

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

IBM SERVER BID No. 1314-202

OVERVIEW: Southwestern Community College District, hereafter referred to as the “District” is currently upgrading/replacing its IBM server that runs Colleague and UniData and is seeking IBM Authorized Vendors to submit bids.

BID DEADLINE: **June 3, 2014 – 2:00 P.M. PST**

PLACE OF BID RECEIPT: Southwestern Community College District
(Mailing & Physical Address) Purchasing Department, Rm 1651
900 Otay Lakes Road
Chula Vista, Ca. 91910
Purchasing Hours of Operation:
Monday – Friday 8:00am – 4:30pm

All bids shall be made and presented in a sealed envelope and only on the forms issued by the District. The envelope must be clearly marked with the Bid name, number, and Bid due date & time. All Bids must be time-stamped by the Purchasing time clock no later than the time stated above. Bids received by the due date and time will be publicly opened and read immediately thereafter at the above physical address in Room 1680. Any bids received after the time specified above or after any extensions (if applicable), shall be returned unopened. Electronic or faxed submission will not be accepted.

Bid Name & Number: **IBM SERVER – BID #1314-202**

Bid Bond Requirement:

Bid security for not less than 5% of the Subtotal is required and must be included with your bid response. Acceptable forms of bid security are Certified check, Cashier’s check, or corporate surety bond. Business or personal checks are not allowed.

Place Specs. are on file: Southwestern Community College District
Purchasing Department, Room 1651
900 Otay Lakes Road
Chula Vista, Ca. 91910

Bid Contact Person: Janet Polite, District Buyer
(619) 482-6321; jpolite@swccd.edu

Important Action Dates and Time:

<u>Action</u>	<u>Date</u>
Legal Ad Dates	May 15 & 22, 2014 / May 16 & 23, 2014
Deadline for submission of questions in writing	May 27, 2014 10:00 A.M.
DISTRICT’S response to questions	May 28, 2014
Bid Due Date & Time	June 3, 2014 2:00 P.M.
Notice of Contract Award	June 12, 2014

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NOTICE TO BIDDERS

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

NOTICE TO IBM AUTHORIZED VENDORS

CALLING FOR BIDS

BID No. 1314-202

NOTICE IS HEREBY GIVEN that Southwestern Community College District of San Diego County, California, acting by and through its Governing Board, hereinafter referred to as the "DISTRICT" will receive up to, but no later than 2:00 PM on Tuesday, June 3rd, 2014, sealed Bids, No. 1314-202, for the purchase of an IBM Server.

The District on May 14, 2014 passed Resolution 1849 to adopt IBM Servers as the Sole Source Standard for procurement at the District. Hence, only IBM authorized vendors are invited to submit Bids for this procurement.

The Bid must be submitted in a sealed envelope/package addressed to Janet Polite, District Buyer, Building 1651, located at 900 Otay Lakes Road, Chula Vista, CA 91910, and shall be opened on the date and at the time stated above. Bidders are responsible for ensuring that the Envelope/Package is clearly marked with the bid name and number and that the bid is received by the District prior to the date and time specified and at the place specified.

Bid documents will be available on Thursday, May 15, 2014. Vendors interested in obtaining bid documents must contact Janet Polite by emailing jpolite@swccd.edu or calling 619-482-6321. Documents may also be viewed and/or downloaded by visiting www.swccd.edu; the Procurement, Central Services & Risk Management page under Business and Financial Affairs which is located under Faculty and Staff.

The District reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding.

All Requests for information and clarification must be directed to Janet Polite by emailing jpolite@swccd.edu on or before 10.00 a.m., May 27th, 2014.

No bidder may withdraw his bid for a period of ninety (90) days after the date set for the opening of bids.

Dated this: May 15, 2014

Secretary to the Governing Board
Melinda Nish, Ed. D.
Southwestern Community College District
of San Diego County, California

INSTRUCTIONS FOR BIDDERS

BID: Bidder proposes and agrees to provide the equipment, materials, services and related documentation required for the bid described as, “**IBM SERVER, Bid No. 1314-202**”, in the amounts listed on the Bid Forms. The Bidder confirms that it has checked all of the submitted figures and understands that neither the District nor any of its agents, employees or representatives shall be responsible for any errors or omissions on the part of the undersigned Bidder in preparing and submitting this Bid.

BID SUBMITTAL: Bidder must submit one (1) original bid, one (1) identical hardcopy. Bids must be addressed and delivered no later than **2:00 P.M. (PST) on June 3rd, 2014**. Please plan deliveries accordingly. Mailing and Physical Address: Southwestern Community College - Purchasing Department – Room 1651, 900 Otay Lakes Road, Chula Vista, Ca., 91910. Bid responses not received by Southwestern Community College District Purchasing department by the closing date and time indicated above will not be accepted. Bids shall be placed in a sealed envelope bearing on the outside the submitter’s company name and address, along with the Bid name, number, due date & time.

Southwestern Community College DISTRICT will not be responsible for and will not except late bids due to delayed mail delivery or courier services. (BIDS may be mailed or hand carried, but it is the responsibility of the BIDDER to make sure the BID is received by the DISTRICT prior to the deadline.) Bids received after the deadline for closing will be returned unopened unless necessary for identification purposes. DISTRICT is not responsible for mail/messenger delays.

ACKNOWLEDGMENT OF BID ADDENDA: In submitting this Bid, the Bidder acknowledges receipt of all Bid Addenda issued by or on behalf of the DISTRICT. The Bidder confirms that this Bid incorporates and is inclusive of, all items or other matters contained in Bid Addenda.

DOCUMENTS ACCOMPANYING BID: The Bidder must execute and submit with this Bid the following District-provided forms:

- Bid Form (2 Forms; one for each model)
- Bid Signature Form
- Bid Specifications and Pricing Sheets
- Quote/Proposal for installation Services.
- Bid Bond
- Non-Collusion Declaration
- Hold Harmless Agreement
- Drug-free Workplace Certification
- Contractor’s Certificate Regarding Workers’ Compensation
- Evidence of IBM Vendor/Reseller Certification (District form not included. This may be provided in any verifiable format.)
- Three customer references.

REQUEST FOR INFORMATION OR CLARIFICATION: All Questions and inquiries must be made in writing and sent to the address above or by email to jpolute@swccd.edu and pjerome@swccd.edu no later than 10:00 a.m. on May 27, 2014.

AWARD OF CONTRACT: It is the intent of the District to issue a Purchase Order(s). It is expected that the successful contractor(s) will meet all requirements of this bid and the purchase order. In the event an award is made to a Bidder and such Bidder fails or refuses to provide any required documents within five (5) days after notification of the award of the contract to Bidder, the District may award the contract to the next lowest Bidder. Award shall be based on price, current service availability, delivery performance, durability, and quality as contained in the specifications.

DELIVERY, INSTALLATION, WARRANTY AND SPECIAL STORAGE REQUIREMENTS: Warranties are required. Provide all applicable warranty information offered hereunder. Warranty information may be attached to this bid as necessary. Time is of the essence. The District must ensure the continuation of the educational program. The District therefore requires that the equipment listed herein be furnished and ready for use as agreed to by the District representative. Any bidder submitting a response to this invitation thereby guarantees compliance with the delivery, warranty and bid requirements. All shipments shall be made FOB: destination, freight: prepaid and allowed. **Delivery is to be made to Southwestern Community College District, Receiving Department, 900 Otay Lakes Road, Chula Vista, Ca., 91910.**

QUANTITIES: The quantities shown are approximate. The District reserves the right to increase or decrease quantities as needed. The District does not guarantee orders in these quantities nor shall the District be obligated to limit its orders to these quantities.

METHOD OF AWARD: The award will be in accordance with District Board Policy and Procedures, all laws, rules and regulations. The District reserves the right to award one or more purchase orders. The District also reserves the right to make multiple awards or no award at all and further reserves the right to reject any and all bids and to waive any irregularity or discrepancy associated with this bid. The successful bidder(s) is expected to enter into a Standard Agreement approved by the Board of Trustees of District, which includes the Standard Purchase Order Terms and Conditions.

1. The Bidder will compute pricing by multiplying each line item quantity by the unit price offered to achieve an extended total price for each line item. The District will confirm the accuracy of Bidder's computations.
2. The award will be made to the lowest cost responsive and responsible bidder based upon the lowest SUBTOTAL bid price.

PRICING:

1. Pricing must include any and all delivery and fuel surcharges.
2. Indicate costs for taxes (calculated at 8% of the Subtotal) in the space provided at the bottom of the Bid Specifications & Pricing Sheets. The District will only pay State Sales and Use Tax; however, California Use Tax will be paid to out-of-state vendors only when their permit number is shown on both their bid and invoices.

The District is exempt from payment of Federal Excise Taxes. **DO NOT INCLUDE ANY FEDERAL EXCISE TAXES IN YOUR BID.**

3. If any new or additional taxes were not in effect at the time of the bid but are in effect prior to delivery of bid items, the DISTRICT shall pay such taxes.
4. Contract Pricing shall remain firm throughout the term of the contract.

PREPARATION AND SUBMITTAL OF BID: Bids shall be submitted on the prescribed Bid forms and completed in full. All bid items and statements shall be properly filled out. The signatures of all persons signing the bid shall be in longhand. Prices, wording and notations must be in ink or typewritten. Partial or incomplete bids, or bids submitted on forms other than those provided, shall be deemed non-responsive and rejected. Bids not conforming to all sections of this bid may be deemed non-responsive and rejected. In order to be determined as a responsible bidder submitting a responsive bid, bidders must comply with all requirements in all sections of this bid.

NO BID: Any item not included in bid price is to be noted on Bid Specifications & Pricing Sheet as "No Bid."

MODIFICATIONS: Changes in or additions to the Bid forms, recapitulations of the work being bid upon, alternative bids or any other modification of the Bid forms, which is not specifically called for or permitted, may result in the District's rejection of the bid as not being responsive.

ERASURES; INCONSISTENT OR ILLEGIBLE BIDS: Bids must not contain any erasures, interlineations or other corrections unless the initials of the person signing the bid and suitably authenticating each such correction are affixed in the margin immediately opposite the correction. Any bid not conforming to the foregoing may be deemed by the District to be non-responsive. In the event any bid submitted, or portions thereof, shall be reasonably determined by the District to be illegible, ambiguous or inconsistent, the District may reject the bid as non-responsive.

WITHDRAWAL OF BIDS: In the event a bidder seeks to withdraw its bid, it shall be the sole and exclusive responsibility of the bidder to notify the District, in writing, of such request. The request must be received by the District's Purchasing department (or email at jpolite@swccd.edu) prior to the bid closing date/time. Any written notice of withdrawal of a submitted bid received after the bid closing date/time shall not be considered by the District or effective to withdraw such bid.

INTERPRETATION OF BID DOCUMENTS: If any bidder is in doubt as to the true meaning of any part of the specifications or other portions of the bid documents; finds discrepancies, errors, or omissions therein; or finds variances in any of the Bid documents with applicable rules, regulations, ordinances and/or laws, a written request for interpretation or correction thereof may be submitted to the District by the prescribed deadline. Written requests for interpretation, questions, or other bid-related inquiries shall be emailed to jpolite@swccd.edu and pjerome@swccd.edu, or delivered to the District's Purchasing department. It is the sole responsibility of the bidder to assure delivery of such requests by the deadline. Failure to request interpretation or clarification of the specifications or other portions of the Bid documents shall be deemed a waiver to any discrepancy, defect, or conflict therein. Any interpretation or correction of the bid documents shall be made only by written addendum duly issued by the District. A copy of any such addendum will be emailed. No person is

authorized to render an oral interpretation or correction of any portion of the contract documents to any bidder, and no bidder is authorized to rely on any such oral interpretation or correction.

DISTRICT'S RIGHT TO MODIFY BID DOCUMENTS: Prior to the public opening and reading of bids, the District expressly reserves the right to modify the work, the BID documents, or any portion(s) thereof by the issuance of written addenda. In the event the District shall modify any portion of the Bid documents pursuant to the foregoing, the bid submitted by any responder shall be deemed to include any and all modifications reflected in any addenda issued.

INDEMNIFICATION/LIMITATION OF LIABILITY: The Contractor shall indemnify, hold harmless, and defend the District, its Board of Trustees, officers, employees, agents, and representatives from and against all claims, liability, loss, cost, and obligations on account of, or arising from, the acts or omissions of the Contractor, or of persons acting on behalf of the Contractor, however caused, in the performance of the services specified herein. Contractor hereby waives and releases the District from any claims Contractor may have at any time arising out of or relating in any way to this agreement, whether or not caused by the negligence or breach of the District, its employees, or agents, except to the extent caused by the District's willful misconduct. Notwithstanding the foregoing, the parties agree that in no event shall the District be liable for any loss of Contractor's business, revenues or profits, or special, consequential, incidental, indirect or punitive damages of any nature, even if the District has been advised in advance of the possibility of such damages. This shall constitute the District's sole liability to Contractor and Contractor's exclusive remedies against the District.

BRAND NAMES: On May 14, 2014, the District passed Resolution #1849 authorizing IBM as the single-source standard for procurement at the District. Hence, only IBM authorized resellers/vendors are invited to submit a bid for this procurement.

SAMPLES: Any samples requested by the District shall be furnished at no cost to the District and, if requested by the District in the bid specifications, shall be submitted prior to the bid opening. The District reserves the right to reject the bid as non-responsive when any Bidder fails to submit the requested samples. Samples from Bidders who are awarded the contract may be retained for comparison with deliveries.

Unsuccessful bidders may pick-up their samples (if they have not been destroyed by the testing process) upon notification from the Purchasing Department Director. If such samples are not picked up within 15 calendar days after the date of such notice, the District may dispose of samples. The Bidder or its agent hereby assumes all risk of loss or damage to samples regardless of the cause.

ALTERNATNES: If alternate bids are called for, the contract may be awarded at the election of the Governing Board to the lowest responsible Bidder on the base bid, or on the base bid and any alternate or combination of alternates.

INSURANCE: Contractor shall at all times during the term of this Agreement, or any extension thereof, maintain comprehensive general liability insurance coverage in the amount of \$1,000,000 per occurrence and in the aggregate for all claims made during any one policy year. Contractor shall, upon request of the District, provide proof that the services provided are covered under its policy and that the District is named

or fully covered as an additional insured.

WORKER'S COMPENSATION INSURANCE: Contractor agrees to comply fully with all provisions of all applicable workers' compensation insurance laws, and shall procure and maintain in full force and effect worker's compensation insurance covering its partners, employees and agents while said persons are performing services pursuant to this Agreement. In the event that an employee of Contractor performing this Agreement files a worker's compensation claim against the District, Contractor agrees to defend and hold the District harmless from such claim.

BID VALIDITY: No bidder may withdraw any bid for a period of ninety (90) calendar days after the date set for the opening of bids. All withdrawals must be in writing.

COMPETENCY OF BIDDER: In selecting the lowest responsible Bidder, consideration will be given not only to the financial standing but also to the general competency of the Bidder for the performance of the work covered by the bid. By submitting a bid, each Bidder agrees that the District, in determining the successful Bidder and its eligibility for the award, may consider the Bidder's experience and facilities, conduct and performance under other contracts, financial condition, reputation in the industry, and other factors, which could affect the Bidder's performance of the work.

PUBLIC INFORMATION: All materials received by the District in response to this Invitation for Bids shall be made available to the public. If any part of a Bidder's materials is proprietary or confidential, the Bidder must identify and so state. Any Bidder information used to aid in bid selection must not be restricted from the public.

BID COSTS: The District will not pay the Bidder or agents for any costs incurred by the Bidder in the preparation, presentation, demonstration or negotiation of this bid.

DELIVERY: Prices quoted must be FOB DESTINATION to the designated point within the District. Costs for delivery, drayage, insurance, freight, packing and unpacking of said articles shall be borne by the Bidder.

1. Bidder agrees to complete the order within six (6) weeks after receipt of purchase order. If that time cannot be met, specify on the Bid pricing sheet the delivery time that can be guaranteed. The District reserves the right to make an award based on the delivery time quoted.
2. All items are to be bid in an assembled condition and ready for installation. Equipment must be programmed as applicable.
3. All deliveries shall be accompanied by a packing slip, and purchase order number shall appear on all cases and packages. Unmarked cartons may be refused.
4. Supplier's insurance for delivery shall apply until items are received at the District site.
5. Any equipment damaged in unpacking, assembling, or installing shall be repaired or replaced as necessary to produce a perfect installation.

SIGNATURE: The Bid Form, all bonds (if applicable), the Contractor's Certificate, the Agreement, and all Guarantees must be signed in the name of the Bidder and must bear the signature of the person or persons duly authorized to sign the bid. If Bidder is a corporation, the legal name of the corporation shall first be set forth, together with two signatures: one from among the chairperson of the board, president or vice president and one from among the secretary, chief financial officer, or assistant treasurer. Alternatively, the signature of other authorized officers or agents may be affixed, if duly authorized by the corporation. Such documents shall include the title of such signatories below the signature and shall bear the corporate seal. In the event the Bidder is a joint venture or partnership, there shall be submitted with the Bid certifications, signed by authorized officers, of each of the parties to the joint venture or partnership, naming the individual who shall be the agent of the joint venture or partnership, who shall sign all necessary documents for the joint venture or partnership, and, should the joint venture or partnership be the successful Bidder, who shall act in all matters relative to the contract resulting therefrom for the joint venture or partnership. If Bidder is an individual, his/her signature shall be placed on such documents.

EXAMINATION OF EQUIPMENT, FACILITIES AND CONTRACT DOCUMENTS: At its own expense and prior to submitting its Bid, each Bidder shall examine the Contract Documents; familiarize itself with all Federal, State and local laws, ordinances, rules, regulations and codes affecting the performance of the Bid, and determine the character, qualities and quantities specified. The submission of a Bid shall be incontrovertible evidence that the Bidder has complied with all the requirements of this provision of the Information for Bidders.

FILING OF BID PROTESTS: Bidders may file a "protest" of a Contract award with the District's Buyer. In order for a Bidder's protest to be considered valid, the protest must: Be filed in writing with the District within five (5) business days after the bid opening; Clearly identify, in detail, the specific District, Staff/Board recommendation and/or action being protested; clearly identify, in detail, the specific grounds of the protest and the facts supporting the particular protest; include all relevant and supporting documentation, if applicable, with the protest at the time of filing.

If the bid protest does not comply with each one of the requirements set forth above, it may be rejected as invalid. A protest regarding the recommended award of a Contract solicited by the Notice Inviting Bids must be filed in writing with the District within five (5) business days after the bid opening. If the protest is valid, the District Buyer, or designee, shall review and evaluate the basis of the protest along with all relevant information and documents. The District Buyer shall provide the Bidder submitting the bid protest with a written statement concurring with or denying the bid protest. The District's Purchasing Director will render a final determination and disposition of a bid protest by taking action to adopt, modify or reject the disposition of a bid protest as reflected in the written statement of the District Buyer. Action by the Purchasing Director relative to a bid protest shall be final and not subject to appear for reconsideration by the District, any employee or officer of the District or the District's Board of Trustees. The rendition of a written statement by the District Buyer and action by the Purchasing Director to adopt modify or reject the disposition of the bid protest reflected in such written statement shall express conditions precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District's intent to award the contract, the District's disposition of any bid protest or the District's decision to reject all bid proposals. In the event that any such legal or equitable proceedings are instituted and the District is named as a party thereto, each party shall bear its own attorney's fees and costs, regardless of which party prevails.

GENERAL CONTRACT TERMS AND CONDITIONS

SERVICES: Subject to the terms and conditions set forth in this Bid, Contractor shall provide to the District Goods/Services as described in the Purchase Order and/or Contractor's bid and made a part of this Agreement. Contractor agrees to keep the District regularly informed of the progress of work performed under this Agreement. The District has the right to approve personnel assigned to perform these services.

EXPENSES: The Contractor shall assume all expenses incurred in connection with performance except as otherwise provided in this agreement.

COMPENSATION: The District will pay Contractor as specified in the Purchase Order. No increase in amount or scope of services is authorized without formal written amendment to this Agreement.

INVOICES AND PAYMENTS: Payment shall be made by the District's Accounts Payable Office upon provision of the goods and/or services described herein, and upon submittal of invoice(s) approved by the director of Purchasing or appropriate designee; or appropriate District Office administrator, or designee. Payment by the District shall constitute full and final payment, unless the Contractor files a claim for error or omission within ninety (90) days of the date of invoice.

TAXES: California Sales Tax, Use Tax and/or the San Diego County Uniform Local Sales and Use Tax, where applicable, shall be separately identified on each invoice to the District. The federal excise taxes, and state and local property taxes, are not applicable, as college districts are exempt therefrom.

AMENDMENT OF AGREEMENT: This agreement is the entire agreement between the parties as to its subject matter and supersedes all prior or contemporaneous understandings, negotiations, or agreements between the parties, whether written or oral, with respect thereto. All modifications and amendments to this agreement shall be in writing and signed by the authorized representatives of the District and the Contractor.

TERMINATION: This Agreement may be terminated by the District, at its sole discretion, upon ten-day advance notice thereof to the Contractor or canceled immediately by written mutual consent. In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination.

CONFLICTS OF INTEREST: To avoid any potential conflict of interest problems, Contractor represents that it does not employ or retain the services of any spouse or family member of any District employees, nor has it furnished any financial compensation for the pursuit of business with the District.

INDEPENDENT CONTRACTOR STATUS: This Agreement is by and between the District and an independent contractor and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association. As an independent contractor, Contractor will be solely responsible for determining the means and methods for performing the services described herein. Contractor will assign the Contractors it proposes to use.

Contractor shall be responsible for deducting all federal, state and local income taxes, FICA and other charges, if any, to be deducted from the compensation of Contractor's employees. Nothing in this Agreement shall be interpreted as creating or establishing a relationship of employer and employee between the District and Contractor or any employee or agent of Contractor. Each person providing services to the District under this Agreement shall, at all times, remain an employee of Contractor. Contractor's employees shall not, at any time, or in any way, be entitled to sick leave, vacations, retirement, or other fringe benefits from the District, nor shall they be entitled to overtime pay from the District. Contractor is solely responsible for paying all necessary State or Federal tax for itself and its employees. The District will make no State or Federal unemployment insurance or disability insurance contributions on behalf of the Contractor and/or its employees. Neither Contractor nor its employees shall be included in the classified or faculty service, have any property rights to any position, or have any of the rights an employee of the District may otherwise have in the event of termination of this Agreement.

The District further understands and agrees that Contractor is engaged in an independent business and the District shall have no right to direct or control in any way or to any degree the manner of Contractor's performance hereunder. Contractor understands that it is not authorized and shall not make any agreement, contract or representation on behalf of the District or create any obligation, express or implied, on the part of the District.

NON-ASSIGNABILITY: This Agreement is not assignable by the parties hereto without the express advance written consent of the other party. If assigned, this contract shall inure to the benefit of, and be binding upon, the heirs, legal representatives, successors and assigns of each party hereto.

FORCE MAJEURE: Neither party to this Agreement will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control including without limitation, Acts of God, accident, labor disruption, acts, omissions and defaults of third parties, and official, governmental and judicial action not the fault of the party failing or delaying in performance.

COMPLIANCE WITH APPLICABLE LAWS: Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Contractor represents and warrants to District that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to practice their respective professions. Contractor represents and warrants to District that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective business or profession. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid local business licenses that are required.

PREVAILING WAGES: The District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this work is to be performed for each craft, classification or type of worker needed to execute the contract. These per diem rates, including holiday and overtime work, as well as employer payments for health and welfare, pension, vacation, and similar purposes are available from the Director of the Department of Industrial Relations. Pursuant to California Labor Code Sections 1720 et seq., it shall be mandatory upon the Contractor to whom the contract is awarded, and upon any subcontractor under such

Contractor, to pay not less than the said specified rates to all workers employed by them in the execution of the contract.

NON-DISCRIMINATION - Contractor shall not discriminate against any person in the provision of services, or employment of persons on the basis of ethnic group identification, national origin, religion, age, sex or gender, race, color, ancestry, sexual orientation, physical or mental disability, or any characteristic listed or defined in Section 11135 of the Government Code or any characteristic that is contained in the prohibition of hate crimes set forth in subdivision (1) of Section 422.6 of the California Penal Code, or any other status protected by law. Contractor understands that harassment of any student or employee of Southwestern Community College District with regard to ethnic group identification, national origin, religion, age, sex or gender, race, color, ancestry, sexual orientation, physical or mental disability, or any characteristic listed or defined in Section 11135 of the Government Code or any characteristic that is contained in the prohibition of hate crimes set forth in subdivision (1) of Section 422.6 of the California Penal Code, or any other status protected by law is strictly prohibited.

WARRANTY: Contractor warrants that all goods or services furnished under this agreement shall be in accordance with District specifications. All work and services shall be done and completed in a thorough, workmanlike manner. All goods shall be new, merchantable, fit for their intended purposes, free from all defects in materials and workmanship, free from defects in design, in good working order and shall perform in accordance with the manufacturer's standard specifications. All goods furnished and all work performed shall be subject to the District's inspection. Goods and services which are not in accordance and conformity with the above specifications, shall be rejected and, in the case of goods, promptly removed from the District premises at the Contractor's expense. When a sample is taken from a shipment and sent to a laboratory for test and the test shows that the sample does not comply with the specifications, the cost of such test shall be paid by the Contractor. On all questions concerning the acceptability of the goods and services, the decision of the District shall be final and binding upon the parties. The District shall not unreasonably exercise its judgment.

INSURANCE: Contractor shall at all times during the term of this Agreement, or any extension thereof, maintain comprehensive general liability insurance coverage in the amount of \$1,000,000 per occurrence and in the aggregate for all claims made during any one policy year. Contractor shall, upon request of the District, provide proof that the services provided are covered under its policy and that the District is named or fully covered as an additional insured.

WORKER'S COMPENSATION INSURANCE: Contractor agrees to comply fully with all provisions of all applicable workers' compensation insurance laws, and shall procure and maintain in full force and effect worker's compensation insurance covering its partners, employees and agents while said persons are performing services pursuant to this Agreement. In the event that an employee of Contractor performing this Agreement files a worker's compensation claim against the District, Contractor agrees to defend and hold the District harmless from such claim.

ENTIRE AGREEMENT; NO WAIVER: This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof,

except as specifically set forth herein. Except as otherwise provided by this Agreement, no supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the parties to be bound thereby. A waiver of any breach or any of the covenants, terms or provisions of this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other covenant, term or provision. When there is a conflict between the Contractor's bid Terms and Conditions and the DISTRICT's, the DISTRICT's shall supersede.

DEFAULT BY CONTRACTOR: The District shall hold the Contractor liable and responsible for all damages, which may be sustained because of failure or neglect of the Contractor to comply with any term or condition herein, it being specifically if time shall be of the essence in the delivery of the purchased goods or services. If the Contractor fails or neglects to furnish or deliver any of the goods or services at the prices named and at the times and places herein stated or otherwise fails or neglects to comply with the terms of the purchase, the District may cancel the purchase in its entirety, or cancel or rescind any or all items affected by such default, and may, whether or not the purchase is canceled in whole or in part, purchase the goods or services elsewhere without notice to the Contractor. The District shall retain all other rights and remedies under law.

TERMINATION FOR NON-APPROPRIATION OF FUNDS: If the term of this agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the agreement is contingent on the appropriation and availability of funds for such purpose, as determined in good faith by the District. If funds to affect such continued purpose are not appropriated or available as determined in good faith by the District, this agreement shall automatically terminate and the District shall be relieved of any further obligation.

OWNERSHIP OF WORKS FOR HIRE: All matters produced under this Agreement shall be works for hire and shall become the sole property of the District. Said works cannot be used for any other client or purposes without the DISTRICT's expressed written permission. District shall have all right, title and interest in said matters, including the right to obtain and maintain the copyright, trademark, and/or patent of said matters in the name of the District.

GOVERNING LAW: This agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the parties hereunder, and any action arising from or relating to this agreement, shall be construed and enforced in accordance with, and governed by, the laws of the State of California or United States law, without giving effect to conflict of laws principles. Any action or proceeding arising out of or relating to this agreement shall be brought in the county of San Diego, State of California, and each party hereto irrevocably consents to such jurisdiction and venue, and waives any claim of inconvenient forum.

NO THIRD PARTY BENEFICIARIES: Nothing in this Agreement shall be construed to create any duty, standard of care, or liability to anyone other than the Parties to this Agreement. No one is an intended third-party beneficiary of this Agreement.

ATTORNEYS' FEES AND COSTS: If either party shall bring any action or proceeding against the other party arising from or relating to this agreement, each party shall bear its own attorneys' fees and costs, regardless of which party prevails.

CAPTIONS: The captions used herein as headings of the various paragraphs and subparagraphs hereof are for convenience only, and the parties agree that such captions are not to be construed as a part of the Agreement or to be used in determining or construing the intent or context of this Agreement.

CANRA: In accordance with the Child Abuse and Neglect Reporting Act (CANRA) and California Penal Code 11166, the parties shall ensure that all employees, volunteers, consultants, subcontractors or agents performing services under this Agreement will report any known or suspected child abuse or neglect to a child protective agency, by telephone and within 36 hours of the suspected abuse or neglect.

COUNTERPARTS: This Agreement may be executed in any number of counterpart copies, all of which shall constitute one and the same Agreement and each of which shall constitute an original.

SEVERABILITY: The Contractor and the District agree that if any part, term, or provision of this agreement is found to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect other parts, terms, or provisions of this agreement, which shall be given effect without the portion held invalid, illegal, or unenforceable, and to that extent the parts, terms, and provisions of this agreement are severable.

EQUAL OPPORTUNITY EMPLOYER: Contractor, in the execution of this agreement, certifies that it is an equal employment opportunity employer.

DEBARMENT AND SUSPENSION: In accordance with Executive Orders 12549 & 12689 (Debarment and Suspension), Seller certified by entering into this transaction, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

SOFTWARE, LICENSING AGREEMENTS, OR EQUIPMENT WITH SOFTWARE PRE-LOADED: For purchase orders dealing with software applications, operating systems, web-based intranet and internet information and applications, telecommunications products, video or multimedia products, self-contained closed products such as copiers, and desktop and portable computers the vendor hereby warrants that the products or services to be provided under this PO comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing regulations. Contractor agrees to respond promptly to and resolve any complaints regarding accessibility of its products or services that are brought to its attention. Contractor further agrees to indemnify and hold harmless the District from and against any claim arising out of its failure to comply with these requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of this agreement.

IBM SERVER TECHNICAL REQUIREMENTS

- The items contained in this bid are IBM products and are identified by IBM part numbers. Bids on alternate brands or products will not be accepted. All equipment must be new and in good working order. No refurbished, used, previously displayed, or returned-to-stock equipment will be allowed. Reseller/Vendor shall warrant that the products are new, in their original box.
- The District is seeking quotes for two (2) different IBM server models and has provided separate Bid Forms and “Bid Specifications & Pricing Sheets” for each model. The District intends to purchase only one (1) of the models.
- All equipment shall carry a one-year manufacturer’s parts and labor warranty. Items found to be defective within the first ninety (90) days of receipt shall be exchanged by bidder for a new unit of the same make and model at bidder’s expense. Items returned for exchange during this period shall be received back at the District designated area within 10 days and in good working order. Items found to be defective after ninety (90) days of receipt shall be handled in accordance with the manufacturer’s warranty. Warranty periods beyond one year will not be considered when evaluating this bid.
- Successful bidder will be required to submit any and all technical manuals per each type of equipment described in this Bid.
- Bidder must certify that it is an IBM authorized distributor or reseller as of the date of the submission of its bid, and that it has the certification/specialization level required by the manufacturer to support both the product sale and product pricing, in accordance with the applicable manufacturer certification/specialization requirements.
- The Bidder confirms to have sourced all IBM products submitted in this offer from manufacturer or through Manufacturer Authorized Channels only, in accordance with all applicable laws and policies at the time of purchase.
- Reseller/Vendor shall provide the District with a copy of the End User license agreements, and shall warrant that all Manufacturer software is licensed originally to the District as the original licensee authorized to use the Manufacturer Software.
- Time is of the essence for this procurement and the District desires to receive the product within six (6) weeks after the Purchase Order is issued. **Provide an estimated timeline for the delivery of this equipment procurement from the time a Purchase Order is issued.**
- Describe the procedure for handling defective equipment and returns (on separate paper).
- Describe the process for registering new equipment with HP (on separate paper).
- Provide three (3) positive public entity client references (preferably in higher education) for providing similar amounts and types of products and services.

BID FORM (00300) FOR IBM "POWER 7" MODEL
(To be executed by Bidder and submitted with bid)

Company Name: _____

TO: Southwestern Community College District, acting by and through its Governing Board, herein called the "District":

1.01 Pursuant to and in compliance with your Notice Calling for Bidders and the other documents relating thereto, the undersigned bidder, having thoroughly examined and familiarized themselves with the terms of the Contract, the local conditions affecting the performance of the Contract and the cost of the work at the place where the work is to be done, and with the drawings and specifications and other Contract Documents, hereby proposes and agrees to perform, within the time stipulated, the Contract, including all of its component parts, and everything required to be performed, including its acceptance by the District and to provide and furnish any and all of the labor, materials, tools, expendable equipment, and all utility and transportation services necessary to perform the Contract and complete in a workmanlike manner all of the work required in connection with the Project described below:

Receipt and acceptance of the following addenda is hereby acknowledged:

No. _____, Dated _____

No. _____, Dated _____

No. _____, Dated _____

SOUTHWESTERN COLLEGE BID #1314-202 – IBM SERVER MODEL Power7

BASE BID (SUBTOTAL): \$ _____

TAX ON SUBTOTAL (8%): \$ _____

TOTAL BASE BID & TAX: \$ _____

TOTAL BASE BID AMOUNT IN WORDS:

_____ Dollars (\$ _____).

END OF DOCUMENT

BID FORM (00300) FOR IBM "POWER 8" MODEL
(To be executed by Bidder and submitted with bid)

Company Name: _____

TO: Southwestern Community College District, acting by and through its Governing Board, herein called the "District":

1.01 Pursuant to and in compliance with your Notice Calling for Bidders and the other documents relating thereto, the undersigned bidder, having thoroughly examined and familiarized themselves with the terms of the Contract, the local conditions affecting the performance of the Contract and the cost of the work at the place where the work is to be done, and with the drawings and specifications and other Contract Documents, hereby proposes and agrees to perform, within the time stipulated, the Contract, including all of its component parts, and everything required to be performed, including its acceptance by the District and to provide and furnish any and all of the labor, materials, tools, expendable equipment, and all utility and transportation services necessary to perform the Contract and complete in a workmanlike manner all of the work required in connection with the Project described below:

Receipt and acceptance of the following addenda is hereby acknowledged:

No. _____, Dated _____

No. _____, Dated _____

No. _____, Dated _____

SOUTHWESTERN COLLEGE BID #1314-202 – IBM SERVER MODEL Power8

BASE BID (SUBTOTAL): \$ _____

TAX ON SUBTOTAL (8%): \$ _____

TOTAL BASE BID & TAX: \$ _____

TOTAL BASE BID AMOUNT IN WORDS:

_____ Dollars (\$ _____).

END OF DOCUMENT

BID SIGNATURE FORM

(To be executed by Bidder and submitted with bid)

The undersigned officer, having become familiar with the Request for Bid, the specifications, the contract terms and conditions, the solicitation conditions, and the instructions for completing the BID form, hereby offers to provide the products and services described in Southwestern Community College District **BID No. 1314-202**. Bidder proposes and agrees to provide the equipment, materials, services and related documentation required for the bid described as, "**IBM SERVERS**" in the amounts listed on the Bid Specifications & Pricing Sheets. A duly executed copy of the signature page of this bid document must accompany your response.

Company Name _____

Authorized Signature _____

Name of Authorized Signer _____

Title _____

Address _____

City _____

Phone Number _____ Fax Number _____

Number of Addenda received, acknowledged and incorporated into this Bid: _____

Warranty Included: ____YES____NO

Unless otherwise approved, bid manufacturers and models listed: ____YES____NO

END OF DOCUMENT

BID BOND (004100)

(To be executed by Bidder and submitted with bid)

KNOW ALL MEN BY THESE PRESENTS: THAT we, _____, as Principal and _____, as Surety, are held and firmly bound unto the School District, hereinafter called the District, in the penal sum of PERCENT (_____%) OF THE TOTAL AMOUNT OF THE BID of the Principal submitted to the said District for the work described below for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying bid dated _____, 20____ for _____.

NOW, THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after said opening; and, if the Principal be awarded the contract, and shall within the period specified therefore, or, if no period be specified, within three (3) days after the prescribed forms are presented to him for signature, enter into a written contract with the District, in accordance with the bid as accepted and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract and for the payment for labor and materials used for the performance of the contract, or in the event of the withdrawal of said bid within the period specified or the failure to enter into such contract and give such bonds within the time specified, if the Principal shall pay the District the difference between the amount specified in said bid and the amount for which the District may procure the required work and/or supplies, if the latter amount be in excess of the former, together with all costs incurred by the District in again calling for bids, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract on the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in anywise affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

In the event suit is brought upon this bond by the District and judgment is recovered, the Surety shall pay all litigation expenses incurred by the District in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals this day of _____, 20 _____, the name and corporate seal of each corporate party being hereto affixed and these presents duly assigned by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

PRINCIPAL _____

By: _____

Title: _____

SURETY: _____

By: _____

Attorney-in Fact

(Attach Attorney-in-Fact Certificate)

END OF DOCUMENT

DOCUMENT 004800
NONCOLLUSION DECLARATION
(To be executed by Bidder and submitted with bid)

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____[date], at _____[city], _____[state].

Signed _____

Title _____

Firm _____

Date _____

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

END OF DOCUMENT

HOLD HARMLESS AGREEMENT

(To be executed by Bidder and submitted with bid)

The Contractor agrees to and does hereby indemnify and hold harmless the District, its officers, agents, and employees from every claim or demand made, and every liability, loss, damages, or expense, or any nature whatsoever, which may be incurred by reason of:

Liability for damages for (1) death or bodily injury to persons, (2) injury to, loss or theft of property, or (3) any other loss, damage or expense arising under either (1) or (2) above, sustained by the Contractor or any person, firm or corporation employed by the Contractor upon or in connection with the work called for in this Agreement, except for liability resulting from the sole negligence, willful misconduct, or active negligence of the District, its officers, employees, agents or independent contractors who are directly employed by the District; and

Any injury to or death of persons or damage to property caused by any act, neglect, default or omission of the Contractor, or any person, firm, or corporation employed by the Contractor, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation, including the District, arising out of, or in any way connected with the work covered by this agreement, whether said injury or damage occurs either on or off school District property, if the liability arose from the negligence or willful misconduct of anyone employed by the Contractor, either directly or by independent contract.

The Contractor, at his own expense, cost, and risk, shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the District, its officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the District, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

SUBMITTED BY:

COMPANY_____

SIGNATURE_____SIGNATURE_____

NAME_____NAME_____

TITLE_____TITLE_____

DATE_____DATE_____

END OF DOCUMENT

DRUG-FREE WORKPLACE CERTIFICATION

(To be executed by bidder and submitted with bid)

This Drug-Free Workplace Certification form is required from all successful bidders pursuant to the requirements mandated by Government Code Sections 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by performing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the CONTRACTOR or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

Publishing a statement, notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace, and specifying actions which will be taken against employees for violations of the prohibition;

Establishing a drug-free awareness program to inform employees about all of the following:

The dangers of drug abuse in the workplace;

The person's or organization's policy of maintaining a drug-free workplace;

The availability of drug counseling, rehabilitation and employee-assistance programs;

and

The penalties that may be imposed upon employees for drug abuse violations;

Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will (a) publish a statement notifying employees concerning the prohibition of controlled substance at the workplace, (b) establish a drug-free awareness program, and (c) require each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a) and require such employee agree to abide by the terms of that statement.

I also understand that if the Southwestern Community College District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the

Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Sections 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code Sections 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

_____	_____
Date	Proper Name of Bidder
By:	

END OF DOCUMENT

CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

(To be executed by Bidder and submitted with bid)

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

1. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
2. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations, of ability to self-insure and to pay any compensation that may become due to employees.

I am aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provision before commencing the performance of the work of this contract.

Proper Name of Bidder

By: _____

Title: _____

In accordance with Article 5 (commencing at section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and submitted with the Contractor's bid.

END OF DOCUMENT