

SB

344

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3/16/88 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: L&C

\*\*FISCAL NOTE(S) ATTACHED \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

423

1/14/88

DATE TURNED INTO OFFICE 4/6/88

Mr. President:

State Affairs Committee considered SB 344

general contractors, and to certain contracts of state agencies and political subdivisions.

and recommended:

- replace with CS \_\_\_\_\_  same title
- attached amendment(s) and  new title

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER RECOMMENDATIONS

[Signature] No Rec  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Chairman signature and recommendation

Committee Backup Attached

# Alaska State Legislature

SENATOR JIM DUNCAN

P.O. Box V JUNEAU, ALASKA 99811

(907) 465-4766

COMMITTEES:  
FINANCE  
RESOURCES  
BUDGET AND AUDIT

## M E M O R A N D U M

February 17, 1988

To: Senator Mitchell Abood  
Chairman Senate State Affairs

From: Senator Jim Duncan

Subject: SB 344 Relating to general contractors

I would appreciate your scheduling SB 344, a bill concerning contracting procedures, for a hearing before the Senate State Affairs Committee at your earliest convenience.

Current statutes have not prevented the loss of business and jobs to contractors from outside Alaska. It is my hope that with some minor changes in the contracting law we will save some Alaskan businesses and many Alaskan jobs.

I have attached some supporting material that could be used in the Committee's bill files.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 8, 1988

SUBJECT: Coverage of bill on the use and registration  
of subcontractors (Work Order No. 5-1534)

TO: Senator Jim Duncan

FROM: Theresa L. Bannister  
Legislative Counsel

This memo accompanies the draft of the bill that you requested to require contractors to use registered subcontractors.

The business license requirement in the draft is carried over from the present language of AS 36.30 (state procurement code). To obtain an Alaska business license, a contractor must also have satisfied the registration requirements of AS 08.18 (AS 43.70.020(d)). That is why there is no specific registration requirement in section 2, 5 and 6 of the draft.

This draft applies subcontractor registration requirements to the sections of the procurement code (AS 36.30) that deal with procurement by sealed bids and sealed proposals. You may wish to consider whether you want to apply the new provisions to the other types of procurement, which are sole source procurements (AS 36.30.300), limited competition procurements (AS 36.30.310), emergency procurements (AS 36.30.320), and small procurements (AS 36.30.320). All of these could be used for contracts with construction contractors, but there may be policy reasons against imposing the same requirements on them.

If I can be of further assistance, please advise.

Attachment

TLB:bb  
B010/WKE?

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: SB 344  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
Title: " An Act relating to general  
contractors and...contracts of state agencies..." BRU: Labor Standards & Safety  
Sponsor: Duncan Components: Wage & Hour  
Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director Phone: 264-2452  
Division: Labor Standards & Safety Date: 3/22/88

Approved by Commissioner: Jim Sampson Date: 3/22/88  
Agency: Department of Labor

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

UAJ LIBRARY JUNEAU FALL 1987

GLAZING BIDS RECEIVED BY THE SUCCESSFUL BIDDER

DAWSON CONSTRUCTION- BELLINGHAM, WASHINGTON

company	from	base bid	skylight	combined
Sound Glass,	Tacoma	121000	26100	147000
National Glass, McMinneville, Ore.		118000	----	----
AK. Commercial, Anchorage		149982	113000	262982
Perseverance Glass Juneau		152500	87000	239500
Glass Sash, Anchorage		180000	-----	-----
Arctic Glass Anchorage		190000	-----	-----
Bucher Glass Fairbanks		221000	-----	-----
JD Glass Juneau		228000	93000	321000

\*1 Sound Glass didnot acknowledge addenda #1, and was not bidding a product with prior approval.

\*2 Neither Sound Glass or National Glass were at the date of the bid or as of Jan. 28, 1988, licensed in the state of Alaska.

\*3 On Jan. 28, 1988, I called Sound Glass. A principle in that firm stated to me that he had a contract for the project, and anticipated beginning work sometime near the first of a March 1988.

UAJ LIBRARY JUNEAU FALL 1987

GLAZING BIDS RECEIVED BY AN UNSUCCESSFUL BIDDER

PETER KIEWIT CONSTRUCTION- ANCHORAGE

company	from	base bid	skylight	combined bid
Sound Glass, Tacoma		121000	REJECTED 26100	147100
AK. Com., Anchorage		149982	113000	262982
Perseverance, Juneau		152500	87000	239500
Doors/Windows, Kenai		160000	-----	-----
Glass Sash, Anchorage		180000	-----	-----
Arctic, Anchorage		190000	-----	-----
Bucher, Fairbanks		221000	-----	-----
JD, Juneau		228000	93000	321000
Unknown, Fairbanks		231000	125000	356000

\*1 Sound Glass didnot acknowledge addenda #1, and was not bidding a product with prior approval. Bid preparer at Keiwit considered this bid to be too low, and hence too risky. This bid was rejected as unresponsive.

\*2 Sound Glass was not licensed at the date of the bid. However, Keiwit was not required to inquire as to this status.

\*3 On Jan 28, 1988, I called Sound Glass. A principle in the firm stated to me that he had a contract for the project, and anticipated beginning work sometime near the first of March 1988.

\*4 Please note: Alaska bids are grouped competitively, all were responding to plans and specifications, and all were licensed to do business in the state.

FISCAL NOTE

REQUEST:

Revision Date: -  
Title: An Act relating to general contractors...  
Sponsor: Senator Duncan  
Requestor:

Agency Affected: Commerce & Economic Dev.  
BRU: Occupational Licensing  
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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)

Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144  
Division: Occupational Licensing Date: March 10, 1988

Approved by Commissioner: J. Anthony Smith Date: 3/10/88  
Agency: Commerce and Economic Development

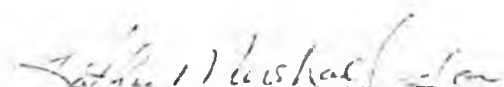
Distribution (by preparer):

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

SB 344: An Act relating to general contractors, and to certain contracts of state agencies and political subdivisions.

Section 1 of the bill amends AS 08.18.011(b) to prohibit a general contractor from contracting with, soliciting a bid or proposal from, or awarding a bid or proposal to an unlicensed individual. Current statute prohibits a general contractor from allowing a person to work without proper licensure. The amendment to this section goes one step further by disallowing solicitation of a bid or proposal from an unlicensed individual, and prohibits an award, bid or proposal to be made to an unlicensed individual. This will ensure that only properly licensed contractors will be eligible to perform the construction work for which licensure is required under AS 08.18 and help to assist in the enforcement of unlicensed activity in the State.

The department supports passage of this legislation which clarifies the need to have properly licensed contractors working in Alaska and encourages the Legislature's support in passing the bill.

  
\_\_\_\_\_  
J. Anthony Smith, Commissioner  
Department of Commerce and Economic  
Development

3/10/58  
\_\_\_\_\_  
Date

JS/dg10051o  
031188a

BY SENATOR DUNCAN

Senate Bill 344

"An Act relating to general contractor, and to certain contracts of state agencies and political subdivisions."

Section 1.

Strengthens current language under AS 08.18 (Construction Contractors) by requiring that a general contractor may NOT:

1. Solicit a bid or proposal from,
2. Award a bid or proposal to,
3. Contract with,

a person required to be registered under AS 08.18 unless the person is registered.

Current law only requires that the general contractor may not allow a person to work for the general as a speciality contractor unless the person is registered under AS 08.18.

Section 2.

Requires that a state agency soliciting bids for work SHALL require that a bid include a list of the subcontractors that the bidder will be using and include:

1. The name and location of the place of business of each subcontractor; and
2. Evidence of each subcontractor's valid Alaska business license.

In addition, A person scliciting subcontractor bids in response to a state agency's invitation SHALL serve notice that a bid will not be considered unless it includes evidence of the bidders contractor registration.

Section 3.

AS 36.30.115 (Subcontractors) is amended to exempt construction contractors from the requirement to submit "the name, location and place of business, and evidence of valid Alaska business license five working days after identification of the apparent low bidder", because they are required to report that information at the time they submit their bid.

Section 4.

AS 36.30.210 (Request for Proposals) is also amended to exempt construction contractors from the requirement to submit "the name, location and place of business, and evidence of valid Alaska business license five working days after identification of the apparent low proposer", because they are required to report that information at the time they submit their proposal.

Section 5.

Requires that a state agency requesting proposals for work SHALL require that the proposal include a list of the subcontractors that the offeror will be using and include:

1. The name and location of the place of business of each subcontractor; and
2. Evidence of each subcontractor's valid Alaska business license.

In addition, A person soliciting subcontractor proposals in response to a state agency's request for proposals SHALL insert in the solicitation that a proposal will not be considered unless it includes evidence of the offeror's registration.

Section 6.

Requires that a political subdivision of the state that solicits bids or proposals for public construction or public works SHALL require that the bid or proposal include a list of the subcontractors that the bidder or offeror will be using and include:

1. The name and location of the place of business of each subcontractor; and
2. Evidence of each subcontractor's valid Alaska business license.

In addition, A person soliciting subcontractor bids or proposals in response to a political subdivision's invitation or request SHALL serve notice that a bid or proposal will not be considered unless it includes evidence of bidder or offeror registration.

Also, in this section definitions for "public construction" and "public works" as well as "political subdivision of the state" are provided.

# MEMORANDUM

# State of Alaska

TO: - Tom Stuart  
Director

DATE: December 4, 1987

THRU: Randy Carr  
Statewide Supervisor

FILE NO:

TELEPHONE NO: 465-4842

FROM: James A. Sanwick  
Regional Supervising Investigator

SUBJECT: Unlicensed Contractors  
on Southeast Public  
Construction

This memo is to inform you of the final resolution of the complaints originally raised by Senator Duncan's office concerning unlicensed out of State contractors bidding on construction projects at the Sitka Elementary School project and the University of Alaska Southeast.

On November 17, 1987 (after researching the companies in question and coordinating with Commerce) I traveled to Sitka and met with Harry Chartier, job superintendent, about problems with National Glass Company having been unlicensed when it submitted its bid. We met with Dawson's superintendent and explained the problem and that my office had discussed the problem and Dawson's current probation for violation in May with Lonny in Seattle. He said that the company had recently pulled National Glass off the subcontractor list (only preliminary excavation has been done at this point on the project) and he didn't know when or how the company would replace them. Harry said he understood the provision of the law and would call us if he had questions about any subs appearing on the lists.

On November 24, 1987 I met with Jim Kytola of Dawson on the UAS Library project. I explained to him that we had a report about Sound Glass company having been awarded the bid and the ramifications of having an unlicensed contractor awarded the bid. He said that his most recent subcontractor list had removed that name and his list showed no contract award for glazing.

I explained Dawson's current probation status and suspended fine. He said he was well aware (Jim was the site superintendent when I cited Glazzco and Dawson for violation last May which resulted in Dawson's probation) of Dawson situation and believed Lonny (in Seattle office) now understood Dawson's responsibility and liability.

It is important to note that if not for the probation stipulated in the May judgement Dawson would not have been in violation of the current Statutes. Under normal conditions a General can only be cited if he allows an unlicensed sub to work on the project. In both of these cases the sub was unlicensed when they bid but became licensed after the bid was awarded but before work began. In the judgement's stipulation Dawson was prohibited from doing business with unlicensed subs. In discussion with Dawson I maintained that to award the contract was indeed to do business with the firm and thus would violate the stipulation.

Tom Stuart  
December 4, 1987  
Page 2

This loophole could be fixed, I believe, by changing the language in 8.18.011(b) to read:

"A general contractor may not consider or award a bid to a person required to be registered under this chapter to work for the general contractor as a specialty contractor unless the person is registered under this chapter at the time the bid is submitted."

We might also tighten up this problem by placing a requirement in AS 36.05.035 that would read:

36.05.035

(b) the state, political subdivision of the State or General Contractor awarded a contract by either the State or Political subdivision of State, shall place in all of its request for bids a clause stating that no bid will be considered unless proof of proper registration with Commerce and Economic Development, Division of Occupational Licensing is submitted with the bid.

I believe the real key to making this law work is making the entity responsible for awarding the bids accountable. Otherwise we continue to have the problem of out of State contracts outbidding local firms because of they don't bear the cost of bonding and licensing until the bid is awarded to them.

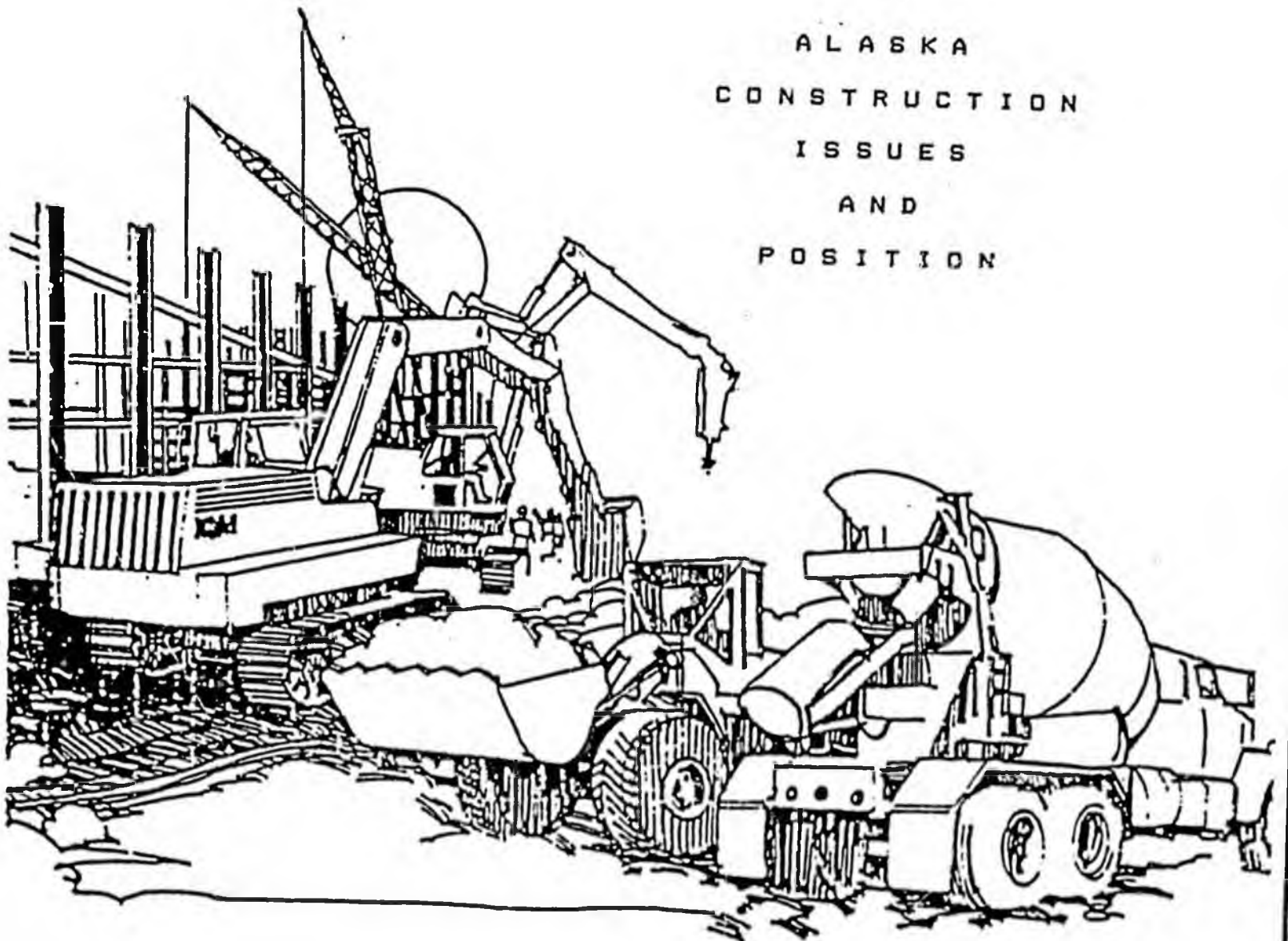
cc: Jim Sampson, Commissioner  
Senator Jim Duncan

*Kisa*

ASSOCIATED GENERAL  
CONTRACTORS  
ALASKA CHAPTER



ALASKA  
CONSTRUCTION  
ISSUES  
AND  
POSITION



J., concurring), Quoting Lynden Transport, Inc. v. State, 532 P.2d 700, 710 (Alaska 1975)".

From a philosophical perspective, A.G.C. opposes government regulations of the construction industry. A.G.C. supports the free market, competitive bidding system for awarding construction contracts. This system has stood the test of time as the most economical system for the owner and a fair system for the contractors. Consistency dictates that A.G.C. not seek special regulatory favor for Alaska contractors. Further, a local preference is not consistent with the competitive free market system.

#### NAMING SUBCONTRACTORS AT BID

Requiring subcontractors to be named in the bid and requiring inclusion of evidence of each subcontractor's valid Alaska business license demonstrates a clear lack of understanding of the construction bid process. The inclusion of such a provision will lead to increased costs and increased litigation. A.G.C.-Alaska has and will continue to oppose any legislation requiring the naming of subcontractors at bid.

Prior to selection of a subcontractor a primary contra-

ctor must evaluate a bid and the scope of work quoted in the sub-bid. The prime must then check on insurance; bonding capability and qualifications of the subcontractor; and finally the prime must insure that the labor policy is compatible with any labor agreements to which the prime contractor may be signatory. Additionally, on most publicly funded projects there are requirements for subcontracting a certain percentage of work to certified Disadvantaged Business Enterprises (DBE) and Women Business Enterprises (WBE). The prime must be assured that the lowest DBE and WBE bids are from firms that have current certifications from the awarding agency. It is very common that a DBE or a WBE firm may be certified by one branch of the government, but not another. This certification information must be obtained and verified by the prime, otherwise the prime may be held in noncompliance with the contract DBE/WBE requirements.

Requiring the prime contractor to list subs prior to investigation and evaluation of the sub could create contractual obligations between a prime and a sub where later investigation or evaluation by the prime contractor would result in selection of a different subcontractor.

#### LITTLE MILLER ACT

Under existing law on public construction contracts, a



SKILL  
RESPONSIBILITY  
INTEGRITY

THE ALASKA CHAPTER  
THE ALASKA CHAPTER  
**ASSOCIATED GENERAL CONTRACTORS  
OF AMERICA, INC.**

BOX 92500 \* ANCHORAGE, ALASKA 99509  
TELEPHONE (907) 561-5354



3201 SPENARD ROAD  
ANCHORAGE  
WILLIAM E. SCHNEIDER  
EXECUTIVE DIRECTOR

March 21, 1988

RECORDED SB 344  
MAR 21 1988  
C  
M

Senator Mitch Abood  
Chairman  
State Affairs Committee  
Pouch V  
Juneau, Alaska 99811

Re: SB 344

Dear Senator Abood:

We would like to make a few comments on SB 344 which deals with general contractors use and the registration of subcontractors.

After several meetings with the sponsors staff and a meeting with the sponsor, they indicated that the purpose of this legislation is to prevent general contractors from contracting with subcontractors that are not licensed and registered in the State of Alaska.

Section one would go a long way to accomplish this goal. We would suggest a small change:

Page 1, line 11 after "A general contractor may ..." the word knowingly be inserted.

The Section would read:

A general contractor may not knowingly solicit a bid or proposal from, award a bid or proposal to, contract with, or allow a person required to be registered under this chapter to work for a general contractor as a specialty contractor unless the person is registered under this chapter.

During the last hectic days of preparing a bid the general contractor receives numerous phone calls with bid proposals from subcontractors that he or she may not know. There is just not enough time to check out each and every subcontractor. A subcontractor could tell the general contractor on the phone that he is registered and then the general could find out a day or so later that he is not registered. Therefore, we need to insert the word "knowingly".

We believe the remainder of the bill, which makes changes to Alaska's Procurement Code, is unnecessary. The issue of subcontractor identification received substantial testimony during hearings on Alaska's Procurement Code. The Procurement Code passed the Legislature after 19 hearings in 1986 and was amended in 1987. The effective date of the 1987 amendments, which this bill changes, was January 1, 1988. SB 344 was introduced 13 days after the effective date of the 1987 changes.

AS 36.30115 (a) of the Procurement Code require the apparent low bidder to submit a list of:


- subcontractors
- evidence of the subcontractor's valid Alaska business license, and;
- evidence of each subcontractor's registration under AS 08.18.

We believe these provisions of Alaska's Procurement Code will cure the problem that the sponsor is attempting to address in this legislation. But, the Procurement Code needs time to be in effect and to work.

If problems do occur this construction season, we would be happy to work with the sponsor to draft legislation for introduction next Session.

Sincerely,

ASSOCIATED GENERAL CONTRACTORS  
OF ALASKA

  
William F. Reeves  
General Counsel

Enclosure

cc: ABC Legislative Committee

**Sec. 36.30.100. General policy.** (a) Except as otherwise provided in this chapter, or unless specifically exempted by law, an agency contract shall be awarded by competitive sealed bidding.

(b) Competitive sealed bidding is not required

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

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

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

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

(5) for professional services; or

(6) for concessions operated on state property.

(c) In this section "employment program" means a nonprofit program to increase employment opportunities for individuals with physical or mental disabilities that constitute substantial handicaps to employment. (§ 2 ch 106 SLA 1986)

**Collateral references.** — Requirement of competitive bidding as applicable to contract that public contract be awarded on competitive bidding as applicable to contract for public utility. 81 ALR3d 979.

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

(b) When responding to the invitation to bid, the bidder shall supply evidence of the bidder's valid Alaska business license. A bidder for a construction contract shall also submit evidence of the bidder's registration under AS 08.18. (§ 2 ch 106 SLA 1986)

**Sec. 36.30.115. Subcontractors.** (a) Within five working days after the identification of the apparent low bidder, the apparent low bidder shall submit a list of the subcontractors the bidder proposes to use in the performance of the contract. The list must include the name and location of the place of business for each subcontractor and evidence of the subcontractor's valid Alaska business license. A bidder for a construction contract shall also submit evidence of each subcontractor's registration under AS 08.18.

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

(1) fails to comply with AS 08.18;

(2) files for bankruptcy or becomes insolvent;

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

(4) fails to obtain bonding;

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

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

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

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

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

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

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

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

(1) cancel the contract; or

(2) after notice and a hearing, assess a penalty on the bidder in an amount that does not exceed 10 percent of the value of the subcontract at issue. (§ 2 ch 106 SLA 1986; am §§ 4, 5 ch 65 SLA 1987)

*Effect of amendments.* — The 1987 amendment, effective January 1, 1988, in subsection (a) in the first sentence substituted "five working days" for "24 hours," "the identification of the apparent low bidder" for "opening of bids," "apparent low bidder" for "two apparent low bid-

ders," and "bidder proposes" for "bidders propose," and in the second sentence substituted "must" for "shall"; and in subsection (b) added "and the bidder acted in good faith" at the end of paragraph (3) and inserted "state and" in paragraph (7).

**Sec. 36.30.120. Bid security.** (a) Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the procurement officer to exceed an amount established by regulation of the commissioner. Bid security on construction contracts under the amount set by the commissioner may be required when the circumstances warrant. Bid security may be required for competitive sealed bidding for contracts for supplies, services, or professional services in accordance with regulations of the commissioner when need for the protection of the state.

(b) Bid security must be a bond provided by a surety company authorized to do business in the state or otherwise supplied in a form

*Sec. 08.18.010. [Repealed, § 1 ch 100 SLA 1968.]*

**Sec. 08.18.011. Registration required.** (a) A person may not submit a bid or work as a contractor until that person has been issued a certificate of registration by the Department of Commerce and Economic Development. A partnership or joint venture shall be considered registered if one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered.

(b) A general contractor may not allow a person required to be registered under this chapter to work for the general contractor as a specialty contractor unless the person is registered under this chapter. (§ 2 ch 100 SLA 1968; am § 1 ch 83 SLA 1985)

**Effect of amendments.** — The 1985 amendment added subsection (b).

## NOTES TO DECISIONS

**Use of registered name not required.** — While a joint venture is not required to hold itself out to the public at large under a registered name in order to be doing business in that name, it must at least use that name in its dealings with the contracting party and in its business dealings with others against whom it may later seek to bring claims. *Fomby v. Whisenhunt*, Sup. Ct. Op. No. 2801 (File No. 7434), 680 P.2d 787 (1984).

**Satisfying AS 08.18.051 is not prerequisite.** — No specific language makes satisfaction of AS 08.18.051 a prerequisite to a finding that this section is satisfied. *Fomby v. Whisenhunt*, Sup. Ct. Op. No. 2801 (File No. 7434), 680 P.2d 787 (1984).

**Substantial compliance abrogates bar of AS 08.18.151.** — The statutory bar of AS 08.18.151 may be abrogated by a general contractor's substantial compliance with this section. *Jones v. Short*, Sup. Ct. Op. No. 2916 (File No. S-220), 686 P.2d 665 (1985).

**Substantial compliance with chapter not shown.** — Where a subcontractor was neither registered nor bonded until

the day before it completed work, it did not substantially comply with this chapter. *Lost Valley Timber, Inc. v. Power City Constr., Inc.*, 809 F.2d 590 (9th Cir. 1987).

**Anyone engaged in building trades must be charged with awareness of the pervasive system of licenses and permits designed to enhance the public safety and confidence in the industry.** *Sumner Dev. Corp. v. Shivers*, Sup. Ct. Op. No. 984 (File No. 2036), 517 P.2d 757 (1974).

**Applied in** *Gross v. Bayshore Land Co.*, Sup. Ct. Op. No. 3002 (Files Nos. S-711, S-713), 710 P.2d 1007 (1985).

**Quoted in** *State ex rel. Smith v. Tyork Timber, Inc.*, Sup. Ct. Op. No. 2815 (File Nos. 7170, 7256), 680 P.2d 1148 (1984).

**Cited in** *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981); *Alaska Protection Servs., Inc. v. Frontier Colorcable, Inc.*, Sup. Ct. Op. No. 2800 (File Nos. 7562, 7609), 680 P.2d 1119 (1984).

**Collateral references.** — Contractor's failure to procure license or permit as af-

fecting enforceability of contract or right of recovery for work done. 44 ALR4th 271.