Texas State Technical College Waco

Tax Exempt # 74-1646989

Procurement Office

3801 Campus Dr.

Waco, TX 76705

(254) 867-3757 phone

 (254) 867-3792 alternate fax

**INVITATION FOR COMPETITIVE SEALED PROPOSALS**

**Title: BCT Bldg Renovation 2012**

**Proposal # RFP1229W**

**Posted Date: 02-27-2012**

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

**Proposal Closing Date/Time: March 22, 2012 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

(254) 867-3758 phone (254) 867-3778 phone

**Faxed Proposals will not be accepted.**

**Emailed Proposals will not be accepted.**

**Proposal Instruction:**

Proposals must be received in a sealed envelope by the date and time shown above for consideration. Please indicate the Proposal # RFP1229W, Proposal Title, and Proposal Closing Date and Time on the sealed envelope and either hand deliver or mail to the address above before 3:00 PM on March 22, 2012. 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 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 material, labor and equipment to do renovation of the BCT Bldg. at Texas State Technical College, located on the TSTC Waco Campus, located at 3801 Campus Dr. Waco, TX 76705, as described within the Scope of Work specification.**

Project Manager Contact:

 Mike Ratliff (254) 867-3703 or by email to mike.ratliff@tstc.edu

**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”): to engage proposer to furnish material, labor, and equipment to do renovations at BCT Bldg. at the Waco Campus. This will be demo of approx. 13,000 SF of siding, demo of 6 10’X12’ roll up doors, furnish and install approx. 13,000 SF of steel U-panel, furnish and install 18 store front windows, and furnish and install 6 10’X12’ rollup doors, and furnish and install 5 single metal exterior door units. Removal of electrical, plumbing, other various items that will need to be moved for demo and installation of this project.

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 entitled Proposal Submitted for RFP #1229W and shall clearly state the Proposal Title, and Proposal Opening Date and Time.

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 must be sent to TSTC at the following addresses:

**By U.S. Mail/Overnight/Express Mail**

 Texas State Technical College

 Procurement Office

 Attn: Sharon Ferrill, CTP

 RFP# 1229W

 3801 Campus Drive

 Waco, TX 76705

**By Hand Delivery (on campus address only)**

 Texas State Technical College

 Procurement Office

 Attn: Sharon Ferrill, CTP RFP1202W

 Patterson Hall (2nd Floor)

 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 Thursday March 22, 2012 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, CTP or from Mike Ratliff. Email requests and responses will be responded to by email only. Sharon.ferrill@tstc.edu .

3.3 **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 March 05, 2012 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, Tuesday March 06, 2012 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**

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 March 22, 2012 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 and award is made.

Please contact Jerry Sorrells by email at Jerry.Sorrells@systems.tstc.edu **for all open records requests such as Bid Tab results**.

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**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**

Owner and Contractor recognize that time is of the essence of this agreement and the Owner will suffer financial loss if the work is not completed per the completion schedule. Owner and Contractor therefore agree that liquidated damages for delay will be $200.00 per calendar day. **Contractor will have 30 calendar days to complete project from**

**date set by TSTC. This date will begin April 16, 2012 and end May 15, 2012.**

**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

 Exhibit F: Pictures of trim on AeroSpace Bldg.

**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**

**PREP**

1. Construct barricades for work area to protect pedestrian traffic. This may be done using caution tape with structural supports. Vehicle traffic areas must be barricaded with structural barricades.
2. All openings in bldg. due to removal of siding, doors, and windows shall be secured overnight and weekends.

**DEMO**

1. Remove exterior lap siding from BCT Bldg being careful not to disturb the # 105 wood siding attached to the wood frame. This siding to be removed is and not limited to Masonite and Hardi Plank siding.
2. Remove exterior steel doors along with their jambs and roll up doors. Doors and jambs to be removed as construction progresses and with approval of TSTC Project Manager. It should be noted that all openings in bldg. due to material removal shall be secured overnight and weekends.
3. Remove all hidden damaged wood. This will include but not limited to, 105 siding, stud framing, sill plate framing, header framing. This hidden damage will be verified by TSTC Project Manager before any work is done to repair it.
4. Contractor shall include an allowance of $3,000.00 for any labor and materials needed for hidden damaged wood. This allowance will be used toward labor, per labor price submitted by contractor on page 10 and material as price listed below. If the repair of hidden damaged wood is less than the $3,000.00 allowance then that balance will go to TSTC. Contractor shall furnish and install material to replace any hidden damaged materials, this will include but not be limited to 2”x6”PT wood sill plate framing, 2”x6” #2 YP or SPF stud framing, and ¾” CDX plywood for repair of any # 105 siding that was removed because of hidden damage. Contractor shall repair hidden damaged wood and siding after TSTC Project Manager determines the area to be repaired. The cost of material used for this hidden damage will be current market price plus 15% markup. Proposer shall issue a price per hour for a carpenter and helper. There is a line item below for contractor to fill in for hourly wages for one carpenter with a carpenter’s helper. Contactor will, at the exposure of damaged wood, submit a proposal for how many hours any particular damaged wood area would take for one carpenter with a carpenter’s helper. Contractor will submit this to TSTC Project Manager for approval. TSTC reserves the right to utilize others for these repairs.

**Construction**

1. Contractor shall furnish and install TyVek vapor barrier or equal over all exterior siding. Tyvek moisture barrier to be installed per manufacturer’s specifications. This will include the exterior and interior of the gable, including the ceiling of front entry. If substitute is offered it must be submitted with manufacturer’s specifications. It will be TSTC’s decision to accept or reject the substitute
2. Contractor shall furnish and install DuPont Flexwrap flashing tape in all window and door openings according to manufactures specifications.
3. Contractor shall furnish and install new aluminum framed storefront windows in place of existing steel windows. New storefront windows to be manufactured by either of the following manufacturers- Kawneer, Indal LTD Tubelite div., Vistawall Architectural products. There are 11(eleven) existing windows approx. 10’0”x 7’0”, 5( five) existing windows approx. 7’0”x5’0”, and 3(three) existing windows approx. 3’6”x5’4”. Contractor to furnish and install interior trim for these new windows. Interior trim to match existing and to be caulked and painted to match existing trim. Exterior Trim shall match trim shown in Exhibit F. This shows the metal and trim that contractor will match which is on the AeroSpace Bldg. here on campus. These are approx. dimensions and should not be used to for proposal purposes. Contractor to field verify these dimensions. **Note that the existing steel windows will be removed by others.**
4. Contractor shall furnish and install exterior steel entry doors with metal jambs to replace existing steel entry doors and jambs. The door units shall be Mesker 18 gauge hollow core doors that are foam insulated with Knock Down frames. These doors to be swing out and hinged as doors to be removed. See Specifications below for door hardware. Contractor’s metal J-Trim to be exterior trim for door units. There are 2- 2’8”x6’8” and 3- 3’0”x6’8” exterior door and jambs to be removed and replaced by contractor. **The existing aluminum framed storefront door shall remain.** Exterior door units will have weather stripping and thresholds. These doors to have double bore and 12”x12” tempered ¼”glass panel. Doors and jambs to be primed and painted with SW Pro Mar 100 exterior semi-gloss paint applied according to manufacturer’s specifications. Color to be selected later. Contractor to furnish and install interior trim to match existing interior trim. This trim shall be painted to match existing.
5. Contractor to furnish and install- 6 roll up doors in place of existing roll up doors including blocking and furring needed for door installation. These doors to be Commercial 26 gauge with 2000 Series Commercial track. Jambs for roll up doors to be wrapped in Kynar 500 metal and trimmed out with metal J trim. All wood used for door frame shall be Pressure Treated #2 Y.P. and better. Approx. size of these doors are 10’ x 12’. New doors to be opened and closed manually by chain pulls as per manufacturer’s specifications. New doors to be primed and painted with SW Pro Mar 100 exterior semi-gloss paint applied according to manufacturer’s specifications. Color to be selected later.
6. Contractor will furnish and install new Kynar 500 (PVDF), MS Colorfast 45, and Acrylic Coated Galvalume 26 gauge U-Panel siding and all associated trim, covering entire exterior wall surfaces of building. This to include walls of gable entrance as well as the ceiling of the entry area. Contractor shall cover structural beams of entrance with Kynar 500 (PVDF), MS Colorfast 45, and Acrylic Coated Galvalume 26 gauge metal.The colors of siding and trim shall match the colors of TSTC’s AeroSpace building. This siding shall be installed in a vertical position. Contractor shall furnish and install all anchorage needed for manufacturer’s specifications.
7. Contractor shall furnish and install Kynar 500 (PVDF), MS Colorfast 45, and Acrylic Coated Galvalume 26 gauge to cover all “overhang” (Cornish) on building. This to include front gable entrance as well as the soffit and fascia. Note that the wooden columns at front entry shall remain uncovered. Contractor to rime and paint columns with SW Pro Mar 100. Color to be named later. This color to match trim color of TSTC’s AeroSpace bldg.
8. Contractor shall furnish and install 6” seamless gutters with downspouts feeding into existing drain pipe in loading docks. At West wall, parallel to Airline Dr., downspout to extend to ground with concrete splash guards furnished and installed. Color to match new metal trim.
9. Removal of Masonite siding will expose vent openings in floor framing for crawlspace ventilation, contractor will submit a proposal for furnishing metal exterior crawlspace vents for existing vent holes in floor frame. TSTC has the option to accept the submittal price for vents or furnish the vents but it will be contractor’s responsibility to install the vents.
10. Contractor shall remove wall mounted A/C Unit in North wall under window. Frame opening and sheath with ¾” CDX. Align CDX to be flush with existing # 105 siding. Contractor to finish interior of cavity to match existing interior.

**Hourly Wage for Damaged Wood Repair**

**Total Cost of 1 carpenter with 1 carpenter’s helper per hour;**

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

 **Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**General Notes:**

1. **Project Completion Date: as set forth in section 3.9 of this RFP**
2. Contractor employees shall wear TSTC issued contractor badges during the duration of this project and all badges shall be signed back in to TSTC on completion of project.
3. All debris removal and cost of disposal shall be the responsibility of the contractor. All debris removal shall be off campus.
4. Contractor shall clean trash, debris, and sweep work area daily.
5. Contractor shall maintain a traffic barricade of caution tape installed approx. 42” above finished floor unless others are stated above.
6. No radios, MP3s, etc.
7. Proper work attire will be maintained by contractor’s employees and sub-contractors.
8. If at any time there is a discrepancy with these notes then TSTC project manager will make final decision.

**4.1 Plans and Specifications**

**Specifications:**

**Door Hardware for single entry doors:**

1. **1 ½ Pair Butts TA2714 4 ½”x 4 ½” US26 per door**
2. **5 Arrow S3800 Rim Exit Devices with striker plates**
3. **5 Arrow SL08 Trim lever handle plates with polished chrome finish**
4. **5 Rockwood Kickplate 8”x 34” 32 with polished chrome finish**
5. **5 Door Closures- Yale 4400 with 689 finish**
	1. **A Warranty**

Contractor shall issue a one year warranty to TSTC for all labor and material used during this project. This warranty will begin on date of completion of project. Contractor shall issue manufacturer’s warranty for Kynar 500, DuPont flashing tape, and gutters to TSTC at completion of project.

**4.2 Schedule:**

**A pre-bid conference will be held at the TSTC Waco Physical Plant conference room located at 1200 Greenway on the TSTC Waco campus on March 06, 2012 at 10 AM. Contact Mike Ratliff Project Manager with questions.**

**All work shall be completed between April 16, 2012 and May 15, 2012.**

**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 the purpose of completion of this project, unless otherwise extended or terminated by TSTC in accordance with the terms and conditions of this contract. 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 sharon.ferrill@tstc.edu |  |

* 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 #1229W Title: BCT Building Renovation 2012***

***LUMP SUM PROPOSAL(Include an allowance of $3,000.00 for damaged wood)***

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

***ADDENDUMS ACKNOWLEGED:*** (if any) ***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

**RESPECTFULLY SUBMITTED:**

|  |  |
| --- | --- |
| Authorized Signature: |  |
| Printed Name and Title: |  |
|  |  |
| Name of Contracting Firm:  |  |
| Address: |  |
| Telephone and Email Address: |  |
|  |  |
| 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 Powerof-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.



