

70:07:01:01. Definitions. As used in chapters 70:07:01 to 70:07:04:

(1) "Awarding authority" means a public or private authority that awards construction contracts;

(2) "Business" means a natural person or sole proprietorship that performs work as a contractor or subcontractor or a partnership, association, corporation, or other entity formed for the purpose of performing work as a contractor or subcontractor;

(3) "Commission" means the South Dakota Transportation Commission;

(4) "Committee" means the classification and rating committee established by § 70:07:02:01;

(5) "Construction contract" means 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 any 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) "Contract crime" means 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;

(7) "Contractor" means a business to whom the commission has awarded a department construction contract;

(8) "Conviction" means 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; or
- (c) A civil verdict or civil judgment against a person in which a civil penalty is imposed on the person as a result of a contract crime;

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

(10) "Debar" means to disqualify from entering into or being awarded a department construction contract or from serving as a contractor or subcontractor under a department construction contract;

(11) "Department" means the South Dakota Department of Transportation;

(12) "Maximum bidding capacity rating" means 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;

(13) "Person" means a natural person;

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

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

(16) "Secretary" means the secretary of the South Dakota Department of Transportation;

(17) "Suspend" means to temporarily disqualify from entering into or being awarded a department construction contract or from serving as a contractor or subcontractor under a department construction contract;

(18) "Working capital" means 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; 40 SDR 121, effective January 6, 2014; 47 SDR 38, effective October 6, 2020.

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