



WARNING!
**BID PACKAGES MUST BE
RETURNED IN ITS ENTIRETY**

**LOS ANGELES UNIFIED SCHOOL DISTRICT
Procurement Services Center – Purchasing Branch
8525 Rex Road
Pico Rivera, CA 90660
(562) 654-9311**

**INVITATION FOR BID
(IFB)**

IFB FOR Software License and Maintenance Agreement

IFB No. SC-1003

DATE ISSUED: February 12, 2008

DATE ADVERTISED: February 8, 2008 and
February 15, 2008

PRE-BID CONFERENCE: February 19, 2008

SUBMITTAL DATE: March 3, 2008

BIDDER'S (FIRM) NAME: _____

Note: All bidders are required to submit an original and one copy. Please check here whether this is the original or the copy. _____ Original or _____ Copy

IFB SC-1003
TABLE OF CONTENTS

<u>IFB SECTION</u>	<u>DESCRIPTION</u>	<u>PAGE COUNT</u>
Section I	Letter to Prospective Bidders and “No Bid” Form	1 – 3
Section II		
	A. Bid Form and Rate Schedule Instructions	1 – 8
	B. Specific Bid Conditions/Certifications	1 – 5
	1. Attachment I - Conflict of Interest	1 – 3
	C. Technical Specifications	1 – 6
	D. Product Specifications	1 – 2
	E. Bidder Questionnaire	1 – 2
Section III	Rate Schedule (w/ cover page)	1 – 2
Section IV	General Bid & Contract Conditions	
	A. General Bid Conditions	1 – 5
	B. General Contract Conditions	1 – 13
Section V	Small Business Enterprise	1 – 2



LOS ANGELES UNIFIED SCHOOL DISTRICT
Procurement Services Center – Purchasing Branch
8525 Rex Road
Pico Rivera, CA 90660
(562) 654-9311

Date: February 12, 2008

ATTENTION: Prospective Bidder

SUBJECT: INVITATION FOR BIDS (IFB)
FOR Software License and Maintenance Agreement

The Los Angeles Unified School District, Procurement Services Group, is seeking bids for **Software License and Maintenance Agreement for D³ on AIX System, FlashConnect and Oracle Gateway** as outlined in the attached. The resultant unit rate requirements contract, if awarded, will be for an initial 39 month period. The contract will be State and/or locally funded and is subject to fiscal year funding. District contract awards are made in accordance with authority granted to the Los Angeles Board of Education under California Law (e.g. the Public Contract Code, Education Code and Government Code).

You are hereby invited to submit to the District a bid to furnish all of the labor, materials, and any other related items required for performance under the subject IFB. **An original and three copies of all bids must be submitted in sealed envelopes and delivered by hand or mail to the address below no later than 3:00 p.m. local time on March 3, 2008.** Bids received after that time will not be considered. The only acceptable evidence to establish the time of receipt is the date/time stamp imprinted upon the Bid package by the date/time recorder at the Procurement Services Center Reception Desk. The IFB designation number **SC-1003** must be inscribed upon the face of the submission package.

Los Angeles Unified School District
Procurement Services Center
Main Lobby/Reception Desk
8525 Rex Road
Pico Rivera, CA 90660

The District is presently reorganizing its document administration system. This solicitation document is in a new format, and differs from prior versions. Please read all sections carefully to assure that your response to this IFB contains all bidding information required to be considered responsive and responsible.

Of significant importance is the implementation of an electronic submission of the “Rate Schedule Section” (Section III). As always, the Rate Schedule must be completed manually and submitted in hard copy as part of the bid. In addition, now an electronic copy (a 3 ½” floppy or compact disk) of the Rate Schedule, saved in Microsoft Excel, should accompany the bid. If a discrepancy exists between the hard copy and the electronic copy, the hard copy will prevail.

The bid may be considered non-responsive should the bidder fail to provide the electronic copy of the Rate Schedule.

All communications in connection with this IFB shall be provided in writing and submitted online only, on or before the last day for questions, through the Vendor Registration Website at: <http://contracts.lausd.net/vendors>.

A pre-bid conference will be held on **February 19, 2008 at 1:00 PM** in the Procurement Services Group Building (Bid Room A & B) at 8525 Rex Road Pico Rivera, Ca 90660. If requested, worksite walk-throughs may be arranged and will be discussed at the pre-bid conference. Visits to worksites, if required, must be approved by the District's site administrator. Note: The District does not pay for parking or validate tickets.

Prospective bidders must not contact any District representative or personnel working on behalf of the District, except those designated herein prior to publication of the District's notice of contract award covering this requirement. Inappropriate contacts by a prospective bidder may subject the bidder to disqualification from the contract award process.

The entire bid package must be submitted in its entirety, including this letter (Section I) and the following:

- II. IFB form and rate schedule instructions, specific bid conditions, technical and product specifications and Bidder Questionnaire.
- III. Rate Schedule
- IV. General Bid and Contract Conditions
- V. Small Business Enterprise (SBE) Utilization Program

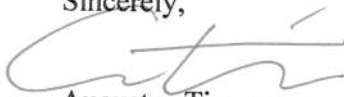
Failure to submit the bid package in its entirety may cause a bid to be ruled "non-responsive."

The District reserves the right to reject any and all bids, to waive informalities or irregularities to the extent permitted by law in any bid received, and to be the sole judge of the merits of the respective bids received. The award, if made, will be to the lowest-priced responsive and responsible bidder.

The contract(s) that may be awarded hereunder is/are not exclusive. The District expressly reserves the right to contract for services and goods such as those referenced herein, through other contractors.

Should you decide not to compete for a contract award under this IFB, please complete the attached "No Bid Response" form, (Attachment 1) and send it to the undersigned. Failure to provide a response to this solicitation may result in removal of your firm's name from our vendor list.

Sincerely,


Augustus Tiongco
Assistant Buyer

ATTACHMENT: IFB PACKAGE



LOS ANGELES UNIFIED SCHOOL DISTRICT
Procurement Services Center – Purchasing Branch
8525 Rex Road
Pico Rivera, CA 90660
(562) 654-9311

Bid No.: SC-1003

Date of Bid Opening: March 3, 2008

“NO-BID” RESPONSE FORM

IT IS NOT NECESSARY FOR THE BIDDER WHO IS SUBMITTING A BID FOR THE PRODUCTS AND/OR SERVICES SPECIFIED HEREIN, TO RETURN THIS FORM.

The LOS ANGELES UNIFIED SCHOOL DISTRICT is committed to programs and policies that will result in the procurement of supplies, equipment and services that meet the quality standards required by our schools and support facilities at the lowest possible prices.

An important aspect of achieving this goal is to promote competitive bidding among the largest number of qualified bidders as possible. However, in instances where the bidder fails to respond, or notify the Procurement Services Group of their future intentions, the preparation and mailing of the bid request package represents an unnecessary expense to the District. Feedback from the bidder is encouraged. Reasons for not bidding are evaluated with the intention of improving future solicitations for this commodity or service, thereby encouraging and expanding the field of competition.

All bidders who respond with a “No Bid” response, are requested to provide the information requested below and return this form, in the envelope provided, in time for the bid opening. **FAILURE OF NON-BIDDERS TO RETURN THIS COMPLETED FORM MAY RESULT IN BEING DROPPED FROM OUR BIDDER’S LIST FOR THE PRODUCT(S) AND/OR SERVICES SPECIFIED BELOW.**

REASONS FOR NOT BIDDING AT THIS TIME: (Attach additional page if necessary)

DO YOU WISH TO RECEIVE BID REQUESTS FOR THIS PARTICULAR PRODUCT OR SERVICE IN THE FUTURE? YES NO*

*If this option is selected, the bidder must forward a written request to the Procurement Services Group for reinstatement.

BIDDER’S (FIRM) INFORMATION:

NAME: _____

ADDRESS: _____

SIGNED: _____ **TITLE:** _____

DATE: _____ **PHONE:** _____ **FAX:** _____

BID TITLE: Software License and Maintenance Agreement
AT



LOS ANGELES UNIFIED SCHOOL DISTRICT
Procurement Services Center – Purchasing Branch
8525 Rex Road
Pico Rivera, CA 90660
(562) 654-9311

IFB AND CONTRACT FOR: Software License and Maintenance Agreement

IFB No.: SC-1003
SUBMISSION DATE: March 3, 2008
FOR: Information Technology Division

SECTION II

A. BID FORM AND RATE SCHEDULE INSTRUCTIONS

The undersigned has complied with instructions in the IFB, has approved the contract form and agrees to enter into a Contract for furnishing to the Los Angeles Unified School District, Los Angeles County, hereinafter called the District, the required supplies, equipment and/or services at the stated rates; subject to all of the Terms and Conditions of the Invitation for Bids, Bid and Contract Conditions, Specifications, instructions set forth and all amendments or addenda thereto.

1. SCOPE OF CONTRACT

The scope of the Contract is to provide Software License and Maintenance Agreement for D³ on AIX System, FlashConnect and Oracle Gateway in accordance with all the terms, conditions and specifications specified herein.

2. TERM OF UNIT RATE REQUIREMENTS CONTRACT

The term of the Contract will be an initial 39 months. Upon approval of the Board, up to one (1), 12 month extension may be awarded. The anticipated start date for work hereunder will be on or about April 1, 2008.

3. AWARD OF CONTRACT

It is the intent of the District to award a contract(s) “as a whole”. Award is contingent upon timely compliance with all bid conditions and specifications which must be satisfied prior to award of contract. The District reserves the right to not award to the lowest responsive/responsible bidder if the total value of a contract award is less than \$1,500.00.

4. BASIS OF AWARD

The award(s) shall be made to the responsive/responsible bidder(s) who submits the lowest total annual cost plus the cost of each new license per system “As A Whole” or whichever may be in the best interest of the District. All “unit price” bids must be as District requested (i.e. case, each, package, etc.).

The District will make all conversions and computations, if necessary. The “unit price” bid in the Rate Schedule Section should include any delivery charge to allow for delivery on an FOB Destination basis. **Time and Materials shall not be included as part of the Basis of Award.**

4. BASIS OF AWARD -- continued

The cash/trade discount shall be included in the determination of low bid. A cash discount for a time period of less than **45** days will not be considered. The cash discount offered in excess of 10% will be considered a “trade discount”. A trade discount offered will be deducted from the unit cost(s) bid, thus establishing the items normal/actual contract cost with zero percent cash discount for early payment.

A Cash Discount of _____ % 45 days is being offered

5. ADJUSTMENT TO THE RATE (UNIT PRICE) SCHEDULE

The Rate Schedule (unit price) is firm for the entire contract period of Thirty-nine (39) months. The rates may be “subject to adjustment” at the beginning of each annual contract period. It is expressly understood that contract rate increases are not automatic or guaranteed. Contractor’s request to increase the current rate schedule will be evaluated and considered when such adjustments are requested. The District reserves the right to reject any such request and re-bid and/or terminate said contract within the provisions of the existing agreement. The District may offer a lower, higher or no increase in percentage. All increases are subject to negotiation between the Contractor and the District.

The adjustment to the contract’s Rate (unit price) Schedule, if granted by the District, shall be effective July 1 or on the first day of the month following final District approval, whichever is applicable and continue through the remaining contract period. Increases considered by the District shall be evaluated by using the percentage of change between the previous year and the current year’s Consumer Price Index, (C.P.I.) published by the U.S. Department of Labor’s Bureau of Labor Statistics, **as a guide only.**

The specific index to be reviewed is the C.P.I. for Los Angeles-Riverside-Orange County, California for the month of (that month which is six (6) months prior to the contract’s annual end date) each year using the “Special Aggregate Index” category of “All Items Less Shelter” under the “All Urban Consumers” column.

For further information on the Consumer Price Index, contact the U.S. Department of Labor, Bureau of Labor Statistics at (415) 975-4350.

NOTE: All requests for rate adjustments must be received by the District, in writing, no later than ninety (90) days prior to the end of each annual contract period at the District’s Procurement Services Center – 8525 Rex Road, Pico Rivera, CA 90660. An explanation citing the rationale for price increase should be included in such correspondence.

6. INVOICES AND PAYMENTS

All invoices must be sent to the following address below:

LOS ANGELES UNIFIED SCHOOL DISTRICT
ACCOUNTS PAYABLE BRANCH
P.O. BOX 54306
333 S. BEAUDRY AVENUE, 27TH FLOOR
LOS ANGELES, CALIFORNIA 90017
(213) 241-4800

All invoices submitted for payment must include the District Contract Number and related Purchase Order (P.O.) Numbers and be under the same firm name as shown on the P.O./Contract.

Prior to the start of the Contract, the Contractor may contact the District's Accounts Payable Branch regarding the invoice format that may be required to facilitate timely payment. A sample of invoicing format may be required from the Accounts Payable Section prior to the start of service.

Late payment by the District shall not constitute a material breach of any Contract awarded hereunder.

In any contract or purchase order awarded, the District will reserve the right to withhold payment as a "set off" against amounts due, or to become due, to the District resulting from any other contracts or purchase orders awarded to the same contractor.

All invoices applicable to this contract must be submitted by the Contractor no later than 60 days after the end of this contract. Late invoice submittals may result in non-payment.

For payment information call: (213) 241-4800

7. TAXES

The Unit Rate Schedule Section shall exclude all applicable taxes.

The District shall pay only the California Sales and Use Tax, and/or the Los Angeles County Uniform Local Sales and Use Tax on the rates (unit costs), when applicable and listed separately on the invoice.

The Federal Excise Tax is not applicable. The District, upon request, shall furnish the Contractor a federal exemption number.

Any new or additional tax not in effect at the time of the bid that becomes effective during the contract period shall be paid by the District, providing that the items/services being provided under this contract are subject to such tax. It is the Contractor's responsibility to notify the District of any applicable changes in taxation categories or rates.

8. **AUTHORIZED DISTRICT REPRESENTATIVE**

The contract shall be under the direction and subject to the approval of the **Chief Procurement Officer**, or designated representative.

The authorized District representative for this Contract will be:

Augustus Tiongo
Assistant Buyer
(562) 654-9060 Fax (562) 654-9017
augustus.tiongo@lausd.net

Sandra Medina
Assistant Contracts Supervisor
(562) 654-9387 Fax (562) 654-9017
sandra.medina@lausd.net

9. **RATE SCHEDULE**

The following "Rate Schedule" shall be firm during the contract period of Thirty-nine (39) months.

- a. Bidder shall fill out the attached Rate Schedule (See: Section III) and indicate the: (1) Unit price for the items requested/bidding on. The completed price information should be provided in two (2) formats. The information **must** be entered and submitted in hard copy and an electronic copy of the Rate Schedule Section should also be submitted.
- b. The initial contract period shall be a thirty-nine (39) month period. Subsequent option year shall be for a contract term of twelve (12) months.
- c. The "Unit Price" bid should include prices for all items listed in the Specifications Section, all costs for any insurance, and/or any required performance guarantee.
- d. **For D3 AIX, the "unit price" bid should include the yearly maintenance cost per license. Bidders shall provide the "unit price" to purchase additional licenses.**
- e. **For FlashConnect and Oracle Gateway, the "unit price" bid should include the yearly maintenance cost per server. Bidders shall provide the "unit price" to purchase additional licenses.**
- f. Specific product brand names and numbers specified by the District in the product/technical specification are indicated to clarify specification only. Manufacturer's name and model number must be listed for any brand being offered. Bids offering "as specified" ("a/s") may not be considered. Items considered equal to or superior to the specification may be quoted and submitted.
- g. Any remarks, additions, amendments, or exceptions attached (by the bidder) to the bid, which conflict with terms and conditions herein, may cause it to be deemed "non-responsive".
- h. Item(s) shall be awarded as a whole.
- i. When filling in the Rate Schedule (Section III) information/unit costs on the hard copy, the Bidder should **either type or print legibly in blue ink**. If the information/unit price is illegible, that item may not be considered for an award. Additionally, the electronic copy of the Rate Schedule should be submitted in an MS Excel format and saved in a 3 ½" floppy disk or compact disk. **If a discrepancy exists between the hard copy and the electronic copy, the hard copy will prevail.**

NOTE: No additional charges will be authorized or paid during the subsequent contract agreement period unless originally specified in the bid.

10. CONTRACT PIGGYBACK PROVISION

For the term of the Contract, and any mutually agreed extension(s) pursuant to this request for bid and subsequent contract, other school districts, community college districts, public corporations or agencies, including any county, city, town or public corporation or agency within the State of California, may purchase item(s) at the same price and upon the same terms and conditions pursuant to Section 20652 and/or 20118 of the Public Contract Code. The District waives its right to require other districts and agencies to draw their warrants in the favor of the District, as provided in said code sections.

Acceptance or rejection of this provision will not affect contract awards in this bid.

INDICATE SELECTION:

Piggyback Provision is granted: * _____

Piggyback Provision is not granted: _____

*Please note any comments/restrictions related to this agreed upon selection below or attach comment sheet to bid.

11. CONTRACT EXTENSION

After the initial period of thirty-nine (39) months, the contract is subject to one (1) additional twelve (12) month extensions, for a maximum period of fifty one-(51) months total. Extensions are contingent upon written mutual consent of the District and the Contractor. Any request for extension must be requested by the Contractor in writing no later than ninety (90) days prior to the expiration date of the existing agreement. Extended contract granted by the District would be subject to the same Terms and/or Conditions. Provisions for price adjustments would be subject to the "Adjustment to the Rate Schedule" provision.

12. ESTIMATED DISTRICT REQUIREMENTS

The District's "estimated annual requirements" are set forth in the Rate Schedule Section in the Bid Form Section III reflecting the District's best estimate of annual contract needs based upon historical usage. At the District's discretion, the annual contract value may vary up to a maximum of 10% above the annual contract value.

The items listed on the Contract and required during the Contract period shall be ordered, for the most part, from the Contractor during such period.

The District reserves the right to purchase from other than the Contractor such items not on hand or readily available to the Contractor, which are urgently needed by the District.

13. ORDER OF PRECEDENCE – SEALED BIDDING

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order: (a) the Rate Schedule (excluding the specifications); (b) representations and other instructions; (c) contract clauses; (d) other documents, exhibits, and attachments; and (e) the specifications.

14. NOTICES, DEMANDS AND COMMUNICATIONS

Formal notices, demands, and communication to be given hereunder by either party shall be in writing and shall be delivered in person, by U.S. mail, or electronically, and shall be deemed received as of date of verifiable delivery. “Verifiable delivery” of electronic transmissions shall mean email Delivery Status Notifications and fax Transmit Confirmation Reports, or their equivalents.

Such notices, demands, or communication directed to the District shall be addressed as indicated below.

Los Angeles Unified School District
Procurement Services Center – **Augustus Tiongco**
8525 Rex Road
Pico Rivera, CA 90660

15. BILLING CYCLE

Invoices shall be billed and invoiced on an annual basis.

16. INDEPENDENCE OF BID

Unless Bidder is furnishing a joint bid, by submitting this Bid, Bidder swears under penalty of perjury that it did not conspire with any other supplier to set prices in violation of anti-trust laws.

15. NAME AND NATURE OF BIDDER'S LEGAL ENTITY

The Bidder shall state the name and nature of its legal entity. The Bid shall be signed under the correct firm name by an officer/employee authorized to obligate the Bidder/Contractor.

The Bidder understands and agrees by signing this document that all provisions of this IFB/contract must be complied with, and the District may accept any or all of the Bidder's offer as submitted (unless otherwise stipulated by the Bidder). Execution hereof will constitute a legal and binding Contract upon approval of this offer by the District's Board of Education.

The representative of the Bidder/Contractor who is authorized to contractually obligate and administer this Contract/Agreement and to whom formal notices, demands and communications shall be given is as follows:

Legal Name of Bidders Firm: _____

- **Name of CEO/President:** _____

Name of Bidder's Parent Company (if applicable): _____

- **Name of CEO/President:** _____

CHECK ONE

Sole Ownership: _____

Partnership: _____

Corporation: _____

Other: _____

Bidder's Signature: _____

Bid not acceptable unless signed by an authorized signor.

Original signature only! Rubber stamp or typed signature not acceptable.

By: _____
(Print Name of Bidder)

Title: _____
(Print Title)

Address: _____

City, State & Zip Code: _____

Telephone: _____

Fax number: _____

E-Mail Address: _____

Dated this _____ **Day of** _____

**FOR DISTRICT USE ONLY
Approval of Contract Award**

By: _____ **Contract No.:** _____

Title: _____ **Effective Date:** _____

NOTE: THIS AGREEMENT, OR ANY OF ITS RIGHTS, OBLIGATIONS, TERMS OR CONDITIONS, MAY NOT BE ASSIGNED OR TRANSFERRED BY EITHER PARTY WITHOUT THE WRITTEN CONSENT OF THE OTHER PARTY.

16. CONTRACT AWARD NOTIFICATION

The Bidder must retain a completed copy of their Bid Document in its entirety, as submitted to the District. In the event of an award, the Bid and all Bid Documents shall become the Contract Agreement. The only other document provided to the successful bidder (awardee/contractor) will be a letter regarding the “Notice of Acceptance of Bid and Award of Contract” letter that will be sent electronically. Contractors also desiring a hard copy (sent by regular U.S. mail) must advise the buyer, in writing, of their request.

All Bidders must provide the following required information: name, address, telephone number, fax number, and business email address of the person designated to receive such notice on behalf of the Bidder (if different from Page 6).

Name of Firm: _____

Name of Contact: _____
(Please Print)

Address: _____

City State Zip Code

Email Address (required) _____

Tel: (_____) _____

17. FILING OF PROTESTS

All protests shall be filed, handled and resolved in a manner consistent with the District’s Protest Procedures. The District will respond to each substantive issue raised in the protest. Protests relating to the content of this Invitation for Bid (IFB)/Request for Proposal (RFP) document must be filed within ten (10) business days after the date the IFB/RFP is first advertised. Protests relating to a recommendation for award solicited by this IFB/RFP must be filed by an “interested party” within five (5) business days after the staff’s written recommendation and Notice of Intent to Award is issued to the proposing firms. The date of filing shall be the date of receipt of protests by the District.

All protests shall be filed in writing with the Chief Procurement Officer, Los Angeles Unified School District, 333 S. Beaudry Ave., Los Angeles, CA 90017. **No other location shall be acceptable.** The protest shall, at a minimum, contain the following:

- The name and address of the interested party and its relationship to the procurement;
- Identification of the proposed procurement or contract;
- Substantive description of the nature of the protest;
- All documentation supporting the allegations of the protest; and
- Statement of the specific relief requested

The Chief Procurement Officer, or designee, shall make a determination on the protest, normally within ten (10) working days from receipt of protest. The Chief Procurement Officer, or designee, has the authority to make a final determination and the decision shall constitute the District’s final administrative remedy.

SECTION II

B. SPECIFIC BID CONDITIONS/CERTIFICATIONS

1. CERTIFICATION OF COMPLIANCE TO DISTRICT ETHICS POLICY

The proposer/bidder, contractor, or its subcontractors certifies that it is familiar with and in compliance with all provisions of our *Contractors and Consultants Code of Conduct*, which specifies the DISTRICT Ethics Policy and sets guiding standards for those with whom we conduct business. (Note: the most current version of this Code can be obtained through the Ethics Office website at: www.lausd.net/ethics). Bidders may also obtain a copy by contacting the buyer.

- Proposer/Bidder certifies that it has set forth, below, the names of all current and former Board of Education members or individuals who were employed by LAUSD in the last three (3) years that the proposer/bidder has in its employment (or intends to employ) in connection with the services to be performed by the contract.

Names and positions of any current or former LAUSD Board Members or employees who *you* currently, or soon plan to, employ or subcontract with:

_____	_____	_____
_____	_____	_____
_____	_____	_____

- The proposer/bidder, contractor, or its subcontractors, certifies that it has not and will not compensate any current or former DISTRICT employee or consultant to influence any action on a matter pending with the DISTRICT, if that employee, within the last 12 months, held a DISTRICT position in which they personally and substantially participated in that matter.
- The proposer/bidder, contractor, or its subcontractors, certifies that it has reviewed the provisions of LAUSD’s Lobbyist Registration Code (see www.lausd.net/ethics) and is in compliance of the program’s requirements.
- The proposer/bidder, contractor, subcontractors certifies that it does not employ a current or former DISTRICT employee or consultant who, while serving in a DISTRICT position within the last two (2) years, substantially participated in the development of the contract’s RFP requirements, specifications, or in any part of the contract’s contracting process.
- Lastly, the proposer/bidder certifies that it did not receive any confidential information in connection with any part of this procurement process.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. I also certify that I have read and understand the *Contractors and Consultants Code of Conduct* and will abide thereby.

Name of Firm: _____ Dated this: _____ Day of _____

Printed Name

Title

Signature

2. LOBBYING CERTIFICATION (Must Be Completed By Bidder Only)

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____, hereby certify
(name and title of contractor or sub-contracting official)

on behalf of _____ that:
(name of Contractor (company) or Subcontractor)

- a. No Federal appropriated funds have been paid, or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid, or will be paid, to any person for influencing, or attempting to influence, an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

Executed this _____ day of _____, 20____.

By: _____ (Signature of Authorized Official)

Typewritten or Printed Name _____

Title of Authorized Official _____

**3. CERTIFICATION REGARDING DEBARMENT
SUSPENSION OR INELIGIBILITY FOR AWARD (34 CFR 85)**

The following certification is applicable only to contracts for \$25,000 or more that are funded in whole or in part with Federal funds.

By signing this document, the Bidder certifies that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded by any Federal department or agency;
- b. Have not, within a three-year period preceding this bid, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph **b.** (above) of this certification; and
- d. Have not within a three-year period preceding this bid had one or more public transactions (Federal, State, or local) terminated for cause or default.

If the Bidder is unable to certify to any of the statements in this certification, the Bidder shall attach an explanation to the Bid.

Name of Firm: _____

By: _____
(Signature)

By: _____
(Print Name)

Title: _____

Dated this _____ **Day of** _____

4. **CERTIFICATION OF COMPLIANCE WITH THE DISTRICT’S SWEAT-FREE PROCUREMENT POLICY**

a. **DISTRICT POLICY**

It is the policy of the Los Angeles Unified School District (LAUSD) that all products and/or services purchased by the District be manufactured and supplied in compliance with applicable labor and wage laws governing the countries of its origin. For the purposes of establishing a non-poverty wage, the LAUSD uses the definition of non-poverty wages as formulated by the Union of Needletrades, Industrial and Textile Employees (UNITE), utilizing the Department of Health and Human Services’ guidelines to determine non-poverty wages domestically. Internationally, the LAUSD recognizes the World Bank’s Gross National Income Per Capita Purchasing Power Parity figures to determine comparable wages in other countries. Purchases by the LAUSD will be restricted to only those products and/or services that have been manufactured without the illegal use of “sweatshop” (including exploitive “child,” “forced,” “convict,” and “indentured”) labor.

Prior to any award, the LAUSD will require its bidders/contractors to certify adherence to the provisions of the District’s Sweat-Free Procurement Policy. This Sweat-Free Procurement Policy includes the following principles/requirements:

- **Safe and healthy working conditions**
- **Prohibition of child labor**
- **Disclosure of manufacturing plant locations**
- **Verification and enforcement mechanisms**
- **Compliance with applicable codes**
- **Penalties for violations**
- **Responsible bidder forms**
- **Non-poverty wage standard (domestic and international)**

Contractors will denote compliance to these provisions by signing a Sweat-Free Procurement Policy certification, which will extend to their subcontractors.

The consequence of any violation by the contractor to the aforementioned laws and provisions may result in action being taken by the District against the contractor. Through Memorandums of Understanding (MOU), information will be exchanged with various government-based investigative agencies. The District will adopt the investigative agency’s findings to take appropriate actions against the contractor. The action may include, but is not limited to, agreed upon liquidated damages, contract cancellation, vendor default, and/or vendor debarment.

The LAUSD will continuously educate the vendors to raise their level of awareness about the “sweat-free” procurement policy.

I have read and understand the above Sweat-Free Procurement Policy.

Signature

Date

4. **CERTIFICATION OF COMPLIANCE WITH THE DISTRICT'S SWEAT-FREE PROCUREMENT POLICY – continued**

b. **COMPLIANCE CERTIFICATION**

(While all Bidders/Contractors, and their subcontractors, are required to comply with all the provisions of this Policy, only the Bidder/Contractor is required to sign this certification statement.)

For any award made under this bid:

1. The Bidder/Contractor, and its subcontracts, certify that all goods and/or services will be manufactured, supplied, and/or provided in compliance with the applicable labor laws and non-poverty wage standards of the country or countries of origin, **and,**
2. The Bidder/Contractor, and its subcontractors, will abide by **all** other provisions of the District's Sweat-Free Procurement Policy, as outlined on the previous page (Section II B, Item #4 a), **and,**
3. Should the District find that the Bidder/Contractor, or any of its subcontractors, is in violation of the aforementioned laws/provisions, the Contractor shall be subjected to the consequences for violation, which may include, but not limited to, agreed upon liquidated damages, contract termination, vendor default, and/or debarment action being taken, **and,**
4. If the Bidder/Contractor is unable to certify to any of the statements in this certification, the Bidder agrees to attach an explanation to its bid.

I hereby certify, under the penalty of perjury, that the above information is true and correct, **and:**

1. That I have read and understand the District's *Sweat Free Procurement Policy* (Item #4 a) which is incorporated and made part of this certification, **and,**
2. That should an award be made, all goods and/or services provided by the Contractor and its subcontractors will be in compliance with the District's Sweat Free Procurement Policy.

Name of Firm: _____

Signature Printed name

Title Dated this: _____ Day of _____, 200____

Bidder (firm's) Name: _____
Subcontractor/Supplier: _____

POSSIBLE CONFLICT OF INTEREST DISCLOSURE FORM

Bidder **must** provide the following information for itself and any subcontractor(s) to the bid. This information is required to avoid any conflict of interest regarding the Board of Education Members' ability to take any action regarding approval of any contract awards. Please disclose all information and use additional sheets if necessary.

1. Name of Bidder (Contractor) (Prime)

_____	_____
Principal/Contractor	Contact Name and Telephone No.

Partners/Officers/Stockholders	

Partners/Officers/Stockholders	

Parent Company (if any)	

Partners/Officers/Stockholders	

Subsidiaries (if any)	

Partners/Officers Stockholders	

2. NAME OF SUBCONTRACTOR NO.1

_____	_____
Principal/Contractor	Contact Name and Telephone No.

Partners/Officers/Stockholders	

NAME OF SUBCONTRACTOR NO.2

_____	_____
Principal/Contractor	Contact Name and Telephone No.

Partners/Officers/Stockholders	

NAME OF SUBCONTRACTOR NO. 3

_____	_____
Principal/Contractor	Contact Name and Telephone No.

Partners/Officers/Stockholders	

A. CONFLICT OF INTEREST

1. Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure the Contract and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of the Contract. For breach of this warranty, or violation of any other prohibition in this Article, the District shall have the right to terminate the Contract for failure of Contractor to fulfill its Contract obligations.
2. Contractor agrees that, for the term of the Contract, no member, officer, or employee of the District, or of a local public body during their employment and for one (1) year thereafter, shall have any interest, direct or indirect, in the Contract, or to any benefit arising thereof as prohibited by Government Code § 1090 and 87100.
3. The employment by Contractor of personnel on the payroll of the District for the performance of Work under the Contract will not be permitted, even though such employment may be outside of the employee's regular working hours or on Saturdays, Sundays, holidays, or vacation time. The employment by the Contractor of personnel who have been on the District payroll within one (1) year prior to the date of Contract award, where such employment is caused by and/or dependent upon Contractor securing the Contract or a related Contract with the District, is also prohibited.
4. Neither the Contractor nor its employees nor its Subcontractors or their employees shall give or offer to give any campaign contribution to any member of the District in violation of Government Code Section 84308.
5. The Contractor shall not be permitted to participate in any capacity in Contracts, Subcontracts or proposals (solicited or unsolicited) which may arise from its performance under the Contract and from any solicitations relating to the Project.

B. COVENANT AGAINST CONTINGENT FEES

1. The Contractor warrants that no person or Authorized Representative has been specifically employed or retained to solicit or obtain the Contract in exchange for a contingent fee, except a bona fide employee or Agent. A breach or violation of this warranty shall be considered a breach of Contract pursuant to the Article entitled TERMINATION FOR DEFAULT herein. In addition to any rights and remedies otherwise provided for in the contract, by law, the District may deduct from the Total Contract Price or considerations, or otherwise recover, the full amount of the contingent fee.
2. "Bona fide Agent", as used in this Article, means an established commercial or selling entity that is maintained by the Contractor for the sole purpose of securing business and that neither exerts nor proposes to exert improper influence to solicit or obtain District Contract(s) nor holds itself out as being able to obtain any District Contract(s) through improper influence.

B. COVENANT AGAINST CONTINGENT FEES - continued

3. "Bona fide employee", as used in this Article, means a person who is employed by the Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance and who neither exerts nor proposes to exert improper influence to solicit or obtain District Contract(s) nor holds itself out as being able to obtain any District Contract(s) through improper influence.
4. "Contingent fee", as used in this Article, means any commission, percentage, or other sum that is payable only upon success in securing a District Contract.
5. "Improper influence", as used in this Article, means any influence that induces or tends to induce a District employee, officer, Contractor, Subcontractor, Authorized Representative, or Consultant to give consideration or to act regarding a District Contract on any basis other than the merits of the matter.

SECTION II

C. TECHNICAL SPECIFICATIONS

SCOPE OF CONTRACT

The scope of the contract is to provide a Software License and Maintenance Agreement for D³ on AIX system, FlashConnect and Oracle Gateway for the District's Information Technology Division.

Contracted items shall be in accordance with all the Terms and Conditions set forth herein; including adherence to the following Specifications. **The "Unit Prices" bid in the "Rate Schedule Section, Section III", must include the following requirements.**

GENERAL SPECIFICATIONS

1. AVAILABILITY OF MATERIALS

The District may purchase, from any source, essential material for the repair/support of classroom or operational activities for safety concerns and/or to protect District property, when the Contractor does not have the necessary material immediately available.

2. PREFERENTIAL PRICING

The District shall be given the benefit of any lower prices which may, for comparable quantity and delivery, be given by the Contractor to any other school district, state, county, municipal or local government agency for the products listed herein.

3. FAILURE OF CONTRACTOR TO PROVIDE THE SERVICE/PRODUCTS AS AGREED

If in the opinion of the District, the Contractor at any time during the period of the Contract, fails to properly and satisfactorily perform the service/provide the product(s) called for in the Contract, or otherwise fails or neglects to comply with the terms of the Contract, the District may make arrangements elsewhere for the material/service, or any part thereof, and hold the Contractor responsible for procurement costs incurred by the District.

It is specifically provided and agreed that time shall be of the essence in regard to the Contract performance requirement. Unacceptable performance may include but not limited to: late/non deliveries, partial deliveries, delivery of wrong material, products not meeting specification, giving wrong prices, invoicing problems, etc.

4. PURCHASE ORDERS

Software maintenance agreements will cover an initial period of (39) months. The District shall issue a purchase order initially for three (3) months to cover the remainder of the previous maintenance agreement. A subsequent purchase order shall follow for each of the twelve (12) month period of the contract. Extensions to the maintenance agreement shall commence on July 1st or the date indicated on the purchase order and end on June 30th of the following year or as indicated on the purchase order. Software license and maintenance agreement not starting the first day of any Billing Cycle shall be pro-rated to the end of the Billing Cycle. Maintenance prices shall remain in effect for the term of the Contract and rate increases otherwise not stated in the rate schedule are **subject to Section II.A, Item No. 5 "Adjustment to the Rate Schedule" (Unit Cost) Provision.**

5. INSURANCE REQUIREMENTS

The Contractor shall secure and maintain, **and require its subcontractor(s) to secure and maintain**, the minimum amounts of coverages listed below to protect against claims that may arise from operations under the Contract, whether such operations are by the Contractor or anyone directly or indirectly employed by them. All coverages shall be from a source acceptable to the District.

All Contractors, and their approved subcontractors, shall have **Commercial General Liability** (CGL) and **Commercial (Business) Automobile Liability** (CA or BA). **Workers' Compensation** (WC) shall also be provided unless exempted as set forth below. Under some circumstances, the District may also require Errors and Omissions (E&O), Excess, or other coverages whenever exposure, as determined by the District, warrants.

It shall be the Contractor's responsibility, not the District's, to monitor its subcontractor(s) for compliance with the insurance requirements described in this Section.

Failure of the Contractor to obtain or maintain the required coverages or furnish the required certificates, endorsements, or policies shall constitute a material breach of this Agreement and may result in termination of the Agreement. **Further, failure of the Contractor to require its subcontractor(s) to obtain and maintain the same minimum limits and coverages and to provide the required certificates, endorsements and policies as described in this Section shall also constitute a material breach of, and may result in, termination of the Contractor's Agreement.**

In lieu of termination, the District reserves the right to purchase the required coverage(s) on the Contractor's behalf. However, the cost of any insurance purchased shall be the responsibility of, and paid for by, the Contractor.

a. Evidence of Insurance

Satisfactory Evidence of Insurance shall be provided to the District. All Certificates and endorsements shall be signed by an authorized representative of the insurance carrier. The District reserves the right to require the original Certificate(s)/endorsement(s) and/or to require copies of the Contractor's insurance policy(ies).

Insurance Certificates are required to have a 30-day non-renewal/cancellation notice clause and shall include NAMED ADDITIONAL INSURED ENDORSEMENTS as indicated below.

Satisfactory Evidence of Insurance must be submitted and approved by the District prior to providing any product or service covered under this Agreement, unless an extension is authorized by the District.

b. Additional Insureds

The CGL and CA/BA policies shall be endorsed to name the following as additional insureds:

- 1) Los Angeles Unified School District
- 2) Board of Education of the City of Los Angeles

5 INSURANCE REQUIREMENTS -- continued

c. Rating Of Insurer

All policies shall be from admitted insurers with an A.M. Best rating of at least A-, VII, except for the State Fund for W/C. Coverage provided by the California State Compensation Insurance Fund (State Fund) is acceptable. The District reserves the right to approve other carriers if found acceptable to the District's Office of Risk Management and Insurance Services.

d. Minimum Required Coverages

(1) Commercial General Liability (CGL)

Includes both bodily injury and property damage.

\$1,000,000 per occurrence

\$ 100,000 fire damage

\$ 5,000 medical expenses

\$1,000,000 personal and advertisement injury

\$3,000,000 general aggregate*

\$3,000,000 products/completed operation aggregate*

*\$3,000,000 general aggregate and products/completed operations aggregate can be waived if the policy is endorsed stating that the \$1,000,000 per occurrence applies solely and separately to the LAUSD.

(2) Commercial (Business) Automobile Liability (CA or BA)

All owned, hired and non-owned autos. If no owned autos, only non-owned and hired is required.

\$1,000,000 combined single limit

(3) Workers' Compensation (WC)

Part A – Statutory limits

Part B Employers' Liability -- \$1,000,000/\$1,000,000/\$1,000,000

Exemption: Sole proprietors with no employees are exempt from providing WC Coverage. Contractors meeting this exemption requirement must sign a District Workers' Compensation Waiver Statement.

6. SAFETY

Contractor's representatives operating vehicles on District property shall use extreme caution at all times - maximum speed is 5 M.P.H.

7. ASSIGNMENT/FINANCING

The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, including the right to receive payment, burdens, duties, or obligations without the prior written consent of the District and the surety on the Contract bonds (if applicable). The District's standard assignment form shall be used for any assignment requested by the Contractor and granted by the District.

7. ASSIGNMENT/FINANCING - continued

The District will not sign any documents in connection with assignments or financing other than the District's standard form for "**Assignment of Contract Money**" or "**Assignment of Rights and Delegation of Duties on Contract**" which is available from the District's **Procurement Services Center office located at: 8525 Rex Road, Pico Rivera, CA 90660.**

8. MANUFACTURER'S WARRANTY

Contractor warrants that goods and services furnished hereunder will conform to the requirements of this contract (including all descriptions, specifications, and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by the District, free from defects in design. The District's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.

All warranties, including special warranties specified elsewhere herein, shall inure to the District, its successors, assigns, customer agencies, and users of the goods or services.

9. BIDDER'S QUALIFICATION

Bidder must maintain a sufficient number of certified/qualified technicians. Bidder must have a minimum of three (3) years experience in the following:

- Must be a certified reseller of Raining Data Products.
- Installing and maintaining the D³ system on IBM P-Series hardware and AIX 5.3 operating system or a later release.
- Demonstrate significant experience with deployment and use of FlashConnect product in a web-based environment.

Bidder warrants that they are an authorized and trained provider of the services for which they are bidding. A letter of authorization from the manufacturer represented shall be provided with this bid.

10. SOFTWARE MAINTENANCE AGREEMENT

A software maintenance agreement (SMA) is a renewable contract with one-year terms for products including but are not limited to D³ on AIX, FlashConnect and Oracle Gateway licenses. With a software maintenance agreement, Contractor shall provide the following services to the District:

- Help Desk Support
- Maintenance Releases
- Product Activations
- Ability to add licensed seats or components
- Re-hosting and Re-license capabilities

Please see Section II.D – Product Specifications for a comprehensive list of requirements for this contract.

11. COVERED SITES, SOFTWARE AND LICENSES

A. Covered Sites:

This Agreement covers the following Client sites: **333 S. Beaudry Ave.
Los Angeles, Ca 90017**

B. Covered Software:& Licenses

This Agreement covers the following software components at each site listed above:

<u>System ID#</u>	<u>Component</u>	<u>Licenses</u>
00199885	D ³ AIX	28
50132603	D ³ AIX	277
50245806	D ³ AIX	10
60132604	D ³ AIX	<u>959</u>
Subtotal:	D3 AIX	1274
00199885	FlashCONNECT	1
50132603	FlashCONNECT	1
60132604	FlashCONNECT	<u>1</u>
Subtotal:	FlashCONNECT	3
00199885	Oracle Gateway	1
60132604	Oracle Gateway	<u>1</u>
Subtotal:	Oracle Gateway	2
Total Licenses:		<u>1279</u>

12. TIME AND MATERIALS SERVICES

In the event that the District requires services outside of scope of this agreement, Contractor shall provide these additional services on a time and materials basis. Contractor shall perform required time and materials services and bill the District at the hourly rate prescribed in the Rate Schedule Section

These services may include, but are not limited to:

- Training
- Onsite Installation
- Disaster Recovery
- Error Correction
- Hardware Maintenance
- Hardware Support
- Support for Previous Versions
- Onsite Services
- Installation of Major Upgrades and Enhancements
- Application Software Support
- Custom Programming Services
- Data Recovery or Back-up
- Date Conversion

13. TAX PROVISION

The sale of electronic data products such as software, data, and digital images is generally not taxable when you transmit the data to your customer over the Internet or by modem. However, if as part of the sale you provide your customer with a printed copy of the electronically transferred information or a backup data copy on a physical storage medium such as a CD-ROM, the entire sale is usually taxable.

For example, if your company sells canned (non-custom) software programs to customers who download them from a server, those sales are generally not subject to tax. However, if you also provide your customers with a backup copy on a CD-ROM, the entire transaction is taxable. Similarly, if you transmit a stock (non-custom) database to your customer over the Internet and also provide a printed copy of the contents, the entire sale is subject to tax. For further information and or clarification regarding this matter, please see CA State Board of Equalization website at <http://www.boe.ca.gov/>.

D. PRODUCT SPECIFICATIONS

SOFTWARE LICENSE AND MAINTENANCE AGREEMENT

A. COVERAGE

During the term of this agreement, Contractor agrees to provide software license and maintenance support services for the Covered Software operating at the site listed and on the configuration listed in Section II.C Technical Specifications, # 11. The software maintenance agreement shall include 7 days, 24 hour (7 x 24) support coverage.

B. DESCRIPTION OF SERVICES

During the term of this agreement, Contractor will provide the services described herein so as to maintain the Covered Software in good working order, keeping it free from material defect so that the Covered Software shall function properly and in accordance with the accepted level of performance based on manufacturer specifications.

Help Desk Support:

Contractor shall make available to the District a telephone number (“software support hotline”) to call and request service of the Covered Software. The District’s responsibility in notifying the Contractor shall be limited to telephoning the answering service or whichever telephone number is provided by the Contractor.

The hotline shall be used, but are not limited to the following:

- Consultation with a qualified technician in regard to the installation and proper operation of Covered Software.
- The provision of work-around to reported operating problems in Covered Software.
- Remedial software maintenance as required to restore Covered Software to operability.
- Implementation of maintenance releases which included fixes and patches.

It shall be the Contractor’s sole responsibility to dispatch the technician. The use of this telephone service shall be at no extra cost to the District. The Contractor shall maintain a staff of qualified technicians who are experienced and licensed (whenever required) in the maintenance of all of the covered software. In addition to phone, help desk support shall be available via fax, email and Internet during the coverage hours specified above.

Maintenance Services:

Contractor shall provide the District with Maintenance Services which include maintenance releases to Covered Software. These maintenance releases shall be provided to the District as soon as it is available. Maintenance release shall include minor release updates and patches which contain fixes, updates and upgrades to the Covered Software.

- Maintenance releases shall be available, at the very least, in soft copy format via website (online download) or any other District approved format.

At the request of the District, the Contractor shall make arrangements to provide the maintenance release in either format. No additional charges shall apply to satisfy this provision.

Product Activations:

Contractor shall provide product activation, where applicable, capabilities via the Web or by phone. The District may need to obtain and enter an activation code from Contractor for Covered Software. This code will only work with a single specific machine. During the term of the license, Contractor will provide the District replacement activation codes on a “as-needed” basis under this Agreement. The District will maintain in effect a valid license for each copy of supported Covered Software.

Ability to add/decrease licensed seats or components

District reserves the right to purchase new licenses and component. The newly purchased licenses and/or components shall be immediately included as part of the Covered Software. These licenses and/or components shall be directly related to the software as indicated in Section II.C – Technical Specifications, # 11.

Re-hosting and Re-license capabilities

Contractor shall not impose any restrictions against relocating a copy of the Covered Software from one physical system to another as long as it is within LAUSD, and it remains on the same platform (operating system), and the number of concurrent licenses does not change.

C. CONTRACTOR RESPONSIBILITIES

The purpose of the software license and maintenance agreement is to provide support and maintenance activities on the District’s D³-based test and production systems in an AIX 5.3L operating system environment. The following provides descriptions of the task required, but are not limited to these tasks for this contract.

- Assistance with upgrades on D³, Flash-connect and Oracle Gateway.
- Install D³ new version/patches on test and production systems as required
- Upgrade Flash-connect on D³ database and web servers on test and production P-4 and P-5 AIX 5.3 systems as required.
- Provide assistance in analyzing and correcting AIX 5.3 operating system, database, hardware, and other system related issues including:
 - Assistance with data saves, data restores, device management, virtual port management, performance monitoring, tuning, central contact with manufacturer.
 - Troubleshoot system halt or crash
 - Shutdown/Reboot systems as needed.
 - Perform system restores.
 - Assistance with file sizing.
 - Fix Group Format errors and recover lost data due to data corruption.
 - Assistance with system spooler, printers, and TTY ports.
- Provide skill transfer to District staff.
- Write, modify, test and document scripts to administer and manage the D³ systems.
- Provide weekend and after hour support (7 x 24) when LAUSD system support personnel are not available.

At a minimum, Bidders must be able to provide the services covered in this section.

SECTION II

E. BIDDER QUESTIONNAIRE

TO THE BIDDER:

The following questionnaire is a part of the complete bid and must be submitted as such. The information provided therein will be used solely for evaluating the qualifications of the Bidder to satisfactorily perform the contractual terms and conditions set forth. **This questionnaire must be filled out accurately, completely and submitted with the bid. In addition, the documentation required in #'s 2b, 4, 5, and 6 must be attached to this Questionnaire.** Any error, omissions or fraudulent information may be considered as a basis for the rejection of the bid and may be grounds for the cancellation of any subsequent agreement executed as a result of the bid or bids involved.

1. BIDDER'S FACILITY – Attach listing if more than one (1) location.

Name: _____

Address: _____

Telephone: _____

Web Site: _____

2. EXPERIENCE

a. Number of years experience in providing this type of equipment/service: _____ years.

b. Describe past projects comparable in scope and magnitude with this IFB. In addition, you must also describe your current ability and capacity to perform and deliver the products required by this IFB. **(include with bid.)**

3. REFERENCES

List at least three (3) references of major clients for contracted product/service like those to be provided. Include firm's name, location, telephone and contact person.

a. **Firm's Name:** _____

Address: _____

Contact Person: _____ **Telephone:** _____

b. **Firm's Name:** _____

Address: _____

Contact Person: _____ **Telephone:** _____

c. **Firm's Name:** _____

Address: _____

Contact Person: _____ **Telephone:** _____

4. BIDDER QUALIFICATIONS

Provide **(include with bid)** sufficient information regarding your firm's qualifications to provide for the District's needs identified in this IFB. You may include supporting literature and attachments which the District may use to establish the responsibility and capacity of your firm to meet District requirements.

5. MATERIAL SAFETY DATA SHEET, IF APPLICABLE

The Bidder must submit **(include with bid)** a material safety data sheet for each type of chemical used. The MSDS must be approved by the District's Environmental Health and Safety Branch before on award may be made.

6. SUBMITTAL/PROOF OF INSURANCE

Provide **(include with bid)** evidence of insurance in compliance with insurance requirements indicated in the Technical Specifications (see Section II C, Item #5).

SECTION III - RATE SCHEDULE SECTION

RATE SCHEDULE

The following "Rate Schedule" shall be firm during the contract period of thirty-nine (39) months.

- a. Bidder shall fill out the attached Rate Schedule (See: Section III) and indicate the: (1) Unit price for the items requested/bidding on. The completed price information should be provided in two (2) formats. The information **must** be entered and submitted in hard copy and an electronic copy of the Rate Schedule Section should also be submitted.
- b. The initial contract period shall be a thirty-nine (39) month period. Subsequent option year shall be for a contract term of twelve (12) months.
- c. The "Unit Price" bid should include prices for all items listed in the Specifications Section, all costs for any insurance, and/or any required performance guarantee.
- d. **For D3 AIX, the "unit price" bid should include the yearly maintenance cost per license. Bidders shall provide the "unit price" to purchase additional licenses.**
- e. **For FlashConnect and Oracle Gateway, the "unit price" bid should include the yearly maintenance cost per server. Bidders shall provide the "unit price" to purchase additional licenses.**
- f. Specific product brand names and numbers specified by the District in the product/technical specification are indicated to clarify specification only. Manufacturer's name and model number must be listed for any brand being offered. Bids offering "as specified" ("a/s") may not be considered. Items considered equal to or superior to the specification may be quoted and submitted.
- g. Any remarks, additions, amendments, or exceptions attached (by the bidder) to the bid, which conflict with terms and conditions herein, may cause it to be deemed "non-responsive".
- h. Item(s) shall be awarded as a whole.
- i. When filling in the Rate Schedule (Section III) information/unit costs on the hard copy, the Bidder should **either type or print legibly in blue ink**. If the information/unit price is illegible, that item may not be considered for an award. Additionally, the electronic copy of the Rate Schedule should be submitted in an MS Excel format and saved in a 3 ½" floppy disk or compact disk. **If a discrepancy exists between the hard copy and the electronic copy, the hard copy will prevail.**

NOTE: No additional charges will be authorized or paid during the subsequent contract agreement period unless originally specified in the bid.

RATE SCHEDULE

Software Maintenance

<u>System ID#</u>	<u>Component</u>	<u>License</u>	<u>Unit Cost</u>	<u>Extended Cost</u>
00199885	D3 AIX	28	\$ _____	\$ _____
50132603	D3 AIX	277	\$ _____	\$ _____
50245806	D3 AIX	10	\$ _____	\$ _____
60132604	D3 AIX	959	\$ _____	\$ _____
Subtotal - D3 AIX		1274		\$ _____
<u>System ID#</u>	<u>Component</u>	<u>License</u>	<u>Unit Cost</u>	<u>Extended Cost</u>
00199885	FlashCONNECT	1	\$ _____	\$ _____
50132603	FlashCONNECT	1	\$ _____	\$ _____
60132604	FlashCONNECT	1	\$ _____	\$ _____
Subtotal - FlashCONNECT		3		\$ _____
<u>System ID#</u>	<u>Component</u>	<u>License</u>	<u>Unit Cost</u>	<u>Extended Cost</u>
00199885	Oracle Gateway	1	\$ _____	\$ _____
60132604	Oracle Gateway	1	\$ _____	\$ _____
Subtotal - Oracle Gateway		2		\$ _____
Total Licenses:		1279	Total Annual Cost: \$ _____	

Software License

<u>System ID#</u>	<u>Component</u>	<u>License</u>	<u>Unit Cost</u>
New	D3 AIX	1	\$ _____
New	FlashCONNECT	1	\$ _____
New	Oracle Gateway	1	\$ _____

Time and Materials Section

Time and Materials - for services outside the scope of the bid

Labor Rate: \$ _____ / hr

SECTION IV

A. GENERAL BID CONDITIONS

1. AWARD OF CONTRACT

If an award is made pursuant to the bidding process, the Contract will be awarded according to the authority granted by the Board of Education of the Los Angeles Unified School District under California law (e.g., the Public Contract Code, Education Code, Government Code). Ordinarily, contracts are awarded to the lowest responsive/responsible bidder. However, certain statutes, (e.g., Education Code Sections 39645 and 39802) authorize award for certain contracts to other than the lowest responsive/responsible bidder, at the discretion of the Board of Education. The Board of Education reserves the right to award in accordance with the fullest authority granted it under State law.

Moreover, certain contracts are designed to be awarded to the lowest or best bidder on specific items or parts. In such situations, this intention is delineated in the bidding documents. Bidders are cautioned and urged to pay specific attention to all terms and conditions in the bidding documents pertaining to such awards.

Bidders should retain a copy of their bid and all bidding documents. In the event of an award, the bid and all bidding documents will become the Contract Agreement. The only other document provided to the successful bidder will be a letter regarding the Notice of Acceptance of Bid and Award of Contract.

2. FORCE MAJEURE

The parties to the Contract will be excused from performance during the time and to the extent that they are prevented from obtaining, delivering or performing by “Act of God”, fire, strike, loss or shortage of transportation facilities, lockout, or commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented to the other party. Provided that it is satisfactorily established that the non-performance is not due to the fault or negligence of the party not performing.

Upon issuance of an award, the Contractor shall as part of subject Contract, establish lines of communication which shall require the Contractor and/or principal subcontractor to issue notices of strikes or other work stoppages within 24 hours of the occurrence of such events. Failure of the Contractor to notify the District timely shall entitle the District to pursue such remedies as are available under the provisions of the Contract.

The Contractor will be granted an extension of time for any portion of a delay in completion of the Work caused by acts of a public enemy, wars, civil disturbances, fires, floods, earthquakes, epidemics, quarantine restrictions, freight embargoes, strikes, weather more severe than normal, any other cause not in the reasonable control of the Contractor or acts of God, providing that the:

- a. Aforesaid causes were not foreseeable and did not result from the fault or negligence of the Contractor;
- b. Contractor has taken reasonable precautions to prevent further delays owing to such causes; and
- c. Contractor notifies the District in writing of the cause(s) for the delay within five (5) days from the beginning of any such delay.

3. PUBLIC RECORDS ACT

Responses to this IFB become the exclusive property of the District and subject to the California Public Records Act. Those elements in each Bid/Proposal which are trade secrets as that term is defined in Civil Code Section 3426.1 (d) or otherwise exempt by law from disclosure and which are prominently marked as "TRADE SECRET", "CONFIDENTIAL", or "PROPRIETARY" may not be subject to disclosure. The District shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked if disclosure is deemed to be required by law or by an order of the Court. Bidders/proposers, which indiscriminately identify all or most of their bid/proposal as exempt from disclosure without justification, may be deemed non-responsive.

4. DISTRICT RIGHTS

The District may investigate the qualifications of any bidder/proposer under consideration, require confirmation of information furnished by a bidder/proposer, and require additional evidence of qualifications to perform the services described in the IFB. The District reserves the right to:

- a. Reject any and all bids.
- b. Issue subsequent IFB solicitations.
- c. Cancel the entire IFB.
- d. Remedy technical errors in the IFB process.
- e. Appoint evaluation committees to evaluate bids.
- f. Seek the assistance of outside technical experts in bid evaluation.
- g. Approve or disapprove the use of particular subcontractors
- h. Award a contract to one or more bidders.

5. EXAMINATION OF CONTRACT DOCUMENTS

Before submitting a Bid, the Bidder shall become thoroughly familiarized with all bid and contract documents, and any addenda issued prior to the bid submission date. Such addenda shall form a part of the bid and shall be made a part of the Contract Documents. It shall be the Bidder's responsibility to ascertain that their bid acknowledges all addenda issued prior to the bid submission date.

6. EXAMINATION OF ACTUAL CONDITIONS

The Bidder should be satisfied by personal examination (and by such other means as it may prefer) as to the actual conditions and requirements under which the service must be performed/products provided. If the Bidder does not completely understand any existing condition or requirement of the service, he/she should request clarification from the Procurement Services Group Office at (562) 654-9311.

Any prospective bidder wishing to visit District locations in connection with requirements of this bid must schedule such visits in advance with the Site Administrator. Please visit www.lausd.net for District locations and contact information.

7. ACCEPTANCE, REJECTION OR WITHDRAWAL OF BID

Bids submitted hereunder shall remain open, valid and subject to acceptance for a period of one hundred-twenty (120) days after the Bid Opening Date. Upon mutual agreement by the District and the Bidder, the one hundred-twenty (120) day period may be extended by an additional amount of time as mutually agreed upon. The District reserves the right to reject any and all bids.

7. ACCEPTANCE, REJECTION OR WITHDRAWAL OF BID -- continued

The Bidder may withdraw its Bid at any time before the Bid Closing Date and Time. Such withdrawal shall not prevent Bidder from competing for future District requirements.

The successful Bidder will be notified by the District of an award of contract through the issuance of a "Notice of Acceptance of Bid and Award of Contract". No other contract documents shall be issued. The Bidder's signed bid as submitted and accepted by the District shall constitute the Agreement (subject to conditions set forth in the "Notice of Acceptance of Bid and Award of Contract").

8. INSPECTION OF BIDDER'S FACILITY

As part of the District's evaluation process, the District reserves the right to inspect the facilities of the Bidder prior to award of the Contract. If representative(s) of the District determine after such inspection that the Bidder may not be capable of providing proper and satisfactory service/product to the District, the Bidder may not be considered for an award. Additionally, the District reserves the right to inspect the Contractor's facility during the contract period at any time during normal business hours upon prior notice. Bidder may also be required to show evidence of its ability to furnish standard material from identified manufacturer(s).

9. BIDDER'S PAST PERFORMANCE

A Bidder may be ruled "non-responsible" based upon Bidder's unacceptable past performance which may include but not limited to: late/non deliveries, partial deliveries, delivery of wrong materials, products not meeting specification, providing incorrect prices, invoicing problems, default. etc.

10. BIDDER'S INFORMATION WITH BID

A completed "Bidder Questionnaire" shall be submitted as part of the bid package. The information provided therein will be used solely for evaluating the qualifications of the Bidder and their organization to carry out satisfactorily the terms of a contract. The questionnaire must be filled out accurately, completely and submitted with the bid. Any errors, omissions, or fraudulent information may be considered as a basis for the rejection of the bid and may be grounds for the cancellation of any subsequent agreement executed as a result of the bid or bids involved.

The information contained in the questionnaire will be considered confidential and made available only to employees of the Los Angeles Unified School District or Members of the Board of Education. Bidders desiring additional information concerning the questionnaire or any of the other documents comprising the Bid or Contract Specifications may contact the District representative indicated on the Cover Page.

The District reserves the right to evaluate the information provided on the questionnaire prior to award of any Contract(s) and if representatives of the District determine after such evaluation that the Bidder is not capable of proper and satisfactory performance (service) to the District, its Bid will not be considered further.

11. APPROVED BRAND(S)

Brands that have been previously approved by the District may be included in the Bid Specification Section as "Brands apparently conforming to specifications." Brands previously approved may not need any further evaluation. Bidder may bid on these brands provided that

11. **APPROVED BRAND(S) -- continued**

there have been no changes made in any way subsequent to the District's approval; including but not limited to:

- a. Manufacturer make/model
- b. Manufacturer/Distributor model (part) number
- c. Material and/or Quality
- d. Design construction

Note: Sample(s) and/or specification sheets of product may still be required for previously approved product brands that meet the above criteria upon District request.

12. **BRAND(S) NOT PREVIOUSLY APPROVED**

Bidder may bid on any alternate "equal" brand(s) that have not been previously approved by the District. If such items are bid, the Bidder must submit samples as indicated in this bid. However, an evaluation and testing period may be required to qualify any newly bid brand(s). The District reserves the right to exclude any brand(s) not previously approved by the District for bid award consideration if the evaluation and testing period required to qualify the newly bid brand(s) exceed ten (10) working days after receipt of samples from the Bidder. In such case, the evaluated brand(s) may not be accepted for this bid, but if deemed as an acceptable "equal" product brand, will be added to the District's qualified products list for future consideration.

13. **SUBMITTAL REQUIREMENT**

Complete technical specifications and a copy of the product label must be submitted for each line item bid in a tabbed 8 ½ x 11 inch binder. Each tab shall be identified by the bid line item number and commodity code. Bidder not providing the submittal of information/samples as directed may be deemed "non-responsive".

14. **SAMPLE REQUIREMENT**

a. **SAMPLES ARE REQUIRED ONLY UPON REQUEST BY THE DISTRICT**

- (1) Samples must be furnished within seven (7) working days upon request by the District Representative. Bidder not providing samples may be deemed "non-responsive".
- (2) Samples may be required even though the Bidder has provided these items to the District in the past.

b. **IDENTIFICATION OF SAMPLES**

Each sample must be labeled/tagged and identified as follows:

Bidder's name, bid number, item brand and product code number, bid item number and District's commodity code (stock number)

c. **SAMPLES SHALL BE RETAINED**

Sample(s) from the successful Bidder will be retained by the District for **comparison with goods delivered** over the life of the contract. Any item shipped that is not equal to the "accepted sample", will be rejected, and must be replaced at the Contractor's expense within seven (7) working days.

14. **SAMPLE REQUIREMENT** – continued

d. **MATERIAL SAFETY DATA SHEET (M.S.D.S.)**

Must be submitted with samples, if required, and with all future deliveries.

e. **RETURN OF SAMPLE(S)**

If Bidder is not awarded a Contract, do the sample(s) need to be returned? Check below.

Yes _____ No _____

NOTE: Failure to submit sample(s) and/or Material Safety Date Sheet (MSDS) may be cause to deem the bid “non-responsive”.

15. **DEBARMENT AND SUSPENSION CERTIFICATION**

Effective November 26, 2003, the Department of Education implemented 34 CRF Part 85 that applies to any procurement or subcontract expected to be worth \$25,000 or more funded or authorized under Department of Education programs. To be eligible for an award under this bid, the Bidder must certify compliance by signing on Page 3 of Section II B – Specific Bid Conditions/Certifications. (See: Section II B, Item #3, Certification Regarding Debarment”).

SECTION IV

B. GENERAL CONTRACT CONDITIONS

1. AUTHORITY OF THE CHIEF PROCUREMENT OFFICER

The District has the final approval in all matters relating to or affecting the Work. Except as expressly specified in the Contract, the Chief Procurement Officer may exercise any powers, rights, and/or privileges that have been lawfully delegated by the District. Nothing in the Contract shall be construed to bind the District for acts of its employees and Authorized Representatives that exceed the delegation of District specified herein.

2. DISTRICT'S TECHNICAL REPRESENTATIVE (PROJECT MANAGER)

The District shall provide a Project Manager and/or a technical representative for all technical aspects related to the performance of the Contract. The Contractor shall make such oral or written reports to the District's technical representative with an information copy to the District's Procurement Officer as may be requested by the District or as specifically required by the Contract. ALL CONTRACTUAL MATTERS SHALL BE ADDRESSED TO THE DESIGNATED PROCUREMENT OFFICER.

3. INDEPENDENT CONTRACTOR

The Contractor represents that it is fully experienced and properly qualified to perform the class of Work required for the Contract and that it is properly licensed, equipped, organized, and financed to perform the Work. The Contractor shall be an independent Contractor. The Contractor is not an agent of the District in the performance of the Contract, and shall maintain complete control over its employees and its subcontractors and Suppliers of any tier. Nothing contained in the Contract or any Subcontract awarded by the Contractor shall create any Contractual relationship between any subcontractor and the District. The Contractor shall perform the Work in accordance with its own methods, in compliance with the terms of the Contract.

The District reserves the right of prior approval of all subcontractors and retains the right to request Contractor to terminate any subcontractor, for any reason deemed appropriate by the District, by so notifying Contractor in writing. Should said notification be submitted to Contractor, it shall terminate said subcontractor immediately

4. SUBCONTRACTORS AND SUPPLIERS

a. Documentation And Acceptance

The Contractor shall submit a copy of all executed subcontracts at any time within thirty (30) days of execution regardless of value to the District for fulfillment of SBE Goals, and a copy of insurance certificates in accordance with Section II C, Item #5 entitled "Insurance Requirements". Failure to submit subcontracts and certificates within the required time period will result in the subcontractor's not being permitted to perform Work on the Project.

4. SUBCONTRACTORS AND SUPPLIERS – continued

b. Performance Of Work

The Contractor shall:

- (1) Be responsible to the District for all acts and omissions of its own personnel, and of subcontractors, Suppliers and their employees; and
- (2) Be responsible for coordinating the Work performed by subcontractors and Suppliers.

Should a portion of the subcontracted Work not be performed in accordance with the terms of the Contract, or if a subcontractor commits or omits any act that would constitute a breach of the Contract, the subcontractor shall be replaced and shall not again be employed under the Contract.

c. Acceptance of Substitution of Subcontractor

- (1) The Contractor shall notify the District in writing of any proposal to substitute a subcontractor in place of a subcontractor listed in the Contractor's Qualification/Proposal. Prior to such substitution the Contractor shall secure the acceptance of the District. The Contractor shall submit the following information in a form similar to that contained in the Contractor's original Qualification/Proposal.
 - (a) Name of Subcontractor
 - (b) Location and Phone Number of Place of Business
 - (c) Contact Person
 - (d) Subcontractor's License(s) number and expiration date (if applicable)
 - (e) Current District SBE Compliance Certification Status (if applicable)
 - (f) The portion of the Services that will be performed by each Subcontractor.

The District will promptly initiate a review of the information submitted on each Subcontractor and transmit written notification to the Contractor concerning its decision.

- (2) The District shall not be responsible for delays incurred by the Contractor because of a timely disapproval by the District of a Subcontractor proposed by the Contractor, or for the late submittal for acceptance of a Subcontractor to the District, or because of a Subcontractor's removal from the performance of the Work.

4. SUBCONTRACTORS AND SUPPLIERS--continued

c. Acceptance of Substitution of Subcontractor

- (3)** The Contractor shall not do any of the following without the prior written consent of the District:
 - (a)** replace any previously accepted Subcontractor;
 - (b)** permit any previously accepted Subcontract to be assigned or transferred; and/or
- (4)** The Contractor may perform the Work itself with qualified personnel, provided written permission is obtained from the District prior to performance of the Work.

d. Flow-Down Requirements

- (1)** The Contractor shall incorporate the following into each Subcontract and require insertion of same into all lower-tier Subcontracts:
- (2)** All provisions required by law, regulation, rule, or the Contract shall apply to Subcontracts and shall apply to all Subcontracts of any tier.
- (3)** By virtue of signing the subcontract, the following apply:
 - (a)** The Subcontractor acknowledges and agrees that all Work being performed by it under the Subcontract shall be performed in accordance with the Contractor's Contract with the District.
 - (b)** The Subcontractor agrees that it shall have the same duties and obligations to the Contractor with respect to its performance of its own Work as the Contractor has to the District under its Contract.
 - (c)** The Contractor and the Subcontractor agree that the District is the third party beneficiary of the Subcontract and shall have the right to enforce all of the terms of the Subcontract for its own benefit. All guarantees and warranties, express or implied, shall inure to the benefit of both the District and the Contractor during the performance of the Work. Upon final completion of the Work, such guarantees and warranties shall inure to the benefit of the District.
 - (d)** The Contractor and the Subcontractor agree that nothing contained in the Subcontract shall be deemed to create any privity of the Contract between the District and the Subcontractor, nor does it create any duties, obligations, or liabilities on the part of the District to the Subcontractor except those allowed under California Law. In the event of any claim or dispute arising under the Subcontract and/or the Contractor's Contract with the District, the Subcontractor shall look only to the Contractor for any payment, redress, relief, or other satisfaction. The Subcontractor hereby waives any claim or cause of action against the District arising out of the Subcontract.

4. SUBCONTRACTORS AND SUPPLIERS -- continued

d. Flow-Down Requirements - continued

- (e) This Article does not and shall not operate to relieve the Contractor of any duty or liability under the Contract nor does it create any duty or liability on the part of the District. The Contractor shall have sole responsibility for promptly settling any disputes between its Subcontractors and between the Subcontractors and any of their Subcontractors.
- (f) No Subcontractor shall be permitted to perform the Work under the Contract until it, or the Contractor, has supplied satisfactory evidence of required insurance to the District, in compliance with Section II C, Item #5 entitled "Insurance Requirements".

5. GOODS

- a. The Contractor shall furnish all Goods required to complete the Work, except those designated to be furnished by the District. Unless otherwise indicated in the Contract or Purchase Order, Goods incorporated into the Work shall be new, of good quality, and of the grade specified for the purpose intended. Unless otherwise specifically stated, reference to Goods or patented processes by trade name, make, or catalog number shall be regarded only as a means of establishing a standard of quality; such references shall not be construed as limiting competition. The Contractor may, at its option, use any Goods or process that is equivalent to that named subject to the prior written acceptance by the District. The District shall be the sole judge of the quality and suitability of proposed alternative Goods or processes subject to the right of the District to accept or reject such alternative.
- b. Any Goods that may be purchased under the Contract shall be transported, handled, and stored by the Contractor in a manner that shall ensure the preservation of their quality, appearance, and fitness for the Work. All Goods shall also be stored in a manner that facilitates inspection.

6. STANDARDS OF PERFORMANCE

- a. The Contractor shall perform and require its Subcontractors to perform the Work in accordance with the requirements of the Contract and in accordance with professional standards of skill, care, and diligence adhered to by firms recognized for their expertise, experience and knowledge in performing Work of a similar nature. The Contractor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Work, it being understood that the District will be relying upon such professional quality, accuracy, completeness, and coordination in utilizing the Work. The foregoing obligations and standards shall constitute the "Standard of Performance" for purposes of the Contract.

6. STANDARDS OF PERFORMANCE -- continued

- b.** The District shall have the right, in its absolute discretion, to require the removal of Contractor's personnel at any level assigned to the performance of the Services or Work, requests such removal in writing. Such personnel shall be promptly removed from the Project by the Contractor at no cost or expense to the District. Further, an employee who is removed from the Project for any reason shall not be re-employed on the Program.

7. UNAUTHORIZED ACTIONS

Any action taken by the Contractor or its Subcontractors not in conformance with the terms and conditions of the Contract will be considered as unauthorized and at the sole expense of the Contractor. Contractor or its Subcontractors will not be compensated for any actions deemed by the District to be unauthorized. No extensions of time will be granted under the Contract or Purchase Order due to unauthorized actions.

No District employee or officer, except the Chief Procurement Officer, or designee, may authorize any Amendments to the Contract, issue a Purchase Order or make revisions to Purchase Orders.

8. CONTRACT TERMINATION

a. Termination for Convenience

- (1)** The District may, by written notice to the Contractor, terminate this Contract in whole or in part at any time, for the District's convenience. Upon receipt of such notice, the Contractor shall:
 - (a)** immediately discontinue all services affected (unless the notice directs otherwise) and,
 - (b)** deliver to the District all material and information as may have been involved in the provision of services, whether provided by the District or generated by the Contractor in the performance of this contract, whether completed or in process. Termination of this contract shall be as of the date of receipt of the Contractor of such notice.
- (2)** If the termination is for the convenience of the District, Contractor shall submit a final invoice within sixty (60) days of termination and upon approval by the District, the District shall pay the Contractor the sums earned for the Products/Services actually provided/performed prior to the effective date of termination and other costs reasonably incurred by the Contractor to implement the termination (if any).
- (3)** The Contractor shall not be entitled to anticipatory or consequential damages as a result of any termination under this Article. Payment to the Contractor in accordance with this Article shall constitute the Contractor's exclusive remedy for any termination hereunder. The rights and remedies of the District provided in this Article are in addition to any other rights and remedies provided by law or under this Contract.

8. CONTRACT TERMINATION--continued

b. Termination for Default

- (1) Issuance of Preliminary Notice of Termination for Default (Cure Notice).

If the District determines that the Contractor has failed to fulfill its contractual obligations hereunder, a Cure Notice will be sent to the Contractor and each known assignee, guarantor, or surety of the Contractor. The Contractor shall have 10 (ten) working days from receipt of the Cure Notice to cure its failure(s) to perform or make progress as set forth in the Notice. During the “cure” process, Contractor must sustain performance in all areas not affected by the cure notice. If the Contractor makes adequate progress within the cure period, the termination process will be discontinued. If the Contractor fails to perform in accordance with Contract requirements, or to make adequate progress, termination proceedings may be initiated.

- (2) The District may, by written notice to the Contractor, terminate this Contract in whole, or in part, at any time because of the failure of the Contractor to fulfill its contractual obligations. Upon receipt of such notice, the Contractor shall:
- (a) immediately discontinue all delivery/services affected (unless the notice directs otherwise),
 - (b) and deliver to the District all material and information as may have been involved in the provision of services, whether provided by the District or generated by the Contractor in the performance of this contract, whether completed or in process.

Termination of this contract shall be as of the date of receipt of the Contractor of such notice.

- (3) If the termination is due to the failure of the Contractor to fulfill its contractual obligations, the District may take over the services, and complete the services by contract or otherwise. In such case, the Contractor shall be liable to the District for any reasonable costs or damages occasioned to the District thereby. The expense of completing the Services, or any other costs or damages otherwise resulting from the failure of the Contractor to fulfill its obligations, will be charged to the Contractor and will be deducted by the District out of such payments as may be due or may at any time thereafter become due to the District. If such costs and expenses are in excess of the sum which otherwise would have been payable to the Contractor, then the Contractor shall promptly pay the amount of such excess to the District upon notice of the excess so due.
- (4) If, after the notice of termination for failure to fulfill Contract Obligations, it is determined that the Contractor has not so failed, the termination shall be deemed to have been effected for the convenience of the District. In such event, adjustment shall be made as provided in “ Termination for Convenience”.

8. CONTRACT TERMINATION--continued

b. Termination for Default --continued

- (5) The Contractor shall not be entitled to anticipatory or consequential damages as a result of any termination under this Section. Payment to the Contractor in accordance with this article shall constitute the Contractor's exclusive remedy for any termination hereunder. The rights and remedies of the District provided herein are in addition to any other rights and remedies provided by law or under this Contract.

Upon termination notification, the District has the right to order at the price, terms, and conditions in effect at any time prior to the effective date of the cancellation of the agreement and require delivery service as specified. Purchase orders issued against the Contract may specify delivery dates beyond the effective date of the cancellation of this agreement, **not exceeding sixty (60) days**.

9. RIGHTS IN PROPERTY

a. Title

- (1) All property purchased by the Contractor for the District, shall be hereinafter referred to as District property. Title to District property shall pass to and vest in the District upon the vendor's delivery and acceptance of such property by the contractor.
 - (2) Title to District property shall not be affected by its incorporation into or attachment to any property not owned by the District, nor shall District property become a fixture or lose its identity as personal property by being attached to any real property.
 - (3) The title transferred as described above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances. The Contractor shall not pledge or otherwise encumber the items in any manner that would result in any lien, security interest, charge, and/or claim upon or against said items.
 - (4) The contractor shall promptly execute, acknowledge, and deliver to the District proper bills of sale or other written instruments of title in a form as required by the District; said instruments shall convey to the District title to material free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.
- b. The District property shall be used only for performing work on the contract or purchase order, unless otherwise provided in the Contract or approved by the District's Procurement Officer.

10. CHANGES

- a.** The term "Change(s)," as used herein, means substitutions, additions, or deletions which result in revisions to the Contract or Purchase Order. Change does not mean work performed by the Contractor to correct defective Work caused by the Contractor's negligent acts, errors or omissions.
- b.** The District may at any time, and from time to time without invalidating the Contract or Purchase Order, make Changes in the Scope of Work. The District and Contractor will endeavor to reach mutual agreement regarding costs and Schedule associated with the Change; however, the District reserves the right to unilaterally direct the Contractor to perform the Changed Work. Such Changes, including any increase or decrease in the amount of the Contractor's compensation and/or the period of performance, shall be incorporated into the Contract or Purchase Order through the issuance of a Contract Amendment or Purchase Order Revision. All of the provisions of the Contract shall apply to Changes. Upon receipt of a Contract Amendment or Purchase Order Revision, approved by the District, the Contractor shall continue performance of the Scope of Work as modified by the Amendment.
- c.** If a Fixed Fee is a part of the compensation for the Contract or Purchase Order, it is the agreed intent of the parties that the Fixed Fee is an amount fixed at the inception of a Purchase Order with respect to the Work planned and Scheduled as set forth in the Scope of Work and is not intended to vary with actual costs for the Work. A Contract Amendment or Purchase Order Revision issued hereunder may, but will not automatically, result in a Change to the Fixed Fee.

11. ASSIGNMENT

- a.** The Contractor shall not assign, transfer, convey, or otherwise dispose of the Contract or a Purchase Order (or the right, title, or interest in it or any part of it) without the prior written consent and endorsement of the District, which consent shall not be unreasonably withheld.
- b.** No rights under the Contract shall be asserted against the District, in law or in equity, by reason of any assignment of the Contract, or any part thereof, unless authorized by the District as specified in this Article.
- c.** Any assignment of proceeds of the Contract shall be subject to all proper setoffs and withholdings in favor of the District and to all deductions specified in the Contract or Purchase Order. All monies withheld, whether assigned or not, shall be subject to being used by the District for completion of the Work, pursuant to the terms of the Contract. In the event that the District consents to such assignment of monies, written notice thereof shall be given by the Contractor to the District at least ten (10) days before payment is due.

12. SEVERABILITY

In the event any Article, section, Subarticle, paragraph, sentence, clause, or phrase contained in the Contract or Purchase Order shall be determined, declared, or adjudged invalid, illegal, unconstitutional, or otherwise unenforceable, such determination, declaration, or adjudication shall in no manner affect the other Articles, sections, Subarticles, paragraphs, sentences, clauses, or phrases of the Contract or Purchase Order, which shall remain in full force and

12. SEVERABILITY -- continued

effect as if the Article, section, Subarticle, paragraph, sentence, clause, or phrase declared, determined, or adjudged invalid, illegal, unconstitutional, or otherwise unenforceable, was not originally contained in the Contract or Purchase Order.

13. GOVERNING LAW

This Contract between the District and the Contractor shall be subject to the laws of the State of California.

By entering into the Contract, the Contractor consents and submits to the jurisdiction of the Courts of the State of California, County of Los Angeles, over any action at law, suit in equity, and/or other proceeding that may arise out of the Contract.

14. PUBLIC RECORDS ACT

a. All records, documents, drawings, plans, specifications and other information relating to conduct of the District's business, including information submitted by the Contractor shall become the exclusive property of the District and shall be deemed public records. Said materials are subject to the provisions of the California Public Records Act (Government Code Sections 6250 et. seq.). The District's use and disclosure of its records are governed by this Act. The District will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.

b. In the event of litigation concerning the disclosure of any information submitted by the parties, the District's sole involvement will be as a stakeholder, retaining the information until otherwise ordered by a court. The submitting party, at its sole expense and risk, shall be responsible for any and all fees for prosecuting or defending any action concerning the information, and shall indemnify and hold the District harmless from all costs and expenses including attorneys' fees, in connection with any such action.

15. AGENT TO ACCEPT SERVICE

The Contractor shall maintain a duly authorized agent as identified in Section II A, Item #15 (“Name and Nature of Bidder’s Legal Entity”) to accept service of legal process on its behalf, and shall keep the District advised of such authorized agent name and address during the duration of the Contract and for three (3) years after Final Payment, or as long as the Contractor has warranty obligations under Section II C, Item #8 entitled “Manufacturer’s Warranty”, whichever period terminates later. In the event that no such duly authorized agent is on file with the District, the Contractor agrees that the Secretary of State, of the State of California, shall be the Contractor's authorized agent for service of legal process.

16. NO WAIVER

Failure of the District to enforce at any time, or from time to time, any provision of the Contract shall not be construed as a waiver thereof.

No waiver by the District of any breach of any provision of the Contract shall constitute a waiver of any other breach or of such provision.

16. NO WAIVER -- continued

Failure or delay by the District to insist upon strict performance of any terms or conditions of the Contract, or to exercise any rights or remedies provided herein by law, shall not be deemed a waiver of any right of the District to insist upon strict performance of the Contractor's obligations set forth in the Contract, or any of its rights or remedies as to any prior or subsequent default hereunder.

17. CONFIDENTIALITY

Contractor agrees that for and during the entire term of the Contract, any information, data, figures, records, findings and the like received or generated by the Contractor in the performance of the Contract, shall be considered and kept as the private and privileged records of the District and will not be divulged to any person, firm, corporation, or other entity except on the direct authorization of the District. Further, upon termination of the Contract for any cause, Contractor agrees that it will continue to treat as private and privileged any information, data, figures, records and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct written authorization of the District.

The Contractor shall not publish information or technical data acquired or generated by the Contractor in performing the Contract until such time as such information or technical data is released in published reports by the District.

18. DISCRIMINATION

In connection with the performance of Work provided for under this Contract, Contractor agrees that it will not, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, medical condition, marital status, sex, sexual orientation, or age, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Federal, State or local laws.

19. VEHICLE SAFETY AND SECURITY

It shall be the responsibility of the Contractor to ascertain the District Branch or Office under whose direction the service shall be performed. The rules and regulations pertaining to safe driving on school grounds, and surrounding neighborhoods particularly when students and children are present, must be adhered to. The Contractor's drivers shall exercise extreme caution at all times and be sensitive to community concerns regarding excessive noise.

Drivers entering school premises when school is not in session shall lock any gate or door to which they have access, both when entering and/or leaving the grounds. Gate keys, as may be required, will be furnished by the District Branch or Office supervising the service. Any unusual condition noted by drivers, such as gates or doors found unlocked or open or evidence of vandalism, should be reported to the School Police Department of the Los Angeles Unified School District, Tel: (213) 625-6631 (24 – hour telephone number).

Considering that many of the District's schools are located in community neighborhoods, the Contractor shall have their drivers observe all applicable ordinances and/or restrictions pertaining to operating times and noise abatement.

19. VEHICLE SAFETY AND SECURITY -- continued

Any Contractor, whose business operation requires a DMV Biannual Inspection of Terminal (BIT), must do so under the terms of this contract. The Contractor shall immediately notify the District of any inspection failure.

20. HOLD HARMLESS CLAUSES

The Contractor shall hold harmless and indemnify the District and the Board of Education of the City of Los Angeles, its officers and employees from every claim or demand which may be made by reason of:

- a. Any injury to person or property sustained by the Contractor or by any person, firm, or corporation, employed directly or indirectly by them upon or in connection with his performance under the Contract, however caused, unless such injury is caused by the negligence or willful misconduct of the District.
- b. Any injury to person or property sustained by any person firm or corporation, caused by any act, neglect, default, or omission of the Contractor or of any person, firm, or corporation, indirectly employed by them upon or in connection with his performance under the Contract.
- c. Any liability that may arise from the furnishing or use of any copyrighted composition, or patented invention, under this Contract. It is the intent of the District to adhere to the provisions of the copyright laws; this hold harmless shall not apply to any claim by Contractor that District has infringed a patent or copyright of Contractor.

The Contractor, at its own expense and risk, shall defend any legal proceeding that may be brought against the District or the Board on any such claim or demand, and satisfy any judgment that may be rendered against the District or the Board therein. With respect to claims of patent or copyright infringement, the District agrees to give Contractor notice of any such claim and to fully cooperate with Contractor in the defense and all related settlement negotiations.

21. AUDIT AND INSPECTION OF RECORDS

The Contractor shall maintain, and the District shall have the right to examine and audit, all the books, records, documents, accounting procedures and practices and other evidence regardless of form (e.g., machine-readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to properly reflect all costs claimed to have been incurred, or anticipated to be incurred, in performing the Contract.

The Contractor shall make said evidence (or to the extent accepted by the District, photographs, micro-photographs, or other authentic reproductions thereof) available to the District at the District's or the Contractor's offices (to be specified by the District) at all reasonable times and without charge to the District. Said evidence/records shall be provided to the District within five (5) working days of a written request from the District. The Contractor shall, at no cost to the District, furnish assistance for such examination/audit. The

21. AUDIT AND INSPECTION OF RECORDS -- continued

Contractor and its Subcontractors and Suppliers shall keep and preserve all such records for a period of at least 3 years from and after final payment or if the Contract is terminated in whole or in part until 3 years after the final Contract close-out. The District's rights under this section shall also include access to the Contractor's offices for the purpose of interviewing the Contractor's employees.

Any information provided on machine-readable media shall be provided in a format accessible and readable by the District. The Contractor's failure to provide records or access within the time requested shall preclude Contractor from receiving any payment due under the terms of this agreement until such evidence/documents are provided to the District. The Contractor shall obtain from its Subcontractors and Suppliers written agreements to the requirements of this Section and shall, upon the District's request, provide a copy of such agreements.

22. ENVIRONMENTALLY PREFERRED PRODUCT PROCUREMENT PROGRAM

The Los Angeles Unified School District has established a policy to buy, wherever/whenever practical, environmentally preferable products to meet its needs and to foster market development for recycled products. The District recognizes that the availability of recycled products may be periodically limited. Therefore, the policy is intended to help develop the market for recycled products, and to increase District usage of environmentally preferable products, where and when economically feasible, as the market develops.

This policy covers all procurements, both of goods and services, to support the purchase of cost competitive recycled products, and products that contain recycled content of equal utility and function, where a stable supply chain exists to meet the demands of our schools, and if there is no additional cost to the District.

ENVIRONMENTAL PREFERENCE

- a. The District may give a preference, all other factors being equal, for environmentally preferable products.
- b. The District encourages the maximum feasible use of environmentally preferable packaging products, reusable packaging, and returnable packaging materials for all deliveries of goods and materials.
- c. The District requires all bidders for goods and materials to offer environmental alternatives to virgin products offered in response to bid specifications. Suppliers of goods and materials with recycled content will be required to provide the amount of "post consumer content" and/or "pre-consumer recycled content" by weight percent for the goods and materials provided.
- d. The District may provide for product servicing and product life extension service. To the maximum extent feasible, all machinery and electronic equipment provided should allow for the manufacturer/contractor to accept used equipment and goods, at the end of their planned useful life, or when they are declared surplus, for recycling purposes. The

22. ENVIRONMENTALLY PREFERRED PRODUCT PROCUREMENT PROGRAM-cont.
ENVIRONMENTAL PREFERENCE – continued

District shall retain the right to dispose of materials declared surplus in the manner most beneficial to the District, which may include establishing credits for the return of goods to the manufacturer/distributor/original vendor, or at public auction.

23. SWEAT-FREE PROCUREMENT POLICY

The Board of Education of the Los Angeles Unified School District has established policies to restrict purchases to only those products and services that have been manufactured without the illegal use of sweatshop (including exploitive, “child”, “forced”, “convict”, and “indentured”) labor. All sales/goods provided to the District by the contractor and/or their subcontractor shall be in compliance with the District’s official policy regarding “sweat-free” procurements. The Contractor will certify that the products and services provided to the District are manufactured in strict compliance with all applicable sweatshop, child and slave labor laws of this and all other countries of the product’s origin.

For the purposes of establishing a non-poverty wage, the LAUSD uses the definition of non-poverty wages as formulated by the Union of Needletrades, Industrial and Textile Employees (UNITE), utilizing the Department of Health and Human Services’ guidelines to determine non-poverty wages domestically. Internationally, the LAUSD recognizes the World Bank’s Gross National Income Per Capita Purchasing Power Parity figures to determine comparable wages in other countries.

The objective of this policy is specifically to discourage and prevent the use of any form of “exploitive labor” but not cause undue and unnecessary economic hardship for laborers. This policy targets those types of child labor that effects the mental, physical, and emotional developments of children such as those types of exploitive labor which fall under the broader category of “sweatshop labor”.

The consequence for any violation by the contractor in adherence to the aforementioned laws and/or provisions, may result in action being taken by the District against the contractor, which may include, but not limited to, agreed upon liquidated damages, contract cancellation, vendor default, and/or debarment.

IFB NO. SC-1003

SECTION V. SMALL BUSINESS ENTERPRISE (SBE) UTILIZATION PROGRAM

- A. It is the District's policy to encourage participation by Small Business Enterprise (SBE) firms in contract activity. On February 25, 2003 the Board of Education established a Small Business Enterprise (SBE) goal to "Establish a District-wide small business participation goal of 25 percent for all contracts and procurement activities". Bidders/ proposers which include SBE firms in their proposal/bid must detail the SBE status of those firms on the SBE Utilization Report.

Firms which meet the United States Small Business Administration size standards, or which have already been recognized by the LAUSD as a small business, or which are certified by a government agency or third party entity shall be considered SBE for the purposes of this program. The use of SBE partners/sub-contractors or participation in Federal agency small business programs will also be accepted as a response. Bidders/proposers are responsible for the verification of the SBE status of any firm represented as an SBE firm used in any proposal or bid. Misrepresentation of a firms' SBE status may jeopardize future contracting opportunities.

Size standards may be viewed at:

<http://www.sba.gov/services/contractingopportunities/sizestandardsttopics/index.html>

- B. The LAUSD affirmatively assures that all firms will be afforded full opportunity to submit bids/proposals in response to this IFB and will not be discriminated against on the grounds of race, sex, color, religion, ancestry, national origin, marital status, age (over 40), or disability (including AIDS, and cancer-related medical condition) in consideration for an award.
- C. LAUSD advises potential bidders/proposers that the SBE participation which the bidder/proposer commits to in their bid/proposal package becomes the goal of record. The LAUSD will enforce the SBE participation proposed.
- D. Firms claiming SBE participation must execute a copy of the SBE Utilization Report included in this IFB/RFP package, and include it in their RFP/IFB response. Firms not submitting an SBE Utilization report may be determined to have no SBE participation.

MONITORING/PENALTIES

The Procurement Services Group will be responsible for monitoring the SBE program,

If any firm listed on the SBE Utilization Report as an SBE is found not be an SBE, such finding may affect any future determination of responsibility for the firm(s) submitting the report.



**LOS ANGELES UNIFIED SCHOOL DISTRICT
SMALL BUSINESS ENTERPRISE PROGRAM
SBE UTILIZATION REPORT**

The Los Angeles Unified School District encourages participation by Small Business Enterprise (SBE) firms in procurement activity. Proposers/ bidders including SBE firms in their responses must execute a copy of this Report and include it with their RFP/IFB response. Firms which do not return this report may be determined to have no SBE participation. Bidders/proposers that are SBE firms shall check the first box on the form. Majority firms responding to the SBE program will list SBE sub-contractors/partners or attach their annual small business contracting report (SF-295, Dept of Agriculture SBE report, etc.) Size standards, which define SBE status, are available at:

<http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html>

*Firm Name _____ Bid# _____

SBE STATUS (check one)

Our firm(s) meet(s) the qualification for SBE status as defined in the Small Business Administration size standards, or is certified by a government or third party entity.

Our firm utilizes SBE subcontractors. (List SBE firms utilized)

Our firm participates in a Federal agency small business utilization program. (Attach report)

No SBE utilization.

By signing below, bidders/proposers represent that this is an accurate representation of the SBE status or utilization for the firm(s) participating in this contract.

Representative _____ Title _____

Date _____ Telephone _____