



**Wisconsin Department of Transportation**

■ **Region**

# **Request for Proposals: Instructions to Proposers Template**

**Draft Template, 02/12/21**

■ **Design-Build Project**

**S.P.** ■

**Contract No.** ■

**Federal Project No.** ■ [OBJ]

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**Exhibits**

- Exhibit 1: Notice to Bidders: Prompt Payment of Subcontractors
- Exhibit 2: Notice to Bidders: Bid Rigging

**Proposal Forms**

- Form 1: Information about Proposer Organization
- Form 2: Information about Major Participants and Identified Subcontractors
- Form 3: Conflict of Interest Disclosure Statement
- Form 4: Responsible Proposer and Major Participant Questionnaire
- Form 19: Bridge Cost Estimate for Federal and State Reporting

# 1 Introduction and Summary

## 1.1 General Information

The Wisconsin Department of Transportation (WisDOT) has issued these Instructions to Proposers (ITP) to all firms and teams of firms that WisDOT has short-listed (“Proposers”) for the [000] Design-Build Project (the “Project”). WisDOT invites those Proposers to submit competitive sealed proposals (“Proposals”) to design and construct the Project in response to the Project Request for Proposals (“RFP”). Proposers should review and understand the specific information and requirements in all of the RFP documents, and not rely solely on this ITP.

The RFP consists of the following documents:

- Instructions to Proposers
- Contract Documents
  - Book 1 (Contract Terms and Conditions)
  - Book 2 (Project Requirements)
  - Book 3 (Applicable Standards)
- Reference Information Documents (RID)

The RFP is provided on the design-build website: [www.wisconsindot.gov/designbuild](http://www.wisconsindot.gov/designbuild).

The Project is funded with federal, state, and local funds.

Capitalized terms and acronyms not otherwise defined in this ITP have their meanings given in Book 1, Exhibit A.

## 1.2 Project Description

The Project is located in [000] County, Wisconsin within the city limits of [000]. The Project limits extend approximately [000] miles on [000] to [000].

The Project scope is to [000]. The Project includes [000].

The Project generally consists of [000]. Additional scope includes [000] among other things.

The Federal Highway Administration (FHWA) review process required under the National Environmental Policy Act (NEPA) was completed on [000].

## 1.3 Procurement Method

WisDOT will use a two-phase process to select a Design-Build Contractor (“Design-builder”) to deliver the Project. As part of the first phase, WisDOT determined the short-list for the Project based on Statements of Qualifications (“SOQs”) it received in response to WisDOT’s Request

for Qualifications (“RFQ”) dated [REDACTED] and including any amendments to the RFQ. WisDOT issued the RFP as part of the second phase. WisDOT will Accept Proposals only from submitters of SOQs who were short-listed for the RFP. Pursuant to Wisc. Stat. § 84.062(6), WisDOT will award the Contract (if at all) to the responsive and responsible Proposer offering a Proposal that meets the standards established by WisDOT and that WisDOT determines to provide the {{pick one}}. WisDOT reserves the right to reject any or all Proposals.

## 1.4 Project Goals

WisDOT’s primary goals for this procurement and the Project include:

- Safety
  - Provide a safe Project area for the traveling public and workers during execution of the Project
  - Provide a solution consistent with current WisDOT, FHWA, and AASHTO practices, guidelines, policies, and standards.
- Quality – Provide a high-quality product that minimizes future maintenance
- Mobility – Minimize impacts to existing traffic
  - Minimize impacts to [000]
  - Minimize duration of closure of [000]
- Budget – Complete the Project within WisDOT’s established budget
- Meet Project schedule

## 1.5 Change in Proposer’s Organization

If Proposer wishes to change its organization from that described in its SOQ, Proposer must obtain written approval of the change from WisDOT’s Project Manager before submitting its Proposal. This includes any changes in the form of the entities, or any changes involving individuals identified in the SOQ (including additions, deletions, and reorganization). The written request must document that the proposed removed, replaced, or added entity or individual will be equal to or better than the entity or individual identified in the SOQ, in order to obtain the Secretary’s approval. The Secretary will use the criteria specified in the RFQ to evaluate all requests. The Proposer must submit requested changes to the Project Manager at the address stated in Section 3.3, along with the information specified for the entities or individuals in the RFQ. The Secretary may Approve or disapprove a portion of the request or the entire request at the Secretary’s sole discretion.

## 1.6 Issuance of Notice to Proceed 1

Refer to Book 1, Section 4.2.1.

## 1.7 Estimated Cost; Maximum Time Allowed

The estimated cost of the Project is between [000] million (in [000] dollars). WisDOT has also established a maximum price that Proposer's Price Proposal must not exceed in order to be deemed responsive (see Section 5.3).

The selected Proposer will be required to achieve Substantial Completion of the Project no later than [000].

The selected Proposer will be required to achieve Final Acceptance of the Project as specified in Book 1, Section 4.3.2.

## 1.8 Disadvantaged Business Enterprise/Equal Employment Opportunity

Proposer will be required to comply with the Disadvantaged Business Enterprise (DBE) Special Provisions for Design-Build Projects set forth in Book 1, Exhibit E. WisDOT will make all determinations concerning Proposer's compliance with DBE program requirements. See Book 1, Exhibit E.

In accordance with the Wisconsin Fair Employment Law, Wisconsin Statute § 111.31-111.395 Unfair Discriminatory Practices relating to Employment or Unfair Employment Practice, WisDOT will affirmatively assure that on any project constructed pursuant to the RFP, equal employment opportunity will be offered to all persons without regard to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, sexual orientation, or age.

Proposer will be required to follow both State of Wisconsin and Federal Equal Employment Opportunity (EEO) policies. See Book 1, Section 7.

## 1.9 Federal Lobbying Restrictions

Section 1352, Title 31, United States Code (U.S.C.), prohibits federal funds from being expended by the recipient or any lower tier subrecipient of a federal aid contract to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the awarding of any federal aid contract, the making of any federal grant or loan, or the entering into of any cooperative agreement. Section 1352 also requires Proposers to disclose any funds expended for lobbying in connection with a federal aid contract, as well as requiring disclosure by lower-tier Design-builders of funds expended for lobbying in connection with subcontracts exceeding \$100,000.

## 1.10 U.S. Department of Transportation Bid Rigging "Hotline"

The U.S. Department of Transportation (USDOT) provides a toll-free "hotline" service to report bid rigging activities. Bid rigging activities can be reported Monday through Friday, between 8:00 a.m. and 5:00 p.m., Eastern Time, telephone (800) 424-9071. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the hotline to

report these activities. The hotline is part of the USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse, and it is operated under the direction of the USDOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

## 1.11 Notices

Proposer must review the information provided in the Notices to Proposers concerning Prompt Payment of Subcontractors and Bid Rigging, which are included as Exhibits 1 and 2, respectively. Proposer must also take note of the current Debarment/Suspension Notice on the following website: <https://wisconsindot.gov/hccidocs/debar.pdf>.

## 1.12 Design-Builder Proof of Responsibility

WisDOT cannot award the project to a Proposer unless the Proposer is prequalified as defined in Wisc. Stat. § 66.0901(2).

A Design-builder proposing to bid on work for the Project will be required to establish proof of their competency and responsibility before forms for bid proposals for any such work is delivered to WisDOT.

A Proposer must obtain a verification from each subcontractor it will have a direct contractual relationship with. A Proposer must keep subcontractor verifications on file and submit them if requested by WisDOT. A Design-builder or subcontractor must obtain an annual verification from each motor carrier it has a direct contractual relationship with. A motor carrier must give immediate written notice if it no longer meets the minimum responsible Design-builder criteria. The requirement for subcontractor verifications does not apply to:

- Design professionals licensed under Wisc. Stat. §440.03 and
- A business or person that supplies materials, equipment, or supplies to a subcontractor on the Project, including performing delivering and unloading services in connection with the supply of materials, equipment, and supplies. A business or person must submit a verification if it delivers mineral aggregate such as sand, gravel, or stone that will be incorporated into the Work by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

A Proposer or proposed subcontractor who does not meet the minimum criteria specified in the statute, or who fails to verify compliance with the criteria is ineligible to be awarded the Contract for this Project or to work on this Project. Additionally, submitting a false statement may lead to contract termination. If only one Proposer submits a proposal, WisDOT may, but is not required to, award a contract even if that bidder does not meet the minimum criteria.

## 2 Procurement Schedule

The deadlines and due dates shown in Table 2-1 apply to this ITP. WisDOT may at its discretion amend this schedule by issuing an addendum to the RFP. In addition, WisDOT reserves the right to modify the Public Opening date at any time if WisDOT needs additional time to review the Technical Proposals.

**Table 2-1: Procurement Schedule**

Issuance of Request for Proposals by WisDOT to Proposers	
Utility Meeting (See Note 1)	
DBE Meet and Greet Meeting (See Note 2)	
ATC Submittal Due Date	
Clarification Submittal Deadline	
Technical Proposal Due Date	
DBE Submittal Due Date	
Price Proposal Due Date	
Interview	
Public Opening Date	
Form 19 Due Date	
Anticipated Notice to Proceed (NTP)	

Note (1): All Proposers are encouraged to attend a meeting with impacted utilities on the Project. The purpose of this meeting is for each utility to explain their anticipated impact and relocation/adjustment timelines and plans. The Utility Meeting will be held at the following time and location:

Location: WisDOT Training and Conference Center or Virtual

Time: [Redacted]

Note (2): All Proposers are required to attend a meet and greet with DBEs. The purpose of this meeting is to inform the DBE community about the Project and provide an opportunity for DBE and Proposers to discuss DBE opportunities on this Project. The DBE Meet and Greet will be held at the following time and location:

Location: WisDOT Training and Conference Center

Time: [Redacted]

## 3 Procurement Process

### 3.1 Confidentiality during Evaluation and Selection Process

WisDOT has taken measures to protect the confidentiality of all submitted Proposals during the entire evaluation and selection process. Every person involved in the process must sign a confidentiality and nondisclosure agreement. However, under no circumstances will WisDOT be responsible or liable to Proposer or any other party as a result of disclosing any materials, whether the disclosure is deemed required by law, by an order of court, or occurs through inadvertence, mistake, or negligence on the part of WisDOT or its respective officers, employees, contractors, or consultants. The department shall maintain the confidentiality of information provided by Design-builders as required by Wis. Stat. § 84.01 (32).

### 3.2 Examination of RFP and Requests for Clarification

Proposer is responsible for: 1) reviewing and examining all RFP documents, including any supplements, addenda, and clarification notices issued; 2) requesting clarification or interpretation of any material discrepancy, deficiency, ambiguity, error, or omission in the RFP documents, or of any provision Proposer does not understand; and 3) informing itself with respect to any and all conditions that may in any way affect the cost or nature of the Proposal or the performance of the Work after Contract award. WisDOT will not grant relief for an error or omission if Proposer failed to inform itself as described in this Section 3.2.

### 3.3 WisDOT's Project Manager

WisDOT's Project Manager for the Project is:

Mr. Ben Thompson  
Design-Build Program Manager  
Wisconsin Department of Transportation  
4822 Madison Yards Way  
Madison, WI 53705  
E-mail: [Benjamin.Thompson@dot.wi.gov](mailto:Benjamin.Thompson@dot.wi.gov)

### 3.4 Communications

WisDOT's Project Manager is the sole WisDOT contact person and addressee for receiving clarification requests and all other communications about the Project, the RFP, and Proposal submittal. Proposer must not discuss the RFP with other WisDOT staff members, or WisDOT consultants involved with the Project before Contract award or cancellation of the RFP, except for communications expressly permitted by this ITP or delegated by the Project Manager. WisDOT may, at its sole discretion, disqualify any Proposer engaging in prohibited communications.

Proposer must identify a sole primary contact who will send information to and receive information from WisDOT. Proposer must provide the name and email address for the primary contact. Information exchanged may include, but is not limited to, Proposer Requests for Clarification, information about Alternative Technical Concepts (ATC), and WisDOT Addenda.

Design-build programmatic questions and questions related to the Project must be e-mailed or submitted by letter (written inquiries only) to WisDOT's Design-Build Program Manager:

Mr. Ben Thompson  
Design-Build Program Manager  
Wisconsin Department of Transportation  
4822 Madison Yards Way  
Madison, WI 53705  
E-mail: [Benjamin.Thompson@dot.wi.gov](mailto:Benjamin.Thompson@dot.wi.gov)

### **3.5 Submission of Requests for Clarification**

Proposers must mail or email all inquiries and comments regarding the Project to WisDOT's Project Manager as specified in Section 3.3 by 11:59 p.m., Central Time, on the Clarification Submittal Deadline (identified in Section 2, Table 2-1). WisDOT will only accept written inquiries and will not Accept oral requests for clarification or interpretation, whether in person or by telephone. If Proposer has meetings or discussions with agencies or entities other than WisDOT, Proposer is responsible for verifying any Project-related information it receives from those agencies or entities with WisDOT's Project Manager.

### **3.6 RFP Addenda and Clarification Notices**

WisDOT will prepare and issue a written addendum if WisDOT, in its sole discretion, determines that the RFP requires revision to add clarity, aid interpretation, or for any other reason. A copy of the addendum will be posted publicly and notification will be sent by e-mail to all Proposers informing them of the posting.

If a Proposer wishes to receive a clarification, Proposers must use the request for clarification form that is posted on WisDOT's Design-Build website. WisDOT may then issue written clarification responses listing questions received along with WisDOT's answers. WisDOT will post any clarification responses or addenda publicly and notify all Proposers by e-mail to inform them of the posting.

WisDOT will not be bound by, and Proposers may not rely on, any oral communication regarding the Project or RFP documents. Proposer may not rely on any WisDOT or other communication except the RFP documents, addenda notices, and clarification notices.

To ensure Proposer's receipt of any addenda, clarification responses, or other information regarding the Project, Proposer is solely responsible for ensuring that WisDOT's Project Manager receives any changes to Proposer's primary contact person identified under Section 3.4 in a timely manner.

### 3.7 Alternative Technical Concepts

WisDOT has chosen to use the Alternative Technical Concepts (ATC) process set forth in this Section 3.7 to allow innovation and flexibility, to allow the design and construction to be completed together, thereby minimizing conflicts and maximizing speed and efficiency, and ultimately to obtain the best value for the public.

WisDOT will not entertain ATC submittals related to the following:

- To be determined based on project

Proposers may request clarifications on the above listed items, and WisDOT will issue addenda if WisDOT decides to modify these items within the RFP. Each Proposer may propose up to [000] ATCs. Each ATC must contain a single concept only, but it may contain multiple interrelated parts directly linked to the single concept. The number of ATCs proposed includes all ATCs Proposer has submitted, including any concepts that WisDOT has not Approved because they are not judged to be ATCs or for any other reason. Any ATC revised and resubmitted following its initial submission does not count as an additional submission against the ATC limit. However, submitted ATCs may be revised only with prior written WisDOT Approval (see Section 3.7.1).

ATCs must be equal to or better than the referenced RFP requirements in quality or effect at the time the ATC is submitted as determined by WisDOT in its sole discretion.

#### 3.7.1 Submittal of ATCs

Proposer must email all ATC submittals and responses to information requests to WisDOT's Project Manager specified in Section 3.3. Proposer must sequentially number each ATC that it submits, beginning with number one. Proposer may include only WisDOT Approved or Conditionally-Approved ATCs in its Proposal.

WisDOT will consider only ATCs that WisDOT receives by 11:59 p.m., Central Time, on the applicable ATC Submittal Due Date in Section 2, Table 2-1. The deadline applies only to initial ATC submittals and does not apply to resubmittals. ATCs may be revised and resubmitted only with WisDOT's prior written Approval or if WisDOT specifically requests a resubmittal with more information. If WisDOT requests more information about a submitted ATC, WisDOT must receive the response by 11:59 p.m., Central Time, within seven Days of WisDOT's request. Resubmitted ATCs supersede any previously-submitted versions of the ATC.

An ATC must include the following parts:

1. **Deviations.** A list of the specific requirements in the RFP that are inconsistent with the proposed ATC and from which Proposer is requesting to deviate. WisDOT will not Approve broad generalizations that do not provide references to specific requirements.
2. **Description.** Detailed, descriptive information sufficient to thoroughly describe the requested change from RFP requirements, including the locations and instances in which

the ATC will be used on the Project. This description may include drawings, specifications, product detail, etc. as necessary.

3. **Analysis.** An analysis, in detail sufficient for WisDOT to judge the concept, explaining why the ATC is equal or better in quality and effect.
4. **Impacts.** A summary of any noteworthy positive and negative impacts of the ATC to factors such as vehicular traffic, right-of-way, utilities, system maintainability and life-cycles, the environment, local communities, safety, risk mitigation, completion time, etc.
5. **History.** A detailed description of the ATC's previous, successful use on other projects under comparable circumstances, if applicable.
6. **Costs.** Estimated price and cost impacts. This information is used for programmatic purposes only and does not affect the 'equal or better' analysis of the ATC.

If Proposer wishes to disclose its ATC information to third parties, Proposer is advised to discuss its intentions with WisDOT's Design-Build Program Manager before doing so to enable the mutual evaluation of disclosure risks.

All proposed ATCs submitted to WisDOT will be considered Records as defined in the Wisconsin Public Records Law Compliance Guide pursuant to Wisconsin Statute § 19.31. ATCs, whether or not Approved, will become public data after the contract is awarded in accordance with Wis. Stat. § 19 Subchapter 2.

### 3.7.2 Preproposal Review of ATCs

WisDOT may request additional information regarding a proposed ATC at any time. WisDOT will make a reasonable effort to respond to submitted ATCs in a timely manner.

Subject to Wis. Stat. § 84.01 (32), WisDOT will use its best efforts to keep all discussions with Proposers regarding ATCs confidential, but under no circumstances will WisDOT be responsible or liable to a Proposer or any other party as a result of disclosing any materials, whether the disclosure is deemed required by law, by an order of court, or occurs through inadvertence, mistake, or negligence on the part of WisDOT or its respective officers, employees, contractors, or consultants. WisDOT may provide additional information and requirements about confidentiality with respect to the one-on-one meetings before these meetings occur. By participating in the meetings, Proposer agrees to these additional requirements.

If it is WisDOT's judgment, in its sole discretion, that an ATC identifies errors or ambiguities in the RFP, WisDOT reserves the right to address the error or ambiguity in a clarification notice or addendum. This applies to all ATCs, regardless of whether WisDOT Approves or Disapproves them. Any ATC which attempts to capitalize on errors or ambiguities in the RFP (i.e. forcing other proposers to use erroneous requirements, requesting a deviation from one of two conflicting statements, etc.) will not be Approved.

WisDOT will review each ATC and respond to Proposer with one of the following:

- **ATC Approval.**

- **ATC is not Approved.** Proposer may not include an ATC that is not Approved in the Proposal. Any ATC that proposes to deviate from the list of items in Section 3.7 that will not be entertained, the requirements of the ITP, or any other inappropriate source will be Disapproved.
- **ATC Conditional Approval.** WisDOT does not Approve the ATC as submitted but Approves the ATC if Proposer accepts the WisDOT-imposed condition or conditions. A condition, as imposed solely by WisDOT, may be a clarification, modification, or any other change to the ATC as submitted. If Proposer includes a Conditionally-Approved ATC in its Proposal, Proposer, by doing so, accepts the conditions imposed by WisDOT. WisDOT will determine, in its sole discretion, whether the Proposer satisfied conditions and provided modifications or clarifications.
- **No RFP Deviations.** The submittal does not qualify as an ATC because WisDOT does not believe there are any deviations from the RFP. Therefore, the concept may be included in the Proposal because the concept complies with the baseline RFP requirements.

Proposer may, but is not required to, incorporate one or more Approved or Conditionally Approved ATCs as part of its Proposal, but the total may not exceed the Project limit for ATCs stated in the beginning of this Section 3.7. The Proposal must clearly state which ATCs are contained in the Proposal. If Proposer includes a Conditionally-Approved ATC, then the WisDOT-imposed conditions become part of the Contract Documents as enforceable Contract terms. The Contract Documents will be conformed after Contract award, but before execution, to reflect the incorporated ATCs. Proposer must include in Appendix A copies of WisDOT's ATC Approval letters or Conditional Approval letters for each ATC contained in the Proposal, as described in Section 4.2.4.

WisDOT reserves the right to use all ATC concepts included in an unsuccessful Proposer's Proposal if the Proposer Accepts the Stipend. See Section 6.4 for information pertaining to rights to use ideas.

WisDOT's ATC Approval or Conditional Approval on this Project does not guarantee approval or use of the ATC on any other WisDOT projects.

The Price Proposal must reflect any incorporated ATCs.

### 3.7.3 Effect of Approved ATCs

WisDOT's Approval or Conditional Approval of an ATC will constitute WisDOT's determination that any deviation from contract requirements represented in the ATC is a non-material deviation because the ATC is "equal to or better than" the contract requirements. The Department will not deem a Proposal to be non-responsive, and will not decrease a technical score, solely on the basis that the Proposal contains one or more Approved or Conditionally Approved ATCs. If Proposer includes one or more Approved or Conditionally-Approved ATCs in the Proposal, Proposer Accepts the risk that the Department may view the ATC either favorably or neutrally.

### **3.7.4 Effect of Deviations Not Contained in an Approved ATC**

If a Proposal, either intentionally or unintentionally, deviates from a contract requirement, and the deviation is not stated in an Approved or Conditionally Approved ATC, then:

- Proposer accepts the risk that the Department will determine that the deviation is so material that the proposal must be rejected as non-responsive in accordance with Wis. Stat. §84.062 Subdivision 1; and
- Proposer accepts the risk that the Department will determine that the deviation is a non-material deviation that does not render the Proposal non-responsive, and that the deviation will affect the technical score in a negative, neutral, or positive manner.

WisDOT reserves the right, in its sole discretion, to determine the materiality or non-materiality of proposed deviations and to make decisions about responsiveness in accordance with Wisconsin Statutes §84.062 and other applicable law.

### **3.8 Withdrawal of Proposal**

If Proposer attempts to withdraw its Proposal after the time due on the Proposal Due Date, WisDOT will draw on and retain the Proposal Bond.

### **3.9 WisDOT's Rights Regarding Proposal Information and RFP Process**

Proposer is solely responsible for ensuring that its Proposal is clear, correct, and internally consistent. WisDOT may, but is not required to, do any or all of the following, at its sole discretion:

- Investigate the qualifications of any Proposer.
- Seek or obtain data from any source related to the Proposals.
- Require confirmation of information furnished by Proposer.
- Require additional information from Proposer concerning its Proposal.
- Seek and receive clarifications to a Proposal.
- Require additional evidence of qualifications to perform the Work.
- Modify the RFP process.
- Waive minor deficiencies and irregularities in a Proposal including proposed deviations from contract requirements that are not so material as to require a finding of non-responsiveness.
- Reject any or all of the Proposals.
- Cancel, modify, or withdraw the RFP.
- Issue a new RFP.

- Cancel a Contract signed by the selected Design-builder but not yet executed by WisDOT.
- Not issue NTP after execution of the Contract.

The RFP does not commit WisDOT to enter into a Contract or proceed with the procurement described in this ITP. No unsuccessful Proposer is entitled to be reimbursed for its costs in connection with the RFP, except as expressly stated in Section 6.4. Each Proposer and its team members must bear all costs.

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## 4 Proposal Delivery, Content and Format

### 4.1 General

The Proposal must include both a Technical Proposal and a Price Proposal.

### 4.2 Technical Proposal Submittal Requirements

#### 4.2.1 General

The Technical Proposal must include concise narrative descriptions and graphic illustrations, drawings, charts, technical reports, and calculations that will enable WisDOT to clearly understand and evaluate both the capabilities of the Proposer and the characteristics and benefits of the proposed Work. No price information of any kind may be included in the Technical Proposal (e.g.: **Proposer must black-out price information contained within Appendix A (ATC)**).

#### 4.2.2 Due Date, Time, and Location

TBD

#### 4.2.3 Format

The front cover of each copy of the Technical Proposal must be labeled as follows:

TBD

#### 4.2.4 Content

##### 4.2.4.1 Executive Summary (Cover Letter)

The executive summary is limited to two pages single-sided. The executive summary must be a letter including:

1. Proposer's business name, address, and business type (e.g., corporation, partnership, limited liability company, joint venture).
2. A list of any Approved ATCs incorporated in the Proposal.
3. A statement to either accept or decline the stipend from WisDOT. By accepting or declining the stipend, Proposer is agreeing to the requirements as stated in Section 6.4.
4. The name, address, telephone (work and mobile) and e-mail address for Proposer's single point of contact responsible for correspondence to and from WisDOT. WisDOT will send all Project related communications through this person.
5. A statement certifying the truth and accuracy of the Technical Proposal, Price Proposal, and Employment Opportunity (EEO) policies.

6. The signature of an authorized representative(s) of Proposer organization. If Proposer is a joint venture, the joint venture members must sign the letter. If Proposer is not yet a legal entity, the Major Participants of Design-builder must sign the letter.

#### **4.2.4.2 Organizational Chart**

Proposer must provide an organizational chart showing the participants who are responsible for major functions to be performed and their reporting relationships in managing, designing and building the Project. The chart(s) must show the functional structure of the organization and include the names of the Key Personnel (and company) identified in Book 2, Section 2.5.2. The Additional Personnel listed in Book 2, Section 2.5.2 do not need to be listed in the Technical Proposal. Proposer must identify any changes to the personnel described within the SOQ in accordance with this ITP.

#### **4.2.4.3 Technical Proposal Narratives**

TBD

PM: Hold a meeting with the DB Program Manager, the core district team, and management as necessary to set scoring criteria. The scoring criteria should reflect and be refined from the goals of the project in Section 1.4. The process is as follows:

#### **4.2.4.4 Appendices**

TBD

### **4.2.5 Proposer Information, Certifications, and Documents**

Proposer must provide the following forms and other information per Section 4.5:

- The full legal name of the entity making the proposal and identify the state in which the entity is incorporated or otherwise organized. If Proposer is a partnership or joint venture, attach full legal names and addresses of all general partners or joint venture partner and provide the state of incorporation or organization for each general partner or joint venture partner. If Proposer is a joint venture, attach a letter from each joint venture partner stating that each joint venture partner agrees to be held jointly and severally liable for any and all of the duties and obligations of Proposer under the Proposal and under any contract arising from the Proposal. If Proposer is a subsidiary of any other entity, provide the full legal name of the owner of the subsidiary and identify the state in which the owning entity is incorporated or otherwise organized. If Proposer is not yet officially incorporated or organized as a business organization, provide information the proposed structure and on plans to incorporate or otherwise organize Proposer. Attach evidence to the Proposal and to each letter that the person signing has authority to do so.

- Evidence of authority to sign the Proposal, as follows:
  - For a corporation: if the Proposal is signed by someone other than a corporate officer, provide a resolution of the governing body showing approval to sign proposal(s) on behalf of the corporation.
  - For a Limited Liability Company: if the Proposal is signed by someone other than the Chief Manager, provide a resolution or member control agreement showing authority to sign proposal(s).
  - For a joint venture: Provide a power of attorney signed by all joint venture members, or a certified excerpt from the Joint Venture Agreement showing authority to sign proposal(s),
  - For a general partnership: Proposal must be signed by a partner.
  - For a limited partnership: Proposal must be signed by a general partner.
- Provide Form 1 (Information about Proposer Organization). Proposer is the only entity required to submit Form 1.
- Provide Form 2 (Information about Major Participants and Identified Subcontractors) describing each Major Participant and identified Subcontractor.
- Provide Form 3 (Conflict of Interest Disclosure Statement) for Proposer and each Major Participant. If there are no additional updates to the organizational conflicts of interest disclosed in Proposer’s Statement of Qualifications, Proposer may respond “No updates to information provided in SOQ” to the questions.

### **4.3 Price Proposal Submittal Requirements**

#### **4.3.1 General**

All Price Proposals must be submitted using “Two Way Electronic” bidding. A hardcopy of the Price Proposal or the “Schedule of Prices” is NOT required when submitting a bid using “Two Way Electronic” bidding.

The line items appearing in the schedule of items will be used for the basis for comparison of bids only, except as otherwise provided by the Contract Documents. The total lump sum price offered by Proposer for its Proposal for all Work will be the “Proposal Price” and is indicated on bid total line. Payments to Design-builder under the Contract will be made based on the Proposal Price in accordance with Book 1, Section 11.

#### **4.3.2 Due Date, Time, and Location**

Price Proposals must be submitted by 9:30 am, Central Time, on the Price Proposal Due Date (identified in Section 2).

### 4.3.3 Format

The line items provided by the Proposer in the Schedule of Prices for this Project should generally conform sequentially with the sections of the **WisDOT 2021 Standard Specifications (Spec) for Construction**. This relationship continues to the end of the Schedule of Prices.

No direct payments will be made for insurance premiums; compensation for such costs is included in the Mobilization and management line items.

### 4.3.4 Content

Proposer must execute the Price Proposal in conformance with **WisDOT Fall 2020 Construction and Materials Manual (CMM) Section 200**.

The Price Proposal must:

- Include a Performance and Payment Bond. The WisDOT Construction and Materials Manual Section 252 governs and includes the requirements regarding the Project Bonds and Warranties.
- Be submitted in accordance with the requirements of the AASHTO “Expedite Bid” software, and the “Bid Express” Web site ([www.bidx.com](http://www.bidx.com)).
- Be timely filed by the deadline specified in Section 4.3.2.

#### 4.3.4.1 Bridge Cost Estimate

Provide Form 19 (Bridge Cost Estimate for Federal and State Reporting) for each bridge on the Project. If the superstructure or deck type changes within a specific bridge, fill out an additional form for each change. The value shown on the bridge line items in the Schedule of Prices must equal the Bridge Cost Total on Form 19 for each bridge on the Project.

Proposer must deliver Form 19 by email, in PDF format, by 10:00 a.m. Central Time on the Form 19 Due Date (identified in Section 2) to the designated WisDOT representative listed in Section 4.2.2.

## 4.4 DBE Submittal Requirements

Proposer must submit all required DBE Submittals according to the requirements of Book 1, Exhibit E (DBE Special Provisions for Design-Build Projects), Table A at the date, time, format, and location listed in Book 1, Exhibit E, Table B. Proposer must deliver the DBE Submittals by e-mail, in PDF format, to:

E-mail: [000]@dot.wi.gov

The maximum e-mail size WisDOT can receive is 25 MB. If necessary, break the pdf into multiple e-mails to meet this requirement. The email must include the words “**Project DBE Submittal.**”

## 4.5 EEO Submittal Requirements

The Apparent Best Value Proposer must submit all required documents in accordance with Book 1, Exhibit D (EEO Special Provisions). For the purposes of Book 1, Exhibit D, the Apparent Best Value Proposer is considered the Apparent Low Bidder.

## 4.6 Quantities

Proposer must provide the following:

- TBD

## 4.7 Disqualification

If a Proposer fails to use a sealed package or fails to properly identify and label any Proposal package, that failure may result in the Proposal not being delivered on time, or being inadvertently opened before the appointed time and not in the appointed place. **WisDOT WILL NOT CONSIDER ANY PROPOSAL, INCLUDING ANY TECHNICAL PROPOSAL THAT IS NOT DELIVERED ON TIME.** If any Proposal is inadvertently opened, WisDOT may determine that the evaluation process has been compromised and MAY disqualify the Proposal. Proposer will be entirely responsible for any consequences, including disqualification of the Proposal that result from Proposer's failure to follow the instructions in the RFP. It is Proposer's sole responsibility to ensure that its Proposal is received as required. Proposers must provide responses to all information requested in the ITP. Failure to respond or to provide requested information may result in WisDOT determining, in its sole discretion, that a Proposal is non-responsive.

## 5 Evaluation Process

### 5.1 General

WisDOT will award the Contract (if at all) to the responsible and responsive Proposer that has complied with all of the requirements of the RFP (excluding permitted minor irregularities), is technically qualified, and has the {{chose one}} Proposal, as set forth in this Section 5. Either the Secretary or a specifically designated representative will notify the successful Proposer and the unsuccessful Proposers.

WisDOT, in its sole discretion, reserves the right to request clarification or supporting documentation at any time.

### 5.2 Proposal Openings

WisDOT will open the Technical Proposals immediately after the Proposal Due Date.

WisDOT will download and open the Price Proposals publicly at **10:00 a.m.**, Central Time, on the Public Opening Date (identified in Section 2) at:

- [000]

### 5.3 Responsiveness and Pass/Fail Review

#### 5.3.1 Proposal Responsiveness Evaluation

TBD

#### 5.3.2 Pass/Fail Criteria Evaluation

WisDOT will evaluate Proposals based on the following pass/fail criteria:

- Proposal meets the standards established by WisDOT pursuant to Wisc. Stat. § 84.062
- TBD

### 5.4 Evaluation of Technical Proposal

WisDOT will evaluate each of the factors set forth in Sections 4.2.4.4 through 4.2.4. [redacted] to determine whether the Technical Proposal satisfies the content requirement of the RFP and to determine the Proposal's technical score. The maximum score for a Technical Proposal is 100 points. A Technical Proposal will receive [redacted] points for being determined responsive by WisDOT. WisDOT will score the remaining [redacted] points in accordance with Sections 4.2.4.4 through 4.2.4. [redacted].

## **5.5 Oral Presentations**

TBD

## **5.6 Best Value Selection**

TBD

## **5.7 Low Bid Selection**

TBD

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## **6 Escrowed Proposal Documents; Contract Award and Approval; Stipends**

### **6.1 Escrowed Proposal Documents**

The selected Proposer must submit Escrowed Proposal Documents (EPD) in accordance with Book 1, Section 22.1.

### **6.2 Contract Award and Execution**

WisDOT will award the Contract to the successful Proposer and will require the successful Proposer to execute one electronic copy and one hard copy of the Contract, and of each available Master Utility Agreement, if any. The successful Proposer must fully execute and return all of the following required documents to WisDOT no later than seven Days after receiving the Contract from WisDOT.

- Executed Contract
- Executed Master Utility Agreement(s) (if any)
- Authorization for Design-builder's Representative
- Certificate of Insurance
- Payment and Performance Bond meeting the requirements of Book 1, Section 8.
- Evidence of professional engineering licenses for Key Personnel positions listed in Book 2, Section 2.
- Human Rights Certificate
- Equal Pay Certificate; and
- Construction Zone Incidents Form

WisDOT may cancel the award of the Contract at any time before WisDOT executes the Contract, without any liability for WisDOT or the State of Wisconsin.

### **6.3 Debriefing**

Within 60 Days after executing and delivering the Contract, WisDOT may provide an oral debriefing session with an unsuccessful Proposer. An unsuccessful Proposer may submit a written request for debriefing to the WisDOT Design-Build Program Manager. WisDOT may, in its sole discretion, indefinitely delay or cancel the debriefing meetings.

The purpose of a debriefing meeting is to help Proposers understand WisDOT's evaluation of the significant weaknesses or deficiencies in Proposer's Proposal.

The debriefing will not include point-by-point comparisons of the debriefed Proposer's Proposal with those of the other Proposers. The debriefing will not include any information that WisDOT cannot lawfully release or disclose at such time under the Wisconsin Public Records Law.

#### **6.4 Proposer Stipends; Right to Use Ideas**

TBD

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## Exhibit 1

**Effective December 2020 Letting**

**ASP-4**

### **ADDITIONAL SPECIAL PROVISION 4**

This special provision does not limit the right of the department, prime contractor, or subcontractors at any tier to withhold payment for work not acceptably completed or work subject to an unresolved contract dispute.

#### **Payment to First-Tier Subcontractors**

Within 10 calendar days of receiving a progress payment for work completed by a subcontractor, pay the subcontractor for that work. The prime contractor may withhold payment to a subcontractor if, within 10 calendar days of receipt of that progress payment, the prime contractor provides written notification to the subcontractor and the department documenting "just cause" for withholding payment.

The prime contractor is not allowed to withhold retainage from payments due subcontractors.

#### **Payment to Lower-Tier Subcontractors**

Ensure that subcontracting agreements at all tiers provide prompt payment rights to lower-tier subcontractors that parallel those granted first-tier subcontractors in this provision.

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## Exhibit 2

### 228.8.1 Price Rigging/Bid Rigging

The Sherman Act enacted in 1980, prohibits any agreement among competitors to fix prices, rig bids, or engage in other anticompetitive activity. The Antitrust Division will prosecute these violations.

Price rigging is an agreement among competitors to raise, fix, or otherwise maintain the price at which their goods or services are sold. This does not mean that competitors agree to charge the same price. And not all competitors have to be amongst the conspiracy.

Bid rigging occurs when conspiring competitors agree in advance as to who will win the bid for a contract, with the contract being let through the normal competitive bidding process.

There are 5 types of bid rigging:

1. Bid suppression. This is when one or more contractors, who typically would be expected to bid, agree to refrain from bidding or withdraw a previously submitted bid so that another contractor's bid will be accepted.
2. Complementary bidding. This is a form of bidding, where similar to bid suppression there is a predetermined winning contractor, but in this case, the competing contractors submit bids that are too high or where they violate special terms of the contract.
3. Bid rotation. All conspirators take turns being the winning bidder. The terms of the rotation may vary depending on agreement.
4. Subcontracting. This occurs when one party gets awarded a contract, then awards subcontracts to the conspiracy members in exchange for not submitting a winning bid.
5. Geographic. Repeated awarding of contracts to the same contractors in a particular geographical area.

Examples of bid rigging include the following:

- Establishing or adhering to price discounts.
- Holding prices firm.
- Eliminating or reducing discounts.
- Adopting a standard formula for computing prices.
- Maintaining a certain price differential between different types, sizes, or quantities of products.
- Adhering to a minimum fee or price schedule.
- Fixing credit terms.
- Not advertising prices.