

SCR

18

M E M O R A N D U M

DATE: 7 March 1984
TO: Representative Rick Uehling
FROM: John Geary
RE: SCR 18

You requested that I research SCR 18, a Senate resolution by Sen. Vic Fischer to encourage Small Businesses in the State of Alaska.

The bottomline is to create a task force to assess state policy in contracting, local hire, and small business advocacy and to recommend measures that will promote, assist and assure that small business get a fair shake in state funded construction projects.

The Governor is requested to appoint the Attorney General to recommend measures available to the state to make sure the said small businesses get a reasonable portion of the state-funded construction projects.

SCR 18

Alaska State Legislature

Representative John Ringstad
District 20-B
P.O. Box 1848
Fairbanks, Alaska 99707
(907) 456-8336



While in Juneau
Pouch V
Juneau, Alaska 99611
(907) 465-4998

House of Representatives

February 22, 1984

TO: Representative John Cowdery
FROM: Representative John Ringstad
RE: NFIB, (National Federation of Independent Business)

A handwritten signature in dark ink, appearing to be "JR", is written over the "FROM:" line of the address block.

Attached, please find a copy of a letter from the NFIB, and a copy of their 1983 State Ballot survey results on various issues for your information. Gary L. Jenkins, Director of Governmental Relations/Alaska, (NFIB), will be in touch with you on these issues in the near future.

JCR/atb



February 13, 1984

The Honorable John Ringstad
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Ringstad:

Small business continues to be the largest generator of new jobs in the United States, however, the number of jobs which are created often are significantly effected by state legislative actions. To ensure that legislators have the benefit of knowing how existing law and proposed legislation affects small business, the National Federation of Independent Business has been working with, not only the Alaska Legislature, but state legislatures nationwide for several years.

In Alaska, NFIB currently has a membership in excess of 3,600 which means that we usually represent a significant majority of the retail and service businesses in each city in Alaska. Each year we send a ballot to all of our members requesting their input on issues of current interest in Alaska. This ballot permits each member to express their feelings on these issues and gives me direction regarding which issues should be pursued legislatively. I do not take a position on an issue for NFIB unless the members have voted on it and a majority favor the position being taken.

Enclosed for your information is a copy of our 1983 State Ballot showing the vote of the membership on the various issues. The issues which received strong support are ones which I will be discussing with legislators during this and subsequent legislative sessions.

If I can provide you any additional information on NFIB or if you would like to know our position on a particular issue, feel free to contact me.

Very truly yours,

Gary L. Jenkins, Director
Governmental Relations/Alaska

NFIB/ALASKA
Legislative Office
P.O. Box 194
Auke Bay, AK 99821
907/586-4100

Dear NFIB Member:

This Ballot is solicited by NFIB Research and Education Foundation to gather information pertaining to small business issues in your state.

Your answers are valuable and will enhance the survey.

Please return the entire Ballot. Thank you. _

Very truly yours,

John E. Sloan, Jr., President
NFIB Research and Education Foundation

GENERAL BUSINESS

Interest Rates

1. Should interest rate ceilings be repealed on: (vote on each)

- a. Bank loans of \$25,000 or less

32%	Favor	60%	Oppose	8%	Undecided
1		2		3	11
- b. Savings and loan association loans of \$25,000 or less

34%	Favor	58%	Oppose	8%	Undecided
1		2		3	11
- c. Retail installment contracts

36%	Favor	54%	Oppose	10%	Undecided
1		2		3	11
- d. Retail open-ended charge accounts

34%	Favor	56%	Oppose	10%	Undecided
1		2		3	14
- e. Credit card revolving accounts

33%	Favor	58%	Oppose	9%	Undecided
1		2		3	15
- f. State chartered credit unions

35%	Favor	55%	Oppose	10%	Undecided
1		2		3	16
- g. Small loan finance company loans of \$10,000 or less

33%	Favor	58%	Oppose	9%	Undecided
1		2		3	11

BACKGROUND: HB 246, presently in the Senate Labor and Commerce Committee proposes to remove all limitations on all types of credit in Alaska. The measure would permit each financial institution and all businesses extending credit to charge whatever interest rate they wish, subject only to competition of the marketplace and negotiation with each individual customer.

Current law limits banks and savings and loan associations to a maximum interest rate of 5% over the federal discount rate in effect at the time of the loan on any loan of \$25,000 or less. There are no interest rate limitations on loans in excess of \$25,000. During the past few months, the federal discount rate has been 8.5%, thereby setting the maximum allowable interest rate at 13.5%.

A retail business selling merchandise on a retail installment contract is presently limited to a maximum interest rate of 10% per year on the first \$1,000 of credit extended, and 8% on credit in excess of \$1,000. However, for retail businesses as well as credit card companies extending open-ended revolving charge accounts, the maximum interest rate is 18% per year on the first \$1,000 of credit extended and the federal discount rate plus 5% on credit in excess of \$1,000. A state chartered credit union is presently limited to 15% or 5% over the federal discount rate, whichever is higher on loans of any amount. Small loan finance companies can now levy a maximum interest rate of 36% per year on the first \$850 of credit extended and 24% on credit up to \$10,000.

Proponents of the removal of all interest rate limitations argue that many financial institutions and businesses lost money on their credit transactions during the period of very high interest rates and, further, the limits are no longer necessary. If the limitations were removed, the marketplace, i.e., competition for the financing, would set the rates at reasonable levels in line with the risks inherent in the particular credit transaction.

Opponents argue that Alaska does not have a well developed marketplace and there are many communities where no competition exists either for banking or retail credit. The removal of all limits would permit the charging of unreasonably high rates. Further, it has also been pointed out that in the case of consumer loans and small business loans under \$25,000, the marketplace seems to react very slowly when interest rates are falling in general. For example during the first few months in 1983 in California, where there are no interest rate limitations, interest rates being charged on small loans by banks were running at 20% to 25%, while rates in Alaska were about 14%.

Interest Rates

2. Should interest rates on balances of \$1,000 or less that are limited to a maximum, such as the 18% for business credit or credit card companies, be modified so the maximum rate could be increased with the federal discount rate, once the federal discount rate reached a pre-set level?
- | | | | | | |
|-----|-------|-----|--------|----|-----------|
| 39% | Favor | 52% | Oppose | 9% | Undecided |
| 1 | | 2 | | 3 | 18 |

BACKGROUND: Proponents of this concept feel that businesses extending financing and credit should not be so limited in the rates they charge that they lose money; therefore, the limitations should be allowed to rise when interest rates are generally high. It has been proposed that the maximum rate on accounts with balances of \$1,000 or less be set at 18%, or 6% over the federal discount rate, whichever is higher.

Opponents argue that the federal discount rate does not necessarily indicate the cost of funds to financial institutions or businesses. A variety of other factors affect the cost of funds to a particular entity. They argue, therefore, that it is more appropriate to remove all limitations and let market conditions establish the rates.

Bad Check Penalties

3. Do you favor or oppose increased civil and/or criminal penalties as an effective deterrent to the writing of bad checks?

$\frac{95\%}{1}$ Favor $\frac{4\%}{2}$ Oppose $\frac{1\%}{3}$ Undecided $\frac{1\%}{19}$

BACKGROUND: It is well established that bad checks are a problem that every business must deal with to some degree. However, the question has been raised whether the laws of Alaska are presently adequate to deal with the problem. It has been suggested that either or both the civil or criminal penalties should be made stronger to attempt to reduce the impact of this problem.

Bad Check Civil Penalties

4. Should legislation be adopted to require that bad-check writers repay not only the face value of the check and any court costs incurred by the receiver but also civil damages of \$100 (minimum) or triple the amount of the check?

$\frac{86\%}{1}$ Favor $\frac{10\%}{2}$ Oppose $\frac{4\%}{3}$ Undecided $\frac{10\%}{19}$

BACKGROUND: Law enforcement officials frequently do not pursue those who write bad checks for small amounts. Thus, the only deterrent to writing a bad check is the receiver's (merchant) collection efforts. Checks written for small amounts, which together may represent a deep cut in a business's profit, frequently cost more to collect than they are worth.

If the merchant was allowed to collect from the bad-check writer a minimum of \$100 or triple the amount of the check as damages, in addition to the base value of the check and any court costs incurred, there would be a real incentive for the merchant to collect and a deterrent to bad-check writing.

Check Information

5. Should financial institutions be required to number checks on new accounts beginning at #101 and display on the face of the check the month and year the account was opened?

$\frac{41\%}{1}$ Favor $\frac{49\%}{2}$ Oppose $\frac{10\%}{3}$ Undecided $\frac{11\%}{21}$

5A. Should banks be allowed to disclose to merchants the bank account information of those who issue checks which are returned because of insufficient funds? Such information might include account status, current address, phone number, and history of returned checks.

$\frac{66\%}{1}$ Favor $\frac{33\%}{2}$ Oppose $\frac{1\%}{3}$ Undecided $\frac{11\%}{21}$

BACKGROUND: In the United States, approximately 400,000 worthless checks are written every day. Eighty percent of those checking accounts are six months old or less. Numerical listing and date of account opening would alert merchants to new accounts and to take care in deciding whether to accept those checks. Additionally, several states have given financial institutions permission to disclose account information to either law enforcement officials or merchants who receive a worthless check.

Opponents of the numbering system believe it would create problems for individuals and businesses who for continuity purposes want to continue to number checks from where the old account left off.

LABOR

Mandatory Overtime Wages

6. Should existing law be repealed which requires a business with four or more employees to pay overtime to an employee who works more than 8 hours in one day, but does not work over 40 hours per week?

$\frac{73\%}{1}$ Favor $\frac{24\%}{2}$ Oppose $\frac{3\%}{3}$ Undecided $\frac{11\%}{21}$

BACKGROUND: Most small businesses require that a particular job be accomplished within a certain period. This may require an employee to work more than 8 hours on a particular day. However, the employee is given time off on other days of the week so as not to work more than 40 hours that particular week. Proponents of a change

say that law is particularly unfair to smaller businesses whose workload is heavy at certain times and slack on other days of the week. This flexibility of worker time should not impose an additional financial burden on smaller businesses.

Opponents to changing the law argue that employees working more than 8 hours in any one day should be given extra compensation in the form of overtime pay, whether they worked voluntarily or were required to do so by their employer. They feel daily overtime pay should be independent of the requirement to pay overtime to an employee who works more than 40 hours a week.

GOVERNMENT

Permanent Fund Income

7. Should the unused portion of the income from the Permanent Fund not allocated to the Dividend Program be authorized for the following?

a. The Longevity Bonus Program for the elderly

$\frac{41\%}{1}$ Favor $\frac{51\%}{2}$ Oppose $\frac{8\%}{3}$ Undecided $\frac{24\%}{24}$

Municipal Assistance Program

$\frac{24\%}{1}$ Favor $\frac{66\%}{2}$ Oppose $\frac{10\%}{3}$ Undecided $\frac{11\%}{21}$

BACKGROUND: During the 1983 Legislative Session bills were introduced which would require that part of the income of the Permanent Fund be held to finance the Longevity Bonus program and/or finance the municipal revenue sharing program. In the past, funding for such programs has been from the state's General Fund.

Proponents of using the income from the Permanent Fund to provide funds for these programs contend that this would not violate the intent of the Permanent Fund financing activities to benefit the maximum number of residents of the state. They argue that programs like the municipal assistance program are helping all communities of the state directly and thus benefit the residents of the various communities indirectly by reducing local taxation and providing needed services.

Opponents argue that the Legislature is merely looking for new sources to fund the expensive programs they have created the past few years which they do

NFIB

**National Federation
of Independent Business**

Research and Education Foundation
150 West 20th Avenue, San Mateo, CA 94403

Non-Profit
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1984 ALASKA STATE BALLOT

MAKE YOUR VOICE HEARD

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1984 ALASKA

Mail To:

NFIB

National Federation of Independent Business
Research and Education Foundation
150 West 20th Avenue
San Mateo, CA 94403

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Official Business

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

February 28, 1984

To: Rep. John Cowdery, Chair, and Members
House Labor and Commerce Committee

From: Senator Vic Fischer

Re: SCR 18 - relating to small business development

During the 1982 interim, the Senate State Affairs Committee conducted an investigation into the effects of state contracting procedures on small, minority and female owned businesses in Alaska.

In the course of that study, and through subsequent testimony before recent committee hearings on small business development in Alaska, it's become apparent that problems facing minorities and women are basically the same as those facing all small Alaska-owned businesses.

Besides the obvious problems associated with high costs, extreme weather, lack of infrastructure, and vast distances, small businesses face major problems in dealing with the state, particularly on state funded construction projects.

The state has no comprehensive policy of support and advocacy for small business development. We don't even have a working definition of "small" business that realistically reflects the kind of "mom and pop" operations most of us think of when we think of "small".

State construction projects are contracted in a manner that, often as not, preclude any Alaska-owned business from successful bidding, at least as a prime contractor. That leaves Alaskans in the position of competing for sub-contracts, usually with a large "outside" prime.

Lack of technical assistance, inability to secure adequate bonding, credit or financing, and an impossibly tight cash flow, makes successful competition for a sub-contract extremely difficult for small local businesses. Meanwhile the concrete continues to be poured and Alaskans continue to stand in the cold while someone else reaps the benefits of state funded construction projects.

It will take a push from both the legislative and executive branch to end this policy of "benign neglect" and take an active lead in assuring that small Alaska-owned businesses benefit from state capitol projects. I believe SCR 18 is a step in that direction.

SCR 18 asks the Governor to address these concerns through several measures including appointing a task force to assess state policy in contracting, local hire, and small business advocacy and to recommend measures that will:

- emphasize and promote small business development and maintenance
- assist in securing adequate sources of bonding, credit, and loans for small, Alaska-owned businesses
- specify, modify and contract state-funded construction projects in a manner to assure a reasonable portion of the work is performed by small, Alaska-owned businesses

Further, SCR 1 asks the Governor to direct the Attorney General to investigate and recommend measures available to the state to assure that a reasonable portion of state-funded construction and procurement dollars be contracted through small Alaska-owned businesses, consistent with provisions of the United States and state of Alaska's constitution.

Encouraging small business development in Alaska is the single most effective thing the state can do to provide for new industry and a stable economic base, opportunities for future growth to Alaska's young people, a diversified economy, and jobs for Alaskans.

More than that, the state benefits greatly from local businesses with strong community, family, and cultural commitments to Alaska. That business community, with proper nurturing, can maintain and strengthen the overall economy, mobilize the states full productive capacity, and preserve and expand the competition basic to our free enterprise system.

SCR 18 passed the Senate unanimously earlier this session. I hope it finds such favor in the House and appreciate your consideration of the bill in committee.

/gb

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



DRAFT

Senate State Affairs Committee 1982 interim report

EFFECTS OF STATE CONTRACTING PROCEDURES ON SMALL AND MINORITY-OWNED ALASKAN BUSINESSES

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Senate State Affairs Committee
1982 Interim Report

EFFECTS OF STATE CONTRACTING PROCEDURES ON
SMALL AND MINORITY-OWNED ALASKAN BUSINESSES

During the 1982 interim, the Senate State Affairs committee investigated the effects of state construction contracting procedures on small and minority-owned business in Alaska. This is a report on that effort.

Specifically, the committee examined an interagency agreement between the state Department of Transportation and Public Facilities (DOTPF) and the Alaska State Commission on Human Rights (ASCHR) affecting minority owned businesses contracting with the state.

The following report includes a review of that agreement, description of development and transmittal of a polling questionnaire, an analysis of the results, and recommendations based on suggestions and information received during the course of administering the questionnaire.

ASCHR/DOTPF AGREEMENT

In 1980 the ASCHR entered into an agreement with DOTPF to increase participation of minority owned businesses in contracting for state funded capital projects.

DOTPF agreed to take affirmative action in insuring minority owned business had an equitable chance to successfully bid state funded projects. Included in the agreement were provisions requiring that DOTPF:

- create the position of Minority Business Enterprise officer in DOTPF
- Prepare and distribute a policy and procedure memorandum outlining the scope and authority of the MBE officer
- charge the MBE officer with responsibility for developing and implementing an affirmative action plan
- identify and certify MBE's
- require successful prime contract bidders to submit proof of having contacted MBE's as subcontractors (when they intend to subcontract) for information and to solicit bids
- be responsible for notifying and informing minority owned businesses of contracting bids and procedures
- establish, print, maintain, update and distribute a MBE directory

DOTPF and ASCHR also agreed on goals for assuring a reasonable percent of total state construction dollars were contracted to minority owned businesses. Those goals required that 7.5% of total construction dollars for projects under \$100,000, not subject to competitive bid, to be contracted through MBE's in FY 1981 (the first year of the agreement), 11.5% in FY 1982, and 15% in FY 1983. Identical percentage goals were agreed upon for total subcontracting dollars on wholly state funded construction projects.

These goals were not considered quotas, and terms of the agreement provided that justified failure by DOTPF to meet these goals would not be considered to be a breach of the agreement.

The agreement further required that ASCHR actively monitor DOTPF's compliance and required DOTPF to provide adequate and accurate records to enable the Commission to document their compliance.

This agreement represented final resolution of a complaint originally filed with the Commission in December, 1978. After several months of negotiations between agencies, it was finalized and went into effect for the first time in 1980.

By June of 1982, a guest editorial in the Anchorage Times by E. Louis Overstreet, charged that DOTPF had not complied with the agreement. He based this charge on an "unreleased report" that "documents the failure of DOTPF to live up to the provision of an agreement it entered into with the Alaska Human Right commission in February 1980".

Shortly after that editorial appeared, a constituent delivered a copy of the ASHRC file charging DOTPF with non-compliance to the Senate State Affairs Committee. That constituent requested the committee to review the effectiveness of the agreement in increasing minority business participation and to find out why the ASCHR was "suppressing" a report of non-compliance under the "cover" of confidentiality.

The committee formally requested a compliance report from the ASCHR. ASCHR, however, was statutorily prevented from meeting the committee's request due to terms of the agreement with DOTPF* and restrictions under state law (AS 18.80.115).

The ASCHR subsequently filed an action in superior court charging DOTPF with non-compliance on October 14, 1982. However, until they had exhausted conciliation efforts, and met the time provisions for filing and rebuttal laid out in the agreement, they were prevented from disclosing any information about DOTPF's compliance or non-compliance.

* Part III, paragraph 4, of the agreement states: "Whether or not a breach of this agreement has occurred shall be determined by the superior court. Prior to filing an action seeking any such determination by the superior court, the parties agree to maintain strict confidentiality regarding any alleged breach and any conciliation efforts".

Because of the confidentiality restrictions, the committee was unable to enlist the help of the Commission or the Department in determining compliance with and effectiveness of the agreement. At the time they were asked to investigate, it was impossible to predict whether there had been compliance, how long conciliation efforts may take or, indeed, if they were being pursued at all.

The Committee met the same restriction and frustration the minority business community faced when asking for swift and affirmative state action in increasing opportunities to participate in state funded construction projects. In addition, as the committee of oversight, Senate State Affairs was vitally interested in how seriously state agencies complied with agreements made with the Commission.

In order to independently determine the effectiveness of this agreement, the committee prepared and distributed a questionnaire to prime and subcontractors relating to state construction contract award procedures, specifically as they apply to minority owned businesses and the DOTPF/ASCHR agreement.

Following is a description of that questionnaire, an analysis of the results, and recommendations based on suggestions and information received during the course of administering the questionnaire.

QUESTIONNAIRE DESCRIPTION AND METHOD

Two questionnaires were prepared by Committee staff with help from minority businesses, DOTPF's Minority Business Enterprises officer, the Minority Business Assistance Center, and the ASCHR Systemic Discrimination Unit. One was directed to prime contractors, the other to minority owned businesses eligible to subcontract a DOTPF project. (Copies of questionnaire are attached).

Committee staff obtained a list of bid applicants for DOTPF construction projects from 1980 to 1982 and were able to compile a mailing list from that information. When it could be determined, only successful bidders for DOTPF contracts were sent prime contractor questionnaire.

A mailing list for minority owned business was compiled from a directory provided by DOTPF's Minority Business Enterprise officer, the Minority Business Assistance Center, and other constituent sources. Each was sent a Minority Business Enterprise questionnaire.

In addition to returned questionnaires, some recipients phoned or wrote to the committee to provide additional comments or suggestions regarding state contracting procedures and small or minority owned businesses. Copies of that correspondence is available on request.

The two questionnaires covered a time period from June of 1980 through June of 1982 (the same time period as ASCHR's affirmative action agreement with DOTPF), and limited themselves to state funded construction projects.

Besides specific contracting information, contractors were also asked to provide suggestions and recommendations for legislation (or no legislation), to address the philosophical and public policy considerations of minority business set aside programs, and, in some cases, to provide business and personal history (residency, years in business, etc.)

Each questionnaire was accompanied by a Senate State Affairs Committee cover letter explaining the purpose of oversight on the DOTPF/ASCHR agreement. The committee requested return of the questionnaires within two weeks of transmittal and enclosed a self-addressed, stamped envelope in an attempt to increase timely participation in the polling process.

STATISTICAL ANALYSIS OF QUESTIONNAIRES

Prime Contractor Questionnaire:

- 436 questionnaires mailed, 49 returned = 11.2% return rate
- nearly half the respondents claimed to have been a successful DOTPF contractor during the time period covered.
- 20% claimed not to be aware of the MBE Directory, 25% didn't use the directory to locate sub-contractor, and nearly half said they "maintained their own list" for locating sub-contractors.
- significant number of respondents were not aware that a MBE contact form was required as part of a DOTPF bid package.
- 36% of respondents said they have never been contracted by DOTPF regarding minority owned businesses and state contracting.
- most prime contractors felt DOTPF was making a serious effort in assuring MBE's adequate opportunity to bid state construction contracts.
- 20 % of prime contractors said they were philosophically opposed to minority owned set aside or advocacy programs and that current MBE programs should be eliminated.
- 18% of respondents felt no legislative action was necessary.

Subcontractor Questionnaire:

- 450 mailed out, 58 returned = 12.9% return rate
- 79% of the respondents were certified as MBE's (12 in 1982, 17 in 1981, 11 in 1980)

- Over half the respondents indicated no awareness of MBE officer services
- over half claimed never to have received bid information from DOTPF.
- 28% of respondents had subcontracted on DOTPF projects.
- 33% of respondents claimed to have been contacted by prime contractors
- 67% of respondents claimed never to have been contacted by prime contractors
- of the successfully bid contracts, most were less than \$100,000.
- less than half of the respondents knew about the MBE contact form requirement.
- a majority of likely construction project bidders said they had problems getting bonding and credit.
- over half the respondents businesses have been operating in Alaska for over 3 years with half of those over five years.
- over half the respondents have lived in Alaska over 10 years with over half of them having lived here more than 20 years.

The general questions in the minority business questionnaire addressed and identified problems preventing small Alaskan owned businesses from successfully bidding on state funded construction contracts. A discussion of those problems follows.

PROBLEMS IDENTIFIED

In the last ten years, billions of dollars have been allocated for state funded construction contracts. The sudden explosion of construction, coupled with the size and scope of many projects, has placed small and minority owned Alaskan businesses at a tremendous disadvantage in successfully bidding for contracts.

Besides the "normal" problems with Alaskan-based businesses (high cost of labor and transportation, vast distances, little infrastructure etc.), small and minority owned businesses face special problems.

Minority owned businesses are usually small businesses (under \$1 million dollars in gross revenues per fiscal year) and are often unable to get bonding, loans or credit, for large-scale contracts. In

addition, they are often unaware of bidding procedures or notices, and are out of the mainstream of the contracting "network".

A brief review of DOTPF construction contract awards from 1978 through 1982 illustrates the problem well. While nearly 50% of the awards are in amounts under \$1 million dollars, they represent less than a third of total contract dollars. The vast majority of total construction dollars go to a relative handful of contracts over \$1 million dollars.

Most large-scale construction projects are awarded to out-of-state contractors. Even the existing state statute giving a bidders preference to Alaskan-based business, is not sufficient to overcome the competitive edge large, national or international companies have in bidding state funded construction contracts.

Since most of these prime contractors tend to subcontract to other "outside" companies, small and minority owned Alaskan businesses are excluded from taking advantage of the massive input of state dollars into capital projects.

The executive branch has attempted to address this issue through the ASCHR/DOTPF agreement but, so far, has been unable to insure that a reasonable portion of state funded construction dollars remain in Alaska through contracting with small and minority owned businesses.

LEGISLATIVE RECOMMENDATIONS

Specific statutes need addressed by the legislature, to assure a reasonable opportunity for Alaskan owned small businesses to participate in the current flood of state funded construction projects.

Following are recommendation for legislation based on information obtained from the questionnaires:

1. Establish an Alaska Small Business Administration under the Department of Commerce and Economic Development (DCED), modeled after the federal program that would: a) define small businesses for the purpose of this administration, b) provide a source of credit and bonding for Alaska based small businesses, c) promote and advocate for small business development and maintenance in Alaska.
2. Create a statewide office of minority business enterprises in the Department of Commerce and Economic Development, to aide, advocate and support small, minority owned businesses in Alaska.
3. Define "small" Alaskan-based businesses to realistically reflect the average assets and capabilities of existing contractors. Defining "small" as a business having under \$2 million dollars in gross revenues for the year preceeding application for certification under an Alaskan small business administration, appears, from the questionnaire, to be a reasonable definition for Alaska.

4. Give adequate bidder preference to Alaska-based businesses that are small and/or minority owned. The current 5% bidders preference should be raised to a 15% preference to small, Alaskan based businesses. The 15% preference should require that the low bidder receive the contract if they re-submit a bid within 10% of the next lowest bid submitted.
5. Require prime contractors and joint ventures to award no less than 50% of total subcontract dollars to small or minority owned Alaskan businesses identified and certified by the Department of Commerce and Economic Development.
6. Include women, Viet Nam veterans and other economically disadvantaged classes of Alaskans in minority status for the purpose of these contracting considerations.
7. Require that no less than 30% of state funded construction contracts be awarded in amounts under \$1 million dollars with half of those in amounts under \$250,000.
8. Pass a legislative resolution calling upon the Governor to create a task force to address state policy in contracting, local hire, and small business advocacy. Require that the executive, judicial, and legislative branch, as well as other working Alaskans, are included in the task force to assure full representation.*
9. Require surety bonders to keep adequate records to document why businesses are denied credit or bonding.

* Court decisions on the jurisdiction and authority of states to limit employment and contracting opportunities to residents or "protected" classes of citizens have been many and varied. A U.S. supreme court decision, issued in February 1983, upheld a Boston Mayor's Executive Order requiring that 50% of wages paid on city funded or administered construction projects be limited to Boston residents.

Based on the findings of that decision, Senate Bill 174, was introduced in the Alaska legislature on March 10, 1983, by Senator Joe Josephson. SB 174 requires that, when a construction project is wholly funded by state money and the state or an agency of the state is signatory to the contract, worker hours on a craft-by-craft basis must be performed at least 50% by bona fide state residents.

SB 174 adopts the specific language of the U.S. Supreme Court decision and replaces AS 36.10.010 in an attempt to strengthen Alaska hire preference laws to meet anticipated court challenges.

While not directly affecting small and minority business contracting, it appears that the Boston decision puts Alaska "back in the residency business". Alaska's authority to grant bidder preferences to resident owned small businesses, for instance, is strengthened by the supreme courts decision.



Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,
Anchorage, Alaska 99501
(907) 278-3654

Official Business

To: Alaskan Contractors (Prime Contractor Questionnaire)
From: Senator Vic Fischer, Chair
Senate State Affairs Committee
Date: September 29, 1982
Re: Minority business contracting

A handwritten signature in black ink, appearing to read "Vic Fischer", written over the "From:" line of the letterhead.

In the last five years, massive amounts of public dollars have gone to the State Department of Transportation and Public Facilities (DOTPF) for statewide construction projects.

It is the intent of the legislature that all Alaskan businesses are assured an equal chance to bid on and participate in state funded capital projects.

In order to assure this, the State Human Rights Commission entered into an agreement with DOTPF in June of 1980 to increase participation of minority owned small businesses in state construction contracting.

As the committee of oversight for the Human Rights Commission, the Senate State Affairs Committee is vitally interested in how seriously state agencies comply with agreements made with the Commission. We cannot determine this without your help.

The enclosed questionnaire was prepared by the Committee to help determine just how effective that agreement has been. Direct information from you is the only way to verify or refute the success of this agreement. Your response will be greatly appreciated.

The scope of this questionnaire includes contracts and sub-contracts involving minority owned businesses from June 1980 to June 1982. It does not include female owned businesses nor projects paid through federal, municipal or private funds.

The purpose of the agreement is to help, not hinder, your efforts to include small minority owned businesses in subcontracting procedures. We need to know if you think it has been successful and where you feel the system could be improved.

Please return this questionnaire by ²²October 15 to Senator Vic Fischer, Chair, Senate State Affairs Committee, 1024 W 6th Avenue, Suite 204-C, Anchorage, Alaska 99501. We have enclosed a self-addressed, stamped envelope for your convenience. For further information call Ginger Baim, in my office, at 278-3654.

COMPANY NAME: _____

ADDRESS: _____

PHONE: _____

1. Did you submit a bid on any contracts for DOTPF projects from June 1980 through June 1982? _____ Yes _____ No.

2. Have you subcontracted any work for DOTPF from June 1980 to June 1982? _____ Yes _____ No.

List firms you have subcontracted with on DOTPF projects from June 1980 to June 1982.

- 1. _____ 4. _____
- 2. _____ 5. _____
- 3. _____ 6. _____

(Please list additional firms on space provided at the end of this questionnaire.)

3. Are you aware of the MBE Directory prepared by DOTPF's Office of Minority Business Enterprises (OMBE) _____ Yes _____ No.

4. When did you become aware of this directory? _____

5. Did you refer to the MBE Directory when looking for subcontractors? _____ Yes _____ No.

6. Is the MBE Directory adequate for your needs? _____ Yes _____ No.
What would you like done to improve its usefulness to you?

7. How else do you contact MBE's? _____

Do you maintain your own list? _____ Yes _____ No.

8. Are you familiar with the MBE contact form provided by DOTPF? _____ Yes _____ No.



Senate Committee on State Affairs

Vic Fischer, Chairman • 1024 W. 6th Ave., Suite 204 C,
Anchorage, Alaska 99501
(907) 278-3654

Official Business

SUBCONTRACTOR QUESTIONNAIRE

To: Minority Business subcontractors

From: Senator Vic Fischer, Chair
Senate State Affairs Committee

Date: September 29, 1982

Re: MBE contracting on state funded projects.

In June of 1980 the state Human Rights Commission entered into an agreement with the Department of Transportation and Public Facilities (DOTPF) to increase participation of minority owned businesses in contracting for state funded capital projects.

As the committee of oversight on the Human Rights Commission, the Senate State Affairs Committee is vitally interested in how seriously state agencies comply with agreements made with the Commission. We cannot do this without your help.

The enclosed questionnaire was prepared by the Committee to help determine just how effective this agreement has been. Direct information from you is the only way to verify or refute information about compliance with that agreement.

The purpose of the agreement was to help, not hinder, efforts to include small minority owned businesses in subcontracting procedures. We need to know if you think it has been successful and where you feel the system could be improved.

Please return this questionnaire by October 15 to: Senator Vic Fischer, Chair, Senate State Affairs Committee, 1024 W 6th Avenue, Suite 204-C, Anchorage, Alaska 99501. We have enclosed a self-addressed, stamped envelope for your convenience. For further information call Ginger Baim, in my office, at 278-3654.

COMPANY NAME: _____

ADDRESS: _____

PHONE: _____

1. List the date your business was certified as a minority or female owned business by the state Department of Transportation and Public Facilities (DOTPF), Office of Minority Business Enterprises (OMBE).

2. What services are you aware of being performed by DOTPF's OMBE.

1. _____

2. _____

3. _____

3. How many times during the last year has your firm received information on contracting activity from DOTPF? _____
Was that information presented in a timely and understandable manner to you? _____ Yes _____ No. (Space is provided at the end of this questionnaire for additional comments).

4. Have you contacted DOTPF on your own? _____ Yes _____ No

If yes, under what circumstances, for what purpose, when etc.

5. Did you contract on a DOTPF project from June 1980 through June 1982?
_____ Yes _____ No. If yes, was DOTPF or the prime contractor aware that you are a minority owned business? _____ Yes _____ No.

6. List all prime contractors that have requested subcontract bids from your firm from June 1980 through June 1982.

1. _____ 3. _____

2. _____ 4. _____

5. _____ 6. _____

(List additional firms on space provided at end of questionnaire)

7. List the jobs you have performed on DOTPF projects and their contract value amount.

Contracts	Amounts	Year
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____

(Use additional space at end of questionnaire if necessary)

8. Are you aware that DOTPF cannot approve a subcontract until a MBE has been contacted and a completed contact form submitted? Yes No.

9. Are you aware of any subcontracts approved by DOTPF that did not contain the required MBE contact form? Yes No

10. Is obtaining bonding a problem? Yes No

11. Is getting lines of credit at local financial institutions a problem? Yes No Comments?

12. How long have you been in business? _____

13. How long have you lived in Alaska? _____

14. What do you feel are the major obstacles to your company's success in Alaska?

15. What would you like to see the legislature do to address the problem of minority business access to state contracting jobs, particularly through DOTPF?

Any other comments: _____

Name and Phone number of person filling out questionnaire:

MARCH 8, 1984

TO: JOHN
FROM: KEN
RE: SCR 18

IF THE GOVERNOR WERE TO IMPLEMENT THE REQUEST MADE IN THIS RESOLUTION, A STATE TASK FORCE WOULD BE APPOINTED, ITS PURPOSE WOULD BE TO PROMOTE SMALL BUSINESS DEVELOPMENT AND MAINTENANCE IN ALASKA.

SMALL BUSINESSES OPERATING IN ALASKA TODAY ARE PLAGUED BY A NUMBER PROBLEMS. I BELIEVE THE INTENTION OF THIS RESOLUTION IS TO SEEK THE ADMINISTRATIONS ASSISTANCE IN ESTABLISHING POLICY THAT WILL AIDE AND PROMOTE SMALL BUSINESS IN ALASKA.

QUESTIONS:

1. IN A REPORT FROM THE SENATE STATE AFFAIRS COMMITTEE IT WAS RECOMMENDED THAT THE LEGISLATURE ADDRESS SOME NEEDED STATUTE CHANGES THAT WOULD HELP SMALL BUSINESS. CAN YOU PERHAPS DEFINE THOSE REGULATIONS AND UPDATE THE STATUS OF ANY LEGISLATION THAT MIGHT AMEND THEM ?

2. HOW HAS THE DEPARTMENT OF COMMERCE REACTED TO THE SUGGESTION OF ESTABLISHING AN ALASKA SMALL BUSINESS ADMINISTRATION ?

3. HOW MUCH MONEY DO YOU THINK IT WOULD COST TO OPERATE THE OFFICES OF THE SMALL BUSINESS ADMINISTRATION AND THE MINORITY BUSINESS ENTERPRISES ?

4. HOW WOULD YOU DEFINE SMALL BUSINESS ?

5. HAS THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES IMPROVED ITS CONTRACTING RECORD SINCE THE SENATE STATE AFFAIRS RELEASED ITS REPORT ?

6. WHY DO YOU THINK THERE WAS SUCH A LOW NUMBER OF RESPONSES TO THE COMMITTEE'S QUESTIONNAIRE ?