



## Department of Transportation

### Aberdeen Region Office

West Highway 12

PO Box 1767

Aberdeen, South Dakota 57402-1767

Phone: 605/626-2244

**FAX: 605/626-7875**

### **TO: Prospective Bidders**

The DOT-123 form provided within the proposal document is for information only. Do not use for bidding purposes. Bids submitted on the enclosed DOT-123 form will be considered void and will not be accepted by the department.

Please contact the Aberdeen Region office for a DOT-123 form that can be used for bidding purposes.

Please email your requests for a DOT123 form to:

[Scott.Schneider@state.sd.us](mailto:Scott.Schneider@state.sd.us) and [Karen.Hoven@state.sd.us](mailto:Karen.Hoven@state.sd.us)

Those prospective bidders emailing a requesting for a DOT123 form must provide the following information so that the SDDOT can maintain a list of prospective bidders for this project.

Company Name  
Mailing Address  
Phone Number



# Department of Transportation

## Aberdeen Region Office

West Highway 12  
PO Box 1767  
Aberdeen, South Dakota 57402-1767  
Phone: 605/626-2244  
FAX: 605/626-7875

March 12, 2009

**Re: 029 S-172 PCN i18z, Roberts County  
Glacial Lakes (Victor) Rest Area Sandblast and Paint 2 Picnic Shelter Canopies**

Gentlemen:

Enclosed are Plans and Proposal for the above referenced project.

In completing your bid for this work, complete sections "ESTIMATE OF QUANTITIES AND COSTS", "PROPOSED START DATE" and "CONTRACTOR'S PROPOSAL STATEMENT" of the SD DOT CONTRACT PROPOSAL. Have the completed form notarized and place it in an envelope with "PROPOSAL FOR HIGHWAY WORK" and PROJECT NUMBER written on the outside and submit to:

*Mailing Addressing for US Postal Service*  
DEPARTMENT OF TRANSPORTATION  
MR. JEFF SENST, PE  
ABERDEEN REGION ENGINEER  
PO BOX 1767  
ABERDEEN, SOUTH DAKOTA 57402-1767

*Delivery Address for Couriers (UPS, FedEx)*  
DEPARTMENT OF TRANSPORTATION  
MR. JEFF SENST, PE  
ABERDEEN REGION ENGINEER  
2735 WEST US HIGHWAY 12  
ABERDEEN, SOUTH DAKOTA 57401

Sealed bids will be accepted until [1:30 PM Friday, March 27, 2009](#) and will be opened at that time in the Aberdeen Region Office, West Highway 12, Aberdeen, South Dakota.

Bidders are reminded that a bid bond will not be required, however, the successful contractor will be required to furnish a Performance Bond or Cashiers Check in the contract amount.; also a Certificate of Insurance, if not currently on file with the Department of Transportation, prior to beginning work on the project. The contract award is subject to verification of the Contractor Excise Tax License.

Should you have questions you are encouraged to contact Area Engineer Ron Sherman, PO Box 1446, Watertown, SD 57201-1446; Telephone (605)882-5166, Fax (605)882-5117.

A summary of bids will be mailed to all bidders. The Department of Transportation reserves the right to reject any and/or all bids.

The Department of Transportation in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, national origin, sex, age or disability in consideration for an award.

Sincerely,

DEPARTMENT OF TRANSPORTATION

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Jeff Senst, P.E.

Aberdeen Region Engineer

cc: Humphrey      Hansen      Weisgram      R. Sherman      Maier      File

## **NOTICE TO ALL BIDDERS**

**TO REPORT BID RIGGING ACTIVITIES, CALL: 1-800-424-9071**

THE U.S. DEPARTMENT OF TRANSPORTATION (DOT) OPERATES THE ABOVE TOLL-FREE "HOTLINE" MONDAY THROUGH FRIDAY, 8:00 A.M. TO 5:00 P.M., EASTERN TIME. ANYONE WITH KNOWLEDGE OF POSSIBLE BID RIGGING, BIDDER COLLUSION, OR OTHER FRAUDULENT ACTIVITIES SHOULD USE THE "HOTLINE" TO REPORT SUCH ACTIVITIES.

THE "HOTLINE" IS PART OF THE DOT'S CONTINUING EFFORT TO IDENTIFY AND INVESTIGATE HIGHWAY CONSTRUCTION CONTRACT FRAUD AND ABUSE AND IS OPERATED UNDER THE DIRECTION OF THE DOT INSPECTOR GENERAL.

ALL INFORMATION WILL BE TREATED CONFIDENTIALLY AND CALLER ANONYMITY WILL BE RESPECTED.

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### **Prequalification of Bidders**

In accordance with current bidding procedures, [Administrative Rules 70:07:02](#), a bidder must be prequalified prior to bidding on state highway construction projects, unless his bid is less than \$100,000. Contractors may apply for prequalification by fully completing and executing a Prequalification Statement on forms furnished by the Department. Such application must be sent to the Classification and Rating Committee at the Becker-Hansen Building, 700 East Broadway, Pierre, SD 57501 at least fourteen (14) days prior to the day of the letting. This form is available on line at <http://www.sddot.com/pub.asp> and is Form DOT-144-Contractor's Prequalification Form.

Requests to add work types are considered a new questionnaire submission, and must meet the 14-day requirement.

A line of credit submitted to increase bidding capacity must be received by the committee before 4:00 p.m. of the last working day of the week preceding the letting. If the Legislature or the Governor declares the afternoon of the last working day of the week preceding the letting to be a holiday, the request must be received before 11:00 a.m. of the last working day. This form is available on line at <http://www.sddot.com/pub.asp> and is Form DOT-144A-Contractor's Line of Credit Form.

Upon approval by the Committee, said Qualification shall be in force for not more than eighteen (18) months from the date of the balance sheet submitted.

To request a prequalification application, please contact:

**Finance Office**  
**Becker-Hansen Building**  
**700 East Broadway**  
**Pierre, SD 57501**  
**Phone: (605) 773-3284**

or **Bid Letting Office**  
**Becker-Hansen Building**  
**700 East Broadway**  
**Pierre, SD 57501**  
**Phone: (605) 773-3184**

In lieu of prequalification for bids of \$100,000 or more for informal lettings an Experience Questionnaire may be completed. This form is available online at <http://www.sddot.com/pe/projdev/docs/ExperienceQuestionnaire.pdf>. This form cannot replace prequalification for projects utilizing the SD Electronic Bidding System (SDEBS) software.

Further information is also available on the SDDOT Web site at <http://www.sddot.com/pe/projdev/bidlet.asp>.

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**Additional projects let by the Regional Offices of the SDDOT may be found on the internet at [http://www.sddot.com/pe/projdev/bidlet\\_lettings\\_regional.asp](http://www.sddot.com/pe/projdev/bidlet_lettings_regional.asp)**

**SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION  
CONTRACT PROPOSAL**

DOT-123  
(5/05)

CODE	PROJECT	MAINT	CONTROL	AFF	FUNCTION	BEGIN	END
CONTRACT	ROUTE	AGENCY	REFERENCE			MONTH	YEAR
	029	N	2	187	2351	50	2506

**This document is for**

CITY AND /OR COUNTY: Roberts BUDGET SOURCE: FY 2009 Region Contract Maintenance

FINALS ENGINEER REVIEW REQUIRED:  YES  NO

REGION MATERIALS CERTIFICATION REQUIRED:  YES  NO

CERTIFIED INSPECTORS/TESTERS REQUIRED:  YES  NO

TO BE INSTALLED ON CM&P:  YES  NO

TYPE, PURPOSE AND LOCATION OF WORK: To paint the picnic shelter with Victor, Inertmat, Rest Area.

**information only.**

BID ITEM NUMBER	ITEM	QUANTITY	UNIT	UNIT PRICE	AMOUNT
900E2010	Rest Area General	2	Each		
<b>TOTAL</b>					

**CONTRACTORS PROPOSAL STATEMENT**

The undersigned does hereby agree to furnish the labor and/or material in the quantities, at the unit price, for the purpose, in the place and in accordance with attached provisions upon approval of this Proposal by the State Transportation Commission. This document becomes the contract when signed by the Contractor and a Department of Transportation Representative. The Contractor agrees to provide services in compliance with the Americans with Disabilities Act of 1990. The Contractor agrees to provide a certificate of insurance prior to commencing work, for liability coverage for the duration of the work as per the current edition of the SDDOT Standard Specifications for Roads and Bridges.

PROPOSED START DATE \_\_\_\_\_ OVERALL COMPLETION DATE August 28, 2009

SUBSCRIBED AND SWORN TO BEFORE ME THE  
\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

SIGNATURE \_\_\_\_\_  
COMPANY \_\_\_\_\_  
ADDRESS \_\_\_\_\_

NOTARY IN COMMISSION FOR \_\_\_\_\_ YEAR \_\_\_\_\_ FEB. TAX ID NUMBER \_\_\_\_\_

**Do not use for bidding**

RECOMMENDED FOR APPROVAL:

_____	_____	CONSTRUCTION & MAINTENANCE ENGINEER	_____
REGION ENGINEER	DATE	DIRECTOR OF OPERATIONS	DATE

APPROVED FOR THE TRANSPORTATION COMMISSION

NAME \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_

**purposes.**

APPROVED as per Federal Highway Stewardship Provisions this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
PROJECT DEVELOPMENT ENGINEER

REV. 10/2007

PROJECT(S): 029 S-172

PCN i18z

COUNTY(IES): Roberts

TYPE OF WORK: Rest Area-Sandblast and Paint Two (2) Picnic Shelter Canopies

**THE FOLLOWING ITEMS ARE INCLUDED IN THIS PROPOSAL FORM:**

Excerpts from Administrative Rules Regarding Differing Site Conditions, Provided for Informational Purposes, dated June 10, 1997.

SPECIAL PROVISION FOR INDIAN EMPLOYMENT AND CONTRACTING SISSETON-WAHPETON OYATE, dated July 18, 2008.

Plans for Project – Sheets 1 thru 6.

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**STATE OF SOUTH DAKOTA  
DEPARTMENT OF TRANSPORTATION**

**EXCERPTS FROM ADMINISTRATIVE RULES REGARDING  
DIFFERING SITE CONDITIONS PROVIDED FOR INFORMATIONAL PURPOSES**

June 10, 1997

70:01:05.01:01. Definitions. Words used in this chapter have the following meaning.

(6) "Differing site condition," a subsurface or latent physical condition encountered on the project which differs materially from that indicated in the contract or an unknown physical condition of an unusual nature which differs materially from that ordinarily encountered and generally recognized as inherent in the work provided for in the contract.

70:01:05.01:02. Examination of plans, specifications, special provisions, and site of work. The bidder shall examine the project site, proposal, plans, specifications, supplemental specifications, special provisions, and contract form for the work contemplated. The submission of a proposal is considered conclusive evidence that the bidder has investigated the conditions to be encountered, the character, quality, and quantities of work to be performed, and the materials to be furnished, according to all contract documents.

The Department is not contractually bound by any statement or representation concerning conditions made by any of its employees or agents prior to the execution of the contract, unless they are included in the proposal form, plans, specifications, supplemental specifications, special provisions, or related contract documents.

Boring logs and other records of subsurface investigations are available for inspection by bidders. Such information was obtained for and is intended for state design and estimating purposes. The Department does not guarantee the accuracy of the information. It is made available in order that all bidders may have access to identical subsurface information available to the Department. It is not intended as a substitute for personal investigation, interpretations or judgment of the bidders.

A bidder shall request any explanation he desires regarding the meaning or interpretation of the proposal form, plans, and specifications in sufficient time to allow a reply to reach all bidders before submission of their bid proposal. The Department shall make an interpretation in the form of an addendum to the proposal form and shall furnish it to all prospective bidders by certified letter, or return receipt by FAX, before the time set for opening of proposals. Oral explanations or instructions given before the award of the contract are not binding on the Department.

70:01:05.01:02.01. Differing site conditions. If a differing site condition is encountered at the project by the Department during the progress of the work, the engineer shall immediately notify the contractor in writing of the specific differing condition before it is disturbed and before affected work is performed. If a differing site condition is encountered at the project by the contractor, the contractor shall immediately notify the engineer in writing of the specific differing condition before it is disturbed and before affected work is performed.

After discovering a differing site condition and notifying the contractor or after being notified by the contractor of a differing site condition, the engineer shall investigate the condition. If the engineer determines that the condition materially differs and causes an increase or decrease in the cost or time required for the performance of any work under the contract, the engineer shall make an adjustment, excluding loss of anticipated profits, and modify the contract in writing accordingly. The engineer shall notify the contractor of his determination whether or not an adjustment of the contract is warranted.

A contract adjustment which results in a benefit to the contractor may not be allowed unless the contractor has provided the required written notice.

A contract adjustment may not be allowed under this section for any effects caused on unchanged work.

This section does not apply to material sources shown on the plans and as defined in Section 6 of the Standard Specifications for Roads and Bridges, most recent edition.

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**STATE OF SOUTH DAKOTA  
DEPARTMENT OF TRANSPORTATION**

**SPECIAL PROVISION FOR  
INDIAN EMPLOYMENT AND CONTRACTING  
SISSETON-WAHPETON OYATE**

**PROJECT NO. 029 S-172; PCN i18z  
ROBERTS COUNTY  
JULY 18, 2008**

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**PURPOSE**

The purpose of the Indian Employment and Contracting Special Provision is to establish the specifications for Indian preference and the responsibilities of contractor and subcontractors for this project.

All of this project is located within the historic exterior boundaries of the Lake Traverse Reservation.

Title 23 United States Code (USC), Section 140(d), recognizes and permits the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservations roads. The State of South Dakota and the Department of Transportation, consistent with the intent of Section 140(d), affirms that it is their policy to encourage employment of minorities.

**DEFINITIONS**

For the purposes of this Special Provision, the following definitions shall apply:

- A. **Indian:** An enrolled member of a federally recognized Indian tribe.
- B. **Qualified Indian Applicant** is defined as one or more of the following:
  - 1) Applicants approved by the contractor based on job performance on other jobs.
  - 2) Applicants who have demonstrated or are presently demonstrating their work qualifications during a probationary work period on this project.
  - 3) Applicants certified by local referral agencies, including Tribal TERO offices, as having adequate skills and training necessary to perform the duties of the position.
- C. **Core Crew Employee:** A member of a contractor's or subcontractor's crew who is a regular, permanent employee and is in a supervisory or other key position such that the employer would risk likely financial damage or loss if that position was filled by a person who had not previously worked for that contractor or subcontractor. A regular, permanent employee is one who is and has been on the contractor's payroll for at least one prior construction season, or is an owner of the firm, in contrast with a person who is hired on a project-by-project basis.

- D. **Pre-Employment Standards:** Directly related job standards of fitness and ability which indicate that with a reasonable amount of job training a person would be capable of satisfactorily performing an entry level position as well as jobs at a higher level which, with a reasonable amount of training, are normally filled by progression from an entry-level position. This applies to those persons who at the time of application for employment are not fully qualified for the available job but have general potential of becoming qualified through a reasonable amount of training.

## **DEPARTMENT RESPONSIBILITIES**

The Department (Civil Rights Office):

- A. Will monitor Contractor and Subcontractors for compliance with the requirements of this special provisions and will perform necessary reviews of contractors and subcontractors to ensure compliance with the Special Provisions.
- B. Will assist the Contractor and Subcontractor with any disputes with the TERO Office or other Tribal entity.
- C. Will establish On-the-Job Training opportunities as specified in the On-the-Job training special provision.

## **CONTRACTOR RESPONSIBILITIES**

- A. Contractors and subcontractors will give preference in employment opportunities under this contract to qualified Indian applicants who can perform the work required regardless of race, color, creed, age, sex, religion, national origin or tribal affiliation to the extent set out in the paragraphs below.
- B. The Contractor and subcontractors will not use pre-employment standards, qualifications, criteria or other personnel requirements as barriers to Indian employment except when such criteria or standards are required by business necessity. The Contractor and Subcontracts have the burden of showing that such criteria or standards are required by business necessity.
- C. The contractor and all subcontractors agrees that Indians will be given preference for at least seventy percent (70%) of the project work force provided that sufficient qualified Indian applicants are available. The phrase "work force" shall not include "core crew employees".
- D. The contractor agrees to require that subcontractors shall meet the Indian preference in employment requirements as specified in the preceding paragraph. Prior to commencing work, contractors and subcontractors are expected to contact the Sisseton-Wahpeton Oyate TERO office concerning an identified core crew, project work force needs and (sub)contractor/TERO interface.
- E. The contractor and subcontractors may recruit and hire workers from whatever sources are available and by whatever process, provided that the contractor and/or subcontractors notify the TERO Office of any job vacancies, positions or any negotiated positions. The contractor shall provide the TERO Director at least forty-eight hours notice to locate and refer a



qualified Indian applicant for any vacancy or new position except when circumstances require that the position be filled within a shorter period of time.

- F. The contractor and all subcontractors will provide for maintenance of records and be prepared to furnish such periodic reports documenting compliance under this Special Provision as the State shall determine necessary. This includes submitting the following information on a weekly basis to the Tribal TERO Office:
  - 1. Weekly TERO Employment Report which includes the following data (forms for this item available from the TERO office):
    - a) Wage and Hour Reports
    - b) New Hires or terminations, and disciplinary action taken
    - c) Promotions
  - 2. Copies of official payrolls.
- G. The contractor and subcontractors agree that all qualified Indian employees will be adequately trained for the position for which they are hired. All Indian employees will be evaluated and paid in accordance with current company policies and contract provisions.
- H. Nothing in this Special Provision shall be construed to interfere with the contractor's ability to dismiss any employee for cause including, but not limited to, lack of adequate skills or training, inability to perform by virtue of state or federal law, or breach of the contractors standards of conduct.

## **OTHER PROVISIONS**

This Special Provision supplements but does not replace the existing equal employment opportunity and disadvantaged business enterprise requirements, which may be contacted in this contract.

The Tribal TERO office will maintain a Job Skills Bank, listing available Indians by job classification based on skill level as indicated on their TERO application. The contractor and all subcontractors agree to utilize the Tribal TERO office to locate qualified applicants.

The contractor is authorized to include in the bid an amount necessary to cover the two percent (2%) employment rights fee, which is applicable to this project, based on the portion of the project located within the historic boundaries of the Lake Traverse Reservation. It has been determined that one hundred percent (100%) of the project is within those boundaries; therefore the contractor is authorized to include a TERO fee amount based on 100% of the total contract dollar amount.

The Sisseton-Wahpeton Oyate has an Indian Preference Subcontracting goal, which has been established at the same level as the Department's DBE goal for this project and is concurrent with the Department's DBE goal. FHWA policy does not permit the Department to extend Indian preference in subcontracting for this project and is satisfied that the Department and the Contractor will seek qualified and DBE-certified Indian firms for this project. The Contractor shall make every reasonable effort to inform certified Indian DBE firms of the subcontracting opportunities of the project and to solicit bids from such firms. Contact the Tribal TERO office at 605-698-3549 or the Department Civil Rights office at 605-773-3540 for assistance.

Contractors should be aware that the Sisseton-Wahpeton Oyate has a Business License Ordinance (Chapter 53, Tribal Code) which the tribe contends is applicable to contractors working on this project. For further information contact the Tribal Tax Office at Tribal Headquarters, Agency Village, SD at 605-698-3911.

**ENFORCEMENT**

The contractor and all subcontractors are hereby made aware that this Special Provision is made part of the contract requirements, and that the Department of Transportation will monitor and enforce these provisions in a manner similar to other special provisions, as outlines in Division I, General Provisions of the Standard Specifications for Roads and Bridges, 2004 edition.

The TERO Special Provisions shall apply to an entire project and not just the portion located within the historic exterior boundaries of the Lake Traverse Reservations. The exception would be the TERO fee that is calculated based on the portion located within historic reservation boundaries.

It is the intent of all parties that this Special Provision shall be implemented on a cooperative basis without regard to jurisdictional issues. It is agreed that nothing herein shall prevent the Tribe, State or any contractor from instituting any litigation pertaining to any jurisdictional issue with regard to the employment rights code or any other matter.

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