

CHAPTER 70:07:01
GENERAL PROVISIONS

70:07:01:01. Definitions. ~~Words~~ Terms used in chapters 70:07:01 to 70:07:04, inclusive, have the following meanings:

- (1) "Awarding authority," a public or private authority that awards construction contracts;
- (2) "Business," a sole proprietor doing business as a contractor or subcontractor or a partnership, association, corporation, or other entity formed for the purpose of doing business as a contractor or subcontractor;
- (3) "Commission," the South Dakota ~~transportation commission~~ Transportation Commission ;
- (4) "Committee," the classification and rating committee established by § 70:07:02:01;
- (5) "Construction contract," the written agreement between the department and the contractor setting forth the obligations of the parties for the performance of the prescribed work, including the invitation for bids, proposal, contract form, contract bond, standard specifications, supplemental specifications, special provisions, general and detailed plans, and notice to proceed and and addendum, change order and agreement that is required to complete construction of the work, including any authorized extension of the contract, all of which constitute one instrument, for the improvement of the highway system;

~~(6)~~ (6) "Contract crime," a violation of a state law, a federal law, or a rule, regulation, or order of a federal or state department or agency pertaining to the construction, maintenance, repair, or supervision of highways or to fraud, theft, embezzlement, bribery, forgery, misrepresentation, making false statements, falsification or destruction of records, or any other criminal offense in connection with obtaining, attempting to obtain, or performing a public or private contract or subcontract;

~~(6)~~ ~~(7)~~ "Contractor," a person ~~proposing to bid or bidding on a department contract or a person to whom the commission has awarded a department~~ construction contract;

~~(7)~~ (8) "Conviction," any of the following accepted and recorded by a court:

(a) A plea of guilty;

(b) A verdict of guilty by a jury or a finding of guilt by a court;

(c) A civil verdict against a person in which a civil penalty is imposed on the person as a result of a contract crime; or

(d) A plea or verdict of guilty or a civil judgment in which a civil penalty is imposed on a person as a result of a contract crime;

~~(8)~~ (9) "Current bidding capacity," the maximum dollar amount of work for which a prospective bidder may submit bids at any given bid letting;

~~(9)~~ (10) "Debar," to disqualify from entering into or receiving a department contract or from serving as a contractor or subcontractor under a department contract;

~~(10)~~ (11) "Department," the South Dakota ~~department~~ Department of ~~transportation~~
Transportation ;

~~(11)~~ "Department contract," a written instrument containing the elements of offer,
acceptance, and consideration to which the South Dakota department of transportation is a party
or acts as an agent for a party under SDCL chapter 31-5 and for which competitive bids are
required or taken or which is let pursuant to SDCL 31-5-3;

~~(12)~~ "Hearing officer," a person appointed under SDCL 1-26-18.1 to hear contested
cases;

~~(13)~~ (12) "Maximum bidding capacity rating," the maximum dollar amount of work a
contractor may have under contract at any one time, either as principal or subcontractor,
regardless of whom the work is for or where it is located, as authorized by the committee;

~~(14)~~ (13) "Person," a business as defined in ~~subdivision (8)~~ of this section or a natural
person;

~~(15)~~ (14) "Principal," an officer, director, or partner of a business or an employee or
shareholder engaged in management of the business;

(15) "Prospective bidder," a person proposing to bid or bidding on a department
construction contract;

(16) "Secretary," the secretary of the South Dakota ~~department~~ Department of
~~transportation~~ Transportation ;

(17) "Suspend," to temporarily disqualify from entering into or receiving a department contract or from serving as a subcontractor under a department contract;

~~(18)~~ (19) "Working capital," the difference between a contractor's current assets and current liabilities as classified on the contractor's audited financial statement plus 80 percent of the book value of the construction equipment listed in the contractor's prequalification statement and financial statement, plus committee-approved lines of credit.

Source: SL 1975, ch 16, § 1; 8 SDR 45, effective October 28, 1981; 13 SDR 129, 13 SDR 134, effective July 1, 1987; transferred from § 70:01:05:01, 19 SDR 154, effective April 11, 1993; 25 SDR 145, effective May 30, 1999.

General Authority: SDCL [31-5-10](#).

Law Implemented: SDCL [31-5-10](#).