



Services

STATEWIDE CONTRACT
State of Utah, Division of Purchasing & General

AMENDMENT # 4 to CONTRACT # AR1464

TO BE ATTACHED TO AND MADE A PART OF the above numbered contract between the State of Utah, Division of Purchasing & General Services, referred to as STATE, and, 3Com Corporation, referred to as Contractor.

THE PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

June 24, 2002 (original starting date of contract)

May 31, 2006 (current ending date)

May 31, 2007 **new ending date**

Other changes to the contract include:

Effective Date of Amendment: March 1, 2006

The State of Utah Terms and Conditions still apply to the Contract. All other conditions and terms in the original contract remain the same.

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

CONTRACTOR

STATE

Kent Murray
Contractor's signature *Kent Murray*

Douglas G. Richins
DG Douglas G. Richins

Director Finance
Type or Print Name and Title

3/2/06
Date

2/22/06
Date



STATE OF UTAH
CONTRACT AMENDMENT

AMENDMENT # 2 To CONTRACT # AR1464

TO BE ATTACHED TO AND MADE A PART OF the above numbered contract by and between the State of Utah, WSCA Administrator referred to as STATE and, 3Com Corporation referred to as CONTRACTOR.

THE PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

1. Contract period:

June 24, 2002 (original starting date)

May 31, 2004 (current ending date)

May 31, 2006 new ending date

2. Contract amount:

(current contract amount)

(amendment amount)

- 0 - new contract amount
(add current amount to amendment amount)

3. Other changes: (attach other sheets if necessary):

None

4. Effective Date of Amendment: As soon as both parties sign.

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

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

CONTRACTOR

Signature: [Handwritten Signature] Date: 3/12/04

Contractor's signature Date
Type or Print Name and Title
Kent Murray Director Finance
Americas Sales
3Com Corporation

(DP-4 Revision 1/5/2000)

STATE

Signature: [Handwritten Signature] Date: 3/16/04

Douglas G. Richins
Director, Division of Purchasing Date

**STATE OF UTAH
STATEWIDE CONTRACT AR1464**

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

3Com Corporation
Name

5400 Bayfront Plaza
Address

Santa Clara, CA 95052
City State Zip

LEGAL STATUS OF CONTRACTOR

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

Federal Tax ID# 94-2605794 Vendor # 94823A Commodity Codes: 20464, 20621, 20623

Vendor Contact Person: Tony Tucker Vendor Phone #: 847-262-1062

Vendor Fax #: 847-262-0118 Vendor email address: anthony_tucker@3com.com

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this Contract is to provide: Data Communications Equipment and Associated OEM Maintenance & Training.
3. CONTRACT PERIOD: Effective date June 24, 2002 Termination date May 31, 2004 unless terminated early or extended in accordance with the terms and conditions of this contract.
Renewal option: Renewable for one or two year terms up to four additional years.
4. PRICING AS PER ATTACHMENT A (Addendum 1)
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: WSCA Standard Terms and Conditions
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, and regulations applicable to the goods and/or services authorized by this contract.
b. Utah State Procurement Code, Procurement Rules, RFP LW1907, and CONTRACTOR'S proposal response to RFP LW1907 dated 07-17-01.

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

CONTRACTOR

STATE OF UTAH

Signature on file
Contractor's signature

Signature on file
Douglas G. Richins
Director, Division of Purchasing

Type or Print Name and Title

Date

Date

ADDENDUM 1

This Addendum serves to clarify terms and conditions of the contract between the State of Utah, referred to as STATE, and 3Com Corporation, 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: N/A
Switches: 3Com
LAN/WAN Wireless: 3Com
CSU/DSU: N/A

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 (Exhibit 1 lists the remittance addresses).

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. Addendum 1
2. WSCA Terms and Conditions
3. Contractor's Proposal Response to RFP LW1907
4. RFP LW1907

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 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 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.

E. Any additional changes listed by the Contractor in the Response to the RFP will be null and void.

8. Revisions to Contractor's Response to the RFP

Note: The changes below may be listed in multiple locations throughout the response. The changes will apply to all instances of similar terms.

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.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, 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.

9. State of Utah Only Requirement

Attachment C from the RFP will apply to the State of Utah only. This term is as follows:

E-PROCUREMENT: The State of Utah has awarded an e-procurement system contract that has a transaction fee of 1% per order with a ceiling of \$500 for any one order of products/services. There are expected cost savings to the Contractors with implementation of the system. The successful vendor must agree to terms as described in the following subparagraphs:

a. The Contractor must agree to integrate its catalog of products/services into the e-procurement system. Once implemented, the Contractor must pay the transaction fees for orders placed against the contract. In the event, the Contractor fails to make payments, the State may: (i) eliminate the Contractor from the system in accordance with an escalation and review process developed by the State and its e-

procurement vendor and (ii) terminate the State contract and award the contract to the next acceptable bidder.

b. At the time that the Contractor will be required to offer products/services through the e-procurement system, the State will negotiate an equitable adjustment in unit prices to account for the expected supplier fees on orders placed on the system. The State will negotiate a single pricing structure for contract purchases and (i) prohibit discounting off-system purchases or otherwise offering discriminatory pricing or preferences for orders placed off-system; and (ii) require the Contractor to manually track and report the ordering volume of off-system purchases of supplies/services.

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 and/or authorized resellers.

2. Serving 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 tenth of one percent (.10%) 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.

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 guaranteed for two years.

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 may result in contract termination for cause.

1. Discounts of Manufacturers Price List

a. Pricing Discounts

(From 3Com Bid, Price Proposal Section, Page 1)

3Com's WSCA Contract pricing is based on discounts off List Price. The discount percentages vary by 3Com Product Category. 3Com's LAN Telephony products are being offered as a sub-category with a separate discount schedule. A separate discount percentage is also being offered for 3Com Starter Kits. Details are provided below.

<u>Discount Category</u>	<u>WSCA Discount</u>
B	41%
D	10%
E	0%
F	30%
G	40%
J	40%
 <u>LAN Telephony</u>	
F	0%
G	13%
J	4%
 <u>Starter Kits</u>	
J	35%

3Com is offering WSCA a 15% discount off List Price for Express and Guardian Service.

b. Discount Structures Based on Volume (per order or progressive cumulative volume)

Not Applicable.

c. WSCA Member-State coverage

3Com provides coverage in all of the WSCA Member States through a select group of authorized reseller partners. A list of these resellers is included in Exhibit 1. Procuring Agencies may purchase 3Com products and services through one of the local resellers listed for their State or through a direct marketing reseller which provide nationwide coverage through inside sales teams dedicated to the government and education market.

Optional on-site services, provided by 3Com-certified field technicians, are available nationwide. To check geographic availability of 4-hour Express and all Guardian service options, visit <http://webtrack.mw.3com.com/ziploc/final.html>.

2. **Resolution of Customer Problems**
(From 3Com Bid, Product and Services Delivery Section, Page 8)

How to engage 3Com Customer Service and Support:

- **Knowledgebase:** Web based technical support solutions database that can answer many technical issues is located at the 3Com Web page <http://www.3com.com>, select service and support, under Quick Links on the menu select 3Com Knowledgebase .

- **To open a case with our Global Response Center (GRC):**

For non-contracted customers: (Mon.-Fri. 6am to 5pm PST) Call 3Com Technical Support at 1-800-876-3266. Select the Menu option for Technical Support. Then the next Menu option for the particular product you are calling for support on.

For contracted customers: call 1-800-876-3266 and follow the instructions in your contract.

- **To expedite the call you must have:**

- A. Your contract number (Required for contracted customers)
- B. Description of problem
- C. Product software version and 3Com part numbers
- D. Complete error messages (if available)

- You will be issued a case number with a severity level and will normally speak directly with an engineer. If you do not talk to an engineer upon placing the call, you should receive a callback within 1 hour.

3. **Escalation Procedures**
(From 3Com Bid, Product and Services Delivery Section, Page 9)

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 be connected to the Duty Manager.
2. Area Operations Coordinator (ROS) - call 800-876-3266 and ask to page the AOC.
3. Area Service Manager (RSM) - call 800-876-3266 and ask to page the ASM.

4. **Technical Services** (Equipment Warranty, Installation, Training, Maintenance Options, Replacement Parts)
(From 3Com Bid, Product and Services Delivery Section, Page 3)

Warranty

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, 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 shown in the chart below.

(3Com Warranty Options Chart as of April 2002)

WARRANTY	Option A	Option B	Option C	Option D
Hardware Repair/Replace Includes Power Supply and Fan 30 days from receipt to shipment	Lifetime*	Lifetime*	2 Years	1 Year
OTHER SERVICES INCLUDED				
Hardware Replacement	Lifetime*	No	No	No
	10 Day Return To Factory Replacement**			
Phone Support	90 Days comprehensive, remainder of one year, failed hw support only	90 Days	No	90 Days
	No Committed Response time	Next Business Day Call Back		Next Business Day Call Back
Software Updates All Upgrades	Lifetime***	Lifetime	No	90 Days
Products	SuperStack Family, Baseline Hubs, 3NS	OfficeConnect Hubs, Switches, Modems, Routers	NBX Voice and LAN PBX	Switch 4007,4005, 40xx, AirConnect Wireless

* Lifetime for as long as the original Customer owns the product, or for 5 years after product discontinuance, whichever occurs first

** Product shipped to customer or customs within 6 days of receipt of the failed unit at 3Com. The 10 day cycle assumes the customer returned the failed unit to 3Com within 4 days and we shipped within 6 days.

***All software upgrades or as long as the original Customer owns the product until the product is discontinued by 3Com.

Maintenance Options

(From 3Com Bid, Product and Services Delivery Section, Page 3)

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 8 or 4 hours
- ◆ 24x7 coverage option in many locations worldwide
- ◆ On-site fault resolution
- ◆ Hardware replacement
- ◆ 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
- ◆ 8- and 4-hour hardware replacement options available
- ◆ 24x7 hours of coverage option available in many areas worldwide
- ◆ Latest software updates

Service Contract Cost Information

(3Com Service Pricing Table as of March 7, 2002. Discount percentage specified in the 3Com Bid, Product and Services Delivery Section, Page 4)

3Com is offering WSCA a 15% discount off Service List Price. To determine the service part number and list price, find the list price of the product you want to cover with service in the first column below. Scroll across the row to the desired service response level. There is a one-to-one relationship between the product part number and the corresponding service part number. For example, if you purchase a quantity of five of a product, purchase a quantity of five of the service part number that corresponds to the list price of the product.

3Com Guardian Service Pricing Table

3Com Product List Price	Service Category	3-Year Guardian 24x7xNext Business Day	1-Year Guardian 24x7xNext Business Day	1-Year Guardian 24x7x4 Hours	1-Year Guardian 8x5xNext Business Day
		Service Part No. Service List Price			
\$1- \$500	1	3CS-3YR-G-01E \$115	3CS-GA7N-01E \$80	3CS-GA74-01E \$90	3CS-GAR-01E \$70
\$501-\$700	2	3CS-3YR-G-02E \$270	3CS-GA7N-02E \$115	3CS-GA74-02E \$130	3CS-GAR-02E \$90
\$701- \$1000	3	3CS-3YR-G-03E \$385	3CS-GA7N-03E \$160	3CS-GA74-03E \$190	3CS-GAR-03E \$130
\$1001- \$1400	4	3CS-3YR-G-04E \$540	3CS-GA7N-04E \$225	3CS-GA74-04E \$265	3CS-GAR-04E \$180
\$1401- \$1900	5	3CS-3YR-G-05E \$745	3CS-GA7N-05E \$310	3CS-GA74-05E \$365	3CS-GAR-05E \$250
\$1901- \$2500	6	3CS-3YR-G-06E \$990	3CS-GA7N-06E \$420	3CS-GA74-06E \$490	3CS-GAR-06E \$335
\$2501- \$3200	7	3CS-3YR-G-07E \$1285	3CS-GA7N-07E \$540	3CS-GA74-07E \$635	3CS-GAR-07E \$435
\$3201- \$4000	8	3CS-3YR-G-08E \$1620	3CS-GA7N-08E \$680	3CS-GA74-08E \$800	3CS-GAR-08E \$545
\$4001- \$5000	9	3CS-3YR-G-09E \$2025	3CS-GA7N-09E \$850	3CS-GA74-09E \$995	3CS-GAR-09E \$680
\$5001- \$6300	10	3CS-3YR-G-10E \$2545	3CS-GA7N-10E \$1065	3CS-GA74-10E \$1250	3CS-GAR-10E \$855
\$6301- \$7800	11	3CS-3YR-G-11E \$3175	3CS-GA7N-11E \$1330	3CS-GA74-11E \$1555	3CS-GAR-11E \$1065
\$7801- \$9700	12	3CS-3YR-G-12E \$3940	3CS-GA7N-12E \$1650	3CS-GA74-12E \$1935	3CS-GAR-12E \$1325
\$9701- \$12,200	13	3CS-3YR-G-13E \$4930	3CS-GA7N-13E \$2065	3CS-GA74-13E \$2420	3CS-GAR-13E \$1655
\$12,201- 15,700	14	3CS-3YR-G-14E \$6280	3CS-GA7N-14E \$2630	3CS-GA74-14E \$3085	3CS-GAR-14E \$2115
\$15,701- 19,800	15	3CS-3YR-G-15E \$7990	3CS-GA7N-15E \$3345	3CS-GA74-15E \$3920	3CS-GAR-15E \$2680
\$19,801- 23,900	16	3CS-3YR-G-16E \$9835	3CS-GA7N-16E \$4115	3CS-GA74-16E \$4825	3CS-GAR-16E \$3295
\$23,901- 28,000	17	3CS-3YR-G-17E \$11,680	3CS-GA7N-17E \$4880	3CS-GA74-17E \$5725	3CS-GAR-17E \$3910
\$28,001- 32,100	18	3CS-3YR-G-18E \$13,525	3CS-GA7N-18E \$5655	3CS-GA74-18E \$6630	3CS-GAR-18E \$4530
\$32,101- 36,200	19	3CS-3YR-G-19E \$15,370	3CS-GA7N-19E \$6425	3CS-GA74-19E \$7535	3CS-GAR-19E \$5145
\$36,201- +	20	3CS-3YR-G-20E \$17,215	3CS-GA7N-20E \$7195	3CS-GA74-20E \$8435	3CS-GAR-20E \$5760

Prices are subject to change at 3Com's discretion.

3Com Express Service Pricing Table

3Com Product List Price	Service Category	3-Year Express 24x7xNext Business Day	1-Year Express 24x7xNext Business Day	1-Year Express 24x7x4 Hours	1-Year Express 8x5xNext Business Day
		Service Part No. Service List Price			
\$1- \$500	1	3CS-3YR-E-01E \$50	3CS-EX7N-01E \$50	3CS-EX74-01E \$70	3CS-EXP-01E \$40
\$501-\$700	2	3CS-3YR-E-02E \$120	3CS-EX7N-02E \$60	3CS-EX74-02E \$75	3CS-EXP-02E \$45
\$701- \$1000	3	3CS-3YR-E-03E \$170	3CS-EX7N-03E \$80	3CS-EX74-03E \$100	3CS-EXP-03E \$60
\$1001- \$1400	4	3CS-3YR-E-04E \$240	3CS-EX7N-04E \$115	3CS-EX74-04E \$145	3CS-EXP-04E \$85
\$1401- \$1900	5	3CS-3YR-E-05E \$330	3CS-EX7N-05E \$160	3CS-EX74-05E \$200	3CS-EXP-05E \$115
\$1901- \$2500	6	3CS-3YR-E-06E \$440	3CS-EX7N-06E \$215	3CS-EX74-06E \$270	3CS-EXP-06E \$160
\$2501- \$3200	7	3CS-3YR-E-07E \$570	3CS-EX7N-07E \$275	3CS-EX74-07E \$350	3CS-EXP-07E \$205
\$3201- \$4000	8	3CS-3YR-E-08E \$720	3CS-EX7N-08E \$345	3CS-EX74-08E \$440	3CS-EXP-08E \$255
\$4001- \$5000	9	3CS-3YR-E-09E \$900	3CS-EX7N-09E \$435	3CS-EX74-09E \$545	3CS-EXP-09E \$320
\$5001- \$6300	10	3CS-3YR-E-10E \$1130	3CS-EX7N-10E \$545	3CS-EX74-10E \$685	3CS-EXP-10E \$405
\$6301- \$7800	11	3CS-3YR-E-11E \$1410	3CS-EX7N-11E \$675	3CS-EX74-11E \$850	3CS-EXP-11E \$500
\$7801- \$9700	12	3CS-3YR-E-12E \$1750	3CS-EX7N-12E \$840	3CS-EX74-12E \$1060	3CS-EXP-12E \$625
\$9701- \$12,200	13	3CS-3YR-E-13E \$2190	3CS-EX7N-13E \$1050	3CS-EX74-13E \$1325	3CS-EXP-13E \$780
\$12,201- 15,700	14	3CS-3YR-E-14E \$2790	3CS-EX7N-14E \$1340	3CS-EX74-14E \$1690	3CS-EXP-14E \$995
\$15,701- 19,800	15	3CS-3YR-E-15E \$3550	3CS-EX7N-15E \$1705	3CS-EX74-15E \$2145	3CS-EXP-15E \$1260
\$19,801- 23,900	16	3CS-3YR-E-16E \$4370	3CS-EX7N-16E \$2090	3CS-EX74-16E \$2635	3CS-EXP-16E \$1545
\$23,901- 28,000	17	3CS-3YR-E-17E \$5190	3CS-EX7N-17E \$2480	3CS-EX74-17E \$3130	3CS-EXP-17E \$1835
\$28,001- 32,100	18	3CS-3YR-E-18E \$6010	3CS-EX7N-18E \$2880	3CS-EX74-18E \$3630	3CS-EXP-18E \$2125
\$32,101- 36,200	19	3CS-3YR-E-19E \$6830	3CS-EX7N-19E \$3265	3CS-EX74-19E \$4120	3CS-EXP-19E \$3310
\$36,201- +	20	3CS-3YR-E-20E \$7650	3CS-EX7N-20E \$3655	3CS-EX74-20E \$4610	3CS-EXP-20E \$2700

Prices are subject to change at 3Com's discretion.

Installation Services

(Installation terms from 3Com Bid, Product and Services Delivery Section, Pages 4 and 5.)

3Com Basic Network 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.

NBX System Installation

3Com NBX Installation consists of the following services:

Use Standard Installation for the Basic System.

Standard 3Com NBX System Installation service provides the basic installation requirements for all NBX product systems and includes the installation of up to quantity 10 NBX telephones. The engineer begins with a pre-installation plan. Hardware and software is configured for optimal performance. On-site and administrative training on the NBX system is also provided.

Add Expanded Installation for Advanced Products.

Expanded NBX System Installation service supplements Standard NBX Installation for advanced systems that include the T1 Digital Line Card, Analog Terminal Card, Analog Terminal Adapter and the optional NBX software.

Value Added Services

(From 3Com Bid, Product and Services Delivery Section, Page 6)

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

Installation and Value Added Professional Service Pricing

NBX Installation is as described above. Installation for other products and the Value Added Services described above are available under the 4 hour On-Site Engineer offering.

<u>3Com Service Part #</u>	<u>Description</u>	<u>Price</u>
3CS-Engr4hrs-8x5E	4 Hours On-Site Engineer (Normal Business Hours)	\$900
3CS-Engr4hrs-24x7E	4 Hours On-Site Engineer (24x7 - Including evenings/weekends)	\$1,350
3CS-INS-NBX-01E	Standard NBX System Installation	\$3,199
3CS-INS-NBX-02E	Expanded NBX Installation Add-on	\$1,425
3CS-INS-NBX-04E	SuperStack 3 NBX Installation	\$4,624
3CS-INS-NBX-03E	Per Phone Add-on Installation	\$50
3CS-NBXR-E-E*	NBX Remote Service	\$50 per Phone

* 30 Phone Minimum. Offered only with Guardian or Express Service.

3Com is offering WSCA a 15% discount off NBX Installation List Price.

3Com Installation Pricing Terms

Hardware installation pricing assumes that cabling, connectors, and racks are already in place.

Zone charges will apply for sites farther than 75 miles from the nearest 3Com service location and will apply to each visit required for installation:

Distance (Miles)	Charge
0-75	no charge
76-100	\$120
101-150	\$240
151-200	\$360
201-300	Quote

3Com Authorized WSCA Reseller On-site Installation and Integration Pricing

<u>Part #</u>	<u>Description</u>	<u>Price</u>
VAR-SERVICE-1*	3COM WSCA Reseller Service Level 1	\$300
VAR-SERVICE-2*	3COM WSCA Reseller Service Level 2	\$500
VAR-SERVICE-3*	3COM WSCA Reseller Service Level 3	\$1,000
VAR-SERVICE-4*	3COM WSCA Reseller Service Level 4	\$2,500

* The scope of the service provided is determined by the 3Com WSCA Reseller.

Training

(From 3Com Bid, Product and Services Delivery Section, Page 7)

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://snemsweb.3com.com/ecampus>

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 on the following web site:

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. Contact your 3Com Account Representative for more details.

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.

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

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 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 an 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

Exhibit 1
3Com WSCA Data Communications Contract Authorized Reseller List

[\[Link to Exhibit 1\]](#)