



2019 SENATE BILL 278

June 7, 2019 - Introduced by Senators TIFFANY, CRAIG, KAPENGA, KOOYENGA, NASS, WANGGAARD and BERNIER, cosponsored by Representatives SANFELIPPO, BRANDTJEN, GUNDRUM, HUTTON, KNODL, KUGLITSCH, MAGNAFICI, NEYLON, OTT, QUINN, RAMTHUN and WICHGERS. Referred to Committee on Transportation, Veterans and Military Affairs.

1 **AN ACT relating to:** a fixed-price variable-scope contract for local bridge
2 construction and maintenance.

Analysis by the Legislative Reference Bureau

This bill requires that, no later than December 31, 2019, the Department of Transportation must let a fixed-price variable-scope contract, i.e., a contract in which the contractor provides the maximum amount of work at a cost not to exceed a price set by DOT. Under this bill, the fixed-price variable-scope contract provides \$150,000,000 for the construction and maintenance of certain local bridges. Also under this bill, no later than three months after completion of construction and maintenance work under the contract, DOT must submit to the legislature a report assessing the use of the fixed-price variable-scope contracting procedure in this contract.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1. Nonstatutory provisions.**

4 (1) FIXED-PRICE VARIABLE-SCOPE BRIDGE CONTRACT. Notwithstanding s. 84.06 (2),
5 not later than December 31, 2019, the department of transportation shall let a

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1 contract in which the contractor provides the maximum amount of work for
2 \$150,000,000 for the construction and maintenance of bridges that are not on the
3 state trunk highway system or on marked routes of the state trunk highway system
4 designated as connecting highways. In letting this contract, the department of
5 transportation shall do all of the following:

6 (a) Solicit and evaluate the qualifications of bidders. The department's request
7 for qualifications shall contain all of the following:

8 1. A description of the improvements being sought.

9 2. A requirement that the bidder identify certain personnel and describe the
10 experience of the personnel and the conditions under which personnel may be
11 replaced.

12 3. The evaluation criteria for the qualifications and the relative importance of
13 those criteria. The evaluation criteria may address the bidder's technical and
14 financial qualifications.

15 4. Any prequalification, licensing, and registration requirements.

16 5. The maximum number of bidders the department will short-list for
17 submission of proposals.

18 6. Any other relevant information the department determines is appropriate.

19 (b) Create a short list of not fewer than 2 and not more than 4 of the most highly
20 qualified bidders.

21 (c) Solicit proposals from bidders placed on a short list under par. (b). Prior to
22 receiving proposals, the department may conduct confidential meetings and
23 exchange confidential information with each bidder on the short list to promote
24 understanding of the request for proposals or discuss other issues related to the
25 letting of the contract. The request for proposals shall contain all of the following:

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- 1 1. The form and amount of required bid security.
- 2 2. The terms of the contract, including applicable scope and performance
3 requirements, schedule or completion date requirements, subcontractor
4 requirements, payment and performance security requirements, and insurance
5 requirements.
- 6 3. The requirements for the technical component of the proposal, including a
7 description of the level of design, scope and type of renderings, drawings, and
8 specifications to be provided in the proposal.
- 9 4. The fixed price the department will pay for the work requested.
- 10 5. Requirements regarding the bidder's qualifications.
- 11 6. Any other relevant information the department determines is appropriate.
- 12 (d) Create a committee to evaluate proposals. The committee shall consist of
13 not fewer than 5 individuals, not fewer than 3 of whom are transportation design
14 professionals, including a member of this state's largest transportation builders
15 group. Each member of a committee shall certify that no conflict of interest exists
16 between the member and the person submitting a proposal. If the department
17 determines a conflict exists with a member, the department shall remove the
18 member from the committee and appoint a replacement member.
- 19 (e) Evaluate each proposal and determine whether the proposal meets the
20 technical requirements and is otherwise responsive to the request for proposals for
21 the project.
- 22 (f) Award the contract to the responsive bidder that proposes the largest volume
23 of work within the price that the department fixed for the project.
- 24 (2) **FIXED-PRICE VARIABLE-SCOPE BRIDGE CONTRACT REPORT.** No later than 3
25 months after completion of all construction and maintenance work under the

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1 contract let under sub. (1), the department of transportation shall submit to the
2 appropriate standing committees of the legislature, as determined by the speaker of
3 the assembly and the president of the senate, a report assessing the procedure used
4 in letting the contract under sub. (1).

5 (END)