

REQUEST FOR PROPOSALS

Fond du Lac Reservation (FdL) on behalf of the Black Bear Casino Resort is bidding work to engineer and coordinate refit of the existing server room located at Black Bear Casino. The existing server room has become too small and inadequate for day to day operations. The existing cooling system is inadequate for the dedicated space as well due to various issues, sizing, ducting, room geometry, etc. We would like the system to be integrated into the existing MetaSYS system for observation and control. The fire suppression system would need to be updated to something more infrastructure friendly as well. We would like the UPS to be capable to run the room between 30-45 minutes.

The selected contractor shall design/coordinate all disciplines needed to complete the project. The contractor/sub-contractors will discard the old material and provide clean-up. It will be the responsibility of the selected contractor to coordinate any/all phases, disciplines, sub-contractors, and owner's consultants (if applicable). We want the project to start as soon as possible and target a December 31, 2022 completion. During that period the selected contractor will have to work around scheduled events at Black Bear Casino. The selected contractor must adhere to FdL Tribal Bidding (attached), Covid-19 screening (attached), TERO (Attached), and General Conditions (Supervision, clean-up, removal, and disposal). **Proposals should include the following:**

- **Itemized budget including**
 - Engineering costs.
 - HVAC Systems.
 - Fire Suppression.
 - Control/Programming.
 - Electrical Systems (including new UPS)
 - Structure/Interior finishes.
 - Labor
 - **3% TERO Fee**
 - **TERO Plan**
 - Schedule for removal/installation

This is a complete turn-key project to refit the existing server room at Black Bear Casino. Pre-bid walkthrough dates and times must be scheduled during normal working hours and must be completed by 8/12/2022. Proposals should be sent by email and are due no later than 12:00PM on 8/19/2022.

Contact:

Steven Douglas

Tribal Facilities Director

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Construction Bidding Conditions

For Fond du Lac Reservation Business Committee and
Fond du Lac Development Corp. construction contracts
(Last modified: February 9, 2022)

The following bidding conditions apply to Fond du Lac Reservation Business Committee and Fond du Lac Development Corp. construction contracts:

1. Applicability. These Bidding Conditions apply to all Band construction projects whether on- or off-reservation (except as otherwise stated herein). A request for bid or advertisement may contain additional requirements above and beyond these Bidding Conditions, in which case those provisions control. In the event of a conflict between these Bidding Conditions and the request for bid or advertisement for a project, these Bidding Conditions control.

2. Fond du Lac Business License Ordinance. Bidder acknowledges its responsibility to apply for a business license from the Fond du Lac Band of Lake Superior Chippewa as required under the Fond du Lac Business License Ordinance, FDL Ordinance #5/84 (available at the Band's official website at <http://www.fdlrez.com/government/fdlordinances.htm>). This is required whether a project is conducted on- or off-Reservation (and regardless of any language to the contrary in the Ordinance itself).

3. Fond du Lac Tribal Employment Rights Ordinance.
 - a. Bidder shall constitute a "contractor" under the Fond du Lac Tribal Employment Rights Ordinance ("TERO"), FDL Ordinance #12/94 (also available at the Band's official website), and shall abide by its provisions for all on- and off-reservation projects (and regardless of any language to the contrary in the TERO itself). Bidder must submit with its bid a TERO compliance plan, which must be approved by the Fond du Lac Band's TERO Officer.

 - b. Bidder agrees that all workers entitled to preference under TERO shall be employed in accordance with their experience and qualification, but under no circumstance shall TERO hires be paid at a rate less than the journeyman Laborer, Common (General Labor Work) rate (including basic rate plus fringe rate) as provided in the Minnesota Department of Labor and Industry prevailing wage determination for the county in which the project is located

(as may be amended). Fringe amount shall be paid directly to TERO hires, unless the employee requests otherwise.

- c. Bidder will file certified payroll report forms with all applications for payment that substantiate TERO compliance, including showing all hours worked on the project, percentage of TERO hours, and compliance with all other TERO and project requirements.
4. In accordance with Section 116 of FDL Ordinance #12/14, if the contract cost is \$250,000 or more, the Bidder shall pay a TERO fee of 3% of the contract cost as instructed by the Fond du Lac TERO Director.

5. Right to Work.

- a. Bidder shall comply with Fond du Lac Ordinance #03/07, Prohibiting Compulsory Membership in a Labor Organization as a Condition of Employment on the Fond du Lac Reservation (available at the Band's website) for all on- and off-reservation projects. TERO hires cannot be required to join a labor organization as a condition of working on the project.
- b. It shall be bidder's obligation to determine how to comply with requirements of Band law, these Bidding Conditions, other, applicable labor laws, bidder's pre-existing collective bargaining agreements with labor organizations, and other obligations as may apply to bidder in a given jurisdiction. Notwithstanding this, the Band must approve any labor agreements specific to the project.

6. Drug & Alcohol Testing Requirements. Bidder agrees that if it is successful, Bidder and all its subcontractors providing services on the Project shall be responsible for maintaining a drug-free workplace. If the Bidder or its subcontractors work or are expected to work on site on more than one day in a one-year period, the Bidder and its subcontractors shall be subject to drug testing in accordance with Section XII of the Fond du Lac Band of Lake Superior Chippewa Employee Drug and Alcohol Testing Policy (copy available upon request). If the Bidder is an individual, then the Bidder shall be required to enter into an agreement, at the Bidder's cost, with the Fond du Lac Employee Compliance Department for drug and alcohol testing. If the Bidder is an organization consisting of two or more individuals, then the Bidder shall implement the following drug and alcohol testing of all personnel and

subcontractors utilized in on-site performance of the Contract. Bidder may propose an alternative plan that is at least as stringent as that set forth here, as reflected in a safety plan or as otherwise permitted in writing by owner.

- a. Prohibited Substances. Testing shall, at minimum, include the following substances: (1) Alcohol (over .08 percent), (2) Marijuana, (3) Cocaine, (4) Amphetamines, (5) Opiates, (6) Phencyclidine (“PCP”), and (7) Ecstasy.
 - b. Testing Requirements. (1) Pre-Placement: each employee or subcontractor must be tested before commencing on-site performance under this Contract; (2) Reasonable Suspicion: any on-site employee or subcontractor must be tested if there is reasonable suspicion that the employee or subcontractor is under the influence of alcohol or drugs; and (3) Post Accident: any employee or subcontractor who has caused or contributed to an accident at the worksite involving substantial property damage or any personal injury must be tested within 24 hours of the accident. Testing shall be performed through a licensed testing laboratory. Commercial vehicle drivers shall be tested in accordance with applicable DOT regulations.
 - c. Recordkeeping Requirements. Contractor shall maintain records of its compliance with this section for a period of at least two years following completion of the project.
7. Fond du Lac Reservation Statement of Enrollment and Residency Status for State Income Tax Purposes (On-Reservation Projects Only). Eligible Band members are exempt from state income tax for on-reservation work. The Contractor shall cooperate with the exercise of state income tax immunity for eligible Band members and shall submit the form required for this exemption. This form shall be provided to the Contractor.
8. Exemption from Sales and Excise Taxes on Materials (On- and Off-Reservation Projects). The Fond du Lac Band of Lake Superior Chippewa is exempt from Minnesota sales and excise taxes on the purchase of materials used in the performance of on- and off-reservation projects. For on-reservation projects, the successful bidder shall be responsible for completing and providing to the seller a certificate of exemption, Minnesota Revenue Form ST3 (as may be amended). For off-reservation projects, the successful bidder shall be responsible for establishing and maintaining an appropriate purchasing program to preserve the tax exemption.

9. Wages and Salaries. Davis-Bacon wage rates will be required for all workers employed at this site, regardless of TERO status.

Construction Contracting Conditions

For Fond du Lac Reservation Business Committee and
Fond du Lac Development Corp. construction contracts

(Last modified: February 9, 2022)

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2. Fond du Lac Tribal Employment Rights Ordinance.
 - a. Contractor shall constitute a "contractor" under the Fond du Lac Tribal Employment Rights Ordinance ("TERO"), FDL Ordinance #12/94 (also available at the Band's official website), and shall abide by its provisions for all on- and off-reservation projects.
 - b. Contractor agrees that all workers entitled to preference under TERO shall be employed in accordance with their experience and qualification, but under no circumstance shall TERO hires be paid at a rate less than the journeyman Laborer, Common (General Labor Work) rate (including basic rate plus fringe rate) as provided in the Minnesota Department of Labor and Industry prevailing wage determination for the county in which the project is located (as may be amended). Fringe amount shall be paid directly to TERO hires, unless the employee requests otherwise.
 - c. Contractor will file certified payroll report forms with all applications for payment that substantiate TERO compliance, including showing all hours worked on the project, percentage of TERO hours, and compliance with all other TERO and project requirements.
 - d. In accordance with Section 116 of FDL Ordinance #12/14, if the contract cost is \$250,000 or more, the Bidder shall pay a TERO fee of 3% of the contract cost as instructed by the Fond du Lac TERO Director.

3. Right to Work.

- a. Contractor shall comply with Fond du Lac Ordinance #03/07, Prohibiting Compulsory Membership in a Labor Organization as a Condition of Employment on the Fond du Lac Reservation (available at the Band's website) for all on- and off-reservation projects. TERO hires cannot be required to join a labor organization as a condition of working on the project.
- b. It shall be Contractor's obligation to determine how to comply with requirements of Band law; this contract; other, applicable labor laws; bidder's pre-existing collective bargaining agreements with labor organizations; and other obligations as may apply to bidder in a given jurisdiction. Notwithstanding this, the Band must approve any labor agreements specific to the project.

4. Drug & Alcohol Testing Requirements. Contractor shall be responsible for maintaining a drug-free workplace. If the Contractor works or is expected to work on site on more than one day in a one-year period, the Contractor shall be subject to drug testing in accordance with Section XII of the Fond du Lac Band of Lake Superior Chippewa Employee Drug and Alcohol Testing Policy (copy available upon request). If the Contractor is an individual, then the Contractor shall be required to enter into an agreement, at the Contractor's cost, with the Fond du Lac Employee Compliance Department for drug and alcohol testing. If the Contractor is an organization consisting of two or more individuals, then the Contractor shall implement the following drug and alcohol testing of all personnel and subcontractors utilized in on-site performance of this Contract. Contractor may propose an alternative plan that is at least as stringent as that set forth here, as reflected in a safety plan or as otherwise permitted in writing by owner.

- a. Prohibited Substances. Testing shall, at minimum, include the following substances: (1) Alcohol (over .08 percent), (2) Marijuana, (3) Cocaine, (4) Amphetamines, (5) Opiates, (6) Phencyclidine ("PCP"), and (7) Ecstasy.
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involving substantial property damage or any personal injury must be tested within 24 hours of the accident. Testing shall be performed through a licensed testing laboratory. Commercial vehicle drivers shall be tested in accordance with applicable DOT regulations.

- c. Recordkeeping Requirements. Contractor shall maintain records of its compliance with this section for a period of at least two years following completion of the project.
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7. Wages and Salaries. Davis-Bacon wage rates will be required for all workers employed at this site, regardless of TERO status.

Guidelines for Screening Contractors/Vendors

General Note: All contractors/vendors need to follow the current CDC guidelines on COVID-19 in addition to these screening guidelines.

Purpose: To screen vendors and contractors to reduce the risk of respiratory infections at our frontline.

All construction staging area/trailer should:

- Post signs for cough/fever
- Post signs for hand washing etiquette
- Post signs about COVID-19
- Screeners must wear masks when assessing a vendor/contractor.

Action Steps

- 1) Greet vendor/contractor outside by door. (**Do not allow vendor or contractor inside the construction area, trailer, or facility until they have completed all screening procedures**)
- 2) Ask if vendor needs to access the main building at all during the day.
- 3) Inform vendor/contractor, "Due to COVID-19, we need to ask you a few questions before you can proceed."
- 4) Ask the screening guidelines on the following page.
 - a. If **VENDOR/CONTRACTOR- check temperature of vendors and record on paper. Then have them wear a mask if they are coming into the building. Masks must be worn at all times while the vendor/contractor is in the building.**
- 5) If the Vendor/Contractor answers "No" to all of the questions, make sure they have a mask, thank them and then allow them to proceed to the interior construction area.
- 6) If the vendor/contractor answers "Yes" to any of the above questions, and **does not have a medical appointment scheduled:** state the following instruction "Due to your symptoms reported and our dedication to protect the community against COVID-19, we are asking you to please go home and call your healthcare provider. Thank you for your understanding."
- 7) The vendor/contractor needs to leave the property immediately.

SCREENING GUIDELINES FOR VENDORS/CONTRACTORS ENTERING FOND DU LAC BUILDINGS

The construction superintendent will screen vendor/contractor employees at the designated worksite/trailer for COVID19 screening. Contractor/vendor employees arriving outside the designated time will need to be screened by the lead contractor before entering worksite or Fond du Lac facility/building.

**It is the contractor's responsibility to have the necessary equipment to conduct the screenings. HSD will not provide any supplies or equipment for testing.*

Screening staff person needs to meet employee(s) as they arrive outside the project site trailer and ask if they have had anything hot/cold to drink within the last 20 minutes? **If yes, vendor/contractor may sit in car for 20 minutes and return for screening.**

Screening Questions:

1. New cough?
2. New fever?
3. New Shortness of breath?
4. Have you traveled 50 miles out of the area?
5. Is there anyone in your household that is COVID-19 positive or isolating for COVID-19 like symptoms?

IF YES TO ANY OF THESE QUESTIONS, VENDORS/CONTRACTORS NEED TO LEAVE THE PROJECT SITE AND GO HOME.

IF "NO" to ALL questions then take temp: **If temp is $\geq 100^*$, staff needs to leave the property immediately and go home.**

When Should VENDORS/CONTRACTORS Stay Away from the Worksite and Return to Work Practices/ Restrictions

Purpose

The Fond du Lac Human Services PHEP team continues to update Coronavirus (COVID-19) outbreak information, these are additional protocols for our supervisors or their designees to help support our commitment to a safe work and care environment by screening essential personnel, vendors/contractors that report to work daily. The following guidance needs to be followed by the vendors/contractors for work being completed for Fond du Lac:

1. If they or someone they have had contact with has been tested for COVID-19 and has a **confirmed** case of COVID-19, they will be working with the Minnesota Department of Health for care management. MDH will be the authorizing agency to return them to work, which will likely be at least **14 days**.
2. If they or someone they have had contact with has been tested for COVID-19 and are awaiting results, they should be sent home until results are confirmed.
 - a. If results are positive, see #1 above.
 - b. If results are negative and the vendor/contractor is showing symptoms, they should follow FDL Infection Control Policy related to staff illness (see attached).
 - c. If results are negative and the employee is not showing symptoms, they can be at work.
 - i. Household contacts of the employee who are showing symptoms would follow #3a.
3. If vendor/contractor or a household contact have not been tested but have a fever (≥ 100 **or above**) or **new** cough or **new** shortness of breath (not related to asthma, allergies, or underlying health conditions such as COPD), or other symptoms of illness they should be sent home and told to contact their provider for COVID-19 testing recommendations.
 - a. If the employee or household contact is not tested but has symptoms they should stay home for:
 - i. At least **7 days** have passed since symptoms first appeared; **and**,
 - ii. At least **3 days (72 hours)** have passed since last use of fever-reducing medications **and** improvement in respiratory symptoms (e.g., cough, shortness of breath)
 - iii. Household contacts would stay home for **14 days** (symptoms may not show for up to 14 days). If employee develops symptoms, they would follow 3a.

4. Vendors/Contractors who traveled 50 miles outside of their work areas (not including travel between home and work) would follow #1-#3 listed above. **Vendors/Contractors should be following the no travel restrictions (50 miles) put in place by the Fond du Lac Emergency Operations Center.** This means vendors/contractors should not travel outside of the 50-mile radius of the Fond du Lac Reservation while assigned to the Fond du Lac Project.
 - a. If a vendor/contractor is vital to the continuance of the project (inspector, etc.) and they are coming from outside of the 50-mile radius, additional screening and assessments measures may be required.

This information will change as new guidance from CDC and MDH is released.

Note to Supervisors of Vendors/Contractors: Your employees will be sent home and you are unable to override the decision of the screening decision. Employees should contact you to report their absence. Any concerns can be brought to the FDL Construction Project Manager.

General Guidance

- Close Contact- Being in close proximity of less than 6 feet, for a prolonged period of time \geq 10 minutes.
- All vendors/contractors should wear masks at all times inside a building unless they are alone in their work space.
- All vendors/contractors should wear masks during all face to face interactions when inside the building and within 6 feet of another vendor/contractor/employee when outside.
- In-person groups are limited to no more than 5 people. All social distancing protocols must be followed.
- Temperatures should only be checked once daily.
- Vendors/Contractors who are ill with other symptoms not listed, should be sent home and instructed to contact their medical provider.
- Vendors/Contractors should receive return to work guidelines from their medical provider.

Date: _____

Project: _____

TERO Compliance Plan for _____ (“Contractor”).

1. CONTRACTOR

Contractor agrees that it and any sub-contractor it uses will comply with Fond du Lac Ordinance #12/94, as amended, *Tribal Employment Rights* (“TERO”) in hiring any employees for the Contract Project. This Compliance Plan must be accepted by the TERO Office, in writing, before work on the Contract begins.

2. INDIAN PREFERENCE

Contractor shall give preference to Indian persons who apply for employment or are employed by the contractor in hiring, training opportunities, and promotions when such Indian applicants or employees are similarly qualified for the position for which such hiring, training, or promotion is undertaken. The following procedures shall be observed:

- a. Posting of Positions. All positions other than core crew positions shall be posted by the contractor with the TERO at least one week prior to the commencement of performance of the contract or as soon as such positions become open. Postings shall include the following:
 - i. Position title;
 - ii. Qualifications;
 - iii. Dates and place of employment; and
 - iv. Rate of pay and fringe benefits.
- b. Referral of Applicants by TERO. The TERO shall, within 72 hours of the posting of a position by a contractor, either refer a qualified Indian person or persons to the contractor for such position or notify the contractor that the TERO officer is unaware of any qualified Indian available for such position at that time.
- c. Contractor Notification of TERO. Following referral by the TERO, the contractor shall notify the TERO of the applicant's status through the “Fond du Lac Employment Referral Form.” The TERO and the contractor shall attempt to resolve any dispute as to the qualifications or suitability of the applicant for the position at this stage. If they are unable to come to a mutually acceptable resolution, the TERO may initiate enforcement action pursuant to Section 110 of the *Tribal Employment Rights* ordinance.

- d. Reductions in the Work Force. If the contractor undertakes a reduction in workforce, a non-Indian employee shall be laid off first when that employee is similarly employed and similarly qualified as an Indian employee.
- e. Reporting Requirements of Contractors. All contractors shall be responsible for filing the following information with the TERO in a timely manner:
 - i. Monthly Utilization Report;
 - ii. Verification of Employment;
 - iii. Rehire list(s);
 - iv. Weekly Foreman's Personnel Count; and
 - v. Layoff notices, which shall include the reasons therefore.

3. TERO FEES

Contractor shall pay a one-time project fee of three percent (3%) of the total amount of the contract. Such fee shall be paid prior to commencing work under this contract.

This agreement is entered into on _____ between the Fond du Lac Employment Rights Office (TERO) and _____(Contractor).

THIS CERTIFIES THAT I FULLY UNDERSTAND Fond du Lac Ordinance #12/94, as amended, *Tribal Employment Rights* ("TERO"), and will comply with conditions therein.

CONTRACTOR

Signature

Date

Print name and title

FOND DU LAC TERO

Signature

Date

Print name and title

FEE AGREEMENT

This agreement shall be for one year or until the project is completed.

Contract Amount _____ TERO Fee* _____
subject to final project cost

Project _____

Contractor Supervisor _____ Phone No. _____

Address _____

Email _____

Contact Begins _____ Ends _____

Authorized Company Official: _____

Signature

Name _____

Title _____

Date _____

TERO Officer _____

Date _____

* Billing option (must be approved by TERO Officer):

___ full payment upon commencement of project

___ full payment upon completion of project

___ installment plan (FDL accounting will work with project manager to determine specifics)

___ Fond du Lac to withhold TERO fee from contract payments

