

COMMITTEE REPORT  
SENATE

FURTHER:

3/19/86

Date 4/1/86

Mr. President

The Committee on FINANCE considered SB 341  
relating to state procurement and practices and procedures; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- ~~do pass~~ with attached amendment(s)
- replace with/or adopt CS for SB 341 (Jud.)  
new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation 8
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_

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MEMBERS HAVING  
OTHER RECOMMENDATIONS

~~John~~ No Rec

~~Rick~~ No Rec

Paul No Rec

John " "

Chairman

Chairman recommendation

SENATE JUDICIARY COMMITTEE SUBSTITUTE  
SENATE BILL 341  
SECTIONAL ANALYSIS

(Unless otherwise indicated, "commissioner" means commissioner of administration)

SECTION 1. The purposes of the act are outlined to include: simplification, clarification, modernization of the laws; consistency among the branches of government; increased public confidence; fair and equitable treatment of all vendors; increased economy in state procurement; broad-based competition; safeguards for the maintenance of a procurement system of quality and integrity; and elimination and prevention of discrimination in state contracting.

SECTION 2. A new chapter is added to AS 36 entitled "State Procurement Code."

Article 1. Organization of State Procurement.

Sec. 36.30.005. Centralization of procurement of supplies and services for state agencies is under the authority of the commissioner of administration and the chief procurement officer. Procurement of construction and procurements to or disposals from the state equipment fleet and the control over construction and the state equipment fleet is under the commissioner of transportation and public facilities.

The University of Alaska is subject to the requirements of SB 341, but has independent administrative authority and the ability to issue its own regulations implementing the chapter in conformance with state APA requirements.

Sec. 36.30.010. The chief procurement officer is selected by the commissioner; is responsible for procurement of supplies and services for agencies in the executive branch; is a partially exempt employee; must have a minimum of 5 years in public procurement; and may be removed by the commissioner only for cause. The term of office of the Chief Procurement Officer is 4 years. Duties of the Chief Procurement Officer are enumerated.

Sec. 36.30.015. The commissioner of transportation and public facilities may delegate to another agency the authority to contract for construction, after written determination has been made that the agency is capable of implementing the delegated authority. The commissioner of administration may delegate to an agency the authority to contract for its own supplies and services after a written

determination has been made that the agency is capable of implementing the delegated authority.

The authority to adopt regulations or dispose of surplus supplies may not be delegated. Agency contracts for the services of legal counsel must be approved by the department of law.

The Board of Directors of the Alaska Railroad Corporation must adopt procedures substantially equivalent to the procurement code and regulations adopted by the commissioner.

Sec. 36.30.020. Legislative Council must adopt procedures which are substantially equivalent to the procurement code.

Sec. 36.30.030. The administrative director of the court system must adopt procedures governing the procurement of supplies, services, professional services and construction by the judicial branch. The procedures shall be based upon the competitive principles established under the code, but may be adapted to the special needs of the judicial branch as determined by the administrator of courts.

Sec. 36.30.040. Procurement regulations must be adopted by the commissioner.

Sec. 36.30.050. A list of persons who desire to provide supplies, services or construction items to the state will be established and maintained by the commissioner. Evidence of a valid Alaska business license and a statement of the contractor's qualifications must be submitted to be included on the list. Construction contractors must also submit a valid certificate of registration. A biennial fee will be charged to offset the cost of administering the list. The list may be used by the state agencies in providing notice of intent to make small purchases.

Sec. 36.30.060. Specification regulations must be adopted by the commissioner. Specifications must promote overall economy for the purposes intended, encourage competition in satisfying the state's needs, and may not be unduly restrictive.

Sec. 36.30.070. Supply management is under the authority of the commissioner and regulations must be adopted which govern management of supplies, surplus supplies and transfer of excess supplies.

Sec. 36.30.080. The department shall lease necessary space, and contract for the lease of space for the use of the state or an agency. A lease or contract for a lease

may not be for a period of occupancy greater than 40 years. The department may enter into lease-financing agreements, which are subject to annual appropriation. If the department intends to enter into a lease or lease financing agreement with an annual rent anticipated to exceed \$1,000,000, notice must be provided the legislature for approval.

## Article 2. Competitive Sealed Bidding.

Sec. 36.30.100. Competitive sealed bidding is the preferred method of contracting. Competitive sealed bidding is not required for certain purchases, including professional services, which are itemized.

Sec. 36.30.110. When competitive sealed bidding is used, an invitation to bid is issued which must include the date by which the bid must be received, purchase description, and all contractual terms and conditions. Subcontractors must be listed. Evidence of a valid Alaska business license for all bidders and subcontractors must be submitted when responding to the ITB. A bidder for construction contracts must also submit evidence of the bidder's registration under AS 08.18 and evidence of registration for each listed subcontractor.

Sec. 36.30.115. Within 48 hours after the opening of bids, each bidder shall submit a list of the subcontractors the bidder proposes to use in the performance of the contract. Conditions under which a bidder may substitute a subcontractor are listed. A bidder who violates this section may either have the contract cancelled, or after notice and a hearing, be assessed a penalty in an amount not exceeding 10% of the value of the subcontract at issue.

Sec. 36.30.120. Bid security shall be required for all competitive sealed bidding for construction contracts which exceed an amount established by regulation. Bid security may be required for other types of supplies and services.

Sec. 36.30.130. Public notice of the ITB must be provided 21 days before the date for the opening of the bid, unless otherwise determined in writing by the chief procurement officer, or the commissioner of transportation and public facilities for construction or state equipment bids. Notice of solicitations must be published in the Alaska Administrative Journal. The state is liable for failing to substantially comply with the notice requirements of this section.

Sec. 36.30.140. Bid opening must be public, in the presence of witnesses, and relevant information must be recorded, which is open to public inspection. The bids are not open for public inspection until after a notice of intent to award a contract has been issued.

Sec. 36.30.150. The procurement officer must evaluate bids based on the requirements set out in the ITB. The criteria used for the evaluation of an award must be objectively measurable. Criteria may not be used in bid evaluation if they are not set out in the ITB.

A contract based on total or life cycle costs may be awarded only when the chief procurement officer or the commissioner of transportation and public facilities determines in writing that the contract promotes overall economy for the purposes intended, encourages competition, is not unduly restrictive, and is in the best interest of the state.

Sec. 36.30.160. Bids received after the bid due date indicated on the ITB may not be accepted unless the delay was due to an error of the contracting agency.

Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on bid mistakes shall be permitted in accordance with regulations and supported by written justification.

Sec. 36.30.170. Awards to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set out in the ITB shall be promptly made. The Alaska bidder preference is expanded to apply to all construction contracts. The lowest responsible and responsive Alaskan bidder with a bid not more than 10% higher than the lowest bid of a nonresident shall be awarded the contract. An Alaskan bidder who qualifies as an "employment program" shall be given preference also.

Sec. 36.30.190. Multi-step sealed bidding is allowed when it is considered impractical to initially prepare a definitive purchase description to support an award based on price. Unpriced technical offers are submitted, followed by an ITB limited to the bidders whose offers are determined to be technically qualified under the criteria established.

### Article 3. Competitive Sealed Proposals.

Sec. 36.30.200. Contracts may be awarded by competitive sealed proposals when the chief procurement officer, or

the commissioner of transportation and public facilities for construction and state equipment fleet contracts, determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the state.

Sec. 36.30.210. Request for proposals must contain the same information required for ITBs. The same notice provisions for ITBs apply for RFPs. An offeror must list the subcontractors within 48 hours after the date by which the proposals must be received. The same duties of bidders under ITBs apply to competitive sealed proposals.

Sec. 36.30.220. Standard overhead rate established by agencies and applicable to contracts for supplies and services, must be included in a RFP.

Sec. 36.30.230. Proposals are to be opened in a manner which avoids disclosure of contents to competing offerors during the process of negotiation. A register of proposals containing the name and address of each offeror shall be prepared and open for public inspection after the the notice of intent to award a contract is issued.

Sec. 36.30.240. Discussions with responsible offerors, who submit proposals determined to be reasonably susceptible of being selected for award, may be conducted for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submissions and before the award for the purpose of obtaining best and final offers. These discussions are exempted from the Alaska Open Meetings law.

Sec. 36.30.250. A contract under competitive sealed proposals shall be awarded to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the state taking into consideration price, the evaluation factors set out in the RFP, and whether the offeror qualifies as an Alaskan Bidder or is offering the services of an employment program.

Sec. 36.30.260. A contract awarded under competitive sealed proposals must contain: the amount of the contract; the date for supplies to be delivered or the term for services to be performed; a description of the services or supplies contracted for; and a certification that sufficient funds are available for the amount of the contract.

Sec. 36.30.270. Special procedures apply to contracts awarded to architects, engineers, and land surveyors. These provisions only apply to contracts negotiated by the executive branch.

Article 4. Other Procurement Methods.

Sec. 36.30.300. Sole source procurements may only be awarded if it is determined in writing that there is only one source for the required supply, service or construction. A sole source procurement may not be approved if a reasonable alternative source exists.

Sec. 36.30.310. Emergency procurements may be authorized under emergency conditions when there exists a threat to public health, welfare, or safety, and procurement through competitive sealed bids or competitive sealed proposals is impracticable, or contrary to the public interest, or to protect public or private property. A written determination of the basis for the emergency and for the selection of the particular contractor must be provided.

Sec. 36.30.320. Small procurements which do not exceed an aggregate amount of \$5,000 shall be made with competition that is practicable under the circumstances. A contract for professional services that does not exceed \$25,000 may be made in accordance with regulations adopted by the commissioner. Notice of small procurements shall be provided to Alaskan bidders designated by the commissioner under section 36.30.050(d).

Article 5. Contract Formation and Modification.

Sec. 36.30.340. If a contract contains a term that is in conflict with a state standard form contract term or if a standard term is deleted or modified by a term that is not standard, the contract must be approved by the department of law.

Sec. 36.30.350. Solicitations may be cancelled or any bids or proposals may be rejected, in whole or in part, or the date for opening bids or proposals may be delayed as may be specified in the solicitation, when it is in the best interest of the state. The reasons for cancellation, rejection, or delay in opening bids or proposals shall be made part of the contract file.

Sec. 36.30.360. A written determination of responsibility of a bidder or offeror shall be made by the procurement officer.

Sec. 36.30.362. The procurement officer must issue a written statement explaining the reasons a contract was awarded to a person who does not reside or maintain a place of business in Alaska, if the supplies, services, professional services or construction could have been obtained from in-state sources.

Sec. 36.30.365. At least 10 days before the formal award of a contract the procurement officer shall provide to each bidder or offeror notice of intent to award a contract.

Sec. 36.30.370. Any type of contract that will promote the best interests of the state may be used, except that the use of a cost-plus-a-percentage-of cost contract is prohibited.

Sec. 36.30.380. Except with respect to contracts awarded through competitive sealed bidding or firm fixed-price contracts, a contract type may not be used unless it has been approved in writing by the procurement officer.

Sec. 36.30.390. Unless otherwise provided by law, multi-term contracts are permitted, but subject to availability and appropriation of funds. Written determination must support multi-term contracts.

When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal periods, the contract shall be cancelled. The contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred, but not amortized in the price of the supplies or services delivered under the contract that are not otherwise recoverable.

Sec. 36.30.400. Cost or pricing data must be submitted and certified by contractors. This does not apply when: the contract price is based on adequate price competition; the contract price is set by law or regulation; or it is determined in writing that the requirements of this section are waived and the reasons for waiver are stated in writing.

Sec. 36.30.410. The state has the right to inspect the plant or place of business of a contractor or subcontractor that is related to the performance of a contract awarded or to be awarded by the state.

Sec. 36.30.420. The state may audit books and records of a person who has submitted cost or pricing data or receives a contract.

Sec. 36.30.430. The commissioner shall adopt regulations permitting the inclusion of clauses providing for adjustments in prices, time of performance, or other contract provisions, and appropriate remedies.

Sec. 36.30.460. Standard clauses in state contract may be modified if supported by a written determination that states the circumstances justifying the variation.

Sec. 36.30.470. If the certification of the fiscal officer or other responsible official discloses a resulting increase in the total project budget or the total contract budget, the procurement officer may not execute the contract modification, change order, or adjustment in contract price unless sufficient funds are available, or the scope of the project or contract is adjusted to permit the degree of completion that is feasible within the total project budget or total contract budget as it existed before the contract modification, change order, or adjustment in contract price.

Sec. 36.30.480. Cost principle regulations shall be adopted.

#### Article 6. Procurement Records and Reports.

Sec. 36.30.500. Procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the state archivist.

Sec. 36.30.510. A contract file open for public inspection must be kept by the commissioner and the contracting agency for each contract awarded under competitive sealed proposals. The file kept by the commissioner shall contain a summary of the information in the file of the contracting agency.

Sec. 36.30.520. The commissioner shall maintain for at least 5 years a record listing all sole source and emergency procurement contracts. An agency which has delegated procurement authority shall by October 1, of each year, submit records of all sole source and emergency procurement contracts to the commissioner.

Sec. 35.30.530. Procurement information is public except as otherwise provided by law.

Sec. 36.30.540. The commissioner shall biennially report to the legislature concerning procurements by agencies.

Article 7. Legal and Contractual Remedies.

Sec. 36.30.560. An interested party may protest the award of a contract, the proposed award of a contract, or a solicitation for goods, services or construction. The protest shall be filed with the procurement officer of the contracting agency in writing and must contain specified items.

Sec. 36.30.565. Time deadlines for filing protests are specified.

Sec. 36.30.570. Notice of a protest shall immediately be given to the contractor if a contract has been awarded or, if no award has been made, to all interested parties.

Sec. 36.30.575. If a protest is filed before a contract is awarded, the award may be made unless the procurement officer of the contracting agency determines in writing that: a reasonable probability exists that the protest will be sustained; or stay of the award is not contrary to the best interests of the state.

Sec. 36.30.580. A written decision by the procurement officer of the contracting agency shall be issued within 14 days after a protest has been filed, unless the time is extended up to 26 days for good cause. Notice shall be sent to the protester. If a decision is not made by the due date, the protester may proceed as if the procurement officer had issued a decision adverse to the protester.

Sec. 36.30.585. If the procurement officer sustains a protest the procurement officer shall implement an appropriate remedy.

Sec. 36.30.590. An appeal from a decision of a procurement officer on a protest must be filed with the appropriate commissioner within 5 days after the decision is received by the protester.

Sec. 36.30.595. The procurement officer shall immediately give notice of an appeal to the contractor if a contract has been awarded, or, if no award has been made, to all interested parties.

Sec. 36.30.600. If a protest appeal is filed before a contract is awarded and the award was stayed, the filing of the appeal automatically continues the stay until the commissioner of administration or transportation and public facilities makes a written determination that the award of the contract is necessary to protect substantial interests of the state.

Sec. 36.30.605. The procurement officer of the contracting agency shall file a complete report on the protest and decision with the commissioner of administration or transportation and public facilities within 7 days after a protest appeal is filed. The protester and all interested parties that have requested a copy of the appeal shall be furnished one. The protester may file comments on the protest report within 7 days after the report is received. Extensions may be granted.

Sec. 36.30.610. The commissioner of administration or transportation and public facilities shall dismiss a protest appeal before a hearing is held if it is determined in writing that the appeal is untimely. The appropriate commissioner may issue a decision on an appeal without a hearing if the appeal involves questions of law without genuine issues of fact.

Sec. 36.30.615. A hearing on a protest appeal shall be conducted according to AS 36.30.670 and regulations adopted.

Sec. 36.30.620. If a controversy, asserted by a contractor, concerning a contract awarded under this chapter cannot be resolved by agreement, the procurement officer shall, after receiving a written request by the contractor, issue a written decision no more than 90 days after receipt of all necessary information from the contractor, unless the due date is extended for good cause.

The decision shall be sent to the contractor. If a decision is not made by the due date, the contractor may proceed as if the procurement officer had issued a decision adverse to the contractor. If a controversy asserted by the state concerning a contract awarded cannot be resolved by agreement, the matter shall be immediately referred to the commissioner of administration or transportation and public facilities.

Sec. 36.30.625. An appeal from a decision of the procurement officer on a contract controversy may be filed by the contractor with the commissioner of administration or transportation and public facilities. The appeal shall be filed within 14 days after the decision is received by the contractor.

Sec. 36.30.630. A hearing on a contract controversy appealed to the commissioner or referred to the commissioner shall be conducted according to AS 36.30.670 and regulations adopted.

Sec. 36.30.632. The commissioners of administration and transportation and public facilities may delegate responsibilities under Sec. 36.30.590 and Sec. 36.30.630 to the head of the contracting agency.

Sec. 36.30.635. The commissioners of administration and transportation and public facilities may debar or suspend a person from consideration for award of contracts. Notice and opportunity for a hearing are specified.

Sec. 36.30.640. Causes for debarment or suspension are enumerated.

Sec. 36.30.645. The commissioners of administration and transportation and public facilities shall issue a written decision to debar or suspend.

Sec. 36.30.650. A person suspended is entitled to a hearing if the person files a written request for a hearing within 7 days after receipt of the notice of suspension.

Sec. 36.30.655. The commissioner shall maintain a list of all persons debarred or suspended from consideration for award of contracts.

Sec. 36.30.660. The commissioner of administration or the commissioner of transportation and public facilities may, at any time after a final decision to debar a person, reinstate the person after determining that the cause for which the person was debarred no longer exists or has been substantially mitigated.

A debarred person may request reinstatement. A hearing may be held on a reinstatement petition. A decision on reinstatement shall be made in writing within 7 days after a reinstatement petition is submitted. A decision under this section is not subject to judicial appeal.

Sec. 36.30.665. The commissioner of administration or transportation and public facilities may permit a debarred person to participate in a contract on a limited basis during the debarment period.

Sec. 36.30.670. The commissioner of administration or transportation and public facilities shall act as a hearing officer or appoint a hearing officer for a hearing conducted under this chapter. The provisions of the Administrative Procedure Act do not apply to a hearing conducted under this chapter. The authority of a hearing officer is outlined.

Sec. 36.30.675. If the commissioner of administration or transportation and public facilities is not acting as hearing officer, the hearing officer shall recommend a decision to the appropriate commissioner based on the evidence presented. The recommendation shall include findings of fact and conclusions of law. The appropriate commissioner may affirm, modify or reject the hearing

officer's recommendation or take any other appropriate action.

Sec. 36.30.680. A decision by the commissioner of administration is final, and shall be sent within 20 days after a hearing to all parties. A decision by the commissioner of transportation and public facilities involving procurement of construction shall be sent within 90 days after the hearing.

Sec. 36.30.685. A final decision of the commissioner of administration or transportation and public facilities may be appealed to the superior court in accordance with the Alaska Rules of Appellate Procedure.

Sec. 36.30.687. Civil and criminal sanctions are outlined for misrepresentations and fraudulent claims.

Sec. 36.30.690. This chapter and the regulations adopted under it are the exclusive procedures for asserting a claim against the state or an agency arising in relation to a procurement conducted under this chapter.

Sec. 36.30.695. The commissioner of administration may adopt by regulation additional rules of procedure.

Sec. 36.30.699. The definition of interested party is given.

#### Article 8. Intergovernmental Relations.

Sec. 36.30.700. Cooperative purchasing is authorized between public procurement units or external procurement activities in accordance with an agreement entered into between the participants.

Sec. 36.30.710. Sale, acquisition, or use of supplies among public procurement units or with external procurement activity may be done independent of certain requirements of this chapter.

Sec. 36.30.720. Joint use of facilities is allowable.

Sec. 36.30.730. A public procurement unit may provide personnel, information and technical services to a requesting public procurement unit or external procurement activity.

Sec. 36.30.735. Current Alaska law on restrictions of contracting with or employing experts on radiation hazards is retained.

Sec. 36.30.740. The commissioner may collect information concerning supplies, services or construction being procured or used by state public procurement units.

Sec. 36.30.750. Under a cooperative purchasing agreement, controversies arising between an administering public procurement unit and its bidders, offerors, or contractors shall be resolved in accordance with this chapter.

Sec. 36.30.790. Definitions for this article are provided.

#### Article 9. General Provisions.

Sec. 36.30.850. This chapter applies to contracts solicited or entered into after January 1, 1987, unless the parties agree to its application to a contract solicited or entered into before that date. This chapter applies to the disposal of state supplies and every expenditure of public funds irrespective of their sources, except as specified in AS 36.30.915.

This chapter does not apply to: grants; contracts for professional witnesses; contracts of the University of Alaska where the work is to be performed substantially by enrolled students; contracts for medical doctors and dentists; contracts for the purchase of residential child care services under AS 47.40; disposals of land or interest in land; disposals under AS 38.05; contracts for the preparation of ballots under AS 15.15.030; acquisitions or disposals of property and other contracts relating to airports; acquisitions of real property or disposals of obsolete property under AS 19.05.060, 19.05.100, 19.05.110 or 19.05.120; disposals of obsolete material or equipment under AS 35.20.060; leases of ferry terminal facilities under AS 19.60.010; or contracts of the department of fish and game for non-point-to-point flights requiring specialized flying and piloting skills.

Except for AS 36.30.700-36.30.895, this chapter does not apply to contracts between two or more agencies, the state and its political subdivisions, or the state and other governments.

Sec. 36.30.860. Unless displaced by the particular provision of this chapter, all other principles of law and equity shall supplement the provisions of this chapter.

Sec. 36.30.870. Regulations under this chapter shall be adopted in accordance with the Administrative Procedure Act. Regulations applicable to procurements of construction or procurements for or disposal of property

of the state equipment fleet shall be adopted by the commissioner of administration only after consultation with the commissioner of transportation and public facilities.

Sec. 36.30.880. This chapter requires all parties involved in the negotiation, performance, or administration of state contracts to act in good faith.

Sec. 36.30.890. If a procurement involves the expenditure of federal funds or federal assistance and there is a conflict between a provision of this chapter or a regulation adopted under a provision, the federal statute or regulation shall prevail.

Sec. 36.30.900. This chapter does not modify, amend, or alter laws regarding preference for Alaska forest products or preference to producers or dealers in Alaska, except as provided in AS 36.30.170(b) and (c).

Sec. 36.30.910. This chapter does not prevent purchasing through the general services administration as provided by law.

Sec. 36.30.920. Suspected anticompetitive practices are to be reported to the attorney general.

Sec. 36.30.930. In addition to penalties prescribed for unethical conduct, civil and criminal penalties are provided for violations of this chapter.

Sec. 36.30.940. The attorney general on behalf of the state shall enforce the provisions of this chapter.

Sec. 36.30.990. Definitions.

Sec. 36.30.995. This chapter may be cited as the State Procurement Code.

SECTION 3 through SECTION 66 amend other Alaska statutes to reflect the provisions of this chapter.

SECTION 67. The commissioner must report to the legislature by December 1, 1987, concerning procurements by state agencies during the first 6 months of 1987.

SECTION 68. The commissioner of administration shall adopt the regulations required under this chapter by January 1, 1987.

SECTION 69. This is the repealer section.

SECTION 70. Section 68 of this Act takes effect immediately.

SECTION 71. Except as provided in sec. 70, this Act takes effect January 1, 1987.

AMENDMENT #1

TO: CS SB 341 (Jud)

BY: Finance Committee

- Page 5, Line 9 After the word "The" delete "board" and insert boards.
- Page 5, Line 9 After the word "Corporation" insert and the Alaska State Housing Authority
- Page 7, Line 21 After the word "system," insert the Alaska State Housing Authority,
- Page 49, Line 22 After the word "municipality" insert or the Alaska State Housing Authority
- Page 52, Line 12 After the word "bequest" delete "or"
- Page 52, Line 13 After the word "agreement" insert or federal assistance agreement.
- Page 53, Line 6 After the word "statute" delete "or"
- Page 53, Line 6 After the word "regulation" insert , policy or requirment,
- Page 53, Line 7 After the word "statute" delete "or".
- Page 53, Line 7 After the word "regulation" insert , policy or requirement,
- Page 54, Line 12 After the "University of Alaska" insert , the Alaska State Housing Authority
- Page 55, Line 4 After the word "property;" insert nor does it include the construction of public housing.
- Page 62, Delete Lines 22 - 27. (Section 10 in its entirety).

AMENDMENT #2

TO: CS for SB 341 (Jud)

BY: Finance Committee

Page 10, Line 18 After the word "Within" delete "48  
hours" and insert two working days

Page 10, Line 19 After the word "bids," delete "each  
bidder" and insert the apparent two  
lowest bidders

Page 11, Line 5 After the word "listed;" insert the  
following:

(7) must be substituted in order for the  
prime contractor to satisfy required  
federal affirmative action  
requirements;

(8) Refuses to agree or abide with the  
bidder's labor agreement;

Renumber remaining sections accordingly

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CS SB 341 (Fin)  
 Title : Act relating to state procurement practices & procedures

Sponsor : Rules by Request  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Dept of Administration  
 BRU : General Services & Supply

Components : Purchasing

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		350.0	367.5	385.9	405.2	425.4

CAPITAL						
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REVENUE						
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND		350.0	367.5	385.9	405.2	425.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		350.0	367.5	385.9	405.2	425.4

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Senator Jan Faiks, Co-chairman  
 Division : Senate Finance Committee

Phone : 465-4523  
 Date : 4/1/86

Approved by Commissioner : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Date : \_\_\_\_\_

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

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**FISCAL DETAIL**

Agency Affected : Dept of Administration  
 BRU : Div of Admin Services

Components : Administrative Services

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0

CAPITAL		0	0	0	0	0
---------	--	---	---	---	---	---

REVENUE		0	0	0	0	0
---------	--	---	---	---	---	---

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		0	0	0	0	0

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Senator Jan Faiks, Co-chairman Phone : 465-4523  
 Division : Senate Finance Committee Date : 4/1/86

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CS SB 341 (Jud)  
 Title : Act relating to state  
procurement practices & procedures

**FISCAL DETAIL**

Agency Affected : Commerce & Economic Dev  
 BRU : Alaska State Housing Authority

Sponsor Rules by Request \_\_\_\_\_  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

Components : Housing Management

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE		0	0	0	0	0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		0	0	0	0	0

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Senator Jan Faiks, Co-chairman Phone : 465-4523  
 Division : Senate Finance Committee Date : 4/1/86

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CSSB 341 (Jud)  
 Title : Act relating to state  
procurement practices & procedures  
 Sponsor : Rules by Request  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Community & Regional Affairs  
 BRU : Local Govt Assistance;  
Child Assistance, Displaced  
Homemakers, Admin & Support  
 Components : Grants Admin, Child Care,  
Displaced Homemakers,  
Admin Services

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0
<b>CAPITAL</b>		0	0	0	0	0
<b>REVENUE</b>		0	0	0	0	0

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		0	0	0	0	0

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Senator Jan Faiks, Co-chairman Phone : 465-4523  
 Division : Senate Finance Committee Date : 4/1/86

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CS SB 341 (Jud)  
 Title : Act relating to state

Sponsor : Rules by Request  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Dept of Natural Resources  
 BRU : Management & Administration

Components : Administrative Services

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE		0	0	0	0	0
---------	--	---	---	---	---	---

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		0	0	0	0	0

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Senator Jan Faiks, Co-chairman Phone : 465-4523  
 Division : Senate Finance Committee Date : 4/1/86

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CS SB 341 (Jud)  
 Title : Act relating to state  
procurement practices & procedures  
 Sponsor : Rules by Request  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Dept of Environmental  
Conservation  
 BRU : \_\_\_\_\_  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0
<b>CAPITAL</b>		0	0	0	0	0
<b>REVENUE</b>		0	0	0	0	0

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		0	0	0	0	0

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Senator Jan Faiks, Co-chairman  
 Division : Senate Finance Committee

Phone : 465-4523  
 Date : 4/1/86

Approved by Commissioner : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Date : \_\_\_\_\_

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No: SB 341 (Jud)  
 Title: State Procurement Practices

Sponsor: Rules Committee  
 Requestor: Interim Comm. on Procurement  
 Date of Request: 1/16/86

**FISCAL DETAIL**

Agency Affected: Public Safety  
 BRU: Administration

Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by: Sid LaMonica, Administrative Officer Phone: 465-4328  
 Division: Public Safety Date: 1/16/86

Approved by Commissioner: [Signature] Date: 1-22-86  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CS SB 341 (Jud)  
 Title : Act relating to state  
procurement practices & procedures

Sponsor : Rules by Request  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Dept of Transportation  
and Public Facilities  
 BRU : \_\_\_\_\_

Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE		0	0	0	0	0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		0	0	0	0	0

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Senator Jan Faiks, Co-chairman *Jan Faiks* Phone : 4654523  
 Division : Senate Finance Committee *JF* Date : \_\_\_\_\_

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Offered: 3/19/86  
Referred: Finance

Original sponsor: Rules Committee  
By Request

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 341 (Judiciary)  
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 state procurement practices and  
7 procedures; and providing for an effective date."

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

9 \* Section 1. PURPOSE. This Act shall be construed and applied to  
10 promote its underlying purposes and policies. The underlying purposes and  
11 policies of this Act are to

12 (1) simplify, clarify, and modernize the law governing pro-  
13 curement by the state;

14 (2) establish consistent procurement principles for all branches  
15 of state government;

16 (3) provide for increased public confidence in the procedures  
17 followed in state procurement;

18 (4) ensure the fair and equitable treatment of all persons who  
19 deal with the procurement system of the state;

20 (5) provide increased economy in state procurement activities  
21 and maximize to the fullest extent practicable the purchasing value of  
22 state funds;

23 (6) foster effective broad-based competition within the free  
24 enterprise system;

25 (7) provide safeguards for the maintenance of a procurement  
26 system of quality and integrity;

27 (8) permit the continued development of state procurement prac-  
28 tices and policies; and

29 (9) eliminate and prevent discrimination in state contracting

1 because of race, religion, color, national origin, sex, age, marital sta-  
2 tus, pregnancy, parenthood, handicap, or political affiliation.

3 \* Sec. 2. AS 36 is amended by adding a new chapter to read:

4 CHAPTER 30. STATE PROCUREMENT CODE.

5 ARTICLE 1. ORGANIZATION OF STATE PROCUREMENT.

6 Sec. 36.30.005. CENTRALIZATION OF PROCUREMENT AUTHORITY. (a)

7 Except as otherwise provided, all rights, powers, duties, and author-  
8 ity relating to the procurement of supplies, services, and profes-  
9 sional services, and the control over supplies, services, and profes-  
10 sional services vested in or exercised by an agency on January 1,  
11 1987, are transferred to the commissioner of administration and to the  
12 chief procurement officer. Authority granted under this subsection  
13 shall be exercised in accordance with this chapter.

14 (b) Except as otherwise provided, all rights, powers, duties,  
15 and authority relating to the procurement of construction and procure-  
16 ments of equipment or services for the state equipment fleet and the  
17 control over construction of state facilities and the state equipment  
18 fleet vested in or exercised by an agency on January 1, 1987, are  
19 transferred to the commissioner of transportation and public  
20 facilities, subject to regulations adopted by the commissioner of  
21 administration. Notwithstanding AS 44.71.010, authority relating to  
22 disposals from the state equipment fleet is vested in the the  
23 commissioner of transportation and public facilities, subject to  
24 regulations adopted by the commissioner of administration. Authority  
25 granted under this subsection shall be exercised in accordance with  
26 this chapter.

27 (c) Notwithstanding other provisions of law, all rights, powers,  
28 duties, and authority relating to the procurement of supplies, servi-  
29 ces, professional services, and construction and the disposal of

1 supplies for the University of Alaska are transferred to the Board of  
2 Regents. To the maximum extent possible, authority granted under this  
3 subsection shall be exercised in accordance with this chapter. The  
4 Board of Regents shall adopt regulations under this subsection that  
5 are substantially equivalent to the regulations adopted by the commis-  
6 sioner of administration to implement this chapter. For the purposes  
7 of this subsection, unless the context otherwise requires, in this  
8 chapter

9 (1) "agency" means a subunit of the University of Alaska;

10 (2) "commissioner," "commissioner of administration," or  
11 "commissioner of transportation and public facilities" means the Board  
12 of Regents; and

13 (3) "chief procurement officer" or "attorney general" means  
14 the president of the University of Alaska.

15 Sec. 36.30.010. CHIEF PROCUREMENT OFFICER. (a) The commis-  
16 sioner shall appoint to the partially exempt service the chief pro-  
17 curement officer of the state. The chief procurement officer must  
18 have at least five years of prior experience in public procurement,  
19 including large scale procurement of supplies, services, or profes-  
20 sional services, and must be a person with demonstrated executive and  
21 organizational ability. The chief procurement officer may be removed  
22 by the commissioner only for cause. The term of office of the chief  
23 procurement officer is four years.

24 (b) Except as otherwise specifically provided in this chapter,  
25 the chief procurement officer shall

26 (1) procure or supervise the procurement of all supplies,  
27 services, and professional services needed by an agency;

28 (2) exercise general supervision and control over all  
29 inventories of supplies belonging to an agency and prescribe the

1 manner in which supplies shall be purchased, delivered, stored, and  
2 distributed;

3 (3) prescribe the time, manner, authentication, and form of  
4 making requisitions for supplies and services;

5 (4) sell, trade, transfer between agencies, or otherwise  
6 dispose of surplus, obsolete, or unused supplies and make proper  
7 adjustments in the accounts of agencies concerned;

8 (5) establish and maintain programs for the inspection,  
9 testing, and acceptance of supplies and services and the testing of  
10 samples submitted with bids;

11 (6) prescribe standard forms for bids and contracts; and

12 (7) provide for other matters that may be necessary to  
13 carry out the provisions of this chapter and the regulations adopted  
14 under this chapter.

15 Sec. 36.30.015. EXECUTIVE BRANCH AGENCIES. (a) The commis-  
16 sioner of transportation and public facilities may delegate to another  
17 agency the authority to contract for construction. Before delegating  
18 authority to an agency under this subsection, the commissioner of  
19 transportation and public facilities shall make a written determina-  
20 tion that the agency is capable of implementing the delegated author-  
21 ity. Notwithstanding delegation of authority under this subsection,  
22 contracts for construction are governed by this chapter and regula-  
23 tions adopted by the commissioner of administration under this chap-  
24 ter.

25 (b) The commissioner of administration may delegate to an agency  
26 the authority to contract for and manage services, professional servi-  
27 ces, and supplies. Notwithstanding delegation of authority under this  
28 subsection, an agency's exercise of the authority is governed by this  
29 chapter and regulations adopted by the commissioner under this

1 chapter. Before delegating authority to an agency under this  
2 subsection, the commissioner shall make a written determination that  
3 the agency is capable of implementing the delegated authority.

4 (c) The commissioner of administration may not delegate the  
5 authority to dispose of supplies or the authority to adopt regulations  
6 under this chapter.

7 (d) An agency may not contract for the services of legal counsel  
8 without the approval of the attorney general.

9 (e) The board of directors of the Alaska Railroad Corporation  
10 shall adopt procedures to govern the procurement of supplies, ser-  
11 vices, professional services, and construction by the corporation.  
12 The procedures must be substantially equivalent to the procedures pre-  
13 scribed in this chapter and in regulations adopted under this chapter.

14 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall  
15 adopt procedures to govern the procurement of supplies, services,  
16 professional services, and construction by the legislature, legisla-  
17 tors, and legislative agencies and committees. The procedures must be  
18 substantially equivalent to the procedures prescribed in this chapter.

19 Sec. 36.30.030. COURT SYSTEM. The administrative director of  
20 courts shall adopt procedures to govern the procurement of supplies,  
21 services, professional services, and construction by the judicial  
22 branch. The procedures must be based on the competitive principles  
23 established under this chapter and must be adapted to the special  
24 needs of the judicial branch as determined by the administrator of  
25 courts.

26 Sec. 36.30.040. PROCUREMENT REGULATIONS. (a) The commissioner  
27 shall adopt regulations governing the procurement, management, and  
28 control of supplies, services, professional services and construction  
29 by agencies. The commissioner may audit and monitor the imple-

1           mentation of the regulations and the requirements of this chapter with  
2           respect to using agencies.

3           (b) The commissioner shall adopt regulations pertaining to the  
4           following:

5                   (1) suspension, debarment, and reinstatement of prospective  
6           bidders and contractors;

7                   (2) bid protests;

8                   (3) conditions and procedures for the procurement of per-  
9           ishables and items for resale;

10                  (4) conditions and procedures for the use of source selec-  
11           tion methods authorized by this chapter, including sole source pro-  
12           curements, emergency procurements, and small procurements;

13                  (5) the opening or rejection of bids and offers, and waiver  
14           of informalities in bids and offers;

15                  (6) confidentiality of technical data and trade secrets  
16           submitted by actual or prospective bidders or offerors;

17                  (7) partial, progressive, and multiple awards;

18                  (8) storerooms and inventories, including determination of  
19           appropriate stock levels and the management of agency supplies;

20                  (9) transfer, sale or other disposal of supplies;

21                  (10) definitions and classes of contractual services and  
22           procedures for acquiring them;

23                  (11) providing for conducting price analysis;

24                  (12) use of payment and performance bonds in connection with  
25           contracts for supplies, services, and construction;

26                  (13) guidelines for use of cost principles in negotiations,  
27           adjustments, and settlements;

28                  (14) conditions under which an agency may use the services  
29           of an employment program as defined under AS 36.30.100(c);

1           (15) a bidder's or offeror's duties under AS 36.30.115 and  
2 36.30.210; and

3           (16) the elimination and prevention of discrimination in  
4 state contracting because of race, religion, color, national origin,  
5 sex, age, marital status, pregnancy, parenthood, handicap, or politi-  
6 cal affiliation.

7           Sec. 36.30.050. LISTS OF CONTRACTORS. (a) The commissioner  
8 shall establish and maintain lists of persons who desire to provide  
9 supplies, services, professional services, or construction services to  
10 the state.

11           (b) A person who desires to be on a list shall submit to the  
12 commissioner evidence of a valid Alaska business license together with  
13 a biennial fee established by regulation in an amount reasonably  
14 calculated to pay the costs of administering this section. A con-  
15 struction contractor shall also submit a valid certificate of regis-  
16 tration issued under AS 08.18. The commissioner, by regulation, may  
17 require submission of additional information.

18           (c) The lists may be used by the chief procurement officer or an  
19 agency when issuing invitations to bid or requests for proposals under  
20 this chapter. The lists may be used by the Legislative Council, the  
21 court system, and the Alaska Railroad Corporation.

22           (d) The lists shall be used in providing notice of intent to  
23 make a small procurement to Alaska bidders as defined under  
24 AS 36.30.170(c). A procurement officer who intends to make a  
25 procurement under AS 36.30.320 shall request names from the appropri-  
26 ate list and the department shall furnish names of Alaska bidders on a  
27 rotating basis from the list in response to each request.

28           Sec. 36.30.060. SPECIFICATIONS. (a) The commissioner shall  
29 adopt regulations governing the preparation, revision, and content of

1 specifications for supplies, services, professional services, and  
2 construction required by an agency. The commissioner shall monitor  
3 the use of these specifications.

4 (b) Specifications for construction of highways must conform as  
5 closely as practicable to those adopted by the American Association of  
6 State Highway and Transportation Officials.

7 (c) The commissioner may obtain expert advice and assistance  
8 from personnel of using agencies in the development of specifications.  
9 Specifications must promote overall economy for the purposes intended  
10 and encourage competition in satisfying the state's needs, and may not  
11 be unduly restrictive. The requirements of this subsection regarding  
12 the purposes and nonrestrictiveness of specifications apply to all  
13 specifications, including those prepared by architects, engineers,  
14 designers, and other professionals.

15 (d) In this section, "specification" means a description of the  
16 physical or functional characteristics, or of the nature of a supply,  
17 service, professional service, or construction project; it may include  
18 requirements for licensing, inspecting, testing, and delivery.

19 Sec. 36.30.070. SUPPLY MANAGEMENT. The commissioner shall adopt  
20 regulations governing the

21 (1) management of supplies during their entire life cycle;

22 (2) sale, lease, or disposal of surplus supplies by public  
23 auction, competitive sealed bidding, or other appropriate method;

24 (3) purchase of surplus supplies by an employee of the  
25 using or disposing agency; and

26 (4) transfer of excess supplies.

27 Sec. 36.30.080. LEASES. (a) The department shall lease space  
28 for the use of the state or an agency wherever it is necessary and  
29 feasible, subject to compliance with the requirements of this chapter.

1 A lease may not provide for a period of occupancy greater than 40  
2 years. An agency requiring office, warehouse, or other space shall  
3 lease the space through the department.

4 (b) The department may enter into lease-financing agreements,  
5 including lease-purchase agreements and agreements related to the  
6 issuance of certificates of participation. A lease-financing agree-  
7 ment must provide that lease payments are subject to annual appropria-  
8 tion.

9 (c) If the department intends to enter into a lease or lease-  
10 financing agreement with an annual rent to the state anticipated to  
11 exceed \$1,000,000, the department shall provide notice to the legisla-  
12 ture. The notice must include the anticipated annual lease obligation  
13 amount and the anticipated total construction, acquisition, or other  
14 costs of the projec The department may not enter into an agreement  
15 under this subsection unless the project has been approved by the  
16 legislature by law. An appropriation for the project does not consti-  
17 tute approval of the project for purposes of this subsection.

18 ARTICLE 2. COMPETITIVE SEALED BIDDING.

19 Sec. 36.30.100. GENERAL POLICY. (a) Except as ocherwise pro-  
20 vided in this chapter, or unless specifically exempted by law, an  
21 agency contract shall be awarded by competitive sealed bidding.

22 (b) Competitive sealed bidding is not required

23 (1) when the commissioner determines in writing that food,  
24 clothing, or medical supplies, or materials for use in laboratory or  
25 medical studies may be purchased otherwise to the best advantage of  
26 the state;

27 (2) when rates are fixed by law or ordinance;

28 (3) for the purchase of products or services manufactured  
29 or provided by an employment program;

1 (4) for the purchase of products or services provided by  
2 the correctional industries program established under AS 33.32;

3 (5) for professional services; or

4 (6) for concessions operated on state property.

5 (c) In this section "employment program" means a nonprofit  
6 program to increase employment opportunities for individuals with  
7 physical or mental disabilities that constitute substantial handicaps  
8 to employment.

9 Sec. 36.30.110. INVITATION TO BID. (a) When competitive sealed  
10 bidding is used, the procurement officer shall issue an invitation to  
11 bid. It must include a time, place and date by which the bid must be  
12 received, purchase description, and a description of all contractual  
13 terms and conditions applicable to the procurement.

14 (b) When responding to the invitation to bid, the bidder shall  
15 supply evidence of the bidder's valid Alaska business license. A  
16 bidder for a construction contract shall also submit evidence of the  
17 bidder's registration under AS 08.18.

18 Sec. 36.30.115. SUBCONTRACTORS. (a) Within 48 hours after the  
19 opening of bids, each bidder shall submit a list of the subcontractors  
20 the bidder proposes to use in the performance of the contract. The  
21 list shall include the name and location of the place of business for  
22 each subcontractor and evidence of the subcontractor's valid Alaska  
23 business license. A bidder for a construction contract shall also  
24 submit evidence of each subcontractor's registration under AS 08.18.

25 (b) A bidder may replace a listed subcontractor only if the  
26 subcontractor

27 (1) fails to comply with AS 08.18;

28 (2) files for bankruptcy or becomes insolvent;

29 (3) fails to execute a contract with the bidder involving

1 performance of the work for which the subcontractor was listed;

2 (4) fails to obtain bonding;

3 (5) fails to obtain insurance acceptable to the state;

4 (6) fails to perform the contract with the bidder involving  
5 work for which the subcontractor was listed; or

6 (7) is determined by the procurement officer not to be a  
7 responsible bidder.

8 (c) If a bidder fails to list a subcontractor or lists more than  
9 one subcontractor for the same portion of work and the value of that  
10 work is in excess of half of one percent of the total bid, the bidder  
11 shall be considered to have agreed to perform that portion of work  
12 without the use of a subcontractor and to have represented the bidder  
13 to be qualified to perform that work.

14 (d) A bidder who attempts to circumvent the requirements of this  
15 section by listing as a subcontractor another contractor who, in turn,  
16 sublets the majority of the work required under the contract violates  
17 this section.

18 (e) If a contract is awarded to a bidder who violates this  
19 section, the purchasing officer may

20 (1) cancel the contract; or

21 (2) after notice and a hearing, assess a penalty on the  
22 bidder in an amount that does not exceed 10 percent of the value of  
23 the subcontract at issue.

24 Sec. 36.30.120. BID SECURITY. (a) Bid security shall be re-  
25 quired for all competitive sealed bidding for construction contracts  
26 when the price is estimated by the procurement officer to exceed an  
27 amount established by regulation of the commissioner. Bid security on  
28 construction contracts under the amount set by the commissioner may be  
29 required when the circumstances warrant. Bid security may be required

1 for competitive sealed bidding for contracts for supplies, services,  
2 or professional services in accordance with regulations of the commis-  
3 sioner when needed for the protection of the state.

4 (b) Bid security must be a bond provided by a surety company  
5 authorized to do business in the state or otherwise supplied in a form  
6 satisfactory to the commissioner. Bid security must be in an amount  
7 equal to at least

8 (1) 10 percent of the amount of the bid if the bid does not  
9 exceed \$100,000; or

10 (2) 10 percent of the first \$100,000 and five percent of  
11 the amount of the bid over \$100,000 if the bid exceeds \$100,000 up to  
12 a maximum of \$200,000 in security.

13 (c) When the invitation to bid requires security, the procure-  
14 ment officer shall reject a bid that does not comply with the bid  
15 security requirement unless, in accordance with regulations, the  
16 officer determines that the bid fails to comply in a nonsubstantial  
17 manner with the security requirements.

18 Sec. 36.30.130. PUBLIC NOTICE OF INVITATION TO BID. (a) The  
19 procurement officer shall give adequate public notice of the invita-  
20 tion to bid at least 21 days before the date for the opening of bids.  
21 If a determination is made in writing that a shorter notice period is  
22 necessary for a particular bid, the 21-day period may be shortened.  
23 The determination shall be made by the chief procurement officer for  
24 bids for supplies, services, or professional services. The determina-  
25 tion shall be made by the commissioner of transportation and public  
26 facilities for bids for construction or acquisition of property for  
27 the state equipment fleet. Notice shall be published in the Alaska  
28 Administrative Journal. The time and manner of notice must be in  
29 accordance with regulations adopted by the commissioner of

1 administration. When practicable, notice may include

2 (1) publication in a newspaper calculated to reach prospec-  
3 tive bidders;

4 (2) notices posted in public places within the area where  
5 the work is to be performed or the material furnished; and

6 (3) notices mailed to all active prospective contractors on  
7 the appropriate list maintained under AS 36.30.050.

8 (b) Failure to comply with the notice requirements of this  
9 section does not invalidate a bid or the award of a contract. If the  
10 state fails to substantially comply with the requirements of (a) of  
11 this section, the state is liable for damages caused by that failure.

12 Sec. 36.30.140. BID OPENING. (a) The procurement officer shall  
13 open bids publicly in the presence of one or more witnesses at the  
14 time and place designated in the invitation to bid. The amount of  
15 each bid and other relevant information that is specified by regula-  
16 tion of the commissioner, together with the name of each bidder, shall  
17 be recorded.

18 (b) The information recorded under (a) of this section is open  
19 to public inspection as soon as practicable before the notice of  
20 intent to award a contract is given under AS 36.30.365. The bids are  
21 not open for public inspection until after the notice of intent to  
22 award a contract is given. To the extent the bidder designates and  
23 the procurement officer concurs, trade secrets and other proprietary  
24 data contained in a bid document are confidential.

25 Sec. 36.30.150. BID ACCEPTANCE AND BID EVALUATION. (a) Bids  
26 shall be unconditionally accepted without alteration or correction,  
27 except as authorized in AS 36.30.160. The procurement officer shall  
28 evaluate bids based on the requirements set out in the invitation to  
29 bid, which may include criteria to determine acceptability such as

1 inspection, testing, quality, delivery, and suitability for a parti-  
2 cular purpose. The criteria that will affect the bid price and be  
3 considered in evaluation for award must be objectively measurable,  
4 such as discounts, transportation costs, and total or life cycle  
5 costs. The invitation to bid must set out the evaluation criteria to  
6 be used. Criteria may not be used in bid evaluation if they are not  
7 set out in the invitation to bid.

8 (b) A contract based on total or life cycle costs may be awarded  
9 only when the chief procurement officer or, for construction contracts  
10 or procurements for the state equipment fleet, the commissioner of  
11 transportation and public facilities, determines in writing at the  
12 time of contract solicitation that the contract promotes overall  
13 economy for the purposes intended, encourages competition, is not  
14 unduly restrictive, and is in the best interests of the state.

15 Sec. 36.30.160. LATE BIDS; CORRECTION OR WITHDRAWAL OF BIDS;  
16 CANCELLATION OF AWARDS. (a) Bids received after the bid due date and  
17 time indicated on the invitation to bid may not be accepted unless the  
18 delay was due to an error of the contracting agency.

19 (b) Correction or withdrawal of inadvertently erroneous bids  
20 before or after bid opening, or cancellation of awards or contracts  
21 based on bid mistakes may be permitted in accordance with regulations  
22 adopted by the commissioner. After bid opening, changes in bid prices  
23 or other provisions of bids prejudicial to the interest of the state  
24 or fair competition may not be permitted. Except as otherwise provid-  
25 ed by regulation, a decision to permit the correction or withdrawal of  
26 a bid, or to cancel an award or contract based on a bid mistake, shall  
27 be supported by a written determination made by the procurement offi-  
28 cer. If a bidder is permitted to withdraw a bid before award, an  
29 action may not be maintained against the bidder or the bid security.

1           Sec. 36.30.170. CONTRACT AWARD AFTER BIDS.   (a)   Except as  
2 provided in (b) of this section, the procurement officer shall award a  
3 contract based on the solicited bids with reasonable promptness by  
4 written notice to the lowest responsible and responsive bidder whose  
5 bid conforms in all material respects to the requirements and criteria  
6 set out in the invitation to bid.

7           (b) The procurement officer shall award a contract based on  
8 solicited bids to the lowest responsible and responsive Alaska bidder  
9 if the bid is not more than five percent higher than the lowest non-  
10 resident bidder's. In this subsection, "Alaska bidder" means a person  
11 who

12                   (1) holds a current Alaska business license;

13                   (2) submits a bid for goods, services, or construction  
14 under the name as appearing on the person's current Alaska business  
15 license;

16                   (3) has maintained a place of business within the state  
17 staffed by the bidder or an employee of the bidder for a period of six  
18 months immediately preceding the date of the bid;

19                   (4) is incorporated under the laws of the state, is a sole  
20 proprietorship, and the proprietor is a resident of the state or is a  
21 partnership, and all partners are residents of the state; and

22                   (5) if a joint venture, is composed entirely of ventures  
23 that qualify under (1) - (4) of this subsection.

24           (c) If a bidder qualifies under (b) of this section as an Alaska  
25 bidder, is offering services through an employment program as defined  
26 under AS 36.30.100(c), and is the lowest responsible and responsive  
27 bidder with a bid that is not more than 10 percent higher than the  
28 lowest bid of a nonresident, the procurement officer shall award the  
29 contract to that bidder.

1           Sec. 36.30.190. MULTI-STEP SEALED BIDDING.   When it is con-  
2           sidered impractical to initially prepare a definitive purchase de-  
3           scription to support an award based on price, the procurement officer  
4           may issue an invitation to bid requesting the submission of unpriced  
5           technical offers to be followed by an invitation to bid limited to the  
6           bidders whose offers are determined to be technically qualified under  
7           the criteria set out in the first solicitation.

8                           ARTICLE 3. COMPETITIVE SEALED PROPOSALS.

9           Sec. 36.30.200. CONDITIONS FOR USE. (a) Except as otherwise  
10          provided in this chapter, or unless specifically exempted by law, an  
11          agency contract shall be awarded by competitive sealed proposals if it  
12          is not awarded by competitive sealed bidding. Construction may only  
13          be procured by competitive sealed proposals if the conditions under  
14          (c) of this section are met.

15          (b) The commissioner may provide by regulation that it is either  
16          not practicable or not advantageous to the state to procure specified  
17          types of supplies, services, or construction by competitive sealed  
18          bidding that would otherwise be procured by that method. When the  
19          chief procurement officer, or for construction contracts or procure-  
20          ments for the state equipment fleet, the commissioner of transporta-  
21          tion and public facilities, determines in writing that the use of  
22          competitive sealed bidding is either not practicable or not advanta-  
23          geous to the state, a contract may be entered into by competitive  
24          sealed proposals in accordance with the regulations. When it is  
25          determined that it is practicable but not advantageous to use competi-  
26          tive sealed bidding, the chief procurement officer or commissioner of  
27          transportation and public facilities shall specify with particularity  
28          the basis for the determination.

29          (c) When the chief procurement officer determines that it is

1        advantageous to the state, a procurement officer may issue a request  
2        for proposals requesting the submission of offers to provide  
3        construction in accordance with a design provided by the offeror. The  
4        request for proposals shall require that each proposal submitted  
5        contain a single price that includes the design and construction.

6                Sec. 36.30.210. REQUEST FOR PROPOSALS.    (a)    A request for  
7        competitive sealed proposals must contain the date, time and place for  
8        delivering proposals, a specific description of the supplies,  
9        construction, services, or professional services to be provided under  
10       the contract, and the terms under which the supplies, construction,  
11       services, or professional services are to be provided.    The request  
12       shall require the offeror to submit evidence of the offeror's valid  
13       Alaska business license and, within 48 hours after the date by which  
14       proposals must be received, to list subcontractors the offeror pro-  
15       poses to use in the performance of the contract.    The list shall  
16       include the name and location of the place of business for each sub-  
17       contractor and evidence of the subcontractor's valid Alaska business  
18       license.    An offeror for a construction contract shall also submit  
19       evidence of the offeror's registration under AS 08.18 and evidence of  
20       registration for each listed subcontractor.

21               (b)    A request for proposals must contain that information neces-  
22       sary for an offeror to submit a proposal or contain references to any  
23       information that cannot reasonably be included with the request.    The  
24       request must provide a description of the factors that will be con-  
25       sidered by the procurement officer when evaluating the proposals  
26       received, including the relative importance of price and other evalu-  
27       ation factors.

28               (c)    Notice of a request for proposals shall be given in accor-  
29       dance with procedures under AS 36.30.130.    The procurement officer may

1 use additional means considered appropriate to notify prospective  
2 offerors of the intent to enter into a contract through competitive  
3 sealed proposals.

4 (d) The provisions of AS 36.30.115(b) - (e) apply to competitive  
5 sealed proposals.

6 Sec. 36.30.220. STANDARD OVERHEAD RATE. (a) An agency that  
7 provides services to another agency under a contract covered by this  
8 chapter shall establish a standard overhead rate. If an agency sub-  
9 mits a proposal in response to a request for competitive sealed pro-  
10 posals, the agency must include its standard overhead rate within its  
11 proposal.

12 (b) In this section, "standard overhead rate" means a charge  
13 established for services and professional services from an agency that  
14 is designed to compensate the agency for administration and support  
15 services incidentally provided with the services contracted for.

16 Sec. 36.30.230. TREATMENT OF PROPOSALS. The procurement officer  
17 shall open proposals so as to avoid disclosure of contents to compet-  
18 ing offerors during the process of negotiation. A register of pro-  
19 posals containing the name and address of each offeror shall be pre-  
20 pared in accordance with regulations adopted by the commissioner. The  
21 register and the proposals are open for public inspection after the  
22 notice of intent to award a contract is issued under AS 36.30.365. To  
23 the extent that the offeror designates and the procurement officer  
24 concurs, trade secrets and other proprietary data contained in the  
25 proposal documents are confidential.

26 Sec. 36.30.240. DISCUSSION WITH RESPONSIBLE OFFERORS AND REVI-  
27 SIONS TO PROPOSALS. As provided in the request for proposals, and  
28 under regulations adopted by the commissioner, discussions may be  
29 conducted with responsible offerors who submit proposals determined to

1 be reasonably susceptible of being selected for award for the purpose  
2 of clarification to assure full understanding of, and responsiveness  
3 to, the solicitation requirements. Offerors reasonably susceptible of  
4 being selected for award shall be accorded fair and equal treatment  
5 with respect to any opportunity for discussion and revision of pro-  
6 posals, and revisions may be permitted after submissions and before  
7 the award of the contract for the purpose of obtaining best and final  
8 offers. In conducting discussions, the procurement officer may not  
9 disclose information derived from proposals submitted by competing  
10 offerors. AS 44.62.310 does not apply to meetings with offerors under  
11 this section.

12 Sec. 36.30.250. AWARD OF CONTRACT. (a) The procurement officer  
13 shall award a contract under competitive sealed proposals to the  
14 responsible and responsive offeror whose proposal is determined in  
15 writing to be the most advantageous to the state taking into consid-  
16 eration price and the evaluation factors set out in the request for  
17 proposals. Other factors and criteria may not be used in the evalu-  
18 ation. The contract file must contain the basis on which the award is  
19 made.

20 (b) In determining whether a proposal is advantageous to the  
21 state, the procurement officer shall take into account, in accordance  
22 with regulations of the commissioner, whether the offeror qualifies as  
23 an Alaskan bidder under AS 36.30.170(b) or is offering the services of  
24 an employment program as defined in AS 36.30.100(c).

25 Sec. 36.30.260. CONTRACT EXECUTION. A contract awarded under  
26 competitive sealed proposals must contain

- 27 (1) the amount of the contract stated on its first page;  
28 (2) the date for the supplies to be delivered or the dates  
29 for construction, services, or professional services to begin and be

1 completed;

2 (3) a description of the supplies, construction, services,  
3 or professional services to be provided; and

4 (4) certification by the project director for the contract-  
5 ing agency, the head of the contracting agency, or a designee that  
6 sufficient funds are available in an appropriation to be encumbered  
7 for the amount of the contract.

8 Sec. 36.30.270. ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING  
9 CONTRACTS. (a) Notwithstanding conflicting provisions of  
10 AS 36.30.100 - 36.30.260, a procurement officer shall negotiate a  
11 contract for an agency with the most qualified and suitable person of  
12 demonstrated competence for architectural, engineering, or land  
13 surveying services. The procurement officer shall award a contract  
14 for those services at fair and reasonable compensation as determined  
15 by the procurement officer, after consideration of the estimated value  
16 of the services to be rendered, and the scope, complexity, and  
17 professional nature of the services.

18 (b) If negotiations with the most qualified and suitable person  
19 under (a) of this section are not successful, the procurement officer  
20 shall negotiate a contract with other qualified persons of  
21 demonstrated competence, in order of public ranking. The procurement  
22 officer may reject all or part of a proposal.

23 (c) Notwithstanding the other provisions of this section, a  
24 procurement officer may include price as a factor in selecting  
25 architectural, engineering, and land surveying services when, in the  
26 judgment of the procurement officer, the services required are  
27 repetitious in nature, and the scope, nature, and amount of services  
28 required are sufficiently defined by measurable and objective  
29 standards to reasonably enable persons making proposals to compete

1 with a clear understanding and interpretation of the services  
2 required. In order to include price as a factor in selection, the  
3 procurement officer shall involve in the evaluation of the proposals  
4 at least one person who is registered in the state to perform the  
5 architectural, engineering, or land surveying services that are the  
6 primary services to be provided by the contract.

7 (d) The provisions of (a) - (c) of this section do not apply to  
8 a contract that incorporates both design and construction services.  
9 The provisions of (a) - (c) of this section do not apply to contracts  
10 awarded in a situation of public necessity if the procurement officer  
11 responsible for execution of the contract on behalf of the agency  
12 certifies in writing that a situation of public necessity exists.

13 (e) An agency may not award a contract for architectural,  
14 engineering, or land surveying services to a

15 (1) person who is not registered under AS 08.48 to perform  
16 the architectural, engineering, or land surveying services required by  
17 the contract;

18 (2) partnership that is not qualified under AS 08.48.251 to  
19 provide the architectural, engineering, or land surveying services  
20 required by the contract; or

21 (3) corporation that is not authorized under AS 08.48.241  
22 to offer the architectural, engineering, or land surveying services  
23 required by the contract.

24 ARTICLE 4. OTHER PROCUREMENT METHODS.

25 Sec. 36.30.300. SOLE SOURCE PROCUREMENTS. (a) A contract may  
26 be awarded for supplies, services, professional services, or construc-  
27 tion without competitive sealed bidding, competitive sealed proposals,  
28 or other competition in accordance with regulations adopted by the  
29 commissioner of administration. A contract may be awarded under this

1 section only when the chief procurement officer or, for construction  
2 contracts or procurements for the state equipment fleet, the commis-  
3 sioner of transportation and public facilities determines in writing  
4 that there is only one source for the required procurement or con-  
5 struction. A sole source procurement may not be awarded if a rea-  
6 sonable alternative source exists. The written determination must  
7 include findings of fact that support by clear and convincing evidence  
8 the determination that only one source exists. The authority to make  
9 the determination required by this subsection may not be delegated.

10 (b) The using agency shall submit written evidence to support a  
11 sole source determination. The commissioner of administration or the  
12 commissioner of transportation and public facilities, as appropriate,  
13 may also require the submission of cost or pricing data in connection  
14 with an award under this section.

15 (c) The procurement officer shall negotiate with the single  
16 supplier, to the extent practicable, to obtain a contract advantageous  
17 to the state.

18 Sec. 36.30.310. EMERGENCY PROCUREMENTS. Procurements may be  
19 made under emergency conditions as defined in regulations adopted by  
20 the commissioner when there exists a threat to public health, welfare,  
21 or safety, when a situation exists that makes a procurement through  
22 competitive sealed bidding or competitive sealed proposals impracti-  
23 cable or contrary to the public interest, or to protect public or  
24 private property. An emergency procurement need not be made through  
25 competitive sealed bidding or competitive sealed proposals but shall  
26 be made with competition that is practicable under the circumstances.  
27 A written determination by the procurement officer of the basis for  
28 the emergency and for the selection of the particular contractor shall  
29 be included in the contract file. The written determination must

1 include findings of fact that support the determination.

2 Sec. 36.30.320. SMALL PROCUREMENTS. (a) A procurement for  
3 supplies, services, or construction that does not exceed an aggregate  
4 dollar amount of \$5,000 may be made in accordance with regulations  
5 adopted by the commissioner for small procurements.

6 (b) A contract for professional services that does not exceed  
7 \$25,000 may be made under regulations adopted by the commissioner for  
8 small procurements, except that an agency may not contract for the  
9 services of legal counsel without the approval of the attorney  
10 general.

11 (c) Small procurements need not be made through competitive  
12 sealed bidding or competitive sealed proposals but shall be made with  
13 competition that is practicable under the circumstances.

14 (d) Procurement requirements may not be artificially divided or  
15 fragmented so as to constitute a purchase under this section or to  
16 circumvent the source selection procedures required by AS 36.30.100 -  
17 36.30.260.

18 (e) The procurement officer shall give adequate public notice of  
19 intent to make a procurement under this section in accordance with  
20 regulations adopted by the commissioner. Notices shall also be pro-  
21 vided to those Alaska bidders designated by the commissioner under  
22 AS 36.30.050(d).

23 ARTICLE 5. CONTRACT FORMATION AND MODIFICATION.

24 Sec. 36.30.340. REVIEW AND APPROVAL BY DEPARTMENT OF LAW. If a  
25 contract contains a term that is in conflict with a state standard  
26 form contract term or if a standard term is deleted or modified by a  
27 term that is not standard, the contract must be reviewed by the De-  
28 partment of Law and approved as to form.

29 Sec. 36.30.350. BID CANCELLATION, REJECTION. An invitation to

1 bid, a request for proposals, or other solicitation may be cancelled  
2 or any or all bids or proposals may be rejected in whole or in part or  
3 the date for opening bids or proposals may be delayed when it is in  
4 the best interests of the state in accordance with regulations adopted  
5 by the commissioner. The reasons for cancellation, rejection, or  
6 delay in opening bids or proposals shall be made part of the contract  
7 file.

8 Sec. 36.30.360. DETERMINATION OF RESPONSIBILITY. (a) A written  
9 determination of responsibility of a bidder or offeror shall be made  
10 by the procurement officer in accordance with regulations adopted by  
11 the commissioner. The unreasonable failure of a bidder or offeror to  
12 promptly supply information in connection with an inquiry with respect  
13 to responsibility is grounds for a determination of nonresponsibility  
14 with respect to the bidder or offeror.

15 (b) Information furnished by a bidder or offeror under (a) of  
16 this section is confidential and may not be disclosed without prior  
17 written consent by the bidder or offeror.

18 Sec. 36.30.362. DETERMINATION TO AWARD A CONTRACT TO A NONRESI-  
19 DENT. If the procurement officer awards a contract to a person who  
20 does not reside or maintain a place of business in the state and if  
21 the supplies, services, professional services, or construction that is  
22 the subject of the contract could have been obtained from sources in  
23 the state, the procurement officer shall issue a written statement  
24 explaining the basis of the award. The statement required under this  
25 section shall be kept in the contract file.

26 Sec. 36.30.365. NOTICE OF INTENT TO AWARD A CONTRACT. At least  
27 10 days before the formal award of a contract under this chapter the  
28 procurement officer shall provide to each bidder or offeror notice of  
29 intent to award a contract. The notice shall conform to regulations

1           adopted by the commissioner.

2           Sec. 36.30.370. TYPES OF CONTRACTS. Subject to limitations of  
3 this section, any type of contract that will promote the best inter-  
4 ests of the state may be used, except that the use of a cost-plus-  
5 a-percentage-of-cost contract is prohibited. A cost-reimbursement  
6 contract may be used only when a determination is made in writing by  
7 the procurement officer that a cost-reimbursement contract is likely  
8 to be less costly to the state than any other type or that it is  
9 impracticable to obtain the supplies, services, professional services,  
10 or construction required under a cost-reimbursement contract.

11           Sec. 36.30.380. APPROVAL OF ACCOUNTING SYSTEM. Except for a  
12 contract awarded through competitive sealed bidding or a firm fixed-  
13 price contract, a contract type may not be used unless it has been  
14 determined in writing by the procurement officer that the proposed  
15 contractor's accounting system

16                   (1) will permit timely development of all necessary cost  
17 data in the form required by the specific contract type contemplated;  
18 and

19                   (2) is adequate to allocate costs in accordance with gen-  
20 erally accepted accounting principles.

21           Sec. 36.30.390. MULTI-TERM CONTRACTS. (a) Unless otherwise  
22 provided by law, a contract for supplies, services, or professional  
23 services may be entered into for any period of time considered to be  
24 in the best interests of the state provided the term of the contract  
25 and conditions of renewal or extension, if any, are included in the  
26 solicitation and funds are available for the first fiscal period at  
27 the time of contracting. Payment and performance obligations for  
28 succeeding fiscal periods shall be subject to the availability and  
29 appropriation of funds for them.

1 (b) Before using a multi-term contract, the procurement officer  
2 shall determine in writing that

3 (1) estimated requirements cover the period of the contract  
4 and are reasonably firm and continuing; and

5 (2) the contract will serve the best interests of the state  
6 by encouraging effective competition or otherwise promoting economies  
7 in state procurement.

8 (c) When funds are not appropriated or otherwise made available  
9 to support continuation of performance in a subsequent fiscal period,  
10 the contract shall be cancelled. The contractor may only be reim-  
11 bursed for the reasonable value of any nonrecurring costs incurred but  
12 not amortized in the price of the supplies, services, or professional  
13 services delivered under the contract that are not otherwise recover-  
14 able. The cost of cancellation may be paid from any appropriations  
15 available for these purposes.

16 Sec. 36.30.400. COST OR PRICING DATA. (a) Before an award of a  
17 contract or a change order or contract modification, the contractor or  
18 prospective contractor shall submit cost and pricing data. The con-  
19 tractor or prospective contractor shall certify that, to the best of  
20 the contractor's or prospective contractor's knowledge and belief, the  
21 data submitted is accurate, complete, and current as of a mutually  
22 determined specified date and will continue to be accurate and com-  
23 plete during the performance of the contract.

24 (b) When a contractor becomes aware of a situation that may form  
25 the basis of a claim for compensation that exceeds the amount desig-  
26 nated as the base amount of the contract and before performing addi-  
27 tional work or supplying additional materials, the contractor shall  
28 submit cost and pricing data on the additional work or materials. The  
29 contractor shall certify that, to the best of the contractor's

1 knowledge and belief, the data submitted is accurate, complete, and  
2 current and is the actual cost to the contractor of performing the  
3 additional work or supplying the additional materials.

4 (c) A contract, change order, or contract modification under  
5 which a certificate is required under (a) or (b) of this section must  
6 contain a provision that the price to the state, including the con-  
7 tractor's profit or fee, will be adjusted to exclude any significant  
8 sums by which the state finds that the price is increased because the  
9 cost or pricing data furnished by the contractor or prospective con-  
10 tractor is inaccurate, incomplete, or not current as of the date  
11 agreed upon by the parties.

12 (d) The requirements of (a) of this section do not apply when

13 (1) the contract price is based on adequate price competi-  
14 tion;

15 (2) the contract price is set by law or regulation; or

16 (3) it is determined by the procurement officer in writing  
17 and in accordance with regulations adopted by the commissioner that  
18 the requirements of (a) of this section may be waived, and the reasons  
19 for waiver are stated.

20 Sec. 36.30.410. RIGHT TO INSPECT PLANT. The state may, at  
21 reasonable times, inspect the part of the plant or place of business  
22 of a contractor or subcontractor that is related to the performance of  
23 a contract awarded or to be awarded by an agency.

24 Sec. 36.30.420. RIGHT TO AUDIT RECORDS. (a) The state may, at  
25 reasonable times and places, audit the books and records of a person  
26 who has submitted cost or pricing data under AS 36.30.400 to the  
27 extent that the books and records relate to the cost or pricing data.  
28 A person who receives a contract, change order, or contract modifica-  
29 tion for which cost or pricing data is required, shall maintain books

1 and records that relate to the cost or pricing data for three years  
2 after the date of final payment under the contract, unless a shorter  
3 period is authorized in writing by the commissioner.

4 (b) The state may audit the books and records of a contractor or  
5 a subcontractor to the extent that the books and records relate to the  
6 performance of the contract or subcontract. Books and records shall  
7 be maintained by the contractor for a period of three years after the  
8 date of final payment under the prime contract and by the subcontrac-  
9 tor for a period of three years after the date of final payment under  
10 the subcontract, unless a shorter period is authorized in writing by  
11 the commissioner.

12 Sec. 36.30.430. STANDARD MODIFICATION CLAUSES FOR CONTRACTS.

13 (a) The commissioner shall adopt regulations permitting the inclusion  
14 of clauses providing for adjustments in prices, time of performance,  
15 or other contract provisions as appropriate.

16 (b) The commissioner shall adopt regulations permitting or  
17 requiring the inclusion in state contracts of clauses providing for  
18 appropriate remedies and covering the following subjects:

- 19 (1) liquidated damages;  
20 (2) specified excuses for delay or nonperformance;  
21 (3) termination of the contract for default; and  
22 (4) termination of the contract in whole or in part for the  
23 convenience of the state.

24 Sec. 36.30.460. MODIFICATION OF STANDARD CLAUSES. The procure-  
25 ment officer or the head of a contracting agency may vary the clauses  
26 adopted under AS 36.30.430 for inclusion in a particular state con-  
27 tract if the

28 (1) variations are supported by a written determination  
29 that states the circumstances justifying the variation; and

1                   (2) approval required by AS 36.30.340 is obtained.

2                   Sec. 36.30.470. FISCAL RESPONSIBILITY. A contract modification,  
3 change order, or contract price adjustment under a construction con-  
4 tract in excess of an amount established by regulation of the commis-  
5 sioner is subject to prior written certification by the fiscal officer  
6 of the agency responsible for funding the project or the contract, or  
7 other official responsible for monitoring and reporting upon the  
8 status of the costs of the total project budget or contract budget, as  
9 to the effect of the contract modification, change order, or adjust-  
10 ment in contract price on the total project budget or the total con-  
11 tract budget. If the certification of the fiscal officer or other  
12 responsible official discloses a resulting increase in the total  
13 project budget or the total contract budget, the procurement officer  
14 may not approve the contract modification, change order, or adjustment  
15 in contract price unless sufficient funds are available, or the scope  
16 of the project or contract is adjusted to permit the degree of com-  
17 pletion that is feasible within the total project budget or total  
18 contract budget as it existed before the contract modification, change  
19 order, or adjustment in contract price under consideration. A con-  
20 tract modification change order, or adjustment in contract that is  
21 signed by both parties and has been reasonably relied on by a contrac-  
22 tor, is presumed to be valid even if the provisions of this section  
23 have not been met.

24                   Sec. 36.30.480. COST PRINCIPLE REGULATIONS. The commissioner  
25 shall adopt regulations setting out cost principles that shall be used  
26 to determine the allowability of incurred costs for the purpose of  
27 reimbursing costs under contract provisions that provide for the  
28 reimbursement of costs. If a written determination is approved at a  
29 level above the procurement officer, the cost principles may be

1 modified by contract.

2 ARTICLE 6. PROCUREMENT RECORDS AND REPORTS.

3 Sec. 36.30.500. RETENTION OF PROCUREMENT RECORDS. Procurement  
4 records shall be retained and disposed of in accordance with records  
5 retention guidelines and schedules approved by the state archivist.  
6 Retained documents shall be made available to the attorney general or  
7 a designee upon request and proper receipt.

8 Sec. 36.30.510. RECORDS OF CONTRACTS AWARDED UNDER COMPETITIVE  
9 SEALED PROPOSALS. A contract file open for public inspection shall be  
10 kept by the commissioner and the contracting agency for each contract  
11 awarded under competitive sealed proposals. The file kept by the  
12 commissioner shall contain a summary of the information in the file of  
13 the contracting agency. The file kept by the contracting agency must  
14 contain

15 (1) a copy of the contract;

16 (2) the register of proposals prepared under AS 36.30.230  
17 and a copy of each proposal submitted; and

18 (3) the written determination to award the contract pre-  
19 pared under AS 36.30.250.

20 Sec. 36.30.520. RECORDS OF SOLE SOURCE AND EMERGENCY PROCURE-  
21 MENTS. (a) The commissioner shall maintain for a minimum of five  
22 years a record listing all sole source procurement contracts made  
23 under AS 36.30.300 and emergency procurements made under AS 36.30.310.  
24 The record must contain

25 (1) each contractor's name;

26 (2) the amount and type of each contract; and

27 (3) a listing of the supplies, services, professional  
28 services, or construction procured under each contract.

29 (b) The Department of Transportation and Public Facilities and

1 any agency to whom the commissioner of administration or the commis-  
2 sioner of transportation and public facilities has delegated procure-  
3 ment authority under AS 36.30.015 shall, by October 1 of each year,  
4 submit to the commissioner of administration records of the type  
5 specified in (a) of this section. The commissioner of administration  
6 shall maintain these records as required by (a) of this section.

7 Sec. 36.30.530. PUBLIC ACCESS TO PROCUREMENT INFORMATION.  
8 Procurement information is public except as otherwise provided by law.

9 Sec. 36.30.540. REPORT TO LEGISLATURE. Beginning with Decem-  
10 ber 1, 1989, the commissioner shall biennially report to the legisla-  
11 ture concerning procurements by agencies. The report must include

12 (1) the records maintained by the commissioner under  
13 AS 36.30.510 and the records maintained under AS 36.30.520(a) for the  
14 previous two fiscal years;

15 (2) recommendations for changes in this chapter or other  
16 laws based on implementation of this chapter in the previous two  
17 fiscal years;

18 (3) a description of any matters that involved litigation  
19 concerning this chapter in the previous two fiscal years;

20 (4) a list of procurements made under this chapter from  
21 out-of-state sources during the previous two fiscal years together  
22 with the total number of procurement contracts entered into during  
23 that period with out-of-state contractors and the total value of these  
24 contracts; this paragraph does not apply to procurements made under  
25 AS 36.30.320; and

26 (5) a list of procurements made under this chapter from  
27 state sources during the previous two fiscal years together with the  
28 total number of procurement contracts entered into during that period  
29 with state contractors and the total value of these contracts; this

1 paragraph does not apply to procurements made under AS 36.30.320.

2 ARTICLE 7. LEGAL AND CONTRACTUAL REMEDIES.

3 Sec. 36.30.560. FILING OF A PROTEST. An interested party may  
4 protest the award of a contract, the proposed award of a contract, or  
5 a solicitation for supplies, services, professional services, or  
6 construction by an agency. The protest shall be filed with the pro-  
7 curement officer of the contracting agency in writing and include the  
8 following information:

9 (1) the name, address, and telephone number of the pro-  
10 tester;

11 (2) the signature of the protester or the protester's  
12 representative;

13 (3) identification of the contracting agency and the solici-  
14 tation or contract at issue;

15 (4) a detailed statement of the legal and factual grounds  
16 of the protest, including copies of relevant documents; and

17 (5) the form of relief requested.

18 Sec. 36.30.565. TIME FOR FILING A PROTEST. (a) A protest based  
19 upon alleged improprieties in a solicitation involving competitive  
20 sealed bidding that are apparent before the bid opening shall be filed  
21 before the bid opening. A protest based on alleged improprieties in a  
22 solicitation involving competitive sealed proposals that are apparent

23 (1) before the due date for receipt of initial proposals  
24 shall be filed before that due date;

25 (2) after the due date for receipt of initial proposals  
26 shall be filed before the next due date for receipt of adjusted pro-  
27 posals that occurs after the improprieties are apparent.

28 (b) In situations not covered under (a) of this section, pro-  
29 tests shall be filed within 10 days after a notice of intent to award

1 the contract is issued by the procurement officer.

2 (c) If the protester shows good cause, the procurement officer  
3 of the contracting agency may consider a filed protest that is not  
4 timely.

5 Sec. 36.30.570. NOTICE OF A PROTEST. The procurement officer  
6 shall immediately give notice of a protest filed under AS 36.30.565 to  
7 the contractor if a contract has been awarded or, if no award has been  
8 made, to all interested parties.

9 Sec. 36.30.575. STAY OF AWARD. If a protest is filed the award  
10 may be made unless the procurement officer of the contracting agency  
11 determines in writing that a

12 (1) reasonable probability exists that the protest will be  
13 sustained; or

14 (2) stay of the award is not contrary to the best interests  
15 of the state.

16 Sec. 36.30.580. DECISION BY THE PROCUREMENT OFFICER. (a) The  
17 procurement officer of the contracting agency shall issue a written  
18 decision containing the basis of the decision within 14 days after a  
19 protest has been filed. A copy of the decision shall be furnished to  
20 the protester by certified mail or other method that provides evidence  
21 of receipt.

22 (b) The time for a decision may be extended up to 26 days for  
23 good cause by the commissioner of administration, or for protests  
24 involving construction or procurements for the state equipment fleet,  
25 the commissioner of transportation and public facilities. If an  
26 extension is granted, the procurement officer shall notify the pro-  
27 tester in writing of the date the decision is due.

28 (c) If a decision is not made by the date it is due, the pro-  
29 tester may proceed as if the procurement officer had issued a decision

1 adverse to the protester.

2 Sec. 36.30.585. PROTEST REMEDIES. (a) If the procurement  
3 officer sustains a protest in whole or in part, the procurement offi-  
4 cer shall implement an appropriate remedy.

5 (b) In determining an appropriate remedy, the procurement offi-  
6 cer shall consider the circumstances surrounding the solicitation or  
7 procurement including the seriousness of the procurement deficiencies,  
8 the degree of prejudice to other interested parties or to the integri-  
9 ty of the procurement system, the good faith of the parties, the  
10 extent the procurement has been accomplished, costs to the agency and  
11 other impacts on the agency of a proposed remedy, and the urgency of  
12 the procurement to the welfare of the state.

13 Sec. 36.30.590. APPEAL ON A PROTEST. (a) An appeal from a  
14 decision of a procurement officer on a protest may be filed by the  
15 protester with the commissioner of administration, or for protests  
16 involving construction or procurements for the state equipment fleet,  
17 the commissioner of transportation and public facilities. An appeal  
18 shall be filed within five days after the decision is received by the  
19 protester. The protester shall file a copy of the appeal with the  
20 procurement officer.

21 (b) An appeal must contain the information required under  
22 AS 36.30.560. In addition, the appeal must include

- 23 (1) a copy of the decision being appealed; and  
24 (2) identification of the factual or legal errors in the  
25 decision that form the basis for the appeal.

26 Sec. 36.30.595. NOTICE OF A PROTEST APPEAL. (a) The procure-  
27 ment officer shall immediately give notice of an appeal filed under  
28 AS 36.30.590 to the contractor if a contract has been awarded or, if  
29 no award has been made, to all interested parties.

1 (b) The commissioner of administration or the commissioner of  
2 transportation and public facilities, as appropriate, shall, on re-  
3 quest, furnish a copy of the appeal to a person notified under (a) of  
4 this section, except that confidential material shall be deleted from  
5 the copy.

6 Sec. 36.30.600. STAY OF AWARD DURING PROTEST APPEAL. If a  
7 protest appeal is filed before a contract is awarded and the award was  
8 stayed under AS 36.30.575, the filing of the appeal automatically  
9 continues the stay until the commissioner of administration or the  
10 commissioner of transportation and public facilities, as appropriate,  
11 makes a written determination that the award of the contract without  
12 further delay is necessary to protect substantial interests of the  
13 state.

14 Sec. 36.30.605. PROTEST REPORT. (a) The procurement officer of  
15 the contracting agency shall file a complete report on the protest and  
16 decision with the commissioner of administration or the commissioner  
17 of transportation and public facilities, as appropriate, within seven  
18 days after a protest appeal is filed. The procurement officer shall  
19 furnish a copy of the report to the protester and to interested par-  
20 ties that have requested a copy of the appeal under AS 36.30.595(b).

21 (b) The procurement officer may request an extension of time to  
22 prepare the protest report. The request must be in writing listing  
23 the reasons for the request. The commissioner of administration or  
24 the commissioner of transportation and public facilities, as appropri-  
25 ate, shall respond to the request in writing. If an extension is  
26 granted, the commissioner shall list the reasons for granting the  
27 extension and indicate the date the protest report is due. The com-  
28 missioner shall notify the protester in writing that the time for  
29 submission of the report has been extended and the date the report is

1 due.

2 (c) The protester may file comments on the protest report with  
3 the commissioner of administration or the commissioner of transporta-  
4 tion and public facilities, as appropriate, within seven days after  
5 the report is received. The protester shall provide copies of the  
6 comments to the procurement officer and to interested parties that  
7 have requested a copy of the appeal under AS 36.30.595(b).

8 (d) The protester may request an extension of time to prepare  
9 the comments on the protest report. The request must be in writing  
10 listing the reasons for the request. The commissioner of administra-  
11 tion or the commissioner of transportation and public facilities, as  
12 appropriate, shall respond to the request in writing. If an extension  
13 is granted, the commissioner shall list the reasons for granting the  
14 extension and indicate the date the comments are due. The commission-  
15 er shall notify the procurement officer in writing that the time for  
16 submission of the comments has been extended and the date the comments  
17 are due.

18 Sec. 36.30.610. DECISION WITHOUT HEARING. (a) The commissioner  
19 of administration or the commissioner of transportation and public  
20 facilities, as appropriate, shall dismiss a protest appeal before a  
21 hearing is held if it is determined in writing that the appeal is  
22 untimely under AS 36.30.590(a).

23 (b) The commissioner of administration or the commissioner of  
24 transportation and public facilities, as appropriate, may issue a  
25 decision on an appeal without a hearing if the appeal involves ques-  
26 tions of law without genuine issues of fact.

27 Sec. 36.30.615. HEARING ON PROTEST APPEAL. A hearing on a  
28 protest appeal shall be conducted in accordance with AS 36.30.670 and  
29 regulations adopted by the commissioner.

1           Sec. 36.30.620. CONTRACT CONTROVERSIES. (a) A contractor shall  
2 file a claim concerning a contract awarded under this chapter with the  
3 procurement officer. The contractor shall certify that the claim is  
4 made in good faith, that the supporting data are accurate and complete  
5 to the best of the contractor's knowledge and belief, and that the  
6 amount requested accurately reflects the contract adjustment for which  
7 the contractor believes the state is liable.

8           (b) If a controversy asserted by a contractor concerning a  
9 contract awarded under this chapter cannot be resolved by agreement,  
10 the procurement officer shall, after receiving a written request by  
11 the contractor for a decision, issue a written decision. The decision  
12 shall be made no more than 90 days after receipt by the procurement  
13 officer of all necessary information from the contractor. Failure of  
14 the contractor to furnish necessary information to the procurement  
15 officer constitutes a waiver of the claim. Before issuing the deci-  
16 sion the procurement officer shall review the facts relating to the  
17 controversy and obtain necessary assistance from legal, fiscal, and  
18 other advisors.

19           (c) The time for issuing a decision under (b) of this section  
20 may be extended for good cause by the commissioner of administration,  
21 or for a controversy involving a construction contract or procurement  
22 for the state equipment fleet, the commissioner of transportation and  
23 public facilities, if the controversy concerns an amount in excess of  
24 \$50,000. The procurement officer shall notify the contractor in  
25 writing that the time for the issuance of a decision has been extended  
26 and of the date by which a decision shall be issued.

27           (d) The procurement officer shall furnish a copy of the decision  
28 to the contractor by certified mail or other method that provides  
29 evidence of receipt. The decision shall include a

- 1 (1) description of the controversy;
- 2 (2) reference to the pertinent contract provisions;
- 3 (3) statement of the agreed upon and disputed facts;
- 4 (4) statement of reasons supporting the decision; and
- 5 (5) statement substantially as follows:

6 "This is the final decision of the procurement officer.  
7 This decision may be appealed to the commissioner of  
8 (admin' ation/transportation and public facilities).  
9 If you appeal, you must file a written notice of appeal  
10 with the commissioner within 14 days after you receive  
11 this decision."

12 (e) If a decision is not made by the date it is due, the con-  
13 tractor may proceed as if the procurement officer had issued a deci-  
14 sion adverse to the contractor.

15 (f) If a controversy asserted by the state concerning a contract  
16 awarded under this chapter cannot be resolved by agreement the matter  
17 shall be immediately referred to the commissioner of administration or  
18 the commissioner of transportation and public facilities, as appro-  
19 priate.

20 Sec. 36.30.625. APPEAL ON A CONTRACT CONTROVERSY. (a) An  
21 appeal from a decision of the procurement officer on a contract con-  
22 troversy may be filed by the contractor with the commissioner of  
23 administration, or for a controversy involving a construction contract  
24 or procurement for the state equipment fleet, the commissioner of  
25 transportation and public facilities. The appeal shall be filed  
26 within 14 days after the decision is received by the contractor. The  
27 contractor shall file a copy of the appeal with the procurement offi-  
28 cer.

29 (b) An appeal shall contain a copy of the decision being

1 appealed and identification of the factual or legal errors in the  
2 decision that form the basis for the appeal.

3 Sec. 36.30.630. HEARING ON A CONTRACT CONTROVERSY. (a) Except  
4 as provided in (b) of this section, a hearing shall be conducted  
5 according to AS 36.30.670 and regulations adopted by the commissioner  
6 of administration on a contract controversy appealed to the commis-  
7 sioner of administration or the commissioner of transportation and  
8 public facilities or referred to either commissioner under AS 36.30.-  
9 620(f).

10 (b) Within 15 days after receipt of an appeal on a contract  
11 controversy the commissioner of administration or the commissioner of  
12 transportation and public facilities, as appropriate, may adopt the  
13 decision of the procurement officer as the final decision without a  
14 hearing.

15 Sec. 36.30.632. DELEGATION. The commissioner of administration  
16 and the commissioner of transportation and public facilities may  
17 delegate responsibilities under AS 36.30.590 and 36.30.630 to the head  
18 of the contracting agency.

19 Sec. 36.30.635. AUTHORITY TO DEBAR OR SUSPEND. (a) After  
20 consultation with the using agency and the attorney general and after  
21 a hearing conducted according to AS 36.30.670 and regulations adopted  
22 by the commissioner of administration, the commissioner of administra-  
23 tion or the commissioner of transportation and public facilities may  
24 debar a person for cause from consideration for award of contracts.  
25 Notice of a debarment hearing shall be provided in writing at least  
26 seven days before the hearing. The debarment may not be for a period  
27 of more than three years.

28 (b) The commissioner of administration or the commissioner of  
29 transportation and public facilities, after consultation with the

1 using agency and the attorney general, may suspend a person from  
2 consideration for award of contracts if there is probable cause for  
3 debarment and compelling reasons require suspension to protect state  
4 interests. The suspension may not be for a period exceeding three  
5 months.

6 (c) The authority to debar or suspend shall be exercised in  
7 accordance with regulations adopted by the commissioner of adminis-  
8 tration.

9 Sec. 36.30.640. CAUSES FOR DEBARMENT OR SUSPENSION. The causes  
10 for debarment or suspension include the following:

11 (1) conviction for commission of a criminal offense as an  
12 incident to obtaining or attempting to obtain a public or private  
13 contract or subcontract, or in the performance of the contract or  
14 subcontract;

15 (2) conviction under state or federal statutes of embezzle-  
16 ment, theft, forgery, bribery, falsification or destruction of re-  
17 cords, receiving stolen property, or other offense indicating a lack  
18 of business integrity or business honesty that currently and seriously  
19 affects responsibility as a state contractor;

20 (3) conviction or civil judgment finding a violation under  
21 state or federal antitrust statutes;

22 (4) violation of contract provisions of a character that is  
23 regarded by the commissioner to be so serious as to justify debarment  
24 action, such as

25 (A) knowing failure without good cause to perform in  
26 accordance with the specifications or within the time limit  
27 provided in the contract; or

28 (B) failure to perform or unsatisfactory performance  
29 in accordance with the terms of one or more contracts, except

1           that failure to perform or unsatisfactory performance caused by  
2           acts beyond the control of the contractor may not be considered  
3           to be a basis for debarment;

4           (5) for violation of the ethical standards set out in law  
5           or regulation;

6           (6) for a violation of this chapter punishable under  
7           AS 36.30.930(2); and

8           (7) any other cause listed in regulations of the commis-  
9           sioner determined to be so serious and compelling as to affect respon-  
10          sibility as a state contractor, including debarment by another govern-  
11          mental entity for a cause listed in the regulations.

12          Sec. 36.30.645. WRITTEN DETERMINATIONS. (a) The commissioner  
13          of administration or the commissioner of transportation and public  
14          facilities shall issue a written decision to debar or suspend. The  
15          decision must

16                 (1) state the reasons for the action taken; and

17                 (2) inform the debarred person of rights to judicial appeal  
18          or inform the suspended person of rights to administrative and judi-  
19          cial appeal.

20                 (b) A copy of the decision under (1) of this section shall be  
21          mailed or otherwise furnished immediately to the debarred or suspended  
22          person and any other intervening party.

23          Sec. 36.30.650. HEARING ON A SUSPENSION. (a) A person suspend-  
24          ed under AS 36.30.635 is entitled to a hearing conducted according to  
25          AS 36.30.670 and regulations adopted by the commissioner of adminis-  
26          tration if the person files a written request for a hearing with the  
27          commissioner of administration or the commissioner of transportation  
28          and public facilities, as appropriate, within seven days after receipt  
29          of the notice of suspension under AS 36.30.645.

1 (b) If a suspended person requests a hearing the commissioner of  
2 administration or the commissioner of transportation and public facil-  
3 ities, as appropriate, shall schedule a prompt hearing unless the  
4 attorney general determines that a hearing at the proposed time is  
5 likely to jeopardize an investigation. A hearing may not be delayed  
6 longer than six months after notice of the suspension is provided  
7 under AS 36.30.645.

8 Sec. 36.30.655. LIST OF PERSONS DEBARRED OR SUSPENDED. The  
9 commissioner shall maintain a list of all persons debarred or suspend-  
10 ed from consideration for award of contracts.

11 Sec. 36.30.660. REINSTATEMENT. (a) The commissioner of admin-  
12 istration or the commissioner of transportation and public facilities  
13 may at any time after a final decision to debar a person from consid-  
14 eration for award of contracts reinstate the person after determining  
15 that the cause for which the person was debarred no longer exists or  
16 has been substantially mitigated.

17 (b) A debarred person may request reinstatement by submitting a  
18 petition to the commissioner of administration or the commissioner of  
19 transportation and public facilities supported by evidence showing  
20 that the cause for debarment no longer exists or has been substantial-  
21 ly mitigated.

22 (c) The commissioner of administration or the commissioner of  
23 transportation and public facilities may require a hearing on a rein-  
24 statement petition. A decision on reinstatement shall be made in  
25 writing within seven days after a reinstatement petition is submitted.  
26 The decision shall specify the factors on which it is based. A deci-  
27 sion under this section is not subject to judicial appeal.

28 Sec. 36.30.665. LIMITED PARTICIPATION. The commissioner of  
29 administration or the commissioner of transportation and public

1 facilities may permit a debarred person to participate in a contract  
2 on a limited basis during the debarment period if the commissioner  
3 determines in writing that the participation is advantageous to the  
4 state. The determination shall specify the factors on which it is  
5 based and the limits imposed on the debarred person.

6 Sec. 36.30.670. HEARING PROCEDURES. (a) The commissioner of  
7 administration or the commissioner of transportation and public facil-  
8 ities shall act as a hearing officer or appoint a hearing officer for  
9 a hearing conducted under this chapter. The hearing officer shall  
10 arrange for a prompt hearing and notify the parties in writing of the  
11 time and place of the hearing. The hearing shall be conducted in an  
12 informal manner. The provisions of AS 44.62 (Administrative Procedure  
13 Act) do not apply to a hearing conducted under this chapter.

14 (b) The hearing officer may

15 (1) hold prehearing conferences to settle, simplify, or  
16 identify the issues in a proceeding, or to consider other matters that  
17 may aid in the expeditious disposition of the proceeding;

18 (2) require parties to state their positions concerning the  
19 various issues in the proceeding;

20 (3) require parties to produce for examination those rele-  
21 vant witnesses and documents under their control;

22 (4) rule on motions and other procedural matters;

23 (5) regulate the course of the hearing and conduct of the  
24 participants;

25 (6) establish time limits for submission of motions or  
26 memoranda;

27 (7) impose appropriate sanctions against a person who fails  
28 to obey an order of the hearing officer, including

29 (A) prohibiting the person from asserting or opposing

1 designated claims or defenses or introducing designated matters  
2 into evidence;

3 (B) excluding all testimony of an unresponsive or  
4 evasive witness; and

5 (C) excluding a person from further participation in  
6 the hearing;

7 (8) take official notice of a material fact not appearing  
8 in evidence, if the fact is among the traditional matters subject to  
9 judicial notice;

10 (9) administer oaths or affirmations.

11 (c) A transcribed record of the hearing shall be made available  
12 at cost to a party that requests it.

13 Sec. 36.30.675. RECOMMENDATION BY THE HEARING OFFICER. (a) If  
14 the commissioner of administration or the commissioner of transporta-  
15 tion and public facilities is not acting as hearing officer, the  
16 hearing officer shall recommend a decision to the commissioner based  
17 on the evidence presented. The recommendation shall include findings  
18 of fact and conclusions of law.

19 (b) The commissioner of administration or the commissioner of  
20 transportation and public facilities may affirm, modify, or reject the  
21 hearing officer's recommendation in whole or in part, may remand the  
22 matter to the hearing officer with instructions, or take other appro-  
23 priate action.

24 Sec. 36.30.680. FINAL DECISION BY THE COMMISSIONER. A decision  
25 by the commissioner of administration or the commissioner of transporta-  
26 tion and public facilities after a hearing under this chapter is  
27 final. A decision shall be sent within 20 days after the hearing to  
28 all parties by personal service or certified mail, except that a  
29 decision by the commissioner of transportation and public facilities

1 involving procurement of construction shall be sent within 90 days  
2 after the hearing to all parties by personal service or certified  
3 mail.

4 Sec. 36.30.685. JUDICIAL APPEAL. (a) A final decision of the  
5 commissioner of administration or the commissioner of transportation  
6 and public facilities under AS 36.30.610, 36.30.635(a), 36.30.650, or  
7 36.30.680 may be appealed to the superior court in accordance with the  
8 Alaska Rules of Appellate Procedure.

9 (b) A final decision of the commissioner of administration or  
10 the commissioner of transportation and public facilities under AS 36.-  
11 30.630(b) may be appealed to the superior court for a trial de novo.

12 Sec. 36.30.687. MISREPRESENTATIONS AND FRAUDULENT CLAIMS. (a)  
13 A person who makes or uses in support of a contract claim under this  
14 chapter, a misrepresentation, or who practices or attempts to practice  
15 a fraud, at any stage of proceedings relating to a procurement or  
16 contract controversy under this chapter:

17 (1) forfeits all claims relating to that procurement or  
18 contract; and

19 (2) is liable to the state for reimbursement of all sums  
20 paid on the claim, for all costs attributable to review of the claim,  
21 and for a civil penalty equal to the amount by which the claim is  
22 misrepresented.

23 (b) The procurement officer, commissioner or court shall make  
24 specific findings of misrepresentation, attempted fraud or fraud  
25 before declaring a forfeiture under (a)(1) of this section.

26 (c) Suits to recover costs and penalties under (a)(2) of this  
27 section must be commenced within six years after the discovery of the  
28 misrepresentation, fraud, or attempted fraud.

29 (d) A person who in a matter relating to a procurement or a

1 contract controversy or claim under this chapter makes a misrepresenta-  
2 tion to the state through a trick, scheme, or device is guilty of a  
3 class C felony.

4 (e) In this section, "misrepresentation" means a false or mis-  
5 leading statement of material fact, or conduct intended to deceive or  
6 mislead concerning material fact, whether it succeeds in deceiving or  
7 misleading.

8 Sec. 36.30.690. EXCLUSIVE REMEDY. Notwithstanding AS 44.77 or  
9 other law to the contrary, AS 36.30.560 - 36.30.699 and regulations  
10 adopted under those sections provide the exclusive procedure for  
11 asserting a claim against an agency arising in relation to a procure-  
12 ment under this chapter.

13 Sec. 36.30.695. OTHER RULES OF PROCEDURE. The commissioner may  
14 adopt by regulation additional rules of procedure providing for the  
15 expeditious administrative review of all contract claims or contro-  
16 versies, both before the contracting agency and through an appeal  
17 heard de novo.

18 Sec. 36.30.699. DEFINITION. In AS 36.30.560 - 36.30.695, "in-  
19 terested party" means an actual or prospective bidder or offeror whose  
20 economic interest may be affected substantially and directly by the  
21 issuance of a contract solicitation, the award of a contract, or the  
22 failure to award a contract; whether an actual or prospective bidder  
23 or offeror has an economic interest depends on the circumstances.

24 ARTICLE 8. INTERGOVERNMENTAL RELATIONS.

25 Sec. 36.30.700. COOPERATIVE PURCHASING AUTHORIZED. A public  
26 procurement unit may either participate in, sponsor, conduct, or  
27 administer a cooperative purchasing agreement for the procurement of  
28 supplies, services, professional services, or construction with one or  
29 more public procurement units or external procurement activities in

1 accordance with an agreement entered into between the participants.  
2 Cooperative purchasing may include joint or multi-party contracts  
3 between public procurement units and open-ended state public procure-  
4 ment unit contracts that are made available to local public procure-  
5 ment units.

6 Sec. 36.30.710. SALE, ACQUISITION, OR USE OF SUPPLIES BY A  
7 PUBLIC PROCUREMENT UNIT. (a) A public procurement unit may sell to,  
8 acquire from, or use any supplies belonging to another public procure-  
9 ment unit or external procurement activity independent of the require-  
10 ments of AS 36.30.060 and 36.30.100 - 36.30.260.

11 (b) A public procurement unit may enter into an agreement,  
12 independent of the requirements of AS 36.30.060 and 36.30.100 - 36.-  
13 30.260, with another public procurement unit or external procurement  
14 activity for the cooperative use of supplies or services under the  
15 terms agreed upon between the parties.

16 Sec. 36.30.720. JOINT USE OF FACILITIES. A public procurement  
17 unit may enter into agreements for the common use or lease of ware-  
18 housing facilities, capital equipment, and other facilities with  
19 another public procurement unit or an external procurement activity  
20 under the terms agreed upon between the parties.

21 Sec. 36.30.730. SUPPLY OF PERSONNEL, INFORMATION, AND TECHNICAL  
22 SERVICES. (a) A public procurement unit may, upon written request  
23 from another public procurement unit or external procurement activity,  
24 provide personnel to the requesting public procurement unit or exter-  
25 nal procurement activity. The public procurement unit or external  
26 procurement activity making the request shall pay the public procure-  
27 ment unit providing the personnel the direct and indirect cost of  
28 furnishing the personnel, in accordance with an agreement between the  
29 parties.

1           (b) The informational, technical, and other services of a public  
2 procurement unit may be made available to another public procurement  
3 unit or external procurement activity except that the requirements of  
4 the public procurement unit tendering the services has precedence over  
5 the requesting public procurement unit or external procurement activi-  
6 ty. The requesting public procurement unit or external procurement  
7 activity shall pay for the expenses of the services so provided, in  
8 accordance with an agreement between the parties.

9           (c) Upon request, the commissioner may make available to public  
10 procurement units or external procurement activities the following  
11 services, among others:

- 12           (1) standard forms;
- 13           (2) printed manuals;
- 14           (3) product specifications and standards;
- 15           (4) quality assurance testing services and methods;
- 16           (5) qualified products lists;
- 17           (6) source information;
- 18           (7) common use commodities listings;
- 19           (8) supplier performance ratings;
- 20           (9) lists of persons debarred or suspended from considera-  
21 tion for award of state contracts;
- 22           (10) forms for invitations for bids, requests for proposals,  
23 instructions to bidders, general contract provisions, and other con-  
24 tract forms; and
- 25           (11) contracts or published summaries of them, including  
26 price and time of delivery information.

27           (d) The commissioner may provide the following technical ser-  
28 vices, among others:

- 29           (1) development of product specifications;

1           (2) development of quality assurance test methods, includ-  
2 ing receiving, inspection, and acceptance procedures;

3           (3) use of product testing and detection facilities; and

4           (4) use of personnel training programs.

5           (e) The commissioner may enter into contractual arrangements and  
6 publish a schedule of fees for the services provided under (c) and (d)  
7 of this section.

8           Sec. 36.30.735. RESTRICTION ON CONTRACTING WITH OR EMPLOYING  
9 EXPERTS ON RADIATION HAZARDS. (a) Except for the Department of  
10 Health and Social Services, the Department of Labor, the Department of  
11 Environmental Conservation, and the Department of Military and Veter-  
12 ans' Affairs, a state agency may not

13           (1) contract, other than with the Department of Health and  
14 Social Services, to have services performed that require expertise in  
15 determining or reducing the hazards of radiation; or

16           (2) employ a person whose duties require expertise in  
17 determining or reducing the hazards of radiation.

18           (b) In this section, "state agency" means a state department or  
19 agency, whether in the legislative, judicial, or executive branch,  
20 including such entities as the Alaska State Housing Authority, but not  
21 including the University of Alaska, a municipality, or an agency of a  
22 municipality.

23           (c) In this section, "radiation" does not include radiation  
24 emitted from a Federal Communications Commission licensed facility  
25 emitting radiation of a wave length longer than one centimeter and an  
26 average power output not exceeding two kilowatts.

27           Sec. 36.30.740. REVIEW OF PROCUREMENT REQUIREMENTS. To the  
28 extent possible, the commissioner may collect information concerning  
29 the type, cost, quality, and quantity of commonly used supplies.

1 equipment for the state fleet, services, or construction being pro-  
2 cured or used by state public procurement units. The commissioner may  
3 also collect this information from local public procurement units.  
4 The commissioner may make this information available to a public  
5 procurement unit upon request.

6 Sec. 36.30.750. CONTRACT CONTROVERSIES. (a) Under a coopera-  
7 tive purchasing agreement, controversies arising between an adminis-  
8 tering public procurement unit and its bidders, offerors, or contrac-  
9 tors shall be resolved in accordance with AS 36.30.560 - 36.30.699.

10 (b) A local public procurement unit that is not subject to  
11 AS 36.30.560 - 36.30.699 may enter into an agreement with another  
12 local public procurement unit or external procurement activity to  
13 establish procedures or use that unit's or activity's existing proce-  
14 dures to resolve controversies with contractors, whether or not the  
15 controversy arose under a cooperative purchasing agreement.

16 Sec. 36.30.790. DEFINITIONS. In AS 36.30.700 - 36.30.790

17 (1) "cooperative purchasing" means procurement conducted  
18 by, or on behalf of, more than one public procurement unit, or by a  
19 public procurement unit with an external procurement activity;

20 (2) "external procurement activity" means a buying orga-  
21 nization not located in this state that, if located in this state,  
22 would qualify as a public procurement unit; an agency of the United  
23 States is an external procurement activity;

24 (3) "local public procurement unit" means a municipality or  
25 other subdivision of the state or other entity that expends public  
26 funds for the procurement of supplies, services, professional ser-  
27 vices, and construction, and any nonprofit corporation operating a  
28 charitable hospital;

29 (4) "public procurement unit" means either a local public

1 procurement unit or a state public procurement unit;

2 (5) "state public procurement unit" means the Department of  
3 Administration and any other contracting agency of the state.

4 ARTICLE 9. GENERAL PROVISIONS.

5 Sec. 36.30.850. APPLICATION OF THIS CHAPTER. (a) This chapter  
6 applies only to contracts solicited or entered into after January 1,  
7 1987, unless the parties agree to its application to a contract solic-  
8 ited or entered into before that date.

9 (b) This chapter applies to every expenditure of state funds  
10 irrespective of their sources, including federal assistance except as  
11 otherwise specified in AS 36.30.890, by the state, acting through an  
12 agency, under a contract, except that this chapter does not apply to

13 (1) grants;

14 (2) contracts for professional witnesses to provide for  
15 professional services or testimony relating to existing or probable  
16 lawsuits in which the state is or may become a party;

17 (3) contracts of the University of Alaska where the work is  
18 to be performed substantially by students enrolled in the university;

19 (4) contracts for medical doctors and dentists;

20 (5) acquisitions or disposals of real property or interest  
21 in real property, except as provided in AS 36.30.080;

22 (6) disposals under AS 38.05;

23 (7) contracts for the preparation of ballots under AS 15.-  
24 15.030;

25 (8) acquisitions or disposals of property and other con-  
26 tracts relating to airports under AS 02.15.070, 02.15.090, and 02.15.-  
27 091;

28 (9) disposals of obsolete property under AS 19.05.060;

29 (10) disposals of obsolete material or equipment under

1 AS 35.20.060;

2 (11) agreements with providers of services under AS 47.07;  
3 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;

4 (12) contracts of the Department of Fish and Game for  
5 flights that involve specialized flying and piloting skills and are  
6 not point-to-point.

7 (c) Except for AS 36.30.700 - 36.30.790, this chapter does not  
8 apply to contracts between two or more agencies, the state and its  
9 political subdivisions, or the state and other governments.

10 (d) Nothing in this chapter or in regulations adopted under this  
11 chapter prevents an agency or political subdivision from complying  
12 with the terms and conditions of a grant, gift, bequest, or coopera-  
13 tive agreement.

14 Sec. 36.30.860. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLIC-  
15 ABLE. Unless displaced by the particular provisions of this chapter,  
16 the principles of law and equity, including the Uniform Commercial  
17 Code (AS 45.01 - AS 45.09), the law merchant, and law relative to  
18 capacity to contract, agency, fraud, misrepresentation, duress, coer-  
19 cion, mistake, or bankruptcy shall supplement the provisions of this  
20 chapter.

21 Sec. 36.30.870. ADOPTION OF REGULATIONS. (a) Regulations under  
22 this chapter shall be adopted in accordance with the Administrative  
23 Procedure Act (AS 44.62).

24 (b) Regulations under this chapter applicable to procurements of  
25 construction or procurements for or disposal of property of the state  
26 equipment fleet shall be adopted by the commissioner of administration  
27 only after consultation with the commissioner of transportation and  
28 public facilities.

29 Sec. 36.30.880. REQUIREMENT OF GOOD FAITH. All parties involved

1 in the negotiation, performance, or administration of state contracts  
2 shall act in good faith.

3 Sec. 36.30.890. FEDERAL ASSISTANCE. If a procurement involves  
4 the expenditure of federal funds or federal assistance and there is a  
5 conflict between a provision of this chapter or a regulation adopted  
6 under a provision of this chapter and a federal statute or regulation  
7 the federal statute or regulation shall prevail.

8 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter  
9 does not modify, amend, or alter AS 36.15.010 and 36.15.020 regarding  
10 preference for Alaska forest products, or AS 36.20.010 regarding  
11 preference to producers or dealers in Alaska except as provided in  
12 AS 36.30.170(b) and (c).

13 Sec. 36.30.910. PURCHASES THROUGH GENERAL SERVICES ADMINISTRA-  
14 TION. This chapter does not prevent purchasing through the general  
15 services administration as provided by law.

16 Sec. 36.30.920. REPORTING OF ANTICOMPETITIVE PRACTICES. When  
17 for any reason collusion or other anticompetitive practices are sus-  
18 pected among bidders or offerors, a notice of the relevant facts shall  
19 be transmitted to the attorney general by the person who suspects the  
20 collusion or other anticompetitive practices.

21 Sec. 36.30.930. CIVIL AND CRIMINAL PENALTIES. The following  
22 penalties apply to violations of this chapter:

23 (1) a person who contracts for or purchases supplies,  
24 equipment for the state fleet, services, professional services, or  
25 construction in a manner the person knows to be contrary to the re-  
26 quirements of this chapter or the regulations adopted under this  
27 chapter is liable for all costs and damages to the state arising out  
28 of the violation;

29 (2) a person who intentionally or knowingly contracts for

1 or purchases supplies, equipment for the state fleet, services, pro-  
2 fessional services, or construction under a scheme or artifice to  
3 avoid the requirements of this chapter is guilty of a class C felony.

4 Sec. 36.30.940. ENFORCEMENT. The attorney general on behalf of  
5 the state shall enforce the provisions of this chapter.

6 Sec. 36.30.990. DEFINITIONS. In this chapter, unless the con-  
7 text in which a term is used clearly requires a different meaning or a  
8 different definition is prescribed for a particular provision,

9 (1) "agency" means a department, institution, board, com-  
10 mission, division, authority, public corporation, the Alaska Pioneers'  
11 Home, or other administrative unit of the executive branch of state  
12 government, except for the University of Alaska and the Alaska  
13 Railroad Corporation; it does not include a regional Native housing  
14 authority created under AS 18.55.996, or a regional electrical  
15 authority created under AS 18.57.020;

16 (2) "change order" means a written order signed by the  
17 procurement officer, directing the contractor to make changes that the  
18 changes clause of the contract authorizes the procurement officer to  
19 order without the consent of the contractor;

20 (3) "commissioner" means the commissioner of the Department  
21 of Administration;

22 (4) "competitive sealed bidding" means the procedure under  
23 AS 36.30.100 - 36.30.190;

24 (5) "competitive sealed proposals" means the procedure  
25 under AS 36.30.200 - 36.30.260;

26 (6) "construction" means the process of building, altering,  
27 repairing, maintaining, improving, or demolishing a public highway,  
28 structure, building, or other public improvement of any kind to real  
29 property other than privately owned real property leased for the use

1 of agencies; it includes services and professional services relating  
2 to planning and design required for the construction; it does not  
3 include the routine operation of a public improvement to real  
4 property;

5 (7) "contract" means all types of state agreements, regard-  
6 less of what they may be called, for the procurement or disposal of  
7 supplies, equipment for the state fleet, services, professional servi-  
8 ces, or construction;

9 (8) "contract modification" means a written alteration in  
10 specifications, delivery point, rate of delivery, period of perfor-  
11 mance, price, quantity, or other provisions of a contract accomplished  
12 by mutual action of the parties to the contract;

13 (9) "department" means the Department of Administration;

14 (10) "grant" means the furnishing by the state of assis-  
15 tance, whether financial or otherwise, to a person to support a pro-  
16 gram authorized by law; it does not include an award whose primary  
17 purpose is to procure an end product for a state agency, whether in  
18 the form of supplies, services, professional services, or construc-  
19 tion; a contract resulting from such an award is not a grant but a  
20 procurement contract;

21 (11) "person" means a business, individual, union, commit-  
22 tee, club, other organization, or group of individuals;

23 (12) "procurement" means buying, purchasing, renting, leas-  
24 ing, or otherwise acquiring supplies, equipment for the state fleet,  
25 services, or construction; it also includes functions that pertain to  
26 the obtaining of a supply, equipment for the state fleet, service, or  
27 construction, including description of requirements, selection and  
28 solicitation of sources, preparation and award of contract, and all  
29 phases of contract administration;

1           (13) "procurement officer" means a person authorized to  
2 enter into and administer contracts for an agency and make written  
3 determinations with respect to them; it also includes an authorized  
4 representative of a procurement officer acting within the limits of  
5 authority;

6           (14) "professional services" means professional, technical,  
7 or consultant's services that are predominantly intellectual in char-  
8 acter, result in the production of a report or the completion of a  
9 task, and include analysis, evaluation, prediction, planning, or  
10 recommendation;

11           (15) "services" means the furnishing of labor, time, or  
12 effort by a contractor, not involving the delivery of a specific end  
13 product other than reports that are merely incidental to the required  
14 performance; it does not include employment agreements or collective  
15 bargaining agreements;

16           (16) "supplies" means all property of an agency, including  
17 equipment, materials, and insurance; it includes privately owned real  
18 property leased for the use of agencies, such as office space, but  
19 does not include the acquisition or disposition of other interests in  
20 land.

21           Sec. 36.30.995. SHORT TITLE. This chapter may be cited as the  
22 State Procurement Code.

23 \* Sec. 3. AS 03.22.030 is amended to read:

24           Sec. 03.22.030. CENTER SITE, BUILDINGS AND EQUIPMENT. The  
25 department shall obtain a site, either by donation, lease, or pur-  
26 chase, and erect suitable buildings on the site, if they are needed  
27 for the use of the plant materials center. The department shall also  
28 acquire the agricultural land, scientific instruments and equipment  
29 necessary to carry on the work of the center. Acquisition of

1     scientific instruments and equipment under this section is governed by  
2     AS 36.30 (State Procurement Code).

3     \* Sec. 4. AS 05.20.040 is amended to read:

4             Sec. 05.20.040. PERSONNEL TO INSPECT DEVICES. The department  
5     shall designate a person qualified in experience and training as the  
6     inspector of devices. The department may employ additional employees  
7     as are necessary to administer this chapter. The inspector and the  
8     employees may be hired on a temporary basis or borrowed from other  
9     state departments or political subdivisions of the state, or the  
10    department may contract with individuals or firms for the inspecting  
11    service on an independent basis. The department shall prescribe the  
12    salary or other remuneration for this service. Contracting under this  
13    section is governed by AS 36.30 (State Procurement Code).

14    \* Sec. 5. AS 09.50.250 is amended to read:

15            Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person  
16    or corporation having a contract, quasi-contract, or tort claim  
17    against the state may bring an action against the state in the superi-  
18    or court. A person who may present the claim under AS 44.77 may not  
19    bring an action under this section except as set out in AS 44.77.-  
20    040(c). A person who may bring an action under AS 36.30.560 - 36.30.-  
21    695 may not bring an action under this section except as set out in  
22    AS 36.30.685. However, no action may be brought under this section if  
23    the claim

24            (1) is an action for tort, and is based upon an act or  
25    omission of an employee of the state, exercising due care, in the  
26    execution of a statute or regulation, whether or not the statute or  
27    regulation is valid; or is an action for tort, and based upon the  
28    exercise or performance or the failure to exercise or perform a dis-  
29    cretionary function or duty on the part of a state agency or an

1 employee of the state, whether or not the discretion involved is  
2 abused;

3 (2) is for damages caused by the imposition or establish-  
4 ment of a quarantine by the state;

5 (3) arises out of assault, battery, false imprisonment,  
6 false arrest, malicious prosecution, abuse of process, libel, slander,  
7 misrepresentation, deceit, or interference with contract rights.

8 \* Sec. 6. AS 14.08.101 is amended to read:

9 Sec. 14.08.101. POWERS. A regional school board may

10 (1) sue and be sued;

11 (2) contract with the department, the Bureau of Indian  
12 Affairs, or any other school district, agency, or regional board for  
13 the provision of services, facilities, supplies or utilities;

14 (3) determine its own fiscal procedures including but not  
15 limited to policies and procedures for the purchase of supplies and  
16 equipment; the regional school boards are exempt from the Fiscal  
17 Procedures Act (AS 37.05) and the State Procurement Code (AS 36.30);

18 (4) appoint, compensate and otherwise control all school  
19 employees in accordance with this title; these employees are not  
20 subject to the State Personnel Act (AS 39.25);

21 (5) adopt regulations governing organization, policies and  
22 procedures for the operation of the schools;

23 (6) establish, maintain, operate, discontinue and combine  
24 schools subject to the approval of the commissioner;

25 (7) recommend to the department projects for construction,  
26 rehabilitation, and improvement of schools and education-related  
27 facilities as specified in AS 14.11.010(a), and plan, design, and  
28 construct the project when the responsibility for it is assumed under  
29 AS 14.11.020;

1 (8) exercise those other functions that may be necessary  
2 for the proper performance of its responsibilities;

3 (9) by resolution adopted by a majority of all the members  
4 of the board and provided to the commissioner of the department,  
5 assume ownership of all land and buildings used in relation to the  
6 schools in the regional educational attendance area;

7 (10) provide housing for rental to teachers, by leasing  
8 existing housing from a local agency or individual, or by entering  
9 into contractual arrangements with a local agency or individual to  
10 lease housing that will be constructed by the local agency or indi-  
11 vidual for that purpose.

12 \* Sec. 7. AS 16.05.050 is amended to read:

13 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commis-  
14 sioner has, but not by way of limitation, the following powers and  
15 duties:

16 (1) assist the United States Fish and Wildlife Service in  
17 the enforcement of federal laws and regulations pertaining to fish and  
18 game;

19 (2) through the appropriate state agency and under the  
20 provisions of AS 36.30 (State Procurement Code), acquire by gift,  
21 purchase, or lease, or other lawful means, land, buildings, water,  
22 rights-of-way, or other necessary or proper real or personal property  
23 when the acquisition is in the interest of furthering an objective or  
24 purpose of the department and the state;

25 (3) under the provisions of AS 36.30, design and construct  
26 hatcheries, pipelines, rearing ponds, fishways, and other projects  
27 beneficial for the fish and game resources of the state;

28 (4) accept money from any person under conditions requiring  
29 the use of the money for specific purposes in the furtherance of the

1 protection, rehabilitation, propagation, preservation, or investiga-  
2 tion of the fish and game resources of the state or in settlement of  
3 claims for damages to fish or game resources;

4 (5) collect, classify, and disseminate statistics, data and  
5 information that, in the commissioner's discretion, will tend to  
6 promote the purposes of this title except AS 16.51 and AS 16.52;

7 (6) capture, propagate, transport, buy, sell, or exchange  
8 fish or game or eggs for propagating, scientific or stocking purposes;

9 (7) under the provisions of AS 36.30, provide public faci-  
10 lities where necessary or proper to facilitate the taking of fish or  
11 game, and enter into cooperative agreements with any person to effect  
12 them;

13 (8) exercise administrative, budgeting, and fiscal powers;

14 (9) under the provisions of AS 36.30, construct, operate,  
15 supervise, and maintain vessels used by the Department of Fish and  
16 Game;

17 (10) authorize the holder of an interim-use permit under  
18 AS 16.43 to engage on an experimental basis in commercial taking of a  
19 fishery resource with vessel, gear, and techniques not presently  
20 qualifying for licensing under this chapter in conformity with stand-  
21 ards established by the Alaska Commercial Fisheries Entry Commission;

22 (11) not later than January 31 of each year, provide to the  
23 commissioner of revenue the names of those fish and shellfish species  
24 which the commissioner of fish and game designates as developing  
25 commercial fish species for that calendar year; a fish or shellfish  
26 species is a developing commercial fish species if, within a specified  
27 geographical region,

28 (A) the optimum yield from the harvest of the species  
29 has not been reached;

1 (B) a substantial portion of the allowable harvest of  
2 the species has been allocated to fishing vessels of a foreign  
3 nation; or

4 (C) a commercial harvest of the fish species has  
5 recently developed;

6 (12) initiate or conduct research necessary or advisable to  
7 carry out the purposes of this title except AS 16.51 and AS 16.52;

8 (13) enter into cooperative agreements with agencies of the  
9 federal government, educational institutions, or other agencies or  
10 organizations, when in the public interest, to carry out the purposes  
11 of this title except AS 16.51 and AS 16.52.

12 \* Sec. 8. AS 16.05.826(c) is amended to read:

13 (c) The department may contract to others the performance of the  
14 department's responsibilities under this section. Contracting under  
15 this subsection is governed by AS 36.30 (State Procurement Code),  
16 except that a [A] contract may include provisions for advance payment  
17 or reimbursement for services performed under the contract. All costs  
18 incurred under this section may be paid from the fish and game fund.

19 \* Sec. 9. AS 18.15.120 is amended to read:

20 Sec. 18.15.120. TUBERCULOSIS CONTROL PROGRAM AUTHORIZED. The  
21 department may establish a comprehensive program for the control of  
22 tuberculosis in the state, and may

23 (1) arrange means by which persons in the state may be  
24 X-rayed to determine the presence of tuberculosis;

25 (2) establish necessary out-patient clinics for the care of  
26 tuberculosis;

27 (3) encourage and promote the establishment of adequate  
28 sanatorium facilities within the state to care for persons suffering  
29 from tuberculosis and allied conditions;

1           (4) under the provisions of AS 36.30 (State Procurement  
2 Code), obtain, by purchase or donation from surplus federal property  
3 or otherwise, medical supplies and equipment useful in carrying out  
4 this program and to allot or resell these supplies and equipment to  
5 private institutions engaged by the department to carry out this  
6 program;

7           (5) under the provisions of AS 36.30, contract with hos-  
8 pitals, associations, or sanatorium qualified and equipped to give  
9 adequate care inside or outside the state;

10          (6) employ necessary and trained personnel to carry out the  
11 purposes of AS 18.15.120 - 18.15.140;

12          (7) pay the costs of care and incidental expenses for  
13 residents of the state, in whole or in part, depending on the ability  
14 of each patient to pay, and the temporary costs of care and transpor-  
15 tation for nonresidents on the same basis until they can be trans-  
16 ferred to their residence;

17          (8) enlist the cooperation of state and federal agencies  
18 operating in the state for the furtherance of this program;

19          (9) establish standards in accordance with department  
20 procedure for the care of tuberculars receiving treatment under  
21 AS 18.15.120 - 18.15.140.

22 \* Sec. 10. AS 18.55.100 is amended by adding a new subsection to read:

23          (d) The authority's power to contract, lease, rent, construct,  
24 acquire, procure, and provide for services under this section is  
25 governed by AS 36.30. However, to the extent that AS 36.30 conflicts  
26 with responsibilities of the authority under AS 18.55.110, the provi-  
27 sions of AS 18.55.110 prevail.

28 \* Sec. 11. AS 19.05.020 is amended to read:

29          Sec. 19.05.020.       REGULATIONS.       The department shall adopt

1 regulations necessary to carry out the purpose of AS 19.05 - AS 19.25.  
2 The regulations may not conflict with AS 36.30 (State Procurement  
3 Code) or regulations adopted by the Department of Administration to  
4 implement that chapter.

5 \* Sec. 12. AS 19.05.080 is amended to read:

6 Sec. 19.05.080. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-  
7 RIALS BY PURCHASE OR EMINENT DOMAIN. The department on behalf of the  
8 state and as part of the cost of constructing or maintaining a highway  
9 may purchase in the open market, acquire, take over, or condemn under  
10 the right and power of eminent domain land in fee simple or easements  
11 which it considers necessary for present public use, either temporary  
12 or permanent, or which it considers necessary and reasonable for the  
13 public use. By the same means, the department may obtain material,  
14 including clay, gravel, sand, or rock, or the land necessary to obtain  
15 material, including access to it. The department may acquire the land  
16 or materials notwithstanding the fact that title to it is vested in  
17 the state or a department, agency, commission or institution of the  
18 state. Acquisition of materials by purchase in the open market under  
19 this section is governed by AS 36.30 (State Procurement Code).

20 \* Sec. 13. AS 19.10.160 is amended to read:

21 Sec. 19.10.160. STANDARD PLANS AND SPECIFICATIONS. The depart-  
22 ment shall prepare and adopt uniform standard plans and specifications  
23 for the establishment, construction and maintenance of highways in the  
24 state. The department may amend the plans and specifications as it  
25 considers advisable. The standards shall conform as closely as prac-  
26 ticable to those adopted by the American Association of State Highway  
27 and Transportation Officials.

28 \* Sec. 14. AS 19.10.170(a) is amended to read:

29 (a) Except as provided in [AS 36.98 AND] AS 44.33.300, it is

1 [SHALL BE] the general policy of the state [DEPARTMENT] to require the  
2 construction of all highways under bid contract in accordance with  
3 AS 36.30 (State Procurement Code). However, subject to the provisions  
4 of (b) of this section, when the estimated cost of a construction  
5 project is less than \$100,000 or when it appears to be in the best  
6 interests of the state, the department may perform the work notwith-  
7 standing any other provisions of law.

8 \* Sec. 15. AS 19.10.180 is repealed and reenacted to read:

9 Sec. 19.10.180. REQUEST FOR PUBLIC BIDS. Requests for public  
10 bids are governed by AS 36.30 (State Procurement Code). The request  
11 for public bids may require the contractor to furnish equipment,  
12 labor, materials, and supplies for the project, or it may state that  
13 the department will furnish the materials and supplies. If the de-  
14 partment elects to provide materials and supplies for a project, it  
15 shall do so at the time it adopts the construction program. The  
16 department shall acquire these materials and supplies under AS 36.30  
17 by requesting bids for them according to the class, type, and nature  
18 of the materials and supplies. The contract for materials and sup-  
19 plies may be awarded either upon the basis of delivery to the con-  
20 struction project directly or to a central storehouse or storehouses  
21 maintained by the department. Those materials and supplies so pur-  
22 chased by the department may be delivered to the project site without  
23 expense to the contractor, or it may sell them to the contractor at  
24 cost and make the materials and supplies a part of the construction  
25 cost.

26 \* Sec. 16. AS 19.10.200 is repealed and reenacted to read:

27 Sec. 19.10.200. PROCEDURES FOR THE AWARD OF CONTRACTS. The  
28 award of a contract for highway construction work is governed by  
29 AS 36.30 (State Procurement Code), AS 19.05 - AS 19.25, and

1 regulations adopted under those laws.

2 \* Sec. 17. AS 19.30.070 is amended to read:

3 Sec. 19.30.070. CONTRACTS FOR CONSTRUCTION OF ROADS. The  
4 director of the division of lands may contract with private persons  
5 for the construction of roads to and on state lands programmed for  
6 surface disposal which are not more than six miles from existing roads  
7 or highways. Contracts under this section are governed by AS 36.30  
8 (State Procurement Code).

9 \* Sec. 18. AS 19.30.080 is amended to read:

10 Sec. 19.30.080. CONSTRUCTION STANDARDS AND MAINTENANCE. An  
11 access road constructed under AS 19.30.060 - 19.30.100 shall be of low  
12 standard, not necessarily suitable for all weather use. The state is  
13 not under obligation to maintain an access road constructed under AS  
14 19.30.060 - 19.30.100. If an access road is constructed outside a  
15 municipality that has zoning ordinances, the right-of-way width for  
16 the road shall be determined by the division of lands and the Depart-  
17 ment of Transportation and Public Facilities. If an access road is  
18 constructed within the boundaries of a municipality that has zoning  
19 ordinances, the right-of-way width shall conform to the subdivision  
20 control ordinances of the municipality. Contracts for the work on an  
21 access road are governed by AS 36.30 (State Procurement Code) [SHALL  
22 BE AWARDED TO THE LOWEST RESPONSIBLE BIDDER QUALIFIED TO CONTRACT WITH  
23 THE STATE].

24 \* Sec. 19. AS 19.40.020(a) is amended to read:

25 (a) Subject to (b) of this section, the department may contract  
26 in accordance with AS 36.30 for the construction of a secondary high-  
27 way from the Yukon River to the Arctic Ocean. [THE DEPARTMENT MAY  
28 REQUEST BIDS AND AWARD CONTRACTS FOR THE CONSTRUCTION OF THE HIGHWAY,  
29 OR IT MAY ELECT TO DIRECTLY NEGOTIATE CONTRACTS FOR THE CONSTRUCTION

1 OF THE HIGHWAY IF IT APPEARS TO BE IN THE BEST INTERESTS OF THE  
2 STATE.] The provisions of AS 36.10 govern in employment practices on  
3 all work authorized by this chapter.

4 \* Sec. 20. AS 19.60.010 is amended to read:

5 Sec. 19.60.010. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL  
6 FACILITIES. The department shall construct, purchase or lease ferry  
7 terminal facilities at locations it selects for the loading and un-  
8 loading of passengers and vehicles under their own power, on and off  
9 ferries. The department shall repair and maintain these facilities.  
10 Construction and purchasing under this section are governed by AS 36.-  
11 30 (State Procurement Code).

12 \* Sec. 21. AS 23.15.611(a) is amended to read:

13 (a) The department may [IS AUTHORIZED TO] participate in pro-  
14 grams of manpower training if it finds they are necessary to meet the  
15 occupational needs of the state. This authorization includes authori-  
16 ty to execute on behalf of the state agreements or contracts which may  
17 be necessary or desirable to enable the state to participate in a  
18 program, to receive and expend all appropriate funds made available  
19 for programs by the state or from other sources, to supervise the  
20 expenditure of the funds and conduct of the programs by other public  
21 and private agencies of the state, and to make the reports and certifi-  
22 cates which are called for, and in cooperative arrangements with the  
23 Department of Education. Contracts with private entities under this  
24 subsection are governed by AS 36.30 (State Procurement Code).

25 \* Sec. 22. AS 23.20.075(a) is amended to read:

26 (a) The department may acquire in the name of the state by term  
27 purchase agreements based on competitive bids in accordance with  
28 AS 36.30 (State Procurement Code) land and buildings upon terms and  
29 conditions that [WHICH] are approved by the Bureau of Employment

1 Security of the United States, or its successor, for the purpose of  
2 providing office space for the department at a place which the depart-  
3 ment finds necessary and suitable.

4 \* Sec. 23. AS 23.35.110 is amended to read:

5 Sec. 23.35.110. CONTRACTS FOR CARE. In carrying out this  
6 chapter, the department may enter into contracts or other arrangements  
7 with hospitals and doctors in the state for furnishing care on an  
8 annual basis to persons entitled to benefits. Contracting under this  
9 section is governed by AS 36.30 (State Procurement Code).

10 \* Sec. 24. AS 24.55.275 is amended to read:

11 Sec. 24.55.275. CONTRACT PROCEDURES. The ombudsman shall adopt  
12 by regulation procedures consistent with AS 36.30 [AS 24.23] to be  
13 followed by the office of the ombudsman in contracting for services.  
14 However, the procedure for requests for proposals does not apply to  
15 contracts for investigations under AS 24.55.100.

16 \* Sec. 25. AS 24.60.040(a) is amended to read:

17 (a) A person to whom this chapter applies may not be a party to  
18 or have an interest in a state contract or lease unless the contract  
19 or lease is let through competitive sealed bidding under AS 36.30  
20 (State Procurement Code) [AS 37.05.230] or the total annual amount of  
21 the state contract or lease is \$1,000 or less, or is a standardized  
22 contract or lease which was developed under publicly established  
23 guidelines and is generally available to the public at large, members  
24 of a profession, occupation or group. A person has an interest in a  
25 state contract or lease under this section if the person receives  
26 direct or indirect financial benefits.

27 \* Sec. 26. AS 26.05.230(a) is amended to read:

28 (a) Buildings and sites for armory purposes may be leased or  
29 constructed, based upon location and size of units to be organized,

1 and shall be financed through state and federal appropriations or  
2 both. These facilities may be made available by local communities or  
3 by the cooperative arrangement between the state and the federal  
4 government and any local community. Leasing and construction under  
5 this subsection are governed by AS 36.30 (State Procurement Code).

6 \* Sec. 27. AS 26.05.280 is amended to read:

7 Sec. 26.05.280. TRANSPORTATION, SUBSISTENCE, AND SUPPLIES.  
8 There shall be provided by the state, transportation and subsistence  
9 for all officers and enlisted persons who are ordered into active  
10 service by the state for encampment, field duty, or other duty. Neces-  
11 sary transportation, stores and subsistence for troops when ordered on  
12 duty shall be contracted by the proper officers and paid for as other  
13 military bills. Contracting under this section is governed by AS 36.-  
14 30 (State Procurement Code).

15 \* Sec. 28. AS 27.21.030 is amended to read:

16 Sec. 27.21.030. GENERAL POWERS. To accomplish the purposes of  
17 this chapter, the commissioner may

18 (1) in accordance with the Administrative Procedure Act  
19 (AS 44.62) adopt, amend, and enforce regulations pertaining to surface  
20 coal mining and reclamation operations;

21 (2) issue permits;

22 (3) conduct hearings and conferences;

23 (4) issue orders requiring an operator to take the actions  
24 necessary to comply with this chapter and the regulations adopted  
25 under this chapter;

26 (5) issue orders modifying previous orders;

27 (6) after opportunity for a due process hearing, issue a  
28 final order revoking the permit of an operator who has failed to  
29 comply with an order of the commissioner to take action required by

1 this chapter or regulations adopted under this chapter;

2 (7) order the immediate cessation of all or part of a  
3 surface coal mining and reclamation operation if the commissioner  
4 finds that the operation or part of the operation creates an imminent  
5 danger to the health or safety of the public or is causing or can  
6 reasonably be expected to cause significant imminent harm to land,  
7 air, or water resources, and, to the extent reasonably necessary to  
8 eliminate or alleviate those conditions, take other action or make  
9 changes in a permit, as provided in this chapter;

10 (8) hire and authorize the hiring of employees and private  
11 contractors, subject to the conflict of interest provisions of this  
12 chapter and subject to AS 36.30 (State Procurement Code), to assist in  
13 carrying out the requirements of this chapter;

14 (9) enter and inspect a surface coal mining operation that  
15 is subject to the provisions of this chapter to assure that the opera-  
16 tion is in compliance with this chapter;

17 (10) conduct, encourage, request, and participate in  
18 studies, surveys, investigations, research, experiments, training, and  
19 demonstrations;

20 (11) prepare reports and require permittees to prepare  
21 reports;

22 (12) accept, receive, and administer grants, gifts, or other  
23 money made available for the purposes of this chapter regardless of  
24 the source of the grants, gifts, or money;

25 (13) take the steps necessary to allow the state to partici-  
26 pate to the fullest extent practicable in the abandoned mine land  
27 program provided in Title IV of the Surface Mining Control and Recla-  
28 mation Act of 1977, including engaged in any work and adopting, amend-  
29 ing and enforcing regulations;

1 (14) take the actions necessary to establish and maintain  
2 exclusive jurisdiction over surface coal mining and reclamation opera-  
3 tions in the state under the provisions of the Surface Mining Control  
4 and Reclamation Act of 1977, including making recommendations for  
5 legislation to clarify or amend this chapter to conform with the terms  
6 of the Surface Mining Control and Reclamation Act of 1977;

7 (15) contract with state agencies to obtain the professional  
8 and technical services necessary to carry out the provisions of this  
9 chapter;

10 (16) coordinate the review of applications and issuance of  
11 permits for surface coal mining and reclamation operations with other  
12 federal or state permit processes applicable to those operations;

13 (17) enter into cooperative agreements with the Secretary of  
14 the United States Department of the Interior for the regulation of  
15 surface coal mining operations on federal land in accordance with the  
16 Surface Mining Control and Reclamation Act of 1977; and

17 (18) perform other duties required by this chapter.

18 \* Sec. 29. AS 33.30.050 is amended to read:

19 Sec. 33.30.050. COMMISSIONER TO PROVIDE MEDICAL SERVICES. The  
20 commissioner shall detail physicians, nurses, and psychiatrists, or  
21 their aides, and laboratory technicians, employed by the department to  
22 any prison facility where state prisoners are detained or confined,  
23 for the purpose of furnishing necessary medical services, including  
24 examinations for communicable and infectious diseases. However, if  
25 medical services cannot be furnished by physicians, nurses, psychia-  
26 trists, or their aides, and laboratory technicians, regularly employed  
27 by the department, the commissioner may contract with private practi-  
28 tioners located in the area of a prison facility to furnish these  
29 services. The cost of contracted services shall be paid out of

1        appropriations made to the department. Contracting for services under  
2        this section is governed by AS 36.30 (State Procurement Code).

3        \* Sec. 30. AS 33.30.062(a) is amended to read:

4            (a) The commissioner may enter into an agreement with a private-  
5        ly operated correctional facility, but only if the facility is located  
6        in the state and if the purpose of the agreement is to involve prison-  
7        ers in a work or rehabilitation furlough program established under  
8        this chapter, to provide necessary facilities under AS 32.30.282 -  
9        33.30.288, or to confine prisoners convicted of a misdemeanor. An  
10       [NOTWITHSTANDING AS 37.05.230(1)(B), AN] agreement awarded under this  
11       subsection is governed by AS 36.30 (State Procurement Code) [SHALL BE  
12       BASED ON COMPETITIVE BIDS].

13       \* Sec. 31. AS 33.32.015(b) is amended to read:

14            (b) The commissioner of corrections may

15            (1) subject to AS 36.30 (State Procurement Code) [THE  
16       FISCAL PROCEDURES ACT (AS 37.05)], use, purchase, lease, equip, and  
17       maintain buildings, machinery, and other equipment, and may purchase  
18       materials and enter into contracts, which may be necessary for the  
19       correctional industries program;

20            (2) provide for prisoners to be employed in rendering  
21       services and producing articles, materials, and supplies needed by a  
22       state agency, a political subdivision of the state, an agency of the  
23       federal government, other states or their political subdivisions, or  
24       for use by nonprofit organizations;

25            (3) if the Correctional Industries Commission established  
26       in AS 33.32.070 approves, employ prisoners to provide services or  
27       products as needed by private industry if the services or products  
28       have potential for contributing to the economy of the state and will  
29       have minimal negative impact on an existing private industry or labor

1 force in the state.

2 \* Sec. 32. AS 35.05.010 is amended to read:

3 Sec. 35.05.010. PLANNING AND CONSTRUCTION. The department is  
4 responsible for the planning and construction of public works except  
5 as provided for court facilities in AS 22.05.025. Contracts for  
6 planning and construction of public works are governed by AS 36.30  
7 (State Procurement Code).

8 \* Sec. 33. AS 35.05.020 is amended to read:

9 Sec. 35.05.020. RULES AND REGULATIONS. The department shall  
10 adopt [RULES AND] regulations that [WHICH] it considers necessary to  
11 carry out the purpose of this title. The regulations may not conflict  
12 with AS 36.30 (State Procurement Code) or the regulations adopted by  
13 the Department of Administration under that chapter.

14 \* Sec. 34. AS 35 is amended by adding a new section to read:

15 Sec. 35.10.195. CONFORMANCE WITH AS 36.30. The contractual  
16 techniques for the procurement of labor, materials, and contractual  
17 services under the policies developed under this chapter must conform  
18 to the requirements of AS 36.30 (State Procurement Code).

19 \* Sec. 35. AS 35.15.010(a) is amended to read:

20 (a) Except as provided in [AS 36.98 AND] AS 44.33.300, it is  
21 [SHALL BE] the general policy of the state [DEPARTMENT] to require the  
22 construction of all public works under bid contract in accordance with  
23 AS 36.30 (State Procurement Code). However, when the estimated cost  
24 of a construction project is less than \$100,000, or when it appears to  
25 be in the best interests of the state, the department may perform the  
26 work, notwithstanding any other provisions of law. A complete record  
27 shall be kept by the commissioner or the commissioner's designee of  
28 all transactions entered into under this section including names of  
29 employees involved in the transactions.

1 \* Sec. 36. AS 35.15.020 is repealed and reenacted to read:

2       Sec. 35.15.020. REQUEST FOR PUBLIC BIDS. The solicitation of  
3 bids for construction of public works is governed by AS 36.30 (State  
4 Procurement Code). The request for bids may require the contractor to  
5 furnish equipment, labor, materials, and supplies for the project, or  
6 it may state that the department will furnish the materials and sup-  
7 plies. If the department elects to provide materials and supplies for  
8 a project, it shall make the election at the time it adopts the con-  
9 struction program. The department shall acquire these materials and  
10 supplies under AS 36.30 by requesting bids for them according to the  
11 class, type, and nature of the materials and supplies. The contract  
12 may be awarded either upon the basis of delivery to the construction  
13 project directly or to a central storehouse or storehouses maintained  
14 by the department. Those materials and supplies so purchased by the  
15 department may be delivered to the project site without expense to the  
16 contractor, or it may sell them to the contractor at cost and make the  
17 materials and supplies a part of the construction cost.

18 \* Sec. 37. AS 35.15.040 is repealed and reenacted to read:

19       Sec. 35.15.040. PROCEDURES FOR THE AWARD OF CONTRACTS. Award of  
20 a contract for the construction of a public work shall comply with  
21 this title, AS 36.30 (State Procurement Code), and the regulations  
22 adopted under those laws.

23 \* Sec. 38. AS 35.20.010 is amended to read:

24       Sec. 35.20.010. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-  
25 RIALS BY PURCHASE OR EMINENT DOMAIN. The department, on behalf of the  
26 state and as part of the cost of constructing or maintaining a public  
27 work, may purchase in the open market, acquire, take over, or condemn  
28 under the right and power of eminent domain land in fee simple or  
29 easements which it considers necessary for present public use, either

1 temporary or permanent, or which it considers necessary and reasonable  
2 for the public use. By the same means, the department may obtain  
3 material including clay, gravel, sand, or rock, or the land necessary  
4 to obtain the material, and the necessary land or easements to provide  
5 access to it. The department may acquire the land or material not-  
6 withstanding the fact that the title to it is in the state or a  
7 department, agency, commission or institution of the state. Acquisi-  
8 tion of material in the open market under this section is governed by  
9 AS 36.30 (State Procurement Code).

10 \* Sec. 39. AS 37.05 is amended by adding a new section to read:

11 Sec. 37.05.232. PETTY CASH ACCOUNTS. The department shall  
12 determine the amount of the petty cash accounts needed by each state  
13 agency and inspect the petty cash accounts at least once each year to  
14 determine that the total plus amounts of receipts for unreplenished  
15 disbursements is equal to the fixed sum of cash set aside. Shortages  
16 in petty cash accounts are a personal liability of the responsible  
17 head of the agency to whom the account is set aside. The department  
18 shall adopt necessary regulations governing use and replenishment of  
19 petty cash funds.

20 \* Sec. 40. AS 37.05.316 is amended to read:

21 Sec. 37.05.316. GRANTS TO NAMED RECIPIENTS. When an amount is  
22 appropriated or allocated to a department as a grant for a named  
23 recipient that [WHICH] is not a municipality, the department to which  
24 the appropriation or allocation is made shall promptly notify the  
25 named recipient of the availability of the grant and request the named  
26 recipient to submit a proposal to provide the goods or services speci-  
27 fied in the appropriation act [, OR BOTH,] for which the appropriation  
28 or allocation is made. At the same time, the department may issue a  
29 request for proposals from other qualified persons to provide the same

1 goods or services [, OR BOTH,] in the same area. The department shall  
2 award the grant to [CONTRACT WITH] the named recipient unless the  
3 Office of the Governor, with due regard for the [ANY] local expertise  
4 or experience of [AMONG] those making proposals, determines that an  
5 award [OF THE CONTRACT] to a different party would better serve the  
6 public interest. If the grant [CONTRACT] is awarded to a [ANOTHER]  
7 party other than that named by the legislature, the basis of that  
8 action shall be stated in writing at the time the grant is issued and  
9 a copy of the written statement shall be sent to the Legislative  
10 Budget and Audit Committee. A grant agreement must [CONTRACT SHALL]  
11 be executed within 60 days after the effective date of the  
12 appropriation or allocation. [THE PURCHASE OF THE GOODS OR SERVICES,  
13 OR BOTH, SHALL BE IN ACCORDANCE WITH AS 37.05.230(1)(B).]

14 \* Sec. 41. AS 41.21.020(a) is amended to read:

15 (a) The Department of Natural Resources shall

16 (1) develop a continuing plan for the conservation and  
17 maximum use in the public interest of the scenic, historic, archaeo-  
18 logic, scientific, biological, and recreational resources of the  
19 state;

20 (2) plan for and develop a system of state parks and recre-  
21 ational facilities, to be established as the legislature authorizes  
22 and directs;

23 (3) acquire by gift, purchase, or transfer from state or  
24 federal agencies, or from individuals, corporations, partnerships or  
25 associations, land necessary, suitable and proper for roadside, pic-  
26 nic, recreational or park purposes;

27 (4) control, develop and maintain state parks and recrea-  
28 tional areas;

29 (5) provide for the acquisition, care, control,

1 supervision, improvement, development, extension and maintenance of  
2 public recreational land, and make necessary arrangements, contracts  
3 or commitments for the improvement and development of land acquired  
4 under AS 41.21.010 - 41.21.040; contracting for improvement and  
5 development under this paragraph is governed by AS 36.30 (State  
6 Procurement Code);

7 (6) adopt, in accordance with this section and the Adminis-  
8 trative Procedure Act (AS 44.62), regulations governing the use and  
9 designating incompatible uses within the boundaries of state park and  
10 recreational areas to protect the property and to preserve the peace;

11 (7) cooperate with the United States and its agencies and  
12 local subdivisions of the state to secure the effective supervision,  
13 improvement, development, extension, and maintenance of state parks,  
14 state monuments, state historical areas, and state recreational areas,  
15 and secure agreements or contracts for the purpose of AS 41.21.010 -  
16 41.21.040;

17 (8) encourage the organization of state public park and  
18 recreational activities in the local political subdivisions of the  
19 state;

20 (9) provide for consulting service designed to develop  
21 local park and recreation facilities and programs;

22 (10) provide clearing-house services for other state agen-  
23 cies concerned with park and recreation matters; and

24 (11) perform other duties as are prescribed by executive  
25 order or by law;

26 (12) maintain memorials to Alaska veterans located in state  
27 parks;

28 (13) adopt, in accordance with the Administrative Procedure  
29 Act (AS 44.62), regulations governing the use of the Chena River State

1 Recreation Area and designating incompatible uses within the bound-  
2 aries of the Chena River State Recreation Area in accordance with  
3 AS 41.21.490.

4 \* Sec. 42. AS 42.40.920(b) is amended to read:

5 (b) Unless specifically provided otherwise in this chapter, the  
6 following laws do not apply to the operations of the corporation:

7 (1) AS 19;

8 (2) AS 30.15;

9 (3) AS 35;

10 (4) AS 36.30, except as specifically provided in AS 36.30  
11 (State Procurement Code);

12 (5) AS 37.05;

13 (6) [(5)] AS 37.07;

14 (7) [(6)] AS 37.10.010 - 37.10.060;

15 (8) [(7)] AS 37.10.085;

16 (9) [(8)] AS 37.20;

17 (10) [(9)] AS 37.25;

18 (11) [(10)] AS 38;

19 (12) [(11)] AS 44.62.040 - 44.62.320.

20 \* Sec. 43. AS 44.21.310(a) is amended to read:

21 (a) The telecommunications divisions, as directed by the deputy  
22 commissioner, shall

23 (1) advise the governor on matters of policy and comprehen-  
24 sive state planning for telecommunications services;

25 (2) make an annual report to the governor and to the legis-  
26 lature on the activities of the telecommunications divisions;

27 (3) coordinate, manage, and supervise state programs in  
28 telecommunications, including the management of those telecommunica-  
29 tion services for the state obtained from common carriers and from the

1           communications industry;

2                   (4) when requested, provide technical and consulting assis-  
3           tance to the executive, judicial, and legislative branches of state  
4           government, to the University of Alaska, and to private noncommercial  
5           entities which request that assistance in facility procurement and  
6           leasing and in identifying long-range goals and objectives for the  
7           state and its political subdivisions in all aspects of telecommunica-  
8           tions, including public, educational, and instructional telecommunica-  
9           tions;

10                   (5) prepare and maintain a state comprehensive telecommu-  
11           nications development plan to further state telecommunications devel-  
12           opment and to meet state telecommunications needs and prepare and  
13           maintain a comprehensive inventory of all state communications facil-  
14           ities;

15                   (6) whenever feasible, procure services from private enter-  
16           prise or certified and franchised utilities and contract for the  
17           construction, management, operation and maintenance of telecommunica-  
18           tions systems, and develop a procurement policy consistent with  
19           AS 36.30 (State Procurement Code) [UNDER AS 37.05.010 - 37.05.410];  
20           the procurement policy must seek to achieve the maximum benefit to the  
21           public, and methods of procurement, including lease, purchase, rental,  
22           or combinations of lease, purchase, and rental, must be selected on  
23           the basis of factors such as the ratio of long-range costs versus  
24           benefits, life cycle costing, and the costs to the communications  
25           industry to the extent that these costs may affect local and long  
26           distance basic telephone rates; procurement, contracting, construc-  
27           tion, and maintenance under this paragraph is governed by AS 36.30;

28                   (7) provide information and assistance to state agencies to  
29           promote governmental coordination and unity in the preparation of

1 agency plans and programs involving the use of telecommunications;

2 (8) apply for and accept federal and private money, proper-  
3 ty, or assistance, that may be appropriated, granted, or otherwise  
4 made available to the telecommunications divisions and use and dis-  
5 burse money and property for purposes consistent with AS 44.21.300 -  
6 44.21.330 and AS 44.21.256 - 44.21.290, subject to reasonable limita-  
7 tions imposed by the grantor;

8 (9) participate with other governmental units in planning,  
9 and assist local governments and governmental conferences and councils  
10 in the state in planning and coordinating their activities relating to  
11 telecommunications;

12 (10) provide for the orderly transition to new telecommu-  
13 nications services and systems by state agencies;

14 (11) serve as a clearinghouse for information, data, and  
15 other materials which may be necessary or helpful to federal, state,  
16 or local governmental agencies in the development of telecommunication  
17 systems;

18 (12) coordinate their services and activities with those of  
19 other state departments and agencies to the fullest extent possible to  
20 avoid unnecessary duplication; and

21 (13) provide that all activities of the telecommunications  
22 divisions are responsive to state statutes and regulations, and to the  
23 regulations and rulings of the Federal Communications Commission.

24 \* Sec. 44. AS 44.19.144(b) is amended to read:

25 (b) The director may

26 (1) with the written concurrence of the governor, enter  
27 into contracts and subcontracts on behalf of the state to carry out  
28 the provisions of AS 44.19.141 - 44.19.152; contracting under this  
29 paragraph is governed by AS 36.30 (State Procurement Code);

1           (2) act for the state in the initiation, investigation,  
2 evaluation of or participation in any program relative to the stated  
3 purpose of AS 44.19.141 - 44.19.152 which may involve more than one  
4 government or governmental unit;

5           (3) on behalf of the state, accept and expend any gifts or  
6 grants made to the state with the approval of the governor where such  
7 gifts or grants were made for the purposes of furthering the objec-  
8 tives of the office.

9 \* Sec. 45. AS 44.33.300 is amended to read:

10           Sec. 44.33.300. WAIVER OF CERTAIN PROVISIONS. When the gover-  
11 nor has by proclamation declared an area impacted by an economic  
12 disaster, the following provisions regarding public contracts may be  
13 waived to the extent specified in the proclamation:

14           (1) the requirement of a contractor's bond as prescribed in  
15 AS 36.25.010 may be waived if the contract amount does not exceed  
16 \$100,000;

17           (2) the public bid requirements as contained in AS 19.10.-  
18 170, AS [19.10.190,] 19.30.191(b), AS 35.15.010 - 35.15.020, and  
19 AS 36.30 (State Procurement Code) [AND AS 35.15.010 - 35.15.030] may  
20 be waived if the contract is to be performed by a contractor whose  
21 principal office is in the designated area and the contract amount  
22 does not exceed \$50,000;

23           (3) the general policy to require all construction to be  
24 under bid contract as contained in AS 19.10.170, AS 35.15.010, and  
25 AS 36.30 (State Procurement Code) may be waived if the contract is to  
26 be performed by the state, another governmental entity, or a nonprofit  
27 entity.

28 \* Sec. 46. AS 44.47.250 is amended by adding a new subsection to read:

29           (c) Contracts with persons or nongovernmental entities under

1 this section are governed by AS 36.30.

2 \* Sec. 47. AS 44.47.490(a) is amended to read:

3 (a) The director may establish field offices under this chapter,  
4 may hire one or more lending officers, and, under AS 36.30 (State  
5 Procurement Code), may contract for the services of

6 (1) real property appraisers who are familiar with rural  
7 construction; and

8 (2) engineers who are familiar with engineering problems in  
9 arctic and subarctic regions.

10 \* Sec. 48. AS 44.47.730(a) is amended to read:

11 (a) The commissioner shall contract for a study of the feasibil-  
12 ity of establishing a borough in the unorganized borough by following  
13 the procedure under AS 36.30 (State Procurement Code) [SET OUT IN  
14 AS 36.98]. The commissioner shall include terms in the contract that  
15 provide for

16 (1) public participation in the preparation of the study;

17 (2) completion of the study not later than June 30 of the  
18 third year after the year the contract is executed.

19 \* Sec. 49. AS 44.62.175(a) is amended to read:

20 (a) The lieutenant governor shall publish or contract for the  
21 publication of the Alaska Administrative Journal. The journal shall  
22 be published weekly. The journal must include

23 (1) notices of proposed actions given under AS 44.62.-  
24 190(a);

25 (2) notices of state agency meetings required under AS 44.-  
26 62.310(e), even if the meeting has been held;

27 (3) notices of solicitations to bid issued under AS 36.30.-  
28 130 [AS 37.05.230];

29 (4) notices of state agency requests for proposals issued

1 under AS 18.55.255, 18.55.320; [AS 19.10.190; AS 19.40.020; AS 35.15.-  
2 030; AS 36.98.030; AS 37.05.230,] AS 37.05.315(d); AS 38.05.120; and  
3 AS 43.40.010;

4 (5) executive orders and administrative orders issued by  
5 the governor;

6 (6) written delegations of authority made by the governor  
7 or the head of a principal department under AS 44.17.010;

8 (7) the text or a summary of the text of a regulation or  
9 order of repeal of a regulation for which notice is given under AS  
10 44.62.190(a), including an emergency regulation or repeal whether or  
11 not it has taken effect;

12 (8) a summary of the text of recently issued formal opin-  
13 ions and memoranda of advice of the attorney general; and

14 (9) a list of vacancies on boards, commissions, and other  
15 bodies whose members are appointed by the governor.

16 \* Sec. 50. AS 44.71.010 is amended to read:

17 Sec. 44.71.010. DISPOSITION OF OBSOLETE OR SURPLUS STATE PROP-  
18 ERTY. The Department of Administration shall take possession of  
19 obsolete or surplus property of the state for which there is no imme-  
20 diate or prospective use, except abandoned or obsolete school build-  
21 ings and other school property. It shall also take possession of  
22 property remaining in the control of a commission or board of the  
23 state government after the commission or board stops functioning. The  
24 Department of Administration shall sell, lease, license, or dispose of  
25 the property on the terms it considers for the best interests of the  
26 state in conformance with regulations adopted under AS 36.30 (State  
27 Procurement Code).

28 \* Sec. 51. AS 44.77.010(a) is amended to read:

29 (a) Except as provided in (d) of this section, every [EVERY]

1 claim for reimbursement for money expended, or for compensation for  
2 labor, materials, or supplies furnished, or services given to or for  
3 the state, whether based on a contract or on a ratification, shall be  
4 promptly presented to the appropriate administrative or executive  
5 officer for approval and payment.

6 \* Sec. 52. AS 44.77.010 is amended by adding a new subsection to read:

7 (d) A claim that is governed by AS 36.30.560 - 36.30.699 is not  
8 governed by this chapter.

9 \* Sec. 53. AS 44.85.120 is amended to read:

10 Sec. 44.85.120. CARE AND CUSTODY OF BONDS. The bond bank  
11 authority, in accordance with AS 36.30 (State Procurement Code), may  
12 enter into agreements or contracts with a bank, trust company, banking  
13 or financial institution inside or outside the state as may be neces-  
14 sary, desirable or convenient, in the opinion of the bond bank author-  
15 ity, for rendering services in connection with the care, custody or  
16 safekeeping of municipal bonds or other investments held or owned by  
17 the bond bank authority, for rendering services in connection with the  
18 payment or collection of amounts payable as to principal or interest,  
19 and for rendering services in connection with the delivery to the bond  
20 bank authority of municipal bonds or other investments purchased by it  
21 or sold by it, and to pay the cost of those services. The bond bank  
22 authority may also, in connection with any of the services to be  
23 rendered by a bank, trust company or banking or financial institution  
24 as to the custody and safekeeping of its municipal bonds or invest-  
25 ments, require security in the form of collateral bonds, surety agree-  
26 ments or security agreements in such form and amount as, in the opin-  
27 ion of the bond bank authority, is necessary or desirable.

28 \* Sec. 54. AS 44.99.001 is amended to read:

29 Sec. 44.99.001. ADMINISTRATION OF HIGHWAY SAFETY PROGRAM. The

1 governor may contract and do all other things necessary on behalf of  
2 this state under 23 U.S.C. 401-404 (Highway Safety Act of 1966), and  
3 may cooperate with interested persons and agencies to effectuate the  
4 purposes of that Act. Contracting under this section is governed by  
5 AS 36.30 (State Procurement Code). The governor may designate a  
6 person to serve as the governor's highway safety representative;  
7 however, the governor is the official in this state having the ulti-  
8 mate responsibility for dealing with the federal government with  
9 respect to programs and activities under the Federal Highway Safety  
10 Act of 1966. The governor shall coordinate the activities relating to  
11 highway safety of state departments, agencies and subdivisions and of  
12 the Governor's Commission on Transportation Safety established in  
13 AS 44.19.190.

14 \* Sec. 55. AS 46.04.090(a) is amended to read:

15 (a) The department, when feasible, shall enter into contracts  
16 with persons or private organizations to provide the personnel, equip-  
17 ment, or other services or supplies which may be required to carry out  
18 this chapter. Contracts under this section are governed by AS 36.30  
19 (State Procurement Code). When private contracting is not feasible,  
20 the department may establish and maintain at ports, harbors, or other  
21 locations in the state, the cleanup personnel, equipment, and supplies  
22 which, in its judgment, are necessary to carry out this chapter.

23 \* Sec. 56. AS 46.07.040(a) is amended to read:

24 (a) The commissioner shall provide for the construction of  
25 facilities under this chapter, and is authorized to provide for the  
26 construction by contract or through grants to public agencies or  
27 private nonprofit organizations, or otherwise. A [NO] contribution  
28 toward the cost of the construction of a facility may not be required  
29 from its users. Construction under this section by contract is

1        governed by AS 36.30 (State Procurement Code).

2        \* Sec. 57. AS 46.15.020(a) is amended to read:

3                (a) The commissioner shall exercise all those powers and do all  
4 those acts necessary to carry out the provisions and objectives of  
5 this chapter. The commissioner may

6                        (1) subject to AS 36.30 (State Procurement Code), enter  
7 into contractual agreements necessary to carry out the provisions of  
8 this chapter including agreements with federal, state and local agen-  
9 cies;

10                      (2) apply for, accept, administer and expend grants, gifts,  
11 and loans from the federal government and any other public or private  
12 sources for the purposes of this chapter, and adopt procedures and do  
13 acts not otherwise restricted by law which are necessary to qualify  
14 the state to receive grants, gifts and loans;

15                      (3) establish a division of water in the Department of  
16 Natural Resources and assign to that division the responsibility for  
17 carrying out the provisions of this chapter.

18        \* Sec. 58. AS 47.05.015(c) is amended to read:

19                (c) A contract authorized under this section is exempt from the  
20 competitive bid requirements of AS 36.30 (State Procurement Code)  
21 [AS 37.05.230]. In awarding a contract under this section the depart-  
22 ment shall [PUBLISH A] request [FOR] proposals in accordance with  
23 regulations of the Department of Administration under AS 36.30 (State  
24 Procurement Code) [DEPARTMENT].

25        \* Sec. 59. AS 47.30.350(-) is amended to read:

26                (a) The department shall

27                      (1) develop and submit to the Surgeon General of the United  
28 States Public Health Service a comprehensive program for the con-  
29 structing and equipping of hospitals and other facilities for the

1 examination, observation, care, and treatment of the mentally ill;

2 (2) develop and submit to the Surgeon General plans and  
3 specifications for the constructing and equipping of the hospitals and  
4 other facilities;

5 (3) construct and equip the hospitals and other facilities  
6 in accordance with the program, plans, and specifications approved by  
7 the Surgeon General; construction and equipping under this paragraph  
8 is governed by AS 36.30 (State Procurement Code);

9 (4) cooperate, coordinate, and contract, wherever indicated  
10 and desirable, with other state boards, departments and agencies, and  
11 agencies of the United States in the construction program, and hire  
12 necessary personnel and enter into contracts with private individuals  
13 and companies, to the end that the hospitals and other facilities are  
14 constructed in the most economical and expeditious manner; contracting  
15 and construction under this section are governed by AS 36.30 (State  
16 Procurement Code).

17 \* Sec. 60. AS 47.30.660 is amended to read:

18 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The depart-  
19 ment is the mental health authority of the state and shall

20 (1) administer a comprehensive program for the prevention  
21 of mental illness and the care and treatment of the mentally ill,  
22 including inpatient and outpatient care and treatment and the procure-  
23 ment of services of specialists or other persons on a contractual or  
24 other basis;

25 (2) take the actions and undertake the obligations which  
26 are necessary to participate in federal grants-in-aid programs and  
27 accept federal or other financial aid from whatever sources for the  
28 study, examination, care, and treatment of the mentally ill;

29 (3) administer AS 47.30.660 - 47.30.915;

1 (4) designate, operate, and maintain treatment facilities  
2 equipped and qualified to provide inpatient and outpatient care and  
3 treatment for the mentally ill;

4 (5) provide for the placement of mentally ill patients in  
5 designated treatment facilities;

6 (6) enter into arrangements with governmental agencies for  
7 the care or treatment of the mentally ill in facilities of the govern-  
8 mental agencies in the state or in another state;

9 (7) enter into contracts with treatment facilities for the  
10 custody and care or treatment of the mentally ill; contracts under  
11 this paragraph are governed by AS 36.30 (State Procurement Code);

12 (8) enter into contracts which incorporate safeguards  
13 consistent with AS 47.30.660 - 47.30.915 and the preservation of the  
14 civil rights of the patients with another state for the custody and  
15 care or treatment of patients previously committed from this state  
16 under 48 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd  
17 Session, 70 Stat. 709;

18 (9) prescribe the form of applications, records, reports,  
19 requests for release, and consents to medical or psychological treat-  
20 ment required by AS 47.30.660 - 47.30.915;

21 (10) require reports from the head of a treatment facility  
22 concerning the care of patients;

23 (11) visit each treatment facility at least annually to  
24 review methods of care or treatment for patients;

25 (12) investigate complaints made by a patient or an inter-  
26 ested party on behalf of a patient;

27 (13) delegate upon mutual agreement to another officer or  
28 agency of it, or a political subdivision of the state, or a treatment  
29 facility designated, any of the duties and powers imposed upon it by

1 AS 47.30.660 - 47.30.915; and

2 (14) adopt regulations to implement the provisions of  
3 AS 47.30.660 - 47.30.915.

4 \* Sec. 61. AS 47.35.010(a) is amended to read:

5 (a) The department may

6 (1) license and supervise boarding homes, foster homes,  
7 group homes, nurseries, institutions caring for children and foster  
8 homes, group homes and institutions caring for dependent adults;

9 (2) investigate and supervise licensees;

10 (3) enforce the standards established by it;

11 (4) contract with private or municipal agencies to investi-  
12 gate and make recommendations to the department for the licensing and  
13 supervision of boarding homes, foster homes, group homes, nurseries,  
14 institutions caring for children and foster homes, group homes and  
15 institutions caring for dependent adults under procedures and stan-  
16 dards of operation established by the department; contracts with  
17 private agencies under this paragraph are governed by AS 36.30 (State  
18 Procurement Code).

19 \* Sec. 62. AS 47.37.030 is amended to read:

20 Sec. 47.37.030. POWERS OF OFFICE. The office may

21 (1) plan, establish, and maintain treatment programs as  
22 appropriate;

23 (2) make contracts and award grants necessary or incidental  
24 to the performance of its duties and the execution of its powers,  
25 including contracts with and grants to public and private agencies,  
26 organizations, and individuals, to pay them for services rendered or  
27 furnished to alcoholics or intoxicated persons; to the maximum extent  
28 possible, contracts and grants shall be for a period of two years;  
29 contracts under this paragraph are governed by AS 36.30 (State

1        Procurement Code);

2                (3) solicit and accept for use a gift of money or property  
3 or a grant of money, services, or property from the federal govern-  
4 ment, the state, or a political subdivision of it or a private source,  
5 and do all things necessary to cooperate with the federal government  
6 or any of its agencies in making an application for a grant;

7                (4) administer or supervise the administration of the  
8 provisions relating to alcoholics and intoxicated persons of any state  
9 plan submitted for federal funding under federal health, welfare, or  
10 treatment legislation;

11                (5) coordinate its activities and cooperate with alcoholism  
12 programs in this and other states, and make contracts and other joint  
13 or cooperative arrangements with state, local, or private agencies for  
14 the treatment of alcoholics and intoxicated persons and for the common  
15 advancement of alcoholism programs in this and other states;

16                (6) keep records and engage in research and the gathering  
17 of relevant statistics;

18                (7) do other acts necessary to implement the authority  
19 expressly granted to it;

20                (8) acquire, hold, or dispose of real property or any  
21 interest in it, and construct, lease, or otherwise provide treatment  
22 facilities for alcoholics and intoxicated persons; however, the office  
23 shall encourage local initiative, involvement and financial participa-  
24 tion under grants-in-aid whenever possible in preference to the con-  
25 struction or operation of facilities directly by the office; contract-  
26 ing and construction under this paragraph are governed by AS 36.30  
27 (State Procurement Code).

28 \* Sec. 63. AS 47.37.130(g) is amended to read:

29                (g) The office may contract for the use of any facility as an

1 approved public treatment facility if the coordinator, subject to the  
2 regulations of the department, considers this an effective and econom-  
3 ical course to follow. Contracting under this subsection is governed  
4 by AS 36.30 (State Procurement Code).

5 \* Sec. 64. AS 47.40.041(b) is amended to read:

6 (b) Notices published by the department concerning the opening  
7 of the application process for a grant award shall specify the geo-  
8 graphical area in which services are needed, the type of services, the  
9 number of beds anticipated to be needed, the maximum number of days of  
10 care, and any other requirements established by the department.  
11 Grants authorized under this section are exempt from the competitive  
12 bid requirements of AS 36.30 [AS 37.05.230].

13 \* Sec. 65. AS 47.90.010(a) is amended to read:

14 (a) The commissioner, in consultation with state and local  
15 government agencies, community groups, and groups concerned with  
16 displaced homemakers, may

17 (1) contract with eligible private profit and nonprofit  
18 corporations for multipurpose service centers for displaced home-  
19 makers; contracting under this paragraph is governed by AS 36.30  
20 (State Procurement Code); and

21 (2) coordinate existing state programs for displaced home-  
22 makers.

23 \* Sec. 66. AS 47.40.041(b) is amended to read:

24 (b) Notices published by the department concerning the opening  
25 of the application process for a grant award shall specify the geo-  
26 graphical area in which services are needed, the type of services, the  
27 number of beds anticipated to be needed, the maximum number of days of  
28 care, and any other requirements established by the department.  
29 Grants authorized under this section are exempt from AS 36.30 (State

1        Procurement Code) [THE COMPETITIVE BID REQUIREMENTS OF AS 37.05.230].

2        \* Sec. 67. REPORT. By December 1, 1987, the commissioner of adminis-  
3 tration and the commissioner of transportation and public facilities shall  
4 report to the legislature concerning procurements by state agencies during  
5 the first six months of 1987. The report must include

6            (1) the records prepared under AS 36.30.510(4);

7            (2) recommendations for changes in AS 36.30 or other laws based  
8 on implementation of AS 36.30 in those six months; and

9            (3) a description of any matters that involved litigation con-  
10 cerning AS 36.30 during those six months.

11        \* Sec. 68. REGULATIONS DEADLINE. The regulations required under  
12 AS 36.30 as added by sec. 2 of this Act, shall be adopted by January 1,  
13 1987 and shall be effective on that date. Regulations adopted under laws  
14 repealed in sec. 69 of this Act become ineffective January 1, 1987.

15        \* Sec. 69. REPEALER. The following laws are repealed: AS 14.40.340;  
16 AS 19.10.190, 19.10.210; AS 24.23; AS 35.15.030, 35.15.050; AS 36.98;  
17 AS 37.05.220, 37.05.230, 37.05.231, 37.05.240, 37.05.250, 37.05.260, 37.-  
18 05.270, 37.05.280, 37.05.290, 37.05.400(2) and (3); AS 44.65; AS 44.77.-  
19 010(c); and AS 47.90.010(c).

20        \* Sec. 70. Section 68 of this Act takes effect immediately in accor-  
21 dance with AS 01.10.070(c).

22        \* Sec. 71. Except as provided in sec. 70, this Act takes effect Janu-  
23 ary 1, 1987.

Rec'd  
5/10/86

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 5/9/86

REQUEST	HCS for CS for	FISCAL DETAIL
Bill/Resolution No.:	<u>SB341 (JUD)</u>	Agency Affected: <u>Dept. of Administration</u>
Title:	<u>State Procurement Practices and Procedures</u>	BRU: <u>General Services &amp; Supply</u>
Sponsor:	<u>Rules by Request</u>	Components: <u>Purchasing</u>
Requestor:	<u>House Judiciary</u>	
Date of Request:		

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	350.0	367.5	385.9	405.2

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		0	100.0		100.0	
---------	--	---	-------	--	-------	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	350.0	367.5	385.9	405.2
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		0	350.0	367.5	385.9	405.2

POSITIONS:

FULL-TIME		0	5	5	5	5
PART-TIME						
TEMPORARY		0				

**ANALYSIS:** Attach a separate page if necessary This is a preliminary estimate of the costs of implementing the bill with a July 1, 1987 effective date. During FY 87, the final bill will be reviewed and more specific impacts will be detailed in the FY 88 budget. Revenue is based on estimates of receipts from biennial fees for Contractor Listing placement 36.30.050(b)

Prepared By: Robert J. Link *Robert J. Link* Phone: 465-2250  
 Division: General Services & Supply Date: May 9, 1986  
 Approved by Commissioner: Eleanor Andrews *Eleanor Andrews* Date: May 9, 1986  
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: CSSB 341 (Jud) am  
 Title: "An Act relating to state procure-  
 ment practices and procedures; and  
 providing for an effective date."  
 Sponsor: Rules Committee by Request  
 Requestor: House State Affairs  
 Date of Request: 4/18/86

**FISCAL DETAIL**

Agency Affected: Public Safety  
 BRU: DPS Administration  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Reviewing the definition given for "sole source procurements", it appears that this Department would need to write more RFP's. It does not require an additional person; however, the overall service response time to the field Divisions will be affected.

*OK SF  
K. H. Jones*

Prepared by: Sid LaMonica Phone: 465-4328  
 Division: Administrative Services Date: 4/18/86

Approved by Commissioner: [Signature] Date: 4/18/86  
 Agency: Public Safety

**Distribution (by Agency preparing fiscal note) :**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CSSB 341 (Jud)  
 Title : " An Act relating to state  
 procurement practices and procedures..."  
 Sponsor : Rules Committee  
 Requestor : Senate Finance  
 Date of Request : 4/01/86

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : DPS Administration  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
RANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Reviewing the definition given for "sole source procurements", it appears that this Department would need to write more RFP's. It does not require an additional person, however, the overall service response time to the field Divisions will be affected.

Prepared by : Kathy Niles, Admin Assistant  
 Division : Commissioner's Office

Phone : 465-4336  
 Date : 4/01/86

Approved by Commissioner : [Signature]  
 Agency : Public Safety

Date : 4-1-86

**Distribution (by Agency preparing fiscal note) :**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST  
Bill/Resolution No.: CSSB 341 (JUD)  
Title: "An act relating to state procurement practices and procedures and providing for an effective date."  
Sponsor: Rules by request for Senate  
Requestor: \_\_\_\_\_ Select committee  
Date of Request: \_\_\_\_\_

FISCAL DETAIL  
Agency Affected: \_\_\_\_\_  
BRU: Department of Administration  
Division of Administrative Services  
Components: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	80.7	161.3	166.1	171.1	176.2
TRAVEL	0	8.9	17.8	18.3	18.8	19.4
CONTRACTUAL	0	38.2	76.4	78.7	81.1	83.5
SUPPLIES	0	1.0	1.9	2.0	2.1	2.2
EQUIPMENT	0	8.0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	136.8	257.4	265.1	273.1	281.3
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	136.8	257.4	265.1	273.1	281.3
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL		137.3	257.4	265.1	273.1	281.3

POSITIONS:

FULL-TIME	0	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

Attached.

Prepared By: Gary Bader *Gary M. Bader* Phone: 465-2277  
Division: Administrative Services Date: \_\_\_\_\_  
Approved by Commissioner: Eleanor Andrews *Eleanor Andrews* Date: 3/26/86  
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For CSSB 341 (JUD)

SUBJECT OF PROPOSED BILL:

State procurement practices and procedures.

SUMMARY/EXPLANATION OF INTENT:

"To simplify, clarify, and modernize the law governing Procurements by the State."

ESTIMATED FISCAL IMPACT:

Capital: 0  
Operating: \$136,800 FY 87  
              \$257,400 FY 88

ANALYSIS:

A. Assumptions

1. Enactment of CSSB 341 (JUD) will significantly impact the Department of Administration and the present method of bid solicitation and the subsequent protest and appeal process.

Because of the changes in Article 2 and Article 3 which will be addressed by General Services & Supply, an increased number of protests and appeals is anticipated by General Services & Supply. The changes proposed by CSSB 341 (JUD) to the protest and appeals procedures and possible subsequent hearings are listed below:

Section 36.30.590 creates a two-step protest/appeal process for goods and services contract awards where previously there was only one step. Prior to SB 341, a decision was made by the Commissioner of Administration to deny a protest, to rule on a protest or hear the protest. This decision can be based on timeliness and/or merit. This Bill creates a first step whereby a protest can be filed with the procurement officer. If the protestor is not satisfied with the decision of the procurement officer, a written appeal is to be filed within five days with the Commissioner. Unless the appeal is determined to be untimely or that no facts are in dispute, the appeal will go into the hearing process. This is based on the assumption that the Commissioner of Administration will not decide to delegate appeals and hearings to the department involved. This assumption is based on the need for efficiency and standardizing which can only be obtained by centralization. It is estimated that approximately 122 appeals will be heard by a hearing officer.

Section 36.30.595(b) requires the Commissioner to furnish a copy of filed appeals to "all interested parties." This newly required clerical function will require a mailing of an estimated ten notifications per each appeals and other related functions.

Section 36.30.630 grants the Commissioner 15 days after receipt of a written appeal to adopt the procurement officer's decision regarding contract controversies or determine if there should be a hearing. It is assumed that in order to make the decision, the Commissioner will conduct a complete investigation of the facts surrounding the contract controversy. This investigation should be exhaustive.

Section 36.30.650 and Section 36.30.660 are newly created to place into law procedures regarding debarment, suspension and reinstatement. Hearings may be held following receipt of a written appeal requesting a reconsideration or reinstatement. Based upon evidence showing that the cause no longer exists or has been mitigated, a Hearing Officer may make recommendations to the Commissioner.

2. Of the Goods and Services contracts, during the December 1, 1984, to December 1, 1985 period, 390 bid solicitations were conducted and 548 bid waivers were allowed by the commissioner as being in the best interest of the State. Of these 548 waivers, only 20% would meet the criteria of sole source or emergency requirements of the new bill. Therefore, under the new law, an additional 438 bid solicitations would be required. Of the 390 bids, there were 61 protests or 15.6%. Using this percentage, of the total solicitations required by the new law, 130 protests could be anticipated.

$$(390 + 438) * 15.6\% = 130 \text{ appeals}$$

Of these 130 expected protests, it is anticipated that approximately 52 will be resolved prior to requiring a hearing.

130	anticipated protests
-52	40% will be resolved by a purchasing officer decision
-11	8.5% will be deemed untimely
<u>67</u>	anticipated hearings or rulings based on submitted briefs

67	anticipated hearings based on Goods and Services contracts.
+50	anticipated appeals regarding contract controversies
+ 3	anticipated appeals regarding debarment and suspension
+ 2	anticipated appeals regarding reinstatement
<u>122</u>	anticipated total hearings

3. Inflation is estimated at three percent per year.

B. Staff Requirement

1. 122 hearings are anticipated per year.
2. Each Hearing Officer can hear and file on one appeal per week, based on estimates provided by Department of Labor.

3. General Government Unit (GGU)

Hours Per Year	= 1,950 hrs/yr
Annual Leave	= (127.5)
Five days Sick Leave	= (37.5)
Holidays (ten days)	= <u>(75.0)</u>
Employee Annual Hours Worked	1,710 hrs/yr
Employee Weeks Worked Per Year	45.6 wk/yr

4. 122 anticipated hearings per year ÷ 46 hearings per hearing officer = 2.6 hearing officers per year. There is presently one hearing officer in the Department of Administration; thus 2 additional hearing officers are required.

C. Costs:

1. Personal Services: \$80,657\* (January 1, 1987 - June 20, 1987)  
 \$161,314 (FY 88)

(2) Hearing Officers	R21A	2 X \$ 59,934 =	\$119,868
Administrative Assistant	R14B	\$ 41,446 =	\$ 41,446
	TOTAL		<u>\$161,314</u>

\* FY 87 (.5 x \$161,314) = \$80,657

2. Travel: \$8,884 (January 1, 1987 - June 30, 1987)  
 Full year cost is \$17,768 for FY 88.

(a) Assumes 25% of hearings in Anchorage requiring two days per diem per trip at \$80 per day.

(1) Air Fare	\$ 352
(2) Per Diem 2 X \$80 -	<u>160</u>
(3) 30 Trips X \$512 =	\$15,360

(b) Assumes 3% of hearing in Fairbanks requiring two days per diem per trip at \$90 per day.

(1) Air Fare	\$ 422
(2) Per Diem 2 X \$90 -	<u>180</u>
(3) 4 Trips X \$602 =	\$2,408

3. Contractual: \$38,216 (January 1, 1987 - June 30, 1987)  
 Full year cost is \$76,432 for FY 88.

(a) Centrex (3 X \$512) -	\$1,536
(b) Photocopies and Transcripts	1,200
(c) Telephone-toll	
(\$10 per call X 2 calls X	
\$20 per day x 12)	4,800
Data Processing Chargeback	500
(d) Professional Services	\$59,400

Because a large percentage of contracts are put to bid at the same time, many appeals will occur at the same time. Because unheard appeals will delay contract awards, the appeals must be heard in a timely manner. It is therefore assumed that 15% of

the appeals will be heard by a contracted hearing officer. The average cost of a contracted hearing has been \$3,000 - \$4,000 in the past.

$$18 \times \$3,300 = \$59,400$$

(e) Space Rental: \$8,996

Hearing Officer	Range 21 = 85 X 2 = 170 sq. ft.
Administrative Assistant	Range 14 = 85            85 sq. ft.
25% Circulation =	64 sq. ft.
Total	<u>319 sq. ft.</u>

$$319 \text{ square feet} \times \$2.35^* \text{ per month} \times 12 = \$8,996$$

\* average per square feet per month in Juneau

4. Supplies: \$900 (January 1, 1987 - June 30, 1987)  
Full year cost is \$1,854 (FY 88)  
FY 87: 3 employees X \$50 per month X 6 months = \$900  
FY 88: 3 employees X \$50 per month X 12 months X 1.03 Inflation = \$1,854
5. Equipment (one-time) : \$7,954
- (a) Furniture
- |                          |        |
|--------------------------|--------|
| Chairs (3 @ \$150)       | \$ 450 |
| Desks (3 @ \$500)        | 1,500  |
| File Cabinet (4 @ \$366) | 1,464  |
- (b) Office Equipment
- |                              |        |
|------------------------------|--------|
| Calculators (2 @ \$270)      | \$ 540 |
| Computer Terminal            | 4,000  |
| with word processing hook-up |        |

Position Title <b>Administrative Assistant</b>			No. of Positions <b>1</b>	Range/Step <b>14B</b>	Barg. Unit <b>G</b>	Gov.	Approv.	Disapp.
Time Status <b>PFT</b>	Staff Months <b>12</b>	RP Number	Location <b>Juneau</b>		Election District	Leg.		
Type of Expenditure			Justification					
			The duties of the Administrative Assistant will include, but not be limited to; organizing the files of each protest that is not satisfied at the procurement officer level, determination of time schedules and the sending of various types of required notification, performing research for the Hearing Officers, and performing the various accounting functions required by the unit.					
1		2	3					
Salary		29,196						
Benefits		10,565						
Premium Pay		1,625						
Other								
Total Personal Services			<b>41,446</b>					
Travel								
Contractual			<b>3,511</b>					
Commodities			<b>432</b>					
Equipment			<b>650</b>					
Other								
Total Cost			<b>46,039</b>					
Receipt Code		Funding Source						
		Federal Receipts 1002						
		G. F. Match 1003						
		General Funds 1004		<b>46,039</b>				
		I-A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
For B&M Use Only								
Key Number								

**Request For  
New Position**

Agency Department of Administration  
 BRU Administrative Services  
 Component Administrative Services

**FY 87**

Page 6 of 7  
 Revised Date

FISCAL NOTE SUMMARY FOR SENATE BILL 341

<u>Department</u>	<u>Amount</u>	<u>Positions</u>
Community and Regional Affairs	\$ 243,200	10 F/T
Alaska State Housing Authority	\$2,890,310	13 F/T
Department of Administration General Services	\$ 493,700	9 F/T
Department of Administration Administrative Services	\$ 136,800	2 F/T
Department of Natural Resources	\$ 33,500	1 F/T
Department of Environmental Conservation	\$ 49,400	1 F/T
Department of Transportation	\$ <u>200,000</u>	<u>1 F/T</u>
TOTAL	\$4,046,910	38 F/T

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SB 341  
 Title : An Act relating to state procurement practices and procedures  
 Sponsor : Rules Committee by request  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Community & Regional Affairs  
 BRU : Local Government Assistance; Child Assistance, Displaced Homemakers, Administration and Support  
 Components : Grants Administration, Child Care, Displaced Homemakers, Administrative Services

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		202.1	404.1	416.2	428.7	441.6
TRAVEL		9.2	18.4	19.0	19.6	20.2
CONTRACTUAL		11.6	23.2	23.9	24.6	25.3
SUPPLIES		1.8	3.7	3.8	3.9	4.0
EQUIPMENT		18.5				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>243.2</b>	<b>449.4</b>	<b>462.9</b>	<b>476.8</b>	<b>491.1</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		243.2	449.4	462.9	476.8	491.1
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME		10	10	10	10	10
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary This bill provides for a major restructuring and revision of the statutes governing the procurement of supplies, services, professional services, and construction by State agencies. Several of the requirements currently existing in statutes concerning procurement would be changed. The bill would affect all of the Department's procurement activities.

Prepared by : Remond Henderson *Remond Henderson* Phone : 465-4708  
 Division : Administrative Services Date : 2/6/86

Approved by Commissioner : *Kevin Todd* Date : 2/6/86  
 Agency : Community and Regional Affairs

Distribution (by agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 341

This fiscal note is a combination of the fiscal impact of SB 341 on various BRU's and components within the Department. Following is a summary of the fiscal impact on each Division.

### Assumptions

1. The definition of "procurement" in SB 341 is interpreted as applying to projects currently treated as grants creating an increase in time to prepare and review the required documents.
2. Number of grants each staff could effectively administer would be greatly reduced.
3. The Department receives a significant number of new grants each year.
4. Due to sec. 36.30.930, Civil and Criminal Penalties, the Department would need to provide increased oversight of procurement documents in order to reduce the liability exposure for all staff involved in procurement.

### Municipal and Regional Assistance Division

- 4 Grants Administrators to more closely monitor grants and meet increased requirements under proposed procurement provisions - \$182.7
- 1 Clerk Typist III and 1 Administrative Assistant to provide additional clerical and technical support for increased professional staff - \$66.6

### Community Development Division

- 1 Grants Administrator and 1 Community Development Specialist I/II to more closely monitor grants and meet increased requirements under proposed procurement provisions \$112.5
- 1 Clerk Typist III to provide additional clerical support - \$32.4

### Administrative Services Division

One Administrative Officer I position to provide training and technical assistance to departmental staff to assure compliance with the procurement provisions and to serve as final review of all documents to decrease liability exposure of staff involved in procurement - \$47.7

All positions are full-time 12-month positions. However, since SB 341 is effective January 1, 1987, FY 87 costs are for six months.

NOTE: If the definition of procurement is amended to exclude the bulk of grants administered by the Department, the fiscal impact of the bill would be greatly reduced.

Position Title Grants Administrator - Beginning FY 87			No. of Positions 4	Range/Step 17/A	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Anchorage	Election District	Leg.			
Type of Expenditure			Justification					
1	2	3	Senate Bill 341, as written, would subject virtually all of the Division's grants to unincorporated communities and nonprofit organizations to the provisions of the proposed State procurement practices and procedures. The fiscal impact of this would be significant as virtually all grants would have to be treated as Professional Services Contracts. The procurement practices of the grantee would have to be more closely monitored with corresponding increases in oversight and reporting. The number of grants each administrator could adequately monitor would be greatly reduced. For purposes of this fiscal note it is assumed the average number of grants per administrator would have to be reduced from about 75 per person to 20 grants per person.					
Salary	34,740 x 4	138,960	These four Grants Administrator positions would prepare grant contracts and procurement documents, closely monitor grant progress, provide advice and grant administration technical assistance, and assist grantees in finishing and closing out contracts. This would require adequate funding for toll calls and some travel funds.					
Benefits	10,930 x 4	43,720						
Premium Pay								
Other		182,680						
Total Personal Services								
Travel		5,000						
Contractual		12,000						
Commodities		1,000						
Equipment		8,000						
Other								
Total Cost		208,680						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	208.7					
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For B&M Use Only Key Number _____								

0317F/1

**Request For  
New Position**

Agency Community and Regional Affairs  
 BRU Local Government Assistance  
 Component Grants Administration

Page 1 of 1  
 Revised Date \_\_\_\_\_

**FY 87**

Position Title <b>Administrative Assistant (Beginning FY87)</b>		
Time Status PFT	Staff Months 12	RP Number

No. of Positions	Range/Step 12/A	Base Unit GRU	Gov.	Approv.	Disapp.
Location Anchorage		Election District	Leg.		

Type of Expenditure	1	2	Amount	3
Salary		24,865		
Benefits		8,583		
Premium Pay				
Other				
<b>Total Personal Services</b>				<b>33,548</b>
Travel				-0-
Contractual				800
Commodities				200
Equipment				2,000
Other				
<b>Total Cost</b>				<b>36,548</b>

**Justification**

This position would be needed to support the activities of the four (4) additional Grants Administrators required in FY 87, the four (4) new Grants Administrators needed in FY 88 and the three (3) new Grants Administrators needed in FY 89 (see attached related Requests for New Positions).

The Administrative Assistant would assist in maintaining files, keeping grant balances current, advertising and documentation needed to meet procurement and contract requirements, and other general support staff functions

Receipt Code	Funding Source	Amount
	Federal Receipts 1002	
	G. F. Match 1003	
	General Funds 1004	36.5
	I-A Receipts 1005	
	Program Receipts 1028	
	CIP Receipts 1061	
	Other	

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Key Number \_\_\_\_\_

**Request For  
New Position**

Agency Community & Regional Affairs  
 BRU Local Government Assistance  
 Component Grants Administration

Page \_\_\_\_\_ of \_\_\_\_\_  
 Revised Date \_\_\_\_\_

**FY 87**

Position Title Clerk Typist III - Beginning FY 87			No. of Positions 1	Range/Step B/A	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location	Election District		Leg.		
Anchorage			Justification This clerical position is needed to support the four (4) additional Grants Administrator positions required in FY 87 to provide increased oversight and monitoring of grants. This Clerk Typist position would type reports and correspondence, file, photocopy, and provide other clerical support to assist the Grants Administrators.					
Type of Expenditure		Amount						
1	2	3						
Salary	19,573							
Benefits	7,479							
Premium Pay								
Other								
Total Personal Services		27,052						
Travel		-0-						
Contractual		700						
Commodities		300						
Equipment		2,000						
Other								
Total Cost		30,052						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		30.1					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only Key Number _____								

0317F/3

**Request For  
New Position**

Agency Community and Regional Affairs  
 BRU Local Government Assistance  
 Component Grants Administration

Page 1 of 1  
 Revised Date \_\_\_\_\_

**FY 87**

Position Title Community Development Specialist I/II			No. of Positions 1	Range/Step 16A	Barg. Unit GGU	Gov.	Appov.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Anchorage, AK		Election District	Leg.		
Type of Expenditure			Justification					
Amount			<p>Currently no admin. dollars are associated with this program.</p> <p>SB 341 would impose additional regulations that would need to be addressed by a staff member.</p> <p>Presently the program is being administered by a number of different people who spend a portion of their time on this program and are basically funded by other sources. This was an emergency type response to the exclusion by the Legislature, of admin. dollars for this program.</p> <p>If the administrator of this program continued to function in this manner we would be unable to implement the requirements set forth in SB 341 in a timely manner.</p> <p>This new position would centrally locate the administration of this program and would be responsible for the requirements that would be placed on this program as a result of SB 341.</p> <p>Presently the program is handled like a "pass through" grants. SB 341 would require this program to be handled as professional services contracts.</p>					
1	2	3						
Salary	32,424							
Benefits	10,403							
Premium Pay								
Other								
Total Personal Services		42,827						
Travel		8,200						
Contractual		2,400						
Commodities		500						
Equipment		500						
Other								
Total Cost								
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004 54.4					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only								
Key Number								

**Request For  
New Position**

Agency Community & Regional Affairs  
 BRU Job Training Partnership Act  
 Component Displaced Homemakers

Page 1 of 1  
 Revised Date \_\_\_\_\_

**FY 87**

Position Title <b>Grants Administrator</b>			No. of Positions 1	Range/Step 17A	Barg. Unit GGU	Gov.	Approx.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Anchorage		Election District	Leg.		
Type of Expenditure			Justification					
1		2	3					
Salary		34,740	Generally, Child Care grants are awarded to the same contractors yearly. Under SB 341, the Child Care monies would have to go out to bid, probably resulting in new contractors and new local administrators. Therefore, this position would need to provide training and technical assistance to the new recipients.					
Benefits		10,930						
Premium Pay								
Other								
Total Personal Services		45,670						
Travel		5,200	An additional Grants Administrator is needed in order to process the increased amount of paperwork under SB 341.					
Contractual		5,900						
Commodities		600						
Equipment		700						
Other								
Total Cost		58,070						
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004 58 1					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only								
Key Number								

**Request For  
New Position**

Agency Community & Regional Affairs  
 BRU Child Assistance  
 Component Child Care

**FY 87**

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 Revised Date



Position Title <b>Administrative Officer I</b>			No. of Positions <b>1</b>	Range/Step <b>17A</b>	Barg. Unit <b>CGU</b>	Gov.	Approv.	Disapp.	
Time Status <b>PFT</b>	Staff Months <b>12</b>	RP Number	Location <b>J.uneau</b>		Election District	Leg.			
Type of Expenditure			Justification						
		Amount	<p>The requested Administrative Officer I position is needed to provide an independent review of procurement documents in order to provide some measure of quality control within the Department. In addition, the Administrative Officer would be available to provide technical assistance to departmental staff to assure conformance with SB 341.</p>						
<b>1</b>	<b>2</b>	<b>3</b>							
Salary	34,740								
Benefits	10,930								
Premium Pay									
Other									
Total Personal Services		45,670							
Travel									
Contractual									
Commodities		500							
Equipment		1,500							
Other									
Total Cost		47,670							
Receipt Code	Funding Source								
	Federal Receipts	1002							
	G. F. Match	1003							
	General Funds	1004							47.7
	I-A Receipts	1005							
	Program Receipts	1028							
	CIP Receipts	1061							
	Other								
For B&M Use Only Key Number _____									

**Request For  
New Position**

Agency Community and Regional Affairs  
 BRU Administration and Support  
 Component Administrative Services

Page 1 of 1  
 Revised Date \_\_\_\_\_

**FY 87**

STA OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CS FOR SB 341  
 Title : AN ACT RELATING TO STATE  
PROCUREMENT PRACTICES & PROCEDURES  
 \_\_\_\_\_  
 Sponsor : RULES  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : COMMERCE & ECONOMIC DEV.  
BRL : ALASKA STATE HOUSING AUTHORITY  
 \_\_\_\_\_  
 Components : HOUSING MANAGEMENT  
 \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		577.56	595.09	612.94	631.33	650.27
TRAVEL		35.80	36.87	37.98	39.12	40.29
CONTRACTUAL		128.35	132.20	136.17	140.26	141.47
SUPPLIES		16.50	17.00	17.51	18.04	18.58
EQUIPMENT		151.20				
LAND & STRUCTURES		1,980.90				
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>2,890.31</b>	<b>781.16</b>	<b>804.60</b>	<b>828.75</b>	<b>853.61</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		2,890.31	781.16	804.60	828.75	853.61
FEDERAL FUNDS		n/a	n/a	n/a	n/a	n/a
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME		13	13	13	13	13
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

See attached page

Prepared by : DIANE FAUDE, ADMINISTRATIVE OFFICER II Phone : 562-2813  
 Division : HOUSING MANAGEMENT Date : 3/18/86

Approved by Commissioner : \_\_\_\_\_ Date : \_\_\_\_\_  
 Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB341

The Alaska State Housing Authority procures approximately \$1,000,000/month in items in support of 3,125 housing units across the state. Operating currently under its own procurement regulations approved by both the state and federal government, SB341 would replace the present system with one of implementation by and reporting to a dual state and federal system.

To assure full delegation of Procurement Bill SB 341, this agency would have to establish control under a Procurement Director. This Director would require a staff of four people in the positions of Main Warehouseman, Facilities Service Manager, Building Services Manager and Inventory Control Analyst.

The Housing Management Department of the Alaska State Housing Authority has project offices in 16 locations across the State. Under the Procurement Director, a Main Warehouseman would have a staff of three sub/warehousemen who would each have an expeditor under their control. These staff people would be responsible for the actual purchasing, shipping and invoicing. They would also be essential in determining the needs and use of all products procured by the maintenance staff statewide.

In an Administrative Services Division, an Inventory Control Analyst would be responsible for maintaining and controlling inventory records to include the disposal of outdated/scrapped and the addition of new inventory purchases. This person would also assume the role of Surplus Sales Manager in conducting the sale or auction of destroyed/old equipment. A Facilities Service Manager would be responsible for the control and purchase of office products and supplies utilized on a daily basis by the central and statewide projects offices. A Building Services Manager would be responsible for tracking, executing and maintaining all service contracts procuring ongoing services such as elevator service, guard services, emergency call maintenance and the like.

Salaries, including benefits, for each person are as follows: Procurement Director: \$71,500; Main Warehouseman: \$65,000; Sub/warehouseman (3) \$57,200 each; Expeditor (2): \$26,000 each; Inventory Control Analyst: \$45,500; Facilities Service Manager: \$57,200; Building Services Manager: \$57,200; Accounting Clerk III (2): \$28,780 each. Total = \$577,560

Travel would be required by the Procurement Director, Main Warehouseman, the three sub/warehousemen, the Inventory Control Analyst, Facilities Service Manager, and Building Services Manager. Total travel cost is estimated at \$35,800 for FY87.

Contractual Services focus on the installation of computer lines to each project location. Each person responsible for reporting to the Procurement Director would have a terminal and slave printer on-site. Each of the 24 project offices would also have a computer terminal on-site. The cost for these services would be \$28,350. Computer programming services overall are estimated at \$100,000.

Supplies will be an on-going line item to accommodate the reporting requirements and additional computer output of data to statewide locations on a scheduled basis. It is anticipated that each project and staff centralized in Anchorage would need \$500 per year in FY87 for a total cost of \$16,500.

Equipment will encompass the purchase of hardware (terminal, modem and slave printer), desk, chair, calculator, telephone, typewriter, file cabinets. This is estimated at \$151,200 for Anchorage and statewide project offices.

Land and structures: This initial expense will be extremely high in that existing warehouse space is not available at the project sites. Storage space for equipment and supplies is not available at this time therefore creating the need for a work area and storage area. The estimated cost for warehouse space in the 24 project offices and central Anchorage office is \$1,980,900.

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 02-05-86

REQUEST

Bill/Resolution No.: SB 341  
 Title: An act relating to the State procurement practices and procedures: and providing for an effective date.  
 Sponsor: Senate Rules  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Administration  
 BRU: General Services & Supply  
 Components: Purchasing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
PERSONAL SERVICES		222.7	445.5	460.5	475.5	490.9
TRAVEL		10.0				
CONTRACTUAL		189.0	38.0	43.0	38.0	43.0
SUPPLIES						
EQUIPMENT		72.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>						
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND		493.7	483.5	503.5	513.5	533.9
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		493.7	483.5	503.5	513.5	533.9

POSITIONS:

FULL-TIME		9	9	9	9	9
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Attached

Prepared By: Robert J. Link *Robert J. Link* Phone: 465-2250  
 Division: General Services & Supply Date: 02-05-86

Approved by Commissioner: Eleanor Andrews Date: 02-05-86  
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Senate Bill No. 341

FISCAL NOTE ANALYSIS:  
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A. REGULATIONS-PROCEDURES DEVELOPMENT AND TRAINING = \$135,000

The bill will create the need for a complete revision of the chapter 15 of the Administrative Code. This revision will be accomplished through a professional legal services contract. to write the regulations and conduct the required public hearings and is estimated to cost \$55,000 (see detail below).

The bill will create the need for a complete revision of the Policy and Procedures Manual for the contracting section of the Division of General Services and Supply. This revision will be accomplished through a professional services contract with an associate attorney. The cost of this contract plus the necessary printing is estimated to be \$25,000 (see detail below) .

Since the bill will completely revise the statute, and subsequently the administrative code and the policy and procedures manual of the division, we estimate that it will train approximately 310 state employees. in the newly required procedures. This will be accomplished through a professional services contract with an instructor plus printing and travel for an amount estimated to be (see detail below) \$55,000.

Legal services contract for regulations: \$100.00/hr x 83hr/month x 6 months = \$50,000.

Para-legal Contract for Policy and Procedures Manual: \$40.00/hr x 83hr/month x 6 months = \$20,000.

Instructors Contract: Develop training modules at \$60/hr x 525hrs = \$31,500 + train 310 people x \$50/person = \$15,500 for a total of \$47,000

Printing of the Policy and Procedures Manual: 200 manuals x \$25 = \$5000

Printing of the Training Materials: 400 training guides x \$7.50 = \$3000

Travel for public hearings in four locations: 2 people x \$385/airfare + \$240/perdiem x 4 locations = \$5000

Travel for training in four locations: 2 people x

\$385/airfare + \$240/perdiem x 4 locations = \$5000  
Total \$135,000

The Department of Transportation has also budgeted for training and procedures development. The amounts which they have budget are to provide for procedures and training in the procurement of construction and its related activities. The amounts budget by General Services are for procurements not related to construction.

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B. BIDDERS LIST = \$45,000

Lists of contractors to provide goods and services must be developed and maintained. These lists must be used and made available for use by all branches of state government. Department of Administration, Division of General Services and Supply is responsible for developing, maintaining, and making the lists available for use by all branches of state government. This will be accomplished through a professional services data processing contract. The cost of this contract is estimated to be \$40,000 one-time contractual expense of

A person who wishes to be on the contractors list must have a valid Alaska business license and pay a biennial fee. The fees will be received and processed by the administrative support staff. We estimate that the cost of receiving and processing the fees will be \$5,000. This is equal to 312 hours of an administrative support technicians time at \$16.01 per hour. This is a biennial contractual expense since the administrative support staff is budgeted for by purchasing, but once the funds are received they are transferred to the Division of Administrative Services. The Division of General Services and Supply then contracts with the Division of Administrative Services for administrative support. This is a biennial contractual expense of \$5,000.

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C. Workload Impact = \$313,700

The Division of General Services currently has 13 purchasing agents. It is anticipated that the increased work load (see detail description on the New Position Request Form) will require the addition of 9 new purchasing agents.

9 positions x \$49,503 salary and benefits,  
purchasing agent III, range 18A = \$445,527  
(because the bill goes into effect in  
January) = \$222,763 personal services

increase in FY87. \$445,527 personal services increase in FY88. We estimate that this cost will increase each succeeding fiscal year due to merit increases.

Each of the 9 new purchasing agent positions will required by the bill will need approximately \$8,000 in equipment (systems furniture and micro-computers). \$8,000 x 9 = \$72,000 This is a one-time equipment expense.

The cost of printing and advertising bids will increase from \$46,100 to \$81,120. An annual increase of \$35,020.

$$\begin{aligned} & \$46,100 : 704 = \$65 \times 1248 = \$81,120 \\ & - \$46,100 = \$35,020 \end{aligned}$$

The cost of mailing bids will increase from \$3,800 to \$6,739. An annual increase of \$2,939.

$$\begin{aligned} & \$3,800 : 704 = \$5.40 \times 1248 = \$6,739 \\ & - \$3,800 = \$2,939 \end{aligned}$$

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D. SUMMARY

1. Personal Services \$222,763

9 positions x \$49,503 salary and benefits, purchasing agent III, range 18A = \$445,527 (because the bill goes into effect in January) = \$222,763 personal services increase in FY87.

2. Travel \$10,000

Travel for public hearings in four locations: 2 people x \$385/airfare + \$240/perdiem x 4 locations = \$5000

Travel for training in four locations: 2 people x \$385/airfare + \$240/perdiem x 4 locations = \$5000

3. Contractual Services \$189,000

Legal services contract for regulations: \$100.00/hr x 83hr/month x 6 months = \$50,000.

Para-legal Contract for Policy and Procedures Manual: \$40.00/hr x 83hr/month x 6 months = \$20,000.

Instructors Contract: Develop training modules at \$60/hr x 525hrs = \$31,500 + train 310 people x \$50/person = \$15,500 for a total of \$47,000

Printing of the Policy and Procedures Manual: 200 manuals x \$25 = \$5000

Printing of the Training Materials: 400 training guides x \$7.50 = \$3000

Data processing contract for bidders List = \$40,000

Maintenance secretarial support of bidders list = \$5,000.

The cost of printing and advertising bids will increase from \$46,100 to \$81,120. An annual increase of \$35,020. for an FY 87 (6 months) of \$15,510.

The cost of mailing bids will increase from \$3,800 to \$6,739. An annual increase of \$2,939 for an FY 87 (6 months) amount of \$1470.

4. Equipment \$72,000

Equipment for the 9 new purchasing agent positions will be \$8,000 x 9 = \$72,000

Position Title <b>Purchasing Agent III</b>		No. of Positions <b>9</b>	Range/Step <b>EA</b>	Base Unit <b>GGU</b>	Gov.	Approv.	Disapp.
Time Status <b>Full-time</b>	Staff Months <b>6</b>	RP Number	Location <b>Juneau/Anch</b>		Election District	Leg.	
Justification							
Sec. 36.30.300							
Under the new bill goods and services may be procured without competitive sealed bids only after a written determination has been made by the commissioner that there is only one source for the required goods or services. Current law permits the commissioner to limit bid solicitation or to waive bidding requirements when a finding is made that it is in the best interest of the State to do so.							
We estimate an average of 680 acquisitions per year are being purchased under the bid waiver provision of the current law. Purchases made under a bid waiver require 20 percent of the work of a purchase made under a competitive sealed bid.							
For planning purposes, we consider one average competitive sealed bid to be equal to one Work Unit and five bid waivers to be one Work Unit. During the past fiscal year the Division of General Services & Supply processed 704 competitive sealed bids (704 Work Units) and 680 bid waiver requests (680 ÷ 5) = 136 Work Units. The sum of these activities equals 840 Work Units for the division or 60 Work Units per year for each of 14 purchasing agents. [704 + 136 (680 ÷ 5) = 840 ÷ 60 = 14] Since this data base was compiled the staff has been reduced by one (1) position to a total of 13 purchasing agents.							
Of the bid waivers sampled, only 20 percent meet the sole source or emergency requirement of the new bill. This means that we will have to accomplish the additional 80 percent work necessary to make these purchases as competitive sealed bids. This will create an additional 544 Work Units (680 x .8 = 544). This amount and the remaining 27.2 Work Units (bid waivers, 136 ÷ 5 = 27.2) will be added to the 704 competitive sealed bids we are currently doing. The sum of this equals 1,275 Work Units for the division. At a production rate of 60 Work Units per year for							
Type of Expenditure		Amount					
1	2	3					
Salary	168,106						
Benefits	54,657						
Premium Pay							
Other							
Total Personal Services		222,763					
Travel							
Contractual							
Commodities							
Equipment		72,000					
Other							
Total Cost		294,763					
Receipt Code	Funding Source						
	Federal Receipts 1002						
	G. F. Match 1003						
	General Funds 1004						
	I-A Receipts 1005						
	Program Receipts 1028						
	CIP Receipts 1061						
	Other						
For B&M Use Only Key Number _____							

1/1D1/0210-03/1

**Request For  
New Position**

Agency Department of Administration  
 BRU General Services & Supply  
 Component Purchasing

Page 1 of 2  
 Revised Date \_\_\_\_\_

**FY 87**

each purchasing agent it will require 21.25 purchasing agents to accomplish The 1,275 Work Units.

However, the pre-bid opening and post-bid opening protest/appeal procedures described in Sec. 36.30.560 through 36.30.605 are not required under existing law. For the period December 1, 1984, through December 1, 1985, 61 protests were received under the current law. We estimate that we will receive approximately 130 protests and appeals per year under the new bill. We estimate that the time required to respond to each of these protest/appeals will be equivalent to three (3) Work Units per year. Thus, each purchasing agent's annual Work Unit production will be reduced from 60 Work Units to 57 Work Units because of the time diverted to responding to protests/appeals. This means that it will require 22.36 purchasing agents to accomplish the 1,275 Work Units.

$$[704 + 544 (680 \times .8) + 27.2 (136 \div 5) = 1,275 \div 57 = 22.36]$$

22.36 purchasing agents required under the new bill

13 current purchasing agents

9.36 additional purchasing agent positions required

Nine (9) positions x \$49,503 salary and benefits, Purchasing Agent III, range 18A = \$445,527 + 2 (because the bill goes into effect in January) = \$222,763 personal services increases in FY 87. \$445,527 personal services increase in FY 88.

Five (5) of these positions will be located in Juneau and four (4) in Anchorage.

1/1102/0210-03/3



ADDITIONAL  
EXPLANATION  
FORM

AGENCY Department of Administration

BRU General Services & Supply

COMPONENT Purchasing

FY 87

Page 2 of 2

Revised Date \_\_\_\_\_

STATE OF ALASKA 1936 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

<b>REQUEST</b> <u>Bill/Resolution No.:</u> <u>Senate Bill 341</u> <u>Title:</u> <u>"An act relating to state procurement practices and procedures and providing for an effective date."</u> <u>Sponsor:</u> <u>Rules by request for Senate</u> <u>Requestor:</u> <u>Select committee</u> <u>Date of Request:</u> _____	<b>FISCAL DETAIL</b> <u>Agency Affected:</u> _____ <u>BRU:</u> <u>Department of Administration</u> <u>Division of Administrative Services</u> <u>Components:</u> <u>Administrative Services</u>
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**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	80.7	161.3	166.1	171.1	176.2
TRAVEL	0	8.9	17.8	18.3	18.8	19.4
CONTRACTUAL	0	38.2	76.4	78.7	81.1	83.5
SUPPLIES	0	1.0	1.9	2.0	2.1	2.2
EQUIPMENT	0	8.0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>		<b>136.8</b>	<b>257.4</b>	<b>265.1</b>	<b>273.1</b>	<b>281.3</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0	136.8	257.4	265.1	273.1	281.3
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>		<b>137.3</b>	<b>257.4</b>	<b>265.1</b>	<b>273.1</b>	<b>281.3</b>

**POSITIONS:**

FULL-TIME	0	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** Attach a separate page if necessary

Attached.

Prepared By: Garv Bader *Garv M. Bader* Phone: 465-2277  
 Division: Administrative Services Date: 2/6/86  
 Approved by Commissioner: Eleanor Andrews *Eleanor Andrews* Date: 2/7/86  
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Senate Bill No. 341

SUBJECT OF PROPOSED BILL:

State procurement practices and procedures.

SUMMARY/EXPLANATION OF INTENT:

"To simplify, clarify, and modernize the law governing Procurements by the State."

ESTIMATED FISCAL IMPACT:

Capital: 0  
Operating: \$136,800 FY 87  
              \$257,400 FY 88

ANALYSIS:

A. Assumptions

1. Enactment of Senate Bill #341 will significantly impact the Department of Administration and the present method of bid solicitation and the subsequent protest and appeal process.

Because of the changes in Article 2 and Article 3 which will be addressed by General Services and Supply, an increased number of protests and appeals is anticipated by General Services and Supply. The changes proposed by Senate Bill #341 to the protest and appeals procedures and possible subsequent hearings are listed below:

Section 36.30.590 creates a two-step protest/appeal process for goods and services contract awards where previously there was only one step. Prior to SB341, a decision was made by the Commissioner of Administration to deny a protest, to rule on a protest or hear the protest. This decision can be based on timeliness and/or merit. This Bill creates a first step whereby a protest can be filed with the procurement officer. If the protestor is not satisfied with the decision of the procurement officer, a written appeal is to be filed within five days with the Commissioner. Unless the appeal is determined to be untimely or that no facts are in dispute, the appeal will go into the hearing process. This is based on the assumption that the Commissioner of Administration will not decide to delegate appeals and hearings to the department involved. This assumption is based on the need for efficiency and standardizing which can only be obtained by centralization. It is estimated that approximately 122 appeals will be heard by a hearing officer.

Section 36.30.595(b) requires the Commissioner to furnish a copy of filed appeals to "all interested parties." This newly required clerical function will require a mailing of an estimated ten notifications per each appeals and other related functions.

Section 36.30.630 grants the Commissioner 15 days after receipt of a written appeal to adopt the procurement officer's decision regarding contract controversies or determine if there should be a hearing. It is assumed that in order to make the decision, the Commissioner will conduct a complete investigation of the facts surrounding the contract controversy. This investigation should be exhaustive.

Section 36.30.650 and Section 36.30.660 are newly created to place into law procedures regarding debarment, suspension and reinstatement. Hearings may be held following receipt of a written appeal requesting a reconsideration or reinstatement. Based upon evidence showing that the cause no longer exists or has been mitigated, a Hearing Officer may make recommendations to the Commissioner.

2. Of the Goods and Services contracts, during the December 1, 1984, to December 1, 1985 period, 390 bid solicitations were conducted and 548 bid waivers were allowed by the commissioner as being in the best interest of the State. Of these 548 waivers, only 20% would meet the criteria of sole source or emergency requirements of the new bill. Therefore, under the new law, an additional 438 bid solicitations would be required. Of the 390 bids, there were 61 protests or 15.6%. Using this percentage, of the total solicitations required by the new law, 130 protests could be anticipated.

$$(390 + 438) * 15.6\% = 130 \text{ appeals}$$

Of these 130 expected protests, it is anticipated that approximately 52 will be resolved prior to requiring a hearing.

130	anticipated protests
-52	40% will be resolved by a purchasing officer decision
-11	8.5% will be deemed untimely
<u>67</u>	anticipated hearings or rulings based on submitted briefs

67	anticipated hearings based on Goods and Services contracts.
+50	anticipated appeals regarding contract controversies
+ 3	anticipated appeals regarding debarment and suspension
+ 2	anticipated appeals regarding reinstatement
<u>122</u>	anticipated total hearings

3. Inflation is estimated at three percent per year.

#### B. Staff Requirement

1. 122 hearings are anticipated per year.
2. Each Hearing Officer can hear and file on one appeal per week, based on estimates provided by Department of Labor.

3. General Government Unit (GGU)

Hours per year	= 1,950 hrs/yr
Annual Leave	= (127.5)
Five days Sick Leave	= (37.5)
Holidays (ten days)	= <u>(75.0)</u>
Employee Annual Hours Worked	1,710 hrs/yr
Employee Weeks worked/yr	45.6 wk/yr

4. 122 anticipated hearings/yr ÷ 46 hearings/H.O. = 2.6 H.O./yr.  
 There is presently one hearing officer in the Department of Administration; thus 2 additional Hearing Officers are required.

C. Costs:

1. Personal Services: \$80,657\* (January 1, 1987 - June 20, 1987)  
 \$161,314 (FY 88)

(2) Hearing Officers	R/21A	2 X \$ 59,934 =	\$119,868
Administrative Asst.	R14B	\$ 41,446 =	\$ 41,446
	TOTAL		<u>\$161,314</u>

\* FY 87 (.5 x 161,314) = 80,657

2. Travel: \$8,884 (January 1, 1987 - June 30, 1987)  
 Full year cost is \$17,768 for FY 88.

(a) Assumes 25% of hearings in Anchorage requiring two days per diem per trip at \$80/day

(1) Airfare	\$ 352
(2) Perdiem 2 X 80 -	<u>160</u>
(3) 30 trips X 512 X	<u>\$15,360</u>

(b) Assumes 3% of hearing in Fairbanks requiring two days per diem per trip at \$90/day.

(1) Airfare	\$ 422
(2) Perdiem 2 X 90 -	<u>180</u>
(3) 4 trips X 602 =	<u>\$2,408</u>

3. Contractual: \$38,216 (January 1, 1987 - June 30, 1987)  
 Full year cost is \$76,432 for FY 88.

(a) Centrex (3 X \$512) -	\$1,536
(b) Photocopies and transcripts	1,200
(c) Telephone-toll	
(\$10/call X 2 calls X 20/day x 12)	4,800
Data Processing Chargeback	500
(d) Professional Services	<u>\$59,400</u>

Because a large percentage of contracts are put to bid at the same time, many appeals will occur at the same time. Because unheard appeals will delay contract awards, the appeals must be heard in a timely manner. It is therefore assumed that 15% of

the appeals will be heard by a contracted hearing officer. The average cost of a contracted hearing has been \$3,000 - \$4,000 in the past.

$$18 \times \$3,300 = \$59,400$$

(e) Space Rental: \$8,996  
Hr Off      Range 21 = 85 X 2 = 170 sq. ft.  
Admin Asst. Range 14 = 85      85 sq. ft.  
25% Circulation =      64 sq. ft.  
Total      319 sq. ft.

$$319 \text{ Sq. Ft.} \times \$2.35^* \text{ mo} \times 12 = \$8,996$$

\* average per sq. ft./mo in Juneau

4. Supplies: \$900 (January 1, 1987 - June 30, 1987)  
Full year cost is \$1,854 (FY 88)  
FY 87: 3 emp X \$50/mo X 6 mo - \$900  
FY 88: 3 emp X \$50/mo X 12 mo X 1.03 Inflation = \$1,854

5. Equipment (one-time) : \$7,954

(a) Furniture

Chairs (3@ \$150)	\$ 450
Desks (3@ \$500)	\$1,500
File Cabinet (4@ \$366)	\$1,464

(b) Office Equipment

Calculators (2 @ \$270)	\$ 540
Computer Terminal	4,000
w/word-processing hook-up	

Position Title <b>Administrative Assistant</b>			No. of Positions <b>1</b>	Range/Step <b>14B</b>	Barg. Unit <b>G</b>	Gov. <b>Leg.</b>	Approv.	Disapp	
Time Status <b>PFT</b>	Staff Months <b>12</b>	RP Number	Location <b>Juneau</b>		Election District				
Type of Expenditure			Justification						
			<p>The duties of the Administrative Assistant will include, but not be limited to; organizing the files of each protest that is not satisfied at the procurement officer level, determination of time schedules and the sending of various types of required notification, performing research for the Hearing Officers, and performing the various accounting functions required by the unit.</p>						
1		2							3
Salary		29,196							
Benefits		10,565							
Premium Pay		1,685							
Other									
Total Personal Services									41,446
Travel									
Contractual									3,511
Commodities									432
Equipment			650						
Other									
Total Cost			46,039						
Receipt Code			Funding Source						
			Federal Receipts 1002						
			G. F. Match 1003						
			General Funds 1004						
			I-A Receipts 1005						
			Program Receipts 1028						
			CIP Receipts 1061						
			Other						
			46,039						
For B&M Use Only									
Key Number									

**Request For  
New Position**

Agency Department of Administration  
 BRU Administrative Services  
 Component Administrative Services

**FY 87**

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 Revised Date

Position Title <b>Hearing Officers (2)</b>			No. of Positions <b>2</b>	Range/Step <b>21A</b>	Barg. Unit <b>G</b>	Gov. <b>Leg.</b>	Approv.	Disapp.
Time Status <b>PFT</b>	Staff Months <b>24</b>	RP Number	Location <b>Juneau</b>		Election District			
Type of Expenditure			Justification					
		Amount	<p>Three hearing officers will be required in FY 87 to hear appeals that have not been satisfied at the procurement officer or preliminary hearing officer level. Presently, one hearing officer position exists in the Department of Administration, therefore, two additional officers are required. The duties include, but are not limited to; review of decisions of procurement officers, review of all pertinent documentation and materials, notification to all interested parties of filed appeals, and conducting hearings according to AS 36.670.</p> <p><u>SINGLE POSITION COST PER YEAR</u></p> <p>\$3,812 X 12 = \$45,744.00  Benefits = 14,190.39  Total = 59,934.39</p>					
1	2	3						
Salary	91,488							
Benefits	28,381							
Premium Pay	0							
Other	0							
Total Personal Services		119,869						
Travel	13 trips Anch, 4 trips Ebks.	17,768						
Contractual		13,521						
Commodities		865						
Equipment		2,764						
Other								
Total Cost		154,787						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		154,787					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number								

**Request For  
New Position**

Agency Department of Administration  
BRU Administrative Services  
Component Administrative Services

**FY 87**

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Revised Date

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

Revision Date : 3/27/86

**REQUEST**

Bill/Resolution No. : CSSB 341 (Study)  
 Title : An Act Relating to State  
Procurement Practices  
 Sponsor : Rules Committee  
 Requestor : Senate Finance  
 Date of Request : 3/27/86

**FISCAL DETAIL**

Agency Affected : Dept. of Natural Resources  
 BRU : Management & Administration  
 Components : Administrative Services

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		31.0	32.5	34.1	35.8	37.6
TRAVEL		2.5	1.5	1.5	1.5	1.5
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>33.5</b>	<b>34.0</b>	<b>35.6</b>	<b>37.3</b>	<b>39.1</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		33.5	34.0	35.6	37.3	39.1
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

See Attached Sheet

Prepared by : Christopher Rutz/Contracts Officer Phone : 465-2424  
 Division : Management Date : 3/27/86

Approved by Commissioner : Ned Foyshar for **ROBERT D. ARNOLD** Date : 3/28/86  
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Attachment to Department of Natural Resources Fiscal Note for SB341

Personel Service

Cost are computed for a range 10 supply technician, based in Juneau, with a 5% COLA increase per year. This position would support the contracting and supply staff and enable the Department to fulfill as outlined in the bill as well as provide procurement training for department employees.

Travel

These cost are estimated at four trips to Anchorage/Fairbanks to provide training the year the bill is to be implemented and three trips the following years in order to maintain a active procurement training program and provide for participation in contract protests, writing, and bid openings, when necessary.

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CS for SB 341  
 Title : State Procurement Code  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Sponsor : Senate Judiciary Committee  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Env. Conservation  
 BRU : Administration  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Components : Administrative Services  
 \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		37.9	39.4	41.0	42.6	44.4
TRAVEL		5.0	5.2	5.4	5.6	5.9
CONTRACTUAL SUPPLIES		5.0	5.2	5.4	5.6	5.9
EQUIPMENT		1.5	--	--	--	--
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		49.5	49.8	51.8	53.8	56.2

CAPITAL		--	--	--	--	--
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REVENUE		--	--	--	--	--
---------	--	----	----	----	----	----

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		49.5	49.8	51.8	53.8	56.2
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME		1	1	1	1	1
PART-TIME		--				
TEMPORARY		--				

**ANALYSIS :** Attach a separate page if necessary

This bill codifies many procedures and practices presently addressed in the Administrative Manual, a variety of memos and procedures and ad hoc decisions. Practices, particularly for professional services contracts,

Prepared by : W.A. Publicover Phone : 465-2676  
 Division : Administrative Services Date : 1-30-86

Approved by Commissioner : Bill Ross Date : 3-27-86  
 Agency : Environmental Conservation

**Distribution (by Agency preparing fiscal note) :**

- Legislative Finance ✓
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Position Title Administrative Assistant II			No. of Positions 1	Range/Step 14	Barg. Unit GGU	Gov.	Approv.	Disapp.																								
Time Status Full	Staff Months 12	RP Number	Location Juneau		Election District 4	Leg.																										
Type of Expenditure			Justification																													
		Amount	The new State Procurement Code will place tighter controls on contracts for professional services. The Department typically has over 40 active contracts valued at over \$2 million. While our professional staff defines the project scope and technical details, the procedural aspects of contracting are dispersed among the divisions. This allows inconsistencies, dilutes accountability, and hampers effective communications with the Department of Administration.																													
1	2	3	<p>The Administrative Assistant will be the Department's expert on competitive sealed proposals. The position would be the focus for procedural aspects of RFPs, selection, and contract administration. The position will develop and standardize wording, provide a single point link to Department of Administration, advise on alternate procurement methods, maintain a contract tracking system, process payments, chair the contract closing committee, conduct training sessions or arrange for training, monitor the contract approval process, assist in handling protests, arrange official files and record retention schedules and maintain departmental contract procedures. The costs for this position are:</p> <table border="0"> <tr> <td>100</td> <td>salary &amp; benefits</td> <td>37.9</td> <td>300</td> <td>postage for</td> <td>5.0</td> </tr> <tr> <td>200</td> <td>travel to regional</td> <td>5.0</td> <td></td> <td>public notices</td> <td></td> </tr> <tr> <td></td> <td>offices to train</td> <td></td> <td>400</td> <td>Calculator,</td> <td>1.5</td> </tr> <tr> <td></td> <td>field staff</td> <td></td> <td></td> <td>workstation</td> <td></td> </tr> </table>						100	salary & benefits	37.9	300	postage for	5.0	200	travel to regional	5.0		public notices			offices to train		400	Calculator,	1.5		field staff			workstation	
100	salary & benefits	37.9							300	postage for	5.0																					
200	travel to regional	5.0								public notices																						
	offices to train								400	Calculator,	1.5																					
	field staff									workstation																						
Salary	28.4																															
Benefits	9.5																															
Premium Pay	--																															
Other	--																															
Total Personal Services		37.9																														
Travel		5.0																														
Contractual		5.0																														
Commodities																																
Equipment		1.5																														
Other																																
Total Cost		49.4																														
Receipt Code	Funding Source																															
	Federal Receipts	1002																														
	G. F. Match	1003																														
	General Funds	1004							49.4																							
	I-A Receipts	1005																														
	Program Receipts	1028																														
	CIP Receipts	1061																														
	Other																															
For B&M Use Only Key Number _____																																

**Request For  
New Position**

Agency Environmental Conservation  
 BRU Administration  
 Component Administrative Services

Page 3 of 3  
 Revised Date \_\_\_\_\_

**FY 87**

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No.

CS for SB 341

vary from department to department. This bill and implementing regulations will increase fairness and accountability through uniform requirements for all areas of procurement.

Environmental Conservation regularly has over 40 open contracts worth over \$2 million. Presently, we have an Accounting Technician II who works part time on these contracts. He provides technical advice on contract preparation, tracks the contracts through the approval process, processes payments and chairs the contract closing committee. In the past we have had problems with inadequate RFPs, public notices and similar technical flaws. The bill will establish much tighter standards for the technical quality of competitive sealed proposals and will greatly increase the Department's accountability. In particular, the new law will require:

- evidence of Alaska Business Licenses from offerors and subcontractors
- public notice 21 days before opening proposals
- that all contractors on the bidders list must be notified by mail
- that register of offerors must be kept
- determination of responsibility
- notice of intent to award 10 days before the award
- retention of records including each proposal
- that agency procurement officers decide on protested awards and contract controversy

These new responsibilities will increase our workload beyond the present half-time position. New requirements mandate a single source to assist in drafting RFPs and contracts and to act as agency expert in the procedural aspects of professional services contracts.

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : Senate Bill No. 341  
 Title : Procurement Practices and Procedures  
 Sponsor : Rules Committee  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : DOT&PF  
 BRU : \_\_\_\_\_  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		50.0	55.0	60.0	65.0	70.0
TRAVEL		10.0				
CONTRACTUAL		100.0	55.0	60.0	65.0	70.0
SUPPLIES		40.0	20.0	25.0	27.0	30.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>200.0</b>	<b>130.0</b>	<b>145.0</b>	<b>157.0</b>	<b>170.0</b>

CAPITAL		0	0	0	0	0
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REVENUE		0	0	0	0	0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND		200.0	130.0	145.0	157.0	170.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Based on the following figures: 1) delegations to other agencies - \$30.0 for the start up year; 2) procedures updates - \$30.0 for start up year; 3) development of standards and forms - \$10.0 for start up year; 4) one officer plus expenses to administer hearings and claims - \$100.0; 5) list maintenance and mailing - \$10.0; and 6) subcontractor list checking and bid opening administration - \$10.0; 7) travel

Prepared by : Daniel F. Malick, Director Phone : 465-3911  
 Division : Management and Finance Date : 1-30-86

Approved by Commissioner : R. J. Knapp by Wanda S. Spence Date : 1-30-86  
 Agency : DOT&PF

**Distribution (by Agency preparing fiscal note) :**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency

10/25/85

POSITION PAPER/FISCAL NOTE (DOT)  
SB 341 (200.0)

Fiscal Note  
Procurement Practices and Procedures  
Page 2

to the hearings for the Regulations.



## Dept. of Transportation & Public Facilities

# Position Paper

**BILL NO:** Senate Bill 341  
**TITLE:** Procurement Practices

**APPROVED:** *W. S. Spahr*  
R. J. Knapp  
Commissioner  
**DATE:** January 30, 1986

The Department of Transportation and Public Facilities has worked closely with the Legislative interim committees in the drafting of Senate Bill 341. Many of the department's concerns of both a technical and policy nature have been addressed in the initial drafting of the bill.

However, while the department supports the Legislature and the administration's effort to revise and update procurement codes, there are a few areas within Senate Bill 341 that the department feels needs further consideration:

1. SB 341 requires the maintenance and use of bidders lists for the request for proposal and bid notification process. This is time consuming, expensive and has proven from department experience to be of limited value. We feel this requirement for DOT&PF construction should be removed from the bill.
2. SB 341 requires the listing of all sub-contractors at time of bid opening. This further complicates the bid opening process and might jeopardize bidder responsiveness the potentially large cost consequences to the state. The department feels that a subcontractor list would be appropriate to require seven days after the bid opening to limit the extent of bid shopping.
3. SB 341 lacks definitive statements on Alaska preference. An Alaska preference clause for all construction even those over \$5,000 should be considered.
4. SB 341 has no provisions for expanding sole-source and small procurement eligibility. There are numerous purchasing needs of the department which fall outside of the strict definitions provided in the bill. Some sort of extension process is highly advisable.
5. SB 341 requires "teeth" for handling of false claims. False claims without penalty would jeopardize the efficiency and credibility of the claims process.

For further information call Susan Fleischauer at 465-3900.

6. SB 341's small procurement procedures limit consultants to a total of \$25,000 in small contracts within a twelve (12) month period. The department feels this is an unreasonable restriction and would seriously jeopardize the ability of many firms to continue providing critical services to the department.
7. There are numerous areas within the SB 341, particularly in Articles 5 and 6, where the statute is overly specific and those items might be best addressed in regulations.

The Department of Transportation and Public Facilities supports the current effort underway to update procurement procedure along the lines of the model procurement code with modifications to minimize the adverse impact on the state and private sector contracting community. The department is presently assisting in the development of Regulation to implement the bill.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPT. OF COMMUNITY & REGIONAL AFFAIRS

### OFFICE OF THE COMMISSIONER POSITION PAPER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400  
ANCHORAGE, ALASKA 99508  
PHONE: (907) 563-1073

RE: CS for SB 341

SPONSOR: Senate Rules Committees

#### Comments

This bill provides for a major restructuring and revision of the statutes governing the procurement of supplies, services, professional services, and construction by State agencies. Several of the requirements currently existing in statutes concerning procurement would be changed. The bill would affect all of the Department's procurement activities.

#### Grants Definition

Of greatest concern to the Department of Community and Regional Affairs is the possibility the definition of "procurement" in the bill may be too broad and could be interpreted as applying to many of the Department's grant activities.

At issue is the basic distinction between the definitions of procurements and grants. Under Section 36.30.850(b)(1), "grants" are exempted from the provisions of the bill. Sections 36.30.990 (10) and (12) of the bill provide the definitions of "grants" and "procurements", respectively. The Department does not believe that these definitions are adequate to differentiate between the two.

If our existing grants are redefined as procurement contracts, as defined under Section 36.30.990 (12), the Department would be required to implement a considerable number of additional administrative activities in order to comply with the provisions of CS SB 341. This, in turn, would substantially increase the need for additional staff and administrative dollars.

For example, due to the limitations on sole source procurements contained in Section 36.30.300 of the bill, this Department would be required to prepare a competitive sealed bid or proposal for each of the Legislative Grants (grants authorized under AS 37.05.316 and AS 37.05.317) administered by the Department. A significant number of these grants are appropriated annually to the Department. These new administrative procedures would increase the amount of time required to develop and obtain a signed contract and due to the solicitation requirements may lead, in this example, to the grant being provided to an entity different than that intended to receive the grant by the Legislature.

The Department also notes that Sections 46 and 65 of CS SB 341 subject the Day Care Assistance program and the Displaced Homemaker's program, respectively, to the provisions of the bill. The Department considers these programs to be grants and not procurements and suggests that these sections should be deleted.

#### Department Recommendations

The Department of Community and Regional Affairs believes that one of the major problems with the definitions of grants and procurements in the bill, is that neither provide an indication of the main beneficiary of the funds.

The Department suggests that procurements are primarily for the acquisition of services or supplies to enable the agency to conduct its operations and hence, are for the direct benefit of the State agency. Conversely, a grant is primarily to serve or fulfill some needed public purpose within the recipient's community and hence, directly benefits that community. The State or grantor agency only benefits indirectly from the project through the increase in the general welfare of the State.

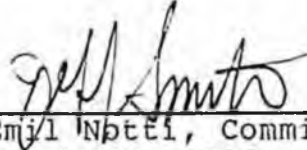
The Department of Community and Regional Affairs suggests that another major distinction between grants and procurements is that grantees are most typically entities which are organized for a public purpose and/or operate in a manner which does not yield them a profit. Conversely, procurements are most typically made with entities which are organized for profit.

In view of the above, the Department of Community and Regional Affairs recommends the following language be used in CS SB 341 as the definition of a grant.

GRANT: An agreement between a State agency and an entity which is typically not organized for profit (e.g., municipal corporation, non-profit corporation, tribal organization organized under the Indian Reorganization Act, traditional councils) and which typically represents a public interest group (e.g., community, region). The agreement provides for the performance of a public purpose which is primarily for direct benefit to the people which the grant recipient represents. The State gains only indirectly through the benefit derived by the community or region.

The Department believes this definition helps clarify the distinction between grants and procurements. This definition would ensure that grants are not mistakenly classified as procurements and subject to the greater administrative requirements provided in CS SB 341. This, in turn, would significantly reduce the fiscal impact on this Department expected under the present language of the bill.

The Department of Community and Regional Affairs does favor the overall intent of the bill. If the above enumerated concerns are properly addressed, the Department's fiscal note could be reduced to 47.7; these costs are associated with the Administrative Officer I position in the Division of Administrative Services.



---

Emil Notti, Commissioner  
March 28, 1986

# ALASKA STATE AFL-CIO

2501 Commercial Dr  
Anchorage, Alaska 99501  
(907) 338-6284



819 1st Ave.  
Fairbanks, Alaska 99701  
(907) 456-2030

MANO FREY  
Executive President

April 1, 1986

## TESTIMONY ON CS SB 341 (STATE PROCUREMENT PRACTICES AND PROCEDURES)

To the Co-Chair, members of the Committee:

My name is Dixie Hudish and I am here representing the Alaska State AFL-CIO.

I wish to address several concerns in this proposed bill we have before us. On page 3, lines 3,4,5 & 6 we see language that allows for the Univ. of Alaska Board of Regents to adopt regulations that are substantially equivalent to the regulations adopted by the Commissioner of Administration to implement this chapter.

In providing for this provision our question of concern is who will be monitoring the procurement practices of the Board of Regents to insure that their regulations are substantially equivalent? The public? If one looks at the structure of the Board of Regents one realizes that they are not directly answerable to the legislature, that in fact their terms are for 6 years and can only be moved by formal impeachment procedures.

On page 5, lines 9 -13 provisions are also made for the Alaska Railroad as we have for the University of Alaska. Our question is how can we, the public, be insure that if this procurement bill is adopted that the Alaska Railroad Board will in fact change their

Testimony CS SB 341  
Dixie Hudish/ AFL-CIO

existing policies in procurement to meet the regulations adopted under this bill? Clearly language needs to be written to insure the above.

We feel what was intended to be an all encompassing bill for procurement for this state, has instead, been "watered down" to only provide for changes in procurement by the Dept. of Transportation and the Dept. of Administration.

As it appears to us, if we have another serious procurement problem such as the procurement situation the state found itself involved in last summer in Fairbanks, it will be because we have not provided for a consistent unified code on procurement for all state agencies.

On page 5, line 19 under Sec. 36.30.030, the new language provided for the court system now allows for the Administrative Director of the Court System to adopt procedures that are based on the competitive principles established under this chapter and the procedures must be adopted to the Special needs of the judicial branch.

If one were to look at the Court System Procurement Guidelines, as they now read, they would not meet the substantially equivalent standard but would certainly meet the broader standard that this new language allows.

Throughout the court system guidelines, procurement for services, goods & construction are all defused together.

Under Competitive Sealed Bidding guidelines of the Court System, there is a provision if all bids are rejected the Director will determine whether it is in the Court Systems interest to solicit new bids, or to directly negotiate in which case the director would sign a bid waiver. If the Director authorizes direct negotiations each bidder must be notified of the intent to negotiate and the 3 lowest bidders are given a reasonable opportunity to negotiate. The negotiated contract can be awarded only if the negotiated price is lower than the lowest rejected bid and it is the lowest negotiated price offered by an competitive offerer. Now I ask you, if this doesn't sound like bid shopping?

Under the court system, debarment is not mentioned but suspension is. Under this procurement bill, suspension is for 3 months and debarment for 3 years. The Courtst system allows only for suspension and that being 2 years.

With these two examples given of the Court System Guidelines, we urge that the Court System, the Univ. of Alaska, Legislature, Ak. Railroad fall under this procurement bill.

If there is not support for the above, we urge that you support the previous language under the Court System that will provide that the Court System must adopt regulations that are substantially equivalent to the regulations of this chapter.

In summary, I would like to emphasize that a significant portion of public construction in Alaska is procured with State dollars by

political subdivisions and other "grant" recipients, yet this bill does not require any grant or appropriation recipient to utilize procurement practices consistent with this procurement bill.

See pg 8  
line 9-13

If one were to research the abuse in construction, professional and service procurement, <sup>Tim sure</sup> one would find the majority of abuses with the various entities that are not covered under this bill.

If state dollars are spent by others then why not institute similar safeguards on procurement for grant recipients.

Our recommendation is that a new section be provided that will require any grant or appropriation recipient to adopt procedures to govern the procurement of supplies ~~and~~ services and construction to be subject to regulations adopted by the Commissioner of Administration in accordance with this chapter.

*Finally,*

One must also keep in mind that this Procurement bill does not give preference for American Companies vs Foreign National companies, in the awarding of a procurement contract..Are we going to wait until we put our own American Companies out of business before we tighten up our competitive bidding criteria? We presently have at least 2 Chinese companies bidding on the Bradley Lake Project. Are we going to continue to watch American Construction companies go bankrupt while foreign national companies compete for our work?

RECEIVED MAR 24 1986



March 21, 1986

The Honorable Jan Faiks  
Senator  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Re: SB 341

Dear Senator Faiks:

The Senate Finance Committee is scheduled to discuss SB 341, the Procurement Bill, on Tuesday, March 25, 1986. The Alaska State Housing Authority (ASHA), as the conduit for the receipt of federal assistance for low-income and senior housing, seeks specific exemption from SB 341 on all federally-assisted operations. ASHA is comprehensively regulated by the U.S. Department of Housing and Urban Development in its housing programs. The bill, as proposed, will substantially impact the Alaska State Housing Authority (ASHA) in the following areas:

1. Increase the duration of vacancies between tenant occupancy to insure new State procedures are being followed;
2. Create a corresponding increase in waiting lists for public housing, as tenants will not be moved into vacated units as rapidly as they now are;
3. Reduce federal funds to ASHA based on intricate funding formulas that consider vacant unit turnover and occupancy levels;
4. Require increased personnel in management, maintenance and accounting for which the federal government will not pay;
5. Jeopardize ASHA's status as a "public housing authority" for continued receipt of federal funds at a time of federal cutbacks. These funds will revert to Seattle, Portland or San Francisco rather than stay in Alaska.

A convoluted system of double regulation under which ASHA follows both federal and state regulations when they are not explicitly inconsistent, and either state or federal regulation on a case-by-case basis when there is inconsistency, creates a scenario only a



lawyer could love. Section 10 of the bill in its references to AS 18.55.100 and 18.55.110 and the proposed 36.30.890 will create such a scenario. ASHA requests your consideration of a specific exemption for ASHA.

Attached are copies of three letters received by ASHA from Michael Kulick, Manager, Anchorage Office of the U.S. Department of Housing and Urban Development, registering HUD's concerns with regard to ASHA's inclusion in SB 341. These were included in the materials previously submitted to the Senate Judiciary Committee in support of an exemption for ASHA.

Since testifying before the Senate Judiciary Committee, we have prepared a fiscal note, which assumes full delegation to the Alaska State Housing Authority, as provided in the legislation. Federal funds to implement this legislation are not and will not be available, leaving a cost to the State General Fund as described in the fiscal note.

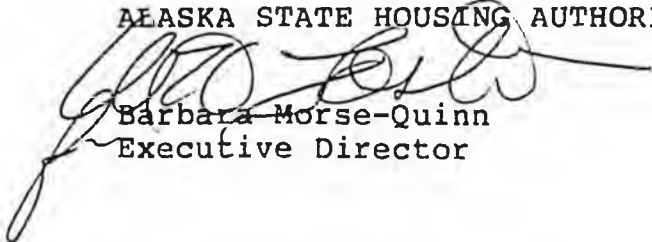
Also enclosed is a section analysis and narrative outlining ASHA's reasons for requesting an exemption. ASHA's concerns are that this legislation is in part duplicative, contradictory and unnecessarily burdensome for ASHA because of ASHA's relationship to the U.S. Department of Housing and Urban Development. Under SB 341, the procurement code will be applied to this housing authority, while all other housing authorities in the state are being exempted. No tenant, vendor or contractor will note benefits or receive increased services from this agency's application of this law. In fact, the agency's purpose will be descoped, muddled, made controversial, and its activities will cost significantly more to administer.

In a time of both federal and state monetary restraint, we advocate for available funds to go for housing, not administration.

On behalf of all our tenants and supporters of public housing, thank you for your consideration of our remarks.

Sincerely,

ALASKA STATE HOUSING AUTHORITY



Barbara Morse-Quinn  
Executive Director

BMQ/sms

Enclosures



U.S. Department of Housing and Urban Development

Anchorage Office, Region X  
701 "C" Street, Box 64  
Anchorage, Alaska 99513

REIVED  
ASHA

JAN 21 1986

JAN 24 '86

Barbara Morse-Quinn, Executive Director  
Alaska State Housing Authority  
Post Office Box 100080  
Anchorage, Alaska 99510-0080

EX cc
DEX cc
Eq. Dept
EX Sec
Board

Dear Ms. Morse-Quinn:

Subject: Relationship of Alaska State Housing Authority  
and the U. S. Department of Housing and Urban Development

This is in response to your letter dated January 17, 1986, requesting our comments on the relationship of Alaska State Housing Authority (ASHA) and U. S. Department of Housing and Urban Development (HUD).

The relationship is a contractual one which is defined by the terms of the Annual Contributions Contract. Under that document a public housing authority (PHA) is provided federal funds for the specific purpose of providing and operating housing for families of lower income. The funding is designated for specific projects and may only be used in accordance with the HUD-approved development program, contract terms, and HUD regulations and policies. Should the funding approved by HUD for a particular project not be made available to the PHA, it would be necessary for the federal government to provide additional funding in order for HUD to meet its contractual responsibilities to the PHA. For this reason, HUD cannot approve any arrangement whereby the PHA does not have total access to and control of, the funds supplied by HUD. As a small example of this, HUD requires the PHA to invest the funds provided in order to earn interest. The amount of funding provided has been calculated on the basis that a certain amount of interest will have been received by the PHA. Any attempt to make HUD funds provided to ASHA restricted as to access or control or subject to legislative approval would be strongly opposed by HUD. In this regard, I have been advised by our Headquarters' office that the Department has already taken such a position with another state when it recently advised the governor of that state that remedial legislation must be enacted to eliminate legislative control over HUD funds.

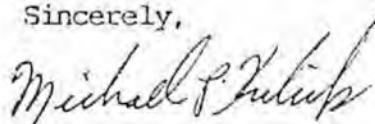
I am not in a position to discuss how HUD's legislation compares with that of other federal agencies. It is my impression, however, that HUD may have more authority, than other agencies, to become directly responsible

for the activities usually undertaken by a state agency using federal funds. For example, the default provisions of the statute and Annual Contributions Contract provide that title and/or possession be given to the Secretary, at the Secretary's discretion, should the PHA fail to observe the terms of the contract. In any case, HUD funds are specifically designated for an identifiable project to be developed or managed by a named PHA and are not considered generalized housing funds earmarked particular to be used in a state.

For additional comments, I refer you to the Regional Counsel's letter dated October 17, 1985, which speaks to the relationship between ASHA and HUD. Finally, we do believe the Attorney General's Opinion of June 9, 1983, interpreting AS 18.55.110 may have direct relevance to the issues you raised.

I hope this is of some assistance to you. Please keep us fully informed of your discussions on this matter and feel free to contact Susan Olsen, Chief Counsel, at 271-4683 for additional comments.

Sincerely,



Michael P. Kulick  
Manager



U.S. Department Housing and Urban Development

Anchorage Office, Region X  
701 "C" Street, Box 64  
Anchorage, Alaska 99513

JAN 14 1986

RECEIVED  
ASHA

JAN 12 '86

Barbara Morse-Quinn, Executive Director  
Alaska State Housing Authority  
Post Office Box 100080  
Anchorage, Alaska 99510-0080

Exec  
BMS  
DEF cc  
All Depts  
EX Sec  
Hm-3 extra  
Board

Dear Ms. Morse-Quinn:

Subject: Senate Bill 8001  
Proposed State Procurement Act

In response to your inquiry of December 13, 1985, we have reviewed the above-referenced bill from the perspective of its impact on Alaska State Housing Authority (ASHA) and U. S. Department of Housing and Urban Development (HUD) programs and operations. We find that, overall, as written, it may be viewed as burdensome and restrictive from a practical standpoint, and as undesirable to HUD in terms of foreseeable increased costs, time delays, and lack of adequate protections for federally-funded housing projects. We do not find the proposed act to be of particular value to either ASHA or HUD, inasmuch as we firmly believe that there are adequate and appropriate safeguards currently in place to meet any concerns the state may have with regard to fairness, economy, and control. This is accomplished by way of ASHA regulations and HUD's regulations and policies, and the requirements of the Annual Contributions Contract between HUD and ASHA.

While it is difficult to analyze the full impact, on an agency or federally-funded program, of a law for which regulations have not yet been written, we offer the following comments on the bill, along with responses to your comments to Senator Faiks.

As to the delegability of professional services authority, as well as the authority to procure supplies and other services (as referenced in your first two pages of comments), we think that the only logical interpretation of AS 36.30.015(b) is that such authority is delegable. However, there is no requirement that the authority be delegated, and, clearly, the adoption of regulations is not delegable, nor is there any requirement that the individual departments or agencies participate in the formulation of the regulations. While ASHA presently has the power under AS 18.55.100 to adopt its own regulations, the proposed legislation would apparently remove this power,

and we see this as a significant deficiency of the law from a practical and policy standpoint. We think that any applicable regulations should be written in accordance with HUD requirements. Additionally, as you are aware, HUD is particularly concerned with contracting for construction and has developed extensive "boiler-plate" provisions which are required to be utilized in any such contracts. We see great possibilities for conflict should the authority not be delegated to ASHA and should the regulations not comport with HUD's requirements.

We agree that most matters covered in your numbered paragraphs (2) and (3) are covered by HUD regulations, procedures, or other requirements which variously are less, or more, restrictive than that proposed by the state bill. This is true, of course, about most of the sections of the legislation. In HUD's view, a few of the areas which would raise immediate and strong conflict are: Section 36.30.080, which could involve the administration of federal funds for lease purposes through the state treasury; Section 36.30.170, which provides for an Alaska bidder preference; Section 36.30.270, which requires the approval of the Department of Law to alter any contract terms, rather than HUD's counsel; and Section 36.30.015, which requires the attorney general's approval of any contract for legal services. As an additional note, it appears that use of the consolidated supply program would be seriously curtailed or delayed in that already selected competitive bid suppliers would have to resubmit to the state's competitive bid process.

The extensive bid documentation required in Section 36.30.110, as discussed in your paragraph (5), does appear to be cumbersome and bound to cause delays. Further, we think the requirements for Alaska business licenses, as applied to subcontractors in supply contracts, is unduly restrictive and burdensome. HUD policy expects procurement procedures to be as broad and competitive as possible. As mentioned earlier, the provision for Alaska bidder preference is totally unacceptable for federally-funded ASHA projects. This raises questions also about the acceptability of Section 36.30.050, which requires every agency's use of a centrally maintained list of contractors.

Regarding your paragraph (6), HUD requires acceptable bid security of five percent. We would undoubtedly find that the ten percent requirement would be unacceptably excessive and would not be willing to approve these extra costs to a project.

Section 36.30.200(b), as referenced in your paragraph (8), appears to be unduly burdensome in that written determinations must be obtained from the chief procurement officer or the commissioner of transportation and public facilities prior to ASHA's ability to enter a contract by other means than a competitive bid (except where emergency or small procurement standards are met). Under the proposed legislation, authority for these determinations is not delegable.

We agree that ASHA's current regulations regarding emergency conditions are more narrowly defined than the proposed language, and, therefore, less apt to present grounds for disputes, either before or after a procurement action is taken [reference your paragraph (9)].

As to your paragraphs (10) and (11), we do not believe that either Section 36.30.370 or Section 36.30.380 conflicts with HUD regulations. However, to require an agency to review and analyze the capability of a proposed contractor's accounting system is, we think, excessively burdensome.


As you point out in your paragraph (12), HUD's policies, procedures and contract provisions, as well as its regulations, do govern the distribution and administration of federal monies designated for public housing projects. Section 36.30.890 of the proposed bill, therefore, provides only a limited exemption to ASHA. Limited exemption could jeopardize ASHA's receipt of HUD funds in an instance of conflict with the state procurement statute. We note the relevance of the Alaska Attorney General's opinion of June 9, 1983, on the applicability of Title 36 to ASHA, wherein he discusses AS 18.55.110 as follows:

. . . We believe the more probable legislative intent was to provide an explicit statutory exemption in instances where the application of state law would jeopardize the receipt of federal assistance. . . . By the statute's own terms, the focus of the exemption is 'to secure [federal] financial aid for housing projects.' . . . Consequently, we interpret AS 18.55.110 as exempting the application of state or local law when a federal funding entity, properly exercising its discretion, notifies ASHA in writing that the receipt of federal funds would be jeopardized were State or local law deemed applicable.

It seems to us that this opinion may be an instructive and persuasive rationale for exempting ASHA from the proposed procurement statute. We tend to agree with you that an acceptable alternative to what we view as a basis for recurring interpretive, managerial, and legal problems under the proposed law, would be to include ASHA as an exempt agency along with the railroad, the legislature, and the court system. If ASHA is not made exempt, then, at a minimum, we would want to see added the terms "policy or other requirement" to the existing terms "federal statute or regulation" in AS 36.30.890.

Thank you for this opportunity to comment.

Sincerely,



Michael P. Kulick  
Manager



U.S. Department of Housing and Urban Development

Anchorage Office, Region X  
701 "C" Street, Box 64  
Anchorage, Alaska 99513

RECEIVED  
ASHA

JUN 31 '86

JAN 21 1986

Barbara Morse-Quinn, Executive Director  
Alaska State Housing Authority  
Post Office Box 100080  
Anchorage, Alaska 99510-0080

Route	EX cc
Route	DEX cc
Route	All Dep: Lead's cc
File	EX Sec
	Board

Dear Ms. Morse-Quinn:

Subject: Senate Bill 8001  
Proposed State Procurement Act

It has just come to our attention that Senate Bill 8001 does provide for an amendment to AS 18.55.100 by adding, "(d) The authority's power to contract, lease, rent, construct, acquire, procure and provide for services under this section is governed by AS 36.30."

We think the only logical application of this subsection with respect to leasing and renting is where Alaska State Housing Authority is procuring a lease for itself, equipment rentals, or similar transactions.

We do not recall any aspect of Senate Bill 8001 which would apply to the leasing of space to tenants. Inasmuch as Alaska State Housing Authority's tenant leasing policies and practices are subject to the U. S. Department of Housing and Urban Development's regulations and other requirements, we would find objectionable any application of Senate Bill 8001 in this regard.

Sincerely,

*Michael P. Kulick*  
Michael P. Kulick  
Manager

5B 341



Official Business

# Alaska State Legislature

## Senate

Pouch V  
State Capitol  
Juneau, Alaska 99811

### SENATE SELECT INTERIM COMMITTEE ON PROCUREMENT PRACTICES AND PROCEDURES

January 13, 1986

Senator Don Bennett, President  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to Senate Resolution Number 5, a Senate Select Interim Committee on Procurement Practices and Procedures was appointed. The Committee was composed of the following Senators: Jan Faiks, Chairman, Jalmar Kerttula, Vice-Chairman, Rick Halford, Joe Josephson, Edna DeVries and Fred Zharoff. Attorney General Hal Brown participated as an ex-officio member.

The Committee has completed its duties, which included reviewing and investigating the Grand Jury recommendations concerning the Alaska statutes governing state procurement and a code of ethics for the executive branch. In addition, the Committee held eight public hearings based in Anchorage, Fairbanks and Barrow, at which numerous witnesses participated and presented additional information regarding state procurement and ethics. Four of the public hearings were teleconferenced statewide. A mailing list of over 300 interested people was compiled, with updated information relayed periodically.

A task force composed of state procurement personnel worked at length and presented recommendations to the Committee. Five formal task force meetings were held and many administrative briefings, directed by the Department of Administration, reached personnel throughout the executive branch. The Committee greatly appreciated the efforts of Attorney General Hal Brown, Assistant Attorney General Jim Baldwin, Deputy Commissioner Marsha Hubbard, and Bob Link, Director of General Services and Supplies, who worked diligently to make this effort a success.

The following findings and recommendations are based on consistent testimony presented to the Committee during its review.

#### PROCUREMENT

FINDING #1: Existing procurement statutes and regulations are inconsistent, inadequate, outdated and sporadically scattered throughout our laws. An overabundance of the rules pertaining to state purchasing are contained in internal agency policy and procedure manuals, which are not readily available to the public. These factors have caused confusion among those who contract or wish to contract with the state. According to the Department of Law, there has been a dramatic increase in litigation concerning contract disputes because of the fact that the state does not have a comprehensive procurement law.

RECOMMENDATION: Based on these factors, the Committee believes that comprehensive procurement laws and regulations should be enacted.

FINDING #2: The Legislature, Court System, Executive Branch, University of Alaska, and Alaska Railroad Corporation operate differently and independently in the manner in which procurements are made. The Alaska Railroad Corporation has independent authority under AS 42.20.100 to ensure that the procurement procedures of the Corporation meet accepted railroad industry standards. The Executive Branch has moved away from centralized procurement practices and procedures. The Department of Administration has delegated purchasing authority to agencies which have been nonresponsive in enacting basic purchasing regulations. The lack of a uniform and centralized system has produced a system which is incoherent and confusing to the public.

RECOMMENDATION: All laws and regulations pertaining to procurement should be substantially equivalent, while maintaining the integrity of the separate branches of the government. Procurement within the Executive Branch should be more centralized. Any delegation of purchasing authority to an agency should be made only after written determination that the agency is capable of implementing the delegated authority.

FINDING #3: Bid specifications, solicitations and award criteria are not always clearly written or referenced in the information reviewed by potential bidders. The process by which the issuing agency evaluates and accepts or rejects bids is uncertain. This has created confusion and frustration for those who wish to contract with the state.

RECOMMENDATION: Evaluation procedures and performance criteria should be clearly described and identified in all solicitations.

FINDING #4: The use of noncompetitive procurement methods, such as sole source contracts, has not always been adequately justified, demonstrated or documented. This has caused the public to be skeptical of the state procurement system.

RECOMMENDATION: Noncompetitive procurement methods should be limited, and used only after written determination is made that clearly defined criteria for such methods have been met. The Legislature should receive reports of all sole source and emergency contract awards.

FINDING #5: The appeals process has been criticized because of the lack of information concerning the procedures. The time limits imposed for an appeal are too rigid to allow sufficient preparation by the protestor.

RECOMMENDATION: A clear, comprehensive and uniform appeals procedure, with adequate timelines, should be adopted.

FINDING #6: Persons who are not licensed to do business in the state have been awarded contracts. This has caused a great amount of frustration among those who are licensed, yet unsuccessful bidders.

RECOMMENDATION: All bidders should have an Alaska business license at the time of bid.

FINDING #7: Concern has been expressed that access to state contracting is complicated and difficult. The lack of information or understanding of the procedures is viewed as a barrier to doing business with the state.

RECOMMENDATION: The contractors' list should be utilized by all state agencies and branches of government. This list should be current and easily available for users.

FINDING #8: Public procurement is a highly technical process and involves millions of state dollars annually. Expertise is required to make the process work efficiently and effectively.

RECOMMENDATION: Procurement personnel should be adequately trained and supervised. The Chief Procurement Officer should have substantial experience in public procurement, and should be adequately insulated from political pressure.

Based on the recommendations of the Grand Jury, public testimony and state personnel, the Committee is forwarding the attached bill and sectional analysis relating to state procurement practices and procedures. This bill is based on the Model Procurement Code (MPC) which was adopted by the American Bar Association's House of Delegates. The Code represents over five years of intensive effort directed by a Coordinating Committee which is a joint committee of the

Section of Public Contract Law and the Section of Urban, State and Local Government Law.

The Model Procurement Code provides the framework for creating a complete purchasing system at any level of government. Specifically the Code contains: (1) the statutory principles and policy guidance for managing and controlling the procurement of supplies, services, and construction for public purposes; and (2) administrative and judicial remedies for the resolution of controversies relating to public contracts.

The following jurisdictions have adopted modified versions of the Code: Kentucky (1979), Arkansas (1979), Louisiana (1980), Utah (1980), Maryland (1981), South Carolina (1981), Colorado (1982), Indiana (1982), Virginia (1983), Territory of Guam (1983), New Mexico (1984), and Arizona (1984). Local governments or agencies have also adopted versions of the Code, including the Municipality of Anchorage.

The Committee believes that the proposed procurement code will provide a comprehensive law which addresses the deficiencies of the existing system, and therefore we recommend it to you for approval.

#### ETHICS

Senate Resolution 6 also directed the Committee to "review, investigate and render advice with respect to the Grand Jury recommendations concerning a code of ethics for the executive branch and employee awareness of ethical obligations".

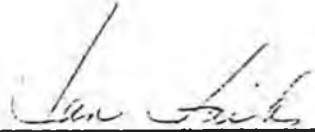
The Committee held two meetings in which it reviewed current statutes pertaining to conflict of interest and ethical behavior for state employees. The Committee also reviewed legislation introduced in the 13th Legislature that would have established an ethics code for the executive branch. Of particular interest was Senate Bill 501 that was introduced by the Governor in 1984 and extensively reviewed by the Senate State Affairs Committee. This bill became the basis from which the Committee began its deliberations.

During these deliberations, the Administration informed the Committee that they had already drafted and were nearing completion on an ethics bill to be introduced by the Governor. After some discussion and review of the draft legislation, it was felt no purpose would be served by the introduction of competing pieces of legislation on this important issue. Therefore, the Senate Select Interim Committee on Procurement Practices and Procedures agreed to defer to the Governor and not introduce an ethics bill.

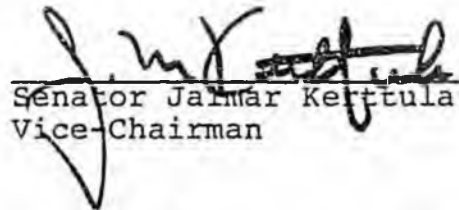
The Committee would like to thank the Administration for all its invaluable assistance in working on an ethics code for

the executive branch. The Attorney General, Hal Brown, provided the Committee with the able assistance of his Special Assistant, Randall Burns and Assistant Attorney General, Susan Cox without whom our task would have been much more difficult.

Respectfully submitted,



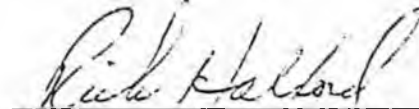
\_\_\_\_\_  
Senator Jan Faiks,  
Chairman



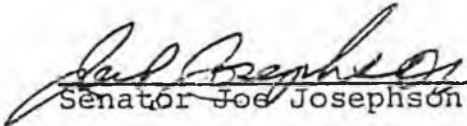
\_\_\_\_\_  
Senator Jalmar Kerttula  
Vice-Chairman



\_\_\_\_\_  
Senator Edna DeVries



\_\_\_\_\_  
Senator Rick Halford



\_\_\_\_\_  
Senator Joe Josephson



\_\_\_\_\_  
Senator Fred Zharoff

AGC AMENDMENTS TO CS SB 341 (Jud)

- Page 10, Line 18 After the word "Within" delete "48 hours" and insert two working days
- Page 10, Line 19 After the word "bids," delete "each" and insert the apparent low

Page 11, Line 5 After the word "listed;" insert the following:

(7) must be substituted in order for the prime contractor to satisfy required Disadvantaged Business Enterprise or Women's Business Enterprise or other contractually imposed requirement;

(8) Was listed as a result of clerical error;

(9) Refuses to agree or abide with the bidder's labor agreement;

Renumber remaining sections accordingly

Introduced: 1/14/86  
Referred: Judiciary and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE SENATE SELECT  
INTERIM COMMITTEE ON PROCUREMENT  
PRACTICES AND PROCEDURES

1 IN THE SENATE

2 SENATE BILL NO. 341

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 state procurement practices and  
7 procedures; and providing for an effective date."

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

9 \* Section 1. PURPOSE. This Act shall be construed and applied to  
10 promote its underlying purposes and policies. The underlying purposes and  
11 policies of this Act are to

12 (1) simplify, clarify, and modernize the law governing pro-  
13 curement by the state;

14 (2) make as consistent as possible the procurement practices  
15 among the executive branch, the legislative branch, and the judicial branch  
16 of state government;

17 (3) provide for increased public confidence in the procedures  
18 followed in state procurement;

19 (4) ensure the fair and equitable treatment of all persons who  
20 deal with the procurement system of the state;

21 (5) provide increased economy in state procurement activities  
22 and maximize to the fullest extent practicable the purchasing value of  
23 state funds;

24 (6) foster effective broad-based competition within the free  
25 enterprise system;

26 (7) provide safeguards for the maintenance of a procurement  
27 system of quality and integrity;

28 (8) permit the continued development of state procurement prac-  
29 tices and policies; and

1           (9) eliminate and prevent discrimination in state contracting  
2 because of race, religion, color, national origin, sex, age, marital sta-  
3 tus, pregnancy, or parenthood.

4       \* Sec. 2. AS 36 is amended by adding a new chapter to read:

5                               CHAPTER 30. STATE PROCUREMENT CODE.

6                               ARTICLE 1. ORGANIZATION OF STATE PROCUREMENT.

7           Sec. 36.30.005. CENTRALIZATION OF PROCUREMENT AUTHORITY. (a)  
8       Except as otherwise provided, all rights, powers, duties, and  
9       authority relating to the procurement of supplies, services, and  
10      professional services, and the control over supplies, services, and  
11      professional services vested in or exercised by an agency on  
12      January 1, 1987, are transferred to the commissicner of administration  
13      and to the chief procurement officer.

14           (b) Except as otherwise provided, all rights, powers, duties,  
15      and authority relating to the procurement of construction and  
16      procurements to or disposals from the state equipment fleet and the  
17      control over construction and the state equipment fleet vested in or  
18      exercised by an agency on January 1, 1987, are transferred to the  
19      commissioner of transportation and public facilities, subject to  
20      regulations adopted by the commissioner of administration.

21           Sec. 36.30.010. CHIEF PROCUREMENT OFFICER. (a) The commis-  
22      sioner shall appoint to the partially exempt service the chief  
23      procurement officer of the state who is responsible for procurement of  
24      supplies, services, and professional services for agencies in the  
25      executive branch. The chief procurement officer shall have at least  
26      five years of prior experience in public procurement and may be  
27      removed by the commissioner only for cause. The term of office of the  
28      chief procurement officer expires when the term of the governor  
29      expires.

1           (b) Except as otherwise specifically provided in this chapter,  
2 the chief procurement officer shall

3           (1) procure or supervise the procurement of all supplies,  
4 services, and professional services needed by an agency;

5           (2) exercise general supervision and control over all  
6 inventories of supplies belonging to an agency and prescribe the  
7 manner in which supplies shall be purchased, delivered, stored, and  
8 distributed;

9           (3) prescribe the time, manner, authentication, and form of  
10 making requisitions for supplies and services;

11           (4) sell, trade, transfer between agencies, or otherwise  
12 dispose of surplus, obsolete, or unused supplies and make proper  
13 adjustments in the accounts of agencies concerned;

14           (5) establish and maintain programs for the inspection,  
15 testing, and acceptance of supplies and services and the testing of  
16 samples submitted with bids;

17           (6) prescribe standard forms for bids and contracts; and

18           (7) provide for other matters that may be necessary to  
19 carry out the provisions of this chapter and the regulations adopted  
20 under this chapter.

21           Sec. 36.30.015. EXECUTIVE BRANCH AGENCIES. (a) The Department  
22 of Transportation and Public Facilities may contract for construction  
23 and procurements for the state equipment fleet. The Department of  
24 Transportation and Public Facilities may dispose of property of the  
25 state equipment fleet. The commissioner of transportation and public  
26 facilities may delegate to another agency the authority to contract  
27 for construction. Before delegating authority to an agency under this  
28 subsection, the commissioner of transportation and public facilities  
29 shall make a written determination that the agency is capable of

1 implementing the delegated authority. Contracts for construction and  
2 procurements to and disposals from the state equipment fleet are  
3 governed by this chapter and regulations adopted by the commissioner  
4 of administration under this chapter.

5 (b) The commissioner may delegate to an agency the authority to  
6 contract for and manage supplies, except property of the state  
7 equipment fleet, services, and professional services. Notwithstanding  
8 delegation of authority under this subsection, an agency's authority  
9 to contract for supplies, services, and professional services, is  
10 governed by this chapter and regulations adopted by the commissioner  
11 under this chapter. Before delegating authority to an agency under  
12 this subsection, the commissioner shall make a written determination  
13 that the agency is capable of implementing the delegated authority.

14 (c) The commissioner may not delegate the authority to adopt  
15 regulations under this chapter.

16 (d) An agency may not contract for the services of legal counsel  
17 without the approval of the attorney general.

18 (e) The board of directors of the Alaska Railroad Corporation  
19 shall adopt procedures to govern the procurement of supplies, ser-  
20 vices, professional services, and construction by the corporation.  
21 The procedures must be substantially equivalent to the procedures pre-  
22 scribed in this chapter and in regulations adopted under this chapter.

23 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall  
24 adopt procedures to govern the procurement of supplies, services,  
25 professional services, and construction by the legislature, legisla-  
26 tors, and legislative agencies and committees. The procedures must be  
27 substantially equivalent to the procedures prescribed in this chapter.

28 Sec. 36.30.030. COURT SYSTEM. The supreme court shall adopt  
29 procedures to govern the procurement of supplies, services,

1 professional services, and construction by the judicial branch. The  
2 procedures must be substantially equivalent to the procedures pre-  
3 scribed in this chapter.

4 Sec. 36.30.040. PROCUREMENT REGULATIONS. (a) The commissioner  
5 shall adopt regulations governing the procurement, management, con-  
6 trol, and disposal of supplies by agencies and the procurement,  
7 management, and control of services, professional services and  
8 construction by agencies. The commissioner may audit and monitor the  
9 implementation of the regulations and the requirements of this chapter  
10 with respect to using agencies.

11 (b) The commissioner shall adopt regulations pertaining to the  
12 following:

13 (1) suspension, debarment, and reinstatement of prospective  
14 bidders and contractors;

15 (2) bid protests;

16 (3) conditions and procedures for the procurement of per-  
17 ishables and items for resale;

18 (4) conditions and procedures for the use of source selec-  
19 tion methods authorized by this chapter, including sole source pro-  
20 curements, emergency procurements, and small procurements;

21 (5) the opening or rejection of bids and offers, and waiver  
22 of informalities in bids and offers;

23 (6) confidentiality of technical data and trade secrets  
24 submitted by actual or prospective bidders or offerors;

25 (7) partial, progressive, and multiple awards;

26 (8) storerooms and inventories, including determination of  
27 appropriate stock levels and the management, transfer, sale, or other  
28 disposal of agency supplies;

29 (9) definitions and classes of contractual services and

- 1 procedures for acquiring them;
- 2 (10) providing for conducting price analysis;
- 3 (11) use of payment and performance bonds in connection with  
4 contracts for supplies and services;
- 5 (12) guidelines for use of cost principles in negotiations,  
6 adjustments, and settlements; and
- 7 (13) the elimination and prevention of discrimination in  
8 state contracting because of race, religion, color, national origin,  
9 sex, age, marital status, pregnancy, or parenthood.

10 Sec. 36.30.050. LISTS OF CONTRACTORS. (a) The commissioner  
11 shall establish and maintain lists of persons who desire to provide  
12 supplies, services, professional services, or construction services to  
13 the state.

14 (b) A person who desires to be on a list shall submit to the  
15 commissioner evidence of a valid Alaska business license together with  
16 a biennial fee in an amount established by regulation. A construction  
17 contractor shall also submit a valid certificate of registration  
18 issued under AS 08.18. The commissioner, by regulation, may require  
19 submission of additional information.

20 (c) The lists shall be used by the chief procurement officer or  
21 an agency when issuing invitations to bid or requests for proposals  
22 under this chapter.

23 (d) The lists shall be used by the Legislative Council, the  
24 court system, and the Alaska Railroad Corporation.

25 Sec. 36.30.060. SPECIFICATIONS. (a) The commissioner shall  
26 adopt regulations governing the preparation, revision, and content of  
27 specifications for supplies, services, professional services, and  
28 construction required by an agency. The commissioner shall monitor  
29 the use of these specifications.

1 (b) Specifications for construction of highways must conform as  
2 closely as practicable to those adopted by the American Association of  
3 State Highway and Transportation Officials.

4 (c) The commissioner may obtain expert advice and assistance  
5 from personnel of using agencies in the development of specifications.  
6 Specifications must promote overall economy for the purposes intended  
7 and encourage competition in satisfying the state's needs, and may not  
8 be unduly restrictive. The requirements of this subsection regarding  
9 the purposes and nonrestrictiveness of specifications apply to all  
10 specifications, including those prepared by architects, engineers,  
11 designers, and other professionals.

12 (d) In this section, "specification" means a description of the  
13 physical or functional characteristics, or of the nature of a supply,  
14 service, professional service, or construction project; it may include  
15 requirements for inspecting, testing, and delivery.

16 Sec. 36.30.070. SUPPLY MANAGEMENT. The commissioner shall adopt  
17 regulations governing the

- 18 (1) management of supplies during their entire life cycle;  
19 (2) sale, lease, or disposal of surplus supplies by public  
20 auction, competitive sealed bidding, or other appropriate method  
21 designated by regulation;  
22 (3) purchase of surplus supplies by an employee of the  
23 using or disposing agency; and  
24 (4) transfer of excess supplies.

25 Sec. 36.30.080. LEASES. (a) The department shall lease space  
26 for the use of the state or an agency wherever it is necessary and  
27 feasible, subject to compliance with the requirements of this chapter.  
28 A lease may not provide for a period of occupancy greater than 40  
29 years. An agency requiring office, warehouse, or other space shall

936

1 lease the space through the department.

2 (b) The department may enter into lease-financing agreements,  
3 including lease-purchase agreements and agreements related to the  
4 issuance of certificates of participation. A lease-financing agree-  
5 ment must provide that lease payments are subject to annual appropria-  
6 tion.

7 (c) If the department intends to enter into a lease or lease-  
8 financing agreement with an annual rent to the state anticipated to  
9 exceed \$1,000,000, the department shall provide notice to the legisla-  
10 ture. The notice must include the anticipated annual lease obligation  
11 amount and the anticipated total construction, acquisition, or other  
12 costs of the project. The department may not enter into an agreement  
13 under this subsection unless the project has been approved by the  
14 legislature by law. An appropriation for the project does not consti-  
15 tute approval of the project for purposes of this subsection.

16 ARTICLE 2. COMPETITIVE SEALED BIDDING.

17 Sec. 36.30.100. GENERAL POLICY. (a) Except as otherwise pro-  
18 vided in this chapter, or unless specifically exempted by law, an  
19 agency contract shall be awarded by competitive sealed bidding.

20 (b) Competitive sealed bidding is not required

21 (1) when the commissioner determines in writing that food,  
22 clothing, or medical supplies, or materials for use in laboratory or  
23 medical studies may be purchased otherwise to the best advantage of  
24 the state;

25 (2) when rates are fixed by law or ordinance;

26 (3) for contracts for the operation of transportation  
27 systems for students to and from the schools within the state, as are  
28 authorized under AS 14.09.010; these contracts may be awarded by bid  
29 or negotiation and, at the discretion of the Board of Education, may

1 be awarded for periods of three years or less;

2 (4) for the purchase of products or services manufactured  
3 or provided by a sheltered workshop;

4 (5) for the purchase of products or services provided by  
5 the correctional industries program established under AS 33.32;

6 (6) for professional services; or

7 (7) for concessions operated on state property.

8 (c) In this section "sheltered workshop" means a place where  
9 manufacture or handiwork is carried on, and that is operated for the  
10 primary purpose of providing remunerative employment to individuals  
11 with physical or mental disabilities that constitute substantial  
12 handicaps to employment.

13 Sec. 36.30.110. INVITATION TO BID. (a) When competitive sealed  
14 bidding is used, the procurement officer shall issue an invitation to  
15 bid. It must include a date by which the bid must be received, pur-  
16 chase description, and all contractual terms and conditions applicable  
17 to the procurement.

18 (b) The invitation to bid shall require the bidder to list  
19 subcontractors the bidder proposes to use in the performance of the  
20 contract. When responding to the invitation, the bidder shall also  
21 supply evidence of the bidder's valid Alaska business license and  
22 evidence of a valid Alaska business license for each listed  
23 subcontractor. A bidder for a construction contract shall also submit  
24 evidence of the bidder's registration under AS 08.18 and evidence of  
25 registration for each listed subcontractor.

26 Sec. 36.30.120. BID SECURITY. (a) Bid security shall be re-  
27 quired for all competitive sealed bidding for construction contracts  
28 when the price is estimated by the procurement officer to exceed an  
29 amount established by regulation of the commissioner. Bid security on

1 construction contracts under the amount set by the commissioner may be  
2 required when the circumstances warrant. Bid security may be required  
3 for competitive sealed bidding for contracts for supplies, services,  
4 or professional services in accordance with regulations of the  
5 commissioner when needed for the protection of the state.

6 (b) Bid security must be a bond provided by a surety company  
7 authorized to do business in the state, or the equivalent in cash, or  
8 otherwise supplied in a form satisfactory to the commissioner. Bid  
9 security must be in an amount equal to at least

10 (1) 10 percent of the amount of the bid if the bid does not  
11 exceed \$100,000; or

12 (2) five percent of the amount of the bid if the bid  
13 exceeds \$100,000.

14 (c) When the invitation to bid requires security, the procure-  
15 ment officer shall reject a bid that does not comply with the bid  
16 security requirement unless, in accordance with regulations, the  
17 officer determines that the bid fails to comply in a nonsubstantial  
18 manner with the security requirements.

19 Sec. 36.30.130. PUBLIC NOTICE OF INVITATION TO BID. (a) The  
20 procurement officer shall give adequate public notice of the invita-  
21 tion to bid at least 21 days before the date for the opening of bids.  
22 If a determination is made in writing that a shorter notice period is  
23 necessary for a particular bid, the 21-day period may be shortened.  
24 The determination shall be made by the chief procurement officer for  
25 bids for supplies, services, or professional services. The  
26 determination shall be made by the commissioner of transportation and  
27 public facilities for bids for construction or acquisition of property  
28 for the state equipment fleet. Notice shall be mailed to all active  
29 prospective contractors on the appropriate list maintained under

1 AS 36.30.050. The time and manner of notice must be in accordance  
2 with regulations adopted by the commissioner of administration. When  
3 practicable, notice may include

4 (1) publication in a newspaper calculated to reach prospec-  
5 tive bidders;

6 (2) notices posted in public places within the area where  
7 the work is to be performed or the material furnished; and

8 (3) publication in the Alaska Administrative Journal.

9 (b) Failure to comply with the notice requirements of this  
10 section does not invalidate a bid or the award of a contract. The  
11 state is not liable for damages caused by failure to comply with this  
12 section.

13 Sec. 36.30.140. BID OPENING. (a) The procurement officer shall  
14 open bids publicly in the presence of one or more witnesses at the  
15 time and place designated in the invitation to bid. The amount of  
16 each bid and other relevant information that is specified by regula-  
17 tion of the commissioner, together with the name of each bidder, shall  
18 be recorded.

19 (b) The information recorded under (a) of this section is open  
20 to public inspection as soon as practicable before the contract is  
21 awarded. The bids are not open for public inspection until after a  
22 contract is awarded. To the extent the bidder designates and the  
23 procurement officer concurs, trade secrets and other proprietary data  
24 contained in a bid document are confidential.

25 Sec. 36.30.150. BID ACCEPTANCE AND BID EVALUATION. Bids shall  
26 be unconditionally accepted without alteration or correction, except  
27 as authorized in AS 36.30.160. The procurement officer shall evaluate  
28 bids based on the requirements set out in the invitation to bid, which  
29 may include criteria to determine acceptability such as inspection,

1 testing, quality, delivery, and suitability for a particular purpose.  
2 The criteria that will affect the bid price and be considered in  
3 evaluation for award must be objectively measurable, such as dis-  
4 counts, transportation costs, and total or life cycle costs. The  
5 invitation to bid must set out the evaluation criteria to be used.  
6 Criteria may not be used in bid evaluation if they are not set out in  
7 the invitation to bid.

8 Sec. 36.30.160. LATE BIDS; CORRECTION OR WITHDRAWAL OF BIDS;  
9 CANCELLATION OF AWARDS. (a) Bids received after the bid due date  
10 indicated on the invitation to bid may not be accepted unless the  
11 delay was due to an error of a state employee directly responsible for  
12 opening the bids.

13 (b) Correction or withdrawal of inadvertently erroneous bids  
14 before or after bid opening, or cancellation of awards or contracts  
15 based on bid mistakes may be permitted in accordance with regulations  
16 adopted by the commissioner. After bid opening, changes in bid prices  
17 or other provisions of bids prejudicial to the interest of the state  
18 or fair competition may not be permitted. Except as otherwise  
19 provided by regulation, a decision to permit the correction or with-  
20 drawal of a bid, or to cancel an award or contract based on a bid  
21 mistake, shall be supported by a written determination made by the  
22 procurement officer. If a bidder is permitted to withdraw a bid  
23 before award, an action may not be maintained against the bidder or  
24 the bid security.

25 Sec. 36.30.170. CONTRACT AWARD AFTER BIDS. (a) Except as  
26 provided in (b) of this section, the procurement officer shall award a  
27 contract based on the solicited bids with reasonable promptness by  
28 written notice to the lowest responsible and responsive bidder whose  
29 bid conforms in all material respects to the requirements and criteria

1 set out in the invitation to bid.

2 (b) The procurement officer shall award a contract based on  
3 solicited bids to the lowest responsible and responsive Alaska bidder  
4 if the bid is not more than five percent higher than the lowest non-  
5 resident bidder's. In this subsection, "Alaska bidder" means a person  
6 who

7 (1) holds a current Alaska business license;

8 (2) submits a bid for goods, services, or construction  
9 under the name as appearing on the person's current Alaska business  
10 license;

11 (3) has maintained a place of business within the state for  
12 a period of six months immediately preceding the date of the bid; and

13 (4) if a joint venture, is composed entirely of ventures  
14 that qualify under (1) - (3) of this subsection.

15 (c) The provisions of (b) of this section do not apply to con-  
16 struction contracts for highways and public works if the construction  
17 contract exceeds \$5,000.

18 Sec. 36.30.190. MULTI-STEP SEALED BIDDING. When it is con-  
19 sidered impractical to initially prepare a definitive purchase de-  
20 scription to support an award based on price, the procurement officer  
21 may issue an invitation to bid requesting the submission of unpriced  
22 technical offers to be followed by an invitation to bid limited to the  
23 bidders whose offers are determined to be technically qualified under  
24 the criteria set out in the first solicitation.

25 ARTICLE 3. COMPETITIVE SEALED PROPOSALS.

26 Sec. 36.30.200. CONDITIONS FOR USE. (a) Except as otherwise  
27 provided in this chapter, or unless specifically exempted by law, an  
28 agency contract shall be awarded by competitive sealed proposals if it  
29 is not awarded by competitive sealed bidding.

1 (b) The commissioner may provide by regulation that it is either  
2 not practicable or not advantageous to the state to procure specified  
3 types of supplies, services, or construction by competitive sealed  
4 bidding that would otherwise be procured by that method. When the  
5 chief procurement officer, or for construction contracts or  
6 procurements for the state equipment fleet, the commissioner of  
7 transportation and public facilities, determines in writing that the  
8 use of competitive sealed bidding is either not practicable or not  
9 advantageous to the state, a contract may be entered into by  
10 competitive sealed proposals in accordance with the regulations. When  
11 it is determined that it is practicable but not advantageous to use  
12 competitive sealed bidding, the chief procurement officer or  
13 commissioner of transportation and public facilities shall specify  
14 with particularity the basis for the determination.

15 Sec. 36.30.210. REQUEST FOR PROPOSALS. (a) A request for  
16 competitive sealed proposals must contain the date by which the pro-  
17 posal must be received, a description of the supplies, construction,  
18 services, or professional services to be provided under the contract,  
19 and the terms under which the supplies, construction, services, or  
20 professional services are to be provided. The request shall require  
21 the offeror to list subcontractors the offeror proposes to use in the  
22 performance of the contract. The offeror must also supply evidence of  
23 the offeror's valid Alaska business license together with evidence of  
24 a valid Alaska business license for each listed subcontractor. An  
25 offeror for a construction contract shall also submit evidence of the  
26 offeror's registration under AS 08.18 and evidence of registration for  
27 each listed subcontractor.

28 (b) A request for proposals must contain that information  
29 necessary for an offeror to submit a proposal or contain references to

1 any information that cannot reasonably be included with the request.  
2 The request must provide a description of the factors that will be  
3 considered by the procurement officer when evaluating the proposals  
4 received, including the relative importance of price and other  
5 evaluation factors.

6 (c) Notice of a request for proposals shall be given in accor-  
7 dance with procedures under AS 36.30.130. The procurement officer may  
8 use additional means considered appropriate to notify prospective  
9 offerors of the intent to enter into a contract through competitive  
10 sealed proposals.

11 Sec. 36.30.220. STANDARD OVERHEAD RATE. (a) If an agency  
12 submits a proposal in response to a request for competitive sealed  
13 proposals, the agency must include its standard overhead rate within  
14 its proposal.

15 (b) In this section, "standard overhead rate" means a charge  
16 established for services and professional services from an agency that  
17 is designed to compensate the agency for administration and support  
18 services incidentally provided with the services contracted for.

19 Sec. 36.30.230. TREATMENT OF PROPOSALS. The procurement officer  
20 shall open proposals so as to avoid disclosure of contents to compet-  
21 ing offerors during the process of negotiation. A register of pro-  
22 posals containing the name and address of each offeror shall be pre-  
23 pared in accordance with regulations adopted by the commissioner. The  
24 register and the proposals are open for public inspection after the  
25 contract is awarded. To the extent that the offeror designates and  
26 the procurement officer concurs, trade secrets and other proprietary  
27 data contained in the proposal documents are confidential.

28 Sec. 36.30.240. DISCUSSION WITH RESPONSIBLE OFFERORS AND REVI-  
29 SIONS TO PROPOSALS. As provided in the request for proposals, and

1 under regulations adopted by the commissioner, discussions may be  
2 conducted with responsible offerors who submit proposals determined to  
3 be reasonably susceptible of being selected for award for the purpose  
4 of clarification to assure full understanding of, and responsiveness  
5 to, the solicitation requirements. Offerors shall be accorded fair  
6 and equal treatment with respect to any opportunity for discussion and  
7 revision of proposals, and revisions may be permitted after submis-  
8 sions and before the award of the contract for the purpose of  
9 obtaining best and final offers. In conducting discussions, the  
10 procurement officer may not disclose information derived from  
11 proposals submitted by competing offerors.

12 Sec. 36.30.250. AWARD OF CONTRACT. The procurement officer  
13 shall award a contract under competitive sealed proposals to the  
14 responsible and responsive offeror whose proposal is determined in  
15 writing to be the most advantageous to the state taking into  
16 consideration price and the evaluation factors set out in the request  
17 for proposals. Other factors and criteria may not be used in the  
18 evaluation. The contract file must contain the basis on which the  
19 award is made.

20 Sec. 36.30.260. CONTRACT EXECUTION. A contract awarded under  
21 competitive sealed proposals must contain

- 22 (1) the amount of the contract stated on its first page;
- 23 (2) the date for the supplies to be delivered or the dates  
24 for construction, services, or professional services to begin and be  
25 completed;
- 26 (3) a description of the supplies, construction, services,  
27 or professional services to be provided; and
- 28 (4) certification by the project director for the contract-  
29 ing agency, the head of the contracting agency, or a designee that

1 sufficient funds are available in an appropriation to be encumbered  
2 for the amount of the contract.

3 Sec. 36.30.270. REVIEW AND APPROVAL BY DEPARTMENT OF LAW. If a  
4 contract contains a term that is in conflict with a state standard  
5 form contract term or if a standard term is deleted or modified by a  
6 term that is not standard, the contract must be reviewed by the De-  
7 partment of Law and approved as to form.

8 ARTICLE 4. OTHER PROCUREMENT METHODS.

9 Sec. 36.30.300. SOLE SOURCE PROCUREMENTS. (a) A contract may  
10 be awarded for supplies, services, professional services, or  
11 construction without competitive sealed bidding, competitive sealed  
12 proposals, or other competition in accordance with regulations adopted  
13 by the commissioner of administration. A contract may be awarded  
14 under this section only when the commissioner of administration or,  
15 for construction contracts or procurements for the state equipment  
16 fleet, the commissioner of transportation and public facilities  
17 determines in writing that there is only one source for the required  
18 supplies, services, professional services, or construction. A sole  
19 source procurement may not be awarded if a reasonable alternative  
20 source exists. The written determination must include findings of  
21 fact that support by clear and convincing evidence the determination  
22 that only one source exists. The authority to make the determination  
23 required by this subsection may not be delegated.

24 (b) The using agency shall submit written evidence to support a  
25 sole source determination. The commissioner of administration or the  
26 commissioner of transportation and public facilities, as appropriate,  
27 may also require the submission of cost or pricing data in connection  
28 with an award under this section.

29 (c) The procurement officer shall negotiate with the single

1 supplier, to the extent practicable, to obtain a contract advantageous  
2 to the state.

3 Sec. 36.30.310. EMERGENCY PROCUREMENTS. Procurements may be  
4 made under emergency conditions as defined in regulations adopted by  
5 the commissioner when there exists a threat to public health, welfare,  
6 or safety, when a situation exists that makes a procurement through  
7 competitive sealed bidding or competitive sealed proposals  
8 impracticable or contrary to the public interest, or to protect public  
9 or private property. An emergency procurement need not be made  
10 through competitive sealed bidding or competitive sealed proposals but  
11 shall be made with competition that is practicable under the  
12 circumstances. A written determination by the procurement officer of  
13 the basis for the emergency and for the selection of the particular  
14 contractor shall be included in the contract file. The written deter-  
15 mination must include findings of fact that support the determination.

16 Sec. 36.30.320. SMALL PROCUREMENTS. (a) A procurement for  
17 supplies, services, or construction that does not exceed an aggregate  
18 dollar amount of \$5,000 may be made in accordance with regulations  
19 adopted by the commissioner for small procurements.

20 (b) A contract for professional services that does not exceed  
21 \$25,000 may be made under regulations adopted by the commissioner for  
22 small procurements, except that an agency may not contract

23 (1) for the services of legal counsel without the approval  
24 of the attorney general; or

25 (2) with a person under this subsection if the total amount  
26 of professional services contracts awarded to that person from the  
27 agency exceeds \$25,000 in a 12-month period.

28 (c) Small procurements need not be made through competitive  
29 sealed bidding or competitive sealed proposals but shall be made with

1 competition that is practicable under the circumstances.

2 (d) Procurement requirements may not be artificially divided or  
3 fragmented so as to constitute a purchase under this section or to  
4 circumvent the source selection procedures required by AS 36.30.100 -  
5 36.30.270.

6 ARTICLE 5. CONTRACT FORMATION AND MODIFICATION.

7 Sec. 36.30.350. BID CANCELLATION, REJECTION. An invitation to  
8 bid, a request for proposals, or other solicitation may be cancelled  
9 or any or all bids or proposals may be rejected in whole or in part or  
10 the date for opening bids or proposals may be delayed when it is in  
11 the best interests of the state in accordance with regulations adopted  
12 by the commissioner. The reasons for cancellation, rejection, or  
13 delay in opening bids or proposals shall be made part of the contract  
14 file.

15 Sec. 36.30.360. DETERMINATION OF RESPONSIBILITY. (a) A written  
16 determination of responsibility of a bidder or offeror shall be made  
17 by the procurement officer in accordance with regulations adopted by  
18 the commissioner. The unreasonable failure of a bidder or offeror to  
19 promptly supply information in connection with an inquiry with respect  
20 to responsibility is grounds for a determination of nonresponsibility  
21 with respect to the bidder or offeror.

22 (b) Information furnished by a bidder or offeror under (a) of  
23 this section is confidential and may not be disclosed without prior  
24 written consent by the bidder or offeror.

25 Sec. 36.30.365. NOTICE OF INTENT TO AWARD A CONTRACT. At least  
26 10 days before the formal award of a contract under this chapter the  
27 procurement officer shall provide to each bidder or offeror notice of  
28 intent to award a contract. The notice shall conform to regulations  
29 adopted by the commissioner.

1           Sec. 36.30.370. TYPES OF CONTRACTS. Subject to limitations of  
2 this section, any type of contract that will promote the best inter-  
3 ests of the state may be used, except that the use of a cost-plus-  
4 a-percentage-of-cost contract is prohibited. A cost-reimbursement  
5 contract may be used only when a determination is made in writing by  
6 the procurement officer that a cost-reimbursement contract is likely  
7 to be less costly to the state than any other type or that it is  
8 impracticable to obtain the supplies, services, professional services,  
9 or construction required except under a cost-reimbursement contract.

10           Sec. 36.30.380. APPROVAL OF ACCOUNTING SYSTEM. Except for a  
11 contract awarded through competitive sealed bidding and a firm fixed-  
12 price contract, a contract type may not be used unless it has been  
13 determined in writing by the procurement officer that the proposed  
14 contractor's accounting system

15                   (1) will permit timely development of all necessary cost  
16 data in the form required by the specific contract type contemplated;  
17 and

18                   (2) is adequate to allocate costs in accordance with gen-  
19 erally accepted accounting principles.

20           Sec. 36.30.390. MULTI-TERM CONTRACTS. (a) Unless otherwise  
21 provided by law, a contract for supplies, services, or professional  
22 services may be entered into for any period of time considered to be  
23 in the best interests of the state provided the term of the contract  
24 and conditions of renewal or extension, if any, are included in the  
25 solicitation and funds are available for the first fiscal period at  
26 the time of contracting. Payment and performance obligations for  
27 succeeding fiscal periods shall be subject to the availability and  
28 appropriation of funds for them.

29                   (b) Before using a multi-term contract, the procurement officer

1 shall determine in writing that

2 (1) estimated requirements cover the period of the contract  
3 and are reasonably firm and continuing; and

4 (2) the contract will serve the best interests of the state  
5 by encouraging effective competition or otherwise promoting economies  
6 in state procurement.

7 (c) When funds are not appropriated or otherwise made available  
8 to support continuation of performance in a subsequent fiscal period,  
9 the contract shall be cancelled. The contractor may only be reim-  
10 bursed for the reasonable value of any nonrecurring costs incurred but  
11 not amortized in the price of the supplies, services, or professional  
12 services delivered under the contract that are not otherwise  
13 recoverable. The cost of cancellation may be paid from any appropria-  
14 tions available for these purposes.

15 Sec. 36.30.400. COST OR PRICING DATA. (a) Before an award of a  
16 contract or a change order or contract modification, the contractor or  
17 prospective contractor shall submit cost and pricing data. The con-  
18 tractor or prospective contractor shall certify that, to the best of  
19 the contractor's or prospective contractor's knowledge and belief, the  
20 data submitted is accurate, complete, and current as of a mutually  
21 determined specified date and will continue to be accurate and com-  
22 plete during the performance of the contract.

23 (b) When a contractor becomes aware of a situation that may form  
24 the basis of a claim for compensation in addition to that provided for  
25 under the contract and before performing work or supplying materials  
26 not required under the contract, the contractor shall submit cost and  
27 pricing data on the additional work or materials. The contractor  
28 shall certify that, to the best of the contractor's knowledge and  
29 belief, the data submitted is accurate, complete, and current and is

1 the actual cost to the contractor of performing the additional work or  
2 supplying the additional materials.

3 (c) A contract, change order, or contract modification under  
4 which a certificate is required under (a) or (b) of this section must  
5 contain a provision that the price to the state, including the con-  
6 tractor's profit or fee, will be adjusted to exclude any significant  
7 sums by which the state finds that the price is increased because the  
8 cost or pricing data furnished by the contractor or prospective  
9 contractor is inaccurate, incomplete, or not current as of the date  
10 agreed upon by the parties.

11 (d) The requirements of this section do not apply when

12 (1) the contract price is based on adequate price competi-  
13 tion;

14 (2) the contract price is set by law or regulation; or

15 (3) it is determined by the procurement officer in writing  
16 and in accordance with regulations adopted by the commissioner that  
17 the requirements of this section may be waived, and the reasons for  
18 waiver are stated.

19 Sec. 36.30.410. RIGHT TO INSPECT PLANT. The state may, at  
20 reasonable times, inspect the part of the plant or place of business  
21 of a contractor or subcontractor that is related to the performance of  
22 a contract awarded or to be awarded by an agency.

23 Sec. 36.30.420. RIGHT TO AUDIT RECORDS. (a) The state may, at  
24 reasonable times and places, audit the books and records of a person  
25 who has submitted cost or pricing data under AS 36.30.400 to the  
26 extent that the books and records relate to the cost or pricing data.  
27 A person who receives a contract, change order, or contract modifica-  
28 tion for which cost or pricing data is required, shall maintain books  
29 and records that relate to the cost or pricing data for three years

1 after the date of final payment under the contract, unless a shorter  
2 period is authorized in writing by the commissioner.

3 (b) The state may audit the books and records of a contractor or  
4 a subcontractor to the extent that the books and records relate to the  
5 performance of the contract or subcontract. Books and records shall  
6 be maintained by the contractor for a period of three years after the  
7 date of final payment under the prime contract and by the subcontrac-  
8 tor for a period of three years after the date of final payment under  
9 the subcontract, unless a shorter period is authorized in writing by  
10 the commissioner.

11 Sec. 36.30.430. STANDARD MODIFICATION CLAUSES FOR CONTRACTS.

12 (a) The commissioner shall adopt regulations permitting the inclusion  
13 of clauses providing for adjustments in prices, time of performance,  
14 or other contract provisions as appropriate.

15 (b) The commissioner shall adopt regulations permitting or  
16 requiring the inclusion in state contracts of clauses providing for  
17 appropriate remedies and covering the following subjects:

- 18 (1) liquidated damages;  
19 (2) specified excuses for delay or nonperformance;  
20 (3) termination of the contract for default; and  
21 (4) termination of the contract in whole or in part for the  
22 convenience of the state.

23 Sec. 36.30.460. MODIFICATION OF STANDARD CLAUSES. The procure-  
24 ment officer or the head of a contracting agency may vary the clauses  
25 adopted under AS 36.30.430 for inclusion in a particular state con-  
26 tract if the

27 (1) variations are supported by a written determination  
28 that states the circumstances justifying the variation; and

29 (2) approval required by AS 36.30.270 is obtained.

1           Sec. 36.30.470. FISCAL RESPONSIBILITY. A contract modification,  
2 change order, or contract price adjustment under a construction con-  
3 tract in excess of an amount established by regulation of the commis-  
4 sioner is subject to prior written certification by the fiscal officer  
5 of the agency responsible for funding the project or the contract, or  
6 other official responsible for monitoring and reporting upon the  
7 status of the costs of the total project budget or contract budget, as  
8 to the effect of the contract modification, change order, or adjust-  
9 ment in contract price on the total project budget or the total con-  
10 tract budget. If the certification of the fiscal officer or other  
11 responsible official discloses a resulting increase in the total  
12 project budget or the total contract budget, the procurement officer  
13 may not approve the contract modification, change order, or adjustment  
14 in contract price unless sufficient funds are available, or the scope  
15 of the project or contract is adjusted to permit the degree of  
16 completion that is feasible within the total project budget or total  
17 contract budget as it existed before the contract modification, change  
18 order, or adjustment in contract price under consideration. A  
19 contract modification change order, or adjustment in contract that is  
20 signed by both parties and has been reasonably relied on by a  
21 contractor, is presumed to be valid even if the provisions of this  
22 section have not been met.

23           Sec. 36.30.480. COST PRINCIPLE REGULATIONS. The commissioner  
24 shall adopt regulations setting out cost principles that shall be used  
25 to determine the allowability of incurred costs for the purpose of  
26 reimbursing costs under contract provisions that provide for the  
27 reimbursement of costs. If a written determination is approved at a  
28 level above the procurement officer, the cost principles may be  
29 modified by contract.

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ARTICLE 6. PROCUREMENT RECORDS AND REPORTS.

Sec. 36.30.500. RETENTION OF PROCUREMENT RECORDS. Procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the state archivist. Retained documents shall be made available to the attorney general or a designee upon request and proper receipt.

Sec. 36.30.510. RECORDS OF CONTRACTS AWARDED UNDER COMPETITIVE SEALED PROPOSALS. A contract file open for public inspection must be kept by the commissioner and the contracting agency for each contract awarded under competitive sealed proposals. The file must contain

- (1) a copy of the contract;
- (2) the register of proposals prepared under AS 36.30.230 and a copy of each proposal submitted;
- (3) the written determination to award the contract prepared under AS 36.30.250; and
- (4) a summary of the information required under (1) - (3) of this section.

Sec. 36.30.520. RECORDS OF SOLE SOURCE AND EMERGENCY PROCUREMENTS. (a) The commissioner shall maintain for a minimum of five years a record listing all sole source procurement contracts made under AS 36.30.300 and emergency procurements made under AS 36.30.310. The record must contain

- (1) each contractor's name;
- (2) the amount and type of each contract; and
- (3) a listing of the supplies, services, professional services, or construction procured under each contract.

(b) The Department of Transportation and Public Facilities and any agency to whom the commissioner of administration or the commissioner of transportation and public facilities has delegated

1 procurement authority under AS 36.30.015 shall, by October 1 of each  
2 year, submit to the commissioner of administration records of the type  
3 specified in (a) of this section. The commissioner of administration  
4 shall maintain these records as required by (a) of this section.

5 Sec. 36.30.530. PUBLIC ACCESS TO PROCUREMENT INFORMATION.  
6 Procurement information is public except as otherwise provided by law.

7 Sec. 36.30.540. REPORT TO LEGISLATURE. Beginning with Decem-  
8 ber 1, 1989, the commissioner shall biennially report to the legisla-  
9 ture concerning procurements by agencies. The report must include

10 (1) the records prepared under AS 36.30.510(4) and 36.30.-  
11 520(a) for the previous two fiscal years;

12 (2) recommendations for changes in this chapter or other  
13 laws based on implementation of this chapter in the previous two  
14 fiscal years; and

15 (3) a description of any matters that involved litigation  
16 concerning this chapter in the previous two fiscal years.

17 ARTICLE 7. LEGAL AND CONTRACTUAL REMEDIES.

18 Sec. 36.30.560. FILING OF A PROTEST. An interested party may  
19 protest the award of a contract, the proposed award of a contract, or  
20 a solicitation for supplies, services, professional services, or  
21 construction by an agency. The protest shall be filed with the  
22 procurement officer of the contracting agency in writing and include  
23 the following information:

24 (1) the name, address, and telephone number of the pro-  
25 tester;

26 (2) the signature of the protester or the protester's  
27 representative;

28 (3) identification of the contracting agency and the solici-  
29 tation or contract at issue;

1 (4) a detailed statement of the legal and factual grounds  
2 of the protest, including copies of relevant documents; and

3 (5) the form of relief requested.

4 Sec. 36.30.565. TIME FOR FILING A PROTEST. (a) A protest based  
5 upon alleged improprieties in a solicitation involving competitive  
6 sealed bidding that are apparent before the bid opening shall be filed  
7 before the bid opening. A protest based on alleged improprieties in a  
8 solicitation involving competitive sealed proposals that are apparent

9 (1) before the due date for receipt of initial proposals  
10 shall be filed before that due date;

11 (2) after the due date for receipt of initial proposals  
12 shall be filed before the next due date for receipt of adjusted pro-  
13 posals that occurs after the improprieties are apparent.

14 (b) In situations not covered under (a) of this section, pro-  
15 tests shall be filed within 10 days after a notice of intent to award  
16 the contract is issued by the procurement officer.

17 (c) If the protester shows good cause, the procurement officer  
18 of the contracting agency may consider a filed protest that is not  
19 timely.

20 Sec. 36.30.570. NOTICE OF A PROTEST. The procurement officer  
21 shall immediately give notice of a protest filed under AS 36.30.565 to  
22 the contractor if a contract has been awarded or, if no award has been  
23 made, to all interested parties.

24 Sec. 36.30.575. STAY OF AWARD. If a protest is filed the award  
25 may be made unless the procurement officer of the contracting agency  
26 determines in writing that a

27 (1) reasonable probability exists that the protest will be  
28 sustained; or

29 (2) stay of the award is not contrary to the best interests

1 of the state.

2 Sec. 36.30.580. DECISION BY THE PROCUREMENT OFFICER. (a) The  
3 procurement officer of the contracting agency shall issue a written  
4 decision containing the basis of the decision within 14 days after a  
5 protest has been filed. A copy of the decision shall be furnished to  
6 the protester by certified mail or other method that provides evidence  
7 of receipt.

8 (b) The time for a decision may be extended up to 26 days for  
9 good cause by the commissioner of administration, or for protests  
10 involving construction or procurements for the state equipment fleet,  
11 the commissioner of transportation and public facilities. If an  
12 extension is granted, the procurement officer shall notify the  
13 protester in writing of the date the decision is due.

14 (c) If a decision is not made by the date it is due, the pro-  
15 tester may proceed as if the procurement officer had issued a decision  
16 adverse to the protester.

17 Sec. 36.30.585. PROTEST REMEDIES. (a) If the procurement  
18 officer sustains a protest in whole or in part, the procurement offi-  
19 cer shall implement an appropriate remedy.

20 (b) In determining an appropriate remedy, the procurement offi-  
21 cer shall consider the circumstances surrounding the solicitation or  
22 procurement including the seriousness of the procurement deficiencies,  
23 the degree of prejudice to other interested parties or to the  
24 integrity of the procurement system, the good faith of the parties,  
25 the extent the procurement has been accomplished, costs to the agency  
26 and other impacts on the agency of a proposed remedy, and the urgency  
27 of the procurement to the welfare of the state.

28 Sec. 36.30.590. APPEAL ON A PROTEST. (a) An appeal from a  
29 decision of a procurement officer on a protest may be filed by the

1       protester with the commissioner of administration, or for protests  
2       involving construction or procurements for the state equipment fleet,  
3       the commissioner of transportation and public facilities. An appeal  
4       shall be filed within five days after the decision is received by the  
5       protester. The protester shall file a copy of the appeal with the  
6       procurement officer.

7               (b) An appeal must contain the information required under  
8       AS 36.30.560. In addition, the appeal must include

- 9                       (1) a copy of the decision being appealed; and  
10                      (2) identification of the factual or legal errors in the  
11       decision that form the basis for the appeal.

12               Sec. 36.30.595. NOTICE OF A PROTEST APPEAL. (a) The procure-  
13       ment officer shall immediately give notice of an appeal filed under  
14       AS 36.30.590 to the contractor if a contract has been awarded or, if  
15       no award has been made, to all interested parties.

16               (b) The commissioner of administration or the commissioner of  
17       transportation and public facilities, as appropriate, shall, on  
18       request, furnish a copy of the appeal to a person notified under (a)  
19       of this section, except that confidential material shall be deleted  
20       from the copy.

21               Sec. 36.30.600. STAY OF AWARD DURING PROTEST APPEAL. If a  
22       protest appeal is filed before a contract is awarded and the award was  
23       stayed under AS 36.30.575, the filing of the appeal automatically  
24       continues the stay until the commissioner of administration or the  
25       commissioner of transportation and public facilities, as appropriate,  
26       makes a written determination that the award of the contract without  
27       further delay is necessary to protect substantial interests of the  
28       state.

29               Sec. 36.30.605. PROTEST REPORT. (a) The procurement officer of

1 the contracting agency shall file a complete report on the protest and  
2 decision with the commissioner of administration or the commissioner  
3 of transportation and public facilities, as appropriate, within seven  
4 days after a protest appeal is filed. The procurement officer shall  
5 furnish a copy of the report to the protester and to interested par-  
6 ties that have requested a copy of the appeal under AS 36.30.595(b).

7 (b) The procurement officer may request an extension of time to  
8 prepare the protest report. The request must be in writing listing  
9 the reasons for the request. The commissioner of administration or  
10 the commissioner of transportation and public facilities, as  
11 appropriate, shall respond to the request in writing. If an extension  
12 is granted, the commissioner shall list the reasons for granting the  
13 extension and indicate the date the protest report is due. The com-  
14 missioner shall notify the protester in writing that the time for  
15 submission of the report has been extended and the date the report is  
16 due.

17 (c) The protester may file comments on the protest report with  
18 the commissioner of administration or the commissioner of  
19 transportation and public facilities, as appropriate, within seven  
20 days after the report is received. The protester shall provide copies  
21 of the comments to the procurement officer and to interested parties  
22 that have requested a copy of the appeal under AS 36.30.595(b).

23 (d) The protester may request an extension of time to prepare  
24 the comments on the protest report. The request must be in writing  
25 listing the reasons for the request. The commissioner of  
26 administration or the commissioner of transportation and public  
27 facilities, as appropriate, shall respond to the request in writing.  
28 If an extension is granted, the commissioner shall list the reasons  
29 for granting the extension and indicate the date the comments are due.

1 The commissioner shall notify the procurement officer in writing that  
2 the time for submission of the comments has been extended and the date  
3 the comments are due.

4 Sec. 36.30.610. DECISION WITHOUT HEARING. (a) The commissioner  
5 of administration or the commissioner of transportation and public  
6 facilities, as appropriate, shall dismiss a protest appeal before a  
7 hearing is held if it is determined in writing that the appeal is  
8 untimely under AS 36.30.590(a).

9 (b) The commissioner of administration or the commissioner of  
10 transportation and public facilities, as appropriate, may issue a  
11 decision on an appeal without a hearing if the appeal involves ques-  
12 tions of law without genuine issues of fact.

13 Sec. 36.30.615. HEARING ON PROTEST APPEAL. A hearing on a  
14 protest appeal shall be conducted in accordance with AS 36.30.670 and  
15 regulations adopted by the commissioner.

16 Sec. 36.30.620. CONTRACT CONTROVERSIES. (a) A contractor shall  
17 file a claim concerning a contract awarded under this chapter with the  
18 procurement officer. The contractor shall certify that the claim is  
19 made in good faith, that the supporting data are accurate and complete  
20 to the best of the contractor's knowledge and belief, and that the  
21 amount requested accurately reflects the contract adjustment for which  
22 the contractor believes the state is liable.

23 (b) If a controversy asserted by a contractor concerning a  
24 contract awarded under this chapter cannot be resolved by agreement,  
25 the procurement officer shall, after receiving a written request by  
26 the contractor for a decision, issue a written decision. The decision  
27 shall be made no more than 90 days after receipt by the procurement  
28 officer of all necessary information from the contractor. Failure of  
29 the contractor to furnish necessary information to the procurement

1 officer constitutes a waiver of the claim. Before issuing the  
2 decision the procurement officer shall review the facts relating to  
3 the controversy and obtain necessary assistance from legal, fiscal,  
4 and other advisors.

5 (c) The time for issuing a decision under (b) of this section  
6 may be extended for good cause by the commissioner of administration,  
7 or for a controversy involving a construction contract or procurement  
8 for the state equipment fleet, the commissioner of transportation and  
9 public facilities, if the controversy concerns an amount in excess of  
10 \$50,000. The procurement officer shall notify the contractor in  
11 writing that the time for the issuance of a decision has been extended  
12 and of the date by which a decision shall be issued.

13 (d) The procurement officer shall furnish a copy of the decision  
14 to the contractor by certified mail or other method that provides  
15 evidence of receipt. The decision shall include a

- 16 (1) description of the controversy;
- 17 (2) reference to the pertinent contract provisions;
- 18 (3) statement of the agreed upon and disputed facts;
- 19 (4) statement of reasons supporting the decision; and
- 20 (5) statement substantially as follows:

21 "This is the final decision of the procurement officer.  
22 This decision may be appealed to the commissioner of  
23 \_\_\_\_\_ (administration/transportation  
24 and public facilities). If you appeal, you must file  
25 a written notice of appeal with the commissioner within  
26 five days after you receive this decision."

27 (e) If a decision is not made by the date it is due, the con-  
28 tractor may proceed as if the procurement officer had issued a deci-  
29 sion adverse to the contractor.

1 (f) If a controversy asserted by the state concerning a contract  
2 awarded under this chapter cannot be resolved by agreement the matter  
3 shall be immediately referred to the commissioner of administration or  
4 the commissioner of transportation and public facilities, as  
5 appropriate.

6 Sec. 36.30.625. APPEAL ON A CONTRACT CONTROVERSY. (a) An  
7 appeal from a decision of the procurement officer on a contract con-  
8 troversy may be filed by the contractor with the commissioner of  
9 administration, or for a controversy involving a construction contract  
10 or procurement for the state equipment fleet, the commissioner of  
11 transportation and public facilities. The appeal shall be filed  
12 within five days after the decision is received by the contractor.  
13 The contractor shall file a copy of the appeal with the procurement  
14 officer.

15 (b) An appeal shall contain a copy of the decision being ap-  
16 pealed and identification of the factual or legal errors in the deci-  
17 sion that form the basis for the appeal.

18 Sec. 36.30.630. HEARING ON A CONTRACT CONTROVERSY. (a) Except  
19 as provided in (b) of this section, a hearing shall be conducted  
20 according to AS 36.30.670 and regulations adopted by the commissioner  
21 of administration on a contract controversy appealed to the commis-  
22 sioner of administration or the commissioner of transportation and  
23 public facilities or referred to either commissioner under  
24 AS 36.30.620(f).

25 (b) Within 15 days after receipt of an appeal on a contract  
26 controversy the commissioner of administration or the commissioner of  
27 transportation and public facilities, as appropriate, may adopt the  
28 decision of the procurement officer as the final decision without a  
29 hearing.

1           Sec. 36.30.632. DELEGATION. The commissioner of administration  
2 and the commissioner of transportation and public facilities may  
3 delegate responsibilities under AS 36.30.590 and 36.30.630 to the head  
4 of the contracting agency.

5           Sec. 36.30.635. AUTHORITY TO DEBAR OR SUSPEND. (a) After  
6 consultation with the using agency and the attorney general and after  
7 a hearing conducted according to AS 36.30.670 and regulations adopted  
8 by the commissioner of administration, the commissioner of administra-  
9 tion or the commissioner of transportation and public facilities may  
10 debar a person for cause from consideration for award of contracts.  
11 Notice of a debarment hearing shall be provided in writing at least  
12 seven days before the hearing. The debarment may not be for a period  
13 of more than three years.

14           (b) The commissioner of administration or the commissioner of  
15 transportation and public facilities, after consultation with the  
16 using agency and the attorney general, may suspend a person from  
17 consideration for award of contracts if there is probable cause for  
18 debarment and compelling reasons require suspension to protect state  
19 interests. The suspension may not be for a period exceeding three  
20 months.

21           (c) The authority to debar or suspend shall be exercised in  
22 accordance with regulations adopted by the commissioner of adminis-  
23 tration.

24           Sec. 36.30.640. CAUSES FOR DEBARMENT OR SUSPENSION. The causes  
25 for debarment or suspension include the following:

26           (1) conviction for commission of a criminal offense as an  
27 incident to obtaining or attempting to obtain a public or private  
28 contract or subcontract, or in the performance of the contract or  
29 subcontract;

1           (2) conviction under state or federal statutes of embezzle-  
2 ment, theft, forgery, bribery, falsification or destruction of re-  
3 cords, receiving stolen property, or other offense indicating a lack  
4 of business integrity or business honesty that currently and seriously  
5 affects responsibility as a state contractor;

6           (3) conviction or civil judgment finding a violation under  
7 state or federal antitrust statutes;

8           (4) violation of contract provisions of a character that is  
9 regarded by the commissioner to be so serious as to justify debarment  
10 action, such as

11                   (A) knowing failure without good cause to perform in  
12 accordance with the specifications or within the time limit  
13 provided in the contract; or

14                   (B) failure to perform or unsatisfactory performance  
15 in accordance with the terms of one or more contracts, except  
16 that failure to perform or unsatisfactory performance caused by  
17 acts beyond the control of the contractor may not be considered  
18 to be a basis for debarment;

19           (5) for violation of the ethical standards set out in law  
20 or regulation;

21           (6) for a violation of this chapter punishable under  
22 AS 36.30.930(2); and

23           (7) any other cause listed in regulations of the  
24 commissioner determined to be so serious and compelling as to affect  
25 responsibility as a state contractor, including debarment by another  
26 governmental entity for a cause listed in the regulations.

27           Sec. 36.30.645. WRITTEN DETERMINATIONS. (a) The commissioner  
28 of administration or the commissioner of transportation and public  
29 facilities shall issue a written decision to debar or suspend. The

1 decision must

- 2 (1) state the reasons for the action taken; and  
3 (2) inform the debarred person of rights to judicial appeal  
4 or inform the suspended person of rights to administrative and judi-  
5 cial appeal.

6 (b) A copy of the decision under (a) of this section shall be  
7 mailed or otherwise furnished immediately to the debarred or suspended  
8 person and any other intervening party.

9 Sec. 36.30.650. HEARING ON A SUSPENSION. (a) A person suspend-  
10 ed under AS 36.30.635 is entitled to a hearing conducted according to  
11 AS 36.30.670 and regulations adopted by the commissioner of adminis-  
12 tration if the person files a written request for a hearing with the  
13 commissioner of administration or the commissioner of transportation  
14 and public facilities, as appropriate, within seven days after receipt  
15 of the notice of suspension under AS 36.30.645.

16 (b) If a suspended person requests a hearing the commissioner of  
17 administration or the commissioner of transportation and public  
18 facilities, as appropriate, shall schedule a prompt hearing unless the  
19 attorney general determines that a hearing at the proposed time is  
20 likely to jeopardize an investigation. A hearing may not be delayed  
21 longer than six months after notice of the suspension is provided  
22 under AS 36.30.645.

23 Sec. 36.30.655. LIST OF PERSONS DEBARRED OR SUSPENDED. The  
24 commissioner shall maintain a list of all persons debarred or suspend-  
25 ed from consideration for award of contracts.

26 Sec. 36.30.660. REINSTATEMENT. (a) The commissioner of  
27 administration or the commissioner of transportation and public  
28 facilities may at any time after a final decision to debar a person  
29 from consideration for award of contracts reinstate the person after

1 determining that the cause for which the person was debarred no longer  
2 exists or has been substantially mitigated.

3 (b) A debarred person may request reinstatement by submitting a  
4 petition to the commissioner of administration or the commissioner of  
5 transportation and public facilities supported by evidence showing  
6 that the cause for debarment no longer exists or has been substantial-  
7 ly mitigated.

8 (c) The commissioner of administration or the commissioner of  
9 transportation and public facilities may require a hearing on a  
10 reinstatement petition. A decision on reinstatement shall be made in  
11 writing within seven days after a reinstatement petition is submitted.  
12 The decision shall specify the factors on which it is based. A  
13 decision under this section is not subject to judicial appeal.

14 Sec. 36.30.665. LIMITED PARTICIPATION. The commissioner of  
15 administration or the commissioner of transportation and public  
16 facilities may permit a debarred person to participate in a contract  
17 on a limited basis during the debarment period if the commissioner  
18 determines in writing that the participation is advantageous to the  
19 state. The determination shall specify the factors on which it is  
20 based and the limits imposed on the debarred person.

21 Sec. 36.30.670. HEARING PROCEDURES. (a) The commissioner of  
22 administration or the commissioner of transportation and public  
23 facilities shall act as a hearing officer or appoint a hearing officer  
24 for a hearing conducted under this chapter. The hearing officer shall  
25 arrange for a prompt hearing and notify the parties in writing of the  
26 time and place of the hearing. The hearing shall be conducted in an  
27 informal manner. The provisions of AS 44.62 (Administrative Procedure  
28 Act) do not apply to a hearing conducted under this chapter.

29 (b) The hearing officer may

1 (1) hold prehearing conferences to settle, simplify, or  
2 identify the issues in a proceeding, or to consider other matters that  
3 may aid in the expeditious disposition of the proceeding;

4 (2) require parties to state their positions concerning the  
5 various issues in the proceeding;

6 (3) require parties to produce for examination those rele-  
7 vant witnesses and documents under their control;

8 (4) rule on motions and other procedural matters;

9 (5) regulate the course of the hearing and conduct of the  
10 participants;

11 (6) establish time limits for submission of motions or  
12 memoranda;

13 (7) impose appropriate sanctions against a person who fails  
14 to obey an order of the hearing officer, including

15 (A) prohibiting the person from asserting or opposing  
16 designated claims or defenses or introducing designated matters  
17 into evidence;

18 (B) excluding all testimony of an unresponsive or  
19 evasive witness; and

20 (C) excluding a person from further participation in  
21 the hearing;

22 (8) take official notice of a material fact not appearing  
23 in evidence, if the fact is among the traditional matters subject to  
24 judicial notice;

25 (9) administer oaths or affirmations.

26 (c) A transcribed record of the hearing shall be made available  
27 at cost to a party that requests it.

28 Sec. 36.30.675. RECOMMENDATION BY THE HEARING OFFICER. (a) If  
29 the commissioner of administration or the commissioner of

1 transportation and public facilities is not acting as hearing officer,  
2 the hearing officer shall recommend a decision to the commissioner  
3 based on the evidence presented. The recommendation shall include  
4 findings of fact and conclusions of law.

5 (b) The commissioner of administration or the commissioner of  
6 transportation and public facilities may affirm, modify, or reject the  
7 hearing officer's recommendation in whole or in part, may remand the  
8 matter to the hearing officer with instructions, or take other  
9 appropriate action.

10 Sec. 36.30.680. FINAL DECISION BY THE COMMISSIONER. A decision  
11 by the commissioner of administration or the commissioner of  
12 transportation and public facilities after a hearing under this  
13 chapter is final. A decision shall be sent within 20 days after the  
14 hearing to all parties by personal service or certified mail, except  
15 that a decision by the commissioner of transportation and public  
16 facilities involving procurement of construction shall be sent within  
17 90 days after the hearing to all parties by personal service or  
18 certified mail.

19 Sec. 36.30.685. JUDICIAL APPEAL. (a) A final decision of the  
20 commissioner of administration or the commissioner of transportation  
21 and public facilities under AS 36.30.610, 36.30.635(a), 36.30.650, or  
22 36.30.680 may be appealed to the superior court in accordance with the  
23 Alaska Rules of Appellate Procedure.

24 (b) A final decision of the commissioner of administration or  
25 the commissioner of transportation and public facilities under  
26 AS 36.30.630(b) may be appealed to the superior court for a trial de  
27 novo.

28 Sec. 36.30.690. EXCLUSIVE REMEDY. Notwithstanding AS 44.77 or  
29 other law to the contrary, AS 36.30.560 - 36.30.699 and regulations

1 adopted under those sections provide the exclusive procedure for  
2 asserting a claim against an agency arising in relation to a  
3 procurement under this chapter.

4 Sec. 36.30.695. OTHER RULES OF PROCEDURE. The commissioner may  
5 adopt by regulation additional rules of procedure providing for the  
6 expeditious administrative review of all contract claims or contro-  
7 versies, both before the contracting agency and through an appeal  
8 heard de novo.

9 Sec. 36.30.699. DEFINITION. In AS 36.30.560 - 36.30.695,  
10 "interested party" means an actual or prospective bidder or offeror  
11 whose economic interest may be affected substantially and directly by  
12 the issuance of a contract solicitation, the award of a contract, or  
13 the failure to award a contract; whether an actual or prospective  
14 bidder or offeror has an economic interest depends on the  
15 circumstances.

16 ARTICLE 8. INTERGOVERNMENTAL RELATIONS.

17 Sec. 36.30.700. COOPERATIVE PURCHASING AUTHORIZED. A public  
18 procurement unit may either participate in, sponsor, conduct, or  
19 administer a cooperative purchasing agreement for the procurement of  
20 supplies, services, professional services, or construction with one or  
21 more public procurement units or external procurement activities in  
22 accordance with an agreement entered into between the participants.  
23 Cooperative purchasing may include joint or multi-party contracts  
24 between public procurement units and open-ended state public procure-  
25 ment unit contracts that are made available to local public procure-  
26 ment units.

27 Sec. 36.30.710. SALE, ACQUISITION, OR USE OF SUPPLIES BY A  
28 PUBLIC PROCUREMENT UNIT. (a) A public procurement unit may sell to,  
29 acquire from, or use any supplies belonging to another public

1 procurement unit or external procurement activity independent of the  
2 requirements of AS 36.30.070 and 36.30.100 - 36.30.280.

3 (b) A public procurement unit may enter into an agreement,  
4 independent of the requirements of AS 36.30.060 and 36.30.100 - 36.-  
5 30.280, with another public procurement unit or external procurement  
6 activity for the cooperative use of supplies or services under the  
7 terms agreed upon between the parties.

8 Sec. 36.30.720. JOINT USE OF FACILITIES. A public procurement  
9 unit may enter into agreements for the common use or lease of ware-  
10 housing facilities, capital equipment, and other facilities with  
11 another public procurement unit or an external procurement activity  
12 under the terms agreed upon between the parties.

13 Sec. 36.30.730. SUPPLY OF PERSONNEL, INFORMATION, AND TECHNICAL  
14 SERVICES. (a) A public procurement unit may, upon written request  
15 from another public procurement unit or external procurement activity,  
16 provide personnel to the requesting public procurement unit or exter-  
17 nal procurement activity. The public procurement unit or external  
18 procurement activity making the request shall pay the public procure-  
19 ment unit providing the personnel the direct and indirect cost of  
20 furnishing the personnel, in accordance with an agreement between the  
21 parties.

22 (b) The informational, technical, and other services of a public  
23 procurement unit may be made available to another public procurement  
24 unit or external procurement activity except that the requirements of  
25 the public procurement unit tendering the services has precedence over  
26 the requesting public procurement unit or external procurement activi-  
27 ty. The requesting public procurement unit or external procurement  
28 activity shall pay for the expenses of the services so provided, in  
29 accordance with an agreement between the parties.

1 (c) Upon request, the commissioner may make available to public  
2 procurement units or external procurement activities the following  
3 services, among others:

- 4 (1) standard forms;
- 5 (2) printed manuals;
- 6 (3) product specifications and standards;
- 7 (4) quality assurance testing services and methods;
- 8 (5) qualified products lists;
- 9 (6) source information;
- 10 (7) common use commodities listings;
- 11 (8) supplier performance ratings;
- 12 (9) lists of persons debarred or suspended from considera-  
13 tion for award of state contracts;
- 14 (10) forms for invitations for bids, requests for proposals,  
15 instructions to bidders, general contract provisions, and other con-  
16 tract forms; and
- 17 (11) contracts or published summaries of them, including  
18 price and time of delivery information.

19 (d) The commissioner may provide the following technical ser-  
20 vices, among others:

- 21 (1) development of product specifications;
- 22 (2) development of quality assurance test methods, includ-  
23 ing receiving, inspection, and acceptance procedures;
- 24 (3) use of product testing and inspection facilities; and
- 25 (4) use of personnel training programs.

26 (e) The commissioner may enter into contractual arrangements and  
27 publish a schedule of fees for the services provided under (c) and (d)  
28 of this section.

29 Sec. 36.30.735. RESTRICTION ON CONTRACTING WITH OR EMPLOYING

1 EXPERTS ON RADIATION HAZARDS. (a) Except for the Department of  
2 Health and Social Services, the Department of Labor, the Department of  
3 Environmental Conservation, and the Department of Military and Veter-  
4 ans' Affairs, a state agency may not

5 (1) contract, other than with the Department of Health and  
6 Social Services, to have services performed that require expertise in  
7 determining or reducing the hazards of radiation; or

8 (2) employ a person whose duties require expertise in  
9 determining or reducing the hazards of radiation.

10 (b) In this section, "state agency" means a state department or  
11 agency, whether in the legislative, judicial, or executive branch,  
12 including such entities as the Alaska State Housing Authority, but not  
13 including the University of Alaska, a municipality, or an agency of a  
14 municipality.

15 (c) In this section, "radiation" does not include radiation  
16 emitted from a Federal Communications Commission licensed facility  
17 emitting radiation of a wave length longer than one centimeter and an  
18 average power output not exceeding two kilowatts.

19 Sec. 36.30.740. REVIEW OF PROCUREMENT REQUIREMENTS. To the  
20 extent possible, the commissioner may collect information concerning  
21 the type, cost, quality, and quantity of commonly used supplies,  
22 equipment for the state fleet, services, or construction being  
23 procured or used by state public procurement units. The commissioner  
24 may also collect this information from local public procurement units.  
25 The commissioner may make this information available to a public  
26 procurement unit upon request.

27 Sec. 36.30.750. CONTRACT CONTROVERSIES. (a) Under a coopera-  
28 tive purchasing agreement, controversies arising between an adminis-  
29 tering public procurement unit and its bidders, offerors, or

1 contractors shall be resolved in accordance with AS 36.30.560 -  
2 36.30.699.

3 (b) A local public procurement unit that is not subject to  
4 AS 36.30.560 - 36.30.699 may enter into an agreement with another  
5 local public procurement unit or external procurement activity to  
6 establish procedures or use that unit's or activity's existing proce-  
7 dures to resolve controversies with contractors, whether or not the  
8 controversy arose under a cooperative purchasing agreement.

9 Sec. 36.30.790. DEFINITIONS. In AS 36.30.700 - 36.30.790

10 (1) "cooperative purchasing" means procurement conducted  
11 by, or on behalf of, more than one public procurement unit, or by a  
12 public procurement unit with an external procurement activity;

13 (2) "external procurement activity" means a buying orga-  
14 nization not located in this state that, if located in this state,  
15 would qualify as a public procurement unit; an agency of the United  
16 States is an external procurement activity;

17 (3) "local public procurement unit" means a municipality or  
18 other subdivision of the state or other entity that expends public  
19 funds for the procurement of supplies, services, professional ser-  
20 vices, and construction, and any nonprofit corporation operating a  
21 charitable hospital;

22 (4) "public procurement unit" means either a local public  
23 procurement unit or a state public procurement unit;

24 (5) "state public procurement unit" means the Department of  
25 Administration and any other contracting agency of the state.

26 ARTICLE 9. GENERAL PROVISIONS.

27 Sec. 36.30.850. APPLICATION OF THIS CHAPTER. (a) This chapter  
28 applies only to contracts solicited or entered into after January 1,  
29 1987, unless the parties agree to its application to a contract

1 solicited or entered into before that date.

2 (b) This chapter applies to the disposal of state supplies and  
3 every expenditure of state funds irrespective of their sources, in-  
4 cluding federal assistance except as otherwise specified in AS 36.-  
5 30.890, by the state, acting through an agency, under a contract,  
6 except that this chapter does not apply to

7 (1) grants;

8 (2) contracts for professional witnesses to provide for  
9 professional services or testimony relating to existing or probable  
10 lawsuits in which the state is or may become a party;

11 (3) contracts of the University of Alaska where the work is  
12 to be performed substantially by students enrolled in the university;

13 (4) contracts for medical doctors and dentists;

14 (5) contracts for the purchase of residential child care  
15 services under AS 47.40;

16 (6) disposals of land or interests in land;

17 (7) disposals under AS 38.05;

18 (8) contracts for the preparation of ballots under AS 15.-  
19 15.030;

20 (9) acquisitions or disposals of property and other con-  
21 tracts relating to airports under AS 02.15.070, 02.15.090, and 02.15.-  
22 091;

23 (10) acquisitions of real property or disposals of obsolete  
24 property under AS 19.05.060, 19.05.100, 19.05.110, or 19.05.120;

25 (11) disposals of obsolete material or equipment under  
26 AS 35.20.060; or

27 (12) leases of ferry terminal facilities under AS 19.60.010.

28 (c) Except for AS 36.30.700 - 36.30.790, this chapter does not  
29 apply to contracts between two or more agencies, the state and its

1 political subdivisions, or the state and other governments.

2 (d) Nothing in this chapter or in regulations adopted under this  
3 chapter prevents an agency or political subdivision from complying  
4 with the terms and conditions of a grant, gift, bequest, or coopera-  
5 tive agreement.

6 Sec. 36.30.860. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLIC-  
7 ABLE. Unless displaced by the particular provisions of this chapter,  
8 the principles of law and equity, including the Uniform Commercial  
9 Code (AS 45.01 - AS 45.09), the law merchant, and law relative to  
10 capacity to contract, agency, fraud, misrepresentation, duress, coer-  
11 cion, mistake, or bankruptcy shall supplement the provisions of this  
12 chapter.

13 Sec. 36.30.870. ADOPTION OF REGULATIONS. (a) Regulations under  
14 this chapter shall be adopted in accordance the Administrative  
15 Procedure Act (AS 44.62).

16 (b) Regulations under this chapter applicable to procurements of  
17 construction or procurements for or disposal of property of the state  
18 equipment fleet shall be adopted by the commissioner of administration  
19 only after consultation with the commissioner of transportation and  
20 public facilities.

21 Sec. 36.30.880. REQUIREMENT OF GOOD FAITH. All parties involved  
22 in the negotiation, performance, or administration of state contracts  
23 shall act in good faith.

24 Sec. 36.30.890. FEDERAL ASSISTANCE. If a procurement involves  
25 the expenditure of federal funds or federal assistance and there is a  
26 conflict between a provision of this chapter or a regulation adopted  
27 under a provision of this chapter and a federal statute or regulation  
28 the federal statute or regulation shall prevail.

29 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter

1 does not modify, amend, or alter AS 36.15.010 and 36.15.020 regarding  
2 preference for Alaska forest products, or AS 36.20.010 regarding  
3 preference to producers or dealers in Alaska except as provided in  
4 AS 36.30.170(b).

5 Sec. 36.30.910. PURCHASES THROUGH GENERAL SERVICES ADMINISTRA-  
6 TION. This chapter does not prevent purchasing through the general  
7 services administration as provided by law.

8 Sec. 36.30.920. REPORTING OF ANTICOMPETITIVE PRACTICES. When  
9 for any reason collusion or other anticompetitive practices are sus-  
10 pected among bidders or offerors, a notice of the relevant facts shall  
11 be transmitted to the attorney general by the person who suspects the  
12 collusion or other anticompetitive practices.

13 Sec. 36.30.930. CIVIL AND CRIMINAL PENALTIES. The following  
14 penalties apply to violations of this chapter:

15 (1) a person who contracts for or purchases supplies,  
16 equipment for the state fleet, services, professional services, or  
17 construction in a manner contrary to the requirements of this chapter  
18 or the regulations adopted under this chapter is personally liable for  
19 the recovery of all state money paid plus 20 percent of that amount,  
20 legal interest from the date of payment, and all costs and damages  
21 arising out of the violation;

22 (2) a person who intentionally or knowingly contracts for  
23 or purchases supplies, equipment for the state fleet, services,  
24 professional services, or construction under a scheme or artifice to  
25 avoid the requirements of this chapter is guilty of a class C felony.

26 Sec. 36.30.940. ENFORCEMENT. The attorney general on behalf of  
27 the state shall enforce the provisions of this chapter.

28 Sec. 36.30.990. DEFINITIONS. In this chapter, unless the con-  
29 text in which a term is used clearly requires a different meaning or a

1 different definition is prescribed for a particular provision,

2 (1) "agency" means a department, institution, board, com-  
3 mission, division, authority, public corporation, the Alaska Pioneers'  
4 Home, or other administrative unit of the executive branch of state  
5 government, including the University of Alaska; it does not include  
6 the Alaska Railroad Corporation;

7 (2) "change order" means a written order signed by the  
8 procurement officer, directing the contractor to make changes that the  
9 changes clause of the contract authorizes the procurement officer to  
10 order without the consent of the contractor;

11 (3) "commissioner" means the commissioner of the Department  
12 of Administration;

13 (4) "competitive sealed bidding" means the procedure under  
14 AS 36.30.100 - 36.30.190;

15 (5) "competitive sealed proposals" means the procedure  
16 under AS 36.30.200 - 36.30.270;

17 (6) "construction" means the process of building, altering,  
18 repairing, maintaining, improving, or demolishing a public highway,  
19 structure, building, or other public improvement of any kind to real  
20 property; it includes planning and design required for the construc-  
21 tion; it does not include the routine operation of a public improve-  
22 ment to real property;

23 (7) "contract" means all types of state agreements, regard-  
24 less of what they may be called, for the procurement or disposal of  
25 supplies, equipment for the state fleet, services, professional  
26 services, or construction;

27 (8) "contract modification" means a written alteration in  
28 specifications, delivery point, rate of delivery, period of perfor-  
29 mance, price, quantity, or other provisions of a contract accomplished

1 by mutual action of the parties to the contract;

2 (9) "department" means the Department of Administration;

3 (10) "grant" means the furnishing by the state of assis-  
4 tance, whether financial or otherwise, to a person to support a pro-  
5 gram authorized by law; it does not include an award whose primary  
6 purpose is to procure an end product, whether in the form of supplies,  
7 services, professional services, or construction; a contract resulting  
8 from such an award is not a grant but a procurement contract;

9 (11) "person" means a business, individual, union, commit-  
10 tee, club, other organization, or group of individuals;

11 (12) "procurement" means buying, purchasing, renting, leas-  
12 ing, or otherwise acquiring supplies, equipment for the state fleet,  
13 services, or construction; it also includes functions that pertain to  
14 the obtaining of a supply, equipment for the state fleet, service, or  
15 construction, including description of requirements, selection and  
16 solicitation of sources, preparation and award of contract, and all  
17 phases of contract administration;

18 (13) "procurement officer" means a person authorized to  
19 enter into and administer contracts for an agency and make written  
20 determinations with respect to them; it also includes an authorized  
21 representative of a procurement officer acting within the limits of  
22 authority;

23 (14) "professional services" means professional, technical,  
24 or consultant's services that are predominantly intellectual in char-  
25 acter, result in the production of a report or the completion of a  
26 task, and include analysis, evaluation, prediction, planning, or  
27 recommendation; "professional services" does not include services  
28 performed under an employment contract for services to be performed  
29 under direct supervision, regardless of whether there is an employer-

1 employee relationship, if the person responsible for awarding the  
2 contract files with the commissioner of administration a written  
3 justification for the contract;

4 (15) "services" means the furnishing of labor, time, or  
5 effort by a contractor, not involving the delivery of a specific end  
6 product other than reports that are merely incidental to the required  
7 performance; it does not include employment agreements or collective  
8 bargaining agreements;

9 (16) "supplies" means all property procured for the use of  
10 an agency, including equipment, materials, and insurance; it includes  
11 leases of privately owned real property for the use of agencies, such  
12 as office space, but does not include the procurement or disposition  
13 of other interests in land; and

14 (17) "using agency" means an agency that uses supplies,  
15 equipment from the state fleet, services, professional services, or  
16 construction procured under this chapter.

17 Sec. 36.30.995. SHORT TITLE. This chapter may be cited as the  
18 State Procurement Code.

19 \* Sec. 3. AS 03.22.030 is amended to read:

20 Sec. 03.22.030. CENTER SITE, BUILDINGS AND EQUIPMENT. The  
21 department shall obtain a site, either by donation, lease, or pur-  
22 chase, and erect suitable buildings on the site, if they are needed  
23 for the use of the plant materials center. The department shall also  
24 acquire the agricultural land, scientific instruments and equipment  
25 necessary to carry on the work of the center. Acquisition of scien-  
26 tific instruments and equipment under this section is governed by  
27 AS 36.30 (State Procurement Code).

28 \* Sec. 4. AS 05.20.040 is amended to read:

29 Sec. 05.20.040. PERSONNEL TO INSPECT DEVICES. The department

1 shall designate a person qualified in experience and training as the  
2 inspector of devices. The department may employ additional employees  
3 as are necessary to administer this chapter. The inspector and the  
4 employees may be hired on a temporary basis or borrowed from other  
5 state departments or political subdivisions of the state, or the  
6 department may contract with individuals or firms for the inspecting  
7 service on an independent basis. The department shall prescribe the  
8 salary or other remuneration for this service. Contracting under this  
9 section is governed by AS 36.30 (State Procurement Code).

10 \* Sec. 5. AS 09.50.250 is amended to read.

11 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person  
12 or corporation having a contract, quasi-contract, or tort claim  
13 against the state may bring an action against the state in the superi-  
14 or court. A person who may present the claim under AS 44.77 may not  
15 bring an action under this section except as set out in AS 44.77.-  
16 040(c). A person who may bring an action under AS 36.30.560 - 36.30.-  
17 695 may not bring an action under this section except as set out in  
18 AS 36.30.685. However, no action may be brought under this section if  
19 the claim

20 (1) is an action for tort, and is based upon an act or  
21 omission of an employee of the state, exercising due care, in the  
22 execution of a statute or regulation, whether or not the statute or  
23 regulation is valid; or is an action for tort, and based upon the  
24 exercise or performance or the failure to exercise or perform a dis-  
25 cretionary function or duty on the part of a state agency or an em-  
26 ployee of the state, whether or not the discretion involved is abused;

27 (2) is for damages caused by the imposition or establish-  
28 ment of a quarantine by the state;

29 (3) arises out of assault, battery, false imprisonment,

1 false arrest, malicious prosecution, abuse of process, libel, slander,  
2 misrepresentation, deceit, or interference with contract rights.

3 \* Sec. 6. AS 14.08.101 is amended to read:

4 Sec. 14.08.101. POWERS. A regional school board may

5 (1) sue and be sued;

6 (2) contract with the department, the Bureau of Indian  
7 Affairs, or any other school district, agency, or regional board for  
8 the provision of services, facilities, supplies or utilities;

9 (3) determine its own fiscal procedures including but not  
10 limited to policies and procedures for the purchase of supplies and  
11 equipment; the regional school boards are exempt from the Fiscal  
12 Procedures Act (AS 37.05) and the State Procurement Code (AS 36.30);

13 (4) appoint, compensate and otherwise control all school  
14 employees in accordance with this title; these employees are not  
15 subject to the State Personnel Act (AS 39.25);

16 (5) adopt regulations governing organization, policies and  
17 procedures for the operation of the schools;

18 (6) establish, maintain, operate, discontinue and combine  
19 schools subject to the approval of the commissioner;

20 (7) recommend to the department projects for construction,  
21 rehabilitation, and improvement of schools and education-related  
22 facilities as specified in AS 14.11.010(a), and plan, design, and  
23 construct the project when the responsibility for it is assumed under  
24 AS 14.11.020;

25 (8) exercise those other functions that may be necessary  
26 for the proper performance of its responsibilities;

27 (9) by resolution adopted by a majority of all the members  
28 of the board and provided to the commissioner of the department,  
29 assume ownership of all land and buildings used in relation to the

1 schools in the regional educational attendance area;

2 (10) provide housing for rental to teachers, by leasing  
3 existing housing from a local agency or individual, or by entering  
4 into contractual arrangements with a local agency or individual to  
5 lease housing that will be constructed by the local agency or indi-  
6 vidual for that purpose.

7 \* Sec. 7. AS 16.05.050 is amended to read:

8 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commis-  
9 sioner has, but not by way of limitation, the following powers and  
10 duties:

11 (1) assist the United States Fish and Wildlife Service in  
12 the enforcement of federal laws and regulations pertaining to fish and  
13 game;

14 (2) through the appropriate state agency and under the  
15 provisions of AS 36.30 (State Procurement Code), acquire by gift,  
16 purchase, or lease, or other lawful means, land, buildings, water,  
17 rights-of-way, or other necessary or proper real or personal property  
18 when the acquisition is in the interest of furthering an objective or  
19 purpose of the department and the state;

20 (3) under the provisions of AS 36.30, design and construct  
21 hatcheries, pipelines, rearing ponds, fishways, and other projects  
22 beneficial for the fish and game resources of the state;

23 (4) accept money from any person under conditions requiring  
24 the use of the money for specific purposes in the furtherance of the  
25 protection, rehabilitation, propagation, preservation, or investiga-  
26 tion of the fish and game resources of the state or in settlement of  
27 claims for damages to fish or game resources;

28 (5) collect, classify, and disseminate statistics, data and  
29 information that, in the commissioner's discretion, will tend to

1 promote the purposes of this title except AS 16.51 and AS 16.52;

2 (6) capture, propagate, transport, buy, sell, or exchange  
3 fish or game or eggs for propagating, scientific or stocking purposes;

4 (7) under the provisions of AS 36.30, provide public facil-  
5 ities where necessary or proper to facilitate the taking of fish or  
6 game, and enter into cooperative agreements with any person to effect  
7 them;

8 (8) exercise administrative, budgeting, and fiscal powers;

9 (9) under the provisions of AS 36.30, construct, operate,  
10 supervise, and maintain vessels used by the Department of Fish and  
11 Game;

12 (10) authorize the holder of an interim-use permit under  
13 AS 16.43 to engage on an experimental basis in commercial taking of a  
14 fishery resource with vessel, gear, and techniques not presently  
15 qualifying for licensing under this chapter in conformity with stand-  
16 ards established by the Alaska Commercial Fisheries Entry Commission;

17 (11) not later than January 31 of each year, provide to the  
18 commissioner of revenue the names of those fish and shellfish species  
19 which the commissioner of fish and game designates as developing  
20 commercial fish species for that calendar year; a fish or shellfish  
21 species is a developing commercial fish species if, within a specified  
22 geographical region,

23 (A) the optimum yield from the harvest of the species  
24 has not been reached;

25 (B) a substantial portion of the allowable harvest of  
26 the species has been allocated to fishing vessels of a foreign  
27 nation; or

28 (C) a commercial harvest of the fish species has  
29 recently developed;

1           (12) initiate or conduct research necessary or advisable to  
2 carry out the purposes of this title except AS 16.51 and AS 16.52;

3           (13) enter into cooperative agreements with agencies of the  
4 federal government, educational institutions, or other agencies or  
5 organizations, when in the public interest, to carry out the purposes  
6 of this title except AS 16.51 and AS 16.52.

7 \* Sec. 8. AS 16.05.826(c) is amended to read:

8           (c) The department may contract to others the performance of the  
9 department's responsibilities under this section. Contracting under  
10 this subsection is governed by AS 36.30 (State Procurement Code),  
11 except that a [A] contract may include provisions for advance payment  
12 or reimbursement for services performed under the contract. All costs  
13 incurred under this section may be paid from the fish and game fund.

14 \* Sec. 9. AS 18.15.120 is amended to read:

15           Sec. 18.15.120. TUBERCULOSIS CONTROL PROGRAM AUTHORIZED. The  
16 department may establish a comprehensive program for the control of  
17 tuberculosis in the state, and may

18           (1) arrange means by which persons in the state may be  
19 X-rayed to determine the presence of tuberculosis;

20           (2) establish necessary out-patient clinics for the care of  
21 tuberculosis;

22           (3) encourage and promote the establishment of adequate  
23 sanatorium facilities within the state to care for persons suffering  
24 from tuberculosis and allied conditions;

25           (4) under the provisions of AS 36.30 (State Procurement  
26 Code), obtain, by purchase or donation from surplus federal property  
27 or otherwise, medical supplies and equipment useful in carrying out  
28 this program and to allot or resell these supplies and equipment to  
29 private institutions engaged by the department to carry out this

1 program;

2 (5) under the provisions of AS 36.30, contract with hos-  
3 pitals, associations, or sanatoria qualified and equipped to give  
4 adequate care inside or outside the state;

5 (6) employ necessary and trained personnel to carry out the  
6 purposes of AS 18.15.120 - 18.15.140;

7 (7) pay the costs of care and incidental expenses for  
8 residents of the state, in whole or in part, depending on the ability  
9 of each patient to pay, and the temporary costs of care and transpor-  
10 tation for nonresidents on the same basis until they can be trans-  
11 ferred to their residence;

12 (8) enlist the cooperation of state and federal agencies  
13 operating in the state for the furtherance of this program;

14 (9) establish standards in accordance with department  
15 procedure for the care of tuberculars receiving treatment under  
16 AS 18.15.120 - 18.15.140.

17 \* Sec. 10. AS 18.55.100 is amended by adding a new subsection to read:

18 (d) The authority's power to contract, lease, rent, construct,  
19 acquire, procure, and provide for services under this section is  
20 governed by AS 36.30.

21 \* Sec. 11. AS 19.05.020 is amended to read:

22 Sec. 19.05.020. REGULATIONS. The department shall adopt regu-  
23 lations necessary to carry out the purpose of AS 19.05 - AS 19.25.  
24 The regulations may not conflict with AS 36.30 (State Procurement  
25 Code) or regulations adopted by the Department of Administration to  
26 implement that chapter.

27 \* Sec. 12. AS 19.05.080 is amended to read:

28 Sec. 19.05.080. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-  
29 RIALS BY PURCHASE OR EMINENT DOMAIN. The department on behalf of the

1 state and as part of the cost of constructing or maintaining a highway  
2 may purchase in the open market, acquire, take over, or condemn under  
3 the right and power of eminent domain land in fee simple or easements  
4 which it considers necessary for present public use, either temporary  
5 or permanent, or which it considers necessary and reasonable for the  
6 public use. By the same means, the department may obtain material,  
7 including clay, gravel, sand, or rock, or the land necessary to obtain  
8 material, including access to it. The department may acquire the land  
9 or materials notwithstanding the fact that title to it is vested in  
10 the state or a department, agency, commission or institution of the  
11 state. Acquisition of materials by purchase in the open market under  
12 this section is governed by AS 36.30 (State Procurement Code).

13 \* Sec. 13. AS 19.10.160 is amended to read:

14 Sec. 19.10.160. STANDARD PLANS AND SPECIFICATIONS. The depart-  
15 ment shall prepare and adopt uniform standard plans and specifications  
16 for the establishment, construction and maintenance of highways in the  
17 state. The department may amend the plans and specifications as it  
18 considers advisable. The standards shall conform as closely as  
19 practicable to those adopted by the American Association of State  
20 Highway and Transportation Officials.

21 \* Sec. 14. AS 19.10.170(a) is amended to read:

22 (a) Except as provided in [AS 36.98 AND] AS 44.33.300, it is  
23 [SHALL BE] the general policy of the state [DEPARTMENT] to require the  
24 construction of all highways under bid contract in accordance with  
25 AS 36.30 (State Procurement Code). However, subject to the provisions  
26 of (b) of this section, when the estimated cost of a construction  
27 project is less than \$100,000 or when it appears to be in the best  
28 interests of the state, the department may perform the work notwith-  
29 standing any other provisions of law.

1 \* Sec. 15. AS 19.10.180 is repealed and reenacted to read:

2       Sec. 19.10.180. REQUEST FOR PUBLIC BIDS. Requests for public  
3 bids are governed by AS 36.30 (State Procurement Code). The request  
4 for public bids may require the contractor to furnish equipment,  
5 labor, materials, and supplies for the project, or it may state that  
6 the department will furnish the materials and supplies. If the de-  
7 partment elects to provide materials and supplies for a project, it  
8 shall do so at the time it adopts the construction program. The  
9 department shall acquire these materials and supplies under AS 36.30  
10 by requesting bids for them according to the class, type, and nature  
11 of the materials and supplies. The contract for materials and sup-  
12 plies may be awarded either upon the basis of delivery to the con-  
13 struction project directly or to a central storehouse or storehouses  
14 maintained by the department. Those materials and supplies so pur-  
15 chased by the department may be delivered to the project site without  
16 expense to the contractor, or it may sell them to the contractor at  
17 cost and make the materials and supplies a part of the construction  
18 cost.

19 \* Sec. 16. AS 19.10.200 is repealed and reenacted to read:

20       Sec. 19.10.200. PROCEDURES FOR THE AWARD OF CONTRACTS. The  
21 award of a contract for highway construction work is governed by  
22 AS 36.30 (State Procurement Code), AS 19.05 - AS 19.25, and regula-  
23 tions adopted under those laws.

24 \* Sec. 17. AS 19.30.070 is amended to read:

25       Sec. 19.30.070. CONTRACTS FOR CONSTRUCTION OF ROADS. The  
26 director of the division of lands may contract with private persons  
27 for the construction of roads to and on state lands programmed for  
28 surface disposal which are not more than six miles from existing roads  
29 or highways. Contracts under this section are governed by AS 36.30

1       (State Procurement Code).

2       \* Sec. 18. AS 19.30.080 is amended to read:

3               Sec. 19.30.080.   CONSTRUCTION STANDARDS AND MAINTENANCE.    An  
4       access road constructed under AS 19.30.060 - 19.30.100 shall be of low  
5       standard, not necessarily suitable for all weather use. The state is  
6       not under obligation to maintain an access road constructed under AS  
7       19.30.060 - 19.30.100. If an access road is constructed outside a  
8       municipality that has zoning ordinances, the right-of-way width for  
9       the road shall be determined by the division of lands and the Depart-  
10      ment of Transportation and Public Facilities. If an access road is  
11      constructed within the boundaries of a municipality that has zoning  
12      ordinances, the right-of-way width shall conform to the subdivision  
13      control ordinances of the municipality. Contracts for the work on an  
14      access road are governed by AS 36.30 (State Procurement Code) [SHALL  
15      BE AWARDED TO THE LOWEST RESPONSIBLE BIDDER QUALIFIED TO CONTRACT WITH  
16      THE STATE].

17      \* Sec. 19. AS 19.60.010 is amended to read:

18              Sec. 19.60.010.   ACQUISITION AND MAINTENANCE OF FERRY TERMINAL  
19      FACILITIES. The department shall construct, purchase or lease ferry  
20      terminal facilities at locations it selects for the loading and un-  
21      loading of passengers and vehicles under their own power, on and off  
22      ferries. The department shall repair and maintain these facilities.  
23      Construction and purchasing under this section are governed by  
24      AS 36.30 (State Procurement Code).

25      \* Sec. 20. AS 23.15.611(a) is amended to read:

26              (a) The department may [IS AUTHORIZED TO] participate in pro-  
27      grams of manpower training if it finds they are necessary to meet the  
28      occupational needs of the state. This authorization includes authori-  
29      ty to execute on behalf of the state agreements or contracts which may

1 be necessary or desirable to enable the state to participate in a  
2 program, to receive and expend all appropriate funds made available  
3 for programs by the state or from other sources, to supervise the  
4 expenditure of the funds and conduct of the programs by other public  
5 and private agencies of the state, and to make the reports and certifi-  
6 cates which are called for, and in cooperative arrangements with the  
7 Department of Education. Contracts with private entities under this  
8 subsection are governed by AS 36.30 (State Procurement Code).

9 \* Sec. 21. AS 23.20.075(a) is amended to read:

10 (a) The department may acquire in the name of the state by term  
11 purchase agreements based on competitive bids in accordance with  
12 AS 36.30 (State Procurement Code) land and buildings upon terms and  
13 conditions that [WHICH] are approved by the Bureau of Employment  
14 Security of the United States, or its successor, for the purpose of  
15 providing office space for the department at a place which the depart-  
16 ment finds necessary and suitable.

17 \* Sec. 22. AS 23.35.110 is amended to read:

18 Sec. 23.35.110. CONTRACTS FOR CARE. In carrying out this  
19 chapter, the department may enter into contracts or other arrangements  
20 with hospitals and doctors in the state for furnishing care on an  
21 annual basis to persons entitled to benefits. Contracting under this  
22 section is governed by AS 36.30 (State Procurement Code).

23 \* Sec. 23. AS 24.55.275 is amended to read:

24 Sec. 24.55.275. CONTRACT PROCEDURES. The ombudsman shall adopt  
25 by regulation procedures consistent with AS 36.30 [AS 24.23] to be  
26 followed by the office of the ombudsman in contracting for services.  
27 However, the procedure for requests for proposals does not apply to  
28 contracts for investigations under AS 24.55.100.

29 \* Sec. 24. AS 24.60.040(a) is amended to read:

1 (a) A person to whom this chapter applies may not be a party to  
2 or have an interest in a state contract or lease unless the contract  
3 or lease is let under the competitive bid procedure in AS 36.30 (State  
4 Procurement Code) [AS 37.05.230] or the total annual amount of the  
5 state contract or lease is \$1,000 or less, or is a standardized con-  
6 tract or lease which was developed under publicly established guide-  
7 lines and is generally available to the public at large, members of a  
8 profession, occupation or group. A person has an interest in a state  
9 contract or lease under this section if the person receives direct or  
10 indirect financial benefits.

11 \* Sec. 25. AS 26.05.230(a) is amended to read:

12 (a) Buildings and sites for armory purposes may be leased or  
13 constructed, based upon location and size of units to be organized,  
14 and shall be financed through state and federal appropriations or  
15 both. These facilities may be made available by local communities or  
16 by the cooperative arrangement between the state and the federal  
17 government and any local community. Leasing and construction under  
18 this subsection are governed by AS 36.30 (State Procurement Code).

19 \* Sec. 26. AS 26.05.280 is amended to read:

20 Sec. 26.05.280. TRANSPORTATION, SUBSISTENCE, AND SUPPLIES.  
21 There shall be provided by the state, transportation and subsistence  
22 for all officers and enlisted persons who are ordered into active  
23 service by the state for encampment, field duty, or other duty. Neces-  
24 sary transportation, stores and subsistence for troops when ordered on  
25 duty shall be contracted by the proper officers and paid for as other  
26 military bills. Contracting under this section is governed by AS 36.-  
27 30 (State Procurement Code).

28 \* Sec. 27. AS 27.21.030 is amended to read:

29 Sec. 27.21.030. GENERAL POWERS. To accomplish the purposes of

1 this chapter, the commissioner may

2 (1) in accordance with the Administrative Procedure Act  
3 (AS 44.62) adopt, amend, and enforce regulations pertaining to surface  
4 coal mining and reclamation operations;

5 (2) issue permits;

6 (3) conduct hearings and conferences;

7 (4) issue orders requiring an operator to take the actions  
8 necessary to comply with this chapter and the regulations adopted  
9 under this chapter;

10 (5) issue orders modifying previous orders;

11 (6) after opportunity for a due process hearing, issue a  
12 final order revoking the permit of an operator who has failed to  
13 comply with an order of the commissioner to take action required by  
14 this chapter or regulations adopted under this chapter;

15 (7) order the immediate cessation of all or part of a  
16 surface coal mining and reclamation operation if the commissioner  
17 finds that the operation or part of the operation creates an imminent  
18 danger to the health or safety of the public or is causing or can  
19 reasonably be expected to cause significant imminent harm to land,  
20 air, or water resources, and, to the extent reasonable, necessary to  
21 eliminate or alleviate those conditions, take other action or make  
22 changes in a permit, as provided in this chapter;

23 (8) hire and authorize the hiring of employees and private  
24 contractors, subject to the conflict of interest provisions of this  
25 chapter and subject to AS 36.30 (State Procurement Code), to assist in  
26 carrying out the requirements of this chapter;

27 (9) enter and inspect a surface coal mining operation that  
28 is subject to the provisions of this chapter to assure that the opera-  
29 tion is in compliance with this chapter;

1           (10)    conduct, encourage, request, and participate in  
2 studies, surveys, investigations, research, experiments, training, and  
3 demonstrations;

4           (11)    prepare reports and require permittees to prepare  
5 reports;

6           (12)    accept, receive, and administer grants, gifts, or other  
7 money made available for the purposes of this chapter regardless of  
8 the source of the grants, gifts, or money;

9           (13)    take the steps necessary to allow the state to partici-  
10 pate to the fullest extent practicable in the abandoned mine land  
11 program provided in Title IV of the Surface Mining Control and Recla-  
12 mation Act of 1977, including engaged in any work and adopting, amend-  
13 ing and enforcing regulations;

14           (14)    take the actions necessary to establish and maintain  
15 exclusive jurisdiction over surface coal mining and reclamation opera-  
16 tions in the state under the provisions of the Surface Mining Control  
17 and Reclamation Act of 1977, including making recommendations for  
18 legislation to clarify or amend this chapter to conform with the terms  
19 of the Surface Mining Control and Reclamation Act of 1977;

20           (15)    contract with state agencies to obtain the professional  
21 and technical services necessary to carry out the provisions of this  
22 chapter;

23           (16)    coordinate the review of applications and issuance of  
24 permits for surface coal mining and reclamation operations with other  
25 federal or state permit processes applicable to those operations;

26           (17)    enter into cooperative agreements with the Secretary of  
27 the United States Department of the Interior for the regulation of  
28 surface coal mining operations on federal land in accordance with the  
29 Surface Mining Control and Reclamation Act of 1977; and

1 (18) perform other duties required by this chapter.

2 \* Sec. 28. AS 33.30.050 is amended to read:

3 Sec. 33.30.050. COMMISSIONER TO PROVIDE MEDICAL SERVICES. The  
4 commissioner shall detail physicians, nurses, and psychiatrists, or  
5 their aides, and laboratory technicians, employed by the department to  
6 any prison facility where state prisoners are detained or confined,  
7 for the purpose of furnishing necessary medical services, including  
8 examinations for communicable and infectious diseases. However, if  
9 medical services cannot be furnished by physicians, nurses, psychia-  
10 trists, or their aides, and laboratory technicians, regularly employed  
11 by the department, the commissioner may contract with private practi-  
12 tioners located in the area of a prison facility to furnish these  
13 services. The cost of contracted services shall be paid out of appro-  
14 priations made to the department. Contracting for services under this  
15 section is governed by AS 36.30 (State Procurement Code).

16 \* Sec. 29. AS 33.30.062(a) is amended to read:

17 (a) The commissioner may enter into an agreement with a private-  
18 ly operated correctional facility, but only if the facility is located  
19 in the state and if the purpose of the agreement is to involve prison-  
20 ers in a work or rehabilitation furlough program established under  
21 this chapter, to provide necessary facilities under AS 33.30.282 -  
22 33.30.288, or to confine prisoners convicted of a misdemeanor. An  
23 [NOTWITHSTANDING AS 37.05.230(1)(B), AN] agreement awarded under this  
24 subsection is governed by AS 36.30 (State Procurement Code) [SHALL BE  
25 BASED ON COMPETITIVE BIDS].

26 \* Sec. 30. AS 33.32.015(b) is amended to read:

27 (b) The commissioner of corrections may  
28 (1) subject to AS 36.30 (State Procurement Code) [THE  
29 FISCAL PROCEDURES ACT (AS 37.05)], use, purchase, lease, equip, and

1 maintain buildings, machinery, and other equipment, and may purchase  
2 materials and enter into contracts, which may be necessary for the  
3 correctional industries program;

4 (2) provide for prisoners to be employed in rendering  
5 services and producing articles, materials, and supplies needed by a  
6 state agency, a political subdivision of the state, an agency of the  
7 federal government, other states or their political subdivisions, or  
8 for use by nonprofit organizations;

9 (3) if the Correctional Industries Commission established  
10 in AS 33.32.070 approves, employ prisoners to provide services or  
11 products as needed by private industry if the services or products  
12 have potential for contributing to the economy of the state and will  
13 have minimal negative impact on an existing private industry or labor  
14 force in the state.

15 \* Sec. 31. AS 35.05.010 is amended to read:

16 Sec. 35.05.010. PLANNING AND CONSTRUCTION. The department is  
17 responsible for the planning and construction of public works except  
18 as provided for court facilities in AS 22.05.025. Contracts for  
19 planning and construction of public works are governed by AS 36.30  
20 (State Procurement Code).

21 \* Sec. 32. AS 35.05.020 is amended to read:

22 Sec. 35.05.020. RULES AND REGULATIONS. The department shall  
23 adopt [RULES AND] regulations that [WHICH] it considers necessary to  
24 carry out the purpose of this title. The regulations may not conflict  
25 with AS 36.30 (State Procurement Code) or the regulations adopted by  
26 the Department of Administration under that chapter.

27 \* Sec. 33. AS 35 is amended by adding a new section to read:

28 Sec. 35.10.195. CONFORMANCE WITH AS 36.30. The contractual  
29 techniques for the procurement of labor, materials, and contractual

1 services under the policies developed under this chapter must conform  
2 to the requirements of AS 36.30 (State Procurement Code).

3 \* Sec. 34. AS 35.15.010(a) is amended to read:

4 (a) Except as provided in [AS 36.98 AND] AS 44.33.300, it is  
5 [SHALL BE] the general policy of the state [DEPARTMENT] to require the  
6 construction of all public works under bid contract in accordance with  
7 AS 36.30 (State Procurement Code). However, when the estimated cost  
8 of a construction project is less than \$100,000, or when it appears to  
9 be in the best interests of the state, the department may perform the  
10 work, notwithstanding any other provisions of law. A complete record  
11 shall be kept by the commissioner or the commissioner's designee of  
12 all transactions entered into under this section including names of  
13 employees involved in the transactions.

14 \* Sec. 35. AS 35.15.020 is repealed and reenacted to read:

15 Sec. 35.15.020. REQUEST FOR PUBLIC BIDS. The solicitation of  
16 bids for construction of public works is governed by AS 36.30 (State  
17 Procurement Code). The request for bids may require the contractor to  
18 furnish equipment, labor, materials, and supplies for the project, or  
19 it may state that the department will furnish the materials and sup-  
20 plies. If the department elects to provide materials and supplies for  
21 a project, it shall make the election at the time it adopts the con-  
22 struction program. The department shall acquire these materials and  
23 supplies under AS 36.30 by requesting bids for them according to the  
24 class, type, and nature of the materials and supplies. The contract  
25 may be awarded either upon the basis of delivery to the construction  
26 project directly or to a central storehouse or storehouses maintained  
27 by the department. Those materials and supplies so purchased by the  
28 department may be delivered to the project site without expense to the  
29 contractor, or it may sell them to the contractor at cost and make the

1 materials and supplies a part of the construction cost.

2 \* Sec. 36. AS 35.15.040 is repealed and reenacted to read:

3 Sec. 35.15.040. PROCEDURES FOR THE AWARD OF CONTRACTS. Award of  
4 a contract for the construction of a public work shall comply with  
5 this title, AS 36.30 (State Procurement Code), and the regulations  
6 adopted under those laws.

7 \* Sec. 37. AS 35.20.010 is amended to read:

8 Sec. 35.20.010. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-  
9 RIALS BY PURCHASE OR EMINENT DOMAIN. The department, on behalf of the  
10 state and as part of the cost of constructing or maintaining a public  
11 work, may purchase in the open market, acquire, take over, or condemn  
12 under the right and power of eminent domain land in fee simple or  
13 easements which it considers necessary for present public use, either  
14 temporary or permanent, or which it considers necessary and reasonable  
15 for the public use. By the same means, the department may obtain  
16 material including clay, gravel, sand, or rock, or the land necessary  
17 to obtain the material, and the necessary land or easements to provide  
18 access to it. The department may acquire the land or material  
19 notwithstanding the fact that the title to it is in the state or a  
20 department, agency, commission or institution of the state.  
21 Acquisition of material in the open market under this section is  
22 governed by AS 36.30 (State Procurement Code).

23 \* Sec. 38. AS 37.05 is amended by adding a new section to read:

24 Sec. 37.05.232. PETTY CASH ACCOUNTS. The department shall  
25 determine the amount of the petty cash accounts needed by each state  
26 agency and inspect the petty cash accounts at least once each year to  
27 determine that the total plus amounts of receipts for unreplenished  
28 disbursements is equal to the fixed sum of cash set aside. Shortages  
29 in petty cash accounts are a personal liability of the responsible

1 head of the agency to whom the account is set aside. The department  
2 shall adopt necessary regulations governing use and replenishment of  
3 petty cash funds.

4 \* Sec. 39. AS 41.21.020(a) is amended to read:

5 (a) The Department of Natural Resources shall

6 (1) develop a continuing plan for the conservation and  
7 maximum use in the public interest of the scenic, historic, archaeo-  
8 logic, scientific, biological, and recreational resources of the  
9 state;

10 (2) plan for and develop a system of state parks and recre-  
11 ational facilities, to be established as the legislature authorizes  
12 and directs;

13 (3) acquire by gift, purchase, or transfer from state or  
14 federal agencies, or from individuals, corporations, partnerships or  
15 associations, land necessary, suitable and proper for roadside, pic-  
16 nic, recreational or park purposes;

17 (4) control, develop and maintain state parks and recrea-  
18 tional areas;

19 (5) provide for the acquisition, care, control, supervi-  
20 sion, improvement, development, extension and maintenance of public  
21 recreational land, and make necessary arrangements, contracts or  
22 commitments for the improvement and development of land acquired under  
23 AS 41.21.010 - 41.21.040; contracting for improvement and development  
24 under this paragraph is governed by AS 36.30 (State Procurement Code);

25 (6) adopt, in accordance with this section and the Adminis-  
26 trative Procedure Act (AS 44.62), regulations governing the use and  
27 designating incompatible uses within the boundaries of state park and  
28 recreational areas to protect the property and to preserve the peace;

29 (7) cooperate with the United States and its agencies and

1 local subdivisions of the state to secure the effective supervision,  
2 improvement, development, extension, and maintenance of state parks,  
3 state monuments, state historical areas, and state recreational areas,  
4 and secure agreements or contracts for the purpose of AS 41.21.010 -  
5 41.21.040;

6 (8) encourage the organization of state public park and  
7 recreational activities in the local political subdivisions of the  
8 state;

9 (9) provide for consulting service designed to develop  
10 local park and recreation facilities and programs;

11 (10) provide clearing-house services for other state agen-  
12 cies concerned with park and recreation matters; and

13 (11) perform other duties as are prescribed by executive  
14 order or by law;

15 (12) maintain memorials to Alaska veterans located in state  
16 parks;

17 (13) adopt, in accordance with the Administrative Procedure  
18 Act (AS 44.62), regulations governing the use of the Chena River State  
19 Recreation Area and designating incompatible uses within the bound-  
20 aries of the Chena River State Recreation Area in accordance with  
21 AS 41.21.490.

22 \* Sec. 40. AS 42.40.920(b) is amended to read:

23 (b) Unless specifically provided otherwise in this chapter, the  
24 following laws do not apply to the operations of the corporation:

25 (1) AS 19;

26 (2) AS 30.15;

27 (3) AS 35;

28 (4) S 36.30, except as specifically provided in AS 36.30

29 (State Procurement 'e);

- 1           (5) AS 37.05;  
2           (6) [(5)] AS 37.07;  
3           (7) [(6)] AS 37.10.010 - 37.10.060;  
4           (8) [(7)] AS 37.10.085;  
5           (9) [(8)] AS 37.20;  
6           (10) [(9)] AS 37.25;  
7           (11) [(10)] AS 38;  
8           (12) [(11)] AS 44.62.040 - 44.62.320.

9 \* Sec. 41. AS 44.21.310(a) is amended to read:

10           (a) The telecommunications divisions, as directed by the deputy  
11 commissioner, shall

12                   (1) advise the governor on matters of policy and comprehen-  
13 sive state planning for telecommunications services;

14                   (2) make an annual report to the governor and to the legis-  
15 lature on the activities of the telecommunications divisions;

16                   (3) coordinate, manage, and supervise state programs in  
17 telecommunications, including the management of those telecommunica-  
18 tion services for the state obtained from common carriers and from the  
19 communications industry;

20                   (4) when requested, provide technical and consulting assis-  
21 tance to the executive, judicial, and legislative branches of state  
22 government, to the University of Alaska, and to private noncommercial  
23 entities which request that assistance in facility procurement and  
24 leasing and in identifying long-range goals and objectives for the  
25 state and its political subdivisions in all aspects of telecommunica-  
26 tions, including public, educational, and instructional telecommunica-  
27 tions;

28                   (5) prepare and maintain a state comprehensive telecommu-  
29 nications development plan to further state telecommunications devel-

1        opment and to meet state telecommunications needs and prepare and  
2        maintain a comprehensive inventory of all state communications facil-  
3        ities;

4                (6) whenever feasible, procure services from private enter-  
5        prise or certified and franchised utilities and contract for the  
6        construction, management, operation and maintenance of telecommunica-  
7        tions systems, and develop a procurement policy consistent with  
8        AS 36.30 (State Procurement Code) [UNDER AS 37.05.010 - 37.05.410];  
9        the procurement policy must seek to achieve the maximum benefit to the  
10       public, and methods of procurement, including lease, purchase, rental,  
11       or combinations of lease, purchase, and rental, must be selected on  
12       the basis of factors such as the ratio of long-range costs versus  
13       benefits, life cycle costing, and the costs to the communications  
14       industry to the extent that these costs may affect local and long  
15       distance basic telephone rates; procurement, contracting, construc-  
16       tion, and maintenance under this paragraph is governed by AS 36.30:

17                (7) provide information and assistance to state agencies to  
18        promote governmental coordination and unity in the preparation of  
19        agency plans and programs involving the use of telecommunications;

20                (8) apply for and accept federal and private money, proper-  
21        ty, or assistance, that may be appropriated, granted, or otherwise  
22        made available to the telecommunications divisions and use and dis-  
23       burse money and property for purposes consistent with AS 44.21.300 -  
24        44.21.330 and AS 44.21.256 - 44.21.290, subject to reasonable limita-  
25        tions imposed by the grantor;

26                (9) participate with other governmental units in planning,  
27        and assist local governments and governmental conferences and councils  
28        in the state in planning and coordinating their activities relating to  
29        telecommunications;

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1 (10) provide for the orderly transition to new telecommu-  
2 nications services and systems by state agencies;

3 (11) serve as a clearinghouse for information, data, and  
4 other materials which may be necessary or helpful to federal, state,  
5 or local governmental agencies in the development of telecommunication  
6 systems;

7 (12) coordinate their services and activities with those of  
8 other state departments and agencies to the fullest extent possible to  
9 avoid unnecessary duplication; and

10 (13) provide that all activities of the telecommunications  
11 divisions are responsive to state statutes and regulations, and to the  
12 regulations and rulings of the Federal Communications Commission.

13 \* Sec. 42. AS 44.19.144(b) is amended to read:

14 (b) The director may

15 (1) with the written concurrence of the governor, enter  
16 into contracts and subcontracts on behalf of the state to carry out  
17 the provisions of AS 44.19.141 - 44.19.152; contracting under this  
18 paragraph is governed by AS 36.30 (State Procurement Code);

19 (2) act for the state in the initiation, investigation,  
20 evaluation of or participation in any program relative to the stated  
21 purpose of AS 44.19.141 - 44.19.152 which may involve more than one  
22 government or governmental unit;

23 (3) on behalf of the state, accept and expend any gifts or  
24 grants made to the state with the approval of the governor where such  
25 gifts or grants were made for the purposes of furthering the objec-  
26 tives of the office.

27 \* Sec. 43. AS 44.33.300 is amended to read:

28 Sec. 44.33.300. WAIVER OF CERTAIN PROVISIONS. When the  
29 governor has by proclamation declared an area impacted by an economic

1 disaster, the following provisions regarding public contracts may be  
2 waived to the extent specified in the proclamation:

3 (1) the requirement of a contractor's bond as prescribed in  
4 AS 36.25.010 may be waived if the contract amount does not exceed  
5 \$100,000;

6 (2) the public bid requirements as contained in AS 19.10.-  
7 170, AS [19.10.190,] 19.30.191(b), AS 35.15.010 - 35.15.020, and  
8 AS 36.30 (State Procurement Code) [AND AS 35.15.010 - 35.15.030] may  
9 be waived if the contract is to be performed by a contractor whose  
10 principal office is in the designated area and the contract amount  
11 does not exceed \$50,000;

12 (3) the general policy to require all construction to be  
13 under bid contract as contained in AS 19.10.170, AS 35.15.010, and  
14 AS 36.30 (State Procurement Code) may be waived if the contract is to  
15 be performed by the state, another governmental entity, or a nonprofit  
16 entity.

17 \* Sec. 44. AS 44.47.250 is amended by adding a new subsection to read:

18 (c) Contracts with persons or nongovernmental entities under  
19 this section are governed by AS 36.30.

20 \* Sec. 45. AS 44.47.490(a) is amended to read:

21 (a) The director may establish field offices under this chapter,  
22 may hire one or more lending officers, and, under AS 36.30 (State  
23 Procurement Code), may contract for the services of

24 (1) real property appraisers who are familiar with rural  
25 construction; and

26 (2) engineers who are familiar with engineering problems in  
27 arctic and subarctic regions.

28 \* Sec. 46. AS 44.71.010 is amended to read:

29 Sec. 44.71.010. DISPOSITION OF OBSOLETE OR SURPLUS STATE PROP-

1 ERTY. The Department of Administration shall take possession of  
2 obsolete or surplus property of the state for which there is no imme-  
3 diate or prospective use, except abandoned or obsolete school build-  
4 ings and other school property. It shall also take possession of  
5 property remaining in the control of a commission or board of the  
6 state government after the commission or board stops functioning. The  
7 Department of Administration shall sell, lease, license, or dispose of  
8 the property on the terms it considers for the best interests of the  
9 state in conformance with regulations adopted under AS 36.30 (State  
10 Procurement Code).

11 \* Sec. 47. AS 44.77.010(a) is amended to read:

12 (a) Except as provided in (d) of this section, every [EVERY]  
13 claim for reimbursement for money expended, or for compensation for  
14 labor, materials, or supplies furnished, or services given to or for  
15 the state, whether based on a contract or on a ratification, shall be  
16 promptly presented to the appropriate administrative or executive  
17 officer for approval and payment.

18 \* Sec. 48. AS 44.77.010 is amended by adding a new subsection to read:

19 (d) A claim that is governed by AS 36.30.560 - 36.30.699 is not  
20 governed by this chapter.

21 \* Sec. 49. AS 44.85.120 is amended to read:

22 Sec. 44.85.120. CARE AND CUSTODY OF BONDS. The bond bank  
23 authority, in accordance with AS 36.30 (State Procurement Code), may  
24 enter into agreements or contracts with a bank, trust company, banking  
25 or financial institution inside or outside the state as may be neces-  
26 sary, desirable or convenient, in the opinion of the bond bank author-  
27 ity, for rendering services in connection with the care, custody or  
28 safekeeping of municipal bonds or other investments held or owned by  
29 the bond bank authority, for rendering services in connection with the

1 payment or collection of amounts payable as to principal or interest,  
2 and for rendering services in connection with the delivery to the bond  
3 bank authority of municipal bonds or other investments purchased by it  
4 or sold by it, and to pay the cost of those services. The bond bank  
5 authority may also, in connection with any of the services to be  
6 rendered by a bank, trust company or banking or financial institution  
7 as to the custody and safekeeping of its municipal bonds or invest-  
8 ments, require security in the form of collateral bonds, surety agree-  
9 ments or security agreements in such form and amount as, in the opin-  
10 ion of the bond bank authority, is necessary or desirable.

11 \* Sec. 50. AS 44.99.001 is amended to read:

12 Sec. 44.99.001. ADMINISTRATION OF HIGHWAY SAFETY PROGRAM. The  
13 governor may contract and do all other things necessary on behalf of  
14 this state under 23 U.S.C. 401-404 (Highway Safety Act of 1966), and  
15 may cooperate with interested persons and agencies to effectuate the  
16 purposes of that Act. Contracting under this section is governed by  
17 AS 36.30 (State Procurement Code). The governor may designate a  
18 person to serve as the governor's highway safety representative;  
19 however, the governor is the official in this state having the ulti-  
20 mate responsibility for dealing with the federal government with  
21 respect to programs and activities under the Federal Highway Safety  
22 Act of 1966. The governor shall coordinate the activities relating to  
23 highway safety of state departments, agencies and subdivisions and of  
24 the Governor's Commission on Transportation Safety established in  
25 AS 44.19.190.

26 \* Sec. 51. AS 46.04.090(a) is amended to read:

27 (a) The department, when feasible, shall enter into contracts  
28 with persons or private organizations to provide the personnel,  
29 equipment, or other services or supplies which may be required to

1 carry out this chapter. Contracts under this section are governed by  
2 AS 36.30 (State Procurement Code). When private contracting is not  
3 feasible, the department may establish and maintain at ports, harbors,  
4 or other locations in the state, the cleanup personnel, equipment, and  
5 supplies which, in its judgment, are necessary to carry out this  
6 chapter.

7 \* Sec. 52. AS 46.07.040(a) is amended to read:

8 (a) The commissioner shall provide for the construction of  
9 facilities under this chapter, and is authorized to provide for the  
10 construction by contract or through grants to public agencies or  
11 private nonprofit organizations, or otherwise. A [NO] contribution  
12 toward the cost of the construction of a facility may not be required  
13 from its users. Construction under this section by contract is gov-  
14 erned by AS 36.30 (State Procurement Code).

15 \* Sec. 53. AS 46.15.020(a) is amended to read:

16 (a) The commissioner shall exercise all those powers and do all  
17 those acts necessary to carry out the provisions and objectives of  
18 this chapter. The commissioner may

19 (1) subject to AS 36.30 (State Procurement Code), enter  
20 into contractual agreements necessary to carry out the provisions of  
21 this chapter including agreements with federal, state and local agen-  
22 cies;

23 (2) apply for, accept, administer and expend grants, gifts,  
24 and loans from the federal government and any other public or private  
25 sources for the purposes of this chapter, and adopt procedures and do  
26 acts not otherwise restricted by law which are necessary to qualify  
27 the state to receive grants, gifts and loans;

28 (3) establish a division of water in the Department of  
29 Natural Resources and assign to that division the responsibility for

1 carrying out the provisions of this chapter.

2 \* Sec. 54. AS 47.05.015(c) is amended to read:

3 (c) A contract authorized under this section is exempt from the  
4 competitive bid requirements of AS 36.30 (State Procurement Code)  
5 [AS 37.05.230]. In awarding a contract under this section the depart-  
6 ment shall [PUBLISH A] request [FOR] proposals in accordance with  
7 regulations of the Department of Administration under AS 36.30 (State  
8 Procurement Code) [DEPARTMENT].

9 \* Sec. 55. AS 47.30.350(a) is amended to read:

10 (a) The department shall

11 (1) develop and submit to the Surgeon General of the United  
12 States Public Health Service a comprehensive program for the con-  
13 structing and equipping of hospitals and other facilities for the  
14 examination, observation, care, and treatment of the mentally ill;

15 (2) develop and submit to the Surgeon General plans and  
16 specifications for the constructing and equipping of the hospitals and  
17 other facilities;

18 (3) construct and equip the hospitals and other facilities  
19 in accordance with the program, plans, and specifications approved by  
20 the Surgeon General; construction and equipping under this paragraph  
21 is governed by AS 36.30 (State Procurement Code);

22 (4) cooperate, coordinate, and contract, wherever indicated  
23 and desirable, with other state boards, departments and agencies, and  
24 agencies of the United States in the construction program, and hire  
25 necessary personnel and enter into contracts with private individuals  
26 and companies, to the end that the hospitals and other facilities are  
27 constructed in the most economical and expeditious manner; contracting  
28 and construction under this section are governed by AS 36.30 (State  
29 Procurement Code).

1 \* Sec. 56. AS 47.30.660 is amended to read:

2 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The depart-  
3 ment is the mental health authority of the state and shall

4 (1) administer a comprehensive program for the prevention  
5 of mental illness and the care and treatment of the mentally ill,  
6 including inpatient and outpatient care and treatment and the procure-  
7 ment of services of specialists or other persons on a contractual or  
8 other basis;

9 (2) take the actions and undertake the obligations which  
10 are necessary to participate in federal grants-in-aid programs and  
11 accept federal or other financial aid from whatever sources for the  
12 study, examination, care, and treatment of the mentally ill;

13 (3) administer AS 47.30.660 - 47.30.915;

14 (4) designate, operate, and maintain treatment facilities  
15 equipped and qualified to provide inpatient and outpatient care and  
16 treatment for the mentally ill;

17 (5) provide for the placement of mentally ill patients in  
18 designated treatment facilities;

19 (6) enter into arrangements with governmental agencies for  
20 the care or treatment of the mentally ill in facilities of the govern-  
21 mental agencies in the state or in another state;

22 (7) enter into contracts with treatment facilities for the  
23 custody and care or treatment of the mentally ill; contracts under  
24 this paragraph are governed by AS 36.30 (State Procurement Code);

25 (8) enter into contracts which incorporate safeguards  
26 consistent with AS 47.30.660 - 47.30.915 and the preservation of the  
27 civil rights of the patients with another state for the custody and  
28 care or treatment of patients previously committed from this state  
29 under 48 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd

1 Session, 70 Stat. 709;

2 (3) prescribe the form of applications, records, reports,  
3 requests for release, and consents to medical or psychological treat-  
4 ment required by AS 47.30.660 - 47.30.915;

5 (10) require reports from the head of a treatment facility  
6 concerning the care of patients;

7 (11) visit each treatment facility at least annually to  
8 review methods of care or treatment for patients;

9 (12) investigate complaints made by a patient or an inter-  
10 ested party on behalf of a patient;

11 (13) delegate upon mutual agreement to another officer or  
12 agency of it, or a political subdivision of the state, or a treatment  
13 facility designated, any of the duties and powers imposed upon it by  
14 AS 47.30.660 - 47.30.915; and

15 (14) adopt regulations to implement the provisions of  
16 AS 47.30.660 - 47.30.915.

17 \* Sec. 57. AS 47.35.010(a) is amended to read:

18 (a) The department may

19 (1) license and supervise boarding homes, foster homes,  
20 group homes, nurseries, institutions caring for children and foster  
21 homes, group homes and institutions caring for dependent adults;

22 (2) investigate and supervise licensees;

23 (3) enforce the standards established by it;

24 (4) contract with private or municipal agencies to investi-  
25 gate and make recommendations to the department for the licensing and  
26 supervision of boarding homes, foster homes, group homes, nurseries,  
27 institutions caring for children and foster homes, group homes and  
28 institutions caring for dependent adults under procedures and  
29 standards of operation established by the department; contracts with

1        private agencies under this paragraph are governed by AS 36.30 (State  
2        Procurement Code).

3        \* Sec. 58. AS 47.37.030 is amended to read:

4                Sec. 47.37.030.    POWERS OF OFFICE.    The office may

5                        (1) plan, establish, and maintain treatment programs as  
6        appropriate;

7                        (2) make contracts and award grants necessary or incidental  
8        to the performance of its duties and the execution of its powers,  
9        including contracts with and grants to public and private agencies,  
10       organizations, and individuals, to pay them for services rendered or  
11       furnished to alcoholics or intoxicated persons; to the maximum extent  
12       possible, contracts and grants shall be for a period of two years;  
13       contracts under this paragraph are governed by AS 36.30 (State Pro-  
14       curement Code);

15                      (3) solicit and accept for use a gift of money or property  
16        or a grant of money, services, or property from the federal govern-  
17        ment, the state, or a political subdivision of it or a private source,  
18        and do all things necessary to cooperate with the federal government  
19        or any of its agencies in making an application for a grant;

20                      (4) administer or supervise the administration of the  
21        provisions relating to alcoholics and intoxicated persons of any state  
22        plan submitted for federal funding under federal health, welfare, or  
23        treatment legislation;

24                      (5) coordinate its activities and cooperate with alcoholism  
25        programs in this and other states, and make contracts and other joint  
26        or cooperative arrangements with state, local, or private agencies for  
27        the treatment of alcoholics and intoxicated persons and for the common  
28        advancement of alcoholism programs in this and other states;

29                      (6) keep records and engage in research and the gathering

1 of relevant statistics;

2 (7) do other acts necessary to implement the authority  
3 expressly granted to it;

4 (8) acquire, hold, or dispose of real property or any  
5 interest in it, and construct, lease, or otherwise provide treatment  
6 facilities for alcoholics and intoxicated persons; however, the office  
7 shall encourage local initiative, involvement and financial participa-  
8 tion under grants-in-aid whenever possible in preference to the con-  
9 struction or operation of facilities directly by the office; contract-  
10 ing and construction under this paragraph are governed by AS 36.30.

11 \* Sec. 59. AS 47.37.130(g) is amended to read:

12 (g) The office may contract for the use of any facility as an  
13 approved public treatment facility if the coordinator, subject to the  
14 regulations of the department, considers this an effective and econom-  
15 ical course to follow. Contracting under this subsection is governed  
16 by AS 36.30 (State Procurement Code).

17 \* Sec. 60. AS 47.90.010(a) is amended to read:

18 (a) The commissioner, in consultation with state and local  
19 government agencies, community groups, and groups concerned with  
20 displaced homemakers, may

21 (1) contract with eligible private profit and nonprofit  
22 corporations for multipurpose service centers for displaced home-  
23 makers; contracting under this paragraph is governed by AS 36.30  
24 (State Procurement Code); and

25 (2) coordinate existing state programs for displaced home-  
26 makers.

27 \* Sec. 61. AS 47.40.041(b) is amended to read:

28 (b) Notices published by the department concerning the opening  
29 of the application process for a grant award shall specify the geo-

1 graphical area in which services are needed, the type of services, the  
2 number of beds anticipated to be needed, the maximum number of days of  
3 care, and any other requirements established by the department.  
4 Grants authorized under this section are exempt from AS 36.30 (State  
5 Procurement Code) [THE COMPETITIVE BID REQUIREMENTS OF AS 37.05.230].

6 \* Sec. 62. REPORT. By December 1, 1987, the commissioner of adminis-  
7 tration and the commissioner of transportation and public facilities shall  
8 report to the legislature concerning procurements by state agencies during  
9 the first six months of 1987. The report must include

10 (1) the records prepared under AS 36.30.510(4);

11 (2) recommendations for changes in AS 36.30 or other laws based  
12 on implementation of AS 36.30 in those six months; and

13 (3) a description of any matters that involved litigation con-  
14 cerning AS 36.30 during those six months.

15 \* Sec. 63. REGULATIONS DEADLINE. The regulations required under  
16 AS 36.30 as added by sec. 2 of this Act, shall be adopted by January 1,  
17 1987 and shall be effective on that date. Regulations adopted under laws  
18 repealed in sec. 64 of this Act become ineffective January 1, 1987.

19 \* Sec. 64. REPEALER. The following laws are repealed: AS 14.40.340;  
20 AS 19.10.190, 19.10.210; AS 24.23; AS 35.15.030, 35.15.050; AS 36.98;  
21 AS 37.05.220, 37.05.230, 37.05.231, 37.05.240, 37.05.250, 37.05.260, 37.-  
22 05.270, 37.05.280, 37.05.290, 37.05.400(2) and (3); AS 44.65; AS 44.77.-  
23 010(c); and AS 47.90.010(c).

24 \* Sec. 65. Section 63 of this Act takes effect immediately in accor-  
25 dance with AS 01.10.070(c).

26 \* Sec. 66. Except as provided in sec. 65, this Act takes effect Janu-  
27 ary 1, 1987.

COMMITTEE REPORT  
SENATE

FURTHER: FINANCE

1/14/86

Date 3/18/86

Mr. President

The Committee on JUDICIARY considered SB 341  
relating to state procurement practices and procedures; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 341 (Jud)
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING

DO PASS

John Lubi  
Tim Kelly  
John - NO PASS, but  
only if ASHA is excluded  
from bill

MEMBERS HAVING

OTHER RECOMMENDATIONS

Rich Hayford NO REC

Patrick Brady  
Chairman  
NO PASS  
Chairman recommendation