the needed information, assistance and authority, at 3Com’s expense, to enable 3Com to defend or settle such suit.

The above provision shall not apply to, and 3Com shall have no liability or obligation for, any infringement arising from the following: (i) any modification, servicing or addition made to the Product by anyone other than 3Com; (ii) the use of such a Product as a part of or in combination with any devices, parts or software not provided by 3Com; (iii) compliance with Customer’s design requirements or specifications; (iv) the use of other than a current unaltered release of the software Product available from 3Com; or (v) the use of such Product to practice any method or process which does not occur wholly within the Product. This exclusion applies to the extent that the infringement would have been avoided but for such modification, combination, compliance with specifications, use of other than the current release, or practice of such method or process.

In the event the use of any Product purchased from 3Com be enjoined, or in the event 3Com wishes to minimize its potential liability hereunder, 3Com may, at its sole option and expense: (i) procure for Customer the right to use such Product; (ii) substitute a functionally equivalent, non-infringing unit of the Product; (iii) modify such Product so that it no longer infringes but remains functionally equivalent; or (iv) if none of the foregoing are commercially feasible, take back such Product and refund the purchase price paid by Customer for such Product, depreciated over a three (3) year period using the straight line method. 3Com shall in no event be obligated to accept new orders for Products which are subject to a claim of infringement covered under this Section.

THIS SECTION STATES 3COM'S TOTAL RESPONSIBILITY AND LIABILITY, AND CUSTOMER'S SOLE REMEDY, FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT BY ANY PRODUCTS DELIVERED HEREUNDER OR ANY PART THEREOF AND IS IN LIEU OF AND REPLACES ANY AND ALL OTHER EXPRESS, IMPLIED OR STATUTORY WARRANTIES REGARDING INFRINGEMENT.

B. Item 18, HOLD HARMLESS, is replaced with the following term:

The contractor shall release, defend, indemnify and hold harmless WSCA, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of WSCA, the Participating States and the Purchasing Entities, from and against any damage, cost or liability, including reasonable attorneys fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions

of the contractor, its employees or subcontractors or volunteers. 3Com agrees to abide by all local safety and security requirements established at Customer's facility. Provided however, that any such indemnification is expressly conditioned upon, (i) Customer giving 3Com prompt written notice so as to enable 3Com to enter a timely defense to any such claim,(ii) Customer allowing 3Com the sole right to defend or settle any such claim, (iii)Customer providing reasonable assistance to 3Com in the defense of the claim.

C. Item 21, DELIVERY, has the following added to the end of this clause:

Acceptance or rejections of any items shall be made within 15 days of delivery.

D. Item 22, WARRANTY, is replaced with the following term:

Hardware Warranty. 3Com warrants to Customer that all Hardware sold by 3Com to Customer under the terms of this Agreement will be free from defects in workmanship and materials under normal use and service for the following lengths of time from the date of purchase:

Network Interface Cards	Lifetime of Network Interface Card
Other Hardware	One year*
* unless a longer warranty is indicated in the user guide accompanying the Product	
Spare parts and spares kits	90 days

3Com's sole obligation under this express warranty shall be, at 3Com's option and expense, to repair the defective Product or part, deliver to Customer an equivalent Product or part to replace the defective item, or if neither of the two foregoing options is reasonably available, 3Com may, in its sole discretion, refund to Customer the purchase price paid for the defective Product. All Products that are replaced will become the property of 3Com. Replacement Products may be new or reconditioned. 3Com warrants any replaced or repaired Product or part for ninety (90) days from shipment or the remainder of the initial warranty period, whichever is longer.

Software Warranty. 3Com warrants to Customer that each Software program licensed from it will perform in substantial conformance to its program specifications for a period of ninety (90) days. 3Com warrants the media containing Software against failure during the warranty period. The warranty commences on shipment by 3Com. No updates are provided under this Agreement. 3Com's sole obligation with respect to this express warranty shall be (in 3Com's discretion) to refund the purchase price paid by Customer for any defective Software, or to replace any defective media with Software which substantially conforms to applicable 3Com published specifications. Customer assumes responsibility for the selection of the appropriate applications program and associated reference materials. 3Com makes no warranty or representation that its Software will meet Customer's requirements or work in combination with any hardware or applications software products provided by third parties, that the operation of the Software will be uninterrupted or error-free, or that all defects in the Software will be corrected. For any third party products listed in the 3Com Software documentation or specifications as being compatible, 3Com will make reasonable efforts to provide compatibility, except where

the non-compatibility is caused by a "bug" or defect in the third party's product or from use of the Software not in accordance with 3Com's published specifications or user manual. THIS 3COM PRODUCT MAY INCLUDE OR BE BUNDLED WITH THIRD PARTY SOFTWARE, THE USE OF WHICH IS GOVERNED BY A SEPARATE END USER LICENSE AGREEMENT. THIS 3COM WARRANTY DOES NOT APPLY TO SUCH THIRD PARTY SOFTWARE. FOR THE APPLICABLE WARRANTY, PLEASE REFER TO THE END USER LICENSE AGREEMENT GOVERNING THE USE OF SUCH SOFTWARE.

Obtaining Warranty Service. Customer must contact the 3Com Corporate Service Center or an Authorized 3Com Service Center promptly within the applicable warranty period to obtain warranty service authorization. Dated proof of purchase may be required. Products returned to 3Com's Corporate Service Center must be pre-authorized by 3Com with a Return Material Authorization (RMA) number or User Service Order (USO) number marked on the outside of the package, and sent prepaid and packaged appropriately for safe shipment, and it is recommended that they be insured or sent by a method that provides for tracking of the package. Responsibility for loss or damage does not transfer to 3Com until the returned item is received by 3Com. The repaired or replaced item will be shipped to Customer, at 3Com's expense, not later than thirty (30) days after 3Com receives the defective Product, except that batch returns of more than thirty (30) units may be subject to a turnaround time greater than thirty (30) days. Quicker turnaround time can be obtained by purchasing a 3Com service agreement. 3Com shall not be responsible for any software, firmware, information, or memory data of Customer contained in, stored on, or integrated with any products returned to 3Com for repair, whether under warranty or not.

In the event a Product completely fails to function or exhibits a defect in materials and workmanship within the first forty-eight (48) hours of installation but no later than thirty (30) days after the date of shipment, and this is verified by 3Com, it will be considered dead- or defective-on-arrival (DOA) and a replacement shall be provided by advance replacement. The replacement Product will normally be shipped not later than three (3) business days after 3Com's verification of the DOA Product, but may be delayed due to export or import procedures. The shipment of advance replacement products is subject to local legal requirements and may not be available in all locations. When an advance replacement is provided and Customer fails to return the defective Product to 3Com within fifteen (15) days after shipment of the replacement, 3Com will charge Customer for the replacement Product, at list price.

Warranties Exclusive. IF A 3COM PRODUCT DOES NOT OPERATE AS WARRANTED ABOVE, CUSTOMER'S SOLE REMEDY FOR BREACH OF THAT WARRANTY SHALL BE REPAIR, REPLACEMENT, OR REFUND OF THE PURCHASE PRICE PAID, AT 3COM'S OPTION. TO THE FULL EXTENT ALLOWED BY LAW, THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, TERMS, OR CONDITIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES, TERMS, OR

CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SATISFACTORY QUALITY AND CORRESPONDENCE WITH DESCRIPTION, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. 3COM'S WARRANTIES CONTAINED HEREIN RUN ONLY TO CUSTOMER, AND ARE NOT EXTENDED TO ANY THIRD PARTIES. 3COM NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE SALE, INSTALLATION, MAINTENANCE OR USE OF ITS PRODUCTS.

3COM SHALL NOT BE LIABLE UNDER THIS WARRANTY IF ITS TESTING AND EXAMINATION DISCLOSE THAT THE ALLEGED DEFECT IN THE PRODUCT DOES NOT EXIST OR WAS CAUSED BY CUSTOMER'S OR ANY THIRD PERSON'S MISUSE, NEGLIGENCE, IMPROPER INSTALLATION OR TESTING, UNAUTHORIZED ATTEMPTS TO OPEN, REPAIR OR MODIFY THE PRODUCT, OR ANY OTHER CAUSE BEYOND THE RANGE OF THE INTENDED USE, OR BY ACCIDENT, FIRE, LIGHTNING, OTHER HAZARDS, POWER CUTS OR OUTAGES, OR ACTS OF GOD.



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT # **4**
 CONTRACT # **AR1464**
 Original Starting Date: **06/01/07**
 Expiration Date : **05/31/2010**

TO BE ATTACHED AND MADE PART OF the specified contract by and between the State of Utah Division of Purchasing and

3COM CORPORATION
 (Referred to as CONTRACTOR)

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

Amended Expiration Date: **05/31/2012**
 Effective Date of Amendment: **05/31/2010**
 Potential Renewal Options Remaining: **One (2) yr**
 The contract is amended to:

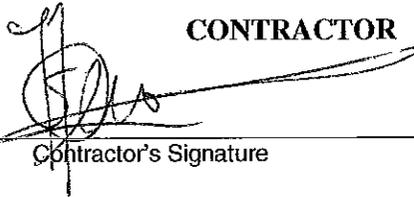
Please provide the following contact information.

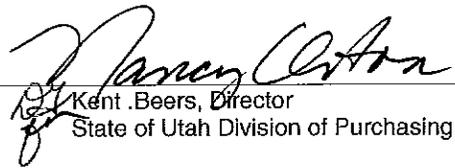
	Name	Phone Number	Email Address
General Contact	Jessica France	508-323-1312	Jessica_france@3com.com
Sales Contact	Jessica France	508-323-1312	Jessica_france@3com.com
Quarterly Report Contact	Jessica France	508-323-1312	Jessica_france@3com.com

All other terms and conditions in the original contract remain the same.
 IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE OF UTAH


 Contractor's Signature Date **12/17/09**


 Kent Beers, Director Date **12-23-09**
 State of Utah Division of Purchasing

JAWB PEENSTRA
 Contractor's Name (Print)

REGIONAL FINANCIAL DIRECTOR
 Title (Print)

Purchasing Agent	Phone #	e-mail	Fax #
Debbie Gundersen	(801) 538-3150	dgundersen@utah.gov	(801) 538-3882

longer refer to 3Com, but shall refer to Hewlett-Packard Company.

- The Primary Contact for Legal Notices in Section 5.5 for 3Com is deleted in its entirety and replaced with the following:

Hewlett-Packard	
Attn: Jane Lacy	
Mailing Address:	
103 Springshade Lane	
Canton, GA 30114	
Phone: (678) 8807899	
Fax:	Email: jane.lacy@hp.com

This amendment is effective upon signature of DIS.. The persons signing below warrant that they have the authority to execute this amendment on behalf of their respective parties.

The parties have read and understand this Amendment 11-04, and by their signatures below, agree to each and every particular.

ACCEPTED

Washington State
Department of Information Services


Signature

Scott Smith
Print or Type Name

TAS PROGRAM COORDINATOR
Planning and Design Manager
12/16/10
Title Date

ACCEPTED

3Com (Assignor)


Signature

Chris Backs
Print or Type Name

CONTRACT NEGOTIATOR 12/2/10
Title Date

ACCEPTED

Hewlett-Packard Company (Assignee)


Signature

Chris Backs
Print or Type Name

CONTRACT NEGOTIATOR 12/2/10
Title Date

STATE OF UTAH CONTRACT ASSIGNMENT

STATE CONTRACT # AR1464

1. PARTIES TO THE ASSIGNMENT:

ASSIGNOR (old contractor): **3Com Corporation**
 ASSIGNEE (new contractor): **Hewlett-Packard Company**
 NEW VENDOR NUMBER:
 (Assigned by the State of Utah)

Assignee please complete company information form:

Hewlett-Packard Company						94-1081436	
Company Name						Federal Tax ID #	
authorized resellers per Exhibit 1							
Ordering Address				City	State	Zip Code	
authorized resellers address per Exhibit 1							
Remittance Address (if different from ordering address)				City	State	Zip Code	
<input checked="" type="checkbox"/>	Corporation	<input type="checkbox"/>	Partnership	<input type="checkbox"/>	Proprietorship	<input type="checkbox"/>	Government
Company Type						Company Contact Person	
(847) 358- 9128 / (678) 880-7899				678-809-0509			
Telephone Number				Fax Number			
http://www.hp.com				mike.gasparino@hp.com / jane.lacy@hp.com			
Internet Home Page				Email Address			

2. CONTRACT SERVICES ASSIGNED TO ASSIGNEE (Brief Description):

All of 3Com rights and obligations under State of Utah - State Cooperative Contract, Contract Number AR1464, to Hewlett-Packard Company. Includes ability for Hewlett-Packard Company to provide the Data Communications Equipment, Maintenance, and Training for the Products included in Contract Number AR1464. Certificate of Merger of 3Com Corporation, effective as of April 29, 2010, attached.

3. ASSIGNEE agrees to perform all of ASSIGNOR'S contract responsibilities, and to abide by all contract provisions specified in this contract. ASSIGNOR will have no further responsibilities to perform under this contract and will make no claim for benefits arising from this contract after the effective date of this assignment.

EFFECTIVE DATE: April 29, 2010.

IN WITNESS WHEREOF, the parties to this assignment sign and cause it to be executed.

ASSIGNOR:

CERTIFICATE OF MERGER ATTACHED
 Signature _____ Date _____

 Name and Title (type or print)

ASSIGNEE:

Chris Backes 6/24/10
 Signature _____ Date _____

Chris Backes CONTRACT NEGOTIATOR
 Name and Title (type or print)

APPROVED BY:

Nancy Orton 6-24-10
 Division of Purchasing _____ Date _____



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT # 8

CONTRACT # AR1464

Original Starting Date: 06/01/07

Expiration Date : 05/31/12

TO BE ATTACHED AND MADE PART OF the specified contract by and between the State of Utah Division of Purchasing and

HEWLETT-PACKARD COMPANY

(Referred to as CONTRACTOR)

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

Amended Expiration Date: 05/31/2014

Effective Date of Amendment:
05/31/12

Potential Renewal Options Remaining:

The contract is amended to:

Please provide the following contact information.

	Name	Phone Number	Email Address
General Contact	Jane Lacy	678-880-7899	Jane.lacy@hp.com
Sales Contact	Jane Lacy	678-880-7899	Jane.lacy@hp.com
Quarterly Report Contact	Jane Lacy	678-880-7899	Jane.lacy@hp.com

All other terms and conditions in the original contract remain the same.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

STATE OF UTAH

12/20/2011

Contractor's Signature

Date

12-22-11

Kent Beers, Director

Date

State of Utah Division of Purchasing

Chris Backs

Contractor's Name (Print)

MANAGER, USPS CONTRACTS

Title (Print)

Purchasing Agent

Phone #

e-mail

Fax #

Debbie Gundersen

801-538-3150

dgundersen@utah.gov

801-538-3882

10/27/2008