

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

June 12, 2018

SUBJECT: Statute Publication Contract

TO: Representative David Guttenberg
Chair of the Legislative Council

FROM: Gerald P. Luckhaupt 
Revisor of Statutes

Under the existing contract with Matthew Bender/LexisNexis (Lexis) for the publication of the Alaska Statutes by July 1 of this year, the Legislative Council is required to give the publisher notice of Council's intent to (1) renew the contract for another two years or (2) issue a request for proposals for a new publishing contract. At our request, the publisher has agreed to extend the deadline.

The contract, signed in September, 2012, was for an original term of six years, with Legislative Council having three successive options to renew for two years each. This is the first renewal option for Legislative Council. I recommend that Council authorize the renewal of the contract for the next two years under substantially similar terms that are at least as beneficial to Council as the current contract.

We have generally received excellent service from Lexis. The editorial staff and administrators have generally been very good. Over the last two years we have had some problems as Lexis has transitioned to a new editing and publication platform and program that has created a seemingly less reliable database and increased substantive and formatting errors in the electronic and printed statutes. This transition has resulted in an increase in the workload for the Information Technology staff to conform the new format to our purposes and for the drafters, editors, and revisors to ensure the accuracy of the statutes and the bill drafts we prepare for the legislature.

The process has been made doubly difficult by the extended and special sessions we have had the last several years which have curtailed our ability to jointly work out any issues with Lexis in the interim. Instead of our normal publication date of October/November each year we have had to delay publication of the Alaska Statutes the last two years.¹ Extended sessions, special sessions, and delays in the transmittal of bills to, and the approval of bills by, the governor contributed to publication delays. Late publication affects the ability of Lexis to effectively arrange their publication schedules both for us and for the other states for whom they are the official statute publishers. We have been

¹ We published the 2017 supplement in March 2018. We published the 2016 replacement set in January 2017.

working through these issues and I am hopeful that they can be resolved during the interim this year.

Despite the delays and additional work, the current contract terms are favorable to the state and the Alaska public, and for this reason renewal would serve the state's interest. When we last reviewed other states' contracts, the price of a basic set of the Alaska Statutes to the general public in Alaska (\$264) was the lowest fixed price of any state with comparable publishing arrangements. The contract price has remained relatively stable for the last 16 years, despite the fact that the contract allows the publisher to request and Council to grant price increases based on various cost-of-living factors. The state itself receives 650 replacement sets (issued in even-numbered years) and supplements (issued in odd-numbered years) free, and pays half price (\$132) for the remaining sets that the state orders. Under the contract, we are required to order at least 150 additional sets. The supplement price is determined by the number of pages but usually costs less than \$40. The value of these free sets and supplements and the cost for these additional sets and supplements is shared equally among the three branches of Alaska government. In addition, Legislative Council receives the electronic versions of the statutes that are posted online and used by the state, an annual \$35,000 royalty, access to free codes from other states, and 64 free passwords for online services. The state also retains the copyright for all material in the statutes.

By comparison, extension of a 2014 RFP in Wyoming -- another small state that has a publisher produce a new soft bound set every two years and a supplement in the intervening year -- resulted in a public price of \$424 a set, \$113 for the supplement, 442 free sets and supplements for the state, 20 free passwords, and royalty terms that are much less generous than ours.² The 2014 Wyoming RFP only resulted in one bidder, Lexis. If we were to issue a new RFP, we should not expect any significant improvement in the price terms of our current contract.

In short, renewing the current contract for another two years would serve the state's interest because the current terms are quite favorable to the state and to the public that purchase the Alaska Statutes. In addition, it is late in the year to issue an RFP. The publisher has to be in a position to update the online version of the statutes by January 1, 2019. Therefore, we would have less than six months to produce an RFP, await proposals, evaluate proposals, address any bid protests, and provide for the transition between publishers, if any. Given the limited time and our current terms, it seems prudent to renew rather than risk disruptions in the publication schedule.

If you have any questions about the above, please do not hesitate to contact me.

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cc: Jessica Geary

² The 2018 Wyoming contract extension is currently pending and the public prices will increase to \$437 a set and \$116 for each supplement.