South Dakota One Call Notification Board
Request for Proposal
For Professional Services

PROPOSALS ARE DUE NO LATER THAN NOVEMBER 26, 2018.

RFP # 1501
SOUTH DAKOTA ONE CALL NOTIFICATION BOARD

EMAIL:
BoardRFP@sdonecall.com

READ CAREFULLY

FIRM NAME: ________________________________
AUTHORIZED SIGNATURE: _______________________

ADDRESS: ________________________________
TYPE OR PRINT NAME: _______________________

CITY/BOARD: ________________________________
TELEPHONE NO: ________________________________

ZIP (9 DIGIT): ________________________________
FAX NO: ________________________________

FEDERAL TAX ID#: ________________________________
E-MAIL: ________________________________

PRIMARY CONTACT INFORMATION

CONTACT NAME: ________________________________
TELEPHONE NO: ________________________________

FAX NO: ________________________________
E-MAIL: ________________________________
1.0 GENERAL INFORMATION

1.0 PURPOSE OF REQUEST FOR PROPOSAL (RFP # 1501)

For Attorney Services for the South Dakota One Call Notification Board (Board).

PLEASE NOTE THAT RFP # 1501 FOR ATTORNEY SERVICES AND RFP # 1502
FOR FINANCE SERVICES MAY BE COMBINED INTO ONE CONTRACT.

1.1 ISSUING OFFICE AND RFP # 1501 REFERENCE NUMBER

The South Dakota One Call Notification Board is the issuing office for this document and all subsequent addenda relating to it, on behalf of the South Dakota One Call Notification Board, the reference number for the transaction is RFP # 1501. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

1.2 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)

<table>
<thead>
<tr>
<th>Activity</th>
<th>Date</th>
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<tbody>
<tr>
<td>RFP # 1501 Publication</td>
<td>October 19, 2018</td>
</tr>
<tr>
<td>Deadline for Submission of Written Inquiries</td>
<td>November 9, 2018</td>
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<tr>
<td>Responses to Offeror Questions</td>
<td>November 16, 2018</td>
</tr>
<tr>
<td>Proposal Submission</td>
<td>November 26, 2018</td>
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<tr>
<td>Oral Presentations/discussions (if required)</td>
<td>December 5, 2018</td>
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<tr>
<td>Anticipated Award Decision/Contract Negotiation</td>
<td>December 13, 2018</td>
</tr>
<tr>
<td></td>
<td>Location to be determined.</td>
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</tbody>
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1.3 SUBMITTING YOUR PROPOSAL

All proposals must be completed and received by the South Dakota One Call Notification Board by the date and time indicated in the Schedule of Activities. Proposals received after the deadline will be late and ineligible for consideration.
An original and one identical copy of the proposal shall be submitted.

All proposals must be signed, in ink, by the person submitting the proposal on his or her own behalf, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected. The sealed envelope must be marked with the appropriate RFP # 1501 Number and Title. The words “Sealed Proposal Enclosed” must be prominently denoted on the outside of the shipping container. Proposals must be addressed and labeled as follows:

SOUTH DAKOTA ONE CALL NOTIFICATION BOARD
PO BOX 187
RAPID CITY, SOUTH DAKOTA 57709

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm or corporation that is in arrears upon any obligations to the Board, or that otherwise may be deemed irresponsible or unreliable by the Board.

1.4 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

By signing and submitting this proposal, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the use of Federal funds. Where the offeror is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to their offer.

1.5 NON-DISCRIMINATION STATEMENT

The Board requires that all consultants, vendors, and suppliers doing business with any Board agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

The Board is an equal opportunity employer and all qualified applicants will receive consideration for employment without regard to race, color, sex, religion, national origin, protected veteran status, disability status, or any other characteristic protected by law.

1.6 MODIFICATION OR WITHDRAWAL OF PROPOSALS
Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

1.7 OFFEROR INQUIRIES

Offerors may email inquiries concerning this RFP # 1501 to obtain clarification of requirements. No inquiries will be accepted after the date and time indicated in the Schedule of Activities. Inquiries must be emailed to the South Dakota One Call Notification Board at BoardRFP@sdonecall.com with the subject line RFP # 1501.

A copy of inquiries received and the Board’s response will be posted on the South Dakota Office of Procurement e-procurement system. Offerors may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP # 1501. Offerors will be notified in the same manner as indicated above regarding any modifications to this RFP # 1501.

1.8 PROPRIETARY INFORMATION

The proposal of the successful offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the Board. All materials submitted become the property of the Board and may be returned only at the Board’s option.

1.9 LENGTH OF CONTRACT

January 1, 2019 through December 31, 2019. At the Board’s discretion, the contract may be extended beyond the original contract period on a year-to-year basis for up to two additional years for a total period not to exceed three years. Contract extensions will be mutually agreed upon and are based on need or performance.

1.10 GOVERNING LAW

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in the State of South Dakota. The laws of South Dakota shall govern this transaction.
1.11 DISCUSSIONS WITH OFFERORS (ORAL PRESENTATION/NEGOTIATIONS)

An oral presentation by an Offeror to clarify a proposal may be required at the sole discretion of the Board. However, the Board may award a contract based on the initial proposals received without discussion with the Offeror. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the Offeror's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the Board's request. The Board reserves the right to negotiate on any and/or all components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

2.0 STANDARD CONTRACT TERMS AND CONDITIONS

Any contract or agreement resulting from this RFP # 1501 will include the Board’s standard terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties:

2.0 The Contractor will perform those services described in the Scope of Work, attached hereto as Section 3 of the RFP # 1501 and by this reference incorporated herein.

2.1 The Contractor’s services under this Agreement shall commence on January 1, 2019 through December 31, 2019, unless sooner terminated pursuant to the terms hereof. The anticipated length of the contract is one year. At the Board’s discretion, the contract may be extended beyond the original contract period on a year-to-year basis for up to two additional years for a total period not to exceed three years. Contract extensions will be mutually agreed upon and are based on need or performance.

The Contractor will not use Board equipment, supplies or facilities. The Contractor will provide the Board with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.

2.2 For comparative purposes for this proposal, the hours billed by the Public Utilities Commission to the Board for legal services over the past five FISCAL YEARS were: 179.54 hours in FY 2014; 112.89 hours in FY 2015; 60.85 hours in FY 2016; 124.70 hours in FY 2017, and 88.68 hours in FY 2018.

2.3 The Board will make payment for services upon satisfactory completion of the services. The successful contract bidder will bill the Board at an hourly rate of $______ per hour.
The TOTAL CONTRACT AMOUNT is an amount not to exceed $___________. The Board will not pay Contractor's expenses as a separate item. Payment will be made pursuant to itemized invoices submitted to the One Call Board Executive Director with a signed Board voucher. Payment will be made consistent with SDCL Ch. 5-26.

2.4 The Contractor agrees to indemnify and hold the Board, 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 Board, its officers, agents or employees.

2.5 The Contractor, at all times during the term of this 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 $1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance:

The Contractor agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than $1,000,000.00.

C. Business Automobile Liability Insurance:

The Contractor shall maintain business automobile liability insurance or equivalent form with a limit of not less than $1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

D. Worker's Compensation Insurance:

The Contractor shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, Contractor shall furnish the Board with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Contractor agrees to provide immediate notice to the Board and
provide a new certificate of insurance showing continuous coverage in the amounts required. Contractor shall furnish copies of insurance policies if requested by the Board.

2.6 While performing services hereunder, the Contractor is an independent contractor and not an officer, agent, or employee of the Board.

2.7 Contractor agrees to report to the Board any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Contractor or the Board to liability. Contractor shall report any such event to the Board immediately upon discovery.

Contractor's obligation under this section shall only be to report the occurrence of any event to the Board and to make any other report provided for by their duties or applicable law. Contractor's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the Board under this section shall not excuse or satisfy any obligation of Contractor to report any event to law enforcement or other entities under the requirements of any applicable law.

2.8 This Agreement may be terminated by either party hereto upon ninety (90) days written notice. In the event the Contractor breaches any of the terms or conditions hereof, this Agreement may be terminated by the Board at any time with or without notice. If termination for such a default is effected by the Board, any payments due to Contractor at the time of termination may be adjusted to cover any additional costs to the Board because of Contractor's default. Upon termination, the Board may take over the work and may award another party an agreement to complete the work under this Agreement. If after the Board terminates 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.

This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this 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, this Agreement will be terminated by the Board. Termination for any of these reasons is not a default by the Board nor does it give rise to a claim against the Board.
This Agreement may not be assigned without the express prior written consent of the Board. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

2.9 This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

2.10 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.

The Contractor may not use subcontractors to perform the services described herein without the express prior written consent of the Board. The Contractor will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the Board, and to provide insurance coverage for the benefit of the Board in a manner consistent with this Agreement. The Contractor will cause its subcontractors, agents, and employees to comply, with applicable federal, Board and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

2.11 Contractor hereby acknowledges and agrees that all reports, plans, specifications, technical data, miscellaneous drawings, software system programs and documentation, procedures, or files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, and all information contained therein provided to the Board by the Contractor in connection with its performance of services under this Agreement shall belong to and is the property of the Board and will not be used in any way by the Contractor without the written consent of the Board. Papers, reports, forms, software programs, source code(s) and other material which are a part of the work under this Agreement will not be copyrighted without written approval of the Board.

2.12 The Contractor certifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment or suspension, or declared ineligible from participating in transactions by the federal government or any state or local government department or agency. Contractor further agrees that it will immediately notify the Board if during the term of this Agreement Contractor or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any Board or local government department or agency.

2.13 Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Executive
Director on behalf of the Board, and by ______________, 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.

2.14 In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

2.15 All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

3.0 **Requirements and Essential Duties:**

3.0 The Board is seeking Attorney Services regarding the general operation of the Board.

3.1 The Board is seeking Offerors with extensive professional knowledge and experience in administrative law and procedure, South Dakota laws and State of South Dakota open meetings laws.

3.2 A successful applicant must be licensed to practice law in South Dakota.

3.3 The successful applicant will display leadership and administrative abilities, as well as strong oral and written communication skills.

3.3.1 Superior communication, interpersonal and writing skills;
3.3.2 Highly organized, self-directed, and able to direct multiple projects and people simultaneously;
3.3.3 Must work closely with and effectively communicate with all Board Members and with the One-call members, customers and Legislators.
3.3.4 Must excel at being a cross-functional team player;
3.3.5 Must be very detail-oriented and maintain a high degree of accuracy;
3.3.6 Must be willing to work under occasionally rigorous deadlines and pressures; and
3.3.7 Must be able to demonstrate a good safety record.

3.4 The Contractor shall:
3.4.1 Review Board Agendas and Minutes to ensure compliance with South Dakota law;
3.4.2 Draft Enforcement Panel Recommendations and Board Orders on behalf of the Board;
3.4.3 Attend all Board and Enforcement Panel meetings, which are generally held in Pierre or Fort Pierre, South Dakota;
3.4.4 Provide legal counsel to the Board when requested;
3.4.5 Provide legal guidance to the Board to ensure the Board is aware of, and complies with state law;
3.4.6 Represent the Board at Board hearings regarding Enforcement Panel Recommendations;
3.4.7 Pursue collection efforts for unpaid fines on behalf of the Board; and
3.4.8 Perform other duties as requested by the Board.
3.4.9 Register as a Lobbyist, on behalf of the Board.

3.5 The Contractor must be available to respond to questions and issues that arise.

3.6 Travel - The ability to travel both in-state and out-of-state is required.
   3.6.1 Out-of-town travel expenses will be reimbursed by the Board at actual cost, in accordance with the allowances set by the State of South Dakota. The Contractor shall not submit in-state lodging receipts above state hotel rates except when state hotel rates are unavailable and with prior written authorization from the Board.

4.0 Compensation

4.0 Compensation will be negotiated with the Contractor.

4.1 The Board will make payments on a monthly basis.

5.0 Term of Contract

5.0 The Contract shall commence January 1, 2019 through December 31, 2019, unless terminated earlier pursuant to the terms thereof.

5.1 The Contract may be terminated by either party upon ninety (90) days’ written notice. In the event the Contractor breaches any of the terms or conditions of the Contract, the Contract may be terminated by the Board at any time with or without notice.

6.0 Evaluation Criteria

6.0 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria:
   6.0.1 Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
   6.0.2 Resources available to perform the work, including any specialized services, within the specified time limits for the project;
6.0.3 Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
6.0.4 Availability to the project locale;
6.0.5 Familiarity with the project locale;
6.0.6 Proposed project management techniques; and
6.0.7 Ability and proven history in handling special project constraints.

6.1 Experience and reliability of the Offeror's organization are considered subjectively in the evaluation process. Therefore, the Offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP # 1501.

6.2 The qualifications of the personnel proposed by the Offeror to perform the requirements of this RFP # 1501, whether from the Offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the Offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.

6.3 The Board reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the Board.

6.4 Award: The requesting agency and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.
   6.4.1 If the agency and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor.
   6.4.2 The negotiation process may continue through successive offerors, according to agency ranking, until an agreement is reached or the agency terminates the contracting process.