

Offered: 4/30/88
Referred: Finance

5-0307P

Original sponsors: Donley, Grussendorf,
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1 IN THE HOUSE BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 45 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to an Alaska business bidder prefer-
7 ence, an Alaska products preference, and to procure-
8 ment involving state money; and providing for an
9 effective date."

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

11 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that due
12 to the state's noncontiguous geographic location and unique climate, busi-
13 ness dealings with non-Alaskan firms produce administrative expenses not
14 commonly incurred in business dealings with resident businesses.

15 (b) The purpose of the Alaska business bidder preference when the
16 state acts as a market participant is to reduce state administrative costs,
17 strengthen the state's tax and revenue base, encourage local industry,
18 reduce the social ills created by unemployment and an unstable economy, and
19 to strengthen and stabilize the state's economy.

20 * Sec. 2. AS 36.15.050(e) is amended to read:

21 (e) An interested party [, AS DEFINED IN AS 36.30.699,] may seek
22 administrative or judicial review of the award of a contract in viola-
23 tion of this section and may recover damages and seek other remedies
24 provided by law for the violation of this section, except that the
25 party may not recover lost profits.

26 * Sec. 3. AS 36.15.050(g) is amended to read:

27 (g) In this section,

28 (1) "agricultural products" includes, but is not limited
29 to, dairy products, timber and lumber harvested in the state and

1 products manufactured in the state from timber and lumber that has
2 been harvested in the state;

3 (2) "interested party" has the meaning given in AS 36.30.-
4 699;

5 (3) "state money" includes state grants and reimbursement
6 to municipalities, [AND] school districts, and other entities for
7 school or related construction, foundation funding for education,
8 municipal assistance, revenue sharing, and state funds for capital
9 projects.

10 * Sec. 4. AS 36.30.170(b) is repealed and reenacted to read:

11 (b) When awarding a contract based on solicited bids, the pro-
12 curement officer shall determine the lowest responsible and responsive
13 bidder after applying the preference applicable to the bid under
14 AS 36.30.322 - 36.30.338 and after applying the following preference
15 to the bid of each Alaska bidder:

16 (1) one percent, when the lowest nonresident bidder's bid
17 is \$10,000,000 or more;

18 (2) two percent, when the lowest nonresident bidder's bid
19 is more than \$500,000 and less than \$10,000,000;

20 (3) five percent, when the lowest nonresident bidder's bid
21 is more than \$100,000 and \$500,000 or less; or

22 (4) 10 percent, when the lowest nonresident bidder's bid is
23 \$100,000 or less.

24 * Sec. 5. AS 36.30.170(c) is amended to read:

25 (c) Notwithstanding (b) of this section, if [IF] a bidder qual-
26 ifies under (e) [(b)] of this section as an Alaska bidder, is offering
27 services through an employment program as defined under AS 36.30.-
28 100(c), and is the lowest responsible and responsive bidder after
29 receiving a 10 percent preference [WITH A BID THAT IS NOT MORE THAN 10

1 PERCENT HIGHER THAN THE LOWEST BID OF A NONRESIDENT], the procurement
2 officer shall award the contract to that bidder.

3 * Sec. 6. AS 36.30.170 is amended by adding a new subsection to read:

4 (e) In this section, "Alaska bidder" means a person who

5 (1) holds a current Alaska business license;

6 (2) does more than \$1,000,000 worth of annual business in
7 the state or performs more than 50 percent of the person's annual
8 business in the state, whichever is less;

9 (3) has maintained a permanent place of business in the
10 state staffed by the bidder or an employee of the bidder for a period
11 of six months immediately preceding the date of the bid;

12 (4) submits a bid for goods or services under the name that
13 appears on the person's current Alaska business license;

14 (5) is incorporated or qualified to do business under the
15 laws of the state, is a sole proprietorship and the proprietor is a
16 resident of the state, or is a partnership and all partners are resi-
17 dents of the state;

18 (6) if a joint venture, is composed entirely of persons who
19 qualify under (1) - (5) of this subsection; and

20 (7) is an Alaska domestic insurer, if the contract is
21 insurance-related and the procurement is based on solicited bids.

22 * Sec. 7. AS 36.30.250(b) is amended to read:

23 (b) In determining whether a proposal is advantageous to the
24 state, the procurement officer shall take into account, in accordance
25 with regulations of the commissioner, whether the offeror qualifies as
26 an Alaska bidder under AS 36.30.170(e) [AS 36.30.170(b)] or is offer-
27 ing the services of an employment program as defined in AS 36.30.-
28 100(c).

29 * Sec. 8. AS 36.30.850(e) is amended to read:

1 (e) AS 36.30.170 and 36.30.322 - 36.30.338 apply [APPLIES] to
2 all [INSURANCE] contracts involving state money, including state
3 grants and reimbursement to municipalities, school districts, and
4 other entities for school or related construction, foundation funding
5 for education, municipal assistance, revenue sharing, and state funds
6 for capital projects.

7 * Sec. 9. AS 36.30 is amended by adding a new section to read:

8 Sec. 36.30.895. COMBINATION OF PREFERENCES. In the evaluation
9 of a bid or proposal, if a contractor qualifies for an Alaska bidder
10 preference under AS 36.30.170(b) or (c) and is also entitled to an
11 Alaska products preference under AS 36.30.328 for a contract, the
12 procurement officer shall for the purpose of evaluation decrease the
13 bid or proposal price by the total of the two applicable percentage
14 preferences.

15 * Sec. 10. AS 36.30.900 is amended to read:

16 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter
17 does not modify AS 36.15.010 and 36.15.020 regarding preference for
18 Alaska forest products, or AS 36.15.050 and 36.15.060, regarding
19 preference for Alaska agricultural and fisheries products [, EXCEPT AS
20 PROVIDED IN AS 36.30.170(b) AND (c)].

21 * Sec. 11. AS 36.30.170(d) is repealed.

22 * Sec. 12. This Act takes effect January 1, 1989.