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# Alaska State Legislature

## Senate

Official Business

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SB 819 Summary:

Relates to contracts for architectural, engineering, and land surveying services. Provides the state shall award contracts for such services only on the basis of demonstrated competence and qualifications for the type of professional services required. Provides an attempt shall be made to negotiate a contract with the person or firm selected at a price that is fair and reasonable. Proposals are to be publicly ranked, and the state shall attempt to negotiate a fair and reasonable price with the best qualified contractor, and shall negotiate with other contractors, in order of ranking, if negotiations with the first ranking contractors are not successful. Provides the state may reject all or part of a proposal. Does not apply to contracts awarded in an emergency if the person awarding the contract certifies in writing that the emergency exists. Takes effect immediately.

(d) Votes required to be conducted under (c) of this section may be conducted by teleconference. (§ 1 ch 170 SLA 1980)

**Cross references.** — For the 1980 special appropriation to the reserve for emergency operating expenses account, see

Chapter 171, SLA 1980, in the Temporary and Special Acts binder.

#### Article 4. Uniform Purchasing.

##### Section

##### 230. Competitive bids

**Sec. 37.05.230. Competitive bids.** In the manner provided in AS 37.05.010 — 37.05.330 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competitive bids; an award shall be made to the lowest responsible bidder after advertising for bids, except that (A) Repealed by § 2 ch 92 SLA 1967; (B) a bid shall be awarded to an Alaska bidder if his bid is not more than five per cent higher than the lowest nonresident bidder's;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) where, 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 AS 37.05.240; 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 14.09.010; 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) (B) 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 appearing on his current Alaska business license,

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

(6) 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 35.15.010 — 35.15.120, or the Department of Highways, which are authorized under AS 19.10.010 — 19.10.280.

(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)

exclusive lease or franchise without the necessity of calling for bids. 1962 Op. Att'y Gen., No. 4.

As well as for extension thereof. — If an exclusive lease or franchise is in effect the state cannot extend the term thereof without calling for bids. 1962 Op. Att'y Gen., No. 4.

But not for nonexclusive lease or franchise. — The commissioner of public works has the authority to grant a nonexclusive lease or franchise without calling for competitive bids. 1962 Op. Att'y Gen., No. 4.

**Sec. 37.05.231. Estimation of flying hours required.** The state, when soliciting bids for air charter service, shall make available in writing to prospective bidders upon request an estimate of the flying hours required by each individual agency of the state which will take advantage of these services. (§ 1 ch 17 SLA 1967)

**Sec. 37.05.240. Award of contracts and purchases.** A contract or purchase made by or under the supervision of the department for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids. Bids may be rejected, and a bid shall be rejected if it contains a material alteration or erasure which is not initialed by the signer of the bid. The department may reject the bid of a bidder who is in arrears on taxes due the state or who failed to perform on a previous contract with the state. Where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance. Before the awarding of a contract for a building or the making of repairs upon a building, the department shall see that the bids conform with plans and specifications approved by the Department of Transportation and Public Facilities. All bids with the names of the bidders and the amounts of the bids, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the department for three years, unless reproduced by microfilming and these files or records are open to public inspection at all reasonable times. An aggrieved bidder may within five days after an award of contract appeal to the department for hearing, with notice to interested parties, for redetermination and final award in accordance with law. (§ 4 art IV ch 82 SLA 1955; am § 1 ch 64 SLA 1976)

**Effect of amendment.** — The 1976 amendment added "which is not initialed by the signer of the bid" to the end of the second sentence.

**Editor's note.** — Pursuant to Executive

Order No. 89 (1977), the reference to the Department of Transportation and Public Facilities has been substituted for a reference to the Department of Public Works near the middle of the section.

**Sec. 37.05.250. Delegation of duties.** The department may delegate the duties imposed by this chapter upon an employee of the state normally stationed in a town or location distant from the state capital. Agents so designated shall perform the duties as the department

(1) the contractor is, and for two years immediately preceding the award of the contract has been, a licensed contractor having his or its principal office in the state;

(2) the contractor certifies that he has not defaulted on a contract awarded to him during the period of three years preceding the award of a contract for which a bid is submitted;

(3) the contractor submits a financial statement, prepared within a period of nine months preceding the submission of a bid for the contract and certified by a public accountant or a certified public accountant licensed under AS 08.04.010 — 08.04.690, demonstrating that the contractor has a net worth of not less than 20 per cent of the amount of the contract for which a bid is submitted; and

(4) the total amount of all contracts which the contractor anticipates performing during the term of performance of the contract for which a bid is submitted does not exceed the net worth of the contractor reported in the certified financial statement prepared and submitted under (3) of this subsection by more than seven times. (§ 1 ch 81 SLA 1978)

**Cross references.** — As to limitation of home rule power regarding municipal exemption on contractor bond requirements, see AS 29.13.100(38). As to require-

ment that a municipality use ordinances to exempt contractors from compliance with general requirements relating to certain bonds, see AS 29.48.130(a)(12).

### Chapter 95. General Provisions.

#### Section

#### 10. Definitions

**Sec. 36.95.010. Definitions.** In AS 36.05.010 — 36.25.025 unless the context requires otherwise

(1) "contractor" means the contractor including subcontractors performing work necessary to facilitate public construction;

(3) "public construction" or "public works" means the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating of buildings, of highways or other improvements to real property under contract for the state, a political subdivision of the state, or a regional school board with respect to an educational facility under AS 14.08.161;

(am § 3 ch 89 SLA 1976; am § 16 ch 147 SLA 1978)

**Revisor's notes.** — AS 36.95.010(3) has been corrected by the reinsertion of the word "of" before and after the word "buildings" to return to the original wording of sec. 16, ch. 142, SLA 1972.

**Effect of amendments.** — The 1976 amendment substituted "subcontractors performing work necessary to facilitate public construction" for "the

subcontractor" in paragraph (1) and inserted "field surveying" in paragraph (3).

The 1978 amendment, in paragraph (3) deleted "or" following "for the state" and added "or a regional school board with respect to an educational facility under AS 14.08.161" to the end.