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342

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST 12/10/87

Bill Version: _____
Publish Date: _____

Revision Date: _____
Title: Contracting procedures for
in-bound merchandise at Int'l Airports.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: DOT&PF
BRU: Alaska Int'l Airport System
Airport Leasing
Components: _____

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: The fiscal impact of this bill is zero because it only defines alternate means by which the DOT&PF may obtain contracts for duty free concessions.

Prepared by: Gina Marie Lindsey Phone: 266-1468
Division: Development Manager Date: 12/10/87
Approved by Commissioner: *G. Lindsey* Date: 12/10/87
Agency: Transportation & Public Facilities

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

Fiscal Note

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2-11-88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

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

1/14/88
Mr. President:

DATE TURNED INTO OFFICE 2-22-88

Transportation Committee considered SB 342

contracting procedures for sale and delivery of in-bond merchandise at the international airports; efd

and recommended:

replace with CS SB 342 (TRSP) 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

OTHER RECOMMENDATIONS

Tinkell 2
W. ... 3
... 4
... 6

... (Do Pass)
Chairman signature and recommendation

Committee Backup Attached

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 CS FOR SENATE BILL NO. 342 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to contracting procedures for the
7 sale and delivery of in-bond merchandise at the
8 international airports; and providing for an effective
9 date."

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

1 * Section 1. AS 02.15.091(d) is amended to read:

2 (d) The department shall offer the exclusive contracts required
3 by this section [ONLY] by competitive bid or by competitive proposals.
4 If the department offers the exclusive contracts by competitive bid,
5 the department [AND] shall award the contracts after considering the
6 generation of maximum revenue [REVENUES] for the International Air-
7 ports Revenue Fund established by AS 37.15.430. If the department
8 offers the exclusive contracts by competitive proposals, the depart-
9 ment shall award the contracts after considering factors that include
10 depth of management, demonstrated experience at other locations,
11 quality of services and products, success in marketing programs,
12 character and improvements of proposed facilities, and the generation
13 of revenue on a long-term basis for the fund.

14 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

15
16 - contracts at FOS - 475

portion of the final report

Final Report

**Recommended Property Management Program
Anchorage International Airport and
Fairbanks International Airport**

Prepared for:

State of Alaska

Department of Transportation and Public Facilities

November 1984

Chapter 3

RECOMMENDED CONCESSION POLICY GUIDELINES

Recommended guidelines for awarding all concession privileges at the Airports are presented in this chapter. The practices outlined below are designed to permit generation of the highest level of revenues commensurate with providing a high level of service to the traveling public.

However, in using these guidelines, it should be noted that the concession industry, like the airline industry, has been in a state of change in the last five to six years. Where airport operators have elected to award privileges by bidding minimum guarantees, the minimum guarantees have in many instances been extraordinarily high, particularly at the larger airports. Similarly; where airport operators have elected to bid percentages, the percentages bid have reached extraordinary levels.

In addition, the development of operating arrangements has been complicated by the requirements of the Minority Business Enterprise Program, by federal rulings with regard to antitrust, by the desire in many communities to ensure local participation irrespective of the qualifications and experience of the proponents, and by the increasing cost of providing capital improvements.

Consequently, the practices outlined below represent current industry trends and philosophy as of the summer of 1984. As the State implements this policy over time, it should review carefully the recommendations for individual concessions in relation to then-current industry trends and practices.

ALTERNATE METHODS OF SELECTING CONCESSIONAIRES

There are three methods of selecting concessionaires, as follows:

1. Competitive bidding to State-prepared specifications.
2. Competitive proposals, based on State-prepared specifications.
3. Negotiation with a single concessionaire on a sole-source basis.

Generally, bidding to prepared specifications is used for those concessions where it is difficult (or impossible) to differentiate types of services, income to be generated, and quality of services or products. In bidding to prepared specifications, the concession is usually awarded to the highest dollar bid received from a responsible bidder. (Many airport operators are required by law or policy to award all concession privileges by competitive bidding.)

Competitive proposals, followed by negotiation of the final terms and conditions of the agreement, are normally solicited for those concessions where type of service, volume of business to be generated, quality of services or products, and demonstrated capability and depth of management can be clearly differentiated as among concessionaires. The concession is then awarded by comparative evaluation of each proposal with respect to depth of management, demonstrated experience at other locations, reputation, success in marketing programs, character of improvements and facilities proposed, and amount of proposed investment, as well as the direct financial return.

Negotiation is normally used only where services offered are patented, unique, or available only from one concessionaire. (In many communities, local law requires that all privileges be awarded on a competitive basis; therefore, in many instances, negotiation is not allowable.)

Of the three methods of awarding privileges, the most rigid is by straight bidding to prepared specifications because the highest dollar bid from a responsible bidder must be accepted regardless of considerations beyond the minimum bidder qualifications (such as proposed design, experience, management depth, etc.). The most flexible method of awarding concession privileges is by negotiation, where the award of the privileges can be based solely on an evaluation of qualifications established by the airport operator.

The method of inviting competitive proposals is neither as rigid as bidding nor as flexible as negotiation, but does permit evaluation of all factors and the awarding of a privilege on a basis other than a sheer dollar bid.

The advantage of using a bidding process is that there can be no argument about the highest bid. The privilege is awarded to the individual, firm, or organization that submits the highest dollar amount, subject in most instances only to demonstration of minimum experience, financial responsibility, and meeting of MBE requirements. The disadvantages of straight bidding are (1) no consideration can be given in awarding the privilege to qualitative factors (beyond minimum bidder qualifications),

SEARCHED
SERIALIZED
INDEXED
FILED

SB 342

CS

Terry Bunnister

AMENDMENT:

IF THE DEPARTMENT OFFERS THE EXCLUSIVE CONTRACTS BY
 COMPETITIVE PROPOSALS, THE DEPARTMENT SHALL AWARD THE
 CONTRACTS AFTER CONSIDERING FACTORS ^{SUCH AS} [INCLUDING] BUT NOT LIMITED
 TO SUCH CRITERIA AS DEPTH OF MANAGEMENT, DEMONSTRATED
 EXPERIENCE AT OTHER LOCATIONS, QUALITY OF SERVICES AND
 PRODUCTS, SUCCESS IN MARKETING PROGRAMS, CHARACTER AND
 IMPROVEMENTS OF FACILITIES PROPOSED, AND THE GENERATION OF
 LONG TERM REVENUE TO THE FUND.

insert
LN 19

[INCLUDING] SUCH AS

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF LAW

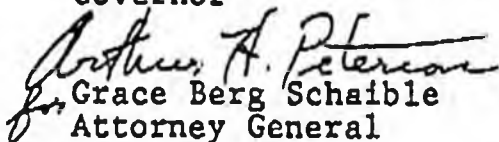
OFFICE OF THE ATTORNEY GENERAL

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 485-3800

January 12, 1988

M E M O R A N D U M

TO: Honorable Steve Cowper
Governor

FROM: 
for Grace Berg Schaible
Attorney General

RE: Attached final bill relating to contracting procedures
for sale and delivery of in-bond merchandise at the
international airports
Our file: 773-88-0020

As requested by Laura Baker, executive secretary in your legislative section, in her December 28, 1987 memo to this department, attached is the final version of this bill. It is prepared for introduction into the Senate, as requested by Laura and the Department of Transportation and Public Facilities (DOT/PF).

As Laura also requested, the attached final bill incorporates the following changes, requested by DOT/PF, from the version sent to you on December 2, 1987:

1. References to "requests for proposals" have been changed to "competitive proposals." This more closely tracks the terminology of AS 36.30.200(a).
2. A sentence has been added (lines 18 -- 20) to state that in using the competitive proposal method, generation of revenue is to be considered a major factor.
3. The three new sentences in the December 2 version of AS 02.15.291(d), which contained references to the State Procurement Code (AS 36.30), have been deleted. DOT/PF regulations in 17 AAC 40 appear to provide competitive proposal procedures comparable to those in AS 36.30 (applicable to other airport contract procedures), and we understand that DOT/PF is in the process of adopting regulations to provide needed dispute resolution procedures comparable to the AS 36.30 procedures referred to in the last two of the deleted sentences (and possible amendments to the current regulations to make sure that they apply to the duty free shop contracts).

After discussion with DOT/PF Deputy Commissioner Bob Poe, we have made a fourth change. The proposed new third sentence of AS 02.15.091(d) has been slightly revised to track the second sentence more closely, and both the second and third sentences have been slightly revised to express more clearly DOT/PF's intent in distinguishing between competitive bid and competitive proposal criteria.

Corresponding changes have been made in the attached draft transmittal letter to the legislature.

GBS:AHP:cb

cc w/enc.:

Hon. Mark Hickey, Commissioner
Department of Transportation
and Public Facilities

Robert Poe, Deputy Commissioner
Department of Transportation
and Public Facilities

Jay Hogan, Director
Division of Budget Review
Office of Management & Budget
Office of the Governor

Mary Halloran, Director
Division of Policy
Office of Management & Budget
Office of the Governor

John Halterman, Director
Division of Audit & Management
Office of Management & Budget
Office of the Governor

Martha T. Mills
Assistant Attorney General
Transportation Section
Anchorage

MEMORANDUM

TO: Lloyd
FROM: Ray
DATE: January 25, 1988
SUBJECT: SB 342

Per: Susan Fleishaur DOT

The department is anxious for us to hear this bill. It deals with the amount of flexibility DOT is allowed when letting contracts for duty free shops within international airports in Alaska. It would allow the Department to consider criteria other than maximum generation of revenue for the International Airports Revenue Fund.

Copies of the Governor's letter of explanation and the zero fiscal note are attached.

Maybe we should schedule it to be heard along with one of the regional overview hearings in early February.

The bill is new to our committee.

RM
J

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 14, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

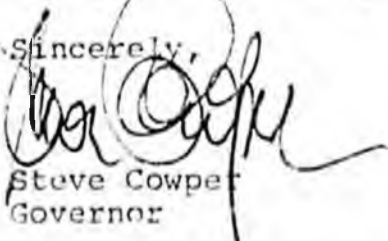
Under the authority of art. III, sec. 13, of the Alaska Constitution, I am transmitting a bill pertaining to contracting procedures for the sale and delivery of in-bond merchandise sold at Alaska's international airports. These transactions take place in the "duty free" shops.

This bill amends existing AS 02.15.091(d) to allow the Department of Transportation and Public Facilities (DOT/PF) to award duty free contracts through the competitive proposal mechanism. Presently, the department must offer the duty free contracts only by competitive bid and then make the contract award after considering the generation of maximum revenue for the International Airports Revenue Fund (AS 37.15.430).

While generation of revenue is a critical component of any contract involving operation of the duty free shops, giving the department flexibility to use competitive proposal procedures will possibly increase revenue and assist the state to meet other valid goals. DOT/PF would like to be able to consider such factors as space layout, kind of merchandise, level of service, minority participation plans, and demonstrated experience. DOT/PF regulations in 17 AAC 40 govern that department's competitive proposal procedures.

I believe that this measure warrants your critical scrutiny. My Administration looks forward to working with legislative committees to explain this bill in greater detail. This bill has the support of the Department of Transportation and Public Facilities. Please call on Commissioner Mark Hickey if you have additional questions about this bill.

Sincerely,


Steve Cowper
Governor

STATE OF ALASKA 1988 LEGISLATIVE SESSION
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| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | |
| REVENUE | -0- | -0- | -0- | -0- | -0- | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-----|-----|-----|-----|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
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| TOTAL | -0- | -0- | -0- | -0- | -0- | |

POSITIONS:

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| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: The fiscal impact of this bill is zero because it only defines alternate means by which the DOT&PF may obtain contracts for duty free concessions.

Prepared by: Gina Marie Lindsey
Division: Development Manager
Approved by Commissioner: *Uk & W*
Agency: Transportation & Public Facilities

Phone: 266-1468
Date: 12/10/87
Date: 12/10/87

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