

HOUSE BILL NO. 257

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 4/6/05

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a procurement and electronic commerce tools program for state**
2 **departments and instrumentalities of the state; and providing for an effective date."**

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

4 *** Section 1.** AS 36.30 is amended by adding a new section to article 1 to read:

5 **Sec. 36.30.093. State procurement and electronic commerce tools**
6 **program.** (a) The department may enter into a program under which the department
7 contracts with a person from the private sector to provide procurement services and to
8 provide for the delivery and use of electronic commerce tools. Notwithstanding any
9 other provision of this chapter, the contract shall be awarded under AS 36.30.100 -
10 36.30.190.

11 (b) Notwithstanding any other provision of this chapter, all state departments
12 and instrumentalities of the state may participate in the program authorized by (a) of
13 this section.

14 (c) A procurement conducted by the person selected under (a) of this section is

1 not subject to this chapter or to AS 36.15. However, the procurement is subject to (d)
2 - (o) of this section.

3 (d) Except as provided in (e) - (i) of this section, the program contractor shall
4 award a contract based on solicited bids to the lowest responsive and responsible
5 bidder after an Alaska bidder preference of five percent, an Alaska products
6 preference as described in (k) of this section, and a recycled products preference under
7 (l) of this section have been applied.

8 (e) Except as otherwise provided under (g) or (h) of this section, if a bidder
9 qualifies as an Alaska bidder, is offering services through an employment program,
10 and is the lowest responsible and responsive bidder with a bid that is not more than 15
11 percent higher than the lowest bid, the program contractor shall award the contract to
12 that bidder. This subsection does not give a bidder who would otherwise qualify for a
13 preference under this subsection a preference over another bidder who would
14 otherwise qualify for a preference under this subsection.

15 (f) The program contractor shall award an insurance-related contract based on
16 solicited bids to the lowest responsive and responsible bidder after an Alaska bidder
17 preference of five percent. In this subsection, "Alaska bidder" means a person who is
18 an Alaska bidder and an Alaska domestic insurer.

19 (g) If a bidder is an Alaska bidder, is a qualifying entity, and is the lowest
20 responsible and responsive bidder with a bid that is not more than 10 percent higher
21 than the lowest bid, the program contractor shall award the contract to that bidder.
22 This subsection does not give a bidder who would otherwise qualify for a preference
23 under this subsection a preference over another bidder who would otherwise qualify
24 for a preference under this subsection or (h) of this section. In this subsection,
25 "qualifying entity" has the meaning given in AS 36.30.170(e).

26 (h) If a bidder is an Alaska bidder, if 50 percent or more of the bidder's
27 employees at the time the bid is submitted are persons with disabilities and if the
28 bidder is the lowest responsible and responsive bidder with a bid that is not more than
29 10 percent higher than the lowest bid, the program contractor shall award the contract
30 to that bidder. The contract must contain a promise by the bidder that the percentage
31 of the bidder's employees who are persons with disabilities will remain at 50 percent

1 or more during the contract term. This subsection does not give a bidder who would
2 otherwise qualify for a preference under this subsection a preference over another
3 bidder who would otherwise qualify for a preference under this subsection or (g) of
4 this section. In this subsection, "person with a disability" has the meaning given in
5 AS 36.30.170.

6 (i) A preference under (e), (g), or (h) of this section is in addition to any other
7 preference for which the bidder qualifies, including the Alaska bidder preference
8 under (d) of this section. However, a bidder may not receive a preference under (e)
9 and (g) of this section, (e) and (h) of this section, or (g) and (h) of this section for the
10 same contract.

11 (j) In order to qualify for a preference under (e), (g), or (h) of this section, a
12 bidder shall add value by actually performing, controlling, managing, and supervising
13 the services provided, or a bidder shall have sold supplies of the general nature
14 solicited to other state agencies, governments, or the general public.

15 (k) The program contractor shall use Alaska products whenever practicable in
16 procurements for a state agency. Recycled Alaska products shall be used when they
17 are of comparable quality, of equivalent price, and appropriate for the intended use. In
18 the evaluation of a bid or proposal for a procurement, the program contractor shall
19 decrease a bid or offer that designates the use of Alaska products identified in the
20 contract specifications by the percentage of the value of the designated Alaska
21 products.

22 (l) In the evaluation of a bid or proposal for a procurement of products, the
23 program contractor shall decrease the bid or proposal by five percent if the bid or
24 proposal indicates that the products being purchased will be recycled products. A
25 decrease made under this subsection is in addition to other preferences allowed for the
26 procurement.

27 (m) When awarding a contract under competitive sealed proposals, the
28 program contractor shall consider whether the offeror qualifies as an Alaska bidder, is
29 offering the service of an employment program, or qualifies for a preference under (g)
30 or (h) of this section.

31 (n) In a project financed by state money in which the use of timber, lumber,

1 and manufactured lumber products is required, only timber, lumber, and manufactured
 2 lumber products originating in this state from local forests shall be used wherever
 3 practicable.

4 (o) When agricultural products are purchased in a procurement handled by the
 5 program contractor, only agricultural products harvested in the state shall be
 6 purchased whenever priced not more than seven percent above products harvested
 7 outside the state, available, and of like quality compared with agricultural products
 8 harvested outside the state. When fisheries products are purchased in a procurement
 9 handled by the program contractor, only fisheries products harvested or processed
 10 within the jurisdiction of the state shall be purchased whenever priced not more than
 11 seven percent above products harvested or processed outside the jurisdiction of the
 12 state, available, and of like quality compared with fisheries products harvested or
 13 processed outside the jurisdiction of the state. In this subsection, "agricultural
 14 products" includes dairy products, timber and lumber, and products manufactured in
 15 the state from timber and lumber.

16 (p) In this section,

17 (1) "Alaska bidder" has the meaning given in AS 36.30.170;

18 (2) "instrumentalities of the state" means a state public corporation, a
 19 state enterprise, or another administrative unit of state government that handles its
 20 procurement and supply management in a manner that is separate from a department
 21 of the state;

22 (3) "program contractor" means the contractor selected by the
 23 department to manage the program.

24 * **Sec. 2.** Sections 2 and 3, ch. 51, SLA 2003, are repealed.

25 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 26 read:

27 **APPLICABILITY.** Nothing in this Act affects the validity of actions taken by the
 28 Department of Administration under ch. 51, SLA 2003, before the effective date of this Act.

29 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).