

Introduced: 2/4/81  
Referred: State Affairs

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 58

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to competitive bidding under the  
7 Fiscal Procedures Act."

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

9 \* Section 1. AS 37.05.230(1) is amended to read:

10 (1) a contract for construction and repairs, or a purchase  
11 of and contract for supplies, materials, equipment, and contractual  
12 services must be based on competitive bids; an award shall be made to  
13 the lowest responsible bidder after advertising for bids, except that  
14 (A) Repealed by sec. 2, ch. 92, SLA 1967; (B) a bid shall be awarded  
15 to (i) an Alaska bidder if his bid is not more than five percent high-  
16 er than the lowest nonresident bidder's; or (ii) to an Alaska manufac-  
17 turer if the bid is not more than 15 percent higher than the lowest  
18 bid; and (C) competitive bids need not be required (i) for contractual  
19 services where no competition exists; (ii) [FOR SALES INVOLVING FAIR  
20 TRADE ITEMS; (iii)] when, in the judgment of the purchasing agent,  
21 food, clothing, or medical supplies, or materials for use in laborato-  
22 ry and experimental studies may be purchased otherwise to the best ad-  
23 vantage of the state; (iii) [(iv)] where rates are fixed by law or or-  
24 dinance; (iv) [(v)] for items traded in on like items; or (v) [(vi)]  
25 for professional services;

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

27 (2) if the amount of the contractual services, purchase, or  
28 sale is estimated to exceed \$5,000 [\$2,500] sealed bids shall be so-  
29 licited, when practicable, by publication in a newspaper calculated to

1 reach prospective bidders and by posting notices in public places with-  
2 in the area where the work is to be performed or material furnished  
3 and in addition the department may also designate a trade journal for  
4 publication; the department shall also solicit bids by sending notices  
5 by mail to all active prospective bidders known to it and all bids  
6 shall be sealed when received, and shall be opened in public at the  
7 hour stated in the notice; the department may limit the solicitation  
8 of bids or negotiate directly if it finds that it is in the best in-  
9 terests of the state;

10 \* Sec. 3. AS 37.05.230(3) is amended to read:

11 (3) a contractual service, purchase or sale where the known  
12 requirements are estimated to be less than \$5,000 [\$2,500] may be made  
13 either upon competitive bids in accordance with (2) of this section or  
14 in the open market, in the discretion of the department; but, so far  
15 as practicable, shall be based on at least three competitive bids and  
16 recorded as provided in AS 37.05.240; small purchases of less than  
17 \$500 [\$300] in the discretion of the department may be made on the  
18 open market, and may be by cash payment from petty cash accounts set  
19 aside for that purpose; the department shall determine the amount of  
20 the petty cash accounts needed by each state agency, and inspect the  
21 petty cash accounts at least once each year to determine that the  
22 total plus amounts of receipts for unreplenished disbursements is  
23 equal to the fixed sum of cash set aside; shortages in petty cash  
24 accounts are a personal liability of the responsible head of the  
25 agency to whom the account is set aside; the department shall make all  
26 necessary rules and regulations governing use and replenishment of  
27 petty cash funds;

28 \* Sec. 4. AS 37.05.230(5) is repealed and reenacted to read:

29 (5) in (1)(B) of this section,

1 (A) "Alaska bidder" means a person, corporation or  
2 partnership who:

3 (i) holds a valid Alaska business license;

4 (ii) submits a bid under the name which appears on  
5 his Alaska business license; and

6 (iii) has maintained a place of business in the  
7 state for six months immediately preceding the date of his  
8 bid;

9 (B) "Alaska manufacturer" means a person, corporation  
10 or partnership who:

11 (i) holds a valid Alaska business license;

12 (ii) submits a bid under the name which appears on  
13 his Alaska business license; and

14 (iii) engages in a business activity in the state  
15 by which he, through labor, art, or skill substantially  
16 transforms raw or partially finished materials into the items  
17 offered for purchase by the state; the commissioner of ad-  
18 ministration may adopt regulations to implement this subpara-  
19 graph;

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

21 (7) the provisions of (1)(B) of this section [RELATIVE TO  
22 AN "ALASKA BIDDER"] do not apply to contracts for construction or re-  
23 pair of transportation systems and corridors and public buildings and  
24 facilities; [ESTIMATED TO EXCEED \$5,000, OF EITHER THE DEPARTMENT OF  
25 TRANSPORTATION AND PUBLIC FACILITIES, WHICH ARE AUTHORIZED UNDER  
26 AS 35.15, OR THE DEPARTMENT OF HIGHWAYS, WHICH ARE AUTHORIZED UNDER  
27 AS 19.10.]

28 \* Sec. 6. AS 37.05.230(8) is amended to read:

29 (8) the provisions of this section relative to competitive

1 bids do not apply to the purchase of products or services manufactured  
2 or provided by a sheltered workshop operating in the state; and [.]

3 \* Sec. 7. AS 37.05.230 is amended by adding a new paragraph to read:

4 (9) the provisions of (1)(B) of this section do not apply  
5 to purchases and contracts which involve federal money received by the  
6 state if the application of a bidding preference violates federal law  
7 or federal program guidelines.

8 \* Sec. 8. AS 37.05.240 is amended to read:

9 Sec. 37.05.240. AWARD OF CONTRACTS AND PURCHASES. A contract  
10 or purchase made by or under the supervision of the department for  
11 which competitive bids are required shall be awarded to the lowest re-  
12 sponsible bidder. The department shall determine the responsibility of  
13 the bidder based upon the bidder's (1) adherence to the bid specifica-  
14 tions, (2) proposed terms of delivery, (3) compliance with state laws,  
15 (4) performance record, and (5) compliance with conditions imposed in  
16 the solicitation for bids. The purchasing agent may cancel the solici-  
17 tation for bids before the award if it is in the state's best interest.  
18 However, if the purchasing agent makes the contract or purchase after  
19 the solicitation for bids is cancelled, the purchase or contract shall  
20 be made in accordance with AS 37.05.230(2). [ , TAKING INTO CONSIDERA-  
21 TION CONFORMITY WITH THE SPECIFICATIONS, TERMS OF DELIVERY, AND OTHER  
22 CONDITIONS IMPOSED IN THE CALL FOR BIDS. BIDS MAY BE REJECTED, AND A  
23 BID SHALL BE REJECTED IF IT CONTAINS A MATERIAL ALTERATION OR ERASURE  
24 WHICH IS NOT INITIALED BY THE SIGNER OF THE BID. THE DEPARTMENT MAY  
25 REJECT THE BID OF A BIDDER WHO IS IN ARREARS ON TAXES DUE THE STATE OR  
26 WHO FAILED TO PERFORM ON A PREVIOUS CONTRACT WITH THE STATE. WHERE  
27 COMPETITIVE BIDS ARE REQUIRED AND WHERE ALL BIDS ARE REJECTED, NEW BIDS  
28 SHALL BE CALLED FOR AS IN THE FIRST INSTANCE.] Before the awarding of  
29 a contract for a building or the making of repairs upon a building, the

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

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