

SCR

2



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Commerce & Econ. Dev.	DIVISION Office of Enterprise	BILL NUMBER SCR No. 2	SPONSOR Vic Fischer
DEPARTMENT POSITION Neutral			
PREPARED BY Paul Fletcher, Director	DATE	COMMISSIONER'S SIGNATURE Loren H. Lounsbury	DATE

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Labor Department of Community & Regional Affairs Department of Environmental Conservation	CONSTITUENT GROUP(S) AFFECTED BY BILL Small Business Persons
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

This was submitted by Senator Vic Fischer.

ANALYSIS OF BILL/PROGRAM EFFECTS

Although the department is in favor of any bill that would assist its efforts in business development, the department feels that the creation of a new task force is not needed at this time. The advocacy BRU of the department is already engaged in many of the proposed task force activities. Given the funding which will be required for such a task force to operate, the advocacy BRU could provide the same results.

The department is in support, however, of requesting the Governor to direct the Attorney General to investigate and recommend measures available to the State to assure that small businesses get a proportionate share of State business.

AMENDMENTS PROPOSED

None.

1637W21185b

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/resolution No.: SCR No. 2
 Title: Relating to Small Business
Development in the State
 Sponsor: Vic Fischer
 Requestor: Vic Fischer
 Date of Request: 1/15/85

FISCAL DETAIL
 Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: _____
Economic Development
 BRU, Program or Subprogram(s) Affected: _____
Advocacy

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS: Attach a separate page if necessary

See attached.

Prepared By: Paul Fletcher Phone: 465-2018
 Division: Office of Enterprise Date: 2-11-85
 Approved by Commissioner: Loren H. Lounsbury Date: _____
 Agency: Department of Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

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

7/1/84

The purpose of SCR No. 2 is to establish a task force to assess small business in Alaska and make recommendations. Specifically, the task is charged with:

1. emphasizing and promoting small business development and maintenance in Alaska;
2. assisting in securing adequate sources of bonding, credit and loans for small, Alaska-owned businesses; assuring, wherever possible, that State funded construction projects are specified, modified, and contracted in a manner to assure a reasonable proportion of State funded construction projects are performed in small, Alaska-owned businesses; and
3. assuring that a reasonable portion of State funded construction and procurement dollars be contracted through small owned businesses.

For the purposes of this Fiscal Note, it will be assumed that this will be an interagency task force with the following departments represented:

The Commissioners of the Departments of Commerce and Economic Development, Revenue, Labor, and Transportation and Public Facilities and/or their designees;

The task force will have one-day meetings on a quarterly basis.

The task force will submit a final report to the Governor, Legislature, and the general public with its findings and recommendations.

Chairman's Information:

- 1) SCR 2 "Relating to small business development in the state"
 - a) Introduced: Sen Victor Fischer
 - b) Co-Sponsors: none

- 2) INTENT: Requests the Governor to appoint a task force to assess state policy in contracting, local hire, and small business advocacy. Further, requests the Governor to direct the attorney general to investigate and recommend measures that will assure a reasonable portion of state funded construction projects are contracted thru small Alaskan owned businesses.

FISCAL NOTES: 0

- 3) COMMITTEE COMMENTS:

- 4) PUBLIC HEARINGS:
 - a) Sponsor
 - b) Public witnesses:

- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from Committee?
 - d) close public hearings?

- 6) COMMITTEE ACTION:
 - a) amendments?
 - b) CS adoption?

Senator Vic Fischer

(907) 465-4954

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



February 6, 1985

To: Senator Fred Zharoff, Chair and
Members, Senate Labor and Commerce Committee

From: Senator Vic Fischer *V.F.*

Re: SCR 2 - Small Business Development in Alaska

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

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

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

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

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

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

Small businesses are the state's best source of employment, new industry, local control, and a diversified economy. In spite of this, small businesses are folding at a phenomenal rate due to insurmountable problems with obtaining adequate bonding, financing, and technical assistance.

Background Materials

SCR 2 asks the Governor to address these concerns through several measures, including appointing a task force to assess state policy in contracting, local hire, and small business advocacy, and to recommend measures that will:

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

Further, SCR 2 asks the Governor to direct the Attorney General to investigate and recommend measures available to the state to assure that a reasonable portion of state-funded construction and procurement dollars be contracted through small, Alaskan-owned businesses, consistent with provisions of the United States and State of Alaska's constitutions.

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

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

It will take a push from both the legislative and executive branch to end this policy of "benign neglect" and take an active lead in assuring that small, Alaska-owned businesses benefit from publicly funded construction projects and an enhanced business climate.

I believe SCR 2 is an important step in that direction and I urge your positive consideration of this measure.

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Small Business

Small business has always been an integral and vital part of American life. Prior to the onset of rapid industrialization, it dominated the economy. Following the emergence of large corporations in the late nineteenth century, observers predicted that small companies would become obsolete with the eventual nationalization of the economy; despite major changes in the social, economic, and political environment, however, small businesses in America have persisted in significant numbers. They constitute approximately 99.8 percent of the companies in the United States, produce about 38 percent of the nation's goods and services, and account for more than 47 percent of the jobs in the private sector.

A widespread preoccupation with industrial and commercial giants has obscured the contributions small business has made to America's growth and development. For example, few people are aware that between 1953 and 1973 close to half of the major innovations introduced into U.S. industry came from firms with fewer than 1,000 employees—and a quarter of those originated in firms with fewer than 100. In addition, small business has outshone big business with respect to job-creating efficiency. As a

SOURCES

"Rebirth of Technological Innovation via Small Business" address (also published as part of a technology booklet series), American Physical Society, Chicago, Illinois, March 23, 1979.

"Small Business: A Great Resource for a Country, A Great Opportunity for Big Business" address, American Club of Stockholm, Stockholm, Sweden, February 6, 1980.

Testimony by W.C. Norris before the Senate Select Committee on Small Business, Hearings on Economic Growth, Washington, D.C., July 1, 1980.

"Big Business Helps Small Business To Improve Productivity and Create Jobs" essay, June 24, 1980.

"Technology for Community Enterprise Development" address, Second National Conference on New Enterprise Development, Washington, D.C., March 2, 1981.

1979 MIT study demonstrated, small companies were responsible for 7.4 million, or 78 percent, of the 9.6 million new jobs added to the U.S. economy between 1969 and 1976.

Today small business continues to serve as a symbol of opportunity and enterprise in our system of values, but there is reason to be concerned about its future. The cumulative impact of government regulations, the escalating cost and concomitant scarcity of capital, the decreasing availability of technology, and heightened competition from big business have combined over the past decade to bring about a serious deterioration in the climate for small business. The mortality rate of new companies is shocking: only about 20 percent of those that are started each year manage to survive, and close to 400,000 fail annually. These figures affect not only would-be entrepreneurs, but also the millions of Americans who could be sharing in the abundant benefits and countless skilled jobs that would have resulted had these businesses been successful.

If we are to save small business, we—meaning big business, government, non-profit and for-profit endeavors, community organizations, and all other major segments of our society—must join in a massive and systematic effort to nurture the innovative potential and profitable growth of existing small businesses and stimulate the creation of still more new businesses and small firms. We already have at hand the technological, professional, and management resources needed to implement this systematic effort. However, many of these lie dormant or underutilized in corporations, government offices, universities, and other places. We must find ways to assemble them, apply them, and make them more accessible to small business. To achieve these objectives, we must revise existing government policies and commercial practices that inhibit the use of these resources, find better ways of distributing them, and enlist the aid of community-based organizations in coordinating and focusing the talents of business, academia, and state and local governments.

In 1978, I chaired a committee which made a number of

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recommendations to Jordan Baruch, then Assistant Secretary of Commerce, aimed at making capital and management resources more available to small, technically oriented enterprises. Specifically, the committee advocated the following: (1) reducing capital gains taxes to 25 percent for firms employing between 100 and 500 workers, and to 10 percent for firms with fewer than 100 employees; (2) deferring the capital gains tax for firms that re-invest the proceeds from their stock sales in small businesses; (3) raising to \$200,000 the threshold at which the full corporate income tax takes effect for small businesses; (4) increasing the carry-forward provisions for small business start-up losses from five to ten years; and (5) restoring qualified stock option plans for key employees.

In 1977-78, the 95th Congress reduced the maximum tax on capital gains to 28¹ percent; in 1979-80, the 96th Congress followed this example by reducing it further to 20 percent. Pending legislation reflects two more of the committee's recommendations: a carry-forward period of ten years for start-up losses, and the deferral of taxes when the proceeds from stock sales are re-invested in small business.

The committee also suggested means by which research could be further stimulated and the technology developed by big business and government be made more useful to small enterprises. These included: (1) requiring each government agency to allocate at least 10 percent of its R&D budget to helping small business; (2) allowing small companies to establish and maintain tax-deductible reserves for R&D use in times of financial hardship; and (3) redirecting some government-sponsored research into improving small farms and food processors, and making food production less capital- and fossil fuel-intensive.

The first two of these recommendations are contained in pending legislation, but little attention has been given to date to the redirection of funds for agricultural purposes. There are two exceptions: the National Science Foundation recently set aside some funds for research applicable to small-scale agriculture, and the Department of Agriculture has stated its intention to do likewise. Generally speaking, though, no major legislative action has been taken on these matters. This may be due to a lack of awareness of the

tremendous potential inherent in small-scale agriculture and food processing. Control Data is one of the few companies to recognize this potential and act on it; since 1979, we have been committed through Rural Ventures to fostering the development of small-scale agriculture and food-processing enterprises.

Finally, the committee made two recommendations designed to improve the diffusion of technology to small businesses: (1) that each government agency allocate five percent of its R&D funds for technology transfer; and (2) that tax incentives be provided to induce large companies to make their technologies more available to small companies.

Traditional methods of technology transfer have proved ineffective. Were government agencies to begin devoting five percent of their R&D budgets to technology transfer, these funds could be used primarily to encourage individual researchers to contribute their time and skills to identifying commercial applications. The incentives could be tied to the benefits realized from the transfers of the technologies involved.

On October 21, 1980, Congress acknowledged the feasibility of this idea by passing the Stevenson-Wydler Technology Innovation Act of 1980, which mandates that each government agency allot one-half of one percent of its R&D funds to technology transfer. While this falls short of the recommended amount, it is a step in the right direction. No effort has yet been made to give corporations tax incentives for sharing their technologies.

More is needed than budget allocations and tax incentives, however. To increase the flow of technology to small business, a well-defined technology transfer system must be established and implemented. Control Data offers two such systems, Technotec and Worldtech. Technotec is a commercially available computer-based information storage and retrieval network; its memory holds massive amounts of information about technologies that can be quickly recalled. Worldtech is a marketing service that gives subscribers assistance in finding, transferring, and applying specific technologies. One method of transfer in-

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vide two recommendations: provision of technology to small government agency allocate five percent technology transfer; and incentives to induce large companies more available to small

technology transfer have proved government agencies to begin devoting resources to technology transfer, especially to encourage individual time and skills to identify incentives could be tied to the transfers of the tech-

is acknowledged the feasibility of the Stevenson-Wydler Act of 1980, which mandates that one-half of one percent of its budget go to technology transfer. While this falls short of the step in the right direction, it is a positive step in the right direction. It gives corporations tax incentives for technology transfers.

ocations and tax incentives for technology transfer to small businesses. Control Data offers two models. Technotec is a computer-based information system that holds massive amounts of technologies that can be marketed through a marketing service that handles identifying, transferring, and the method of transfer in-

volves the establishment of small companies based on replicable technologies in fields including microcircuitry, small-scale agriculture, and food processing.

There are resources besides technology that are not being wisely used. Huge reservoirs of untapped management and professional expertise exist in both big business and universities. Most small businesses urgently require professional and management consulting help, especially during start-up and the early years. Although several consulting programs already exist under the sponsorship of government agencies, local chambers of commerce, universities, and other organizations, these tend to be sporadic, not easily accessible, and not specific enough. A far better approach would be for business, universities, and community-based organizations to work together to develop a systematic method of delivering consulting and other support services to small business.

Since big business is the largest single source of persons qualified to do consulting work, it is especially important for it to recognize the profit potential inherent in aiding small companies. That this is not mere theory has been demonstrated by Control Data's success with a variety of approaches, including Business Advisors, Inc., Control Data Business Centers, and Control Data Business and Technology Centers.

Business Advisors, Inc. (BAI) was organized in 1979 to provide professional assistance to small enterprises in the areas of finance, technology management, manufacturing and processing, communications, marketing, personnel, operations, and strategic and business planning. It is unique with respect to quality, diversity, and affordability. The majority of the people involved are Control Data employees who are made available to small businesses on a part-time, temporary basis. Information about them and their specific skills is entered in a computerized "skills data bank." Also listed are the names and capabilities of retired persons and university personnel who have indicated their interest in and availability for consulting work. This arrangement has proved beneficial to all concerned: to small businesses that obtain the consulting help they need; to Control Data employees who offer their services and find

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

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Senate State Affairs Committee 1982 interim report

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

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Senate State Affairs Committee 1982 Interim Report

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

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

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

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

ASCHR/DOTPF AGREEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

QUESTIONNAIRE DESCRIPTION AND METHOD

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

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

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

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

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

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

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

STATISTICAL ANALYSIS OF QUESTIONNAIRES

Prime Contractor Questionnaire:

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

Subcontractor Questionnaire:

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

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

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

PROBLEMS IDENTIFIED

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

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

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

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

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

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

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

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

LEGISLATIVE RECOMMENDATIONS

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

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

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

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

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

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

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

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



Alaska State Legislature

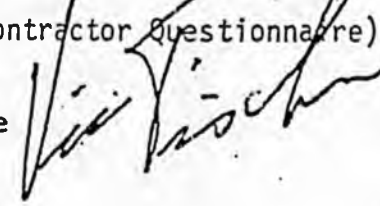
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Senate Committee on State Affairs

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

Official Business

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



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

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

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

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

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

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

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

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

COMPANY NAME: _____

ADDRESS: _____

PHONE: _____

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

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

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

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

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

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

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

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

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

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

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

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

SCR 2:

- 1) Requests the Governor to appoint a task force to assess state policy in contracting, local hire, and small business advocacy.
 - a) promote small business development
 - b) assist in securing credit, bonding, and loans for small Alaskan owned businesses;
 - c) Wherever possible, assure that state funded construction projects are tailored so that a reasonable proportion can be performed by small Alaskan owned businesses.
- 2) Directs the attorney general to seek and recommend measures to assure that a reasonable portion of state-funded construction projects are contracted thru small Alaskan owned businesses. Must be consistent with both US and Alaskan Constitutions.