

Original sponsor: Bradley

Offered: 6/3/80

1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR SENATE BILL NO. 114

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state contracting and procurement  
7 procedures, and competitive bidding under the Fiscal  
8 Procedures Act."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 19.10.190 is amended to read:

11 Sec. 19.10.190. ADVERTISEMENT, BIDS, CONTRACTS, AND INFORMAL BIDS.

12 (a) Except as provided in AS 44.33.300, when the estimated cost of any  
13 construction exceeds \$50,000 [\$100,000], the department shall, except as  
14 provided in AS 19.10.170(a), proceed to advertise, request bids, and  
15 award the contract in the manner provided in AS 19.10.200 and 19.10.210.  
16 Whenever any proposed construction contract is for a sum less than  
17 \$50,000 [\$100,000], it shall be discretionary with the department  
18 whether the contract shall be advertised and awarded in accordance with  
19 AS 19.10.200 and 19.10.210. In all events the department shall request  
20 informal bids from as many contractors as can be requested conveniently.

21 (b) A maintenance contract in excess of \$25,000 is subject to (a)  
22 of this section.

23 (c) The department may not award construction contracts in in-  
24 crements of less than \$50,000 or maintenance contracts in increments of  
25 less than \$25,000 to the same contractor for the same project so as  
26 to circumvent the bid procedure required in (a) and (b) of this section.

27 \* Sec. 2. AS 35.15.030 is amended to read:

28 Sec. 35.15.030. ADVERTISEMENT, BIDS, CONTRACTS, AND INFORMAL BIDS.

29 (a) When the estimated cost of any construction under this chapter

1 exceeds \$50,000 [\$100,000], the department shall, except as provided in  
2 AS 35.15.010 and in AS 44.33.300, proceed to advertise, request bids,  
3 and award the contract in the manner provided in AS 35.15.040 and  
4 35.15.050. When any proposed construction contract is for a sum less  
5 than \$50,000 [\$100,000], it is discretionary with the department whether  
6 the contract is advertised and awarded in accordance with AS 35.15.040  
7 and 35.15.050. In all events the department shall request informal bids  
8 from as many contractors as can be requested conveniently. A complete  
9 record shall be kept by the commissioner or his designee of all trans-  
10 actions entered into under this section including names of employees  
11 involved in the transactions.

12 (b) A maintenance contract in excess of \$25,000 is subject to (a)  
13 of this section.

14 (c) The department may not award construction contracts in in-  
15 crements of less than \$50,000 or maintenance contracts in increments of  
16 less than \$25,000 to the same contractor for the same project so as  
17 to circumvent the bid procedure required in (a) and (b) of this section.

18 \* Sec. 3. AS 37.05.230(1)(B) is amended to read:

19 (B) a bid shall be awarded to an Alaska bidder if he is  
20 on the certified Alaska bidders list and his bid is not more than  
21 15 [FIVE] percent higher than the bid of the lowest nonresident  
22 bidder [BIDDER'S]; and

23 \* Sec. 4. AS 37.05.230(1)(C) is amended to read:

24 (C) competitive bids need not be required  
25 (i) for contractual services where no known compe-  
26 tition exists;  
27 (ii) [FOR SALES INVOLVING FAIR TRADE ITEMS;  
28 (iii) WHEN, IN THE JUDGMENT OF THE PURCHASING AGENT,  
29 FOOD, CLOTHING, OR MEDICAL SUPPLIES, OR MATERIALS FOR USE IN

1 LABORATORY AND EXPERIMENTAL STUDIES MAY BE PURCHASED OTHERWISE  
2 TO THE BEST ADVANTAGE OF THE STATE;]

3 (iv) where rates are fixed by law or ordinance;

4 (v) for items traded in on like items; or

5 (vi) for professional services;

6 \* Sec. 5. AS 37.05.230(2) is amended to read:

7 (2) if the amount of the contractual services, purchase, or  
8 sale is estimated to exceed \$2,500 sealed bids shall be solicited, when  
9 practicable, by publication in a newspaper calculated to reach pro-  
10 spective bidders and by posting notices in public places within the area  
11 where the work is to be performed or material furnished and in addition  
12 the department may also designate a trade journal for publication; the  
13 department shall also solicit bids by sending notices by mail to all  
14 [ACTIVE PROSPECTIVE] bidders on the certified Alaska bidders list;  
15 [KNOWN TO IT AND] all bids shall be sealed when received, and shall be  
16 opened in public at the hour stated in the notice; the department may  
17 limit solicitation of bids or negotiate directly if it finds that it is  
18 in the best interest of the state;

19 \* Sec. 6. AS 37.05.230(5) is amended to read:

20 (5) an "Alaska bidder," for the purpose [OF BID AWARDS UNDER  
21 (1)(B)] of this section, is a person who

22 (A) holds a current Alaska business license; [,]

23 (B) submits a bid for goods or services under the name  
24 as appearing on his current Alaska business license; [,]

25 (C) has maintained a place of business within the state  
26 for a period of one year [SIX MONTHS] immediately preceding the  
27 date of his bid;

28 (D) is not delinquent in the payment of state taxes;

29 (E) has a business whose majority interest is benefi-

1 cially owned by residents of the state and a majority of whose  
2 owners are residents of the state;

3 (F) maintains inventories or facilities in support of  
4 business activities in the state; [.]

5 \* Sec. 7. AS 37.05.230(7) is amended to read:

6 (7) the provisions of (1)(B) of this section [RELATIVE TO AN  
7 "ALASKA BIDDER"] do not apply to contracts for construction or repair;  
8 [ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF TRANSPORTATION  
9 AND PUBLIC FACILITIES WHICH ARE AUTHORIZED UNDER AS 35.15, OR THE DEPART-  
10 MENT OF HIGHWAYS, WHICH ARE AUTHORIZED UNDER AS 19.10.]

11 \* Sec. 8. AS 37.05.230 is amended by adding new paragraphs to read:

12 (9) the Department of Administration shall compile and update  
13 annually a certified Alaska bidders list containing the names of persons  
14 who meet the requirements of AS 37.05.230(5)(A), (C), (D), (E), and (F);

15 (10) the provisions of (1)(B) of this section do not apply to  
16 purchases and contracts involving federal money received by the state if  
17 the application of a bidding preference would violate federal law or  
18 program guidelines.

19 \* Sec. 9. AS 37.05.240 is amended to read:

20 Sec. 37.05.240. BID REQUIREMENTS; AWARD OF CONTRACTS AND PURCHASES.  
21 (a) Except as provided in AS 37.05.230, a [A] contract or purchase made  
22 by or under the supervision of the department for which competitive bids  
23 are required shall be awarded to the lowest responsible bidder, taking  
24 into consideration conformity with the specifications, terms of delivery,  
25 and other conditions imposed in the call for bids. Bids may be rejected,  
26 and a bid shall be rejected if it contains a material alteration or  
27 erasure which is not initialed by the signer of the bid. The department  
28 may reject the bid of a bidder who is in arrears on taxes due the state  
29 or who failed to perform on a previous contract with the state. Where

1 competitive bids are required and where all bids are rejected, new bids  
2 shall be called for as in the first instance. Before the awarding of a  
3 contract for a building or the making of repairs upon a building, the  
4 department shall see that the bids conform with plans and specifications  
5 approved by the Department of Transportation and Public Facilities. All  
6 bids with the names of the bidders and the amounts of the bids, together  
7 with all documents pertaining to the award of a contract, shall be made  
8 a part of a file or record and retained by the department for three  
9 years, unless reproduced by microfilming, and these files or records are  
10 open to public inspection at all reasonable times. An aggrieved bidder  
11 may within five days after an award of contract appeal to the department  
12 for hearing, with notice to interested parties, for redetermination and  
13 final award in accordance with law.

14 (b) When submitting a bid under this chapter, a prime contractor  
15 shall name the principal subcontractors he intends to use. After a bid  
16 is awarded, a prime contractor may change principal subcontractors only  
17 for cause. A proposed substitution for a principal subcontractor named  
18 in the bid awarded to a prime contractor shall be submitted to the de-  
19 partment for approval together with reasons for the proposed substitu-  
20 tion. For purposes of this section "principal subcontractor" means  
21 a subcontractor who, in the performance of a contract awarded to the  
22 prime contractor, supplies materials and services with a value equal to  
23 or greater than 20 percent of the total value of the contract.

24 \* Sec. 10. AS 37.05.320 is amended by adding a new paragraph to read:

25 (5) "department" means the Department of Administration.