

Original sponsor: State Affairs
Committee

Offered: 4/5/82
Referred: Finance

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 865 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for a minority bidders preference."

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

8 * Section 1. AS 19.10.210 is amended to read:

9 Sec. 19.10.210. AWARD OF CONTRACTS [TO LOWEST RESPONSIBLE BID-
10 DER]. The department shall award the contract in accordance with AS 37.-
11 05.230(1) [TO THE LOWEST RESPONSIBLE BIDDER], or it may reject all bids.
12 If no satisfactory bid is received, the department may readvertise the
13 project. All awards shall be made in compliance with applicable federal
14 law and [THE] regulations [PROMULGATED THEREUNDER], with AS 19.05 -
15 AS 19.25, and with AS 37.05 [,] and the [RULES AND] regulations adopted
16 under it [WHICH ARE PROMULGATED THEREUNDER], where not in conflict with
17 AS 19.05 - AS 19.25.

18 * Sec. 2. AS 35.15.050 is amended to read:

19 Sec. 35.15.050. AWARD OF CONTRACTS. The department shall award
20 the contract in accordance with AS 37.05.230(1) [TO THE LOWEST RESPON-
21 SIBLE BIDDER], or it may reject all bids. If no satisfactory bid is
22 received, the department may readvertise the project. The department
23 shall make the award in compliance with applicable federal law and [THE]
24 regulations [PROMULGATED UNDER IT], with this title, and in compliance
25 with AS 37.05 [,] and the [RULES AND] regulations adopted [PROMULGATED]
26 under it, where they are not in conflict with this title and federal
27 law.

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

29 (B) a bid shall be awarded to an Alaska bidder if the

1 Alaska bidder's [HIS] bid is not more than five percent higher than
2 the lowest nonresident bidder's, unless (D) and (E) of this para-
3 graph apply, in which case the bid shall be awarded in accordance
4 with those subparagraphs; [AND]

5 * Sec. 4. AS 37.05.230(1) is amended by adding new subparagraphs to read:

6 (D) a contract shall be awarded to a bidder on the
7 certified minority bidders list if

8 (i) the bidder submits a bid for goods or services
9 under the name appearing on the bidder's current Alaska busi-
10 ness license;

11 (ii) the bid is within one-half of one percent of
12 the bid of the lowest bidder;

13 (iii) the bidder agrees to lower the bid by one-half
14 of one percent if the bid is higher than the lowest bid; and

15 (iv) the bid is considered to be, by the state
16 agency for which the bid is solicited, among the three top
17 bids submitted in terms of technical competence or quality of
18 supplies, materials, or equipment;

19 (E) if two or more bidders qualify under (D) of this
20 paragraph for the award of the same contract, the contract shall be
21 awarded to the lowest of the bidders;

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

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

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

26 (B) submits a bid for goods or services under the name
27 as appearing on that persons's [HIS] current Alaska business
28 license; [,]

29 (C) has actively engaged in the business of providing

1 the goods or services for which the bid is submitted in [MAINTAINED
2 A PLACE OF BUSINESS WITHIN] the state for a period of six months
3 immediately preceding the date of the [HIS] bid;

4 (D) has derived at least 50 percent of earned income
5 from the operation of the business in the state for a period of
6 six months immediately preceding the date of the bid; and

7 (E) is not delinquent in the payment of state taxes;

8 (F) employs at least 10 state residents or has a work
9 force at least 50 percent of which consists of state residents; [.]

10 * Sec. 6. AS 37.05.230 is amended by adding new paragraphs to read:

11 (9) for the purpose of bid awards under (1)(D) of this sec-
12 tion, the Department of Administration shall compile and revise annually
13 a certified minority bidders list containing the names of persons who
14 own a business in which at least 85 percent of the business interest is
15 beneficially owned by members of minority groups or at least 50 percent
16 of its employees are members of minority groups; for the purpose of this
17 paragraph minority group members are persons who are Alaskan Indian,
18 Eskimo, Aleut, Black, American Indian, Hispanic, Asian, or Pacific
19 Islander, or female, or over 60 years of age or under 22 years of age,
20 or Viet Nam veterans, defined as persons who served on active duty some
21 time during the period from August 5, 1964, to May 7, 1975, and who were
22 released from the military with other than a dishonorable discharge;

23 (10) the provisions of (1)(B), (D), and (E) of this section do
24 not apply to purchases and contracts involving federal money received by
25 the state if the application of a bidding preference would violate
26 federal law or program guidelines.

27 * Sec. 7. AS 37.05.240 is amended to read:

28 Sec. 37.05.240. AWARD OF CONTRACTS AND PURCHASES. Except as pro-
29 vided in AS 37.05.230, a [A] contract or purchase made by or under the

1 supervision of the department for which competitive bids are required
2 shall be awarded to the lowest responsible bidder, taking into consider-
3 ation conformity with the specifications, terms of delivery, and other
4 conditions imposed in the call for bids. Bids may be rejected, and a
5 bid shall be rejected if it contains a material alteration or erasure
6 which is not initialed by the signer of the bid. The department may
7 reject the bid of a bidder who is in arrears on taxes due the state or
8 who failed to perform on a previous contract with the state. Where
9 competitive bids are required and where all bids are rejected, new bids
10 shall be called for as in the first instance. Before the awarding of a
11 contract for a building or the making of repairs upon a building, the
12 department shall see that the bids conform with plans and specifications
13 approved by the Department of Transportation and Public Facilities. All
14 bids with the names of the bidders and the amounts of the bids, together
15 with all documents pertaining to the award of a contract, shall be made
16 a part of a file or record and retained by the department for three
17 years, unless reproduced by microfilming and these files or records are
18 open to public inspection at all reasonable times. An aggrieved bidder
19 may within five days after an award of contract appeal to the department
20 for hearing, with notice to interested parties, for redetermination and
21 final award in accordance with law.
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