

**SENATE CS FOR CS FOR HOUSE BILL NO. 257(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/8/05

Referred: Today's Calendar

Sponsor(s): HOUSE JUDICIARY COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to and extending the pilot program for state procurement and**  
2 **electronic commerce tools; and providing for an effective date."**

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

4 \* **Section 1.** The uncodified law of the State of Alaska enacted by sec. 2(a), ch. 51, SLA  
5 2003, is amended to read:

6 (a) The Department of Administration may enter into a pilot program under  
7 which the **Department of Administration** [DEPARTMENT] contracts with a person  
8 from the private sector to provide for the delivery of procurement services and  
9 electronic commerce tools. The contract shall be awarded in accordance with  
10 competitive bidding procedures outlined in AS 36.30.

11 \* **Sec. 2.** The uncodified law of the State of Alaska enacted by sec. 2(b), ch. 51, SLA 2003,  
12 is repealed and reenacted to read:

13 (b) The pilot program [AUTHORIZED BY (a) OF THIS SECTION] may not  
14 apply to more than two state departments and two other instrumentalities of the state

1 [AND MAY NOT EXCEED THREE YEARS IN LENGTH].

2 \* **Sec. 3.** The uncodified law of the State of Alaska enacted by sec. 2(c), ch. 51, SLA 2003,  
3 is amended to read:

4 (c) A procurement conducted by the person selected under (a) of this section is  
5 not subject to AS 36.30 or to AS 36.15. However, [WHERE PRACTICABLE,] the  
6 procurement **is subject to (e) - (u) of this section** [SHALL BE MADE IN  
7 ACCORDANCE WITH PREFERENCES UNDER AS 36.15 AND AS 36.30.322 -  
8 36.30.338].

9 \* **Sec. 4.** The uncodified law of the State of Alaska enacted by sec. 2(d), ch. 51, SLA 2003,  
10 is amended by adding new paragraphs to read:

11 (2) "agency" has the meaning given in AS 36.30.990;

12 (3) "agricultural products" has the meaning given in AS 36.15.050(g);

13 (4) "Alaska bidder" has the meaning given in AS 36.30.170(b);

14 (5) "Alaska product" has the meaning given in AS 36.30.338;

15 (6) "contract" has the meaning given in AS 36.30.990;

16 (7) "employment program" has the meaning given in AS 36.30.990;

17 (8) "person" has the meaning given in AS 36.30.990;

18 (9) "person with a disability" has the meaning given in AS 36.30.170;

19 (10) "pilot program" means the program authorized by (a) of this  
20 section;

21 (11) "program contractor" means the contractor selected by the  
22 department to manage the program;

23 (12) "qualifying entity" has the meaning given in AS 36.30.170(e);

24 (13) "recycled Alaska product" has the meaning given in  
25 AS 36.30.338.

26 \* **Sec. 5.** The uncodified law of the State of Alaska enacted by sec. 2, ch. 51, SLA 2003, is  
27 amended by adding new subsections to read:

28 (e) A contract based on solicited bids shall be awarded to the lowest  
29 responsive and responsible bidder after an Alaska bidder preference of five percent  
30 has been applied for evaluation purposes.

31 (f) If a bidder qualifies as an Alaska bidder and is offering services through an

1 employment program, a 15 percent cost preference shall be applied during evaluation.

2 (g) If a bidder is an Alaska bidder and is a qualifying entity, a 10 percent cost  
3 preference shall be applied during evaluation.

4 (h) If a bidder is an Alaska bidder and if 50 percent or more of the bidder's  
5 employees at the time the bid is submitted are persons with disabilities, a 10 percent  
6 cost preference shall be applied during evaluation. The contract must contain a  
7 promise by the bidder that the percentage of the bidder's employees who are persons  
8 with disabilities will remain at 50 percent or more during the contract term.

9 (i) Insurance-related contracts shall be awarded to the lowest responsive and  
10 responsible bidder after an Alaska bidder preference of five percent has been applied  
11 during evaluation. In this subsection, "Alaska bidder" means a person who is an  
12 Alaska bidder and an Alaska domestic insurer.

13 (j) Alaska products shall be used whenever practicable. Recycled Alaska  
14 products shall be used when they are of comparable quality, of equivalent price, and  
15 appropriate for the intended use.

16 (k) If a bid indicates that the product being purchased will be a recycled  
17 Alaska product, a cost preference of five percent shall be applied during evaluation.

18 (l) In a project financed by state money in which the use of timber, lumber,  
19 and manufactured lumber products is required, only timber, lumber, and manufactured  
20 lumber products originating in this state from local forests shall be used wherever  
21 practicable.

22 (m) When agricultural products are purchased, a seven percent cost preference  
23 shall be applied during evaluation to agricultural products harvested in the state.

24 (n) When fisheries products are purchased, a seven percent cost preference  
25 shall be applied during evaluation to fisheries products harvested or processed within  
26 the jurisdiction of the state.

27 (o) If a bid or offer designates the use of an Alaska product that is identified in  
28 the contract specifications and designated as a Class I, Class II, or Class III state  
29 product under AS 36.30.332, a cost preference equal to the percentage established for  
30 the class under AS 36.30.332(c) shall be applied to the product during evaluation. The  
31 program contractor shall use the Alaska product preference list, as described in

1 regulations of the department, as the basis for establishing the percentage of Alaska  
2 product preference.

3 (p) If a contractor designates the use of an Alaska product in a bid or proposal  
4 and fails to use the designated product for a reason within the contractor's control,  
5 each payment under the contract shall be reduced according to the schedule in  
6 AS 36.30.330(a).

7 (q) Except as provided under (r) of this section, all preferences are cumulative  
8 and shall be applied in the order referenced under (e) - (r) of this section.

9 (r) A bidder may not receive a preference under this section under both (e) and  
10 (f), (e) and (g) or (f) and (g) for the same contract.

11 (s) In order to qualify for a preference under (f), (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 another agency, to another government, or to the general public.

15 (t) When awarding a contract under competitive sealed proposals, the program  
16 contractor shall consider the preferences described in this section. Applicable  
17 preferences shall be applied solely to the cost portion of the proposals during  
18 evaluation.

19 (u) Informal procurements conducted by the program contractor are subject to  
20 the preferences described in this section.

21 (v) The contract authorized by (a) of this section must include terms that  
22 protect the interests of the state if the contractor stops performing or fails to perform  
23 the contractor's obligations under the contract. In order to allow the Department of  
24 Administration and the departments and other instrumentalities of the state  
25 participating in the pilot program to make the transition back to having state  
26 instrumentalities handle the activities provided by the contractor under the contract,  
27 these required terms must include provisions that

28 (1) give the Department of Administration and the departments and  
29 other instrumentalities of the state participating in the pilot program the right to use,  
30 for a reasonable period of time after the contractor stops performing or fails to  
31 perform, the electronic commerce tools, including all software, used by the contractor

1 to perform the contract; the provision required by this paragraph must allow use by the  
2 employees or contractors of the Department of Administration or the departments or  
3 other instrumentalities of the state participating in the pilot program; and

4 (2) require the contractor to provide reasonable assistance to the Department  
5 of Administration and the departments and other instrumentalities of the state  
6 participating in the pilot program in using the electronic commerce tools referred to in  
7 (1) of this subsection and otherwise making the transition.

8 \* **Sec. 6.** Section 3, ch. 51, SLA 2003, is amended to read:

9 Sec. 3. Section 2 of this Act is repealed July 1, 2009 [2006].

10 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

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

14 \* **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).