

**Office Furniture Installation Services Agreement
Dakota Furniture Installation and the
State of South Dakota
Contract # 16181**

WHEREAS, various state agencies require office furniture installation services,
and

WHEREAS, the Bureau of Administration is responsible for oversight of such
furniture installation, and

WHEREAS, the State of South Dakota, Office of Procurement Management, with
offices located at 523 East Capital Avenue, Pierre, South Dakota, 57501-3182,
(the "State") issued RFP #25567 (the "RFP") relating to furniture installation
services state office facilities under the control of the Bureau of Administration;
and

WHEREAS, Dakota Furniture Installation, and hereafter referred to as
"Contractor" with offices located at 21940 291st Ave. Fort Pierre, South Dakota,
57532, responded to said RFP;

NOW, THEREFORE, the State and the Contractor enter into the following
Furniture Installation Services Agreement (the "Agreement") dated June 1, 2011.

FACILITIES: The Contractor will provide services at all executive branch agencies
under the control of the governor.

1. **TERM OF AGREEMENT**: The term of the Agreement shall be one year,
beginning June 1, 2011 through May 31, 2012, with the option to renew for
up to four (4) additional one (1) year extensions at the State's discretion
and by mutual agreement of the parties.
2. **SERVICES TO BE PROVIDED**: The following services will be included in the
work to be performed by the contractor:

- 2.1 Statewide systems furniture removal and return of surplus property to Pierre or location designated by the sale.
- 2.2 contractor will responsible for removal of existing systems furniture in state offices and will transport any surplus systems or office furniture (desks, chairs, etc.) to Pierre or the location designated by the state. The Contractor shall work with the end-user agency to ensure compliance with all applicable state laws regarding surplus property disposal.
- 2.3 Statewide (by Region) systems furniture installation. Contractor will be responsible for receipt of systems office furniture at the installation location, unpacking, notation of damage to the shipper, installation of received systems furniture, and proper disposal of packaging materials.
- 2.4 All receiving, uncrating, assembly and installation of all furniture and components at site.
- 2.5 Work shall be performed and completed in accordance with a work schedule developed and coordinated with the using agency and the facilities planning team.
- 2.6 The contractor shall supervise, direct the work, and be solely responsible for all construction requirements, methods, techniques, sequences and procedures, and for coordinating all portions of the work under the contract.
- 2.7 The contractor shall employ a full-time competent supervisor and necessary foremen and assistants, who shall be in attendance on the project site during the entire installation period as the project requires.
- 2.8 All furniture is planned to be drop shipped to the installation location on the day installation is to begin or within a reasonable time beforehand. In the event that the premises are not ready for furniture installation, the contractor is responsible to work with the State to identify a storage location for received furniture. Costs for storage of furniture in this situation will be the responsibility of the State of South Dakota or participating agency until installation can begin. From time to time, large furniture installations and agency moves will require a "phased in" approach and the contractor will be required to remove systems office furniture which will be used in subsequent phases to the state storage location.

- 2.9 A representative of the contractor shall attend weekly meetings of the Facilities Planning Team (FPT) which are held in Pierre as is necessary to facilitate the installation of furniture in a timely manner.
- 2.10 Any information discussed at FPT meetings is confidential and the contractor shall maintain the confidentiality of that information. Disclosure of confidential information without authorization from the State of South Dakota may result in contract cancellation.
- 2.11 The contractor shall keep the job site free from accumulation of refuse, scrap materials and debris at all times. The site shall present a neat and orderly appearance. All materials shall be removed from the site on a daily basis, including loading, cartage, hauling and dumping. State dumpsters are not to be used for disposal of those materials. This will be at the contractor's expense. Final clearing and cleanup shall be done promptly and properly. If not, the State shall have the right to employ others and charge the cost to the contractor, after first giving a (3) three working day notice of such intent. Final payment shall be withheld, until the work area is determined acceptable by the State.
- 2.12 Contractor is required to recycle cardboard containers and packaging materials wherever recycling centers exist.
- 2.13. The completion of installation work by the contractor in a timely manner is of the essence.

3. PRICING: The contractor shall be paid as follows:

3.1 The contractor shall invoice for furniture removal and installation services based on the hourly rate, or the flat rate schedule below, whichever results in the lowest cost to the State.

	Regions 1-4	Regions 5-9
Hourly rate for systems furniture removal and return of surplus property to Pierre or nearest location of state sale.	\$42.00	\$35.00
Hourly rate for systems furniture installation	\$42.00	\$35.00
Hourly rate for miscellaneous services	\$42.00	\$35.00
Hourly rate for travel time	\$18.00	\$18.00
Per mile charge for transport of surplus furniture removed from worksite	\$1.00	\$1.00
Maximum daily charge for meals	\$27.00 (\$7,\$9,\$11)	\$27.00 (\$7,\$9,\$11)
Maximum per mile rate to be charged for vehicle use		
• Van	\$0.70	\$0.70
• Van with Trailer	\$1.00	\$1.00
Maximum Hotel Rate per Night	\$95.00	\$95.00
Travel Start Location for the Identified Region	Sioux Falls	Pierre

FLAT RATE PRICING - NEW INSTALLATION - PER STATION PRICE									
QTY	6 X 8	5 X 5	5 X 6	6 X 6	6 X 9	8 X 7	8 X 8	8 X 9	8 X 10
1	\$140.00	\$140.00	\$140.00	\$140.00	\$140.00	\$175.00	\$175.00	\$175.00	\$175.00
2-5	\$140.00	\$140.00	\$140.00	\$140.00	\$140.00	\$175.00	\$175.00	\$175.00	\$175.00
6-10	\$140.00	\$140.00	\$140.00	\$140.00	\$140.00	\$175.00	\$175.00	\$175.00	\$175.00
11-20	\$138.00	\$138.00	\$138.00	\$138.00	\$138.00	\$173.00	\$173.00	\$173.00	\$173.00
21-50	\$136.00	\$136.00	\$136.00	\$136.00	\$136.00	\$171.00	\$171.00	\$171.00	\$171.00
50+	\$134.00	\$134.00	\$134.00	\$134.00	\$134.00	\$169.00	\$169.00	\$169.00	\$169.00

FLAT RATE PRICING -TEARDOWN/RECONFIGURE - PER STATION PRICE									
QTY	6 X 8	5 X 5	5 X 6	6 X 6	6 X 9	8 X 7	8 X 8	8 X 9	8 X 10
1	\$192.50	\$192.50	\$192.50	\$192.50	\$192.50	\$210.00	\$210.00	\$210.00	\$210.00
2-5	\$192.50	\$192.50	\$192.50	\$192.50	\$192.50	\$210.00	\$210.00	\$210.00	\$210.00
6-10	\$192.50	\$192.50	\$192.50	\$192.50	\$192.50	\$210.00	\$210.00	\$210.00	\$210.00
11-20	\$192.50	\$192.50	\$192.50	\$192.50	\$192.50	\$210.00	\$210.00	\$210.00	\$210.00
21-50	\$192.50	\$192.50	\$192.50	\$192.50	\$192.50	\$210.00	\$210.00	\$210.00	\$210.00
50+	\$192.50	\$192.50	\$192.50	\$192.50	\$192.50	\$210.00	\$210.00	\$210.00	\$210.00

4. **PAYMENT TO CONTRACTOR:** The agency for which the work is performed shall be responsible for the payment of all amounts owed to the contractor under this contract. Unless otherwise negotiated and agreed upon by the parties, the State will make payment in compliance with the Prompt Payment Act, SDCL 5-26 for services provided under the Agreement.

5. **INDEMNIFICATION:** The Contractor agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents and employees.

6. **INSURANCE REQUIREMENTS:** The Contractor shall bear the full and complete responsibility for all risk of damage or loss of equipment, products or money resulting from any cause whatsoever and shall not penalize the State for any losses incurred related to the Agreement.

The Contractor, at all times during the term of the Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

- A. Commercial General Liability Insurance: The Contractor shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 for each occurrence and \$1,000,000 aggregate.

- B. Workers' Compensation Insurance: The Contractor shall procure and maintain Workers' Compensation and employers' liability insurance as required by South Dakota law.

C. Automobile Liability (including hired/non-owned): Combines Single Limit of \$500,000.

7. **INDEPENDENT CONTRACTOR:** While performing services under agreement with the State, the Contractor is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

8. **RENEWAL OPTIONS:** The Agreement may be renewed under the same terms and conditions for four (4) additional one (1) year extension at the State's discretion and by mutual agreement of the parties. Notice of intent to renew shall be given by the State to the Contractor within 120 days of the end of the current Agreement term. If the notice of intent to renew is given, the Agreement shall renew upon acceptance by the Contractor, unless terminated by either party pursuant to the Termination Provision of the Agreement.

9. **TERMINATION PROVISION:** The contract may be terminated by either party on the anniversary of the effective date in any subsequent year of the Agreement, if either party provides the other party with written notice ninety (90) days prior to such anniversary date.

In the event the Contractor breaches any of the terms or conditions of the Agreement, the Agreement may be terminated by the State at any time with or without notice. The State may terminate the Agreement for breach, as determined by the State which shall consider such items as, but not limited to, insufficient insurance coverage, failure to provide required period statements, and/or failure to enforce required standards of sanitation or quality of service including but not limited to , failure to maintain adequate personnel, or any substantial change in ownership or proprietorship of the Contractor which, in the option of the State, is not in its best interest or failure to comply with the terms of the Agreement. If termination for such a default is effected by the State, any payments due to Contractor at the time of termination may be adjusted to cover any additional costs to the State because of Contractor's default. Upon termination, the State may take over the work and may award another party an agreement to complete the work under the Agreement. If after the State termination for a default by Contractor it is determined that Contractor was not at fault, then the Contractor shall be paid for eligible services rendered and expenses incurred up to the date of termination.

In the event of non-renewal, cancellation or expiration of insurance, the Contractor shall provide the State evidence of the new source(s) of required insurance within twenty-one (21) calendar days after the State's receipt of the sixty (60) day notice. In the event the Contractor fails to

maintain and keep in force the insurance herein required, the State shall have the right to cancel and terminate the contract without notice.

10. **NON-APPROPRIATION OF FUNDS:** The Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for the intended purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, the Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.
11. **ASSIGNMENT OF AGREEMENT:** This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part thereof, and be signed by an authorized representative of each of the parties thereto.
12. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Venue for any lawsuit pertaining to or affecting the Agreement shall be in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
13. **COMPLIANCE WITH LAWS:** The Contractor will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.
14. **UNENFORCEABLE PROVISIONS:** In the event that any court of competent jurisdiction shall hold any provision of the Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision thereof.
15. **PRIOR DISCUSSIONS:** All other prior discussions, communications and representations concerning the subject matter of the Agreement are superseded by the terms of this Agreement, and except as specifically provided therein, this Agreement constitutes the entire agreement with respect to the subject matter thereof.
16. **COMMUNICATIONS BETWEEN PARTIES:** Any notice or other communication required under this Agreement shall be in writing. Notices shall be given by and to Steven Berg, Director, Office of Procurement Management, 523 East Capitol Avenue, Pierre, SD 57501, on behalf of the State, and by and to Todd Scott, 21940 291st Ave. Fort Pierre, SD 57501, on behalf of the Contractor, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or

between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

- 17. USE OF SUBCONTRACTORS:** The Contractor may not use subcontractors to perform the services described in the Agreement without the express prior written consent of the State. The Contractor will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Contractor will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.
- 18. EXCUSED PERFORMANCES:** If, because of riots, war, public emergency or calamity, fire, flood, earthquake, act of God, government restriction, or labor disturbance or strike, business operations at the State are interrupted or stopped, performance of the Agreement, with the exception of monies already due and owing, shall be suspended and excused to the extent commensurate with such interfering occurrence. The expiration date of the Agreement may be extended for a period of time equal to the time that such default in performance is excused.
- 19. ADJUSTMENTS TO THE AGREEMENT:** After the initial Agreement year, the parties upon mutual agreement may adjust the specific terms or guarantees of this Agreement. All adjustments shall be proposed in writing to the State for approval prior to becoming effective. All required Agreement amendments shall be issued by the Office of Procurement Management.
- 20. REGULAR MEETINGS ON PERFORMANCE:** The Contractor shall meet as needed with the Facility Planning Team (FPT) to effect installation.
- 21. CONTRACTOR FURNISHED ITEMS:** The Contractor shall furnish all tools and equipment necessary to provide the specified services included in this Agreement and any subsequent extensions or amendments.
- 22. EXPENSES:** The agency shall reimburse the contractor for mileage to and run from installation job sites at the rate of \$1.00 per mile for transport of surplus furniture removed from the worksite, \$0.70 per mile for a van, or \$1.00 per mile for a van with a trailer attached, and for hotel expenses not to exceed \$95.00.

23. STATEMENTS, AUDITS, PAYMENTS AND BILLINGS

A. Monthly Billings: At a minimum, the Contractor shall submit to the State agency on the fifteenth (15th) working day of each month covering the preceding month, an invoice for all services rendered. More frequent billing is negotiable if both parties agree to the frequency of billing. In addition, the contractor shall submit to BOA a monthly spreadsheet detailing the following:

1. The agency for whom the work was performed.
2. The billable hours performed for the agency for each project.
3. The number of work stations installed for each project.
4. The mileage expenses billed for each project.
5. Any other miscellaneous expenses billed for each project.
6. The total amount billed to each agency under this contract.

B. Record Retention/Audits:

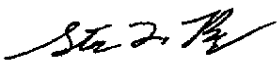
1. *Retention and Inspection of Records*: The Contractor agrees to maintain or supervise the maintenance of records including records and documents regarding the provision of services, administrative costs, statistical, fiscal, other records, and information necessary for reporting and accountability required by the State. The Contractor shall retain such records for a period of six (6) years from the close of each year's operations. If such records are under pending audit, the Contractor agrees to hold such records until such time as the audit is resolved or a longer period upon notification from the State. The State, through an authorized representative, will have access to and the right to examine and copy all records, books, papers or documents related to Office Furniture Installation Services rendered under this Agreement.

24. CONTRACTOR TAX DELINQUENCY: Contractors who have delinquent South Dakota tax liability may have their payments offset by the State of South Dakota.

25. CONTRACT NOT TO EXCEED: The total amount expended annually under this contract shall not exceed \$100,000.00.

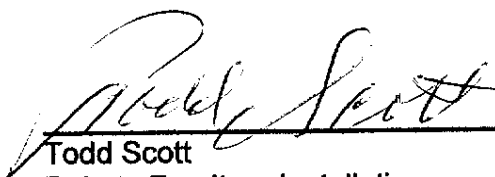
STATE OF SOUTH DAKOTA

Dakota Furniture Installation



Steven L. Berg, Director
Office of Procurement Management

Date signed: 6/15/2011



Todd Scott
Dakota Furniture Installation

Date signed: 6-15-11