

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

724Q0476

## HOUSE BILL NO. 1260

Introduced by: Representatives Hamiel, Carson, Cronin, Curd, Dennert, Faehn, Frerichs, Greenfield, Hoffman, Hunhoff (Bernie), Kirkeby, Krebs, Lederman, McLaughlin, Schlekeway, Sly, Vanneman, and Wink and Senators Gant, Abdallah, Hansen (Tom), Heidepriem, Knudson, Tieszen, and Vehle

1 FOR AN ACT ENTITLED, An Act to require that a request for proposals be issued for certain  
2 state contracts for professional services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 For the purposes of this Act, the term, professional services, means services arising out of  
7 a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill,  
8 and the labor or skill involved is predominantly mental or intellectual, rather than physical or  
9 manual.

10 Section 2. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 For the purposes of this Act, the term, request for proposals, means the document or  
13 publication whereby a state agency solicits proposals for a professional services contract.

14 Section 3. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 No agency of the state may award or renew a contract for professional services exceeding  
3 ten thousand dollars without complying with the procedures set forth in this Act. Any agency  
4 seeking such professional services shall issue a request for proposals. Before the agency issues  
5 a request for proposals, the agency shall establish and publish procedures for the solicitation and  
6 award of the contract.

7 Section 4. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 The agency shall rank the prospective contractors based on the following criteria:

- 10 (1) Specialized expertise, capabilities, and technical competence as demonstrated by the  
11 proposed approach and methodology to meet the project requirements;
- 12 (2) Resources available to perform the work, including any specialized services, within  
13 the specified time limits for the project;
- 14 (3) Record of past performance, including price and cost data from previous projects,  
15 quality of work, ability to meet schedules, cost control, and contract administration;
- 16 (4) Availability to the project locale;
- 17 (5) Familiarity with the project locale;
- 18 (6) Proposed project management techniques; and
- 19 (7) Ability and proven history in handling special project constraints.

20 Section 5. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 The agency and the highest ranked contractor shall mutually discuss and refine the scope of  
23 services for the project and shall negotiate terms, including compensation and performance  
24 schedule. The compensation level paid shall be reasonable and fair to the agency, as determined

1 by the agency. If the agency and the highest ranked contractor are unable for any reason to  
2 negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency  
3 shall, either orally or in writing, terminate negotiations with the contractor. The agency may then  
4 negotiate with the next highest ranked contractor. The negotiation process may continue through  
5 successive contractors, according to agency ranking, until an agreement is reached or the agency  
6 terminates the contracting process.

7 Section 6. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 A register of professional service contracts shall be prepared and maintained by any state  
10 agency issuing a professional service contract. The register shall contain the names of any  
11 person whose qualifications were considered and the name of the person that was awarded the  
12 contract. Any professional service contract and the documentation which was the basis for the  
13 contract shall be public. The qualifications and any other documentation of any person not  
14 issued a contract shall remain confidential.

15 Section 7. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 The provisions of this Act do not apply to contracts issued for legal or medical services.