

**HOUSE BILL NO. 204**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE FAIRCLOUGH

Introduced: 3/23/11

Referred:

**A BILL**

**FOR AN ACT ENTITLED**

1    **"An Act relating to the State Procurement Code, including the use of small procurement**  
2    **provisions for certain amounts of leased space, the requirement of Alaska business**  
3    **license proof for Alaska bidder and other procurement preferences, the registration of**  
4    **construction contract bidders and offerors, the establishment and maintenance of lists of**  
5    **persons who want to provide supplies or services to the state, state agencies, and state**  
6    **instrumentalities, electronic bids and proposals, small procurements, and writings; and**  
7    **providing for an effective date."**

8    **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9        **\* Section 1.** AS 36.30.080(f) is amended to read:

10           (f) When the department is acquiring leased space of **7,000** [3,000] square feet  
11           or less, the department may procure the leased space using the procedures for small  
12           procurements under AS 36.30.320, providing public notice is given to prospective  
13           offerors in the market area.

1 \* **Sec. 2.** AS 36.30.110(b) is amended to read:

2 (b) The bidder **shall** [MUST] have a valid Alaska business license at the time  
 3 designated in the invitation to bid for bid opening **to qualify as an Alaska bidder**  
 4 **under AS 36.30.170 and 36.30.175. If a bidder does not have a valid Alaska**  
 5 **business license at the time designated in the invitation to bid for bid opening, the**  
 6 **bidder shall provide proof that the bidder has a valid Alaska business license**  
 7 **before the contract may be awarded, but the bidder does not qualify as an Alaska**  
 8 **bidder under AS 36.30.170 and 36.30.175.** A bidder for a construction contract shall  
 9 also submit **proof** [EVIDENCE] of the bidder's registration under AS 08.18 **before**  
 10 **the contract may be awarded.**

11 \* **Sec. 3.** AS 36.30.130(a) is amended to read:

12 (a) The procurement officer shall give adequate public notice of the invitation  
 13 to bid at least 21 days before the date for the opening of bids. If the procurement  
 14 officer determines in writing that a shorter notice period is advantageous for a  
 15 particular bid and adequate competition is anticipated, the 21-day period may be  
 16 shortened. Notice shall be posted on the Alaska Online Public Notice System  
 17 (AS 44.62.175). The time and manner of notice must be in accordance with  
 18 regulations adopted by the commissioner of administration. When practicable, notice  
 19 may include

20 (1) publication in a newspaper calculated to reach prospective bidders;

21 **and**

22 (2) notices posted in public places within the area where the work is to  
 23 be performed or the material furnished [; AND

24 (3) NOTICES MAILED TO ALL ACTIVE PROSPECTIVE  
 25 CONTRACTORS ON THE APPROPRIATE LIST MAINTAINED UNDER  
 26 AS 36.30.050].

27 \* **Sec. 4.** AS 36.30.210(b) is amended to read:

28 (b) An offeror for a construction contract shall submit **proof** [EVIDENCE] of  
 29 the offeror's registration as a contractor under AS 08.18 **before the contract may be**  
 30 **awarded.** A request for sealed proposals for a construction contract, except a design-  
 31 build construction contract, must require the offeror, **not** [NO] later than five working

days after the proposal that is the most advantageous to the state is identified, to list subcontractors the offeror proposes to use in the performance of the construction contract. The list must include the information required under AS 36.30.115(a). The provisions of AS 36.30.115(b) - (g) that apply to a construction contractor or an apparent low bidder apply to offerors submitting competitive sealed proposals for construction contracts, except design-build construction contracts.

\* **Sec. 5.** AS 36.30.210(e) is amended to read:

(e) The offeror shall [MUST] have a valid Alaska business license at the time designated [,] in the request for proposals [,] for opening of the proposals to qualify as an Alaska bidder under AS 36.30.170 and 36.30.175. If an offeror does not have a valid Alaska business license at the time designated in the request for proposals for opening of the proposals, the offeror shall provide proof that the offeror has a valid Alaska business license before the contract may be awarded, but does not qualify as an Alaska bidder under AS 36.30.170 and 36.30.175.

\* **Sec. 6.** AS 36.30 is amended by adding a new section to article 4 to read:

**Sec. 36.30.290. Electronic bids and proposals.** An agency may allow bids or proposals to be submitted in electronic form under AS 09.80.010 - 09.80.195 (Uniform Electronic Transactions Act).

\* **Sec. 7.** AS 36.30.320(a) is amended to read:

(a) A procurement for supplies, services, or professional services that does not exceed an aggregate dollar amount of \$100,000 [\$50,000], construction that does not exceed an aggregate dollar amount of \$200,000 [\$100,000], or lease of space that does not exceed 7,000 [3,000] square feet shall [MAY] be made under [IN ACCORDANCE WITH] regulations adopted by the commissioner for small procurements.

\* **Sec. 8.** AS 36.30.655 is amended to read:

**Sec. 36.30.655. List of persons debarred or suspended; removal from contractor lists.** The commissioner shall maintain a list of all persons debarred or suspended from consideration for the award of contracts. [THE COMMISSIONER SHALL REMOVE A PERSON DEBARRED OR SUSPENDED FROM THE LISTS OF CONTRACTORS UNDER AS 36.30.050 FOR THE PERIOD OF DEBARMENT

1 OR SUSPENSION.]

2 \* **Sec. 9.** AS 36.30.990 is amended by adding new paragraphs to read:

3 (25) "in writing" has the meaning given to "written" in this section;

4 (26) "written" means the product of forming characters on paper, other  
5 materials, or viewable screens, that can be read, retrieved, and reproduced, including  
6 information that is electronically transmitted and stored.

7 \* **Sec. 10.** AS 36.30.050 is repealed.

8 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 TRANSITION: PENDING SOLICITATIONS FOR PROCUREMENTS AND  
11 CONTRACTS. (a) This Act does not apply to

12 (1) solicitations for procurement and the resulting contracts, if the solicitations  
13 are pending on the effective date of this Act and if the invitation to bid or other solicitation  
14 was issued before the effective date of this Act; and

15 (2) procurement contracts entered into before the effective date of this Act,  
16 including extensions or amendments of those contracts.

17 (b) Notwithstanding (a) of this section, this Act applies to procurements or contracts  
18 described in (a)(1) of this section if all parties to the procurement or contract agree in writing  
19 that the applicable provisions of this Act apply to the solicitation or contract.

20 \* **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).