



2023 ASSEMBLY BILL 1164

March 22, 2024 - Introduced by Representative BROOKS. Referred to Committee on State Affairs.

- 1 **AN ACT relating to:** expenditure of \$213,302.77 from the general fund in
2 payment of a claim against the state made by JRT Top Notch Roofs, LLC.

Analysis by the Legislative Reference Bureau

This bill directs the expenditure of \$213,302.77 from the general fund in payment of a claim against the Department of Administration by JRT Top Notch Roofs, LLC. The claimant entered into a contract with DOA to replace the roof of Esker Hall at the University of Wisconsin-Whitewater. The claimant asserts that the bid documents stated that the project would begin “on or before” a date provided in the notice to proceed and that the notice to proceed stated that the project would begin “on or before” May 17, 2021. The claimant claims that the claimant submitted a tentative schedule with a start date of April 5, 2021, which was rejected by DOA. The claimant asserts that the later start date affected its ability to acquire project materials in a timely manner and that DOA refused to negotiate the start date in good faith. The claimant claims that, despite its best efforts to meet DOA demands, DOA stopped communicating with the claimant and terminated the contract. The claimant asserts that the schedules it proposed were contractually compliant and that DOA had no right to terminate the contract. The claimant demands that DOA rescind the contract termination and reinstate the claimant on the project. Alternatively, if the claimant is not allowed to complete the project, the claimant requests \$213,302.77 in lost revenue. DOA concedes that the notice to proceed inadvertently stated that work would begin “on or before” May 17, 2021. However, DOA maintains that the contract signed by the claimant stated that work was to begin “on or after” the date specified in the notice to proceed, that the bid documents

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clearly stated that mobilization was not scheduled to take place until June 2021, and that any alleged confusion was resolved when DOA informed the claimant that it would not be permitted to mobilize until May 17, 2021. To the extent there was any confusion in the bid documents, DOA asserts that bidders were to notify DOA prior to the bid opening, which the claimant did not do. In response to the claimant's concerns about procuring materials, DOA asserts that it proposed extending the completion deadline by 16 days. DOA further notes that the contract allowed the claimant to obtain and request reimbursement for offsite materials storage. DOA maintains that any difficulties obtaining project materials were caused by the claimant's failure to purchase those materials in a timely manner. On July 21, 2022, the claims board denied the claim because it concluded that the claim raises questions of fact that are better evaluated by a court of law (see 2021 *Senate Journal*, p. 975).

For further information see the state 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:

1 **SECTION 1. Claim against the state.** There is directed to be expended from
2 the appropriation under s. 20.505 (4) (d) \$213,302.77 in payment of a claim against
3 the state brought by JRT Top Notch Roofs, LLC, Milwaukee, WI 53213, to
4 compensate the claimant for a contract terminated by the department of
5 administration related to the Esker Hall roof replacement project at the University
6 of Wisconsin-Whitewater. Acceptance of this payment releases this state and its
7 officers, employees, and agents from any further liability resulting from the
8 termination of the contract between the claimant and the department of
9 administration.

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(END)