

Board of Trustees Agenda Item

Board Meeting Date: November 1, 2010

Title of Item:

Authorization to Enter into a Contract for Network Equipment Maintenance and Support with Alcatel-Lucent

Background and Analysis:

On December 7, 2009 the board of trustees authorized a 12-month network equipment maintenance and support contract with Alcatel USA Marketing, Inc. (hereinafter referred to as "Alcatel"). The District's current contract with Alcatel expires on December 31, 2010.

The attached Alcatel-Lucent quote of \$99,330.00 provides network equipment maintenance and support for a period of twelve (12) months January 1, 2011 through December 31, 2011 for the OS7800 and OS7700 devices and six (6) months, January 1, 2011 through June 30, 2011 for Omni-9 and OS/R-9 devices. The pricing is based upon Western States Contracting Alliance (WSCA) contract AR-1466. WSCA is a contracting consortium for state government departments, institutions, agencies and political subdivisions in the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. The State of Utah awarded a contract for Alcatel maintenance services on behalf of WSCA on June 1, 2007. The WSCA contract is currently valid through May 31, 2012. A copy of the current WSCA-Alcatel contract and extension is attached as back up.

In accordance with the California Public Contract Code (PCC) Section 20651(a) through (d), only the governing board may authorize award of purchase orders that exceed \$78,500.00, and the board must award the orders to the lowest responsible bidder or reject all bids. However, in lieu of conducting a bid process, Public Contract Code (PCC) section 20652 provides that community college districts may utilize contracts that have been awarded by other public entities.

Given that Alcatel maintenance and support services are only available directly from Alcatel, if the District were to conduct a separate bid rather than using the WSCA contract, the sole qualified bidder would be Alcatel. A bid based only upon the District's current maintenance and support service requirements would be unlikely to result in lower prices than those available through the WSCA contract. WSCA contract pricing is based upon the combined volume of several states and their political subdivisions.

The Educational Technology Services (ETS) department is currently working with the District's Purchasing Services department to finalize an Invitation to Bid for equipment to replace the existing Alcatel equipment during 2011. Meanwhile, there is a need to continue network maintenance and support of the existing Alcatel equipment. The cost of the maintenance agreement has been reduced from the previous year due to some of the devices reaching vendor 'end of life' support and quantities being reduced based on the planned phased installation of replacement equipment in 2011.

The Vice Chancellor of Technology and Chief Technology Officer, Fred Sherman, and the Purchasing Services Director, Carmen Redmond, recommend approval of entering into a 6-month maintenance and service agreement with Alcatel-Lucent based upon the WSCA contract, pursuant to PCC section 20652.

Recommendation:

Authorize Purchasing Services Director, Carmen Redmond, to issue a purchase order not to exceed the amount of \$99,330.00 to Alcatel-Lucent in accordance with WSCA contract AR-1466 and the associated contract extension by Alcatel-Lucent and WSCA.

Submitted by:	Sharon Luciw, Director of Systems & Networks
Additional contact names:	Fred Sherman, Carmen Redmond
Is backup provided?	Yes

Service and Support Price Quotation ("SSPQ") prepared for:

FOOTHILL-DE ANZA COMMUNITY COLLEGE

Reference: WSCA AR-1466

Sales Rep: Andi Sherlock

Phone: 818-878-4884

Fax: 818-871-5949

Email: andi.sherlock@alcatel-lucent.com

TM: Marc Baker

SA#/Support ID: CS-10881-1

Date: 01-Oct-10



Alcatel-Lucent

Support Term Dates: 1/1/11 - 12/31/11

OMNI-9S & OS/R-9 PRO RATED FOR 6 MONTHS DUE TO END OF SUPPORT

All Pricing is in U.S. Dollars

Product	Description	List Price	Months	Qty	Unit Cost	Extension
Section 2: Worldwide Services						
801588-00	1 year 7x24 support PLUS for OS7800	\$3,805.00	12	8	\$3,805.00	\$30,440.00
801592-00	1 year 7x24 support PLUS for OS7700	\$2,735.00	12	2	\$2,735.00	\$5,470.00
801058-00	1 year 7x24 support BASIC for Omni-9 Term Dates: 1/1/2011 to 6/30/2011	\$4,200.00	6	29	\$2,100.00	\$60,900.00
801057-00	1 year 7x24 support BASIC for OS/R-9 Term Dates: 1/1/2011 to 6/30/2011	\$5,040.00	6	1	\$2,520.00	\$2,520.00

WORLDWIDE SERVICES SUBTOTAL: \$99,330.00

Service Sales Rep: **Andi Sherlock, Service & Support Sales Manager**

GRAND TOTAL: \$99,330.00

FAX P.O. TO: 818 871 5949 26801 West Agoura Road, Calabasas, CA 91301

EXPORT: The Parties acknowledge that Products, Licensed Materials and Confidential Information provided pursuant to this Service and Support Price Quotation ("SSPQ") may be subject to the export laws and regulations of the United States and/or other countries (cumulatively, "Export Laws"). Customer agrees that it will not use, distribute, export, re-export, transfer, or transmit Products, Licensed Materials or Confidential Information (even if incorporated into other items) in violation of the Export Laws. If requested by ALU, Customer also agrees to sign written assurances and other export-related documents as may be required for ALU to comply with the Export Laws.

QUOTE VALIDITY: The prices and terms of this SSPQ are not subject to change unless approved in writing by Alcatel-Lucent USA, Inc. This SSPQ is valid only for an unconditional order placed within thirty (30) days of its date, calling for delivery within ninety (90) days of the quotation's date. This SSPQ applies to products and services intended for use within the United States, unless otherwise specifically stated.

TERMS AND CONDITIONS: Customer acknowledges and agrees that acceptance of this quotation and its issuance of a confirmatory purchase order constitutes acceptance of and agreement with the terms and conditions stated here. A separate written agreement may have been previously entered by and between the parties governing the purchase of products and/or services (Separate Agreement). In this case, the Separate Agreement shall supersede, govern and control and replace all non-conflicting terms and conditions contained or referenced in this SSPQ. Absent such Separate Agreement, Alcatel-Lucent USA, Inc. General Terms and conditions shall prevail. A copy of these terms and conditions are available upon request and may be viewed at www.alcatel-lucent.com. Typographical and other errors are subject to correction. Alcatel-Lucent RTS Advantage Service ("RTS-A") ordered hereunder will be provided in accordance with Alcatel-Lucent's applicable Statement of Work (SOW) for such services (See <http://enterprise.alcatel-lucent.com/?dept=TrainingandSupport&page=homepage>). Terms that may appear on Purchaser's order which are different from or inconsistent with those stated herein are hereby rejected. NO OTHER TERMS AND CONDITIONS APPLY

STATE OF UTAH - STATE COOPERATIVE CONTRACT

CONTRACT NUMBER AR-1466

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**:

Alcatel USA Marketing Inc.

Name		
<u>3400 Plano Parkway Mail Stop SS01</u>		
Address		
<u>Plano</u>	<u>TX</u>	<u>75075</u>
City	State	Zip

LEGAL STATUS OF CONTRACTOR

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

Contact Person: Dan Holden Phone #509-879-8694 Fax # 509-466-2662 Email Dan.Holden@alcatel.com
Federal Tax ID# 75-2016914 Vendor #94826A Commodity Code #20464, 20623 & 20621

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** Discounts
PAYMENT TERMS: Net 30
DAYS REQUIRED FOR DELIVERY: Varies by Product Line
MINIMUM ORDER: None
FREIGHT TERMS: F.O.B. Destination - Freight Prepaid

5. **ATTACHMENT A:** Addendum 1 and Exhibit A
ATTACHMENT B-1: WSCA Terms and Conditions
ATTACHMENT B-2: Changes to WSCA Terms and Conditions
ATTACHMENT C: N/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

John Garcia June 1, 2007
Contractor's Signature Date

John Garcia, Director of Contracts
Type or Print Name and Title

STATE OF UTAH

Douglas G. Richins 6-7-07
Director, Div. of Purchasing & General Svs. Date

Attachment B-1: WSCA Terms and Conditions

Standard Contract Terms and Conditions

Western States Contracting Alliance

Request for Proposal

Note: For the contract with Alcatel and the State of Utah, changes have been made to the following terms: 13, 21, and 26. The changes are listed in Attachment B-2.

1. PARTICIPANTS: The Western States Contracting Alliance (herein WSCA) is a cooperative group contracting consortium for state government departments, institutions, agencies 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 award(s) will be permissive.

2. QUALITY ESTIMATES: WSCA does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for the purposes of submitting proposals only and are not to be construed as a guarantee to purchase any amount.

3. 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 RFP states "No substitute". Proposals 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.

4. ACCEPTANCE OR REJECTION OF PROPOSALS: WSCA reserves the right to accept or reject any or all proposals or parts of proposals, and to waive informalities therein.

5. SAMPLES: Generally, when required, samples will be specifically requested in the Request for Proposals. Samples, when required, are to be furnished free of charge *based on agreement from both parties*. Except for those samples destroyed or mutilated in testing, samples will be returned at a offeror's request, transportation collect.

6. 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.

7. TAXES: Proposal 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.

8. MODIFICATION OR WITHDRAWAL OF PROPOSALS: Proposals may be modified or withdrawn prior to the time set for the opening of proposals. After the time set for the opening of proposals no proposal may be modified or withdrawn, unless done in response to a request for a "Best and Final Offer" from WSCA.

9. PATENTS, COPYRIGHTS, ETC.: The Contractor shall release, indemnify and hold the Buyer, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

10. AWARD: WSCA may award multiple contracts as the result of this solicitation. Awards shall be made to the responsible offeror(s) whose proposal is determined to be the most advantageous to WSCA, taking into consideration price and the other evaluation factors set forth in the RFP.

11. 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 Request for Proposal, designed to limit independent bidding or competition.

12. CANCELLATION: Unless otherwise stated in the special terms and conditions, any contract entered into as a result of this bid may be canceled by either party upon 60 days notice, in writing, prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the special terms and conditions of this solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and 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. Cancellation of the contract due to Contractor default may be immediate.

13. DEFAULT AND REMEDIES: Any of the following events shall constitute cause for WSCA to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract WSCA shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, WSCA may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend contractor from receiving future proposal solicitations.

14. 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.

15. CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions which follow; the special terms and conditions shall govern.

16. REPORTS: The contractor shall submit quarterly reports to the WSCA Contract Administrator showing the quantities and dollar volume of purchases by each agency.

17. HOLD HARMLESS: The contractor shall release, protect, indemnify and hold WSCA and the respective states and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, his employees or subcontractors or volunteers.

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

19. GOVERNING LAW: This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the state sponsoring and administering the procurement. The construction and effect of any Participating Addendum or order against the contract(s) shall be governed by and construed in accordance with the laws of the Participating Entity's State. Venue for any claim, dispute or action concerning an order placed against the contract(s) or the effect of an Participating Addendum shall be in the Purchasing Entity's State.

20. 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 (*within 21 days after delivery for external damage and 30 days for any concealed damage*) when responsibility shall pass to the Buyer 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.

21. WARRANTY: As used herein "Buyer" refers to any WSCA state agency or political subdivision. The contractor acknowledges that the Uniform Commercial Code applies to this contract. In general, the contractor warrants that: (a) the product will do what the salesperson said it would do, (b) the product will live up to all specific claims that the manufacturer makes in their advertisements, (c) the product will be suitable for the ordinary purposes for which such product is used, (d) the product will be suitable for any *special purposes* that the Buyer has relied on the contractor's skill or judgment to consider.

22. 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 WSCA Contract Administrator.

23. 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 WSCA Contract Administrator.

24. 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 very subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

25. 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.

26. INSPECTIONS: Goods furnished under this contract shall be subject to inspection and test by the Buyer at times and places determined by the Buyer. If the Buyer finds goods furnished to be incomplete or in compliance with proposal specifications, the Buyer 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 Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

27. 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 State or political subdivision "Purchasing Card".

28. 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. WSCA may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

29. 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 user agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

30. 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 proposal opening. Prices must remain firm for the full term of the contract.

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

32. PROPOSAL PREPARATION COSTS: WSCA is not liable for any costs incurred by the offeror in proposal preparation.

33. CONFLICT OF INTEREST: The contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any WSCA participants to any officer or employee of WSCA or participating states to secure favorable treatment with respect to being awarded this contract.

34. INDEPENDENT CONTRACTOR: The contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA or the respective 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.

35. 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.

36. 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.

37. 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.

38. 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. *The scope of audits would be within the context of the contract.* Such access will be during normal business hours, or by appointment.

Revision date: September 14, 2006

Attachment B-2 Changes to WSCA Terms and Conditions

The State of Utah ("State" or "Customer") and Alcatel USA Marketing, Inc. ("Alcatel" 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. Add the following language to the end of section B of Term 13, "Default and Remedies":

"The opportunity to cure mentioned in this paragraph shall be 15 days from receipt of notice of default."

B. Add the following language to section C of Term 13, "Default and Remedies":

"The amount of the liquidated damages, if any, must be agreed upon in writing by the parties to the contract."

C. Add the following language to the end of Term 21, "Warranty":

"Notwithstanding the foregoing, Contractor's Warranty disclaimers contained in sections 13 and 14 of Contractor's General Terms and Conditions of Sale, as revised in Exhibit A of this Attachment, shall apply to this contract."

D. The following changes will be made to Term 26, "Inspections Provision":

Replace the first, second, and third sentences of the section with the following:

"Goods furnished under this contract shall be subject to inspection and test by the Purchasing Entity at times and places as determined by the Purchasing Entity and agreed to by Contractor, such agreement not to be unreasonably withheld. If the goods furnished are incomplete or not in compliance with proposal specifications, the Purchasing Entity may reject the goods in accordance with the Warranty provisions and return policies contained in this Contract. If Contractor is unable or refuses to correct such goods within the Warranty provisions and return policies contained in this Contract, the Purchasing Entity may cancel the order in whole or in part."

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 Alcatel USA Marketing, Inc., 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: Alcatel
Switches: Alcatel
LAN/WAN Wireless: Alcatel
CSU/DSU: Alcatel
Security: Alcatel
Telephony: Alcatel
Network Management Software: Alcatel
Optical Transport: Alcatel
Training and Maintenance for Above Products: Alcatel

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

P.O. Box 911476
Dallas, TX 75391

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 Contractor's General Terms and Conditions of Sales are modified as shown in Exhibit A of this Attachment.

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. 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 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.

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 contract.

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.

[Note: The following is an outline of information to be included in this section.]

1. Discounts of Manufacturers Price List
 - a. Pricing Discounts

OmniAccess 4000, 5000, 6000	30% off list
OmniStack 6200	47% off list
OmniSwitch 6000,7000, 9000	43% off list
OmniPCX 4400	42% off list
7250 Routers	25% off list
7450, 7750 Routers	40% off list
5620 Management Platform	30% off list
DMX 1000	70% off list
Brick Firewall and VPN	0% off list
Vital Suite Software	50% off list

2. Resolution of Customer Problems

3. Support Services:

- 4.

Alcatel field engineering support is provided in all WSCA member states. The Field Manager contact information is as follows:

*Joseph Muhitch
Manager, North America Services
Alcatel ESD/NIBU
949 William Penn Court
Pittsburgh, PA 15221
412-243-6291 (office)
412-243-7291 (fax)
412-527-1616 (mobile)
joseph.muhitch@alcatel.com*

Support programs available from Alcatel include the following levels of service. Please note the highlighted "Service Availability" bullet under each program level.

▼ ***SUPPORTplus Program***

SUPPORTplus customers have access to our technical response center 7 days a week, 24 hours a day, with no restriction on the number or qualification of the customer's personnel eligible to place telephone calls to report product-related questions or problems. Customers under SUPPORTplus service shall have priority over callers requesting technical support under standard warranty. Total hold time before speaking directly to a support engineer currently averages less than one minute. North American technical response centers are in and Los Angeles, CA.

- *Service Availability: All US locations.*
- *7 x 24 remote diagnostics: SUPPORTplus customers will receive TELNET and dial-in assistance from certified AIS support engineers. Remote access allows one of our technical experts to perform "in-box" diagnostics 24 hours a day. Real-time access to configuration parameters, hardware and software revision levels, and port statistics will allow our network engineer to quickly resolve technical issues.*
- *Web services: Obtain an e-service login and access the contracted customer service Web page. Web services include: access to your own and your companies support cases, return material authorizations, on-line problem escalation, known-problem reports, release notes, troubleshooting guides, and software.*
- *Software updates: Regular software updates protect your company's equipment investment and maximize the effectiveness of your hardware. This program provides software updates including monthly maintenance releases, patch releases, and enhancements.*
- *Advanced hardware replacement: We will ship a replacement hardware component to the site designated by the customer for arrival on the next business day. Alcatel even pays for return shipping.*

▼ ***SUPPORTbasic Program***

The SUPPORTbasic service program includes access to 7 x 24 technical support, 7 x 24 remote diagnostics, web access, repair and return of hardware within 10 business days from time of receipt, and the software updates features of SUPPORTplus. For products that carry a Limited Lifetime warranty, advanced replacement is provided within 5 business days of date of request.

- *Service Availability: All US locations.*

▼ ***SUPPORTtotal Program***

SUPPORTtotal is an annual maintenance program with all the features of SUPPORTplus as well as 4- hour on-site replacement of network hardware components (passive chassis excluded). Seven days a week, 24 hours a day, Alcatel will dispatch a certified service engineer to arrive on site within four hours of diagnosis.

- *Service Availability: Most US locations – please contact for availability in a specific area.*

In order to best serve all procuring agencies purchasing off the WSCA contract and provide the widest possible range of support availability, Alcatel can partner with the following resellers to provide local service.

IBM:

Last	First	Title	Phone	Email	Address	Coverage
Jones	Gerlene	Global Technology Services West Public Sector Principal	602-217-2887	gjones@us.ibm.com	2929 N Central Ave, Phoenix AZ, 85012-2727	
Henderson	Greg	Sales, Public Sector Western Region Principal	602-614-5179	greghen@us.ibm.com	2929 N Central Ave, Phoenix AZ, 85012-2727	ID, MT, NV, UT
Bentley	Vic	Global Technology Services Cluster Leader, Texas Public Sector	972-280-1040	vbentley@us.ibm.com	1503 LBJ Freeway, Dallas TX, 75234-6059	AZ, CO, NM, W
St. Onge	Thomas	Global Technology Services Public Sector Principal	206-686-4397	stonget@us.ibm.com	1200 5th Ave, Seattle WA, 98101-3132	TX
Lawler	Kevin	Global Technology Services Public Sector Specialist	858-587-5019	lawlerke@us.ibm.com	11047 Cloverhurst Way, San Diego CA, 92130	WA, OR
Jim	Cannon	Global Technology Services Public Sector Sales Specialist	816-556-6074	cannonja@us.ibm.com	2345 Grand, Kansas City MO, 64108	HI
						KS, MO

Power Engineers:

Last	First	Title	Phone	Email	Address	Coverage
Gould	Rod	Area Director	208-685-6249	rgould@powereng.com	1295 S. Eagle Flight Way, Boise ID, 83709	NE,KS,MN,IA,IL WS,MI,IN,OH, KY
Ruwet	Stu	Area Director	303-716-8936	stu.ruwet@powereng.com	3900 S. Wadsworth Blvd. #700, Lakewood CO 80235	NM,TX,LA,OK,A R,MO
O'Donnell	JP	Area Director	425-941-9429	jp.odonnell@powereng.com	3900 S. Wadsworth Blvd. #700, Lakewood CO 80235	HI, WA, OR, ND SD, AZ, CA, UT, WY, MT, AK, ID NV, CO

Offerors must thoroughly describe their procedures for resolving customer problems and complaints including timelines and escalation measures.

Alcatel Response: Read, understood and comply. Alcatel Professional Services offers superior installation and other support services, and our training offerings can be tailored to meet virtually any technical education requirement, relevant to the products and technology we are proposing, that a member state procuring agency may require.

Professional Services personnel are located in several states, selected for this group more for their ability and experience than location. Regardless of the project, it is understood that they may have to travel, and in fact usually do in the activities related to an assignment. Alcatel is able to offer our full array of Professional Service offerings to any procuring WSCA entity. Please refer to the Product & Services Delivery Map at the end of Section IV.

The engineers that work primarily on data are Alcatel Switch Expert certified and have an extensive background in all areas of data networking. This is a minimum requirement to be a part of Alcatel's Professional Services organization.

Alcatel offers full-service installation of their hardware products at the customer's site. A certified network engineer will assemble, configure, connect, and acceptance test your Alcatel switching equipment to ensure timely and fully functional operation of your new network.

Installation Services include:

- Perform a technical site readiness validation of the premises prior to installation
- Unpack and inventory all Alcatel switching hardware and documentation
- Mount hardware in designated racks
- Install network interface modules
- Connect external hardware necessary for functionality (i.e. modem, DSU/CSU, transceivers, etc.)
- Connect new networking equipment product to the existing network
- Power on all equipment
- Configure IP addresses
- Demonstrate connectivity using the TCP/IP PING command

The Alcatel service team will minimize installation time and unexpected problems by pre-configuring new equipment. Certified network engineers will stage your Alcatel switching equipment in our acceptance testing facility, verify configuration parameters and connectivity, and ultimately deliver a pre-configured and acceptance tested turnkey network.

Configuration and staging services include:

- Inspect all equipment at our acceptance testing facility

- Verify customer order
- Insert and connect system components
- Verify hardware and software revision levels
- Verify hardware operation by performing advanced diagnostics
- Generate configuration file
- Load, boot, and test system software
- Verify connectivity
- Label all cables and provide documentation to reassemble configuration
- Repack equipment for shipment to customer
- Arrange all shipping requirements

Alcatel offers a full suite of professional and support services to assist our customers in designing, implementing, and maintaining the most efficient and trouble-free network possible. Optional services available to Pace University include:

▼ ***Resident engineer services***

Hiring and retaining a certified network professional is a challenge for many information services organizations. Alcatel can help you successfully maintain your new switches by providing a full-time on-site certified network support engineer.

Services on our networking equipment include:

- *preventive maintenance of software and hardware*
- *network troubleshooting*
- *training of customer's technical staff.*

▼ ***Professional services***

There are two categories outlined below Network and Security services. The two categories have a Scoping Session service associated with them. This scoping session is a pre-requisite for any other service in their respective categories.

Network Services

- ***Network Scoping Session***

This service provides the first step for any Professional Service relating to data networks. Our Engineers will determine the scope and nature of work a customer wishes to perform, documents it completely, and produces a plan of how to proceed with the task.

Deliverables include the documentation of the current network as it relates to the project, identification of the customer's goals, and a specific plan to attack the problem and provide a solution.

This service has a fixed price of \$5,000 and includes 3 working days (24) hours of Engineer time. \$2,000 dollars of this price can be credited to follow-on services provided by Alcatel as a part of the same project. Travel within the continental United States is included in this price.

- ***Network Audit (AKA Network Baselineing or Network Measurement)***

This service provides a measurement of the current network's performance. It is intended to be a complete status report to serve as a base-line measurement of performance and as the input needed for growth or service planning.

The activities of the Engineer might include: quick-look at network with network monitoring equipment to find obvious problems and to help characterize network

behavior; installation of monitoring equipment at the customer location for a number of days to gather network statistics.

Customer deliverables consist of an extensive written report that contains the raw network performance statistics over a period of time, a summary of this data, observations of the Engineer and a drawing of the topology that was discovered and monitored. Pricing for this service varies with the project and is determined by the Network Scoping Session. The Network Scoping Service is a prerequisite for this service.

- ***Network Design***

This service is intended to cover a wide range of design activities. It represents any and all issues associated with designing a new capacity or service on an existing or new network. A Scoping Session always precedes it and sometimes a Network Audit is required.

This service requires a clearly stated "Gap" document that identifies the difference between the current network and the desired network that meets the customer's needs. This document is used to generate specific recommendations and an implementation plan.

The deliverables include specific recommendations to reach the customer's goals based on the Gap document and an implementation plan. Pricing for this service varies with the project and is determined by the Network Scoping Session. The Network Scoping Service is a prerequisite for this service. Travel within the continental United States is included in this price.

- ***Advanced Product Configuration and Installation***

This service entails the execution of an implementation plan, often provided by the Network Design Service. This includes Project Management related to this specific Implementation plan.

The tasks might include the configuration, on-site or remote, and installation/validation of Alcatel equipment. This service is focused on IND/Enterprise products. Deliverables include the installed equipment and configuration reports.

Pricing is determined during a Network Design or a Network Scoping Session and is specific to each job. Travel within the continental United States is included in this price.

Security Services

- ***Security Scoping Session***

This service provides Alcatel with the opportunity to collect information specific to the customer's network security needs. This service is intended as the information collection and documentation phase for follow-on security services pertaining to the customer's desired business goals as it relates to network security.

Deliverables include a specific report consolidating the customer's current network security posture and future network security goals. Typical information in the current security posture report includes a technology report focusing on the definition of local and remote user groups, remote access, authentication, firewall

and Internet requirements. Future network security goals often include application needs, issues pertaining to the cost, management, support and security of current systems, estimated budgeting information for future enhancements and desired changes in access points and methodology.

The price for this service is \$5,000 and includes 3 days (24 hours) of Engineer time. \$2,000 of this fee can be applied to future Alcatel services that are related to this service. Travel within the continental United States is included in this price.

- ***Network Security Quick-View***

This service provides an overview of a customer's network security. It is a process of topology and service discovery combined with a test of several security services (i.e. Firewalls). Our minimum technology focus is Firewalls and VPNs.

Deliverables include one or more data security audit reports, and recommendations.

Pricing is based on the number of IP address that is evaluated. An investigation of 1 to 10 IP addresses accessible from a remote Internet connection costs \$3,600. \$1,200 for each additional 10 IP addresses. If the devices to be investigated are not accessible remotely via an Internet connection the charges must be determined in a Security Scoping Session.

- ***Network Security Design***

This service evaluates the current network security posture of a customer, identifies weaknesses, risks, support issues, and produces recommendations to reduce security risks while enabling a customer to provide the desired services and meet current and future business goals.

Deliverables include a specific list of the customer's desired network security policy. It includes an identification of key network security devices as they relate to the customers current and planned services. An overview of the customer's network, remote access methods, services, authentication, firewall and Internet use are often required and included. Pricing for this service varies with the project and is determined by the Security Scoping Session. The Security Scoping Service is a prerequisite for this service.

- ▼ ***Project Management***

Alcatel Professional Services Engineers can provide project management for any customer project. This is to ensure the achievement of project objectives such as: Network functionality, Costs, Risks, Schedule, and Customer Satisfaction. The Program Manager is tasked to form and lead the project implementation team consisting of both Alcatel and Customer representatives.

Deliverables can include a staging of key network elements and features, installation and deployment plan, support and escalation procedures, procedures for customer acceptance and sign-off, and others. Pricing is specific to each job and is usually billed on a time and material basis. There is a minimum price of \$2,400 for one day of service with additional time at \$150 per hour.

- ▼ ***Network monitoring and supervision services***

Alcatel's Customer Network Operations Center (CNOC) provides proactive network supervision and monitoring services to enhance the reliability and efficiency of customer

networks. This service includes the following activities: 24 hr. x 365 day monitoring of network; Supervision of alarm states, traffic load and measurement parameters; a centralized point for fault detection and alarm collection of NMS/EMS messages; analysis of alarm and event messages to prevent potential future failure conditions; determining course of actions based on alarm severity and response requirements; provide quality parameters and analysis reports to operations management.

Pricing will be dependent on size of network and number of nodes to be managed. Final price will be determined by a member of Alcatel's Professional Services team.

▼ ***Customized Training***

As Alcatel has “State of the Art” resources on hand, we will perform this service at the highest level of quality available today. The training will provide an in depth session based on the desired network. This training is NOT to replace any of Alcatel’s predefined training courses (as described in the Routing and Switching sections). This service is designed to train your site administrators/engineers on the Alcatel equipment and its supporting technologies by providing on-site “school-house” level training, teaching advanced troubleshooting techniques based on your network, and reviewing the associated technologies involved with your current network.

As we strive to deliver the highest quality service possible, during the initial kick off meeting, we will review your business goals. This initial review will allow Alcatel to better understand the context of the project and help ensure successful results. Some of the items that will be discussed during this meeting are:

- People involved and resources to be used;
- What will be needed for equipment to give you the best training possible
- Documentation associated with the class
- Class room availability
- Dates of availability for our services.

We will then work together to clearly define business needs and the desired outcome of the training session. Once the actual business needs have been defined, Alcatel will prepare the training material to meet the classroom objectives. Some of the typical materials that may be created are:

- Network Diagrams
- Configuration Worksheets
- Lab Assignments
- Course Workbooks
- Presentations

5. Technical Services (Equipment Warranty, Installation, Training, Maintenance Options, Replacement

Alcatel Response: For Alcatel Internetworking equipment, toll-free technical support is available 24 hours a day, 7 days a week. A maintenance agreement should be purchased for the corresponding products. If no maintenance agreement is purchased, Service Requests can be opened via a fee-based schedule. Please refer to the descriptions of SupportBasic, SupportPlus and SupportTotal for the processes involved in opening a Service Request.

Alcatel Response: Alcatel has an extensive portfolio of support services designed to increase network availability, reduce operational cost, develop Network Operations competencies, and provide valuable tools to manage all parties that play a role in the operation of your network. Alcatel provides its customers with support plans, from basic warranty coverage to complete hands-on technical and network engineering packages as outlined in the Services Overview attached to this RFP response.

Maintenance pricing is determined on the basis of the type and duration of the services requested and will be quoted on an individual request basis. Once desired services are determined and a price proposal generated, Alcatel requires a Purchase Order and a service contract signed by both the customer and Alcatel in order to initiate the requested service.

Alcatel Response: Standard Warranty

Alcatel warrants that, for the applicable warranty period of one (1) year or two (2) years for Equipment (depending on equipment type) and ninety (90) days for Software media, (a) Equipment and Software media shall, under normal use and service, be free from defects in material and workmanship, and (b) Equipment and Software shall materially conform to Alcatel's specifications therefore in effect on the date of shipment. HOWEVER, ALCATEL MAKES NO WARRANTY THAT ANY SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR FREE.

During the initial warranty period, Alcatel will, at no charge, repair or issue a replacement for any defective part or component returned to its manufacturing facility. Alcatel's Repair and Return Facility is accessible to the customer around-the-clock, 24 x 7, 365 days a year. During these hours, the facility accepts R&R requests and provides return information. Requests are processed within the next 8 business hours, 8 am – 5 pm CST, Monday through Friday.

Some of the parts, components and subassemblies that make up the equipment may not be manufactured by Alcatel. For such items, Alcatel agrees in lieu of its warranty obligation described above to pass through to the customer, to the maximum extent possible, the warranty provided by the manufacturer of the part, component or subassembly.

Alcatel shall have no obligation to remedy any defect if it can be shown that:

- the equipment or software was altered, repaired, or reworked by any party other than Alcatel without Alcatel's written consent;
- such defects were the result of the customer's improper storage, mishandling, abuse, or misuse of the equipment or software;
- such defects were the result of the customer's use of the equipment or software in conjunction with equipment electronically or mechanically incompatible or of an inferior quality; or
- the defect was the result of damage by fire, explosion, power failure, or any act of nature.

Alcatel is not obligated to provide on-site maintenance as part of the standard product warranty. If required, this service may be added to the complete Service Level Agreement outside of the definition of Warranty.

Due to the complexity of all software packages and severity of the individual problem, Alcatel cannot provide a definitive time schedule for problem resolution. Alcatel will,

however, make a reasonable effort to resolve problems in accordance with TL 9000 service level targets for Critical, Major and Minor events.

5. 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.

If freight and insurance of repaired Seller's products. All returned products must be in the original, or substantially similar, packaging and container and shall conspicuously bear the RM4 number. Buyer obtains no title to the returned product until it is received by Seller. It is not practical to repair or replace the returned product, the price therefor paid by Buyer will be credited and applied to future purchases. Seller will make available to Buyer spare parts for purchase at prices set forth in Seller's current price list. Upon return of such repaired products, the warranty with respect to such products will continue for the remaining unexpired warranty or sixty (60) days, whichever is later.

Seller will provide Buyer with software bug fixes for products during the first ninety (90) days after product is purchased from Seller. During this period, Seller may offer maintenance releases on new software releases ("Software Releases"). At its sole discretion, to Buyer for software fixes. Outside of the period set forth herein, software fixes shall only be available through Software Releases.

Seller warrants to Buyer that services will be performed in a professional and workmanlike manner.

[illegible]

IN NO EVENT SHALL SELLER BE LIABLE TO THE BUYER FOR ANY INDIRECT, PUNITIVE OR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR RELATED TO THIS AGREEMENT OR THE PRODUCTS OR SERVICES PROVIDED IN CONNECTION HERewith INCLUDING LOSS OF PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE. HOWEVER, SELLER SHALL BE LIABLE TO THE BUYER FOR BREACH OF THIS AGREEMENT, INCLUDING BREACH OF WARRANTY, IN THE EVENT OF SUCH BREACH, EVEN IF THAT PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

15. **Return and Cancellation.** Authorization to return products purchased from Seller must be obtained from Seller prior to any such return. All returned products must be in the original, or substantially similar, packaging and must be accompanied by a copy of the invoice. Seller's sole discretion shall govern whether or not a returned product is resellable. In Seller's sole discretion, credit may be granted with respect to returned products, less a fifteen percent (15%) restocking charge, provided that any returned products must be shipped to Seller in unwrapped boxes, in their original packaging, and in their original condition. Products returned by Buyer within ten (10) days of the date of purchase are subject to a cancellation charge of fifteen percent (15%) of the net value of the confirmed shipment of the order. Products cancelled by Buyer within eleven (11) to thirty (30) days of the net value of the confirmed shipment shall be subject to a cancellation charge of ten percent (10%) of the net value of the confirmed shipment. Products cancelled by Buyer more than thirty (30) days after the date of purchase shall be subject to a cancellation charge of five percent (5%) of the net value of the confirmed shipment. Orders of non-cancelable products, such as special model Longfellow guitars, are not cancellable.

17. **Year 2000 Matters:** Seller warrants to Buyer that the products manufactured by Seller and sold hereunder, to the extent used in accordance with user documentation supplied by Seller, will not improperly generate, record, interpret, exchange or display dates within calendar year 2000, provided no product communicating with Seller's products improperly generates, records, interprets, exchanges or displays such dates. Seller's sole liability and Buyer's exclusive remedy for breach of the above warranty is for Seller, at its sole option, to repair or replace the product. Seller has notified Seller promptly after discovery of a non-conformity, that in no event later than

[illegible]

4. **Taxes:** Prices do not include any tax or other governmental charge or assessment on the sale, shipment, reproduction or use of any products sold to Buyer hereunder. Such taxes and charges, when applicable, may appear as separate additional charges on Seller's invoice. Buyer shall be solely responsible for, and shall pay to Seller upon demand, any such tax, charge or assessment, unless Buyer has furnished to Seller a valid certificate issued by or accountable to the tax authority in question.

4. **Buyer's Materials.** Buyer represents and warrants that any and all materials or other items furnished to Seller on behalf of Buyer to Seller for use in, connection with, or in conjunction with production of Seller's products will be Buyer's exclusive property, free and clear of all third party claims and encumbrances whatsoever. Unless otherwise indicated on Seller's order form, Buyer shall bear all costs of delivering such materials and items to Seller's production facility. Seller shall be liable for any loss, destruction or damage of any such materials or items while in Seller's possession to the extent (but only to the extent) caused solely by Seller's negligence, subject to the limitations on Seller's liability described in Section 14 below.

8. **Packing and Shipment:** Unless preferred packing method is noted on Seller's acknowledgment and/or invoice, all items will be packed for shipment in accordance with Seller's standard practice. Unless otherwise specified on Seller's acknowledgment and/or invoice, Seller will ship by the most appropriate method. Any and all claims by Seller for damage or loss of products in transit shall be made by Seller against the carrier.

10 **Risk of Loss:** All risk of loss or damage to products sold by Seller to Buyer hereunder shall be assumed by Buyer upon delivery of such products to the Buyer's destination.

12. **Software License:** Upon acceptance of and payment for any software and/or documentation shipped to Buyer, Buyer shall be deemed to have accepted and agreed to the terms and conditions hereof. Buyer shall have a worldwide, non-exclusive, non-transferable, nonassignable license to use such software and/or documentation. Buyer may make one (1) copy of the software for back-up and disaster recovery purposes only. The license set forth in this Section 12 shall terminate immediately upon Buyer's discontinuance of the use of the equipment on which the software is installed. Buyer understands and agrees that title to, and all rights of ownership in, any such software and/or documentation shall at all times remain with Seller and relevant third parties.

13. **Warranty:** Seller warrants only to Buyer that its hardware products shall be free from material manufacturing and materials defects under conditions of normal use for a period of twenty-four (24) months from shipment by Seller to Buyer. Seller's products obtained from Seller which do not comply with the above warranty and are returned by Buyer to Seller during the warranty period (as shown by appropriate documentation) will be repaired or replaced at Seller's option, at no cost to Buyer. Buyer will bear the cost of freight and insurance of returned Seller's products, and Seller will bear the cost of freight and insurance of returned Buyer's products, and Seller will bear the cost of return shipping.



STATE OF UTAH

CONTRACT AMENDMENT

AMENDMENT # 1

To CONTRACT # AR1466

TO BE ATTACHED TO AND MADE A PART OF the above numbered contract by and between the State of Utah, _____, referred to as STATE and, Alcatel-Lucent, referred to as CONTRACTOR.

THE PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

1. Contract period:

_____ (original starting date)

_____ (current ending date)

_____ **new ending date**

2. Contract amount:

_____ (current contract amount)

_____ (amendment amount)

_____ **new contract amount**
(add current amount to amendment amount)

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



WSCA_Genesys_pro
duct_listing_042309.)

Add Genesys software to contract -- 40% discount -- see attached.

OmniAccess 4000, 5000, 6000 products discount increased to 38%

4. Effective Date of Amendment:

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

Patrick Stewart
Contractor's signature

Patrick Stewart, Contract Agent
Type or Print Name and Title

STATE

Agency's signature

Nancy Orlin
Director, Division of Purchasing

Director, Division of Finance



STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT # 3
CONTRACT # AR1466
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

ALCATEL-LUCENT

(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: Extend Termination Date

Please provide the following contact information.

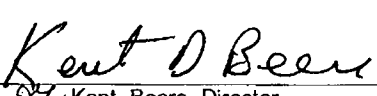
	Name	Phone Number	Email Address
General Contact	Patrick Stewart	972-477-0332	patrick.stewart@alcatel-lucent.com
Sales Contact	Dan Holden	818-251-3837	Dan.holden@alcatel-lucent.com
Quarterly Report Contact	Cecilia Nguyen	972-477-3139	Cecilia.Nguyen@alcatel-lucent.com

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
Alcatel-Lucent USA Inc. Date
12/16/2009

 12/28/08
Kent . Beers, Director Date
State of Utah Division of Purchasing

Patrick Stewart
Contractor's Name (Print)

Contract Management
Title (Print)

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

10/27/2008