



ADDENDUM

Attachment to

APPENDIX D - GENERAL TERMS AND CONDITIONS ACCEPTANCE FORM

Williams Scotsman, Inc. ("Seller" "Lessor" "WSI")

"Clarifications" To The Request for Proposal ("RFP")

By Region 4 Education Service Center ("ESC")

On behalf of itself, other government agencies and non-profits

("TCPN Member" "Buyer" "Lessee")

Made available through The Cooperative Purchasing Network ("TCPN.")

Under Solicitation Number 16-01

Covering Modular Buildings, Portable Storage, and Relocatable Walkways ("Equipment")

**PLEASE NOTE THAT THIS PROPOSAL RESPONSE IS SUBMITTED CONTINGENT UPON THE FOLLOWING CONDITIONS:**

Notwithstanding anything contained in the RFP or any documents related thereto to the contrary, the WSI Proposal Response hereby submitted is contingent upon the inclusion of the WSI Lease/Sale Agreement (as applicable), and, the following WSI Clarifications and as outlined elsewhere herein.

The WSI Proposal Response:

- i) is quoted based upon current market information which may later vary as to price, materials and availability and/or other market and project conditions;
- ii) is prepared without a final determination of actual quantities, site conditions and/or other necessary particulars for the project.

Accordingly, ESC and TCPN understand and agree that these Clarifications are material matters and the WSI Proposal Response is open to future negotiation, adjustment and agreement prior to the creation of a binding contract between the parties.

APPENDIX A – GENERAL TERMS & CONDITIONS – Article 4.7 & 4.8 - The WSI Lease/Sale Agreement (as applicable) shall take precedence with respect to the transaction with the TCPN Member.

ESC/TCPN have requested for their members, that the RFP Proposal Response be submitted covering the options of a Lease or the Purchase of Equipment. This Proposal Response is submitted by WSI based on the understanding that the agreement to be signed shall be based upon the bid option that the TCPN Member selects, and with terms and conditions mutually agreed upon by both parties. Accordingly, WSI has included samples of its available contract(s) covering the various options included in this Proposal Response.

1. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 8.3 - WSI's pricing excludes applicable taxes. The TCPN Member shall pay, or shall reimburse WSI for, any applicable sales, use, personal property taxes, any other direct taxes, licenses, titles and fees related to the sale and/or the rental of the Equipment, or to the work to be performed by WSI, as allowed by law. If the TCPN Member is tax exempt, the TCPN Member shall provide WSI with a valid copy of its tax exempt certificate. The TCPN Member remains responsible for the payment of any use tax, which WSI, as a contractor may be required to pay.
2. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 8.1 & APPENDIX F - No. 8 - The prices quoted in this bid and WSI's obligation to perform if awarded are contingent upon WSI's credit review and approval of the TCPN Member requesting the service or goods and evidence that the Project is fully funded, with the payment terms to be determined - based upon mutually acceptable terms to both parties. Additional financial information may be required of the TCPN Member.
3. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 5.3, 5.4, 7.1 - The Schedule for delivery shall be mutually agreed upon between WSI and the TCPN Member on a per project basis. WSI shall not be responsible for any delays which may arise beyond WSI's control, including without limitation, delays caused by ESC, TCPN and/or the TCPN Member, their employees, agents or other contractor's, or any third parties; Governmental and/or municipal authorities; acts of God; stormy or inclement weather; union activities and/or other labor issues; terrorist acts; quarantines or epidemics; floods, fire, earthquakes, windstorms or other catastrophe; manufacturer's delays; loss or damage to units during transport; transportation delays; shortages of materials; delays in obtaining permits, licenses, approvals, tests or inspections; archaeological/paleontological discoveries; Hazardous Materials encountered at the TCPN Member site; conditions existing at the TCPN Member site or any other conditions beyond WSI's control.



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4. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 12.6 - All risk of loss or damage to the Equipment shall pass to the TCPN Member at delivery, at WSI’s substantial completion of installation, or at the utilization or occupancy of the Equipment, whichever event first occurs - to be determined on a per project basis.
5. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 13.6 - During the installation work/takedown work, WSI shall provide its standard evidence, types and limits of insurance coverage to include general liability, automobile liability and worker's compensation/employer’s liability, covering WSI's performance of its work at the TCPN Member site, subject to the terms, conditions, limits, deductibles and exclusions of the policy(ies). If ESC, TCPN or the TCPN Member shall require insurance other than the standard insurance that WSI provides, to the extent that WSI can comply, any additional costs incurred by WSI shall be paid by ESC, TCPN or the TCPN Member - as appropriate. With respect to the rental of the Equipment, the TCPN Member is responsible for providing adequate insurance coverage to WSI during the term of the lease to include general liability insurance and property insurance covering any and all risk.
6. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 13.3 - With regard to any Indemnity provisions contained in the RFP or other Contract Documents, WSI shall indemnify, defend, and hold ESC, TCPN and the TCPN Member harmless, solely to the extent the claim arises as a result of WSI's negligence or WSI's employee's/subcontractor's negligence.
7. The cost for bonds is not included in the WSI Proposal Response. Bonds, if requested, shall be addressed on a per project basis prior to the placement of the order for the Equipment by the TCPN Member. The additional cost to the TCPN Member for bonds shall be at the actual bond cost as a pass through item.
8. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 11.6 - The warranty provided by WSI shall be based upon the type of Equipment as well as the relevant transaction between WSI and the TCPN Member. The sale of “New” Equipment shall be subject to WSI's standard (1) year warranty as contained in the WSI Sale Agreement for New Equipment. The warranty (if any) for the sale of “Used” Equipment shall be based on the product type at time of transaction and as contained in the WSI Sale Agreement for Used Equipment. The lease of Equipment shall be subject to the standard WSI lease warranty as contained in the WSI Lease Agreement. WSI shall be afforded the opportunity of repair to the Equipment as outlined in the respective WSI warranty.
9. APPENDIX E - No. 9 - WSI reserves the right to utilize multiple cooperative contracts based on the customer’s acceptance or preference of those contracts.
10. TEXAS PUBLIC INFORMATION ACT/OPEN RECORDS POLICY The following information is considered the exclusive and proprietary property of WSI because of the content. Any copying, disclosure or distribution of any part of this information is strictly prohibited without prior written permission from WSI.
  - Tab 1, (Appendix D) Williams Scotsman Attachment to Appendix D General Terms and Conditions Acceptance Form - Clarifications
    - These pages are Williams Scotsman’s proposal of our specific planned approach with TCPN for the TCPN Member transactions. WSI would like to maintain this as proprietary between TCPN and WSI.
    - (5) pages
  - Tab 2, (Appendix E) Questionnaire, Item 6. Processing Information
    - High level contacts for use by TCPN; not publically advertised.
    - (1) page
  - Tab 3, (Appendix F) Pages 2&3 in the WS Proposal, titled “General Information”
    - Williams Scotsman is privately held and does not publish financials. These pages contain past Company Revenues and the Projected revenues in planning with TCPN
    - (2) pages
  - Tab 3, (Appendix F) Pages 8&9 in the WS Proposal, titled “Marketing Plan, Overview”
    - These pages are Williams Scotsman’s proposal of our specific planned approach with TCPN for marketing. WSI would like to maintain this as proprietary between TCPN and WSI.
    - (2) pages
  - Tab 3, (Appendix F) Pages 13&14 in the WS Proposal, titled “Marketing”
    - The majority of these pages are Williams Scotsman’s proposal of our specific planned approach with TCPN for marketing. WSI would like to maintain this as proprietary between TCPN and WSI.
    - (2) pages



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- Tab 3, (Appendix F) Pages 21&22 in the WS Proposal, titled “Additional Services and Benefits”
  - The narratives in these sections discuss history, planning, training, and financial performance between WSI and TCPN. The financial performance and team efforts between our companies should not be made public.
  - (2) pages
  - Tab 6, Appendix C, Pricing – In Its Entirety
  - Williams Scotsman’s pricing is proprietary and should not be exposed to the public. Doing so would provide a competitive benefit to our competitors and potential irreparable harm to WSI.
  - (10) pages
11. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 11.7 - With respect to “Buy American” provisions, all containers in the WSI Proposal Response were originally manufactured in the Peoples Republic of China and have been previously used as cargo shipping containers.
  12. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 12.1, 12.2 - The cost for hidden conditions, latent conditions, underground/subsurface conditions, rock removal, soil conditions, dewatering of site, or hazardous waste removal/working conditions is not included in the delivery and installation charges quoted by WSI. If any of the aforementioned site conditions are encountered, the additional cost to the TCPN Member shall be calculated using either RS Means or 3 separate quotes plus overhead and profit (See Appendix C Pricing Sheet Page 10 Note 10). The preferred method of calculation shall be mutually agreed upon by the parties on a case by case basis.
  13. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 12.1, 12.2 - WSI is not a hazardous materials contractor. Should WSI encounter hazardous materials at the TCPN Member site, WSI reserves the right to cease operations until it is safe for WSI to resume work without being in violation of time schedule. Identification, remediation, cleanup, transport and disposition of any hazardous substances existing at the TCPN Member site and the additional costs arising therefrom and from any resultant delays shall be the liability and responsibility of the TCPN Member, at the TCPN Member’s cost and expense. Costs for hazardous work/remediation are not included in the WSI bid proposal price. Any additional time required and expense incurred by WSI as a result of the aforementioned Hazardous Materials and/or delays shall be covered by appropriate Change Order subject to Appendix C Pricing Sheet Page 10 Note 10.
  14. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 5.3 - WSI shall have no liability whatsoever for any liquidated, consequential, actual or incidental damages, costs or expenses arising from the Equipment, the work or any other factor.
  15. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 13.7 - While WSI complies with various laws which are applicable in all states [such as OSHA and Federal Employment Acts, including but not limited to: The Age Discrimination act of 1975, The Non-Discrimination Equal Employment Opportunity Act (Executive Order #11246), The Affirmative Action to Ensure Equal Employment Opportunity Act (Executive Order # 11246), The Non-Discrimination Under Title VI of the Civil Acts Rights of 1964, The Affirmative Action for Handicapped Workers (Section 504 of the Rehabilitation Act of 1973), The Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era Act, and the Equal Employment Opportunity Act], WSI does not represent compliance with “all” laws, rules and regulations since this is a broad statement and there are infinite combinations of municipal, federal, state & local laws involved. WSI will discuss additional requirements with the TCPN member (which may result in additional costs to the TCPN member) on a per project basis. Compliance with Laws of Sovereign Nations is hereby excluded; and any inclusion shall be mutually agreed upon on a case by case basis.
  16. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 4.4 - The Proposal Response is based upon WSI’s right to assign all rights, remedies, responsibilities, obligations and contracts with the TCPN Members for the project to a third party and/or to subcontract portions of the Work. TCPN’s consent to an assignment by WSI of the TCPN Contract and/or the individual TCPN Member contract shall not be unreasonably conditioned, delayed or withheld.
  17. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 3.1 - WSI hereby reserves the right at any time to not proceed with an order for any TCPN Member, should there exist valid business reasons which prevent WSI from proceeding with the order, without WSI being in default under the TCPN agreement. WSI will notify ESC/TCPN and the TCPN Member at the time the TCPN Member places the call for the order of Equipment of WSI’s inability to proceed with the order.
  18. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 5, 13.1 - Remedies to WSI for Non-Appropriation Clause/Early termination shall be mutually agreed upon and addressed on a per project basis at the time the order is placed by the TCPN Member. Remedies shall be as outlined in the WSI TCPN Lease Agreement or the WSI TCPN Sale Agreement as appropriate to the transaction.



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19. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 4.2 - The issuance of a Purchase Order by the TCPN Member shall not relieve the TCPN Member Agency of its responsibility to sign mutually agreed upon WSI document(s). WSI reserves the right of review and consent to any TCPN Member T&C's which are not specifically set forth in full in the TCPN RFP.
20. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 12.6 - Title - For a sale - title to the Equipment does not pass to the TCPN Member until full payment has been received by WSI.  
For a lease – title to the Equipment at all times shall remain with WSI.
21. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 9.5 - The Proposal Response is based upon the use of a non-union, non-prevailing wage labor work force, with work performed Monday-Friday during 8am-5pm (holidays excluded). If a differing labor force, other type of wage rates and/or other hours of work should be required, the TCPN Member shall be responsible for the payment of any additional costs arising therefrom, to be determined on a per project basis.
22. APPENDIX A – GENERAL TERMS & CONDITIONS Article 13.7 & APPENDIX B – For “NEW” Equipment which is to be manufactured, WSI represents the Equipment will meet the minimum 2015 International Building codes stated in the RFP. “NEW” in-stock Equipment and “USED” Fleet Equipment will meet codes which were in effect at the time of the manufacture of the Equipment only. All Portable Storage Equipment is excluded from any coding representation since it is for storage only and not for occupancy. WSI makes no further representations that the Equipment will comply with “all” federal, state or local building codes, zoning ordinances, or other types of regulations or use codes regulations since this is a broad statement and there are multiple unknown jurisdictions involved. WSI is willing to discuss compliance with additional requirements with the TCPN Member (which may result in an additional cost to the TCPN member) on a per project basis.
23. APPENDIX B – Other than the transportation permits only, the WSI Proposal Response does not include the cost for local inspections, zoning requirements, building setback, maximum area, fire separation requirements, site construction/development, property line requirements utilities, state, municipal or local permits and/or any fees, tests, approvals and inspections. WSI is willing to discuss compliance with any additional requirements with the TCPN Member (which may result in an additional cost to the TCPN member) on a per project basis.
24. APPENDIX A – GENERAL TERMS & CONDITIONS – Article 6.1 & APPENDIX F - WSI will supply a copy of appropriate licenses for the jurisdiction when requested by the TCPN Member on a per project basis.