

H B

276

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House State Affairs:

May 4, 1987



Official Business

Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811

STATE AFFAIRS COMMITTEE

HOUSE BILL 276

FILE CONTENTS

1. HB 276: AN ACT RELATING TO STATE PROCUREMENT PRACTICES AND PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE
2. TRANSMITTAL LETTER FROM GOVERNOR COWPER
3. CS SC 260 (L&C): AN ACT RELATING TO STATE PROCUREMENT PRACTICES AND PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE

FISCAL NOTES

- A. DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, DESIGN AND CONSTRUCTION, ENGINEERING AND OPERATIONS STANDARDS: -0-
- B. COMMERCE AND ECONOMIC DEVELOPMENT, ADVOCATES: -0-
- C. DEPARTMENT OF ADMINISTRATION, GENERAL SERVICES AND SUPPLY: -0-

1 the contract. The list shall include the name and location of the
2 place of business for each subcontractor and evidence of the subcon-
3 tractor's valid Alaska business license. A bidder for a construction
4 contract shall also submit evidence of each subcontractor's registra-
5 tion under AS 08.18.

6 (b) A bidder may replace a listed subcontractor if the subcon-
7 tractor

- 8 (1) fails to comply with AS 08.18;
- 9 (2) files for bankruptcy or becomes insolvent;
- 10 (3) fails to execute a contract with the bidder involving
11 performance of the work for which the subcontractor was listed;
- 12 (4) fails to obtain bonding;
- 13 (5) fails to obtain insurance acceptable to the state;
- 14 (6) fails to perform the contract with the bidder involving
15 work for which the subcontractor was listed;
- 16 (7) must be substituted in order for the prime contractor
17 to satisfy required federal affirmative action requirements;
- 18 (8), refuses to agree or abide with the bidder's labor
19 agreement; or
- 20 (9) is determined by the procurement officer not to be a
21 responsible bidder.

22 (c) If a bidder fails to list a subcontractor or lists more than
23 one subcontractor for the same portion of work and the value of that
24 work is in excess of half of one percent of the total bid, the bidder
25 shall be considered to have agreed to perform that portion of work
26 without the use of a subcontractor and to have represented the bidder
27 to be qualified to perform that work.

28 (d) A bidder who attempts to circumvent the requirements of this
29 section by listing as a subcontractor another contractor who, in turn,

Chapter 106

1 sublets the majority of the work required under the contract violates
2 this section.

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

5 (1) cancel the contract; or

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

9 Sec. 36.30.120. BID SECURITY. (a) Bid security shall be re-
10 quired for all competitive sealed bidding for construction contracts
11 when the price is estimated by the procurement officer to exceed an
12 amount established by regulation of the commissioner. Bid security on
13 construction contracts under the amount set by the commissioner may be
14 required when the circumstances warrant. Bid security may be required
15 for competitive sealed bidding for contracts for supplies, services,
16 or professional services in accordance with regulations of the commis-
17 sioner when needed for the protection of the state.

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

22 (1) 10 percent of the amount of the bid if the bid does not
23 exceed \$100,000; or

24 (2) 10 percent of the first \$100,000 and five percent of
25 the amount of the bid over \$100,000 if the bid exceeds \$100,000 up to
26 a maximum of \$200,000 in security.

27 (c) When the invitation to bid requires security, the procure-
28 ment officer shall reject a bid that does not comply with the bid
29 security requirement unless, in accordance with regulations, the

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 2d CS FOR HOUSE BILL NO. 276 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST 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. AS 36.30.005(a) is amended to read:

10 (a) Except as otherwise provided, all rights, powers, duties,
11 and authority relating to the procurement of supplies, services, and
12 professional services, and the control over supplies, services, and
13 professional services vested in or exercised by an agency on Janu-
14 ary 1, 1988 [JULY 1, 1987], are transferred to the commissioner of
15 administration and to the chief procurement officer. Authority gran-
16 ted under this subsection shall be exercised in accordance with this
17 chapter.

18 * Sec. 2. AS 36.30.005(b) is amended to read:

19 (b) Except as otherwise provided, all rights, powers, duties,
20 and authority relating to the procurement of construction and procure-
21 ments of equipment or services for the state equipment fleet and the
22 control over construction of state facilities and the state equipment
23 fleet vested in or exercised by an agency on January 1, 1988 [JULY 1,
24 1987], are transferred to the commissioner of transportation and
25 public facilities, subject to regulations adopted by the commissioner
26 of administration. Notwithstanding AS 44.71.010, authority relating
27 to disposals from the state equipment fleet is vested in the commis-
28 sioner of transportation and public facilities, subject to regulations
29 adopted by the commissioner of administration. Authority granted

1 under this subsection shall be exercised in accordance with this
2 chapter.

3 * Sec. 3. AS 36.30.050(b) is amended to read:

4 (b) A person who desires to be on a list shall submit to the
5 commissioner evidence of a valid Alaska business license. A [TOGETHER
6 WITH A] biennial fee may be established by regulation in an amount
7 reasonably calculated to pay the costs of administering this section.
8 A construction contractor shall also submit a valid certificate of
9 registration issued under AS 08.18. The commissioner, by regulation,
10 may require submission of additional information.

11 * Sec. 4. AS 36.30.115(a) is amended to read:

12 (a) Within 48 [24] hours after receiving notice of intent to
13 award [OPENING OF BIDS], the [TWO] apparent low bidder [BIDDERS] shall
14 submit a list of the subcontractors the bidder proposes [BIDDERS
15 PROPOSE] to use in the performance of the contract. The list must
16 [SHALL] include the name and location of the place of business for
17 each subcontractor and evidence of the subcontractor's valid Alaska
18 business license. A bidder for a construction contract shall also
19 submit evidence of each subcontractor's registration under AS 08.18.

20 * Sec. 5. AS 36.30.115(b) is amended to read:

21 (b) A bidder may replace a listed subcontractor if the subcon-
22 tractor

23 (1) fails to comply with AS 08.18;

24 (2) files for bankruptcy or becomes insolvent;

25 (3) fails to execute a contract with the bidder involving
26 performance of the work for which the subcontractor was listed and the
27 bidder acted in good faith;

28 (4) fails to obtain bonding;

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

1 (6) fails to perform the contract with the bidder involving
2 work for which the subcontractor was listed;

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

5 (8) refuses to agree or abide with the bidder's labor
6 agreement; or

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

9 * Sec. 6. AS 36.30.140(a) is amended to read:

10 (a) The procurement officer shall open bids [PUBLICLY IN THE
11 PRESENCE OF ONE OR MORE WITNESSES] at the time and place designated in
12 the invitation to bid. All bid openings are open to the public. The
13 amount of each bid and other relevant information that is specified by
14 regulation of the commissioner, together with the name of each bidder,
15 shall be recorded.

16 * Sec. 7. AS 36.30.170(b) is amended to read:

17 (b) The procurement officer shall award a contract based on
18 solicited bids to the lowest responsive and responsible bidder after
19 an Alaska bidder preference of five percent and an Alaska products
20 preference as described in AS 36.30.322 - 36.30.338 have been applied.
21 [NOTWITHSTANDING AN ALASKA PRODUCT PREFERENCE UNDER AS 36.30.322 -
22 36.30.338, THE PROCUREMENT OFFICER SHALL AWARD A CONTRACT BASED ON
23 SOLICITED BIDS TO THE LOWEST RESPONSIBLE AND RESPONSIVE ALASKA BIDDER
24 IF THE BID IS NOT MORE THAN FIVE PERCENT HIGHER THAN THE LOWEST NON-
25 RESIDENT BIDDER'S.] In this subsection, "Alaska bidder" means a
26 person who

27 (1) holds a current Alaska business license;

28 (2) submits a bid for goods, services, or construction
29 under the name as appearing on the person's current Alaska business

1 license;

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

5 (4) is incorporated or qualified to do business under the
6 laws of the state, is a sole proprietorship, and the proprietor is a
7 resident of the state or is a partnership, and all partners are resi-
8 dents of the state; and

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

11 * Sec. 8. AS 36.30.210(a) is amended to read:

12 (a) A request for competitive sealed proposals must contain the
13 date, time and place for delivering proposals, a specific description
14 of the supplies, construction, services, or professional services to
15 be provided under the contract, and the terms under which the sup-
16 plies, construction, services, or professional services are to be
17 provided. The request shall require the offeror to submit evidence of
18 the offeror's valid Alaska business license and, no later than 72
19 hours after receiving notice of intent to award [THE DATE BY WHICH
20 PROPOSALS MUST BE RECEIVED], to list subcontractors the offeror pro-
21 poses to use in the performance of the contract. The list shall
22 include the name and location of the place of business for each sub-
23 contractor and evidence of the subcontractor's valid Alaska business
24 license. An offeror for a construction contract shall also submit
25 evidence of the offeror's registration under AS 08.18 and evidence of
26 registration for each listed subcontractor.

27 * Sec. 9. AS 36.30 is amended by adding a new section to read:

28 Sec. 36.30.305. LIMITED COMPETITION PROCUREMENTS. (a) A con-
29 tract for supplies, services, professional services, or a construction

1 contract under \$100,000, may be awarded without competitive sealed
2 bidding or competitive sealed proposals, in accordance with regula-
3 tions adopted by the commissioner of administration. A contract may
4 be awarded under this section only when the commissioner of adminis-
5 tration, or, for construction contracts under \$100,000 or procurements
6 for the state equipment fleet, the commissioner of transportation and
7 public facilities, determines in writing that a situation exists that
8 makes competitive sealed bidding or competitive sealed proposals
9 impractical or contrary to the public interest. Procurements under
10 this section shall be made with competition that is practicable under
11 the circumstance. The authority to make a determination required by
12 this section may not be delegated.

13 (b) The using agency shall submit written evidence to support a
14 determination under this section.

15 (c) Procurement requirements may not be artificially divided,
16 fragmented, aggregated, or structured so as to constitute a purchase
17 under this section or to circumvent the source selection procedures
18 required by AS 36.30.100 - 36.30.270.

19 (d) Sole source procurements may not be made under this section.

20 (e) Architectural, engineering, and land survey contracts under
21 AS 36.30.270 may not be made under this section.

22 * Sec. 10. AS 36.30.320(e) is amended to read:

23 (e) The procurement officer shall give adequate public notice of
24 intent to make a procurement under this section in accordance with
25 regulations adopted by the commissioner. [NOTICES SHALL ALSO BE
26 PROVIDED TO THOSE ALASKA BIDDERS DESIGNATED BY THE COMMISSIONER UNDER
27 AS 36.30.050(d).]

28 * Sec. 11. AS 36.30.322(a) is amended to read:

29 (a) Only timber, lumber, and manufactured lumber products

1 originating in this state from Alaska [LOCAL] forests may be procured
2 by an agency or used in construction projects of an agency unless [THE
3 COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT CERTIFIES THAT] the
4 manufacturers and suppliers who have notified the commissioner of
5 commerce and economic development of their willingness to manufacture
6 or supply Alaska forest products

7 (1) have been given reasonable notice of the forest product
8 needs of the procurement or project; and

9 (2) are unable to supply the products at a cost that is
10 within seven percent of the price offered by a manufacturer or sup-
11 plier of non-Alaska forest products.

12 * Sec. 12. AS 36.30.322 is amended by adding a new subsection to read:

13 (c) During the period of performance of a state contract, the
14 contractor shall maintain records showing efforts made in using Alaska
15 forest products or evidence of Alaska forest products not being avail-
16 able or reasonably competitive. The contractor shall provide the
17 records to the procurement officer on a periodic basis, as required by
18 regulations adopted by the commissioner of commerce and economic
19 development.

20 * Sec. 13. AS 36.30.332(b) is amended to read:

21 (b) Materials and supplies with value added in the state that
22 are

23 (1) more than 25 percent and less than 50 percent produced
24 or manufactured in the state are [OF THE MANUFACTURER'S QUOTED PRICE
25 IS A] Class I products [PRODUCT];

26 (2) 50 percent or more and less than 75 percent produced or
27 manufactured in the state are [OF THE MANUFACTURER'S QUOTED PRICE IS
28 A] Class II products [PRODUCT]; and

29 (3) 75 percent or more produced or manufactured in the

1 state are [OF A MANUFACTURER'S QUOTED PRICE IS A] Class III products
2 [PRODUCT].

3 * Sec. 14. AS 36.30.338(1) is amended to read:

4 (1) "Alaska product" means a product of which not less than
5 25 percent of the value, as determined in accordance with regulations
6 adopted under AS 36.30.332(a), has been added by manufacturing or
7 production in the state [PRODUCED OR MANUFACTURED IN THE STATE IF THE
8 VALUE ADDED IN THE STATE IS NOT LESS THAN 25 PERCENT OF THE QUOTED
9 PRICE OF THE MANUFACTURER];

10 * Sec. 15. AS 36.30.365 is amended to read:

11 Sec. 36.30.365. NOTICE OF INTENT TO AWARD A CONTRACT. At least
12 10 days before the formal award of a contract that is not for con-
13 struction, and at least five days before the award of a construction
14 contract, under this chapter, except for a contract awarded under
15 AS 36.30.300 - 36.30.320, the procurement officer shall provide to
16 each bidder or offeror notice of intent to award a contract. The
17 notice shall conform to regulations adopted by the commissioner.

18 * Sec. 16. AS 36.30.565 is amended to read:

19 Sec. 36.30.565. TIME FOR FILING A PROTEST. (a) A protest based
20 upon alleged improprieties in an award of a contract or a proposed
21 award of a contract must [A SOLICITATION INVOLVING COMPETITIVE SEALED
22 BIDDING THAT ARE APPARENT BEFORE THE BID OPENING SHALL BE FILED BEFORE
23 THE BID OPENING. A PROTEST BASED ON ALLEGED IMPROPRIETIES IN A SOLIC-
24 ITATION INVOLVING COMPETITIVE SEALED PROPOSALS THAT ARE APPARENT

25 (1) BEFORE THE DUE DATE FOR RECEIPT OF INITIAL PROPOSALS
26 SHALL BE FILED BEFORE THAT DUE DATE;

27 (2) AFTER THE DUE DATE FOR RECEIPT OF INITIAL PROPOSALS
28 SHALL BE FILED BEFORE THE NEXT DUE DATE FOR RECEIPT OF ADJUSTED PRO-
29 POSALS THAT OCCURS AFTER THE IMPROPRIETIES ARE APPARENT.

1 (b) IN SITUATIONS NOT COVERED UNDER (a) OF THIS SECTION, PRO-
2 TESTS SHALL] be filed within 10 days after a notice of intent to award
3 the contract is issued by the procurement officer.

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

7 * Sec. 17. AS 36.30.610 is amended by adding a new subsection to read:

8 (c) The commissioner of administration or the commissioner of
9 transportation and public facilities, as appropriate, shall, within 15
10 days after receipt of an appeal, notify the appellant of the accep-
11 tance or rejection of the appeal and, if rejected, the reasons for the
12 rejection.

13 * Sec. 18. AS 36.30.850(a) is amended to read:

14 (a) This chapter applies only to contracts solicited or entered
15 into after January 1, 1988 [JULY 1, 1987], unless the parties agree to
16 its application to a contract solicited or entered into before that
17 date.

18 * Sec. 19. AS 36.30.900 is amended to read:

19 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter
20 does not modify [, AMEND, OR ALTER] AS 36.15.010 and 36.15.020 regard-
21 ing preference for Alaska forest products, [OR AS 36.20.010 REGARDING
22 PREFERENCE TO PRODUCERS OR DEALERS IN ALASKA] except as provided in
23 AS 36.30.170(b) and (c).

24 * Sec. 20. AS 36.30.050(d) and 36.30.380 are repealed.

25 * Sec. 21. Section 65, ch. 106, SLA 1986 is amended to read:

26 Sec. 65. REPORT. By December 1, 1989 [1988], the commissioner
27 of administration and the commissioner of transportation and public
28 facilities shall report to the legislature concerning procurements by
29 state agencies during fiscal year 1988 [1987]. The report must

1 include

2 (1) the records prepared under AS 36.30.510(4);

3 (2) recommendations for changes in AS 36.30 or other laws
4 based on implementation of AS 36.30 in those 12 months; and

5 (3) a description of any matters that involved litigation
6 concerning AS 36.30 during those 12 months.

7 * Sec. 22. Section 66, ch. 106, SLA 1986 is amended to read:

8 Sec. 66. REGULATIONS DEADLINE. The regulations required under
9 AS 36.30 as added by sec. 2 of this Act, shall be adopted by Jan-
10 uary 1, 1988, [JULY 1, 1987] and shall be effective on that date.
11 Regulations adopted under laws repealed in sec. 67 of this Act become
12 ineffective January 1, 1988 [JULY 1, 1987].

13 * Sec. 23. Section 69, ch. 106, SLA 1986 is amended to read:

14 Sec. 69. Except as provided in sec. 68, this Act takes effect
15 January 1, 1988 [JULY 1, 1987].

16 * Sec. 24. Sections 1, 2, 18, and 21 - 23 of this Act take effect
17 immediately under AS 01.10.070(c).

18 * Sec. 25. Sections 3 - 17, 19, and 20 of this Act take effect January
19 1, 1988.

HOUSE AMENDMENT

#5③

TO: CSHB 276 (SA)

BY: HANLEY

Page 9 Line 17 + 18

Page 9, line 17 -

AFTER Sec 21 - delete ~~the~~ the.

Rest of the line

Page 9, Line 18

Delete line 18

Page 9, line 17

AFTER Sec. 21, INSERT

"AS 36.30.380 is repealed."

Submit original amendment to the Chief Clerk.
It will then be numbered and duplicated.

~~31~~
2

A M E N D M E N T

Offered in the HOUSE

By Alyce Hanley

TO: CSHB 276(SA)

Page 5, Line 5 following "contracts"

Insert "under ^{6,000,000.00"} ~~2,000,000.00~~"

4

A M E N D M E N T

Offered in the HOUSE

By ~~Alyce Hanley~~
Furnace

TO: CSHB 276(SA)

Page 5, Line 22 following "give"

Delete [Adequate public notice]

Insert "public notice of intent to make a procurement under this section in accordance with regulations adopted by the commissioner. A written determination by the procurement officer waiving notice requirements contained in AS 36.30.050(d) shall be included in the contract file."

NOW
5

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: ~~CSRS-275~~ (GA)

Page 2, line 12:

Delete "72"

Insert "48"

Additional information

A M E N D M E N T # 5

Offered in the HOUSE

By Alyce Hanley

TO: CSHB 276(SA)

Page 9, Line 17 following "Sec. 21" ~~Sec. 21~~

Insert "AS 36.30.380 is repealed."

The only section that should be repealed here is the one on evaluating and approving a contractors's accounting system. The only time this usually happens is when a contractor receives a cost plus contract and it is necessary to see if the costs of the rest of the work of the firm is not allocated to the contract that the state might award to the firm.

AS 36.30.050 - Repeals the requirement for the procurement officer to utilize the State Bidder's Mailing List.

AS 36.30.362 - Repeals the requirement to for the procurment to make a written determination why firm outside the state received a contract award.

AS 30.540(4) - Repeals the requirement to provide a listing to the legislature on contract awards to out of state firms.

AS 30.540(5) - Repeals the requirement to provide a listing to the legislature of contract awards to instate firms.

A M E N D M E N T

#5

Offered in the HOUSE

By Donley

TO: CSHB 39(Fin)

Page 15, after line 1:

Insert a new bill section to read:

"* Sec. 7. AS 14.43.120(j) is amended to read:

(j) A portion of a loan shall be paid on behalf of the borrower by the state if, upon completion of the course of study for which the loan was granted, the borrower is a resident of the state for at least two years. The portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 25 [50] percent of the total loan:

(1) two - three years residence in the state, 5 [10] percent;

(2) three - four years residence in the state, an additional 5 [10] percent;

(3) four - five years residence in the state, an additional 5 [10] percent;

(4) five - six years residence in the state, an additional 5 [10] percent;

(5) over six years residence in the state, an additional 5 [10] percent."

Renumber the following bill sections accordingly.

HOUSE JOURNAL HB 276
HB 276

HOUSE BILL NO. 276 by the Rules Committee by request of the Governor, entitled:

"An Act relating to state procurement practices and procedures; and providing for an effective date."

was read the first time and referred to the State Affairs, Judiciary and Finance Committees.

Two zero fiscal notes and one zero fiscal note with analysis were published April 17, 1987.

The Governor's transmittal letter, dated April 15, 1987, appears below:

"Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making necessary amendments to the state procurement code that was enacted last year (ch. 106, SLA 1986) with a July 1, 1987 effective date. HB 192, the bill deferring the effective date of the procurement code, proposed a two-year deferment; the House State Affairs Committee, in CSHB 192(SA), recommended a one-year deferment. The attached bill combines various substantive amendments with only a six-month deferment.

The legislature's conference committee on the budget last year reduced the procurement code's fiscal note to zero. However, several of its provisions, such as those pertaining to handling sole-source procurements, the extended and revised protest period, the appeals requirements, and the small procurement requirement are very "work intensive." The problem is exacerbated by the state's current fiscal crisis. There simply is no way to implement the provisions of the code right now. This bill's six-month postponement will give the state a chance to begin to regain its fiscal footing before taking on the new procedures set out in the procurement code. In addition, the amendments in this bill help tailor the code to conditions in Alaska. This bill is not, however, a general clean-up of the code.

To aid in your analysis of this bill, here is a section-by-section commentary on it:

Sections 1, 2, 15, 18, and 21 -- 23:

These are the deferment sections. Section 23, amending sec. 69, ch. 106, SLA 1986, is the most significant in that it changes the overall effective date of the procurement code.

The other sections in this group make corresponding amendments in other time-related provisions that were enacted in ch. 106, SLA 1986.

Section 3:

AS 36.30.050(b) is amended to delete the blanket requirement of a biennial fee for getting on a list of contractors. Charging contractors to be on a bidder's list is prohibited by federal regulations on federally assisted construction projects. Even though using a bidder's list is only an available option in advertising for construction projects, it is impractical to maintain separate lists or systems for state-funded versus federally assisted projects. This amendment's proposed discretionary language would allow construction bidders list fees to be optional or to be eliminated if that would be appropriate.

Section 4:

AS 36.30.115(a) is amended to change the 24-hour requirement to a 72-hour requirement for submitting a list of subcontractors and to change the triggering event from the opening of bids to the receipt of the notice of intent to award. These amendments are necessary to provide appropriate flexibility in the handling of bids and subcontractor lists, and are consistent with the amendment in sec. 7 of this bill. With these changes, it is also advisable to delete the requirement that the two lowest bidders submit the list of subcontractors, as sec. 4 does. These amendments will be more cost-effective for both the state and the contractors.

Section 5:

AS 36.30.140(a) is amended to delete the requirement of the presence of a witness during bid openings. Although bid openings are open to the public, many of them have no members of the public in attendance. When no member of the public attends, it is necessary to assign an employee to be a witness. The effectiveness of such a procedure is questionable, and the use of employee time for such a function is wasteful. With the current and impending cutbacks in staff, such a procedure would be especially troublesome. Therefore, this amendment is necessary.

Section 6:

AS 36.30.170(b) is amended so that the apparent low bidder at a bid opening can be quickly announced. The current statute can be awkward to put into practice.

Section 7:

AS 36.30.210(a) is amended to conform to the 72-hour amend-

ment of AS 26.30.115(a) (in sec. 4 of this bill). The requirements for listing subcontractors should be consistent among the various methods of procurement.

Section 8:

A proposed new section, AS 36.30.305, establishes a procedure in between the "sole source" procurements of AS 36.30.-300 and the "emergency" procurements of AS 36.30.310. It is thus a "semi" or "modified" sole source procurement provision. This new statute will serve the state's need for a method to procure which is broader than sole-source procurement but does not require all of the details of a competitive sealed process. This language provides broader purchasing capability. Failure to add this section would mean that the Department of Administration would have to write significantly more bids with a reduced staff.

Section 9:

AS 36.30.320(e) is amended to delete the requirement of sending notices to Alaska bidders designated by the commissioner under AS 36.30.050(d). The latter statute, which is being repealed in sec. 20 of this bill, pertains to small procurements. For every small procurement an agency might wish to make, it would be required by the current provision to contact the Department of Administration which would provide from the computerized list of contractors three names on a rotating basis. The requesting agency would have to contact those three contractors for quotes. We estimate that there are more than 70,000 small procurements made each year. The repeal of AS 36.30.050(d) is discussed below in connection with sec. 20 of the bill.

Section 10:

AS 36.30.322(a) is amended in two respects. First, "Alaska" is substituted for "local" to make clear that the requirement for use of timber and lumber products originating in this state means originating in an Alaska forest, not necessarily a southeastern forest or a southcentral forest, etc. The current language could produce an undesirable regionalism within the state, and I do not believe that that is what was intended with the original enactment. Secnd, an unnecessary step, certification by the commissioner of commerce and economic development, is removed so that the Department of Commerce and Economic Development does not have to check up on each contract to see that sufficient notice has been given and that Alaska manufacturers were in fact unable to provide the product within the seven percent margin. The requirements for reasonable notice, etc., are not being changed.

Section 11:

A new subsection is added to AS 36.30.322 to establish a record-keeping procedure that will serve in the case of a challenge to the bid practices. This will assure that proper records will exist to document the use of preferred products.

Section 12:

AS 36.30.332(b) is amended by deleting references to the "manufacturer's quoted price" to make the language consistent with subsec. (a) and to ensure that the certification process does not become excessively complex, burdensome, or time-consuming. As currently written, the references in subsec. (b) to "manufacturer's quoted price" could require a certified public accountant's audit and statement detailing incoming materials costs and providing a detailed cost analysis of the manufacturing process. The amendment would allow the broad categories and criteria established by regulations adopted under subsec. (a) to be the basis for the determination required by subsec. (b). It would thus make the whole certification process more efficient.

Technical, grammatical corrections are also being made in AS 36.30.332(b).

Section 13:

AS 36.30.338(1), the definition of "Alaska product," is amended to delete the reference to the "quoted price of the manufacturer," consistent with the changes made in sec. 12 of the bill. The re-wording of this definition also ties in the regulations that existing AS 36.30.332(a) requires, and thus makes the definition clearer.

Section 14:

AS 36.30.365 is amended so that construction contracts are not unduly delayed. For many years, the applicable statute allowed five rather than 10 days for construction contract award protests, and it is desirable to continue that fair and efficient practice. This statute is also amended to make clear that contracts awarded under the sole-source statute (AS 36.30.300), the limited competition procurements statute (AS 36.30.305, proposed in sec. 8 of the bill), the emergency procurement statute (AS 36.30.310), or the small procurements statute (AS 36.30.320) are not covered by the 10-day or five-day requirement for providing to each bidder or offeror notice of intent to award a contract. The 10-day, and even the five-day, requirement could cause unnecessary delay in the award of contracts that should not be delayed.

Sections 16 and 17:

The amendment, in secs. 16 and 17, of AS 36.30.565 and

AS 36.30.610, respectively, will make the appeal process more efficient by limiting appeals to those of the award or proposed award. Language relating to an appeal before a bid is opened is deleted. This will simplify the whole procedure while still assuring fair treatment of all parties.

Section 19:

AS 36.30.900 is amended in two ways. First, two redundant verbs are deleted, in order to simplify and streamline the language. Second, a reference to AS 36.20.010 is deleted because that statute was repealed by sec. 67, ch. 106, SLA 1986.

Section 20:

Several statutes are repealed, as follows:

AS 36.30.050(d), the requirement that lists of contractors be used in providing notice of intent to make a small procurement, is repealed because it would require the Department of Administration to revise its bid-list program to provide names on a rotating basis. The estimated cost of the computer software alone is \$20,000. Also, the current provision requires that all departments use the names provided, something that would be relatively simple if the purchaser were always in an office with access to a computer. However, numerous offices do not have that access. In addition, the requirement to contact vendors does not take into account the vendor's location or real interest in the specific procurement. For example, a Department of Fish and Game employee in Soldotna could be required to call the Anchorage office to get the names of three vendors who turn out to be located in Nome, Ketchikan, and Haines. The purchaser would then have to make

three long-distance calls to get quotations. Since the purchaser would be allowed to secure additional quotations, he or she could probably get a local quotation that turns out to be well below those obtained through this elaborate procedure. Thus, this statute is wasteful at a time when it is critical that the state government be more efficient.

AS 36.30.362, a provision requiring the state to provide a superfluous written statement (explaining the basis of an award to a person who does not reside or maintain a place of business in Alaska) is repealed. Bids are awarded to low responsive bidders even if they are located outside the state. A written statement explaining the award accomplishes nothing.

AS 36.30.380, which requires approval of proposed

contractors' accounting systems, would be repealed. This section appears to require the state to approve all accounting systems for contracts awarded by the sealed proposal method. Some bidders will be major corporations, and it would be foolish to waste state staff time reviewing, analyzing, and approving their accounting systems. This would be very costly, and, if it is not done properly, could expose the state to claims or overcharges.

AS 36.30.540(4) and (5), requiring the state to make listings of all procurements made within the state and outside the state, are being repealed. These lists are never consulted and provide no usable information.

Section 24:

The deferment sections of this bill have been given an immediate effective date so that everyone involved in dealing with the procurement code, both the public and the administrators, will be able to make appropriate plans. The other sections of this bill have been given a January 1, 1988 effective date to coincide with the proposed deferred effective date of all but one section of ch. 106, SLA 1986. (Section 66 of last year's Act was given an immediate effective date at that time to enable the regulations-adoption project to get started.)

Enactment of this bill will streamline procurement activities of the state and will result in an enormous cost-savings at this critical time. It is necessary to enact this bill this session. I strongly urge your prompt and favorable action on this measure.

Sincerely,

/s/

Steve Cowper
Governor"

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

22

REQUEST: _____

Bill Version CSHB 276(SA)
Publish Date: HOUSE 5/6/87

Revision Date: _____
Title: Procurement Practices and
Procedures; provide for effect. date
Sponsor: Governor
Requestor: House Finance

Agency Affected: DOT&PF
BRU: Design & Construction,
Engineering & Operations Standards
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) Minor reductions in costs are spread throughout the department; however, none are of significant magnitude that could be identified in specific operating budgets. No additional funds were provided when the procurement bill passed last session.

Prepared by: Loren Rasmussen Phone: 465-2960
Division: Engineering & Operations Standards Date: 5-5-87

Approved by Commissioner: *M. L. H.* Date: 5-5-87
Agency: Transportation & Public Facilities

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

HOUSE JOURNAL MAY 5, 1987
HB 276

The State Affairs Committee has considered:

HOUSE BILL NO. 276

"An Act relating to state procurement practices and procedures; and providing for an effective date."

and recommends it be replaced with:

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 276
(State Affairs)
(same title)

Recommending do pass (4): Ulmer (Chairman), Martin, Boucher, Davidson

No recommendation (2): Donley, Hoffman

HB 276 was referred to the Judiciary Committee.

HOUSE JOURNAL MAY 5, 1987
HB 276

The Speaker waived the Judiciary Committee referral on the following bill at the request of the Chairman:

HOUSE BILL NO. 276

"An Act relating to state procurement practices and procedures; and providing for an effective date."

HB 276 was sent to the Finance Committee.

HOUSE JOURNAL MAY 5, 1987

The House Finance Committee considered:

HB 276 - "An Act relating to state procurement practices and procedures; and providing for an effective date."

AND RECOMMENDS: REPLACE WITH CSHB 276 (STATE AFFAIRS)/FISCAL NOTE SAME AS PREVIOUS ZERO FISCAL NOTE PUBLISHED 4/17/87 PLUS ATTACHED NEW ZERO FISCAL NOTE.

Recommending do pass: Pourchot, Swackhammer, Boyer, Goll, Wallis, Rieger, Frank, Davis

No Recommendation: Brown

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: 4/6/87

Bill Version: HB 276
Publish Date: HOUSE 4/17/87

Revision Date: _____

Agency Affected: DOT&PF

Title: An Act Relating to State Procurement

BRU: Design & Construction

& Procedures: & Providing for an Effective Date

Engineering & Operations Standards

Sponsor: Governor

Components: _____

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	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-	-0-	-0-	-0-	-0-	-0-

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

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The fiscal impact of this bill is zero. Although the attached analysis shows a reduced expenditure of \$136,000, it does not represent a true reduction. The department had to absorb an estimated expenditure of \$200,000 when the original procurement legislation was passed last session with a zero fiscal note.

Prepared by: Loren Rasmussen
Division: Engineering & Operations Standards

Phone: 465-2960
Date: 4/8/87

Approved by Commissioner: M. L. S. H.
Agency: Transportation & Public Facilities

Date: 4/9/87

Distribution (by preparer):

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

ANALYSIS RE:

HB _____ An Act Relating to State Procurement Practices and Procedures; and Providing for an Effective Date

NOTE:

It must be noted that the original procurement bill was passed last year with a zero fiscal note when the estimated impact was \$200,000. Therefore the cost savings shown in this fiscal note are costs that are absorbed in DOT&PF operating and CIP budgets and no actual reduction would occur.

Section by Section review and analysis:

Given data (from DOT&PF records):

1. 200 construction contracts annually.
2. Estimate 300 contractors on bidders list.
3. Estimate 300 to 500 consultants on bidders list.
4. 175 consultant contracts annually.
5. 1700 quotes on small purchases annually.
6. \$35/hr cost of an Engineer.
7. \$20/hr cost of a clerk.

Section 1. Eliminates biennial fee for getting on the construction contractors bidder list.

Assume Bidders List is 300:

$$\frac{\$25 \times 300}{2} = \$3,750 \text{ savings to the contractors*}$$

Cost of maintaining the list:

$$(3/\text{hrs}/\text{wk}) (3 \text{ regions}) (52 \text{ wk}) (\$20/\text{hr}) = \$9,360$$

Say \$10,000 savings to DOT&PF

Section 2. Listing of subcontractors 72 hours after Letter of Intent to Award and only from apparent low bidder.

$$(200 \text{ projects annually}) (4 \text{ hrs to put list together}) (\$35) = (200) (4) (\$35) = \$28,000 \text{ savings to the contractors*}$$

½ hour savings to check subs listing

$$(200) (.5) (\$35/\text{hr}) = \$3,500$$

Say \$4,000 savings to DOT&PF

Section 3. Eliminates witness at bid opening.

* does not show on fiscal note

$(.5/\text{hr}) (3 \text{ regions}) (52/\text{wk}) (\$20/\text{hr}) = \$1,560$

Say \$2,000 savings to DOT&PF

Section 4. Amends the code so that the apparent low bidder can be announced quickly - large savings or benefit may be in preventing bidder errors.

Assume:

$\frac{1}{2}$ /hour savings at each bid opening

$(.5/\text{hr}) (3 \text{ regions}) (52/\text{wks}) (\$35/\text{hr}) = \$2,730$

Say \$3,000

Section 5. 72 hour requirement for listing subcontracts on proposal type contracts.

These contracts are negotiated type consultant contracts and the actual savings would be in time and administrative costs.

Section 6. A procedure for contracts between sole source and emergencies.

No savings to DOT&PF - present law provides a similar system for construction contracts.

Section 7. Small purchases on a rotating basis.

$(1700 \text{ "quotes"}) (.5/\text{hr "required"}) (\$20/\text{hr}) = \$17,000$

Section 8. Changes "local" to "Alaska" forest products and certification on a statewide basis instead of project by project basis..

$(200 \text{ projects annually}) (2/\text{hrs to put certification together}) (\$35/\text{hr}) = \$14,000 \text{ to DOT\&PF}$

(The same type of savings to the contractors*)

Section 9. Added record section for keeping requirements for Alaska products.

No cost savings to DOT&PF

Added cost to contractors: $(200) (2/\text{hrs}) (\text{annually}) (\$35) = \$14,000^*$

Section 10. Deleting reference to "manufacturer's quoted price"

No cost savings to DOT&PF.

Section 11. Same as Section 10.

Section 12. Provides for awarding a construction contract in 5 days.

There would be a savings to DOT&PF mainly in time - the amendment would save 5 days in awarding contracts - but not all contracts can or would be actually awarded in 5 days. It is not practical to put a cost for this section.

Section 13
and 14.

Eliminates bid protests during the advertising time of a project (before bid openings).

Although there could be substantial savings to the DOT&PF for this section (by allowing a critical project to proceed to the bid opening stage) it is not practical to compute an actual savings.

Section 15. Cleans up language for Alaska products (forest products).

No fiscal impact on DOT&PF.

Section 16. Repeals several sections.

AS 36.30.050(d) - small procurement using a contractor list (see section 7)

AS 36.30.362 - eliminates the written statements explaining awards for out-of-state contractors.

(200 projects annually) (10% out-of-state contractors) (1/hr for letter) (\$35/hr) = \$700
Say \$1,000

AS 36.30.380 - Eliminates approval of contractors accounting system.

(175 consultant contracts) (1.4 contracts/consultants) = 125
(125) (2 days) (7.5 hr/day) (\$35/hr) = \$65,625
Travel (10% of 125) (1 trip) (\$1,500/trip) = \$18,750
\$84,375

Say \$85,000

AS 36.30.540(4) & (5) - Eliminates making a list of in-and-out-of-state contractors.

(3 days) (7.5/hr) (\$20/hr) = \$450

Section 17. Effective date of July 1, 1987 but note HB 192 proposes a delay.

Summary:

Section 1.	10,000	
Section 2.	4,000	
Section 3.	2,000	
Section 4.	3,000	
Section 5.	-	(Time only)
Section 6.	-	(DOA)
Section 7.	17,000	
Section 8.	14,000	
Section 9.	-	(DC&ED)
Section 10.	-	(DC&ED)
Section 11.	-	(DC&ED)
Section 12.	-	(Time only)
Section 13.	-	(Impractical to estimate)
Section 14.	-	(Impractical to estimate)
Section 15.	0	
Section 16		
AS 36.30.050(d)	-	(See section 7)
AS 36.30 362	1,000	
AS 36.30.380	85,000	
Section 17.	-	(Effective date
	<u>\$136,000**</u>	

** \$85,000 would be assumed to be in the Capital Budget the remaining \$51,000 would be in the Operating Budget.

Page 17, lines 4 - 15:

Delete all material

Renumber the following bill sections accordingly.

Page 21, line 23:

Delete all material

Renumber the following bill section accordingly.

*Draft
Amended Pages
11-22
CSNB 39(Fin)am*

1 Sec. 14.42.260. NONLIABILITY ON BONDS. (a) The members of the
2 board and individuals executing the bonds of the corporation are not
3 liable personally on the bonds or subject to personal liability or
4 accountability by reason of the issuance of the bonds.

5 (b) The bonds issued by the corporation do not constitute an
6 indebtedness or other liability of the state or of a political sub-
7 division of the state, except the corporation, but shall be payable
8 solely from the income and receipts or other funds or property of the
9 corporation. The corporation may not pledge the faith or credit of
10 the state, or of a political subdivision of the state, except the
11 corporation, to the payment of a bond. Issuance of a bond by the
12 corporation does not directly, indirectly, or contingently obligate
13 the state or a political subdivision of the state to apply money from,
14 or levy or pledge any form of taxation whatever to the payment of the
15 bond.

16 Sec. 14.42.265. UNDERWRITERS. The board may select one or more
17 underwriters for its bonds in accordance with procedures

18 (1) for the award of a contract under AS 36.30.200 -
19 36.30.260; or

20 (2) adopted by regulations of the board that are based on
21 the competitive principles of AS 36.30.200 - 36.30.260 and are adapted
22 to the special needs of the corporation in the selling of its bonds as
23 determined by the board.

24 Sec. 14.42.270. PLEDGE AND AGREEMENT OF STATE. The state
25 pledges to and agrees with holders of bonds issued by the corporation
26 that the state will not limit or alter the rights and powers vested in
27 the corporation under AS 14.42.100 - 14.42.330 to fulfill the terms of
28 a contract made by the corporation with the bondholders or in any way
29 impair the rights and remedies of the bondholders until the bonds,
H

1 together with the interest on them with interest on unpaid install-
2 ments of interest, and all costs and expenses in connection with an
3 action or proceeding by or on behalf of the bondholders, are fully met
4 and discharged. The corporation may include this pledge and agreement
5 of the state in a contract with bondholders.

6 Sec. 14.42.280. EXEMPTION FROM TAXATION. The real and personal
7 property of the corporation and its assets, income, and receipts are
8 declared to be the property of a political subdivision of the state
9 and devoted to an essential public and governmental function and
10 purpose, and the property, assets, income, receipts, and other in-
11 terests of the corporation are exempt from all taxes and special
12 assessments of the state or a political subdivision of the state,
13 including municipalities, school districts, public utility districts,
14 and other governmental units. Bonds of the corporation are declared
15 to be issued by a political subdivision of the state and for an essen-
16 tial public and governmental purpose, and the bonds, interest on them,
17 income from them, and transfer of them, and all assets, income, and
18 receipts pledged to pay or secure the payment of the bonds, or inter-
19 est on them, are exempt from taxation by or under the authority of the
20 state, except for inheritance and estate taxes and taxes on transfers
21 by or in contemplation of death.

22 Sec. 14.42.290. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
23 bonds of the corporation are securities in which public officers and
24 bodies of the state, municipalities, insurance companies, insurance
25 associations, other persons carrying on an insurance business, banks,
26 bankers, trust companies, savings banks, savings associations, build-
27 ing and loan associations, investment companies, other persons carry-
28 ing on a banking business, administrators, guardians, executors,
29 trustees, other fiduciaries, and other persons who are authorized to
H

1 invest in bonds or other obligations of the state, may properly and
2 legally invest funds including capital in their control or belonging
3 to them. Notwithstanding any other provisions of law, the bonds of
4 the corporation are also securities that may be deposited with and may
5 be received by public officers and bodies of the state and municipal-
6 ities for any purpose for which the deposit of bonds or other obliga-
7 tions of the state is now or may be authorized.

8 Sec. 14.42.300. OPERATION OF CERTAIN STATUTES EXCEPTED. (a)
9 The corporation is not a municipality as the term is defined in
10 AS 01.10.060. Except as provided in AS 14.42.190, the corporation is
11 not subject to AS 37. For all other purposes the corporation is a
12 political subdivision and an instrumentality of the state.

13 (b) The funds, income, and receipts of the corporation are not
14 money of the state, nor may real property in which the corporation has
15 an interest be considered land owned in fee by the state or to which
16 the state may become entitled or in any way land belonging to the
17 state, or state land referred to in art. VIII of the Alaska Constitu-
18 tion.

19 Sec. 14.42.310. ANNUAL AUDIT. The financial records of the
20 corporation shall be audited annually by the legislative auditor or by
21 a certified public accountant approved by the legislative auditor.
22 The legislative auditor may prescribe the form and content of the
23 financial records of the corporation and shall have access to these
24 records at any time.

25 Sec. 14.42.500. DEFINITIONS. In AS 14.42.100 - 14.42.500,

26 (1) "board" means the board of directors of the corpo-
27 ration;

28 (2) "corporation" means the Alaska Student Loan Corpora-
29 tion.
H

1 * Sec. 3. AS 14.43.090(a) is amended to read:

2 (a) There is created a scholarship revolving loan fund. The
3 fund shall be used to make scholarship loans to students selected
4 under AS 14.43.090 - 14.43.160, [AND] to pay the costs of collecting
5 scholarship [STUDENT] loans that are in default if those costs are not
6 recovered from the student, and to pay the costs of administering the
7 fund. Unless the instrument evidencing the scholarship loan has been
8 sold or assigned to the Alaska Student Loan Corporation, [. ALL]
9 repayments of principal and interest on a scholarship loan [LOANS]
10 shall be paid into the scholarship revolving loan fund. If money
11 estimated to be available [FROM SCHOLARSHIP LOAN REPAYMENTS] is inade-
12 quate to fully fund estimated scholarship loans for any fiscal year,
13 additional funding from the general fund may be requested and appro-
14 priated for that year.

15 * Sec. 4. AS 14.43.090 is amended by adding a new subsection to read:

16 (d) The student financial aid committee created under AS 14.43.-
17 095 may sell or assign notes and other instruments evidencing scholar-
18 ship loans to the Alaska Student Loan Corporation and enter into
19 agreements with the corporation relating to loans, the administration
20 of the student loan fund created under AS 14.42.210, and the payment
21 of and security for bonds of the corporation. Proceeds from the sale
22 or assignment of notes and other instruments shall be deposited in the
23 scholarship revolving loan fund.

24 * Sec. 5. AS 14.43.120(h) is amended to read:

25 (h) Security may not be required for a loan [THE LOANS]; how-
26 ever, provision shall be made for payment of all [ATTORNEY] fees and
27 costs [OF COURT IF EITHER OR BOTH ARE] incurred in collection of the
28 amount owed on the loan if it becomes delinquent or in default.

29 * Sec. 6. AS 14.43.120(i) is amended to read:
H

1 (i) If a loan is in default, the commission shall notify the
2 borrower that repayment of the remaining balance is accelerated and
3 due by sending the borrower a notice by registered or certified mail.
4 The permanent fund dividend of a borrower may be taken under AS 43.-
5 23.065(b)(4) to satisfy the balance due on the defaulted loan.

6 * Sec. 7. AS 14.43.120(1) is amended to read:

7 (1) The state shall [WILL] pay the interest on that portion of a
8 loan that is not federally insured during

9 (1) the period in which the borrower is a full-time student
10 [BEFORE THE BEGINNING OF THE REPAYMENT PERIOD OF THE LOAN];

11 (2) deferments under (k) of this section; or

12 (3) the 12 months after the borrower ceases to be a
13 full-time student if the borrower has paid an amount equal to 10
14 percent of the total loan balance before the end of the 12-month
15 period.

16 * Sec. 8. AS 14.43.120 is amended by adding a new subsection to read:

17 (r) The rate of interest, time of payment of an installment of
18 principal or interest, or other terms of a scholarship loan may be
19 modified if required to establish or maintain tax-exempt status under
20 26 U.S.C. 103 (Internal Revenue Code of 1986), as amended, for the
21 interest on bonds issued by the Alaska Student Loan Corporation.

22 * Sec. 9. AS 14.43.125 is amended by adding a new subsection to read:

23 (c) A person may not be awarded a scholarship loan under AS 14.-
24 43.090 - 14.43.160 if a family education loan is made on behalf of
25 that person under AS 14.43.710 - 14.43.790 or if that person receives
26 a teacher scholarship loan under AS 14.43.600 - 14.43.700 for the same
27 school year.

28 * Sec. 10. AS 14.43.255(a) is amended to read:

29 (a) There is created a memorial scholarship revolving loan fund.
H

1 The fund shall be used to provide educational scholarship loans to
2 students selected under AS 14.43.250 - 14.43.325. Unless the instru-
3 ment evidencing the memorial scholarship loan has been sold or as-
4 signed to the Alaska Student Loan Corporation, repayments [REPAYMENTS]
5 of a loan [LOANS MADE UNDER AS 14.43.250(b)(1) - (4)] shall be de-
6 posited into the memorial scholarship revolving loan fund and [REPAY-
7 MENTS OF LOANS MADE UNDER AS 14.43.250(b)(5) SHALL BE DEPOSITED INTO
8 THE SCHOLARSHIP REVOLVING LOAN FUND CREATED UNDER AS 14.43.090.
9 REPAYMENTS] shall be used to make new loans.

10 * Sec. 11. AS 14.43.255 is amended by adding a new subsection to read:

11 (c) The student financial aid committee created under AS 14.43.-
12 095 may sell or assign notes and other instruments evidencing memorial
13 scholarship loans to the Alaska Student Loan Corporation and enter
14 into agreements with the corporation relating to loans, the adminis-
15 tration of the student loan fund created under AS 14.42.210, and the
16 payment of and security for bonds of the corporation. Proceeds from
17 the sale or assignment of a note or other instrument shall be de-
18 posited in the appropriate memorial scholarship loan fund account.

19 * Sec. 12. AS 14.43.620 is amended to read:

20 Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There
21 is created a teacher scholarship revolving loan fund. The fund shall
22 be used to make scholarship loans to students selected under AS 14.-
23 43.600 - 14.43.700. Unless the instrument evidencing the teacher
24 scholarship loan has been sold or assigned to the Alaska Student Loan
25 Corporation, [ALL] repayments of principal and interest on a teacher
26 scholarship loan [LOANS] shall be paid into the teacher scholarship
27 revolving loan fund and shall be used to make new teacher scholarship
28 loans. If estimated funds available [FROM TEACHER SCHOLARSHIP LOAN
29 REPAYMENTS] are inadequate to fully fund estimated teacher scholarship
H

1 loans for any fiscal year, additional funding from the general fund
2 may be requested and appropriated for that year.

3 * Sec. 13. AS 14.43.620 is amended by adding a new subsection to read:

4 (b) The student financial aid committee created under AS 14.43.-
5 095 may sell or assign notes and other instruments evidencing teacher
6 scholarship loans to the Alaska Student Loan Corporation and enter
7 into agreements with the corporation relating to loans, the adminis-
8 tration of the student loan fund created under AS 14.42.210 and the
9 payment of and security for bonds of the corporation. Proceeds from
10 the sale or assignment of the notes or other instruments shall be
11 deposited in the teacher scholarship revolving loan fund.

12 * Sec. 14. AS 14.43.640(b) is amended to read:

13 (b) If a borrower meets the conditions provided in (a) of this
14 section and is employed as a teacher in a rural elementary or secon-
15 dary school, the portion of the loan that shall be paid by the state
16 [, NOTWITHSTANDING AS 14.43.120(j),] is the following percentages of
17 the total loan received plus interest up to a total of 100 percent of
18 the total loan:

- 19 (1) one year employment, 15 percent;
20 (2) two years employment, an additional 15 percent;
21 (3) three years employment, an additional 15 percent;
22 (4) four years employment, an additional 25 percent;
23 (5) over four years employment, an additional 30 percent.

24 * Sec. 15. AS 14.43.650(c) is repealed and reenacted to read:

25 (c) A student may not be awarded a teacher scholarship loan
26 under AS 14.43.600 - 14.43.700 if a family education loan is made on
27 behalf of the student under AS 14.43.710 - 14.43.790 or if the student
28 receives a scholarship loan under AS 14.43.090 - 14.43.160 for the
29 same school year.
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1 * Sec. 16. AS 14.43 is amended by adding new sections to read:

2 ARTICLE 8. ALASKA FAMILY EDUCATION LOAN PROGRAM.

3 Sec. 14.43.710. PROGRAM ESTABLISHED. The Alaska family educa-
4 tion loan program is established to provide low interest loans to
5 families to assist in paying the costs of postsecondary education for
6 family members.

7 Sec. 14.43.720. FAMILY EDUCATION LOAN ACCOUNT. (a) The family
8 education loan account is created within the scholarship revolving
9 loan fund (AS 14.43.090). The account shall be used to make family
10 education loans to families selected under AS 14.43.710 - 14.43.790,
11 to pay the costs of collecting family education loans that are in
12 default if those costs are not recovered from the family, and to pay
13 the costs of administering the account. Unless the instrument evi-
14 dencing the family education loan has been sold or assigned to the
15 Alaska Student Loan Corporation, repayments of principal and interest
16 on family education loans shall be paid into the family education loan
17 account. If estimated funds available from family education loan
18 repayments are inadequate to fully fund estimated family education
19 loans in a fiscal year, additional funding from the general fund may
20 be requested and appropriated for that year.

21 (b) The student financial aid committee created under AS 14.43.-
22 095 may sell or assign notes and other instruments evidencing family
23 education loans to the Alaska Student Loan Corporation and enter into
24 agreements with the corporation relating to loans, the administration
25 of the student loan fund created under AS 14.42.210, and the payment
26 of and security for bonds of the corporation. Proceeds from the sale
27 or assignment of notes and other instruments shall be deposited in the
28 family education loan account.

29 H Sec. 14.43.730. ADMINISTRATION. The family education loan

1 program shall be administered by the student financial aid committee
2 (AS 14.43.095) under regulations adopted by the committee.

3 Sec. 14.43.740. LOAN TERMS AND CONDITIONS. (a) The provisions
4 of AS 14.43.100, 14.43.110, 14.43.115, 14.43.120(a) - (d), (i), (m),
5 and (r), and 14.43.135, apply to a loan made under AS 14.43.710 -
6 14.43.790.

7 (b) The provisions of AS 14.43.120(p) apply to a loan made under
8 AS 14.43.710 - 14.43.790 with respect to the family member on whose
9 behalf a loan is made.

10 (c) Interest on a loan made under AS 14.43.710 - 14.43.790 is at
11 a rate of five percent a year unless the loan is in default. Interest
12 on a loan that is in default is 10 percent a year.

13 (d) Repayment of the principal and interest on a loan made under
14 AS 14.43.710 - 14.43.790 begins on the first of the month immediately
15 following loan disbursement. The loan may be cancelled without preju-
16 dice at any time before actual disbursement. The loan shall provide
17 for repayment of the total amount owed in periodic installments in not
18 more than 10 years from the commencement of repayment. If the commis-
19 sion and the borrower agree to a different repayment schedule, the
20 borrower shall repay the loan in accordance with the agreement.

21 (e) Provision shall be made for payment by the borrower of fees
22 and costs incurred in collection of delinquent or defaulted loans.

23 Sec. 14.43.750. ELIGIBILITY. (a) A person may apply for and
24 obtain a family education loan on behalf of a family member if

25 (1) the borrower is a resident of the state at the time of
26 application for the loan; for purposes of this paragraph, a borrower
27 qualifies as a resident of the state if the borrower has been phys-
28 ically present in the state for at least two years immediately before
29 the time of application for the loan;

1 (2) the family member has been claimed as a dependent for
2 federal tax purposes by the borrower for the tax year immediately
3 before the time of application and

4 (A) is enrolled as a full-time student in a career
5 education, associate, baccalaureate, or graduate degree program;
6 or

7 (B) is a graduate of a high school or the equivalent,
8 or scheduled for graduation from a high school within six months,
9 with sufficient credits to be admitted to a career education
10 program or to an accredited college or university; and

11 (3) neither the borrower nor the family member is delin-
12 quent or in default on a previously awarded student loan from the
13 state.

14 (b) A family education loan may not be made on behalf of a
15 family member if the family member receives a scholarship loan under
16 AS 14.43.090 - 14.43.160 or a teacher scholarship loan under AS 14.-
17 43.600 - 14.43.700 for the same school year.

18 Sec. 14.43.790. DEFINITIONS. (a) In AS 14.43.710 - 14.43.790

19 (1) "default" means a loan that is 120 days or more past
20 due in repayment;

21 (2) "delinquent" means a loan that is 60 days or more past
22 due in repayment.

23 (b) The definitions set out in AS 14.43.160 apply to AS 14.43.-
24 710 - 14.43.790.

25 * Sec. 17. AS 43.23 is amended by adding a new section to read:

26 Sec. 43.23.067. CLAIMS OF DEFAULTED SCHOLARSHIP LOANS. (a)
27 AS 09.38 does not apply to permanent fund dividends taken under
28 AS 14.43.120(i). Notwithstanding AS 09.35, execution on a claim under
29 AS 14.43.120(i) is accomplished by delivering a certified claim to the
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1 department containing the following information:

2 (1) the name and social security number of the individual
3 whose dividend is being claimed;

4 (2) the amount the individual owes on the scholarship loan;
5 and

6 (3) a statement that

7 (A) the debt has not been contested, or, if contested,
8 that the issue has been resolved in favor of the Alaska Commis-
9 sion on Postsecondary Education; and

10 (B) if the debt has been contested and resolved in
11 favor of the Alaska Commission on Postsecondary Education, no
12 appeal is pending, the time limit for filing an appeal has ex-
13 pired, or the appeal has been resolved in favor of the commis-
14 sion.

15 (b) Upon receipt of a claim under (a) of this section the de-
16 partment shall notify the individual of the claim. The notice shall
17 be sent to the address provided in the individual's permanent fund
18 dividend application and must provide the following information:

19 (1) the amount of the claim; and

20 (2) notice that the amount of the permanent fund dividend
21 that does not exceed the amount of the claim shall be paid to the
22 Alaska Commission on Postsecondary Education unless the commission
23 releases the claim or the individual requests a hearing within 30 days
24 after the date the notice is sent by the department.

25 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an
26 individual under (b)(2) of this section. If a request for a hearing
27 is not received by the department within the required time limit, the
28 department shall pay to the Alaska Commission on Postsecondary Educa-
29 tion the amount of the permanent fund dividend that does not exceed
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the amount of the claim.

* Sec. 18. AS 14.43.120(j) and 14.43.120(o) are repealed.

* Sec. 19. This Act takes effect July 1, 1987.



Official Business

From: State Aff. Cmte. Committee House Rules
For House Floor - 5/7/87

Alaska State Legislature

House

P.O. BOX V
State Capitol
Juneau, Alaska 99811

CS for HB 276 (State Affairs)

Amendments

- 1) Sec. 5: Amends AS 36.30.115(b) (3)
Adds language "and the bidder acted in good faith".

Concern that a contractor could list anyone as a subcontractor and then make up a reason not to execute the contract. The concern was "bid shopping" by the contractor.

- 2) Sec. 9: Amends AS 36.30.305 by adding subsection (e)

Same amendment added to SB 260 (L & C). Excludes architectural, engineering and land survey contracts from this section. The Alaska Chapter of the American Institute of Architects requested that the selection of architects, engineers and land surveyors remain with the DOT/PF and that they would be exempted.

Further discussion centered around question of 24 hours v. 72 hours (Sec. 4). Point: 72 hours allows more time for contractors to check on bonding, insurance etc. of subcontractors. The 24 hour limit did not give them enough time to make these checks.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

2

April 15, 1987

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making necessary amendments to the state procurement code that was enacted last year (ch. 106, SLA 1986) with a July 1, 1987 effective date. HB 192, the bill deferring the effective date of the procurement code, proposed a two-year deferment; the House State Affairs Committee, in CSHB 192(SA), recommended a one-year deferment. The attached bill combines various substantive amendments with only a six-month deferment.

copy of this

The legislature's conference committee on the budget last year reduced the procurement code's fiscal note to zero. However, several of its provisions, such as those pertaining to handling sole-source procurements, the extended and revised protest period, the appeals requirements, and the small procurement requirement are very "work intensive." The problem is exacerbated by the state's current fiscal crisis. There simply is no way to implement the provisions of the code right now. This bill's six-month postponement will give the state a chance to begin to regain its fiscal footing before taking on the new procedures set out in the procurement code. In addition, the amendments in this bill help tailor the code to conditions in Alaska. This bill is not, however, a general clean-up of the code.

To aid in your analysis of this bill, here is a section-by-section commentary on it:

Sections 1, 2, 15, 18, and 21 -- 23:

These are the deferment sections. Section 23, amending sec. 69, ch. 106, SLA 1986, is the most significant in that it changes the overall effective date of the procurement code. The other sections in this group make corresponding amendments in other time-related provisions that were enacted in ch. 106, SLA 1986.

JAN 1, 1988

Section 3:

AS 36.30.050(b) is amended to delete the blanket requirement of a biennial fee for getting on a list of contractors. Charging contractors to be on a bidder's list is prohibited by federal regulations on federally assisted construction projects. Even though using a bidder's list is only an available option in advertising for construction projects, it is impractical to maintain separate lists or systems for state-funded versus federally assisted projects. This amendment's proposed discretionary language would allow construction bidders list fees to be optional or to be eliminated if that would be appropriate.

Section 4:

170 AS 36.30.115(a) is amended to change the 24-hour requirement to a 72-hour requirement for submitting a list of subcontractors and to change the triggering event from the opening of bids to the receipt of the notice of intent to award. These amendments are necessary to provide appropriate flexibility in the handling of bids and subcontractor lists, and are consistent with the amendment in sec. 7 of this bill. With these changes, it is also advisable to delete the requirement that the two lowest bidders submit the list of subcontractors, as sec. 4 does. These amendments will be more cost-effective for both the state and the contractors.

Section 5:

AS 36.30.140(a) is amended to delete the requirement of the presence of a witness during bid openings. Although bid openings are open to the public, many of them have no members of the public in attendance. When no member of the public attends, it is necessary to assign an employee to be a witness. The effectiveness of such a procedure is questionable, and the use of employee time for such a function is wasteful. With the current and impending cutbacks in staff, such a procedure would be especially troublesome. Therefore, this amendment is necessary.

Section 6:

AS 36.30.170(b) is amended so that the apparent low bidder at a bid opening can be quickly announced. The current statute can be awkward to put into practice.

Section 7:

AS 36.30.210(a) is amended to conform to the 72-hour amendment of AS 36.30.115(a) (in sec. 4 of this bill). The requirements for listing subcontractors should be consistent among the various methods of procurement.

Section 8:

A proposed new section, AS 36.30.305, establishes a procedure in between the "sole source" procurements of AS 36.30.-300 and the "emergency" procurements of AS 36.30.310. It is thus a "semi" or "modified" sole source procurement provision. This new statute will serve the state's need for a method to procure which is broader than sole-source procurement but does not require all of the details of a competitive sealed process. This language provides broader purchasing capability. Failure to add this section would mean that the Department of Administration would have to write significantly more bids with a reduced staff.

Section 9:

AS 36.30.320(e) is amended to delete the requirement of sending notices to Alaska bidders designated by the commissioner under AS 36.30.050(d). The latter statute, which is being repealed in sec. 20 of this bill, pertains to small procurements. For every small procurement an agency might wish to make, it would be required by the current provision to contact the Department of Administration which would provide from the computerized list of contractors three names on a rotating basis. The requesting agency would have to contact those three contractors for quotes. We estimate that there are more than 70,000 small procurements made each year. The repeal of AS 36.30.050(d) is discussed below in connection with sec. 20 of the bill.

Section 10:

AS 36.30.322(a) is amended in two respects. First, "Alaska" is substituted for "local" to make clear that the requirement for use of timber and lumber products originating in this state means originating in an Alaska forest, not necessarily a southeastern forest or a southcentral forest, etc. The current language could produce an undesirable regionalism within the state, and I do not believe that that is what was intended with the original enactment. Second, an unnecessary step, certification by the commissioner of commerce and economic development, is removed so that the Department

of Commerce and Economic Development does not have to check up on each contract to see that sufficient notice has been given and that Alaska manufacturers were in fact unable to provide the product within the seven percent margin. The requirements for reasonable notice, etc., are not being changed.

Section 11:

A new subsection is added to AS 36.30.322 to establish a record-keeping procedure that will serve in the case of a challenge to the bid practices. This will assure that proper records will exist to document the use of preferred products.

Section 12:

AS 36.30.332(b) is amended by deleting references to the "manufacturer's quoted price" to make the language consistent with subsec. (a) and to ensure that the certification process does not become excessively complex, burdensome, or time-consuming. As currently written, the references in subsec. (b) to "manufacturer's quoted price" could require a certified public accountant's audit and statement detailing incoming materials costs and providing a detailed cost analysis of the manufacturing process. The amendment would allow the broad categories and criteria established by regulations adopted under subsec. (a) to be the basis for the determination required by subsec. (b). It would thus make the whole certification process more efficient.

Technical, grammatical corrections are also being made in AS 36.30.332(b).

Section 13:

AS 36.30.338(1), the definition of "Alaska product," is amended to delete the reference to the "quoted price of the manufacturer," consistent with the changes made in sec. 12 of the bill. The re-wording of this definition also ties in the regulations that existing AS 36.30.332(a) requires, and thus makes the definition clearer.

Section 14:

AS 36.30.365 is amended so that construction contracts are not unduly delayed. For many years, the applicable statute allowed five rather than 10 days for construction contract award protests, and it is desirable to continue that fair

and efficient practice. This statute is also amended to make clear that contracts awarded under the sole-source statute (AS 36.30.300), the limited competition procurements statute (AS 36.30.305, proposed in sec. 8 of the bill), the emergency procurement statute (AS 36.30.310), or the small procurements statute (AS 36.30.320) are not covered by the 10-day or five-day requirement for providing to each bidder or offeror notice of intent to award a contract. The 10-day, and even the five-day, requirement could cause unnecessary delay in the award of contracts that should not be delayed.

Sections 16 and 17:

The amendment, in secs. 16 and 17, of AS 36.30.565 and AS 36.30.610, respectively, will make the appeal process more efficient by limiting appeals to those of the award or proposed award. Language relating to an appeal before a bid is opened is deleted. This will simplify the whole procedure while still assuring fair treatment of all parties.

Section 19:

AS 36.30.900 is amended in two ways. First, two redundant verbs are deleted, in order to simplify and streamline the language. Second, a reference to AS 36.20.010 is deleted because that statute was repealed by sec. 67, ch. 106, SLA 1986.

Section 20:

Several statutes are repealed, as follows:

AS 36.30.050(d), the requirement that lists of contractors be used in providing notice of intent to make a small procurement, is repealed because it would require the Department of Administration to revise its bid-list program to provide names on a rotating basis. The estimated cost of the computer software alone is \$20,000. Also, the current provision requires that all departments use the names provided, something that would be relatively simple if the purchaser were always in an office with access to a computer. However, numerous offices do not have that access. In addition, the requirement to contact vendors does not take into account the vendor's location or real interest in the specific procurement. For example, a Department of Fish and Game employee in Soldotna could be required to call the Anchorage office to get the names of three vendors who turn out to be located in Nome, Ketchikan,

and Haines. The purchaser would then have to make three long-distance calls to get quotations. Since the purchaser would be allowed to secure additional quotations, he or she could probably get a local quotation that turns out to be well below those obtained through this elaborate procedure. Thus, this statute is wasteful at a time when it is critical that the state government be more efficient.

AS 36.30.362, a provision requiring the state to provide a superfluous written statement (explaining the basis of an award to a person who does not reside or maintain a place of business in Alaska) is repealed. Bids are awarded to low responsive bidders even if they are located outside the state. A written statement explaining the award accomplishes nothing.

AS 36.30.380, which requires approval of proposed contractors' accounting systems, would be repealed. This section appears to require the state to approve all accounting systems for contracts awarded by the sealed proposal method. Some bidders will be major corporations, and it would be foolish to waste state staff time reviewing, analyzing, and approving their accounting systems. This would be very costly, and, if it is not done properly, could expose the state to claims or overcharges.

AS 36.30.540(4) and (5), requiring the state to make listings of all procurements made within the state and outside the state, are being repealed. These lists are never consulted and provide no usable information.

Section 24:

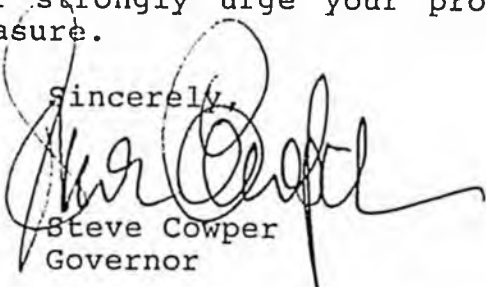
The deferment sections of this bill have been given an immediate effective date so that everyone involved in dealing with the procurement code, both the public and the administrators, will be able to make appropriate plans. The other sections of this bill have been given a January 1, 1988 effective date to coincide with the proposed deferred effective date of all but one section of ch. 106, SLA 1986. (Section 66 of last year's Act was given an immediate effective date at that time to enable the regulations-adoption project to get started.)

Hon. Ben Grussendorf

Page 7

Enactment of this bill will streamline procurement activities of the state and will result in an enormous cost-savings at this critical time. It is necessary to enact this bill this session. I strongly urge your prompt and favorable action on this measure.

Sincerely,



Steve Cowper
Governor

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 276
Publish Date: HOUSE 4/17/87

B

Revision Date: _____

Agency Affected: Comm. & Econ. Dev.
BRU: Advocates

Title: An Act relating to state procurement practices

Sponsor: Governor

Components: _____

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Becky Bear, Information Officer Phone: 465-2504
Division: Administrative Services Date: April 14, 1987

Approved by Commissioner: Anthony Smith, Commissioner Date: April 14, 1987
Agency: Department of Commerce and Economic Development

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

No. 3

C

Bill Version: HB 276
Publish Date: HOUSE 4/17/87

REQUEST

Revision Date: _____
Title: An Act Relating to State
Procurement Practices and Procedures
and Providing Effective Date.
Sponsor: Rules Committee by Request
of the Governor
Requestor: _____

Agency Affected: Administration
BRU: General Services & Supply
Components: Purchasing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	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	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

N/A

Prepared By: Robert J. Link
Division: General Services & Supply
Approved by Commissioner: Garrey Peska
Agency: Department of Administration

Phone: 465-2250
Date: April 6, 1987
Date: 4/9/87

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: 4/6/87

Bill Version: HB 276
Publish Date: HOUSE 4/17/87

Revision Date: _____ Agency Affected: DOT&PF
Title: An Act Relating to State Procurement BRU: Design & Construction
& Procedures: & Providing for an Effective Date Engineering & Operations Standards
Sponsor: Governor Components: _____
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	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-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The fiscal impact of this bill is zero. Although the attached analysis shows a reduced expenditure of \$136,000, it does not represent a true reduction. The department had to absorb an estimated expenditure of \$200,000 when the original procurement legislation was passed last session with a zero fiscal note.

Prepared by: Loren Rasmussen *John Johnson, Director 4/9/87* Phone: 465-2960
Division: Engineering & Operations Standards Date: 4/8/87

Approved by Commissioner: *M. L. S. H.* Date: 4/9/87
Agency: Transportation & Public Facilities

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

ANALYSIS RE:

HB _____ An Act Relating to State Procurement Practices
and Procedures; and Providing for an Effective Date

NOTE:

It must be noted that the original procurement bill was passed last year with a zero fiscal note when the estimated impact was \$200,000. Therefore the cost savings shown in this fiscal note are costs that are absorbed in DOT&PF operating and CIP budgets and no actual reduction would occur.

Section by Section review and analysis:

Given data (from DOT&PF records):

1. 200 construction contracts annually.
2. Estimate 300 contractors on bidders list.
3. Estimate 300 to 500 consultants on bidders list.
4. 175 consultant contracts annually.
5. 1700 quotes on small purchases annually.
6. \$35/hr cost of an Engineer.
7. \$20/hr cost of a clerk.

Section 1. Eliminates biennial fee for getting on the construction contractors bidder list.

Assume Bidders List is 300:

$$\frac{\$25 \times 300}{2} = \$3,750 \text{ savings to the contractors*}$$

Cost of maintaining the list:

$$(3/\text{hrs/wk}) (3 \text{ regions}) (52 \text{ wk}) (\$20/\text{hr}) = \$9,360$$

Say \$10,000 savings to DOT&PF

Section 2. Listing of subcontractors 72 hours after Letter of Intent to Award and only from apparent low bidder.

$$(200 \text{ projects annually}) (4 \text{ hrs to put list together}) (\$35) =$$
$$(200) (4) (\$35) = \$28,000 \text{ savings to the contractors*}$$

1/2 hour savings to check subs listing

$$(200) (.5) (\$35/\text{hr}) = \$3,500$$

Say \$4,000 savings to DOT&PF

Section 3. Eliminates witness at bid opening.

* does not show on fiscal note

$(.5/\text{hr})(3 \text{ regions})(52/\text{wk})(\$20/\text{hr}) = \$1,560$

Say \$2,000 savings to DOT&PF

Section 4. Amends the code so that the apparent low bidder can be announced quickly - large savings or benefit may be in preventing bidder errors.

Assume:

$\frac{1}{2}$ /hour savings at each bid opening

$(.5/\text{hr})(3 \text{ regions})(52/\text{wks})(\$35/\text{hr}) = \$2,730$

Say \$3,000

Section 5. 72 hour requirement for listing subcontracts on proposal type contracts.

These contracts are negotiated type consultant contracts and the actual savings would be in time and administrative costs.

Section 6. A procedure for contracts between sole source and emergencies.

No savings to DOT&PF - present law provides a similar system for construction contracts.

Section 7. Small purchases on a rotating basis.

$(1700 \text{ "quotes"})(.5/\text{hr "required"})(\$20/\text{hr}) = \$17,000$

Section 8. Changes "local" to "Alaska" forest products and certification on a statewide basis instead of project by project basis.

$(200 \text{ projects annually})(2/\text{hrs to put certification together})(\$35/\text{hr}) = \$14,000 \text{ to DOT\&PF}$

(The same type of savings to the contractors*)

Section 9. Added record section for keeping requirements for Alaska products.

No cost savings to DOT&PF

Added cost to contractors: $(200)(2/\text{hrs})(\text{annually})(\$35) = \$14,000^*$

Section 10. Deleting reference to "manufacturer's quoted price"

No cost savings to DOT&PF.

Section 11. Same as Section 10.

Section 12. Provides for awarding a construction contract in 5 days.

There would be a savings to DOT&PF mainly in time - the amendment would save 5 days in awarding contracts - but not all contracts can or would be actually awarded in 5 days. It is not practical to put a cost for this section.

Section 13
and 14.

Eliminates bid protests during the advertising time of a project (before bid openings).

Although there could be substantial savings to the DOT&PF for this section (by allowing a critical project to proceed to the bid opening stage) it is not practical to compute an actual savings.

Section 15. Cleans up language for Alaska products (forest products).

No fiscal impact on DOT&PF.

Section 16. Repeals several sections.

AS 36.30.050(d) - small procurement using a contractor list (see section 7)

AS 36.30.362 - eliminates the written statements explaining awards for out-of-state contractors.

(200 projects annually) (10% out-of-state contractors) (1/hr for letter) (\$35/hr) = \$700

Say \$1,000

AS 36.30.380 - Eliminates approval of contractors accounting system.

(175 consultant contracts) (1.4 contracts/consultants) = 125

(125) (2 days) (7.5 hr/day) (\$35/hr) = \$65,625

Travel (10% of 125) (1 trip) (\$1,500/trip) = \$18,750

\$84,375

Say \$85,000

AS 36.30.540(4) & (5) - Eliminates making a list of in-and-out-of-state contractors.

(3 days) (7.5/hr) (\$20/hr) = \$450

Section 17. Effective date of July 1, 1987 but note HB 192 proposes a delay.

Summary:

Section 1.	10,000	
Section 2.	4,000	
Section 3.	2,000	
Section 4.	3,000	
Section 5.	-	(Time only)
Section 6.	-	(DOA)
Section 7.	17,000	
Section 8.	14,000	
Section 9.	-	(DC&ED)
Section 10.	-	(DC&ED)
Section 11.	-	(DC&ED)
Section 12.	-	(Time only)
Section 13.	-	(Impractical to estimate)
Section 14.	-	(Impractical to estimate)
Section 15.	0	
Section 16		
AS 36.30.050(d)	-	(See section 7)
AS 36.30.362	1,000	
AS 36.30.380	85,000	
Section 17.	-	(Effective date
	<u>\$136,000**</u>	

** \$85,000 would be assumed to be in the Capital Budget the remaining \$51,000 would be in the Operating Budget.