

S B

99

Alaska State Legislature



2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

While in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-1818

SENATOR
ARLISS STURGULEWSKI
Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

Senate

M E M O R A N D U M

17 January 1988

TO: Labor & Commerce Committee Members

FROM: Senator Arliss Sturgulewski *AS*

RE: SB 99 - Requiring Certain State Contractors to have Business Licenses

Senate Bill 99 is intended to correct a deficiency in the Alaska Procurement Code (AS 36.30) brought to this office's attention in the attached letter from a constituent. The problem intended to be solved is that the state sometimes contracts with businesses outside of Alaska when it is possible to contract with Alaska businesses.

As you know, AS 36.30. (the Procurement Code) governs public contracts. It sets out procedures to be followed for state contracting for services, supplies, or construction. Senate Bill 99 amends AS 36.30.320(a) which governs small procurements and, as drafted, would require all small procurements to be made from the holder of an Alaska business license.

The Department of Administration has suggested wording changes to this legislation and I have support that proposal. Those changes would address the problem of state personnel contracting while out of the state and of those contractors not required to have Alaska business licenses.

It is clear that the Legislature intends to promote business with Alaska business license holders. The procurement code addresses Alaska Business licence requirements in several sections:

1. A prospective bidder must have an Alaska Business license to be included on lists of contractors. (AS 36.30.050)

2. When competitive sealed bidding is used, a contractor must have an Alaska business license to be considered a responsive bidder. (AS 36.30.110)

3. Contractors must show that proposed subcontractors have Alaska business licenses. (AS 36.30.115)

4. In defining "Alaska bidder" for the purpose of bid preference the first criteria is a holder of a current Alaska business licence. (AS 36.30.170)

5. When competitive sealed proposals are used an offerer is to show evidence of a valid Alaska business license and show also evidence of subcontractor's Alaska business license to qualify for an Alaska bidder's preference. (36.30.210)

I believe that this legislation will make the apparent policy of the Legislature for preference of Alaskan vendors more clearly expressed in statute.

POSITION PAPER
SB 99

GENERAL SERVICES AND SUPPLY

The bill would require State officials making a small purchase (under \$ 5,000) of supplies, services and construction, to verify that the vendor has an Alaska business license.

ANALYSIS

The bill would have an adverse impact on how the State conducts it's business. It would make small purchases more complex, and impose additional delays. In several circumstances it would not permit necessary small purchases to be made.

1. State offices located in foreign countries, other states and Washington D.C. would be unable to locate vendors who possess an Alaska business licenses.
2. The bill would prevent purchases from activities which are not required to obtain a business license under AS 43.70.110. This would include purchases from fisheries businesses, fishermen, and if HB 41 is enacted, farming. Fish and Game vessel charters and Correctional Industries purchases of livestock would be prevented unless these activities obtained business licenses solely for the purpose of selling to the State.
3. Pharmaceuticals and drug purchases made directly with manufacturing laboratories by the Department of Health and Social Services would be prevented where laboratories have refused to obtain an Alaska business license. While such purchases may be made from an in-state or out-of-state wholesaler that has an Alaska business license, clinical and governmental price discounts often given by the laboratory would be unavailable.
4. Out-of-state travel related purchases would be restricted. A traveling State official would be unable to make alternate travel arrangements with out-of-state carriers, obtain lodging, pay taxi fare, or purchase supplies or services needed for State business while traveling.
5. This bill would prevent purchases from mail order catalogs that do not have an Alaska business license.

Under the present law for small procurements, the purchaser must obtain three quotes and purchase from the lowest quote after applying the 5% Alaska Bidders Preference. This bill however, limits competition to only those with an Alaska business license. While it is not possible to calculate the additional costs associated with eliminating catalog purchases, there would be increased costs to operating budgets when local vendors are not competitive after application of the 5% purchasing preference.

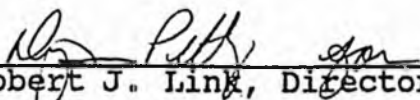
6. An additional level of review and an additional determination for purchases under \$5000.00 which are only available from one source that does not have an Alaska business license would be required. Under the current statute, it is permissible to purchase from a vendor after obtaining the minimum three quotes if the other vendors quote that the item is unavailable. With this bill the source must either obtain a business license, or the agency would be required to prepare a written sole source determination for the Chief Procurement Officers review and approval before the purchase could be made.

POSITION

The Department of Administration supports the intent of the bill to purchase from Alaskan vendors who possess an Alaska business license, but does not support the bill in its present form because of impacts which would prevent, or unduly delay and complicate the State's small procurements.

The Department of Administration suggests that the bill be amended on page 1, line 13, after "procurements." as follows:

"The regulations must include procedures for assuring, to the extent practical, that a small procurement under this section is made with a person required by AS 43.70 to hold an Alaska business license. [An] [a]Agency personnel located in the State may not enter into a contract for supplies, services, or construction unless the prospective contractor has a valid Alaska business license. An Alaska business license is not required when procuring supplies, services, or construction if that contractor is not otherwise required to have a business license in accordance with AS 43.70 and regulations adopted under that chapter by the Department of Commerce and Economic Development."


Robert J. Link, Director

1/18/89
Date

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act requiring certain State contractors to have business licenses
Sponsor: Sturgulewski and Pearce
Requestor: Senate Labor and Commerce

Agency Affected: Public Safety
BRU: All
Component: All

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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)

Prepared by: Ken Bischoff *KCS*
Division: Administrative Services

Phone: 465-4336
Date: _____

Approved by Commissioner: A. A. H. English
Agency: Department of Public Safety

Date: 1-17-88

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Act requiring certain state
contractors to have business licenses
 Sponsor: Sturgeonlewski and Pearce
 Requestor: Department of Administration

Agency Affected: Environmental Conservation
 BRU: Administrative Services

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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						

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: Mark Thorson Phone: 465-2621
 Division: Administrative Services Date: January 17, 1988

Approved by Commissioner: Annie Raemack Date: _____
 Agency: Environmental Conservation

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act requiring certain State contractors to have business licenses
Sponsor: Sturgulewski and Pearce
Requestor: _____

Agency Affected: Department of Administration
BRU: General Services and Supply

Components: Purchasing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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: Robert J. Link *Rep. Petty for*
Division: General Services and Supply

Phone: 465-2250
Date: 1/17/89

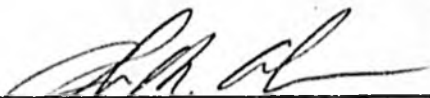
Approved by Commissioner: John M. Andrews
Agency: Department of Administration

Date: 1/18/89

Distribution (by preparer):

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

Division of General Services and Supply


Commissioner John M. Andrews
Department of Administration

1/18/89
Date

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act requiring certain state contractors to have business licenses"
 Sponsor: Sen. Sturgulewski
 Requestor: Governor's Office/OMB

Agency Affected: Department of Law
 BRU: All
 Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Lab Phone: 465-3672
 Division: Administrative Services Date: January 17, 1989

Approved by Commissioner: Richard I. Pegues FOR
Grace Berg Schaible, Attorney Gen. Date: January 17, 1989
 Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB99

This bill amends AS 36.30.320(a) so as to require that any purchase of supplies, services, or construction of \$5,000.00 or less may only be made from vendors with a valid Alaska business license. In its present all inclusive form, this requirement could present significant problems in the day to day conduct of state business. Some items that are procured by this department are simply not available from sources within the state or from vendors outside the state that may have an Alaska business license. Such items would include certain pieces of proprietary computer software or unique computer hardware. Frequently, such items are purchased individually or in very small quantities in order to test their potential in various departmental applications. In most cases, these vendors would not have Alaska business licenses, nor is it likely that they would apply for one given the dollar value of the sales involved, typically \$50 to \$500. As such, this amendment could limit this department's ability to explore and employ new methods or technologies.

Another problem that would result from this requirement is that it would make it very difficult, if not impossible, for state employees to purchase supplies, services, or construction while traveling outside the state on official business or while permanently assigned to out of state offices (i.e. Washington, D.C.; Seattle, WA; etc.).

Because this amendment would require all state agencies to limit the purchase of supplies, services, or construction to a limited number of vendors, regardless of the cost differential, the cost for some office supply commodities could increase by as much as twenty-five to thirty percent.

The department estimates that small purchases for office supplies, from out-of-state vendors, account for about two or three percent of its total commodities purchases. The actual cost impact to the department, if this bill is enacted, would be negligible. However, the inconvenience of not being able to acquire products not available in the state would be somewhat greater.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An act requiring certain state contractors
 to have business licenses"
 Sponsor: Sturgulewski and Pearce
 Requestor: _____

Agency Affected: Department of Corrections
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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
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REVENUE	0	0	0	0	0	0
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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)

Susan E. Knighton

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 1/17/89

Approved by Commissioner: Susan Humphrey Barnett Barnett Date: 1/17/89
 Agency: Department of Corrections

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Office of the Governor
 Title: Requiring Certain Contractors to Have Business License BRU: Elections
 Sponsor: Sturgulewski
 Requestor: Sturgulewski Components: I - Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Linda Edgeworth Phone: 465-4611
 Division: Division of Elections Date: 1/17/89
 Approved by Commissioner: Sandra Stout Date: 1/17/89
 Agency: Division of Elections

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: January 17, 1988
Title: An Act requiring certain state contractors to have business licenses
Sponsor: Sturgulewski
Requestor: _____

Agency Affected: Military & Veterans Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jeff Morrison, Director Phone: 465-4600
Division: Administrative & Support Services, DMVA Date: January 17, 1989
Approved by Commissioner for MG John Schaeffer Date: January 17, 1989
Agency: Department of Military & Veterans Affairs

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act..state contractors to
 have business licenses."
 Sponsor: Sturgulewski & Pearce
 Requestor: _____

Agency Affected: Community & Regional Affairs
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY'93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
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)

Jim Plasman

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 1-17-89

Approved by Commissioner: [Signature] Date: 1-17-89
 Agency: Community & Regional Affairs

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

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION : SB 99
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: "An Act requiring certain state
contractors to have business licenses." BRU: Administrative Services
 Sponsor: Sturgulewski & Pearce Components: Management Services
 Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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: Frank Spargo Phone: 465-2720
 Division: Administrative Services Date: 1/17/89
 Approved by Commissioner: Jim Sampson Date: 1/17/89
 Agency: Department of Labor

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

FISCAL NOTE

REQUEST:

Revision Date: 17 Jan 1989
 Title: Act requiring certain state
contractors to have business licence
 Sponsor: Sturgulewski & Pierce
 Requestor: Labor & Commerce

Agency Affected: Natural Resources
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Sharon Barton Phone: 465-2406
 Division: Management Date: 17 Jan 1989
 Approved by Commissioner: Lennie Korsuch Date: 17 Jan 1989
 Agency: Natural Resources

Distribution (by preparer):

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

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Act requiring certain state
contractors to have business licenses
 Sponsor: Sturgulewski and Pearce
 Requestor: Department of Administration

Agency Affected: Education
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mary Hakala Phone: 465-2800
 Division: Commissioner's Office Date: 1/17/89
 Approved by Commissioner: William G. Demmert Date: 1/17/89
 Agency: Education

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

HEAT LOSS ANALYSIS, INC.
4128 WRIGHT STREET
ANCHORAGE, ALASKA 99508
(907) 563-0773

Melissa Faust
c/o Senator Arliss Sturgulewski
3111 C Street
Anchorage, Alaska 99503
19 December 1983

Dear Melissa:

Here is a rundown on my recent experience and concern with the State Procurement Code.

In October of this year I was asked to provide a verbal quote to the University of Alaska Anchorage for infrared electrical inspections (three days). I provided a quote of \$2700.

The University also requested quotations from two other firms in the lower 48 (my company is the only firm providing this service in Alaska). One of the firms presented a price exceeding mine. The other presented a price of about \$2000 including all expenses. Of course, they were awarded the project.

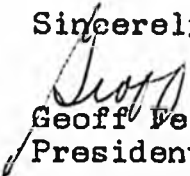
In a conversation with the University purchasing officer I discovered that the winning bidder had given a below market rate because they wanted to take a paid trip to Alaska. They even offered to provide the service for additional days (beyond the three in the request) for the price of the hotel room.

The winning firm was certainly within its rights to offer its service in this manner (in fact I may start hunting for work in Hawaii - I'll do it for cost). Also, the University followed procedures as outlined in the procurement code. However, the winning bidder did not possess - nor is it required to possess - an Alaska business license.

I feel that there is a loophole in the State Procurement Code that allows respondents to informal (telephone) bid procedures of projects under \$5000 to participate without possession of an Alaska business license. I feel that all respondents to any work authorized by State funds should possess this license except in situations where the service or product is not available in the State.

I would be willing to work with your drafters on the particular areas of the code that could be changed to close this loophole. Please don't hesitate to call if you have any questions.

Sincerely yours,


Geoff Veiler
President

(1) making certain that the offeror has a clear understanding of the scope of the work and the requirements involved in providing the required services;

(2) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and

(3) agreeing upon compensation that is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the required services.

(b) The offeror selected for award shall submit and certify cost and pricing data.

(c) Upon failure to negotiate a contract with the most qualified offeror, the procurement officer shall enter into negotiations with the next most qualified offeror.

(d) If the procurement officer is unable to negotiate a contract with any of the offerors initially selected as the most highly qualified offerors, additional offerors may be selected in preferential order based on their respective qualifications.

(e) Written notice of the intent to award must comply with 2 AAC 12.310 and must be sent to each offeror. Notice of intent to award must be made available to the public.

(f) After award of the contract, a memorandum setting out the principal elements of the negotiation shall be prepared by the procurement officer. The memorandum shall be included in the procurement file and be available to the public upon request. (Eff. 1/1/88, Register 104)

Authority: AS 36.30.040
AS 36.30.270

ARTICLE 6. SMALL PURCHASES

Section

400. Authority to make small purchases

2 AAC 12.400. AUTHORITY TO MAKE SMALL PURCHASES. (a) For purchases of supplies, services, or construction estimated to cost less than \$500, or procurements of replacement parts estimated not to exceed \$1,500 for aircraft, automotive, marine, construction, or industrial equipment, or point-to-point air travel on scheduled airlines estimated to cost no more than \$5,000, or professional services estimated to cost no more than \$5,000, or concession contracts estimated to have gross receipts of less than \$5,000, purchasing agencies shall use procedures providing adequate and reasonable competition and for making records to facilitate auditing of the purchasing agency.

(b) For procurement of supplies, services, or construction estimated to cost between \$500 and \$5,000, the following procedures shall be followed:

(1) At least three firms or persons shall be contacted for quotations, either written or oral. If quotations are solicited orally, the procurement officer shall record who made the solicitation, the specifications or items solicited, the date the solicitation took place, the name of firms or persons contacted, if a firm, the name of the person in the firm contacted, and the response of each firm or person. This record shall be made a part of the procurement file. For written quotations, the procurement officer shall include a list of persons contacted, a summary of the responses, and copies of all bids received, as part of the procurement file.

(2) The procurement officer may use the appropriate contractors list. It is not necessary to solicit all vendors on the contractors list. If used, the list must be rotated to the extent necessary to give all interested prospective contractors opportunity to compete. Nothing in this section is intended to limit the procurement officer from contacting additional firms or persons not on the list, as long as at least three firms or persons are contacted.

(3) The award shall be made to the lowest responsive and responsible bidder, taking into account applicable Alaskan bidder and Alaskan products preferences, and shall be made in accordance with the specifications and award criteria in the solicitation.

(c) For procurement of professional services estimated to cost between \$5,000 and \$25,000 or concession services estimated to bring in gross receipts between \$5,000 and \$25,000 annually, the following procedures shall be followed:

(1) At least three firms or persons must be solicited for proposals, either written or orally. If oral solicitation is used, oral proposals shall be followed up with written proposals that are made a part of the procurement file. In addition, the procurement officer shall record who made the solicitation, the specifications of the services solicited, the date the solicitation took place, the name of the firms or persons contacted, if a firm, the name of the person in the firm contacted, and the response of each firm or person. This record and a justification for the award shall be included in the procurement file. For written proposals, the procurement officer shall include a list of firms or persons contacted, a copy of the solicitation used, a summary of the responses, copies of all proposals received, and a justification for the award, as part of the procurement file.

(2) The procurement officer may use the appropriate contractors list. It is not necessary to solicit all vendors on the contractors list. If used, the list shall be rotated to the extent necessary to give all interested prospective contractors opportunity to compete. Nothing in this section is intended to limit the procurement officer from contacting additional firms or persons not on the list.

(3) The award shall be made to the most qualified responsive and responsible offeror, taking into account applicable Alaska bidder and product preferences, and shall be made in accordance with the specifications and award criteria in the solicitation. (Eff. 1/1/88, Register 104)

Authority: AS 36.30.040
AS 36.30.320

ARTICLE 7. SOLE SOURCE PROCUREMENT

Section

- 410. Conditions for use of sole source procurement
- 420. Record of sole source procurement

2 AAC 12.410. CONDITIONS FOR USE OF SOLE SOURCE PROCUREMENT. (a) A request by a purchasing agency that a procurement be restricted to one potential contractor must be accompanied by a written explanation as to why no other source is suitable or acceptable to meet the need. An agency may advertise an intent to make a sole source award for the purpose of determining if other sources are available or interested in a particular procurement. Award of a sole source procurement may not be made without prior written approval of the chief procurement officer or the commissioner of transportation and public facilities, as appropriate under AS 36.30.300(a).

(b) The written determination, required under AS 36.30.300(a), that there is only one source for the required procurement must specify the duration of its effectiveness.

(c) A procurement officer shall conduct negotiations, as appropriate, as to price, delivery, and terms of a sole source procurement.

(d) The following are examples of circumstances in which sole source procurement might be appropriate:

(1) if the compatibility of equipment, accessories, or replacement parts is the main consideration;

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1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 99 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act requiring certain state contractors to have
7 business licenses."

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

9 * Section 1. AS 36.30.320(a) is amended to read:

10 (a) A procurement for supplies, services, or construction that
11 does not exceed an aggregate dollar amount of \$5,000 may be made in
12 accordance with regulations adopted by the commissioner for small
13 procurements. Except in the following cases, an agency may not enter
14 into a contract for the supplies, services, or construction unless the
15 prospective contractor has a valid Alaska business license:

16 (1) the prospective contractor is not required by AS 43.70
17 to have an Alaska business license to perform the contract;

18 (2) the contract is for a travel-related expense and is
19 made by an agency employee while traveling outside the state on state
20 business;

21 (3) the contract is by a state office located in a foreign
22 country, another state, or Washington, D.C.;

23 (4) the contract is with a pharmaceutical company that is
24 located outside the state; or

25 (5) the contract is a mail order to a company outside the
26 state.