Texas State Technical College Waco

Tax Exempt # 74-1646989

Procurement Office

3801 Campus Dr.

Waco, TX 76705

(254) 867-3778 phone

 (254) 867-3792 alternate fax

 (254) 867-3758 direct fax

**REQUEST FOR COMPETITIVE SEALED PROPOSALS**

**Title: Water Treatment Service for TSTC Waco Campus**

**Proposal # RFP1218W**

**Posted Date: 11-11-11**

**Forms must be completed and returned for consideration.**

**Proposal Closing Date/Time: November 28, 2011 at 3:00 PM Central Standard Time**

**Mail Proposals to: Hand Deliver Proposals to:**

Texas State Technical College Texas State Technical College

Procurement Office Procurement Office

3801 Campus Dr. Attn: Sharon Ferrill, CTP

Waco, TX 76705 103 10th St. (on campus address only)

Attn: Sharon Ferrill, CTP Waco, TX 76705

**Faxed Proposals will not be accepted.**

**Emailed Proposals will not be accepted.**

**Proposals must be received in a sealed envelope by the date and time shown above for consideration. Please indicate the Proposal#, Proposal Title, and Proposal Closing Date and Time on the sealed envelope and either hand deliver or mail to the address above. Proposals will be date/time stamped upon arrival. The date/time stamp used will be the official clock for proposal opening time. Proposals will be opened after the date shown and evaluated based on a Best Value Criteria to be set by TSTC.**

**Late Proposals will not be accepted or considered for review.**

**Please sign your proposal. Failure to do so will automatically disqualify your submission.**

**After the evaluation process of the proposals an award will be made in the form of either/or an executed contract between both TSTC and the vendor of award or by purchase order or by both documents. TSTC reserves the right to the method of evaluation and award and reserves the right to reject any or all proposals or waive irregularities it deems necessary.**

**Open records requests, after award is made, may be requested by contacting Jerry Sorrells via email at:** **jerry.sorrells@tstc.edu**

By signing the proposal, the proposer agrees to comply with all terms and conditions (see enclosed) of the invitation for competitive sealed proposals and any purchase order or contract that is issued pursuant to the award made. TSTC reserves the right to award on an “All or None” basis or “Line Item” basis. TSTC also reserves the right to reject any proposal submitted. TSTC reserves the right to cancel the order at any time due to delay or non delivery as proposed. TSTC terms are Net 30 days.

**General Statement:**

**Texas State Technical College Waco is requesting competitive sealed proposals for** Water Treatment Services to Texas State Technical College System (herein referred to as “TSTC”). **Provide all labor,** **materials, equipment, and insurance for a full water treatment service of seven (7) locations on the campus** **of the Texas State Technical College Waco campus located at 3801 Campus Dr. Waco, TX 76705 as specified within the enclosed proposal package.**

**Project Manager contact: Mike Ratliff (254) 867-3703**

**SECTION ONE**

**GENERAL INFORMATION**

1.1 **Purpose of the Request for Proposals** -- The purpose of this Request for Proposals (RFP) is to engage a Proposer to provide the following Services to Texas State Technical College System (herein referred to as “TSTC”). **Provide all labor,** **materials, equipment, and insurance for a full water treatment service of seven (7) locations on the TSTC Waco Campus.** By means of this RFP, TSTC invites all qualified Proposers to submit Proposals in accordance with the requirements outlined in this RFP. TSTC anticipates that, based on its review and evaluation of the Proposals received pursuant to this RFP, it will select a Proposer and execute a contract whereby the Proposer renders Services to TSTC, in accordance with terms and conditions set forth in the contract.

1.2 **Information about Texas State Technical College System** -- TSTC is a state-supported, technical college system that services students throughout the state of Texas. The college system includes four colleges: TSTC Harlingen, TSTC Marshall, TSTC Waco, and TSTC West Texas, which has campuses in Abilene, Breckenridge, Brownwood, and Sweetwater.

1.3 **Historically Underutilized Business (HUB) Firms** -- TSTC endeavors to promote full and equal opportunity for businesses to supply TSTC with goods and/or Services that are necessary to support TSTC's educational mission. In this regard, TSTC commits to select Proposers in accordance with (i) needs, (ii) resources, (iii) HUB goals and guidelines established by the Texas Legislature and the Texas Building and Procurement Commission, and (iv) policies and procedures for contracting with Historically Underutilized Businesses.

1.4 **TSTC’s Right to Reject** -- This RFP does not commit TSTC to select a Proposer or to award a Contract to any Proposer. TSTC reserves the right to accept or reject, in whole or in part, any Proposal it receives pursuant to this RFP.

**SECTION 2**

**RFP REQUIREMENTS**

2.1 **Right to Modify, Rescind, or Revoke RFP** -- TSTC reserves the rights to modify, rescind, or revoke this RFP, in whole or in part, at any time prior to the date on which the authorized representative of TSTC executes a Contract with the Selected Proposer.

2.2 **Compliance with RFP Requirements** -- By submission of a Proposal, a Proposer agrees to be bound by the requirements set forth in this RFP. TSTC, at its sole discretion, may disqualify a Proposal from consideration, if TSTC determines a Proposal is non-responsive and/or non-compliant, in whole or in part, with the requirements set forth in this RFP.

2.3 **Binding Effect of Proposal** -- Unless otherwise agreed in writing, signed by an authorized agent of TSTC, each Proposer agrees to and shall be bound by the information and documentation provided with the Proposal, including prices quoted for Services.

2.4 **Signature, Certification of Proposer** -- The Proposal must be signed and dated by a representative of the Proposer who is authorized to bind the Proposer to the terms and conditions contained in this RFP and to compliance with the information submitted in the Proposal. Each Proposer submitting a Proposal certifies to both (a) the completeness, veracity, and accuracy of the information provided in the Proposal and (b) the authority of the individual whose signature appears on the Proposal to bind the Proposer to the terms and conditions set forth in this RFP. Proposals submitted without the required signature shall be disqualified.

2.5 **Requirements for Submission** -- The Proposal shall be titled Proposal Submitted for RFP 1218W and shall clearly state the Proposal Opening Date and Time and Title identified.

By Hard Copy Submission:

The Respondent must submit one (1) original signed Proposal and one (1) digital submission.

The Proposal and accompanying documentation are the property of TSTC and will not be returned. TSTC will no longer provide “delivery or hand stamp” receipt of bids/proposals or proof of delivery of bid/proposals which are delivered by hand or courier. No proof of delivery shall be necessary.

The Proposal should be sent to TSTC at the following addresses:

By U.S. Mail/Overnight/Express Mail

 TSTC

 Attn: Sharon Ferrill, CTP

 RFP# 1208W

 3801 Campus Drive

 Waco, TX 76705

By Hand Delivery (on campus address only)

 TSTC

 RFP# 1218W

 Sharon Ferrill, CTP

 Patterson Hall

 103 10th St TSTC Campus

 Waco, Tx 76705

2.6 **Deadline for Proposals** -- **Proposals must be received in the TSTC Procurement Office, at the address specified in Section 2.5 of this RFP, no later than November 28, 2011 at 3pm.**

Any Proposal received after EXPIRATION OF the DEADLINE will be immediately disqualified FROM CONSIDERATION, and WILL BE returned unopened to the PROPOSER.

2.7 **Risk of Loss, Damage, Delay** -- Proposer acknowledges and agrees to release and hold harmless the TSTC System, its campus components, Board of Regents, officers, employees, agents, and personnel, from and against any and all claims, liability, damages, and costs, including court costs and attorneys' fees, arising out of or pursuant to delivery of the Proposal or failure to deliver the Proposal to the Purchasing Office at TSTC, as designated in Sections 2.5 and 2.6 of this RFP.

2.8 **Ownership of Proposals** -- All Proposals become the physical property of TSTC upon receipt.

2.9 **Use, Disclosure of Information** --Proposer acknowledges that TSTC is an agency of the State of Texas, and is therefore required to comply with the Texas Public Information Act. Tex. Government Code Ch. 552. If a Proposal includes proprietary data, trade secrets, or information the Proposer wishes to except from public disclosure, then the Proposer must specifically label such data, secrets, or information as follows: "**PRIVILEGED AND CONFIDENTIAL -- PROPRIETARY INFORMATION**.**"** To the extent permitted by law, information labeled by the Proposer as proprietary will be used by TSTC only for purposes related to or arising out of the (a) evaluation of Proposals, (b) selection of a Proposer pursuant to the RFP process, and (c) negotiation and execution of a Contract, if any, with the Proposer selected.

2.10 **Costs of Participation** -- TSTC specifically disclaim responsibility, and/or liability, for all costs, expenses, or claims related to or arising out of the Proposers participation in this RFP process, including but not limited to costs incurred as a result of preparing, copying, shipping, presenting, and/or clarifying the Proposal and the information relevant to the Proposal.

2.11 **Compliance with Applicable Laws, Regulations, Ordinances, Board of Regents Policies, University Policies and Procedures.** By submitting a Proposal, the Proposer agrees to and shall comply with all applicable local, state and federal laws and regulations, as well as with all applicable policies and procedures of the Texas State Technical College System. System policies and procedures may be accessed at the following Internet address: **http://www.tstc.edu**

**SECTION 3**

**RFP PROCEDURES**

3.1 **Rescission of Proposal** -- A Proposal can be withdrawn from consideration at any time prior to expiration of the Deadline for Proposals, as stated in Section 2.6 of this RFP, pursuant to a written request sent to the Procurement Office Attn: Sharon Ferrill.

3.2 **Request for Electronic Copy** -- A Proposer may request an electronic copy of the RFP from Sharon Ferrill by email at Sharon.ferrill@tstc.edu.

**Request for Clarification** -- TSTC reserves the right to request clarification of any information contained in a Proposal.

3.4 **Request for Clarification by Proposer** -- All questions and clarifications of the proposals must be submitted in writing by email request to the following contact by the date of November 21, 2011 at 3pm.

|  |
| --- |
| Sharon Ferrill, CTP |
| 3801 Campus Drive |
| Waco, TX 76705 |
| 254-867-3778 |
| Sharon.ferrill@tstc.edu |

**3.5 Pre-Proposal Conference**

A pre-proposal conference will be held at the Physical Plant Conference Room; located at 1200 Greenway, on the TSTC Waco campus, November 15, 2011 at 10 Am. Owner’s representative will be present to discuss this project. Only details of the project and clarification will be discussed at this time.

**3.6 Evaluation of Proposals**

Contractor shall furnish a minimum of four clients that have received water treatment service from their firm during the past two years.

Names, address, and phone numbers shall be supplied for this list of references.

Evaluation criteria will be that of Best Value to TSTC as TSTC deems necessary. Some of the criteria may be that of but not limited to:

Respondent’s Pricing, Delivery of Proposal, and Qualifications.

**3.7 Proposal Opening**

Proposals will be opened after the deadline shown of November 28, 2011 at 3pm. The proposal opening process is open to the public. All submitted proposals become the property of TSTC, after the RFP submittal deadline/opening date, and will not be returned.

All information, documentation, and other materials submitted in response to this solicitation are considered and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq.) after the solicitation is completed. Please contact Jerry Sorrells at Jerry.Sorrells@systems.tstc.edu for requests.

**3.8 Award of Contract**

TSTC intends to negotiate and award an agreement with the vendor submitting the proposal TSTC determines best meets TSTC’s requirements and is considered to be the best value overall.

**3.9 Liquidated Damages**

 Failure to comply with these requirements shall result in liquidated damages being accessed in the amount of $250.00 per day until rectified.

**3.10 Contract & General Conditions**

Anything related to this RFP shall comply with these documents and “General Conditions of the Contractor for Construction: AIA Document, A201 – 2007.

 Supplemental General Conditions

 Exhibit A: Changes to be made to AIA Document A201-2007

 Exhibit B: Explanation of Insurance

 Exhibit C: Explanation of Indemnification

 Exhibit D: Bond Requirements

 Exhibit E: HUB Subcontracting Plan

**3.11 Safety**

Constructor must comply with all applicable safety regulations, including but not limited to, the TSTC Waco, College Operating Procedure (9.16) Contractor Safety. The “COP” may be downloaded or viewed at this electronic link: <http://iam.tstc.edu/users/cop/COP9.16-01-13-03.pdf>

**SECTION 4**

**PROPOSAL CONTENTS**

**4.0 Scope of Work**

**OVERVIEW:**

 Provide all labor, equipment, materials, and insurance for water treatment service to seven (7) locations on the Texas State Technical College Waco (TSTC) campus. This shall include, but not be limited to, a minimum of bi-weekly service per month to cooling towers; monthly service to the chilled and hot water loops; Clean Chiller Plant towers once within six months intervals. Power or pressure washing is acceptable as long as washing/cleaning is performed in an appropriate way as to not damage the “fill”, etc.; Provide all chemicals necessary to maintain desired levels of boiler and chiller manufacturer; and, provide and install 5-micron sock filters per visit on all closed-loop systems.

Service techs shall notify HVAC supervisor or foreman upon arrival at campus and receive service entry key from them. Service tech. shall leave key with copy of their report at front desk at Physical Plant bldg. upon every visit.

 The goals of the water treatment process are the prevention of scale formation and microbiological growth; and, minimize the amount of contaminants in order to minimize corrosion and fouling of heat transfer surfaces. Water treatment services may be defined as a business conducted under contract that requires the interpretation of analysis of water samples, including the ability to determine how to treat influent or effluent water, alter or purify water, or add or remove a mineral, chemical, or bacteriological content or substance.

**SERVICE LOCATIONS:**

1. New Chiller Plant (01-08) -- 205 Bolling Drive – (Two (2) each 610 ton chiller, condenser, and chilled water loop)
2. Provence Building (24-14) – 200 1st Street – (200 ton tower and loop)
3. ITC Building (01-05) – 101 Campus Drive – (chilled and hot water loops)
4. Electronics Building (22-06) – 304 Airline Drive – (chilled and hot water loops)
5. Aviation Hangar (09-01) – 901 Airline Drive – (steam boiler and loop)
6. Student Services Center (31-01) – 301 )Campus Drive—(chilled and hot water loops)
7. Fentress Center (25-27)—200 Bolling Street--(chilled and hot water loops)

**4.1 Plans and Specifications**

**Specifications:**

1. Contractor is responsible for all damages due to improper water treatment maintenance of equipment.
2. The contract term will be for a period beginning on Dec 01, 2011 and ending on August 31, 2012.

1. Option to renew and extend contract -- The Owner shall have the exclusive option to renew this contract for two subsequent one-year periods for the treatment of chilled and hot water systems for the contract period, this depending upon appropriation of funds. The Contractor must be agreeable to renewal under the conditions of this document.
2. Contractor will establish a “Preventive Maintenance Program” that will include a list of scale and corrosion inhibitor chemicals; amount and frequency of dosing for chillers, loop systems, and boilers; and testing procedures. Contractor will submit a copy of the proposed Preventive Maintenance Program to the appropriate Owner’s Representative for approval prior to beginning the service agreement work.

**PRODUCTS STORAGE & HANDLING:**

1. To reduce the risk associated with drum handling, all products will be delivered to the point of feed. Mild steel drums of any size are not acceptable. In order to minimize our liability, we require adherence to the following.
2. Chemical Storage Requirements: All bulk containers should be stainless steel or dual wall polypropylene tanks, where appropriate.
3. Secondary containment volume: Containment requirements shall be as per applicable Industry Standards or Best Practices.
4. In cases where flood suction increases potential leaks for hazardous chemical spills, mount pump on top of the tank.
5. Storage tanks must have bottom drain capabilities to insure positive, flooded suction for chemical pumping and injection and to allow complete emptying of the vessel.
6. The supplier must retain ownership of tanks.
7. Tanks must be vented and fitted with fume suppression equipment during delivery
8. Carboys and other non-dual walled containers are acceptable

**CHEMICAL DELIVERY REQUIREMENTS:**

1. Chemical transport equipment must comply with DOT requirements for transporting hazardous material.
2. No empty or full chemical transport equipment is to be stored on-site.
3. Deliveries must be made by chemical handlers who are certified in HAZMAT compliance
4. Chemicals must be transportable up steps if needed.
5. Handlers must be equipped with PPE on-site for delivery and transfer of chemicals.
6. Handlers must be equipped with items required to handle spills and any unexpected incidents.
7. Successful Respondent shall be responsible for:
8. Monitoring the inventory of the various chemicals required.
9. Assuring that adequate quantities of each chemical are available on-site for field use
10. All liquid chemicals must be available in reusable and/or returnable containers, and improve or match same method of storage and feed as existing at each site.
11. All containers provided by the successful Respondent for hazardous chemicals and hazardous materials must include spill containment as recommended by the manufacturer or in accordance with best practices. The successful Respondent must collect and dispose of chemical containers at no cost to the College. Type and size of the container actually used will be determined to serve the best interests of the College. (If applicable)
12. The successful Respondent is responsible for delivery of products to the point of use and all transfer of chemicals.

**ON-SITE SERVICE:**

1. Routine Service: Scheduled service by a qualified representative must be conducted at bi-weekly intervals for Boilers and Towers, and monthly intervals for chilled and hot water loops.
2. The purpose of these service visits will be to ensure the adequacy of the water treatment program and to prevent potential problems from arising that will reduce equipment efficiency and/or result in equipment damage. All scheduled visits must be scheduled by successful Respondent in advance.
3. All routine visits shall be during normal working hours and must be coordinated with the HVAC supervisor or foreman.
4. Emergency Service: Response time for the service person for emergency problems shall not exceed four (4) hours after notification on the same day.
5. Required Tests - The following are the required tests that must be performed at each bi-weekly routine service and at each site. A written report with the test results shall be provided to Plant Personnel within 10 working days of the routine service. A copy of this report will be maintained on file at the Main Chiller Plant.
	1. Tower Water:
6. Conductivity
7. M-Alkalinity
8. Calcium hardness
9. Inhibitor tracer
10. Phosphonate
11. Azole
12. Free Halogen (Should be tested post bromine feed)
13. Biological count (by strip method)
	1. Chilled Water:
14. pH
15. Conductivity
16. Silica (no molybdenum)
17. Copper (twice per year)
18. Iron (twice per year)
19. Azole
20. Turbidity
21. Biological count (by strip method)
	1. Steam Boiler**:**
22. Conductivity
23. P and M-alkalinity
24. pH
25. Phosphate/Tracer
26. Sulfite
	1. Feed water / Condensate:
27. Ph
28. Conductivity
29. Copper
30. Iron
31. Hardness
32. The successful Respondent shall also accomplish the following routine services:
	1. Check and calibrate, as necessary, the inhibitor controllers.
	2. Provide dissolved oxygen testing onsite.
	3. When units are opened for annual inspection, perform boiler/chiller internal inspection a minimum of once per year on each boiler and each chiller. Provide deposit analysis and inspection report for each unit.
	4. Clean Chiller Plant Towers at six months intervals in accordance with MFG’s recommendations.

**OPERATOR TRAINING AND UPDATING:**

1. A formal training program shall be conducted once a year. This training program shall include the equipment testing instructions, analytical procedures, and handling/feeding methods of chemicals.
2. One month in advance, the successful Respondent must schedule the training sessions with the Plant HVAC Supervisor so that he can have all operators he wishes to be present.

**RESEARCH, LABORATORY BACK-UP AND PROBLEM SOLVING:**

1. Successful Respondent shall have an in-house laboratory, or access to a laboratory, capable of assisting in solutions of problems that may cause loss of efficiency or damage to equipment. When samples are taken for resolution of problem issues and submitted for analysis, results must be reported to the end user within three weeks.
2. Provide laboratory facilities capable of performing a wide array of analytical work to facilitate monitoring, control, and troubleshooting, including corrosion coupon analysis, water analysis, deposit analysis, microbiological analysis, and ion exchange resin analysis.

**TECHNICAL REQUIREMENTS AND/OR PERFORMANCE STANDARDS:**

1. Use of the successful Respondent's products in strict accordance with instructions must result in clean heat transfer surfaces and low corrosion rates in condensate lines, boiler, and chiller systems. These criteria will be monitored by the successful Respondent using:
2. For Evaporative Cooling Towers, acceptable performance shall be corrosion rates of 1.0 mils/yr. or less for mild steel and 0.1 mils/yr. or less for copper; and, Tower counts of 10,000 of total aerobic bacterial colonies per ml or less, and, clean heat transfer surfaces with no pitting as determined by TSTC Physical Plant Personnel.
3. For Closed Systems, acceptable performance shall be corrosion rates of 0.5 mils/yr. or less for mild steel and 0.1 mils/yr. or less for copper; counts of 1,000 of total aerobic bacterial colonies per ml or less; counts of 50 of anaerobic bacteria colonies per ml or less; and clean heat transfer surfaces with no pitting as determined by TSTC Physical Plant Personnel.
4. Inspection:
5. Prior to the cooling season, successful Respondent shall submit a report on cooling towers, heat exchangers and piping, demonstrated by visual inspection.

5. The successful Respondent shall be responsible for all-cleanup costs and repairs due to any failure of successful Respondent treatment program, products, or service. Such clean up and repairs will be limited to restoring condition of boiler, condensate or chiller system to condition as found by successful Respondent as described by the initial inspection report.

6. Return of Unused Chemicals: If any Contract resulting from this Solicitation is terminated at any time, the Successful Respondent shall be responsible to collect and take back all surplus chemicals, testing hardware, and all surplus chemical testing reagents that had been provided by the Successful Respondent and purchased by individual agencies.

7. Termination of any Contract resulting from this Solicitation may occur at any point of the program if the College cannot maintain control of the boiler, condensate, or chiller tower system. The water conditions of the heating systems and cooling System must remain under control and within the target values of the successful Respondent per the contract program.

8. Any relocation of chemical feed point, and or purchase of test kits and reagents, pumps, piping and any other changes required to meet Respondent's proposed treatment program needs, shall be provided and installed by the successful Respondent at no cost to the College. Cost shall be included in the bid. No installation of any such equipment to be made without express written approval by the College.

**PRODUCTS TYPES:**

1. All chemicals must comply with applicable FDA standards. **Chemicals not in liquid form will require approval from TSTC HVAC supervisor.**
2. Oxygen Scavenger: Liquid Catalyzed Sodium Sulfite - Provide treatment levels for oxygen scavenger, application point, and method of application
3. Low-pressure lay-up requires 100 PPM of sulfite as a minimum.
4. Scale inhibitor Phosphate/Polymer program is required. Provide treatment levels for all components. Include application point and method of application. List exact product blow-down concentration in parts per million used to calculate costs, and exact control parameter concentration in parts per million developed at the calculated quantity.
5. Anti foam: If needed, shall be compatible with other boiler compounds.

**BOILER INTERNAL CHEMICALS:**

1. Scale inhibitor Phosphate/Polymer program is required. Provide treatment levels for all components. Include application point and method of application. List exact product blow-down concentration in parts per million used to calculate costs, and exact control parameter concentration in parts per million developed at the calculated quantity.
2. We require a minimum of 50 PPM of polymer be maintained in the Boiler.
3. Anti foam: If needed shall be compatible with other boiler compounds.

**AUTOMATED DOSAGE CONTROLLER:**

1. The successful Respondent is responsible for providing verification that the controllers are operating correctly and are properly calibrated on a monthly basis, or as requested

**COOLING SYSTEM PRODUCT SPECIFICATIONS:**

PRODUCT TYPES:

The treatment program must be comprehensive and shall include the integrated use of scale control agents, dispersants, and corrosion inhibitors, pH control agents (only if necessary), and biocides/micro biocides. All chemicals shall be in liquid form.

TOWER WATER:

1. Use of any heavy metals (such as zinc, copper, chromate, etc.) is not acceptable for cooling towers. Molybdate and nitrate based chemistry is acceptable for “tracer”.
2. Scale control, dispersion, and pH control shall be achieved with use of non-toxic organic compounds and/or polymers and with the supplementary use of acid feed. The program will consist of a Phosphonate (PBTC)/Polymer/Azole-based chemistry.
3. Corrosion inhibitor(s) shall be non-toxic organic compounds. Corrosion protection is provided for all metal surfaces encountered in this tower loop system. Successful Respondent shall guarantee to achieve (less than) <1.0 MPY (mils per year) metal loss for ferrous, (less than) <0.1 MPY non-ferrous metal and surfaces.
4. Micro biocide: Microbiological growth control shall limit formation of algae, slime forming bacteria, legionnaire's disease bacteria (Legionella pneumophilla), molds, fungi, and any biological fouling organisms within the entire treated open loop cooling water system.
5. Biocide 1 (liquid bromine) should be fed continuously to achieve a free halogen residual within the range of 0.2-0.3 PPM. The tower controllers have the ability to feed product via ORP. 90 PPM per day of liquid bromide is not required for calculation purposes. Acceptable levels to be determined.
6. Biocide 2 (non-oxidizer) should be proposed to achieve the biological goals listed below. The use of isothiazoline or glutaraldehyde are permitted. Program to include an Oxidizer and non-oxidizer process as determined by the successful respondent and approval of the TSTC H/VAC supervisor. Proposed product must be approved by the College.
7. Maintain microbiological activity below ten thousand (10,000 cfu/ml*)* per milliliter of treated cooling water. Provide dip slides to monitor effectiveness of biocide treatment in (open systems) at each site on a weekly basis**.** Anaerobic biological counts should be maintained at 50 organisms per milliliter or less for Iron Related and Sulfate Reducing Bacteria.

**General Terms and Conditions**

* 1. **Contract Award**

A response to the solicitation is an offer to contract with Texas State Technical College based on the terms and conditions contained therein. RFP’s do not become contracts and are not binding until a written contract, signed by authorized College administrator and authorized personnel of the awarded vendor pursuit to this agreement.

* 1. **Contract Term**

The contract performance period shall be for a period beginning on December 1, 2011 and ending on August 31, 2012 for the purpose of completion of this project, unless otherwise extended or terminated by TSTC in accordance with the terms and conditions of this contract. The Owner shall have the exclusive option to renew this contract for two subsequent one-year periods provided funds have been appropriated for the treatment of chill and hot water systems for the contract period. The Contractor must be agreeable to renewal under the conditions of this document. All contract renewals or extension may be subject to approval by authorized personnel of TSTC. Contract renewals or extensions may be made ONLY by written agreement between the College and the Proposer and are subject to approval by authorized personnel of TSTC. All contract renewals or extension may be subject to approval by authorized personnel of TSTC. Contract renewals or extensions may be made ONLY by written agreement between the College and the Proposer and are subject to approval by authorized personnel of TSTC.

* 1. **Submitted Responsive Documents**

The RFP and submitted responsive documents, or portions of each, and at the College’s sole discretion, may become incorporated by reference and a part of this written contract and will be binding on both the College and the Proposer after execution of the contract by both parties.

* 1. **Interpretation, Jurisdiction and Venue**

This contract will be governed and be interpreted by the laws of the State of Texas without regard to its choice of law provisions. Exclusive venue for any claim or dispute involving the resulting contract or the services provided there under, shall lie in a court of competent jurisdiction in McLennan County, Texas.

* 1. **Compliance with Laws**

The services provided and all representations in the RFP response must be such that they are or would be in conformity with all federal, state, county and local laws, regulations, rules, and orders. Upon request, the Proposer shall furnish to TSTC certificates of compliance with all such laws.

* 1. **Taxes**

TSTC is tax exempt as a governmental subdivision of the State of Texas under Section 501C (3) of the Internal Revenue Code.

* 1. **Termination for Convenience**

TSTC, may, at its option and discretion, terminate the resulting contract for convenience and, at its option and discretion, may reduce the statement of work or other requirements of the contract at any time, without any default on the part of TSTC or the contractor, by giving thirty (30) calendar days notice thereof to the selected contractor.

* 1. **Termination for Default**

In the event that the services to be performed under this contract must be completed by a certain date, the Proposer is required to provide immediate notice at such time it has knowledge that it will be unable to perform the services within the time required.

* 1. **Insurance Requirements**

The Proposer/Awarded Vendor agrees to comply with the insurance requirements contained herein, if any.

INSURANCE REQUIREMENTS

9.1 All coverage must be provided in compliance with the General Conditions and on an occurrence basis, rather than claims made, and be provided through companies who have a minimal “Best’s” rating of A with a financial size category of X. The company must also be authorized to do business in the State of Texas and be acceptable to the Owner.

 The Contractor shall not commence work under this Contract until he/she has obtained all the insurance required hereunder, with the Owner as a named insured, and certificates of such insurance have been filed with and approved by the Owner. Approval of the insurance by the Owner shall not relieve or decrease the liability of the Contractor.

9.2 Contractor’s Liability Insurance

The limits of liability for the insurance shall provide coverage for not less that the following amounts or greater where required by Laws and Regulations:

* 1. Worker’s Compensation:
		1. State: Texas Statutory including Federal

b.) Employers Liability: $250,000 per Accident $500,000Disease, Policy Limit $250,000 Disease, each Employee

c.) The Owner shall require the Contractor to certify in writing that the Contractor provides Workers’ Compensation insurance coverage for all employees of the Contractor employed on the public project. A Subcontractor on the Project must provide such a certificate to the General Contractor relating to the coverage of the employees of the Subcontractor. The General Contractor shall provide the certificate of a Subcontractor to the Owner if requested. A Contractor who has a contract that requires Workers’ Compensation insurance coverage may provide the coverage through a group plan or other method satisfactory to the Owner.

* 1. Comprehensive or Commercial General Liability (including Premises-Operations; Independent Contractor’s Protective; Contractual Insurance; Independent Contractors; Products and Completed Operations; Broad Form Property Damage):

a.) Bodily Injury: $1,000,000 Each Occurrence

 $1,500,000 Aggregate

b.) Property Damage: $1,000,000 Each Occurrence

 $1,500,000 Aggregate

1. Products and Completed Operations to be maintained for specified years after final payment: $1,000,000
2. Property Damage Liability shall provide X, C, and U coverage.
3. Broad Form Property Damage Coverage shall include Completed Operations.
	1. Personal Injury, with Employment Exclusion deleted: $1,000,000 Aggregate
	2. Business Auto Liability (including owned, non-owned and hired vehicles):
	3. If the General Liability coverage’s are provided by a Commercial Liability policy, the:
		1. General Aggregate shall be not less than $1,000,000.
		2. Fire Damage shall be not less than $50,000 on any one fire.
		3. Medical expense limit shall be not less than $5,000 on any one person.
	4. Umbrella Excess Liability:
		1. $1,000,000 over Primary Insurance
		2. $25,000 retention for self-insured hazards each occurrence
	5. Contractual Liability Insurance

The Contractual Liability required shall provide coverage for not less than the following amounts:

 Bodily Injury: $ 750,000 Each Occurrence

$1,000,000 Aggregate

 Property Damage: $ 750,000 Each Occurrence

$1,000,000 Aggregate

* 1. Owner’s Liability Insurance

 The Contractor shall obtain at his expense an Owner’s Protective Liability Insurance Policy naming the Owner, its employees as insured, with the following limits:

 Bodily Injury: $ 500,000 Each person

$1,000,000 Each Occurrence

 Property Damage $ 500,000 Each Occurrence

$1,000,000 Annual Aggregate

* 1. Property Insurance
	2. Contractor shall purchase and maintain until final payment property insurance upon the Work at the site to the full insurable value thereof (subject to such deductive amounts an may be required by Laws and Regulations). This insurance shall include the interests of OWNER, CONTRACTOR, Subcontractors, in the Work (all of whom shall be listed as insured of additional insured parties), shall insure against the perils of fire and extended coverage, shall include “all-risk” insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and such other perils as may be provided in these Conditions, and shall include damages, losses and expenses arising out of our resulting from any insured loss or incurred in the repair or replacement of any insured property (including but not limited to fees and charges of Owners, attorneys and other professionals). If not covered under the “all-risk” insurance or otherwise provided in these Supplementary Conditions, **CONTRACTOR** shall purchase and maintain similar property insurance on portions of the Work stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment.
	3. The form of policy for this coverage shall be “Completed Value”.
	4. If by the terms of this insurance any mandatory deductibles are required, or if the Contractor should elect, with the concurrence of the Owner, to increase the mandatory deductible amounts or to purchase this insurance with voluntary deductible amounts, the Contractor shall be responsible for payment of the amount deductible in the event of a paid claim.
	5. Acceptance of Insurance

 If OWNER has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by CONTRACTOR on the basis of its not complying with the Contract Documents, OWNER shall notify CONTRACTOR in writing thereof within ten days of the date of delivery of such certificates in OWNER CONTRACTOR shall provide such additional information in respect of insurance provided as may reasonably request. Failure by CONTRACTOR to give any such notice of objection within the time provided shall constitute acceptance of such insurance purchased by the other as complying with Contract Documents

* 1. **Assignment**

The Proposer may not assign, transfer, convey, or subcontract this contract, any services to be performed as outlined in the RDP, or any of its obligations under this contract, in whole or in part, without the prior written approval from the College, which the College may withhold in its sole discretion.

* 1. **Audit of Records**

TSTC reserves the right to audit the records and performance of the Proposer during the term of this contract at any time during the contract period.

* 1. **Notices**

All notices, amendments, modifications, or alterations hereunder by either party to the other shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid addressed as follows:

|  |  |
| --- | --- |
| Texas State Technical College  | Contractor |
| Attn: Sharon Ferrill, CTP |  |
| 3801 Campus Dr. |  |
| Waco, TX 76705 |  |
| (254) 867-3778 or (254) 867-4804 |  |

* 1. **Entire Agreement**

The contract and its accompanying exhibits contain the entire understanding of the parties regarding the services or materials provided and supersede all prior agreements, oral or written and all other communications between the parties relating to the subject matter. This agreement may not be amended or modified, except by mutual written agreement between the parties.

* 1. **Ethics Conduct**

Any direct, or indirect, actions taken to unduly influence competitive purposes, to circumvent equal consideration for competitive bidders, or to disregard ethical and legal trade practices will disqualify vendors and contractors from current and future consideration for participation in TSTC orders and contracts.

* 1. **Drug Policy**

TSTC is a drug-free workforce and workplace. The manufacture, sale, distribution, dispensation, or use of illegal drugs or alcohol by vendors or contractors, while on TSTC premises, is strictly prohibited.

* 1. **Dispute Resolution**

The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used by TSTC and the Proposer to attempt to resolve any claim for breach of contract made by the Proposer.

**PROPOSAL FORM**

Request for Proposal ***RFP #***  1218W

Title of RFP Water Treatment Service

***LUMP SUM PROPOSAL***

(*Written*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***ADDENDUMS ACKNOWLEGED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

**RESPECTFULLY SUBMITTED:**

|  |  |
| --- | --- |
| Authorized Signature: |       |
| Printed Name and Title: |       |
|  |  |
| Name of Contracting Firm:  |       |
| Address: |       |
| Telephone and Email Adress: |       |
|  |  |
| Proposer's Corporate Charter No.: |       |
|  |  |
| If a Corporation, attest and affix a Corporate Seal: |       |
|  |  |
| by: |       |

**The undersigned, in accordance with you invitation for Proposal have examined the Project Documents, Specifications, all Addenda, and the site conditions of the proposed work; and being familiar with all of the conditions surrounding construction of the proposed project and having conducted all inquiries, tests, and investigations deemed necessary and proper, hereby proposes to furnish all labor, insurance, materials, machinery, tools, supplies, and equipment to perform all work required for the project.**

**The proposer acknowledges by his signature:**

* **Proposer has received, read, and understands the proposal documents, and his proposal is made in accordance therewith.**
* **Proposer is in agreement to:**
	+ **Hold-open his proposal for sixty (60) days from date of proposal opening**
	+ **Accept a purchase order as “Notice to Proceed”, if awarded on the basis of this proposal**
	+ **Comply with the schedule provided**
* **These proposals are submitted with a declaration that no employee of the Owner has a financial or beneficial interest in this transaction.**

**Texas Family Code Compliance Requirement:**

Firm Owner(s), Partners, Sole Proprietors, Share Holder(s)

of twenty-five percent (25%) interest:

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |       | SSN: |       |
| Type Written |  |
|       | SSN: |       |
|  |  |
|       | SSN: |       |
|  |  |
|       | SSN: |       |

(Proposer may use bottom of page if necessary.)

**Exhibit A: Changes to be made to AIA Document A201-2007**

The following provisions need to be modified:

1. 15.3 – 15.4.(Page 39) Mediation and Arbitration
	* TSTC cannot agree to follow the dispute resolution process set out in AIA A201-2007.
	* As a state agency, TSTC must abide by section 2260.004 of the Texas Government Code and the following language should be used to resolve any disputed claim for a contract over $25,000.00:

*“(1) To the extent that Chapter 2260, Texas Government Code, as it may be amended from time to time ("Chapter 2260"), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, by Owner and Contractor to attempt to resolve any claim for breach of contract made by Contractor:*

* + - 1. *(A) Contractor’s claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by subchapter B of Chapter 2260, to Owner in accordance with the notice provisions in this Agreement. Contractor's notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that Owner allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages. Compliance by Contractor with subchapter B of Chapter 2260 is a required prerequisite to Contractor's filing of a contested case proceeding under subchapter C of Chapter 2260. The Chief Business Officer of Owner, or such other officer of Owner as may be designated from time to time by Owner by written notice thereof to Contractor in accordance with the notice provisions in this Agreement, shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims.*
			2. *(B) If the parties are unable to resolve their disputes under subparagraph (A) of this section, the contested case process provided in subchapter C of Chapter 2260 is Contractor’s sole and exclusive process for seeking a remedy for any and all of Contractor's claims for breach of this Agreement by Owner.*
			3. *(C) Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Agreement by Owner nor any other conduct, action or inaction of any representative of Owner relating to this Agreement constitutes or is intended to constitute a waiver of Owner's or the state's sovereign immunity to suit and (ii) Owner has not waived its right to seek redress in the courts.*

*(2) The submission, processing and resolution of Contractor’s claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.*

*(3) Owner and Contractor agree that any periods set forth in this Agreement for notice and cure of defaults are not waived.”*

1. 10.3.3 (Page 30) Owner Indemnity
	* As a state agency, TSTC cannot agree to this provision since we are prohibited from doing so by the Texas Constitution. Please see attached policy (“Explanation of Indemnification”) for reference.
2. 11.2 (Page 31) Owner’s Liability Insurance
	* As a state agency, TSTC does not acquire commercial general liability insurance. Please see attached policy (“Explanation of Insurance: General Liability Insurance”).

1. 11.3.1. (Page 31) Property Insurance
	* 11.3.1: Add the following sentence to this provision: “*This insurance is written with a deductible of $100,000 per occurrence with a deductible aggregate of $100,000*.”
	* 11.3.1.4: Replace original language with the following: “ *The Contractor shall at the Contractor’s own expense provide insurance coverage for materials stored off the site after written approval of the Owner at the value established in the approval, and also for portions of the Work in transit until such materials are permanently attached to the Work*.”
	* Add this provision: “*The insurance required by 11.3 is not intended to cover machinery, tools or equipment owned or rented by the Contractor that are utilized in the performance of the Work but not incorporated into the permanent improvements. The Contractor shall, at the Contractor’s own expense, provide insurance coverage for owned or rented machinery, tools or equipment.”*
	* Again, please see attached policy for further explanation (“Explanation of Insurance: Property/Facilities”)
2. 11.3.1.2 (Page 31) Inform in writing
	* All of these issues came up in a previous review I did of the AIA-201-1997. At that time you sent a letter notifying the Contractor that TSTC will not be purchasing insurance, and attaching our insurance policy to the letter. I recommend you do this again prior to commencement of work on a contract.

**Exhibit B: Explanation of Insurance**

**As a state agency, TSTC does not acquire commercial general liability insurance. Please see attached policy (“Explanation of Insurance: General Liability Insurance”)**

**GENERAL LIABILITY INSURANCE**

It is the stated policy of the State of Texas, and therefore TSTC as a state agency, not to acquire commercial general liability insurance for torts committed by employees of the state who are acting within the scope of their employment. Rather, third parties must look to the *Texas Tort Claims Act (Tex.Civ.Prac.& Rem. Code §101),* for relief with respect to property damage, personal injury, and death proximately caused by the wrongful act or omission or negligence of an employee acting within his scope of employment. One exception to the above stated policy of the state authorizes agencies and institutions of the state to acquire commercial automobile insurance for the use and benefit of their employees who operate state owned, motorized vehicles and special equipment. TSTC possesses insurance applicable to this exception [see below]. Students are responsible for securing their own insurance coverage.

**PROPERTY/FACILITES INSURANCE**

 Texas State Technical College’s Property/Facility insurance covers interest against physical loss or damage by covered perils to named property that is owned by TSTC. All TSTC buildings and contents are covered under this policy.

 TSTC possesses Boiler & Machinery insurance. Coverage includes equipment breakdown, property damage, hazardous substances, service interruption, demolition, etc.

 TSTC has Aircraft Physical Damage and Liability Insurance through the Texas Department of Transportation.

 TSTC also has a Commercial Crime Policy that covers employee theft and forgery.

**DIRECTORS AND OFFICER LIABILITY**

 State agencies may buy liability insurance for its officers and executive staff to cover (1) conduct described in *Texas Civil Practice & Remedies Code* §104.002 relating to negligence, civil rights violations, hazardous waste manifest and records, or if the Attorney General otherwise approves of indemnification, and (2) other conduct customarily covered under directors' and officers' liability insurance. Insurance may be bought with state funds to cover a director, officer, member of the governing board, or a member of the executive staff of the agency. The policy must be limited to providing coverage only for liability in excess of the state's liability under *Texas Civil Practice & Remedies Code* § 104.003.

 TSTC possesses Directors and Officers liability insurance. Coverage under this policy includes discrimination, sexual harassment, wrongful termination, and failure to promote among other allegations including third party.

## BUSINESS AUTOMOBILE LIABILITY

## TSTC possesses coverage for legal liability arising out of the use of owned, leased, hired, and non-owned autos. This policy is subject to the statutory caps applied by the Texas Legislature.

## WORKER'S COMPENSATION

Pursuant to §135.58 of the Education code, TSTC possesses workers’ compensation for its employees. An employee may notify their employer within five days of beginning work that they do not want to be covered by workers’ compensation and prefer to keep the common-law right to recover damages for personal injury or death. If the employee does not choose this option, then workers’ compensation is that employee’s exclusive remedy for an on-the-job injury. This means that the employee may not sue the employer or co-workers for damages.

 A state employee who has not opted out of the coverage, as discussed above, and who sustains an injury in the course of employment is entitled to receive compensation under this system. In the case of a fatality, the deceased employee’s legal beneficiaries are entitled to benefits. The term “injury” includes occupational diseases. A state employee is a person who is in the service of the state, whether that person is elected, appointed, or hired by oral or written contract, whose duties require that the person work in a political subdivision of the state, but who is paid from state funds. Certain peace officers, as identified in Chapter 501 of the Act, are also considered state employees for purposes of workers’ compensation.

However, the following people are **not** considered employees of the state for purposes of workers’ compensation:

* Independent contractors;
* Volunteers, except during a Governor-declared State of Emergency;
* Members of the state military forces, except while on active duty;
* Persons covered by federal workers’ compensation;
* Offenders; and
* Consumers or patients of a state institution or agency

Workers’ compensation claims of state employees are filed with and determined by the State Office of Risk Management, but income and medical benefit disputes are adjudicated by the Texas Department of Insurance, Division of Workers’ Compensation (DWC). The SORM executive director acts in the capacity of the insurer as an adversary before DWC and the courts and presents the legal defenses and positions of the state as the insurer. The SORM executive director is authorized to make rules and prescribe forms.

**Exhibit C: Explanation of Indemnification**

The State of Texas is immune from liability and from suit with respect to most causes of action against it under the doctrine of sovereign immunity. This means that the State of Texas cannot be sued in its own courts without its legislature's consent -- *Director of Dep’t of Agric. & Env’t v. Printing Indus. Ass’n, 600 S.W. 2d 264, 265-66 (Tex.1980).*  The [Texas Constitution](http://www.capitol.state.tx.us/txconst/toc.html) provides that the State cannot give, lend or pledge the credit of the State to any person, association or corporation, or make any grant of public monies to any person, association or corporation without express authority. [Article 3, Sections 50-52, Texas Constitution.](http://www.capitol.state.tx.us/txconst/articles/cn000300.html) Unless the Texas Legislature by resolution permits a suit against the State, the State is not authorized to pay claimants and likewise is unable to indemnify a third party for the expenses associated with defending against such a claimant since such an indemnity would be an unauthorized grant of public monies.

The Texas Tort Claims Act (Chapter 101, Texas Civil Practice and Remedies Code) provides a waiver of the State of Texas' sovereign immunity with respect to liability and suits against governmental units like Texas State Technical College, for property damage and personal injury (including death) proximately caused by the wrongful act or omission or the negligence of an employee acting within the scope of his or her employment; but, the property damage, injury, or death must have arisen out of the operation or use of a motor vehicle or motor-driven equipment or the condition or use of other personal or real property. Section 101.021 In cases falling within the parameters of the Texas Tort Claims Act, Texas has in effect consented to be liable and to be sued for the negligence of its employees and thus, TSTC can indemnify third parties against costs they may incur proximately caused by such negligence in the operation, condition or use of property. The limits of this liability are (i) $250,000 per person for personal injury or death, up to $500,000 per occurrence, and (ii) $100,000 per occurrence for injury to or destruction of property. Section 101.023

**Public Servants**

Public servants also have the limited right to indemnification by the state. Under Chapter 104 of the Civil Practice and Remedies Code, governmental employees, board members, and other public officials are entitled to this protection without regard to whether they perform their services for compensation. Indemnity protection is afforded eligible persons for acts and omissions taken in the course and scope of their service in cases based on constitutional, statutory, and even negligence grounds, or when the Attorney General determines that it would be in the interest of the state. The only claims excepted are those based on acts taken in bad faith, conscious indifference, or reckless disregard. Generally, the state will indemnify eligible persons for damages awarded against them in amounts up to $100,000 each, $300,000 per occurrence involving personal injury, death, or deprivation of a right, privilege, or immunity. The state will also indemnify eligible persons for damages awarded against them, up to $10,000 per single occurrence of damage to property. However, the State will not indemnify persons for amounts covered by insurance, except for damages that exceed statutory indemnification limits. [See *Policy Statement TSTC -- Explanation of Insurance*]

Public servants may be personally liable for punitive or exemplary damages awarded against them, or for damages that exceed the indemnification limits, listed above. Punitive or exemplary damages must be based on a finding that the employee has acted maliciously or in bad faith. In cases based on state law, public servants who are entitled to state indemnification, or who are covered by insurance, are not liable for damages in excess of $100,000. This limitation on personal liability does not apply to damages based on the U.S. Constitution or federal laws.

The Attorney General represents persons who are eligible for state indemnification. When public servants are sued and want representation from the Attorney General, they must notify the Office of the Attorney General within 10 days of service. Persons eligible for state indemnification also have the right to be co-represented by a private attorney of their choice, at their own expense. State defendants who choose to retain private co-counsel should inform the Office of the Attorney General of this decision as soon as possible.

**Exhibit D: Bond Requirements**

*REQUIRED BONDS*:

* + - 1. A Performance Bond is required if the Contract Price is in excess of $100,000. The Performance Bond is solely for the protection of the Owner. The Performance Bond is to be for the Contract Sum to guarantee the faithful performance of the Work in accordance with the Contract Documents. The form of the bond shall be approved by the Attorney General of Texas. The Performance Bond shall be effective

through the Contractor’s warranty period.

1. A Payment Bond is required if the Contract Price is in excess of $25,000. The payment bond is to be for the Contract Sum and is payable to the Owner solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the Contractor or a Subcontractor. The form of the bond shall be approved by the Attorney General of Texas.

2. Bond Requirements. Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to the Owner and in compliance with the relevant provisions of the Texas Insurance Code. If any bond is for more than 10 percent of the surety’s capital and surplus, the Owner may require certification that the company has reinsured the excess portion with one or more reinsurers authorized to do business in the State. A reinsurer may not reinsure for more than 10 percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, the Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to the Owner.

3. Power of Attorney. Each bond shall be accompanied by a valid Power of-Attorney (issued by the surety company and attached, signed and sealed with the corporate embosses seal, to the bond) authorizing the attorney in fact who signs the bond to commit the company to the terms of the bond, and stating any limit in the amount for which the attorney can issue a single bond.

 **Exhibit E: HUB Subcontracting Plan**

In accordance with Government Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit a State of Texas HUB Subcontracting Plan (HSP) within 24 hours of their solicitation response.

