

S B

8 9

Introduced 1-31-79
Logged 1-31-79
Referrals Forwarded
Comm. meeting - 3-7-79 - held
Comm. letter

SB 89 S. HESS ~~Art 18-80~~ ^{Contract requiring competitive}
By: Kerttula ^{bidding on school transportation}
Contract

noted: Kerttula
Bob Green
Janice Kote

Sec. 37.05.220. Purchasing agent. The Department of Administration is the purchasing agent for the state. The department shall

- (1) purchase, rent, or otherwise provide for the furnishing of supplies, materials, equipment, or contractual services for all state agencies;
- (2) have power to authorize an agency to purchase directly certain specified supplies, materials, equipment, or contractual services under conditions and procedures prescribed in § 230 of this chapter;
- (3) prescribe the manner in which supplies, materials, and equipment shall be purchased, delivered, stored, and distributed;
- (4) prescribe the time, manner, authentication, and form of making acquisitions for supplies, materials, equipment, and contractual services;
- (5) fix standards of quality and quantity and develop standard specifications after consultation with the several state agencies, and approve or determine final specifications;
- (6) have power to transfer to or between agencies or to sell or trade to supplier, materials, and equipment of agencies which are surplus, obsolete, or unused; and the department shall make proper adjustments in the accounts of the agencies concerned;
- (7) prescribe the manner of inspecting deliveries of supplies, materials, and equipment and of making tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;
- (8) prescribe standard forms for bids and contracts for construction, purchases of supplies, and other purposes, which bids and contracts may contain provisions which the department considers necessary; but all contracts for construction shall require the filing of an acceptable performance bond and a penalty provision for failure to perform the contract according to its terms;
- (9) provide for other matters which may be necessary to carry out the provisions of this chapter and the rules and regulations adopted under it. (§ 1 art IV ch 82 SLA 1955; am §§ 6, 7 ch 186 SLA 1957; am § 1 ch 55 SLA 1960)

Am. Jur. and C.J.S. references. — 42
 Am. Jur., Public Funds, § 1 et seq.
 81 C.J.S. States §§ 168 to 176.

Sec. 37.05.230. Competitive bids. In the manner provided in this chapter and rules and regulations established under it

- (1) a contract for construction and repairs, or a purchase of and contract for supplies, materials, equipment, and contractual services must be based on competitive bids; an award shall be made to the lowest responsible bidder after advertising for bids, except that (A) Repealed by § 2 ch 92 SLA 1967; (B) a bid shall be awarded to an Alaska bidder if his bid is not more than five per cent higher than the lowest nonresident bidder's; and (C) competitive bids need not be required (i)

for contractual services where no competition exists; (ii) for sales involving fair trade items; (iii) when, in the judgment of the purchasing agent, food, clothing, or medical supplies, or materials for use in laboratory and experimental studies may be purchased otherwise to the best advantage of the state; (iv) where rates are fixed by law or ordinance; (v) for items traded in on like items; or (vi) for professional services;

(2) if the amount of the contractual services, purchase, or sale is estimated to exceed \$2,500 sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may negotiate directly if it finds that it is in the best interests of the state;

(3) a contractual service, purchase, or sale where the known requirements are estimated to be less than \$2,500 may be made either upon competitive bids in accordance with (2) of this section or in the open market, in the discretion of the department; but, so far as practicable, shall be based on at least three competitive bids and recorded as provided in § 240 of this chapter; small purchases of less than \$300 in the discretion of the department may be made on the open market, and may be by cash payment from petty cash accounts set aside for that purpose. the department shall determine the amount of the petty cash accounts needed by each state agency, and inspect the petty cash accounts at least once each year to determine that the total plus amounts of receipts for unreplenished disbursements is equal to the fixed sum of cash set aside. shortages in petty cash accounts are a personal liability of the responsible head of the agency to whom the account is set aside; the department shall make all necessary rules and regulations governing use and replenishment of petty cash funds;

* (4) the provisions of this section relative to competitive bids do not apply to contracts for the operation of transportation systems for students to and from the schools within the state, as are authorized under AS 14.10.070; and these contracts may be awarded by bid or negotiation and, at the discretion of the Board of Education, may be awarded for periods of three years or less;

(5) an "Alaska bidder," for the purpose of bid awards under (1) (2) of this section, is a person who

(A) holds a current Alaska business license,

(B) submits a bid for goods or services under the name as appeared on his current Alaska business license,

(C) has maintained a place of business within six months immediately preceding the date of (6) the competitive bid requirements of this section for air taxi services used by state employees when executed; the department affected shall pay the tariff rates as published by him with the Air Tariff for the type of aircraft required; the tariffs throughout the state and may reflect the diverse areas of the state; the air taxi service used in each case by the state employee who is to fly in the aircraft or state employee is flying in the aircraft by the employee cases the air taxi operator shall have complied with 02.05.260 and other prequalifying regulation department.

(7) the provisions of this section relative to an apply to contracts estimated to exceed \$5,000, of of Transportation and Public Facilities, which a 35.15, or the Department of Highways, which a 19.10.

(8) the provisions of this section relative to apply to the purchase of products or services made by a sheltered workshop. (§ 3 art IV ch 82 SL 23 ch 186 SLA 1957; am § 1 ch 77 SLA 1959; am § 1 ch 82 SLA 1964; am §§ 1, 2 ch 92 SLA 1970; am § 1 ch 92 SLA 1975; am §§ 1, 2 ch 19

Cross reference. — As to preference of producers or dealers in Alaska in making purchases or awarding contracts for supplies; see AS 36.20.010.

Effect of amendments. — The first 1975 amendment added paragraph (8).

The second 1975 amendment substituted "\$2,500" for "\$1,000" near the beginning of paragraphs (2) and (3) and substituted "\$300" for "\$100" near the middle of paragraph (3).

Editor's note. — AS 14.10.070, referred to in paragraph (4), was repealed by § 59, ch. 98, SLA 1986.

Pursuant to Executive Order No. 39 (1977), the reference to the Department of Transportation and Public Facilities has been substituted for a reference to the Department of Public Works in paragraph (7).

Legislative committee reports. — For report on 1962 amendment, see 1962 House Journal, pages 591, 592. For report on ch. 194, SLA 1975 (SB 279 am), see 1975 House Journal, p. 1541.

The purpose of this chapter was not only to protect the state and the public purse

from uneconomical failure to re because of po to insure tha a certain am with the competing contracts. 18

Preparation prerequisite of the at preparation to the secret prequalifica prerequisite projects, see

And filling the attorney pertaining contractors construction Gen., No. 2'

Publicatn bidding and same catch

Bids req franchise.

(6) has maintained a place of business within the state for a period of six months immediately preceding the date of his bid.

(5) the competitive bid requirements of this section do not apply to air taxi services used by state employees when no formal contract is executed; the department affected shall pay the air taxi operator the tariff rates as published by him with the Air Transportation Commission for the type of aircraft required; the tariffs need not be uniform throughout the state and may reflect the diverse conditions of various areas of the state; the air taxi service used in each case shall be selected by the state employee who is to fly in the aircraft, or if more than one state employee is flying in the aircraft by the employee in charge; in all cases the air taxi operator shall have complied with AS 02.05.010 — 02.05.260 and other prequalifying regulations established by the department.

(7) the provisions of this section relative to an "Alaska bidder" do not apply to contracts estimated to exceed \$5,000, of either the Department of Transportation and Public Facilities, which are authorized under AS 15.15, or the Department of Highways, which are authorized under AS 19.10.

(8) the provisions of this section relative to competitive bids do not apply to the purchase of products or services manufactured or provided by a sheltered workshop. (§ 3 art IV ch 82 SLA 1955; am §§ 8 — 10, 23 ch 186 SLA 1957; am § 1 ch 77 SLA 1959; am § 1 ch 158 SLA 1962; am § 1 ch 82 SLA 1964; am §§ 1, 2 ch 92 SLA 1967; am § 1 ch 61 SLA 1970; am § 1 ch 92 SLA 1975; am §§ 1, 2 ch 194 SLA 1975)

Cross reference. — As to preference of producers or dealers in Alaska in making purchases or awarding contracts for supplies, see AS 36.20.010.

Effect of amendments. — The first 1975 amendment added paragraph (8).

The second 1975 amendment substituted "\$2,500" for "\$1,000" near the beginning of paragraphs (2) and (3) and substituted "\$300" for "\$100" near the middle of paragraph (3).

Editor's note. — AS 14.10.070, referred to in paragraph (4), was repealed by § 59, ch 28, SLA 1966.

Pursuant to Executive Order No. 39 (1977), the reference to the Department of Transportation and Public Facilities has been substituted for a reference to the Department of Public Works in paragraph (1).

Legislative committee reports. — For report on 1962 amendment, see 1962 House Journal, pages 591, 592. For report on ch. 194, SLA 1975 (SB 279 am), see 1975 House Journal, p. 1541.

The purpose of this chapter was not only to protect the state and the public purse

from uneconomic contracts let because of failure to request competitive bids and because of possible favoritism, but was also to insure that contractors would be insured a certain amount of "fair play" in dealing with the state government and in competing with one another for state contracts. 1959 Op. Att'y Gen., No. 27.

Preparation of regulations as prerequisite for bidding. — For an opinion of the attorney general as to the preparation of regulations to be submitted to the secretary of state pertaining to the prequalification of contractors as a prerequisite for bidding on construction projects, see 1959 Op. Att'y Gen., No. 27.

And filing thereof. — For an opinion of the attorney general as to filing regulations pertaining to the prequalification of contractors as a prerequisite for bidding on construction projects, see 1959 Op. Att'y Gen., No. 27.

Publication of regulations concerning bidding and letting of contracts. — See same catchline in note to AS 37.05.020.

Bids required for exclusive lease or franchise. — The state cannot grant an