

Offered: 4/21/86
Referred: Judiciary and
Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 679 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the purchase of Alaska products;
7 and providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 36.15.010 is amended to read:
10 Sec. 36.15.010. USE OF LOCAL FOREST PRODUCTS REQUIRED IN PROJ-
11 ECTS FINANCED BY PUBLIC MONEY. In a project involving public con-
12 struction described in AS 36.15.030 [FINANCED BY STATE MONEY] in which
13 the use of timber, lumber, and manufactured lumber products is requir-
14 ed, only timber, lumber, and manufactured lumber products originating
15 in this state from local forests may [SHALL] be used unless the com-
16 missioner of commerce and economic development certifies that
17 (1) the manufacturers and suppliers that have notified the
18 commissioner of commerce and economic development of their willingness
19 to manufacture or supply Alaska forest products have been given rea-
20 sonable notice of the forest product needs of the project; and
21 (2) the manufacturers and suppliers who have notified the
22 commissioner of commerce and economic development of their willingness
23 to manufacture or supply Alaska forest products are unable to supply
24 the products to the project at a cost that is within seven percent of
25 the price offered by a manufacturer or supplier of non-Alaska forest
26 products [WHEREVER PRACTICABLE].
27 * Sec. 2. AS 36.15 is amended by adding new sections to read:
28 Sec. 36.15.030. USE OF ALASKA PRODUCTS. (a) In a project
29 involving public construction as defined in AS 36.95.010 that is

1 financed in whole or in part with state money, Alaska products shall
2 be used whenever practicable. As used in this section, a project
3 involving public construction that is financed with state money means
4 a project constructed by an agency of the state, by a municipality of
5 the state under AS 14.11.020 or 14.11.100, AS 29.89, or AS 35.15.080,
6 or by a regional educational attendance area under AS 14.11.020.

7 (b) The provisions of AS 36.15.040 and 36.15.060 - 36.15.080 do
8 not apply to forest products required in projects involving public
9 construction. The use of Alaska forest products in public
10 construction is required by AS 36.15.010 - 36.15.020.

11 Sec. 36.15.040. CONTRACT SPECIFICATIONS. Contract specifica-
12 tions for a project described in AS 36.15.030 must include a provision
13 that a bidder that designates in a bid the use of Alaska products
14 identified in the specifications to the bid will receive the prefer-
15 ence granted under AS 36.15.060 in the evaluation of the bid if the
16 designated Alaska products meet the contract specifications.

17 Sec. 36.15.050. IDENTIFICATION OF ALASKA PRODUCTS. An agency of
18 the state, a municipality of the state, and a regional educational
19 attendance area may identify specific Alaska products for use in the
20 construction of a specific public construction project.

21 Sec. 36.15.060. GRANT OF PREFERENCE. (a) In the evaluation of
22 a bid, a bid that designates the use of Alaska products identified in
23 the contract specifications and designated as Class I, Class II, or
24 Class III state products under AS 36.15.080(a) and (b) is decreased by
25 the percentage of the value of the designated Alaska product under
26 AS 36.15.080(a) and (b).

27 (b) After determining the preference under (a) of this section,
28 the contract shall be awarded to the bidder submitting the lowest
29 total bid unless a different bidder must be awarded the contract under

1 AS 37.05.230(1).

2 (c) The contract amount of a contract awarded is the amount of
3 the bid offered by the bidder.

4 (d) This section does not apply to a public construction project
5 that is financed in whole or in part with federal money or aid if the
6 preference is contrary to a federal law or regulation.

7 Sec. 36.15.070. PENALTY FOR FAILING TO USE DESIGNATED PRODUCTS.

8 (a) If a successful bidder who designates the use of an Alaska prod-
9 uct in a bid fails to use the designated product for a reason within
10 the control of the successful bidder, each payment under the contract
11 shall be reduced according to the following schedule:

- 12 (1) for a Class I designated Alaska product - four percent;
13 (2) for a Class II designated Alaska product - six percent;
14 (3) for a Class III designated Alaska product - eight
15 percent.

16 (b) A person is not a responsible bidder if, in the preceding
17 three years, the person has twice designated the use of an Alaska
18 product in a bid for a public construction project and has each time
19 failed to use the designated Alaska product for reasons within the
20 control of the bidder.

21 (c) An agency of the state, a municipality of the state, and a
22 regional educational attendance area using state money for a project
23 involving public construction shall report to the commissioner of
24 commerce and economic development each contractor penalized under (a)
25 of this section. The commissioner of commerce and economic develop-
26 ment shall maintain a list of contractors determined not to be respon-
27 sible bidders under (b) of this section.

28 Sec. 36.15.080. CLASSIFICATION OF ALASKA PRODUCTS. (a) The
29 commissioner of commerce and economic development shall adopt

1 regulations establishing the value added in the state for materials
2 and supplies produced or manufactured in the state that are used in a
3 construction project and shall publish a list of the products annual-
4 ly. A supplier may request inclusion of its product on the appropri-
5 ate list.

6 (b) Materials and supplies with value added in the state that
7 are

8 (1) more than 25 percent and less than 50 percent of the
9 manufacturer's quoted price is a Class I product;

10 (2) 50 percent or more and less than 75 percent of the
11 manufacturer's quoted price is a Class II product; and

12 (3) 75 percent or more of a manufacturer's quoted price is
13 a Class III product.

14 (c) In a bid evaluation under AS 36.15.060,

15 (1) a Class I product is given a three percent preference;

16 (2) a Class II product is given a five percent preference;

17 and

18 (3) a Class III product is given a seven percent prefer-
19 ence.

20 * Sec. 3. AS 36.20.010 is amended to read:

21 Sec. 36.20.010. PREFERENCE FOR [OF PRODUCERS OR DEALERS IN]
22 ALASKA PRODUCTS. In making a purchase [PURCHASES] or awarding a
23 contract [CONTRACTS] for supplies, commodities, or materials for an
24 office or institution of this state that is financed in whole or in
25 part with state money, preference shall be given, whenever practica-
26 ble, to Alaska products [PRODUCERS AND DEALERS IN THE STATE], price
27 and quality being equal. A purchase is made and a contract for sup-
28 plies, commodities, or materials is awarded under this section when-
29 ever the purchase or award is made by an agency of the state, a

1 municipality of the state, or a regional educational attendance area.

2 * Sec. 4. AS 36.20 is amended by adding new sections to read:

3 Sec. 36.20.020. CONTRACT SPECIFICATIONS. Contract specifica-
4 tions for a purchase or a contract award described in AS 36.20.010
5 must include a provision that a bidder that designates in a bid the
6 use of Alaska products identified in the specifications to the bid
7 will receive the preference granted under AS 36.20.040 in the eval-
8 uation of the bid if the designated Alaska products meet the contract
9 specifications.

10 Sec. 36.20.030. IDENTIFICATION OF ALASKA PRODUCTS. An agency of
11 the state, a municipality of the state, and a regional educational
12 attendance area may identify specific Alaska products for use in
13 making a purchase or awarding a contract under AS 36.20.010.

14 Sec. 36.20.040. GRANT OF PREFERENCE. (a) In the evaluation of
15 a bid, a bid that designates the use of Alaska products identified in
16 the contract specifications and designated as Class I, Class II, or
17 Class III state products under AS 36.20.060(a) and (b) is decreased by
18 the percentage of the value of the designated Alaska product under
19 AS 36.20.060(a) and (b).

20 (b) After determining the preference under (a) of this section,
21 the contract shall be awarded to the bidder submitting the lowest
22 total bid unless a different bidder must be awarded the contract under
23 AS 37.05.230(1).

24 (c) The contract amount of a contract awarded is the amount of
25 the bid offered by the bidder.

26 (d) This section does not apply to a purchase made or a contract
27 awarded that is financed in whole or in part with federal money or aid
28 if the preference is contrary to a federal law or regulation.

29 Sec. 36.20.050. PENALTY FOR FAILING TO USE DESIGNATED PRODUCTS.

1 (a) If a successful bidder who designates the use of an Alaska prod-
2 uct in a bid fails to provide the designated product for a reason
3 within the control of the successful bidder, each payment under the
4 contract shall be reduced according to the following schedule:

- 5 (1) for a Class I designated Alaska product - four percent;
6 (2) for a Class II designated Alaska product - six percent;
7 (3) for a Class III designated Alaska product - eight
8 percent.

9 (b) A person is not a responsible bidder if, in the preceding
10 three years, the person has twice designated the use of an Alaska
11 product in contract awarded under AS 36.20.010 and has each time
12 failed to provide the designated Alaska product for reasons within the
13 control of the bidder.

14 (c) An agency of the state, a municipality of the state, and a
15 regional educational attendance area using state money to make a
16 purchase or award a contract under AS 36.20.010 shall report to the
17 commissioner of commerce and economic development each contractor
18 penalized under (a) of this section. The commissioner of commerce and
19 economic development shall maintain a list of contractors determined
20 not to be responsible bidders under (b) of this section.

21 Sec. 36.20.060. CLASSIFICATION OF ALASKA PRODUCTS. (a) The
22 commissioner of commerce and economic development shall adopt regu-
23 lations establishing the value added in the state for materials and
24 supplies produced or manufactured in the state that are used in making
25 purchases and awarding contracts under AS 36.20.010 and shall publish
26 a list of the products annually. A supplier may request inclusion of
27 its product on the appropriate list.

28 (b) Materials and supplies with value added in the state that
29 are

- 1 (1) more than 25 percent and less than 50 percent of the
2 manufacturer's quoted price is a Class I product;
3 (2) 50 percent or more and less than 75 percent of the
4 manufacturer's quoted price is a Class II product; and
5 (3) 75 percent or more of a manufacturer's quoted price is
6 a Class III product.

- 7 (c) In a bid evaluation under AS 36.20.040,
8 (1) a Class I product is given a three percent preference;
9 (2) a Class II product is given a five percent preference;
10 and
11 (3) a Class III product is given a seven percent prefer-
12 ence.

13 * Sec. 5. AS 36.95.010 is amended by adding new paragraphs to read:

14 (9) "Alaska product" means a product produced or manufac-
15 tured in the state if the value added in the state is not less than 25
16 percent of the quoted price of the manufacturer;

17 (10) "product" means materials or supplies but does not
18 include gravel and asphalt;

19 (11) "produced or manufactured" means processing, develop-
20 ing, or making an item into a new item with a distinct character and
21 use through the application within the state of materials, labor,
22 skill, or other services.

23 * Sec. 6. AS 37.05.230(1) is amended to read:

24 (1) a contract for construction and repairs, or a purchase
25 of and contract for supplies, materials, equipment, and contractual
26 services must be based on competitive bids; an award shall be made to
27 the lowest responsible bidder after advertising for bids, except that

28 (A) notwithstanding an Alaska product preference
29 determined under AS 36.15.060 or AS 36.20.040, a bid shall be

1 awarded to an Alaska bidder if the bid price offered by a bidder
2 is not more than five per cent higher than the lowest bid price
3 offered by a nonresident bidder [BIDDER'S]; and

4 (B) competitive bids need not be required

5 (i) for contractual services where no competition
6 exists;

7 (ii) for sales involving fair trade items;

8 (iii) when, in the judgment of the purchasing agent,
9 food, clothing, or medical supplies, or materials for use in
10 laboratory and experimental studies may be purchased other-
11 wise to the best advantage of the state;

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

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

14 (vi) for professional services;

15 * Sec. 7. AS 37.05.260 is amended to read:

16 Sec. 37.05.260. PREFERENCE FOR ALASKA PRODUCTS. This chapter
17 does not modify, amend, or alter AS 36.15.010 and 36.15.020 regarding
18 preference for Alaska forest products, AS 36.15.060 regarding a pref-
19 erence for Alaska products, or AS 36.20.010 regarding preference to
20 producers or dealers in Alaska except as provided in AS 37.05.230(1).

21 * Sec. 8. This Act takes effect January 1, 1987.

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