

LEG. FINANCE - BILLS 1985 - 1986 2234

SB 341 cont.

2234

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 341

This fiscal note is a combination of the fiscal impact of SB 341 on various BRU's and components within the Department. Following is a summary of the fiscal impact on each Division.

Assumptions

1. The definition of "procurement" in SB 341 is interpreted as applying to projects currently treated as grants creating an increase in time to prepare and review the required documents.
2. Number of grants each staff could effectively administer would be greatly reduced.
3. The Department receives a significant number of new grants each year.
4. Due to sec. 36.30.930, Civil and Criminal Penalties, the Department would need to provide increased oversight of procurement documents in order to reduce the liability exposure for all staff involved in procurement.

Municipal and Regional Assistance Division

- 4 Grants Administrators to more closely monitor grants and meet increased requirements under proposed procurement provisions - \$182.7
- 1 Clerk Typist III and 1 Administrative Assistant to provide additional clerical and technical support for increased professional staff - \$66.6

Community Development Division

- 1 Grants Administrator and 1 Community Development Specialist I/II to more closely monitor grants and meet increased requirements under proposed procurement provisions \$112.5
- 1 Clerk Typist III to provide additional clerical support - \$32.4

Administrative Services Division

One Administrative Officer I position to provide training and technical assistance to departmental staff to assure compliance with the procurement provisions and to serve as final review of all documents to decrease liability exposure of staff involved in procurement - \$47.7

All positions are full-time 12-month positions. However, since SB 341 is effective January 1, 1987, FY 87 costs are for six months.

NOTE: If the definition of procurement is amended to exclude the bulk of grants administered by the Department, the fiscal impact of the bill would be greatly reduced.

Position Title Grants Administrator - Beginning FY 87			No. of Positions 4	Range/Step 17/A	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location Anchorage	Election District	Leg.			
Type of Expenditure			Justification					
1	2	3	Senate Bill 341, as written, would subject virtually all of the Division's grants to unincorporated communities and nonprofit organizations to the provisions of the proposed State procurement practices and procedures. The fiscal impact of this would be significant as virtually all grants would have to be treated as Professional Services Contracts. The procurement practices of the grantee would have to be more closely monitored with corresponding increases in oversight and reporting. The number of grants each administrator could adequately monitor would be greatly reduced. For purposes of this fiscal note it is assumed the average number of grants per administrator would have to be reduced from about 75 per person to 20 grants per person.					
Salary	34,740 x 4	138,960	These four Grants Administrator positions would prepare grant contracts and procurement documents, closely monitor grant progress, provide advice and grant administration technical assistance, and assist grantees in finishing and closing out contracts. This would require adequate funding for toll calls and some travel funds.					
Benefits	10,930 x 4	43,720						
Premium Pay								
Other		182,680						
Total Personal Services								
Travel		5,000						
Contractual		12,000						
Commodities		1,000						
Equipment		8,000						
Other								
Total Cost		208,680						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	208.7					
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For B&M Use Only Key Number _____								

0317F/1

Request For
New Position

Agency Community and Regional Affairs
 BRU Local Government Assistance
 Component Grants Administration

Page 1 of 1
 Revised Date _____

FY 87

Position Title Administrative Assistant (Beginning FY87)		
Time Status PFT	Staff Months 12	RP Number

No. of Positions	Range/Step 12/A	Base Unit GRU	Gov.	Approv.	Disapp.
Location Anchorage		Election District	Leg.		

Type of Expenditure	1	2	Amount
Salary		24,865	
Benefits		8,583	
Premium Pay			
Other			
Total Personal Services			33,548
Travel			-0-
Contractual			800
Commodities			200
Equipment			2,000
Other			
Total Cost			36,548

Justification

This position would be needed to support the activities of the four (4) additional Grants Administrators required in FY 87, the four (4) new Grants Administrators needed in FY 88 and the three (3) new Grants Administrators needed in FY 89 (see attached related Requests for New Positions).

The Administrative Assistant would assist in maintaining files, keeping grant balances current, advertising and documentation needed to meet procurement and contract requirements, and other general support staff functions

Receipt Code	Funding Source	Amount
	Federal Receipts 1002	
	G. F. Match 1003	
	General Funds 1004	36.5
	I-A Receipts 1005	
	Program Receipts 1028	
	CIP Receipts 1061	
	Other	

For B&M Use Only
Key Number _____

**Request For
New Position**

Agency Community & Regional Affairs
 BRU Local Government Assistance
 Component Grants Administration

Page _____ of _____
 Revised Date _____

FY 87

Position Title Community Development Specialist I/II			No. of Positions 1	Range/Step 16A	Barg. Unit GGU	Gov.	Appov.	Disapp.																																															
Time Status PFT	Staff Months 12	RP Number	Location Anchorage, AK		Election District	Leg.																																																	
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>1</th> <th>2</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td></td> <td>32,424</td> <td></td> </tr> <tr> <td>Benefits</td> <td></td> <td>10,403</td> <td></td> </tr> <tr> <td>Premium Pay</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td></td> <td>42,827</td> </tr> <tr> <td>Travel</td> <td></td> <td></td> <td>8,200</td> </tr> <tr> <td>Contractual</td> <td></td> <td></td> <td>2,400</td> </tr> <tr> <td>Commodities</td> <td></td> <td></td> <td>500</td> </tr> <tr> <td>Equipment</td> <td></td> <td></td> <td>500</td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			Type of Expenditure	1	2	3	Salary		32,424		Benefits		10,403		Premium Pay				Other				Total Personal Services			42,827	Travel			8,200	Contractual			2,400	Commodities			500	Equipment			500	Other				Total Cost				Justification <p>Currently no admin. dollars are associated with this program.</p> <p>SB 341 would impose additional regulations that would need to be addressed by a staff member.</p> <p>Presently the program is being administered by a number of different people who spend a portion of their time on this program and are basically funded by other sources. This was an emergency type response to the exclusion by the Legislature, of admin. dollars for this program.</p> <p>If the administrator of this program continued to function in this manner we would be unable to implement the requirements set forth in SB 341 in a timely manner.</p> <p>This new position would centrally locate the administration of this program and would be responsible for the requirements that would be placed on this program as a result of SB 341.</p> <p>Presently the program is handled like a "pass through" grants. SB 341 would require this program to be handled as professional services contracts.</p>				
Type of Expenditure	1	2	3																																																				
Salary		32,424																																																					
Benefits		10,403																																																					
Premium Pay																																																							
Other																																																							
Total Personal Services			42,827																																																				
Travel			8,200																																																				
Contractual			2,400																																																				
Commodities			500																																																				
Equipment			500																																																				
Other																																																							
Total Cost																																																							
<table border="1"> <thead> <tr> <th>Receipt Code</th> <th>Funding Source</th> <th></th> </tr> </thead> <tbody> <tr> <td></td> <td>Federal Receipts 1002</td> <td></td> </tr> <tr> <td></td> <td>G. F. Match 1003</td> <td></td> </tr> <tr> <td></td> <td>General Funds 1004</td> <td>54.4</td> </tr> <tr> <td></td> <td>I-A Receipts 1005</td> <td></td> </tr> <tr> <td></td> <td>Program Receipts 1028</td> <td></td> </tr> <tr> <td></td> <td>CIP Receipts 1061</td> <td></td> </tr> <tr> <td></td> <td>Other</td> <td></td> </tr> </tbody> </table>			Receipt Code	Funding Source			Federal Receipts 1002			G. F. Match 1003			General Funds 1004	54.4		I-A Receipts 1005			Program Receipts 1028			CIP Receipts 1061			Other																														
Receipt Code	Funding Source																																																						
	Federal Receipts 1002																																																						
	G. F. Match 1003																																																						
	General Funds 1004	54.4																																																					
	I-A Receipts 1005																																																						
	Program Receipts 1028																																																						
	CIP Receipts 1061																																																						
	Other																																																						
<div style="border: 1px solid black; padding: 5px;"> For B&M Use Only Key Number _____ </div>																																																							

**Request For
New Position**

Agency Community & Regional Affairs
 BRU Job Training Partnership Act
 Component Displaced Homemakers

Page 1 of 1
 Revised Date _____

FY 87

Position Title Grants Administrator			No. of Positions 1	Range/Step 17A	Barg. Unit GGU	Gov.	Approx.	Disapp.																																															
Time Status PFT	Staff Months 12	RP Number	Location Anchorage		Election District	Leg.																																																	
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>1</th> <th>2</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td></td> <td>34,740</td> <td></td> </tr> <tr> <td>Benefits</td> <td></td> <td>10,930</td> <td></td> </tr> <tr> <td>Premium Pay</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td></td> <td>45,670</td> </tr> <tr> <td>Travel</td> <td></td> <td></td> <td>5,200</td> </tr> <tr> <td>Contractual</td> <td></td> <td></td> <td>5,900</td> </tr> <tr> <td>Commodities</td> <td></td> <td></td> <td>600</td> </tr> <tr> <td>Equipment</td> <td></td> <td></td> <td>700</td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td></td> <td>58,070</td> </tr> </tbody> </table>			Type of Expenditure	1	2	3	Salary		34,740		Benefits		10,930		Premium Pay				Other				Total Personal Services			45,670	Travel			5,200	Contractual			5,900	Commodities			600	Equipment			700	Other				Total Cost			58,070	Justification <p>Generally, Child Care grants are awarded to the same contractors yearly. Under SB 341, the Child Care monies would have to go out to bid, probably resulting in new contractors and new local administrators. Therefore, this position would need to provide training and technical assistance to the new recipients.</p> <p>An additional Grants Administrator is needed in order to process the increased amount of paperwork under SB 341.</p>				
Type of Expenditure	1	2	3																																																				
Salary		34,740																																																					
Benefits		10,930																																																					
Premium Pay																																																							
Other																																																							
Total Personal Services			45,670																																																				
Travel			5,200																																																				
Contractual			5,900																																																				
Commodities			600																																																				
Equipment			700																																																				
Other																																																							
Total Cost			58,070																																																				
<table border="1"> <thead> <tr> <th>Receipt Code</th> <th>Funding Source</th> <th></th> </tr> </thead> <tbody> <tr> <td></td> <td>Federal Receipts 1002</td> <td></td> </tr> <tr> <td></td> <td>G. F. Match 1003</td> <td></td> </tr> <tr> <td></td> <td>General Funds 1004</td> <td>58,100</td> </tr> <tr> <td></td> <td>I-A Receipts 1005</td> <td></td> </tr> <tr> <td></td> <td>Program Receipts 1028</td> <td></td> </tr> <tr> <td></td> <td>CIP Receipts 1061</td> <td></td> </tr> <tr> <td></td> <td>Other</td> <td></td> </tr> </tbody> </table>			Receipt Code	Funding Source			Federal Receipts 1002			G. F. Match 1003			General Funds 1004	58,100		I-A Receipts 1005			Program Receipts 1028			CIP Receipts 1061			Other																														
Receipt Code	Funding Source																																																						
	Federal Receipts 1002																																																						
	G. F. Match 1003																																																						
	General Funds 1004	58,100																																																					
	I-A Receipts 1005																																																						
	Program Receipts 1028																																																						
	CIP Receipts 1061																																																						
	Other																																																						
<div style="border: 1px solid black; padding: 5px;"> For B&M Use Only Key Number _____ </div>																																																							

Request For
New Position

Agency Community & Regional Affairs
 BRU Child Assistance
 Component Child Care

FY 87

Page 1 of 1
Revised Date

Position Title Clerk Typist III			No. of Positions 1	Range/Step BA	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	FP Number	Location Anchorage, AK		Election District	Leg.		
Type of Expenditure			Justification					
		Amount	Under SB 341 all the professional staff in the Child Care program would experience an increased workload. This clerk typist would provide the additional clerical support needed to carry-out the program.					
1	2	3						
Salary	19,572							
Benefits	7,045							
Premium Pay								
Other								
Total Personal Services		26,617						
Travel								
Contractual		1,400						
Commodities		600						
Equipment		3,800						
Other								
Total Cost		32,417						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		32.4					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Community & Regional Affairs
 BKU Child Assistance
 Component Child Care

Page 1 of 1
 Revised Date

FY 87

Position Title Administrative Officer I			No. of Positions 1	Range/Step 17A	Barg. Unit CGU	Gov.	Approv.	Disapp.
Time Status PFT	Staff Months 12	RP Number	Location J.uneau		Election District	Leg.		
Type of Expenditure			Justification					
		Amount	<p>The requested Administrative Officer I position is needed to provide an independent review of procurement documents in order to provide some measure of quality control within the Department. In addition, the Administrative Officer would be available to provide technical assistance to departmental staff to assure conformance with SB 341.</p>					
1	2	3						
Salary	34,740							
Benefits	10,930							
Premium Pay								
Other								
Total Personal Services		45,670						
Travel								
Contractual								
Commodities		500						
Equipment		1,500						
Other								
Total Cost		47,670						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		47.7					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Community and Regional Affairs
 BRU Administration and Support
 Component Administrative Services

Page 1 of 1
 Revised Date

FY 87

STA OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CS FOR SB 341
 Title : AN ACT RELATING TO STATE
PROCUREMENT PRACTICES & PROCEDURES

 Sponsor : RULES
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : COMMERCE & ECONOMIC DEV.
BRL : ALASKA STATE HOUSING AUTHORITY

 Components : HOUSING MANAGEMENT

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		577.56	595.09	612.94	631.33	650.27
TRAVEL		35.80	36.87	37.98	39.12	40.29
CONTRACTUAL		128.35	132.20	136.17	140.26	141.47
SUPPLIES		16.50	17.00	17.51	18.04	18.58
EQUIPMENT		151.20				
LAND & STRUCTURES		1,980.90				
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		2,890.31	781.16	804.60	828.75	853.61

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND		2,890.31	781.16	804.60	828.75	853.61
FEDERAL FUNDS		n/a	n/a	n/a	n/a	n/a
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		13	13	13	13	13
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See attached page

Prepared by : DIANE FAUDE, ADMINISTRATIVE OFFICER II Phone : 562-2813
 Division : HOUSING MANAGEMENT Date : 3/18/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB341

The Alaska State Housing Authority procures approximately \$1,000,000/month in items in support of 3,125 housing units across the state. Operating currently under its own procurement regulations approved by both the state and federal government, SB341 would replace the present system with one of implementation by and reporting to a dual state and federal system.

To assure full delegation of Procurement Bill SB 341, this agency would have to establish control under a Procurement Director. This Director would require a staff of four people in the positions of Main Warehouseman, Facilities Service Manager, Building Services Manager and Inventory Control Analyst.

The Housing Management Department of the Alaska State Housing Authority has project offices in 16 locations across the State. Under the Procurement Director, a Main Warehouseman would have a staff of three sub/warehousemen who would each have an expeditor under their control. These staff people would be responsible for the actual purchasing, shipping and invoicing. They would also be essential in determining the needs and use of all products procured by the maintenance staff statewide.

In an Administrative Services Division, an Inventory Control Analyst would be responsible for maintaining and controlling inventory records to include the disposal of outdated/scrapped and the addition of new inventory purchases. This person would also assume the role of Surplus Sales Manager in conducting the sale or auction of destroyed/old equipment. A Facilities Service Manager would be responsible for the control and purchase of office products and supplies utilized on a daily basis by the central and statewide projects offices. A Building Services Manager would be responsible for tracking, executing and maintaining all service contracts procuring ongoing services such as elevator service, guard services, emergency call maintenance and the like.

Salaries, including benefits, for each person are as follows: Procurement Director: \$71,500; Main Warehouseman: \$65,000; Sub/warehouseman (3) \$57,200 each; Expeditor (2): \$26,000 each; Inventory Control Analyst: \$45,500; Facilities Service Manager: \$57,200; Building Services Manager: \$57,200; Accounting Clerk III (2): \$28,780 each. Total = \$577,560

Travel would be required by the Procurement Director, Main Warehouseman, the three sub/warehousemen, the Inventory Control Analyst, Facilities Service Manager, and Building Services Manager. Total travel cost is estimated at \$35,800 for FY87.

Contractual Services focus on the installation of computer lines to each project location. Each person responsible for reporting to the Procurement Director would have a terminal and slave printer on-site. Each of the 24 project offices would also have a computer terminal on-site. The cost for these services would be \$28,350. Computer programming services overall are estimated at \$100,000.

Supplies will be an on-going line item to accommodate the reporting requirements and additional computer output of data to statewide locations on a scheduled basis. It is anticipated that each project and staff centralized in Anchorage would need \$500 per year in FY87 for a total cost of \$16,500.

Equipment will encompass the purchase of hardware (terminal, modem and slave printer), desk, chair, calculator, telephone, typewriter, file cabinets. This is estimated at \$151,200 for Anchorage and statewide project offices.

Land and structures: This initial expense will be extremely high in that existing warehouse space is not available at the project sites. Storage space for equipment and supplies is not available at this time therefore creating the need for a work area and storage area. The estimated cost for warehouse space in the 24 project offices and central Anchorage office is \$1,980,900.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 02-05-86

REQUEST

Bill/Resolution No.: SB 341
 Title: An act relating to the State procurement practices and procedures: and providing for an effective date.
 Sponsor: Senate Rules
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES		222.7	445.5	460.5	475.5	490.9
TRAVEL		10.0				
CONTRACTUAL		189.0	38.0	43.0	38.0	43.0
SUPPLIES						
EQUIPMENT		72.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		493.7	483.5	503.5	513.5	533.9
FEDERAL FUNDS						
OTHER						
TOTAL		493.7	483.5	503.5	513.5	533.9

POSITIONS:

FULL-TIME		9	9	9	9	9
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Attached

Prepared By: Robert J. Link *Robert J. Link* Phone: 465-2250
 Division: General Services & Supply Date: 02-05-86

Approved by Commissioner: Eleanor Andrews Date: 02-05-86
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

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

Senate Bill No. 341

FISCAL NOTE ANALYSIS:

A. REGULATIONS-PROCEDURES DEVELOPMENT AND TRAINING = \$135,000

The bill will create the need for a complete revision of the chapter 15 of the Administrative Code. This revision will be accomplished through a professional legal services contract. to write the regulations and conduct the required public hearings and is estimated to cost \$55,000 (see detail below).

The bill will create the need for a complete revision of the Policy and Procedures Manual for the contracting section of the Division of General Services and Supply. This revision will be accomplished through a professional services contract with an associate attorney. The cost of this contract plus the necessary printing is estimated to be \$25,000 (see detail below) .

Since the bill will completely revise the statute, and subsequently the administrative code and the policy and procedures manual of the division, we estimate that it will train approximately 310 state employees. in the newly required procedures. This will be accomplished through a professional services contract with an instructor plus printing and travel for an amount estimated to be (see detail below) \$55,000.

Legal services contract for regulations: \$100.00/hr x 83hr/month x 6 months = \$50,000.

Para-legal Contract for Policy and Procedures Manual: \$40.00/hr x 83hr/month x 6 months = \$20,000.

Instructors Contract: Develop training modules at \$60/hr x 525hrs = \$31,500 + train 310 people x \$50/person = \$15,500 for a total of \$47,000

Printing of the Policy and Procedures Manual: 200 manuals x \$25 = \$5000

Printing of the Training Materials: 400 training guides x \$7.50 = \$3000

Travel for public hearings in four locations: 2 people x \$385/airfare + \$240/perdiem x 4 locations = \$5000

Travel for training in four locations: 2 people x

\$385/airfare + \$240/perdiem x 4 locations = \$5000
Total \$135,000

The Department of Transportation has also budgeted for training and procedures development. The amounts which they have budget are to provide for procedures and training in the procurement of construction and its related activities. The amounts budget by General Services are for procurements not related to construction.

B. BIDDERS LIST = \$45,000

Lists of contractors to provide goods and services must be developed and maintained. These lists must be used and made available for use by all branches of state government. Department of Administration, Division of General Services and Supply is responsible for developing, maintaining, and making the lists available for use by all branches of state government. This will be accomplished through a professional services data processing contract. The cost of this contract is estimated to be \$40,000 one-time contractual expense of

A person who wishes to be on the contractors list must have a valid Alaska business license and pay a biennial fee. The fees will be received and processed by the administrative support staff. We estimate that the cost of receiving and processing the fees will be \$5,000. This is equal to 312 hours of an administrative support technicians time at \$16.01 per hour. This is a biennial contractual expense since the administrative support staff is budgeted for by purchasing, but once the funds are received they are transferred to the Division of Administrative Services. The Division of General Services and Supply then contracts with the Division of Administrative Services for administrative support. This is a biennial contractual expense of \$5,000.

C. Workload Impact = \$313,700

The Division of General Services currently has 13 purchasing agents. It is anticipated that the increased work load (see detail description on the New Position Request Form) will require the addition of 9 new purchasing agents.

9 positions x \$49,503 salary and benefits,
purchasing agent III, range 18A = \$445,527
(because the bill goes into effect in
January) = \$222,763 personal services

increase in FY87. \$445,527 personal services increase in FY88. We estimate that this cost will increase each succeeding fiscal year due to merit increases.

Each of the 9 new purchasing agent positions will required by the bill will need approximately \$8,000 in equipment (systems furniture and micro-computers). \$8,000 x 9 = \$72,000 This is a one-time equipment expense.

The cost of printing and advertising bids will increase from \$46,100 to \$81,120. An annual increase of \$35,020.

$$\begin{aligned} & \$46,100 : 704 = \$65 \times 1248 = \$81,120 \\ & - \$46,100 = \$35,020 \end{aligned}$$

The cost of mailing bids will increase from \$3,800 to \$6,739. An annual increase of \$2,939.

$$\begin{aligned} & \$3,800 : 704 = \$5.40 \times 1248 = \$6,739 \\ & - \$3,800 = \$2,939 \end{aligned}$$

D. SUMMARY

1. Personal Services \$222,763

9 positions x \$49,503 salary and benefits, purchasing agent III, range 18A = \$445,527 (because the bill goes into effect in January) = \$222,763 personal services increase in FY87.

2. Travel \$10,000

Travel for public hearings in four locations: 2 people x \$385/airfare + \$240/perdiem x 4 locations = \$5000

Travel for training in four locations: 2 people x \$385/airfare + \$240/perdiem x 4 locations = \$5000

3. Contractual Services \$189,000

Legal services contract for regulations: \$100.00/hr x 83hr/month x 6 months = \$50,000.

Para-legal Contract for Policy and Procedures Manual: \$40.00/hr x 83hr/month x 6 months = \$20,000.

Instructors Contract: Develop training modules at \$60/hr x 525hrs = \$31,500 + train 310 people x \$50/person = \$15,500 for a total of \$47,000

Printing of the Policy and Procedures Manual: 200 manuals x \$25 = \$5000

Printing of the Training Materials: 400 training guides x \$7.50 = \$3000

Data processing contract for bidders List = \$40,000

Maintenance secretarial support of bidders list = \$5,000.

The cost of printing and advertising bids will increase from \$46,100 to \$81,120. An annual increase of \$35,020. for an FY 87 (6 months) of \$15,510.

The cost of mailing bids will increase from \$3,800 to \$6,739. An annual increase of \$2,939 for an FY 87 (6 months) amount of \$1470.

4. Equipment \$72,000

Equipment for the 9 new purchasing agent positions will be \$8,000 x 9 = \$72,000

Position Title Purchasing Agent III		No. of Positions 9	Range/Step EA	Base Unit GGU	Gov.	Approv.	Disapp.
Time Status Full-time	Staff Months 6	RP Number	Location Juneau/Anch		Election District	Leg.	
Justification							
Sec. 36.30.300							
Under the new bill goods and services may be procured without competitive sealed bids only after a written determination has been made by the commissioner that there is only one source for the required goods or services. Current law permits the commissioner to limit bid solicitation or to waive bidding requirements when a finding is made that it is in the best interest of the State to do so.							
We estimate an average of 680 acquisitions per year are being purchased under the bid waiver provision of the current law. Purchases made under a bid waiver require 20 percent of the work of a purchase made under a competitive sealed bid.							
For planning purposes, we consider one average competitive sealed bid to be equal to one Work Unit and five bid waivers to be one Work Unit. During the past fiscal year the Division of General Services & Supply processed 704 competitive sealed bids (704 Work Units) and 680 bid waiver requests (680 ÷ 5) = 136 Work Units. The sum of these activities equals 840 Work Units for the division or 60 Work Units per year for each of 14 purchasing agents. [704 + 136 (680 ÷ 5) = 840 ÷ 60 = 14] Since this data base was compiled the staff has been reduced by one (1) position to a total of 13 purchasing agents.							
Of the bid waivers sampled, only 20 percent meet the sole source or emergency requirement of the new bill. This means that we will have to accomplish the additional 80 percent work necessary to make these purchases as competitive sealed bids. This will create an additional 544 Work Units (680 x .8 = 544). This amount and the remaining 27.2 Work Units (bid waivers, 136 ÷ 5 = 27.2) will be added to the 704 competitive sealed bids we are currently doing. The sum of this equals 1,275 Work Units for the division. At a production rate of 60 Work Units per year for							
Type of Expenditure		Amount					
1	2	3					
Salary	168,106						
Benefits	54,657						
Premium Pay							
Other							
Total Personal Services		222,763					
Travel							
Contractual							
Commodities							
Equipment		72,000					
Other							
Total Cost		294,763					
Receipt Code	Funding Source						
	Federal Receipts 1002						
	G. F. Match 1003						
	General Funds 1004						
	I-A Receipts 1005						
	Program Receipts 1028						
	CIP Receipts 1061						
	Other						
For B&M Use Only Key Number _____							

1/1D1/0210-03/1

**Request For
New Position**

Agency Department of Administration
 BRU General Services & Supply
 Component Purchasing

Page 1 of 2
 Revised Date _____

FY 87

each purchasing agent it will require 21.25 purchasing agents to accomplish The 1,275 Work Units.

However, the pre-bid opening and post-bid opening protest/appeal procedures described in Sec. 36.30.560 through 36.30.605 are not required under existing law. For the period December 1, 1984, through December 1, 1985, 61 protests were received under the current law. We estimate that we will receive approximately 130 protests and appeals per year under the new bill. We estimate that the time required to respond to each of these protest/appeals will be equivalent to three (3) Work Units per year. Thus, each purchasing agent's annual Work Unit production will be reduced from 60 Work Units to 57 Work Units because of the time diverted to responding to protests/appeals. This means that it will require 22.36 purchasing agents to accomplish the 1,275 Work Units.

$$[704 + 544 (680 \times .8) + 27.2 (136 \div 5) = 1,275 \div 57 = 22.36]$$

22.36 purchasing agents required under the new bill

13 current purchasing agents

9.36 additional purchasing agent positions required

Nine (9) positions x \$49,503 salary and benefits, Purchasing Agent III, range 18A = \$445,527 + 2 (because the bill goes into effect in January) = \$222,763 personal services increases in FY 87. \$445,527 personal services increase in FY 88.

Five (5) of these positions will be located in Juneau and four (4) in Anchorage.

1/1102/0210-03/3



ADDITIONAL
EXPLANATION
FORM

AGENCY Department of Administration

BRU General Services & Supply

COMPONENT Purchasing

FY 87

Page 2 of 2

Revised Date _____

STATE OF ALASKA 1936 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST BILL/Resolution No.: <u>Senate Bill 341</u> Title: <u>"An act relating to state procurement practices and procedures and providing for an effective date."</u> Sponsor: <u>Rules by request for Senate</u> Requestor: <u>Select committee</u> Date of Request: _____	FISCAL DETAIL Agency Affected: _____ BRU: <u>Department of Administration</u> <u>Division of Administrative Services</u> Components: <u>Administrative Services</u>
--	--

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	0	80.7	161.3	166.1	171.1	176.2
TRAVEL	0	8.9	17.8	18.3	18.8	19.4
CONTRACTUAL	0	38.2	76.4	78.7	81.1	83.5
SUPPLIES	0	1.0	1.9	2.0	2.1	2.2
EQUIPMENT	0	8.0	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		136.8	257.4	265.1	273.1	281.3
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	136.8	257.4	265.1	273.1	281.3
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL		137.3	257.4	265.1	273.1	281.3

POSITIONS:

FULL-TIME	0	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

Attached.

Prepared By: Garv Bader *Garv M. Bader* Phone: 465-2277
 Division: Administrative Services Date: 2/6/86
 Approved by Commissioner: Eleanor Andrews *Eleanor Andrews* Date: 2/7/86
 Agency: Department of Administration

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Senate Bill No. 341

SUBJECT OF PROPOSED BILL:

State procurement practices and procedures.

SUMMARY/EXPLANATION OF INTENT:

"To simplify, clarify, and modernize the law governing Procurements by the State."

ESTIMATED FISCAL IMPACT:

Capital: 0
Operating: \$136,800 FY 87
 \$257,400 FY 88

ANALYSIS:

A. Assumptions

1. Enactment of Senate Bill #341 will significantly impact the Department of Administration and the present method of bid solicitation and the subsequent protest and appeal process.

Because of the changes in Article 2 and Article 3 which will be addressed by General Services and Supply, an increased number of protests and appeals is anticipated by General Services and Supply. The changes proposed by Senate Bill #341 to the protest and appeals procedures and possible subsequent hearings are listed below:

Section 36.30.590 creates a two-step protest/appeal process for goods and services contract awards where previously there was only one step. Prior to SB341, a decision was made by the Commissioner of Administration to deny a protest, to rule on a protest or hear the protest. This decision can be based on timeliness and/or merit. This Bill creates a first step whereby a protest can be filed with the procurement officer. If the protestor is not satisfied with the decision of the procurement officer, a written appeal is to be filed within five days with the Commissioner. Unless the appeal is determined to be untimely or that no facts are in dispute, the appeal will go into the hearing process. This is based on the assumption that the Commissioner of Administration will not decide to delegate appeals and hearings to the department involved. This assumption is based on the need for efficiency and standardizing which can only be obtained by centralization. It is estimated that approximately 122 appeals will be heard by a hearing officer.

Section 36.30.595(b) requires the Commissioner to furnish a copy of filed appeals to "all interested parties." This newly required clerical function will require a mailing of an estimated ten notifications per each appeals and other related functions.

Section 36.30.630 grants the Commissioner 15 days after receipt of a written appeal to adopt the procurement officer's decision regarding contract controversies or determine if there should be a hearing. It is assumed that in order to make the decision, the Commissioner will conduct a complete investigation of the facts surrounding the contract controversy. This investigation should be exhaustive.

Section 36.30.650 and Section 36.30.660 are newly created to place into law procedures regarding debarment, suspension and reinstatement. Hearings may be held following receipt of a written appeal requesting a reconsideration or reinstatement. Based upon evidence showing that the cause no longer exists or has been mitigated, a Hearing Officer may make recommendations to the Commissioner.

2. Of the Goods and Services contracts, during the December 1, 1984, to December 1, 1985 period, 390 bid solicitations were conducted and 548 bid waivers were allowed by the commissioner as being in the best interest of the State. Of these 548 waivers, only 20% would meet the criteria of sole source or emergency requirements of the new bill. Therefore, under the new law, an additional 438 bid solicitations would be required. Of the 390 bids, there were 61 protests or 15.6%. Using this percentage, of the total solicitations required by the new law, 130 protests could be anticipated.

$$(390 + 438) * 15.6\% = 130 \text{ appeals}$$

Of these 130 expected protests, it is anticipated that approximately 52 will be resolved prior to requiring a hearing.

130	anticipated protests
-52	40% will be resolved by a purchasing officer decision
-11	8.5% will be deemed untimely
<u>67</u>	anticipated hearings or rulings based on submitted briefs

67	anticipated hearings based on Goods and Services contracts.
+50	anticipated appeals regarding contract controversies
+ 3	anticipated appeals regarding debarment and suspension
+ 2	anticipated appeals regarding reinstatement
<u>122</u>	anticipated total hearings

3. Inflation is estimated at three percent per year.

B. Staff Requirement

1. 122 hearings are anticipated per year.
2. Each Hearing Officer can hear and file on one appeal per week, based on estimates provided by Department of Labor.

3. General Government Unit (GGU)

Hours per year	= 1,950 hrs/yr
Annual Leave	= (127.5)
Five days Sick Leave	= (37.5)
Holidays (ten days)	= <u>(75.0)</u>
Employee Annual Hours Worked	1,710 hrs/yr
Employee Weeks worked/yr	45.6 wk/yr

4. 122 anticipated hearings/yr ÷ 46 hearings/H.O. = 2.6 H.O./yr.
 There is presently one hearing officer in the Department of Administration; thus 2 additional Hearing Officers are required.

C. Costs:

1. Personal Services: \$80,657* (January 1, 1987 - June 20, 1987)
 \$161,314 (FY 88)

(2) Hearing Officers	R/21A	2 X \$ 59,934 =	\$119,868
Administrative Asst.	R14B	\$ 41,446 =	\$ 41,446
	TOTAL		<u>\$161,314</u>

* FY 87 (.5 x 161,314) = 80,657

2. Travel: \$8,884 (January 1, 1987 - June 30, 1987)
 Full year cost is \$17,768 for FY 88.

(a) Assumes 25% of hearings in Anchorage requiring two days per diem per trip at \$80/day

(1) Airfare	\$ 352
(2) Perdiem 2 X 80 -	<u>160</u>
(3) 30 trips X 512 X	<u>\$15,360</u>

(b) Assumes 3% of hearing in Fairbanks requiring two days per diem per trip at \$90/day.

(1) Airfare	\$ 422
(2) Perdiem 2 X 90 -	<u>180</u>
(3) 4 trips X 602 =	<u>\$2,408</u>

3. Contractual: \$38,216 (January 1, 1987 - June 30, 1987)
 Full year cost is \$76,432 for FY 88.

(a) Centrex (3 X \$512) -	\$1,536
(b) Photocopies and transcripts	1,200
(c) Telephone-toll	
(\$10/call X 2 calls X 20/day x 12)	4,800
Data Processing Chargeback	500
(d) Professional Services	<u>\$59,400</u>

Because a large percentage of contracts are put to bid at the same time, many appeals will occur at the same time. Because unheard appeals will delay contract awards, the appeals must be heard in a timely manner. It is therefore assumed that 15% of

the appeals will be heard by a contracted hearing officer. The average cost of a contracted hearing has been \$3,000 - \$4,000 in the past.

$$18 \times \$3,300 = \$59,400$$

(e) Space Rental: \$8,996
Hr Off Range 21 = 85 X 2 = 170 sq. ft.
Admin Asst. Range 14 = 85 85 sq. ft.
25% Circulation = 64 sq. ft.
Total 319 sq. ft.

$$319 \text{ Sq. Ft.} \times \$2.35^* \text{ mo} \times 12 = \$8,996$$

* average per sq. ft./mo in Juneau

4. Supplies: \$900 (January 1, 1987 - June 30, 1987)
Full year cost is \$1,854 (FY 88)
FY 87: 3 emp X \$50/mo X 6 mo - \$900
FY 88: 3 emp X \$50/mo X 12 mo X 1.03 Inflation = \$1,854

5. Equipment (one-time) : \$7,954
- (a) Furniture
- | | |
|-------------------------|---------|
| Chairs (3@ \$150) | \$ 450 |
| Desks (3@ \$500) | \$1,500 |
| File Cabinet (4@ \$366) | \$1,464 |
- (b) Office Equipment
- | | |
|---------------------------|--------|
| Calculators (2 @ \$270) | \$ 540 |
| Computer Terminal | 4,000 |
| w/word-processing hook-up | |

Position Title Administrative Assistant			No. of Positions 1	Range/Step 14B	Barg. Unit G	Gov.	Approv.	Disapp
Time Status PFT	Staff Months 12	RP Number	Location Juneau		Election District	Leg.		
Type of Expenditure			Justification					
			The duties of the Administrative Assistant will include, but not be limited to; organizing the files of each protest that is not satisfied at the procurement officer level, determination of time schedules and the sending of various types of required notification, performing research for the Hearing Officers, and performing the various accounting functions required by the unit.					
1		2	3					
Salary		29,196						
Benefits		10,565						
Premium Pay		1,685						
Other								
Total Personal Services			41,446					
Travel								
Contractual			3,511					
Commodities			432					
Equipment			650					
Other								
Total Cost			46,039					
Receipt Code		Funding Source						
		Federal Receipts 1002						
		G. F. Match 1003						
		General Funds 1004		46,039				
		I-A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
For B&M Use Only Key Number _____								

**Request For
New Position**

Agency Department of Administration
 BRU Administrative Services
 Component Administrative Services

FY 87

Page 6 of 7
 Revised Date _____

Position Title Hearing Officers (2)			No. of Positions 2	Range/Step 21A	Barg. Unit G	Gov. Leg.	Approv.	Disapp.
Time Status PFT	Staff Months 24	RP Number	Location Juneau		Election District			
Type of Expenditure			Justification					
		Amount	<p>Three hearing officers will be required in FY 87 to hear appeals that have not been satisfied at the procurement officer or preliminary hearing officer level. Presently, one hearing officer position exists in the Department of Administration, therefore, two additional officers are required. The duties include, but are not limited to; review of decisions of procurement officers, review of all pertinent documentation and materials, notification to all interested parties of filed appeals, and conducting hearings according to AS 36.670.</p> <p><u>SINGLE POSITION COST PER YEAR</u></p> <p>\$3,812 X 12 = \$45,744.00 Benefits = 14,190.39 Total = 59,934.39</p>					
1	2	3						
Salary	91,488							
Benefits	28,381							
Premium Pay	0							
Other	0							
Total Personal Services		119,869						
Travel	13 trips Anch, 4 trips Ebks.	17,768						
Contractual		13,521						
Commodities		865						
Equipment		2,764						
Other								
Total Cost		154,787						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004	154,787						
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Department of Administration
BRU Administrative Services
Component Administrative Services

FY 87

Page 7 of 7
Revised Date

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 3/27/86

REQUEST

Bill/Resolution No. : CSSB 341 (Study)
 Title : An Act Relating to State
 Procurement Practices
 Sponsor : Rules Committee
 Requestor : Senate Finance
 Date of Request : 3/27/86

FISCAL DETAIL

Agency Affected : Dept. of Natural Resources
 BRU : Management & Administration
 Components : Administrative Services

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		31.0	32.5	34.1	35.8	37.6
TRAVEL		2.5	1.5	1.5	1.5	1.5
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		33.5	34.0	35.6	37.3	39.1

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND		33.5	34.0	35.6	37.3	39.1
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See Attached Sheet

Prepared by : Christopher Rutz/Contracts Officer Phone : 465-2424
 Division : Management Date : 3/27/86

Approved by Commissioner : Ned Foyshar for **ROBERT D. ARNOLD** Date : 3/28/86
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note) :

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

Attachment to Department of Natural Resources Fiscal Note for SB341

Personel Service

Cost are computed for a range 10 supply technician, based in Juneau, with a 5% COLA increase per year. This position would support the contracting and supply staff and enable the Department to fulfill as outlined in the bill as well as provide procurement training for department employees.

Travel

These cost are estimated at four trips to Anchorage/Fairbanks to provide training the year the bill is to be implemented and three trips the following years in order to maintain a active procurement training program and provide for participation in contract protests, writing, and bid openings, when necessary.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CS for SB 341
 Title : State Procurement Code

 Sponsor : Senate Judiciary Committee
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Env. Conservation
 BRU : Administration

 Components : Administrative Services

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		37.9	39.4	41.0	42.6	44.4
TRAVEL		5.0	5.2	5.4	5.6	5.9
CONTRACTUAL SUPPLIES		5.0	5.2	5.4	5.6	5.9
EQUIPMENT		1.5	--	--	--	--
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		49.5	49.8	51.8	53.8	56.2

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND		49.5	49.8	51.8	53.8	56.2
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		1	1	1	1	1
PART-TIME		--				
TEMPORARY		--				

ANALYSIS : Attach a separate page if necessary

This bill codifies many procedures and practices presently addressed in the Administrative Manual, a variety of memos and procedures and ad hoc decisions. Practices, particularly for professional services contracts,

Prepared by : W.A. Publicover Phone : 465-2676
 Division : Administrative Services Date : 1-30-86

Approved by Commissioner : Bill Ross Date : 3-27-86
 Agency : Environmental Conservation

Distribution (by Agency preparing fiscal note) :

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

Position Title Administrative Assistant II			No. of Positions 1	Range/Step 14	Barg. Unit GGU	Gov.	Approv.	Disapp.																								
Time Status Full	Staff Months 12	RP Number	Location Juneau		Election District 4	Leg.																										
Type of Expenditure			Justification																													
		Amount	The new State Procurement Code will place tighter controls on contracts for professional services. The Department typically has over 40 active contracts valued at over \$2 million. While our professional staff defines the project scope and technical details, the procedural aspects of contracting are dispersed among the divisions. This allows inconsistencies, dilutes accountability, and hampers effective communications with the Department of Administration.																													
1	2	3																														
Salary	28.4		The Administrative Assistant will be the Department's expert on competitive sealed proposals. The position would be the focus for procedural aspects of RFPs, selection, and contract administration. The position will develop and standardize wording, provide a single point link to Department of Administration, advise on alternate procurement methods, maintain a contract tracking system, process payments, chair the contract closing committee, conduct training sessions or arrange for training, monitor the contract approval process, assist in handling protests, arrange official files and record retention schedules and maintain departmental contract procedures. The costs for this position are: <table border="0"> <tr> <td>100</td> <td>salary & benefits</td> <td>37.9</td> <td>300</td> <td>postage for</td> <td>5.0</td> </tr> <tr> <td>200</td> <td>travel to regional</td> <td>5.0</td> <td></td> <td>public notices</td> <td></td> </tr> <tr> <td></td> <td>offices to train</td> <td></td> <td>400</td> <td>Calculator,</td> <td>1.5</td> </tr> <tr> <td></td> <td>field staff</td> <td></td> <td></td> <td>workstation</td> <td></td> </tr> </table>						100	salary & benefits	37.9	300	postage for	5.0	200	travel to regional	5.0		public notices			offices to train		400	Calculator,	1.5		field staff			workstation	
100	salary & benefits	37.9							300	postage for	5.0																					
200	travel to regional	5.0								public notices																						
	offices to train								400	Calculator,	1.5																					
	field staff									workstation																						
Benefits	9.5																															
Premium Pay	--																															
Other	--																															
Total Personal Services		37.9																														
Travel		5.0																														
Contractual		5.0																														
Commodities																																
Equipment		1.5																														
Other																																
Total Cost		49.4																														
Receipt Code			Funding Source																													
			Federal Receipts 1002																													
			G. F. Match 1003																													
			General Funds 1004 49.4																													
			I-A Receipts 1005																													
			Program Receipts 1028																													
			CIP Receipts 1061																													
			Other																													
For B&M Use Only																																
Key Number																																

**Request For
New Position**

Agency Environmental Conservation
 BRU Administration
 Component Administrative Services

Page 3 of 3
 Revised Date

FY 87

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No.

CS for SB 341

vary from department to department. This bill and implementing regulations will increase fairness and accountability through uniform requirements for all areas of procurement.

Environmental Conservation regularly has over 40 open contracts worth over \$2 million. Presently, we have an Accounting Technician II who works part time on these contracts. He provides technical advice on contract preparation, tracks the contracts through the approval process, processes payments and chairs the contract closing committee. In the past we have had problems with inadequate RFPs, public notices and similar technical flaws. The bill will establish much tighter standards for the technical quality of competitive sealed proposals and will greatly increase the Department's accountability. In particular, the new law will require:

- evidence of Alaska Business Licenses from offerors and subcontractors
- public notice 21 days before opening proposals
- that all contractors on the bidders list must be notified by mail
- that register of offerors must be kept
- determination of responsibility
- notice of intent to award 10 days before the award
- retention of records including each proposal
- that agency procurement officers decide on protested awards and contract controversy

These new responsibilities will increase our workload beyond the present half-time position. New requirements mandate a single source to assist in drafting RFPs and contracts and to act as agency expert in the procedural aspects of professional services contracts.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : Senate Bill No. 341
 Title : Procurement Practices and Procedures
 Sponsor : Rules Committee
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : DOT&PF
 BRU : _____
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		50.0	55.0	60.0	65.0	70.0
TRAVEL		10.0				
CONTRACTUAL		100.0	55.0	60.0	65.0	70.0
SUPPLIES		40.0	20.0	25.0	27.0	30.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		200.0	130.0	145.0	157.0	170.0

CAPITAL		0	0	0	0	0
---------	--	---	---	---	---	---

REVENUE		0	0	0	0	0
---------	--	---	---	---	---	---

FUNDING : (Thousands of Dollars)

GENERAL FUND		200.0	130.0	145.0	157.0	170.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Based on the following figures: 1) delegations to other agencies - \$30.0 for the start up year; 2) procedures updates - \$30.0 for start up year; 3) development of standards and forms - \$10.0 for start up year; 4) one officer plus expenses to administer hearings and claims - \$100.0; 5) list maintenance and mailing - \$10.0; and 6) subcontractor list checking and bid opening administration - \$10.0; 7) travel

Prepared by : Daniel F. Malick, Director Phone : 465-3911
 Division : Management and Finance Date : 1-30-86

Approved by Commissioner : R. J. Knapp by Wanda S. Spahr Date : 1-30-86
 Agency : DOT&PF

Distribution (by Agency preparing fiscal note) :

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

10/25/85

POSITION PAPER/FISCAL NOTE (DOT)
SB 341 (200.0)

Fiscal Note
Procurement Practices and Procedures
Page 2

to the hearings for the Regulations.



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: Senate Bill 341
TITLE: Procurement Practices

APPROVED: *W. S. Spahr*
R. J. Knapp
Commissioner
DATE: January 30, 1986

The Department of Transportation and Public Facilities has worked closely with the Legislative interim committees in the drafting of Senate Bill 341. Many of the department's concerns of both a technical and policy nature have been addressed in the initial drafting of the bill.

However, while the department supports the Legislature and the administration's effort to revise and update procurement codes, there are a few areas within Senate Bill 341 that the department feels needs further consideration:

1. SB 341 requires the maintenance and use of bidders lists for the request for proposal and bid notification process. This is time consuming, expensive and has proven from department experience to be of limited value. We feel this requirement for DOT&PF construction should be removed from the bill.
2. SB 341 requires the listing of all sub-contractors at time of bid opening. This further complicates the bid opening process and might jeopardize bidder responsiveness ~~the~~ potentially large cost consequences to the state. The department feels that a subcontractor list would be appropriate to require seven days after the bid opening to limit the extent of bid shopping.
3. SB 341 lacks definitive statements on Alaska preference. An Alaska preference clause for all construction even those over \$5,000 should be considered.
4. SB 341 has no provisions for expanding sole-source and small procurement eligibility. There are numerous purchasing needs of the department which fall outside of the strict definitions provided in the bill. Some sort of extension process is highly advisable.
5. SB 341 requires "teeth" for handling of false claims. False claims without penalty would jeopardize the efficiency and credibility of the claims process.

For further information call Susan Fleischhauer at 465-3900.

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: Senate Bill 341
TITLE: Procurement Practices

APPROVED: *W. S. Spahr*
R. J. Knapp
Commissioner
DATE: January 30, 1986

The Department of Transportation and Public Facilities has worked closely with the Legislative interim committees in the drafting of Senate Bill 341. Many of the department's concerns of both a technical and policy nature have been addressed in the initial drafting of the bill.

However, while the department supports the Legislature and the administration's effort to revise and update procurement codes, there are a few areas within Senate Bill 341 that the department feels needs further consideration:

1. SB 341 requires the maintenance and use of bidders lists for the request for proposal and bid notification process. This is time consuming, expensive and has proven from department experience to be of limited value. We feel this requirement for DOT&PF construction should be removed from the bill.
2. SB 341 requires the listing of all sub-contractors at time of bid opening. This further complicates the bid opening process and might jeopardize bidder responsiveness the potentially large cost consequences to the state. The department feels that a subcontractor list would be appropriate to require seven days after the bid opening to limit the extent of bid shopping.
3. SB 341 lacks definitive statements on Alaska preference. An Alaska preference clause for all construction even those over \$5,000 should be considered.
4. SB 341 has no provisions for expanding sole-source and small procurement eligibility. There are numerous purchasing needs of the department which fall outside of the strict definitions provided in the bill. Some sort of extension process is highly advisable.
5. SB 341 requires "teeth" for handling of false claims. False claims without penalty would jeopardize the efficiency and credibility of the claims process.

For further information call Susan Fleischauer at 465-3900.

6. SB 341's small procurement procedures limit consultants to a total of \$25,000 in small contracts within a twelve (12) month period. The department feels this is an unreasonable restriction and would seriously jeopardize the ability of many firms to continue providing critical services to the department.
7. There are numerous areas within the SB 341, particularly in Articles 5 and 6, where the statute is overly specific and those items might be best addressed in regulations.

The Department of Transportation and Public Facilities supports the current effort underway to update procurement procedure along the lines of the model procurement code with modifications to minimize the adverse impact on the state and private sector contracting community. The department is presently assisting in the development of Regulation to implement the bill.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER POSITION PAPER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508
PHONE: (907) 563-1073

RE: CS for SB 341

SPONSOR: Senate Rules Committees

Comments

This bill provides for a major restructuring and revision of the statutes governing the procurement of supplies, services, professional services, and construction by State agencies. Several of the requirements currently existing in statutes concerning procurement would be changed. The bill would affect all of the Department's procurement activities.

Grants Definition

Of greatest concern to the Department of Community and Regional Affairs is the possibility the definition of "procurement" in the bill may be too broad and could be interpreted as applying to many of the Department's grant activities.

At issue is the basic distinction between the definitions of procurements and grants. Under Section 36.30.850(b)(1), "grants" are exempted from the provisions of the bill. Sections 36.30.990 (10) and (12) of the bill provide the definitions of "grants" and "procurements", respectively. The Department does not believe that these definitions are adequate to differentiate between the two.

If our existing grants are redefined as procurement contracts, as defined under Section 36.30.990 (12), the Department would be required to implement a considerable number of additional administrative activities in order to comply with the provisions of CS SB 341. This, in turn, would substantially increase the need for additional staff and administrative dollars.

For example, due to the limitations on sole source procurements contained in Section 36.30.300 of the bill, this Department would be required to prepare a competitive sealed bid or proposal for each of the Legislative Grants (grants authorized under AS 37.05.316 and AS 37.05.317) administered by the Department. A significant number of these grants are appropriated annually to the Department. These new administrative procedures would increase the amount of time required to develop and obtain a signed contract and due to the solicitation requirements may lead, in this example, to the grant being provided to an entity different than that intended to receive the grant by the Legislature.

The Department also notes that Sections 46 and 65 of CS SB 341 subject the Day Care Assistance program and the Displaced Homemaker's program, respectively, to the provisions of the bill. The Department considers these programs to be grants and not procurements and suggests that these sections should be deleted.

Department Recommendations

The Department of Community and Regional Affairs believes that one of the major problems with the definitions of grants and procurements in the bill, is that neither provide an indication of the main beneficiary of the funds.

The Department suggests that procurements are primarily for the acquisition of services or supplies to enable the agency to conduct its operations and hence, are for the direct benefit of the State agency. Conversely, a grant is primarily to serve or fulfill some needed public purpose within the recipient's community and hence, directly benefits that community. The State or grantor agency only benefits indirectly from the project through the increase in the general welfare of the State.

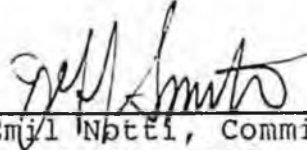
The Department of Community and Regional Affairs suggests that another major distinction between grants and procurements is that grantees are most typically entities which are organized for a public purpose and/or operate in a manner which does not yield them a profit. Conversely, procurements are most typically made with entities which are organized for profit.

In view of the above, the Department of Community and Regional Affairs recommends the following language be used in CS SB 341 as the definition of a grant.

GRANT: An agreement between a State agency and an entity which is typically not organized for profit (e.g., municipal corporation, non-profit corporation, tribal organization organized under the Indian Reorganization Act, traditional councils) and which typically represents a public interest group (e.g., community, region). The agreement provides for the performance of a public purpose which is primarily for direct benefit to the people which the grant recipient represents. The State gains only indirectly through the benefit derived by the community or region.

The Department believes this definition helps clarify the distinction between grants and procurements. This definition would ensure that grants are not mistakenly classified as procurements and subject to the greater administrative requirements provided in CS SB 341. This, in turn, would significantly reduce the fiscal impact on this Department expected under the present language of the bill.

The Department of Community and Regional Affairs does favor the overall intent of the bill. If the above enumerated concerns are properly addressed, the Department's fiscal note could be reduced to 47.7; these costs are associated with the Administrative Officer I position in the Division of Administrative Services.



Emil Notti, Commissioner
March 28, 1986

ALASKA STATE AFL-CIO

2501 Commercial Dr
Anchorage, Alaska 99501
(907) 338-6284



819 1st Ave.
Fairbanks, Alaska 99701
(907) 456-2030

MANO FREY
Executive President

April 1, 1986

TESTIMONY ON CS SB 341 (STATE PROCUREMENT PRACTICES AND PROCEDURES)

To the Co-Chair, members of the Committee:

My name is Dixie Hudish and I am here representing the Alaska State AFL-CIO.

I wish to address several concerns in this proposed bill we have before us. On page 3, lines 3,4,5 & 6 we see language that allows for the Univ. of Alaska Board of Regents to adopt regulations that are substantially equivalent to the regulations adopted by the Commissioner of Administration to implement this chapter.

In providing for this provision our question of concern is who will be monitoring the procurement practices of the Board of Regents to insure that their regulations are substantially equivalent? The public? If one looks at the structure of the Board of Regents one realizes that they are not directly answerable to the legislature, that in fact their terms are for 6 years and can only be moved by formal impeachment procedures.

On page 5, lines 9 -13 provisions are also made for the Alaska Railroad as we have for the University of Alaska. Our question is how can we, the public, be insure that if this procurement bill is adopted that the Alaska Railroad Board will in fact change their

Testimony CS SB 341
Dixie Hudish/ AFL-CIO

existing policies in procurement to meet the regulations adopted under this bill? Clearly language needs to be written to insure the above.

We feel what was intended to be an all encompassing bill for procurement for this state, has instead, been "watered down" to only provide for changes in procurement by the Dept. of Transportation and the Dept. of Administration.

As it appears to us, if we have another serious procurement problem such as the procurement situation the state found itself involved in last summer in Fairbanks, it will be because we have not provided for a consistent unified code on procurement for all state agencies.

On page 5, line 19 under Sec. 36.30.030, the new language provided for the court system now allows for the Administrative Director of the Court System to adopt procedures that are based on the competitive principles established under this chapter and the procedures must be adopted to the Special needs of the judicial branch.

If one were to look at the Court System Procurement Guidelines, as they now read, they would not meet the substantially equivalent standard but would certainly meet the broader standard that this new language allows.

Throughout the court system guidelines, procurement for services, goods & construction are all defused together.

Under Competitive Sealed Bidding guidelines of the Court System, there is a provision if all bids are rejected the Director will determine whether it is in the Court Systems interest to solicit new bids, or to directly negotiate in which case the director would sign a bid waiver. If the Director authorizes direct negotiations each bidder must be notified of the intent to negotiate and the 3 lowest bidders are given a reasonable opportunity to negotiate. The negotiated contract can be awarded only if the negotiated price is lower than the lowest rejected bid and it is the lowest negotiated price offered by an competitive offerer. Now I ask you, if this doesn't sound like bid shopping?

Under the court system, debarment is not mentioned but suspension is. Under this procurement bill, suspension is for 3 months and debarment for 3 years. The Courtst system allows only for suspension and that being 2 years.

With these two examples given of the Court System Guidelines, we urge that the Court System, the Univ. of Alaska, Legislature, Ak. Railroad fall under this procurement bill.

If there is not support for the above, we urge that you support the previous language under the Court System that will provide that the Court System must adopt regulations that are substantially equivalent to the regulations of this chapter.

In summary, I would like to emphasize that a significant portion of public construction in Alaska is procured with State dollars by

political subdivisions and other "grant" recipients, yet this bill does not require any grant or appropriation recipient to utilize procurement practices consistent with this procurement bill.

See pg 8
line 9-13

If one were to research the abuse in construction, professional and service procurement, ^{Tim sure} one would find the majority of abuses with the various entities that are not covered under this bill.

If state dollars are spent by others then why not institute similar safeguards on procurement for grant recipients.

Our recommendation is that a new section be provided that will require any grant or appropriation recipient to adopt procedures to govern the procurement of supplies ~~and~~ services and construction to be subject to regulations adopted by the Commissioner of Administration in accordance with this chapter.

Finally,

One must also keep in mind that this Procurement bill does not give preference for American Companies vs Foreign National companies, in the awarding of a procurement contract..Are we going to wait until we put our own American Companies out of business before we tighten up our competitive bidding criteria? We presently have at least 2 Chinese companies bidding on the Bradley Lake Project. Are we going to continue to watch American Construction companies go bankrupt while foreign national companies compete for our work?

RECEIVED MAR 24 1986



March 21, 1986

The Honorable Jan Faiks
Senator
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: SB 341

Dear Senator Faiks:

The Senate Finance Committee is scheduled to discuss SB 341, the Procurement Bill, on Tuesday, March 25, 1986. The Alaska State Housing Authority (ASHA), as the conduit for the receipt of federal assistance for low-income and senior housing, seeks specific exemption from SB 341 on all federally-assisted operations. ASHA is comprehensively regulated by the U.S. Department of Housing and Urban Development in its housing programs. The bill, as proposed, will substantially impact the Alaska State Housing Authority (ASHA) in the following areas:

1. Increase the duration of vacancies between tenant occupancy to insure new State procedures are being followed;
2. Create a corresponding increase in waiting lists for public housing, as tenants will not be moved into vacated units as rapidly as they now are;
3. Reduce federal funds to ASHA based on intricate funding formulas that consider vacant unit turnover and occupancy levels;
4. Require increased personnel in management, maintenance and accounting for which the federal government will not pay;
5. Jeopardize ASHA's status as a "public housing authority" for continued receipt of federal funds at a time of federal cutbacks. These funds will revert to Seattle, Portland or San Francisco rather than stay in Alaska.

A convoluted system of double regulation under which ASHA follows both federal and state regulations when they are not explicitly inconsistent, and either state or federal regulation on a case-by-case basis when there is inconsistency, creates a scenario only a



lawyer could love. Section 10 of the bill in its references to AS 18.55.100 and 18.55.110 and the proposed 36.30.890 will create such a scenario. ASHA requests your consideration of a specific exemption for ASHA.

Attached are copies of three letters received by ASHA from Michael Kulick, Manager, Anchorage Office of the U.S. Department of Housing and Urban Development, registering HUD's concerns with regard to ASHA's inclusion in SB 341. These were included in the materials previously submitted to the Senate Judiciary Committee in support of an exemption for ASHA.

Since testifying before the Senate Judiciary Committee, we have prepared a fiscal note, which assumes full delegation to the Alaska State Housing Authority, as provided in the legislation. Federal funds to implement this legislation are not and will not be available, leaving a cost to the State General Fund as described in the fiscal note.

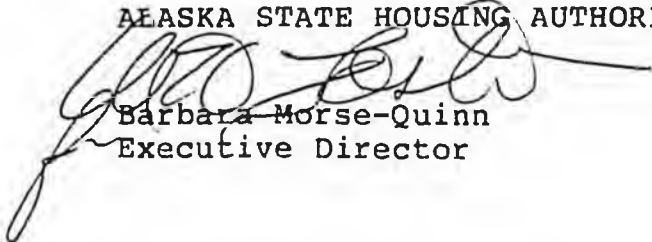
Also enclosed is a section analysis and narrative outlining ASHA's reasons for requesting an exemption. ASHA's concerns are that this legislation is in part duplicative, contradictory and unnecessarily burdensome for ASHA because of ASHA's relationship to the U.S. Department of Housing and Urban Development. Under SB 341, the procurement code will be applied to this housing authority, while all other housing authorities in the state are being exempted. No tenant, vendor or contractor will note benefits or receive increased services from this agency's application of this law. In fact, the agency's purpose will be descoped, muddled, made controversial, and its activities will cost significantly more to administer.

In a time of both federal and state monetary restraint, we advocate for available funds to go for housing, not administration.

On behalf of all our tenants and supporters of public housing, thank you for your consideration of our remarks.

Sincerely,

ALASKA STATE HOUSING AUTHORITY



Barbara Morse-Quinn
Executive Director

BMQ/sms

Enclosures



U.S. Department of Housing and Urban Development

Anchorage Office, Region X
701 "C" Street, Box 64
Anchorage, Alaska 99513

REIVED
ASHA

JAN 21 1986

JAN 24 '86

Barbara Morse-Quinn, Executive Director
Alaska State Housing Authority
Post Office Box 100080
Anchorage, Alaska 99510-0080

EX cc
DEX cc
Eq. Dept
EX Sec
Board

Dear Ms. Morse-Quinn:

Subject: Relationship of Alaska State Housing Authority
and the U. S. Department of Housing and Urban Development

This is in response to your letter dated January 17, 1986, requesting our comments on the relationship of Alaska State Housing Authority (ASHA) and U. S. Department of Housing and Urban Development (HUD).

The relationship is a contractual one which is defined by the terms of the Annual Contributions Contract. Under that document a public housing authority (PHA) is provided federal funds for the specific purpose of providing and operating housing for families of lower income. The funding is designated for specific projects and may only be used in accordance with the HUD-approved development program, contract terms, and HUD regulations and policies. Should the funding approved by HUD for a particular project not be made available to the PHA, it would be necessary for the federal government to provide additional funding in order for HUD to meet its contractual responsibilities to the PHA. For this reason, HUD cannot approve any arrangement whereby the PHA does not have total access to and control of, the funds supplied by HUD. As a small example of this, HUD requires the PHA to invest the funds provided in order to earn interest. The amount of funding provided has been calculated on the basis that a certain amount of interest will have been received by the PHA. Any attempt to make HUD funds provided to ASHA restricted as to access or control or subject to legislative approval would be strongly opposed by HUD. In this regard, I have been advised by our Headquarters' office that the Department has already taken such a position with another state when it recently advised the governor of that state that remedial legislation must be enacted to eliminate legislative control over HUD funds.

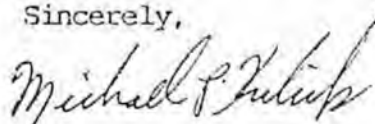
I am not in a position to discuss how HUD's legislation compares with that of other federal agencies. It is my impression, however, that HUD may have more authority, than other agencies, to become directly responsible

for the activities usually undertaken by a state agency using federal funds. For example, the default provisions of the statute and Annual Contributions Contract provide that title and/or possession be given to the Secretary, at the Secretary's discretion, should the PHA fail to observe the terms of the contract. In any case, HUD funds are specifically designated for an identifiable project to be developed or managed by a named PHA and are not considered generalized housing funds earmarked particular to be used in a state.

For additional comments, I refer you to the Regional Counsel's letter dated October 17, 1985, which speaks to the relationship between ASHA and HUD. Finally, we do believe the Attorney General's Opinion of June 9, 1983, interpreting AS 18.55.110 may have direct relevance to the issues you raised.

I hope this is of some assistance to you. Please keep us fully informed of your discussions on this matter and feel free to contact Susan Olsen, Chief Counsel, at 271-4683 for additional comments.

Sincerely,



Michael P. Kulick
Manager



U.S. Department Housing and Urban Development

Anchorage Office, Region X
701 "C" Street, Box 64
Anchorage, Alaska 99513

JAN 14 1986

RECEIVED
ASHA

JAN 12 '86

Barbara Morse-Quinn, Executive Director
Alaska State Housing Authority
Post Office Box 100080
Anchorage, Alaska 99510-0080

Exec
BMS
DEF cc
All Depts
EX Sec
H-3 extra
Board

Dear Ms. Morse-Quinn:

Subject: Senate Bill 8001
Proposed State Procurement Act

In response to your inquiry of December 13, 1985, we have reviewed the above-referenced bill from the perspective of its impact on Alaska State Housing Authority (ASHA) and U. S. Department of Housing and Urban Development (HUD) programs and operations. We find that, overall, as written, it may be viewed as burdensome and restrictive from a practical standpoint, and as undesirable to HUD in terms of foreseeable increased costs, time delays, and lack of adequate protections for federally-funded housing projects. We do not find the proposed act to be of particular value to either ASHA or HUD, inasmuch as we firmly believe that there are adequate and appropriate safeguards currently in place to meet any concerns the state may have with regard to fairness, economy, and control. This is accomplished by way of ASHA regulations and HUD's regulations and policies, and the requirements of the Annual Contributions Contract between HUD and ASHA.

While it is difficult to analyze the full impact, on an agency or federally-funded program, of a law for which regulations have not yet been written, we offer the following comments on the bill, along with responses to your comments to Senator Faiks.

As to the delegability of professional services authority, as well as the authority to procure supplies and other services (as referenced in your first two pages of comments), we think that the only logical interpretation of AS 36.30.015(b) is that such authority is delegable. However, there is no requirement that the authority be delegated, and, clearly, the adoption of regulations is not delegable, nor is there any requirement that the individual departments or agencies participate in the formulation of the regulations. While ASHA presently has the power under AS 18.55.100 to adopt its own regulations, the proposed legislation would apparently remove this power,

and we see this as a significant deficiency of the law from a practical and policy standpoint. We think that any applicable regulations should be written in accordance with HUD requirements. Additionally, as you are aware, HUD is particularly concerned with contracting for construction and has developed extensive "boiler-plate" provisions which are required to be utilized in any such contracts. We see great possibilities for conflict should the authority not be delegated to ASHA and should the regulations not comport with HUD's requirements.

We agree that most matters covered in your numbered paragraphs (2) and (3) are covered by HUD regulations, procedures, or other requirements which variously are less, or more, restrictive than that proposed by the state bill. This is true, of course, about most of the sections of the legislation. In HUD's view, a few of the areas which would raise immediate and strong conflict are: Section 36.30.080, which could involve the administration of federal funds for lease purposes through the state treasury; Section 36.30.170, which provides for an Alaska bidder preference; Section 36.30.270, which requires the approval of the Department of Law to alter any contract terms, rather than HUD's counsel; and Section 36.30.015, which requires the attorney general's approval of any contract for legal services. As an additional note, it appears that use of the consolidated supply program would be seriously curtailed or delayed in that already selected competitive bid suppliers would have to resubmit to the state's competitive bid process.

The extensive bid documentation required in Section 36.30.110, as discussed in your paragraph (5), does appear to be cumbersome and bound to cause delays. Further, we think the requirements for Alaska business licenses, as applied to subcontractors in supply contracts, is unduly restrictive and burdensome. HUD policy expects procurement procedures to be as broad and competitive as possible. As mentioned earlier, the provision for Alaska bidder preference is totally unacceptable for federally-funded ASHA projects. This raises questions also about the acceptability of Section 36.30.050, which requires every agency's use of a centrally maintained list of contractors.

Regarding your paragraph (6), HUD requires acceptable bid security of five percent. We would undoubtedly find that the ten percent requirement would be unacceptably excessive and would not be willing to approve these extra costs to a project.

Section 36.30.200(b), as referenced in your paragraph (8), appears to be unduly burdensome in that written determinations must be obtained from the chief procurement officer or the commissioner of transportation and public facilities prior to ASHA's ability to enter a contract by other means than a competitive bid (except where emergency or small procurement standards are met). Under the proposed legislation, authority for these determinations is not delegable.

We agree that ASHA's current regulations regarding emergency conditions are more narrowly defined than the proposed language, and, therefore, less apt to present grounds for disputes, either before or after a procurement action is taken [reference your paragraph (9)].

As to your paragraphs (10) and (11), we do not believe that either Section 36.30.370 or Section 36.30.380 conflicts with HUD regulations. However, to require an agency to review and analyze the capability of a proposed contractor's accounting system is, we think, excessively burdensome.

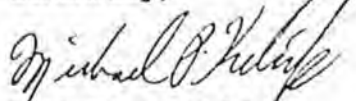
As you point out in your paragraph (12), HUD's policies, procedures and contract provisions, as well as its regulations, do govern the distribution and administration of federal monies designated for public housing projects. Section 36.30.890 of the proposed bill, therefore, provides only a limited exemption to ASHA. Limited exemption could jeopardize ASHA's receipt of HUD funds in an instance of conflict with the state procurement statute. We note the relevance of the Alaska Attorney General's opinion of June 9, 1983, on the applicability of Title 36 to ASHA, wherein he discusses AS 18.55.110 as follows:

. . . We believe the more probable legislative intent was to provide an explicit statutory exemption in instances where the application of state law would jeopardize the receipt of federal assistance. . . . By the statute's own terms, the focus of the exemption is 'to secure [federal] financial aid for housing projects.' . . . Consequently, we interpret AS 18.55.110 as exempting the application of state or local law when a federal funding entity, properly exercising its discretion, notifies ASHA in writing that the receipt of federal funds would be jeopardized were State or local law deemed applicable.

It seems to us that this opinion may be an instructive and persuasive rationale for exempting ASHA from the proposed procurement statute. We tend to agree with you that an acceptable alternative to what we view as a basis for recurring interpretive, managerial, and legal problems under the proposed law, would be to include ASHA as an exempt agency along with the railroad, the legislature, and the court system. If ASHA is not made exempt, then, at a minimum, we would want to see added the terms "policy or other requirement" to the existing terms "federal statute or regulation" in AS 36.30.890.

Thank you for this opportunity to comment.

Sincerely,



Michael P. Kulick
Manager



U.S. Department of Housing and Urban Development

Anchorage Office, Region X
701 "C" Street, Box 64
Anchorage, Alaska 99513

RECEIVED
ASHA

JUN 31 '86

JAN 21 1986

Barbara Morse-Quinn, Executive Director
Alaska State Housing Authority
Post Office Box 100080
Anchorage, Alaska 99510-0080

Route	EX	cc
Route	DEX	cc
Route	All Dep't	Lead's cc
File	EX	Sec
	Board	

Dear Ms. Morse-Quinn:

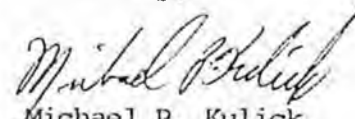
Subject: Senate Bill 8001
Proposed State Procurement Act

It has just come to our attention that Senate Bill 8001 does provide for an amendment to AS 18.55.100 by adding, "(d) The authority's power to contract, lease, rent, construct, acquire, procure and provide for services under this section is governed by AS 36.30."

We think the only logical application of this subsection with respect to leasing and renting is where Alaska State Housing Authority is procuring a lease for itself, equipment rentals, or similar transactions.

We do not recall any aspect of Senate Bill 8001 which would apply to the leasing of space to tenants. Inasmuch as Alaska State Housing Authority's tenant leasing policies and practices are subject to the U. S. Department of Housing and Urban Development's regulations and other requirements, we would find objectionable any application of Senate Bill 8001 in this regard.

Sincerely,


Michael P. Kulick
Manager

5B 341



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

SENATE SELECT INTERIM COMMITTEE ON PROCUREMENT PRACTICES AND PROCEDURES

January 13, 1986

Senator Don Bennett, President
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to Senate Resolution Number 5, a Senate Select Interim Committee on Procurement Practices and Procedures was appointed. The Committee was composed of the following Senators: Jan Faiks, Chairman, Jalmar Kerttula, Vice-Chairman, Rick Halford, Joe Josephson, Edna DeVries and Fred Zharoff. Attorney General Hal Brown participated as an ex-officio member.

The Committee has completed its duties, which included reviewing and investigating the Grand Jury recommendations concerning the Alaska statutes governing state procurement and a code of ethics for the executive branch. In addition, the Committee held eight public hearings based in Anchorage, Fairbanks and Barrow, at which numerous witnesses participated and presented additional information regarding state procurement and ethics. Four of the public hearings were teleconferenced statewide. A mailing list of over 300 interested people was compiled, with updated information relayed periodically.

A task force composed of state procurement personnel worked at length and presented recommendations to the Committee. Five formal task force meetings were held and many administrative briefings, directed by the Department of Administration, reached personnel throughout the executive branch. The Committee greatly appreciated the efforts of Attorney General Hal Brown, Assistant Attorney General Jim Baldwin, Deputy Commissioner Marsha Hubbard, and Bob Link, Director of General Services and Supplies, who worked diligently to make this effort a success.

The following findings and recommendations are based on consistent testimony presented to the Committee during its review.

PROCUREMENT

FINDING #1: Existing procurement statutes and regulations are inconsistent, inadequate, outdated and sporadically scattered throughout our laws. An overabundance of the rules pertaining to state purchasing are contained in internal agency policy and procedure manuals, which are not readily available to the public. These factors have caused confusion among those who contract or wish to contract with the state. According to the Department of Law, there has been a dramatic increase in litigation concerning contract disputes because of the fact that the state does not have a comprehensive procurement law.

RECOMMENDATION: Based on these factors, the Committee believes that comprehensive procurement laws and regulations should be enacted.

FINDING #2: The Legislature, Court System, Executive Branch, University of Alaska, and Alaska Railroad Corporation operate differently and independently in the manner in which procurements are made. The Alaska Railroad Corporation has independent authority under AS 42.20.100 to ensure that the procurement procedures of the Corporation meet accepted railroad industry standards. The Executive Branch has moved away from centralized procurement practices and procedures. The Department of Administration has delegated purchasing authority to agencies which have been nonresponsive in enacting basic purchasing regulations. The lack of a uniform and centralized system has produced a system which is incoherent and confusing to the public.

RECOMMENDATION: All laws and regulations pertaining to procurement should be substantially equivalent, while maintaining the integrity of the separate branches of the government. Procurement within the Executive Branch should be more centralized. Any delegation of purchasing authority to an agency should be made only after written determination that the agency is capable of implementing the delegated authority.

FINDING #3: Bid specifications, solicitations and award criteria are not always clearly written or referenced in the information reviewed by potential bidders. The process by which the issuing agency evaluates and accepts or rejects bids is uncertain. This has created confusion and frustration for those who wish to contract with the state.

RECOMMENDATION: Evaluation procedures and performance criteria should be clearly described and identified in all solicitations.

FINDING #4: The use of noncompetitive procurement methods, such as sole source contracts, has not always been adequately justified, demonstrated or documented. This has caused the public to be skeptical of the state procurement system.

RECOMMENDATION: Noncompetitive procurement methods should be limited, and used only after written determination is made that clearly defined criteria for such methods have been met. The Legislature should receive reports of all sole source and emergency contract awards.

FINDING #5: The appeals process has been criticized because of the lack of information concerning the procedures. The time limits imposed for an appeal are too rigid to allow sufficient preparation by the protestor.

RECOMMENDATION: A clear, comprehensive and uniform appeals procedure, with adequate timelines, should be adopted.

FINDING #6: Persons who are not licensed to do business in the state have been awarded contracts. This has caused a great amount of frustration among those who are licensed, yet unsuccessful bidders.

RECOMMENDATION: All bidders should have an Alaska business license at the time of bid.

FINDING #7: Concern has been expressed that access to state contracting is complicated and difficult. The lack of information or understanding of the procedures is viewed as a barrier to doing business with the state.

RECOMMENDATION: The contractors' list should be utilized by all state agencies and branches of government. This list should be current and easily available for users.

FINDING #8: Public procurement is a highly technical process and involves millions of state dollars annually. Expertise is required to make the process work efficiently and effectively.

RECOMMENDATION: Procurement personnel should be adequately trained and supervised. The Chief Procurement Officer should have substantial experience in public procurement, and should be adequately insulated from political pressure.

Based on the recommendations of the Grand Jury, public testimony and state personnel, the Committee is forwarding the attached bill and sectional analysis relating to state procurement practices and procedures. This bill is based on the Model Procurement Code (MPC) which was adopted by the American Bar Association's House of Delegates. The Code represents over five years of intensive effort directed by a Coordinating Committee which is a joint committee of the

Section of Public Contract Law and the Section of Urban, State and Local Government Law.

The Model Procurement Code provides the framework for creating a complete purchasing system at any level of government. Specifically the Code contains: (1) the statutory principles and policy guidance for managing and controlling the procurement of supplies, services, and construction for public purposes; and (2) administrative and judicial remedies for the resolution of controversies relating to public contracts.

The following jurisdictions have adopted modified versions of the Code: Kentucky (1979), Arkansas (1979), Louisiana (1980), Utah (1980), Maryland (1981), South Carolina (1981), Colorado (1982), Indiana (1982), Virginia (1983), Territory of Guam (1983), New Mexico (1984), and Arizona (1984). Local governments or agencies have also adopted versions of the Code, including the Municipality of Anchorage.

The Committee believes that the proposed procurement code will provide a comprehensive law which addresses the deficiencies of the existing system, and therefore we recommend it to you for approval.

ETHICS

Senate Resolution 6 also directed the Committee to "review, investigate and render advice with respect to the Grand Jury recommendations concerning a code of ethics for the executive branch and employee awareness of ethical obligations".

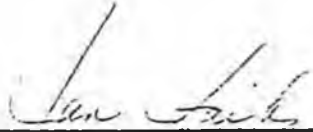
The Committee held two meetings in which it reviewed current statutes pertaining to conflict of interest and ethical behavior for state employees. The Committee also reviewed legislation introduced in the 13th Legislature that would have established an ethics code for the executive branch. Of particular interest was Senate Bill 501 that was introduced by the Governor in 1984 and extensively reviewed by the Senate State Affairs Committee. This bill became the basis from which the Committee began its deliberations.

During these deliberations, the Administration informed the Committee that they had already drafted and were nearing completion on an ethics bill to be introduced by the Governor. After some discussion and review of the draft legislation, it was felt no purpose would be served by the introduction of competing pieces of legislation on this important issue. Therefore, the Senate Select Interim Committee on Procurement Practices and Procedures agreed to defer to the Governor and not introduce an ethics bill.

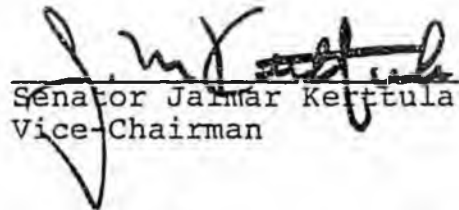
The Committee would like to thank the Administration for all its invaluable assistance in working on an ethics code for

the executive branch. The Attorney General, Hal Brown, provided the Committee with the able assistance of his Special Assistant, Randall Burns and Assistant Attorney General, Susan Cox without whom our task would have been much more difficult.

Respectfully submitted,



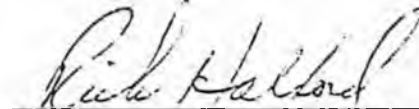
Senator Jan Faiks,
Chairman



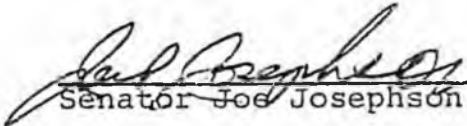
Senator Jalmari Kerttula
Vice-Chairman



Senator Edna DeVries



Senator Rick Halford



Senator Joe Josephson



Senator Fred Zharoff

AGC AMENDMENTS TO CS SB 341 (Jud)

- Page 10, Line 18 After the word "Within" delete "48 hours" and insert two working days
- Page 10, Line 19 After the word "bids," delete "each" and insert the apparent low

Page 11, Line 5 After the word "listed;" insert the following:

(7) must be substituted in order for the prime contractor to satisfy required Disadvantaged Business Enterprise or Women's Business Enterprise or other contractually imposed requirement;

(8) Was listed as a result of clerical error;

(9) Refuses to agree or abide with the bidder's labor agreement;

Renumber remaining sections accordingly

Introduced: 1/14/86
Referred: Judiciary and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE SENATE SELECT
INTERIM COMMITTEE ON PROCUREMENT
PRACTICES AND PROCEDURES

1 IN THE SENATE

2

SENATE BILL NO. 341

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND 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. PURPOSE. This Act shall be construed and applied to
10 promote its underlying purposes and policies. The underlying purposes and
11 policies of this Act are to

12 (1) simplify, clarify, and modernize the law governing pro-
13 curement by the state;

14 (2) make as consistent as possible the procurement practices
15 among the executive branch, the legislative branch, and the judicial branch
16 of state government;

17 (3) provide for increased public confidence in the procedures
18 followed in state procurement;

19 (4) ensure the fair and equitable treatment of all persons who
20 deal with the procurement system of the state;

21 (5) provide increased economy in state procurement activities
22 and maximize to the fullest extent practicable the purchasing value of
23 state funds;

24 (6) foster effective broad-based competition within the free
25 enterprise system;

26 (7) provide safeguards for the maintenance of a procurement
27 system of quality and integrity;

28 (8) permit the continued development of state procurement prac-
29 tices and policies; and

1 (9) eliminate and prevent discrimination in state contracting
2 because of race, religion, color, national origin, sex, age, marital sta-
3 tus, pregnancy, or parenthood.

4 * Sec. 2. AS 36 is amended by adding a new chapter to read:

5 CHAPTER 30. STATE PROCUREMENT CODE.

6 ARTICLE 1. ORGANIZATION OF STATE PROCUREMENT.

7 Sec. 36.30.005. CENTRALIZATION OF PROCUREMENT AUTHORITY. (a)
8 Except as otherwise provided, all rights, powers, duties, and
9 authority relating to the procurement of supplies, services, and
10 professional services, and the control over supplies, services, and
11 professional services vested in or exercised by an agency on
12 January 1, 1987, are transferred to the commissicner of administration
13 and to the chief procurement officer.

14 (b) Except as otherwise provided, all rights, powers, duties,
15 and authority relating to the procurement of construction and
16 procurements to or disposals from the state equipment fleet and the
17 control over construction and the state equipment fleet vested in or
18 exercised by an agency on January 1, 1987, are transferred to the
19 commissioner of transportation and public facilities, subject to
20 regulations adopted by the commissioner of administration.

21 Sec. 36.30.010. CHIEF PROCUREMENT OFFICER. (a) The commis-
22 sioner shall appoint to the partially exempt service the chief
23 procurement officer of the state who is responsible for procurement of
24 supplies, services, and professional services for agencies in the
25 executive branch. The chief procurement officer shall have at least
26 five years of prior experience in public procurement and may be
27 removed by the commissioner only for cause. The term of office of the
28 chief procurement officer expires when the term of the governor
29 expires.

1 (b) Except as otherwise specifically provided in this chapter,
2 the chief procurement officer shall

3 (1) procure or supervise the procurement of all supplies,
4 services, and professional services needed by an agency;

5 (2) exercise general supervision and control over all
6 inventories of supplies belonging to an agency and prescribe the
7 manner in which supplies shall be purchased, delivered, stored, and
8 distributed;

9 (3) prescribe the time, manner, authentication, and form of
10 making requisitions for supplies and services;

11 (4) sell, trade, transfer between agencies, or otherwise
12 dispose of surplus, obsolete, or unused supplies and make proper
13 adjustments in the accounts of agencies concerned;

14 (5) establish and maintain programs for the inspection,
15 testing, and acceptance of supplies and services and the testing of
16 samples submitted with bids;

17 (6) prescribe standard forms for bids and contracts; and

18 (7) provide for other matters that may be necessary to
19 carry out the provisions of this chapter and the regulations adopted
20 under this chapter.

21 Sec. 36.30.015. EXECUTIVE BRANCH AGENCIES. (a) The Department
22 of Transportation and Public Facilities may contract for construction
23 and procurements for the state equipment fleet. The Department of
24 Transportation and Public Facilities may dispose of property of the
25 state equipment fleet. The commissioner of transportation and public
26 facilities may delegate to another agency the authority to contract
27 for construction. Before delegating authority to an agency under this
28 subsection, the commissioner of transportation and public facilities
29 shall make a written determination that the agency is capable of

1 implementing the delegated authority. Contracts for construction and
2 procurements to and disposals from the state equipment fleet are
3 governed by this chapter and regulations adopted by the commissioner
4 of administration under this chapter.

5 (b) The commissioner may delegate to an agency the authority to
6 contract for and manage supplies, except property of the state
7 equipment fleet, services, and professional services. Notwithstanding
8 delegation of authority under this subsection, an agency's authority
9 to contract for supplies, services, and professional services, is
10 governed by this chapter and regulations adopted by the commissioner
11 under this chapter. Before delegating authority to an agency under
12 this subsection, the commissioner shall make a written determination
13 that the agency is capable of implementing the delegated authority.

14 (c) The commissioner may not delegate the authority to adopt
15 regulations under this chapter.

16 (d) An agency may not contract for the services of legal counsel
17 without the approval of the attorney general.

18 (e) The board of directors of the Alaska Railroad Corporation
19 shall adopt procedures to govern the procurement of supplies, ser-
20 vices, professional services, and construction by the corporation.
21 The procedures must be substantially equivalent to the procedures pre-
22 scribed in this chapter and in regulations adopted under this chapter.

23 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall
24 adopt procedures to govern the procurement of supplies, services,
25 professional services, and construction by the legislature, legisla-
26 tors, and legislative agencies and committees. The procedures must be
27 substantially equivalent to the procedures prescribed in this chapter.

28 Sec. 36.30.030. COURT SYSTEM. The supreme court shall adopt
29 procedures to govern the procurement of supplies, services,

1 professional services, and construction by the judicial branch. The
2 procedures must be substantially equivalent to the procedures pre-
3 scribed in this chapter.

4 Sec. 36.30.040. PROCUREMENT REGULATIONS. (a) The commissioner
5 shall adopt regulations governing the procurement, management, con-
6 trol, and disposal of supplies by agencies and the procurement,
7 management, and control of services, professional services and
8 construction by agencies. The commissioner may audit and monitor the
9 implementation of the regulations and the requirements of this chapter
10 with respect to using agencies.

11 (b) The commissioner shall adopt regulations pertaining to the
12 following:

13 (1) suspension, debarment, and reinstatement of prospective
14 bidders and contractors;

15 (2) bid protests;

16 (3) conditions and procedures for the procurement of per-
17 ishables and items for resale;

18 (4) conditions and procedures for the use of source selec-
19 tion methods authorized by this chapter, including sole source pro-
20 curements, emergency procurements, and small procurements;

21 (5) the opening or rejection of bids and offers, and waiver
22 of informalities in bids and offers;

23 (6) confidentiality of technical data and trade secrets
24 submitted by actual or prospective bidders or offerors;

25 (7) partial, progressive, and multiple awards;

26 (8) storerooms and inventories, including determination of
27 appropriate stock levels and the management, transfer, sale, or other
28 disposal of agency supplies;

29 (9) definitions and classes of contractual services and

- 1 procedures for acquiring them;
- 2 (10) providing for conducting price analysis;
- 3 (11) use of payment and performance bonds in connection with
4 contracts for supplies and services;
- 5 (12) guidelines for use of cost principles in negotiations,
6 adjustments, and settlements; and
- 7 (13) the elimination and prevention of discrimination in
8 state contracting because of race, religion, color, national origin,
9 sex, age, marital status, pregnancy, or parenthood.

10 Sec. 36.30.050. LISTS OF CONTRACTORS. (a) The commissioner
11 shall establish and maintain lists of persons who desire to provide
12 supplies, services, professional services, or construction services to
13 the state.

14 (b) A person who desires to be on a list shall submit to the
15 commissioner evidence of a valid Alaska business license together with
16 a biennial fee in an amount established by regulation. A construction
17 contractor shall also submit a valid certificate of registration
18 issued under AS 08.18. The commissioner, by regulation, may require
19 submission of additional information.

20 (c) The lists shall be used by the chief procurement officer or
21 an agency when issuing invitations to bid or requests for proposals
22 under this chapter.

23 (d) The lists shall be used by the Legislative Council, the
24 court system, and the Alaska Railroad Corporation.

25 Sec. 36.30.060. SPECIFICATIONS. (a) The commissioner shall
26 adopt regulations governing the preparation, revision, and content of
27 specifications for supplies, services, professional services, and
28 construction required by an agency. The commissioner shall monitor
29 the use of these specifications.

1 (b) Specifications for construction of highways must conform as
2 closely as practicable to those adopted by the American Association of
3 State Highway and Transportation Officials.

4 (c) The commissioner may obtain expert advice and assistance
5 from personnel of using agencies in the development of specifications.
6 Specifications must promote overall economy for the purposes intended
7 and encourage competition in satisfying the state's needs, and may not
8 be unduly restrictive. The requirements of this subsection regarding
9 the purposes and nonrestrictiveness of specifications apply to all
10 specifications, including those prepared by architects, engineers,
11 designers, and other professionals.

12 (d) In this section, "specification" means a description of the
13 physical or functional characteristics, or of the nature of a supply,
14 service, professional service, or construction project; it may include
15 requirements for inspecting, testing, and delivery.

16 Sec. 36.30.070. SUPPLY MANAGEMENT. The commissioner shall adopt
17 regulations governing the

- 18 (1) management of supplies during their entire life cycle;
- 19 (2) sale, lease, or disposal of surplus supplies by public
20 auction, competitive sealed bidding, or other appropriate method
21 designated by regulation;
- 22 (3) purchase of surplus supplies by an employee of the
23 using or disposing agency; and
- 24 (4) transfer of excess supplies.

25 Sec. 36.30.080. LEASES. (a) The department shall lease space
26 for the use of the state or an agency wherever it is necessary and
27 feasible, subject to compliance with the requirements of this chapter.
28 A lease may not provide for a period of occupancy greater than 40
29 years. An agency requiring office, warehouse, or other space shall

936

1 lease the space through the department.

2 (b) The department may enter into lease-financing agreements,
3 including lease-purchase agreements and agreements related to the
4 issuance of certificates of participation. A lease-financing agree-
5 ment must provide that lease payments are subject to annual appropria-
6 tion.

7 (c) If the department intends to enter into a lease or lease-
8 financing agreement with an annual rent to the state anticipated to
9 exceed \$1,000,000, the department shall provide notice to the legisla-
10 ture. The notice must include the anticipated annual lease obligation
11 amount and the anticipated total construction, acquisition, or other
12 costs of the project. The department may not enter into an agreement
13 under this subsection unless the project has been approved by the
14 legislature by law. An appropriation for the project does not consti-
15 tute approval of the project for purposes of this subsection.

16 ARTICLE 2. COMPETITIVE SEALED BIDDING.

17 Sec. 36.30.100. GENERAL POLICY. (a) Except as otherwise pro-
18 vided in this chapter, or unless specifically exempted by law, an
19 agency contract shall be awarded by competitive sealed bidding.

20 (b) Competitive sealed bidding is not required

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

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

26 (3) for contracts for the operation of transportation
27 systems for students to and from the schools within the state, as are
28 authorized under AS 14.09.010; these contracts may be awarded by bid
29 or negotiation and, at the discretion of the Board of Education, may

1 be awarded for periods of three years or less;

2 (4) for the purchase of products or services manufactured
3 or provided by a sheltered workshop;

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

6 (6) for professional services; or

7 (7) for concessions operated on state property.

8 (c) In this section "sheltered workshop" means a place where
9 manufacture or handiwork is carried on, and that is operated for the
10 primary purpose of providing remunerative employment to individuals
11 with physical or mental disabilities that constitute substantial
12 handicaps to employment.

13 Sec. 36.30.110. INVITATION TO BID. (a) When competitive sealed
14 bidding is used, the procurement officer shall issue an invitation to
15 bid. It must include a date by which the bid must be received, pur-
16 chase description, and all contractual terms and conditions applicable
17 to the procurement.

18 (b) The invitation to bid shall require the bidder to list
19 subcontractors the bidder proposes to use in the performance of the
20 contract. When responding to the invitation, the bidder shall also
21 supply evidence of the bidder's valid Alaska business license and
22 evidence of a valid Alaska business license for each listed
23 subcontractor. A bidder for a construction contract shall also submit
24 evidence of the bidder's registration under AS 08.18 and evidence of
25 registration for each listed subcontractor.

26 Sec. 36.30.120. BID SECURITY. (a) Bid security shall be re-
27 quired for all competitive sealed bidding for construction contracts
28 when the price is estimated by the procurement officer to exceed an
29 amount established by regulation of the commissioner. Bid security on

1 construction contracts under the amount set by the commissioner may be
2 required when the circumstances warrant. Bid security may be required
3 for competitive sealed bidding for contracts for supplies, services,
4 or professional services in accordance with regulations of the
5 commissioner when needed for the protection of the state.

6 (b) Bid security must be a bond provided by a surety company
7 authorized to do business in the state, or the equivalent in cash, or
8 otherwise supplied in a form satisfactory to the commissioner. Bid
9 security must be in an amount equal to at least

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

12 (2) five percent of the amount of the bid if the bid
13 exceeds \$100,000.

14 (c) When the invitation to bid requires security, the procure-
15 ment officer shall reject a bid that does not comply with the bid
16 security requirement unless, in accordance with regulations, the
17 officer determines that the bid fails to comply in a nonsubstantial
18 manner with the security requirements.

19 Sec. 36.30.130. PUBLIC NOTICE OF INVITATION TO BID. (a) The
20 procurement officer shall give adequate public notice of the invita-
21 tion to bid at least 21 days before the date for the opening of bids.
22 If a determination is made in writing that a shorter notice period is
23 necessary for a particular bid, the 21-day period may be shortened.
24 The determination shall be made by the chief procurement officer for
25 bids for supplies, services, or professional services. The
26 determination shall be made by the commissioner of transportation and
27 public facilities for bids for construction or acquisition of property
28 for the state equipment fleet. Notice shall be mailed to all active
29 prospective contractors on the appropriate list maintained under

1 AS 36.30.050. The time and manner of notice must be in accordance
2 with regulations adopted by the commissioner of administration. When
3 practicable, notice may include

4 (1) publication in a newspaper calculated to reach prospec-
5 tive bidders;

6 (2) notices posted in public places within the area where
7 the work is to be performed or the material furnished; and

8 (3) publication in the Alaska Administrative Journal.

9 (b) Failure to comply with the notice requirements of this
10 section does not invalidate a bid or the award of a contract. The
11 state is not liable for damages caused by failure to comply with this
12 section.

13 Sec. 36.30.140. BID OPENING. (a) The procurement officer shall
14 open bids publicly in the presence of one or more witnesses at the
15 time and place designated in the invitation to bid. The amount of
16 each bid and other relevant information that is specified by regula-
17 tion of the commissioner, together with the name of each bidder, shall
18 be recorded.

19 (b) The information recorded under (a) of this section is open
20 to public inspection as soon as practicable before the contract is
21 awarded. The bids are not open for public inspection until after a
22 contract is awarded. To the extent the bidder designates and the
23 procurement officer concurs, trade secrets and other proprietary data
24 contained in a bid document are confidential.

25 Sec. 36.30.150. BID ACCEPTANCE AND BID EVALUATION. Bids shall
26 be unconditionally accepted without alteration or correction, except
27 as authorized in AS 36.30.160. The procurement officer shall evaluate
28 bids based on the requirements set out in the invitation to bid, which
29 may include criteria to determine acceptability such as inspection,

1 testing, quality, delivery, and suitability for a particular purpose.
2 The criteria that will affect the bid price and be considered in
3 evaluation for award must be objectively measurable, such as dis-
4 counts, transportation costs, and total or life cycle costs. The
5 invitation to bid must set out the evaluation criteria to be used.
6 Criteria may not be used in bid evaluation if they are not set out in
7 the invitation to bid.

8 Sec. 36.30.160. LATE BIDS; CORRECTION OR WITHDRAWAL OF BIDS;
9 CANCELLATION OF AWARDS. (a) Bids received after the bid due date
10 indicated on the invitation to bid may not be accepted unless the
11 delay was due to an error of a state employee directly responsible for
12 opening the bids.

13 (b) Correction or withdrawal of inadvertently erroneous bids
14 before or after bid opening, or cancellation of awards or contracts
15 based on bid mistakes may be permitted in accordance with regulations
16 adopted by the commissioner. After bid opening, changes in bid prices
17 or other provisions of bids prejudicial to the interest of the state
18 or fair competition may not be permitted. Except as otherwise
19 provided by regulation, a decision to permit the correction or with-
20 drawal of a bid, or to cancel an award or contract based on a bid
21 mistake, shall be supported by a written determination made by the
22 procurement officer. If a bidder is permitted to withdraw a bid
23 before award, an action may not be maintained against the bidder or
24 the bid security.

25 Sec. 36.30.170. CONTRACT AWARD AFTER BIDS. (a) Except as
26 provided in (b) of this section, the procurement officer shall award a
27 contract based on the solicited bids with reasonable promptness by
28 written notice to the lowest responsible and responsive bidder whose
29 bid conforms in all material respects to the requirements and criteria

1 set out in the invitation to bid.

2 (b) The procurement officer shall award a contract based on
3 solicited bids to the lowest responsible and responsive Alaska bidder
4 if the bid is not more than five percent higher than the lowest non-
5 resident bidder's. In this subsection, "Alaska bidder" means a person
6 who

7 (1) holds a current Alaska business license;

8 (2) submits a bid for goods, services, or construction
9 under the name as appearing on the person's current Alaska business
10 license;

11 (3) has maintained a place of business within the state for
12 a period of six months immediately preceding the date of the bid; and

13 (4) if a joint venture, is composed entirely of ventures
14 that qualify under (1) - (3) of this subsection.

15 (c) The provisions of (b) of this section do not apply to con-
16 struction contracts for highways and public works if the construction
17 contract exceeds \$5,000.

18 Sec. 36.30.190. MULTI-STEP SEALED BIDDING. When it is con-
19 sidered impractical to initially prepare a definitive purchase de-
20 scription to support an award based on price, the procurement officer
21 may issue an invitation to bid requesting the submission of unpriced
22 technical offers to be followed by an invitation to bid limited to the
23 bidders whose offers are determined to be technically qualified under
24 the criteria set out in the first solicitation.

25 ARTICLE 3. COMPETITIVE SEALED PROPOSALS.

26 Sec. 36.30.200. CONDITIONS FOR USE. (a) Except as otherwise
27 provided in this chapter, or unless specifically exempted by law, an
28 agency contract shall be awarded by competitive sealed proposals if it
29 is not awarded by competitive sealed bidding.

1 (b) The commissioner may provide by regulation that it is either
2 not practicable or not advantageous to the state to procure specified
3 types of supplies, services, or construction by competitive sealed
4 bidding that would otherwise be procured by that method. When the
5 chief procurement officer, or for construction contracts or
6 procurements for the state equipment fleet, the commissioner of
7 transportation and public facilities, determines in writing that the
8 use of competitive sealed bidding is either not practicable or not
9 advantageous to the state, a contract may be entered into by
10 competitive sealed proposals in accordance with the regulations. When
11 it is determined that it is practicable but not advantageous to use
12 competitive sealed bidding, the chief procurement officer or
13 commissioner of transportation and public facilities shall specify
14 with particularity the basis for the determination.

15 Sec. 36.30.210. REQUEST FOR PROPOSALS. (a) A request for
16 competitive sealed proposals must contain the date by which the pro-
17 posal must be received, a description of the supplies, construction,
18 services, or professional services to be provided under the contract,
19 and the terms under which the supplies, construction, services, or
20 professional services are to be provided. The request shall require
21 the offeror to list subcontractors the offeror proposes to use in the
22 performance of the contract. The offeror must also supply evidence of
23 the offeror's valid Alaska business license together with evidence of
24 a valid Alaska business license for each listed subcontractor. An
25 offeror for a construction contract shall also submit evidence of the
26 offeror's registration under AS 08.18 and evidence of registration for
27 each listed subcontractor.

28 (b) A request for proposals must contain that information
29 necessary for an offeror to submit a proposal or contain references to

1 any information that cannot reasonably be included with the request.
2 The request must provide a description of the factors that will be
3 considered by the procurement officer when evaluating the proposals
4 received, including the relative importance of price and other
5 evaluation factors.

6 (c) Notice of a request for proposals shall be given in accor-
7 dance with procedures under AS 36.30.130. The procurement officer may
8 use additional means considered appropriate to notify prospective
9 offerors of the intent to enter into a contract through competitive
10 sealed proposals.

11 Sec. 36.30.220. STANDARD OVERHEAD RATE. (a) If an agency
12 submits a proposal in response to a request for competitive sealed
13 proposals, the agency must include its standard overhead rate within
14 its proposal.

15 (b) In this section, "standard overhead rate" means a charge
16 established for services and professional services from an agency that
17 is designed to compensate the agency for administration and support
18 services incidentally provided with the services contracted for.

19 Sec. 36.30.230. TREATMENT OF PROPOSALS. The procurement officer
20 shall open proposals so as to avoid disclosure of contents to compet-
21 ing offerors during the process of negotiation. A register of pro-
22 posals containing the name and address of each offeror shall be pre-
23 pared in accordance with regulations adopted by the commissioner. The
24 register and the proposals are open for public inspection after the
25 contract is awarded. To the extent that the offeror designates and
26 the procurement officer concurs, trade secrets and other proprietary
27 data contained in the proposal documents are confidential.

28 Sec. 36.30.240. DISCUSSION WITH RESPONSIBLE OFFERORS AND REVI-
29 SIONS TO PROPOSALS. As provided in the request for proposals, and

1 under regulations adopted by the commissioner, discussions may be
2 conducted with responsible offerors who submit proposals determined to
3 be reasonably susceptible of being selected for award for the purpose
4 of clarification to assure full understanding of, and responsiveness
5 to, the solicitation requirements. Offerors shall be accorded fair
6 and equal treatment with respect to any opportunity for discussion and
7 revision of proposals, and revisions may be permitted after submis-
8 sions and before the award of the contract for the purpose of
9 obtaining best and final offers. In conducting discussions, the
10 procurement officer may not disclose information derived from
11 proposals submitted by competing offerors.

12 Sec. 36.30.250. AWARD OF CONTRACT. The procurement officer
13 shall award a contract under competitive sealed proposals to the
14 responsible and responsive offeror whose proposal is determined in
15 writing to be the most advantageous to the state taking into
16 consideration price and the evaluation factors set out in the request
17 for proposals. Other factors and criteria may not be used in the
18 evaluation. The contract file must contain the basis on which the
19 award is made.

20 Sec. 36.30.260. CONTRACT EXECUTION. A contract awarded under
21 competitive sealed proposals must contain

- 22 (1) the amount of the contract stated on its first page;
- 23 (2) the date for the supplies to be delivered or the dates
24 for construction, services, or professional services to begin and be
25 completed;
- 26 (3) a description of the supplies, construction, services,
27 or professional services to be provided; and
- 28 (4) certification by the project director for the contract-
29 ing agency, the head of the contracting agency, or a designee that

1 sufficient funds are available in an appropriation to be encumbered
2 for the amount of the contract.

3 Sec. 36.30.270. REVIEW AND APPROVAL BY DEPARTMENT OF LAW. If a
4 contract contains a term that is in conflict with a state standard
5 form contract term or if a standard term is deleted or modified by a
6 term that is not standard, the contract must be reviewed by the De-
7 partment of Law and approved as to form.

8 ARTICLE 4. OTHER PROCUREMENT METHODS.

9 Sec. 36.30.300. SOLE SOURCE PROCUREMENTS. (a) A contract may
10 be awarded for supplies, services, professional services, or
11 construction without competitive sealed bidding, competitive sealed
12 proposals, or other competition in accordance with regulations adopted
13 by the commissioner of administration. A contract may be awarded
14 under this section only when the commissioner of administration or,
15 for construction contracts or procurements for the state equipment
16 fleet, the commissioner of transportation and public facilities
17 determines in writing that there is only one source for the required
18 supplies, services, professional services, or construction. A sole
19 source procurement may not be awarded if a reasonable alternative
20 source exists. The written determination must include findings of
21 fact that support by clear and convincing evidence the determination
22 that only one source exists. The authority to make the determination
23 required by this subsection may not be delegated.

24 (b) The using agency shall submit written evidence to support a
25 sole source determination. The commissioner of administration or the
26 commissioner of transportation and public facilities, as appropriate,
27 may also require the submission of cost or pricing data in connection
28 with an award under this section.

29 (c) The procurement officer shall negotiate with the single

1 supplier, to the extent practicable, to obtain a contract advantageous
2 to the state.

3 Sec. 36.30.310. EMERGENCY PROCUREMENTS. Procurements may be
4 made under emergency conditions as defined in regulations adopted by
5 the commissioner when there exists a threat to public health, welfare,
6 or safety, when a situation exists that makes a procurement through
7 competitive sealed bidding or competitive sealed proposals
8 impracticable or contrary to the public interest, or to protect public
9 or private property. An emergency procurement need not be made
10 through competitive sealed bidding or competitive sealed proposals but
11 shall be made with competition that is practicable under the
12 circumstances. A written determination by the procurement officer of
13 the basis for the emergency and for the selection of the particular
14 contractor shall be included in the contract file. The written deter-
15 mination must include findings of fact that support the determination.

16 Sec. 36.30.320. SMALL PROCUREMENTS. (a) A procurement for
17 supplies, services, or construction that does not exceed an aggregate
18 dollar amount of \$5,000 may be made in accordance with regulations
19 adopted by the commissioner for small procurements.

20 (b) A contract for professional services that does not exceed
21 \$25,000 may be made under regulations adopted by the commissioner for
22 small procurements, except that an agency may not contract

23 (1) for the services of legal counsel without the approval
24 of the attorney general; or

25 (2) with a person under this subsection if the total amount
26 of professional services contracts awarded to that person from the
27 agency exceeds \$25,000 in a 12-month period.

28 (c) Small procurements need not be made through competitive
29 sealed bidding or competitive sealed proposals but shall be made with

1 competition that is practicable under the circumstances.

2 (d) Procurement requirements may not be artificially divided or
3 fragmented so as to constitute a purchase under this section or to
4 circumvent the source selection procedures required by AS 36.30.100 -
5 36.30.270.

6 ARTICLE 5. CONTRACT FORMATION AND MODIFICATION.

7 Sec. 36.30.350. BID CANCELLATION, REJECTION. An invitation to
8 bid, a request for proposals, or other solicitation may be cancelled
9 or any or all bids or proposals may be rejected in whole or in part or
10 the date for opening bids or proposals may be delayed when it is in
11 the best interests of the state in accordance with regulations adopted
12 by the commissioner. The reasons for cancellation, rejection, or
13 delay in opening bids or proposals shall be made part of the contract
14 file.

15 Sec. 36.30.360. DETERMINATION OF RESPONSIBILITY. (a) A written
16 determination of responsibility of a bidder or offeror shall be made
17 by the procurement officer in accordance with regulations adopted by
18 the commissioner. The unreasonable failure of a bidder or offeror to
19 promptly supply information in connection with an inquiry with respect
20 to responsibility is grounds for a determination of nonresponsibility
21 with respect to the bidder or offeror.

22 (b) Information furnished by a bidder or offeror under (a) of
23 this section is confidential and may not be disclosed without prior
24 written consent by the bidder or offeror.

25 Sec. 36.30.365. NOTICE OF INTENT TO AWARD A CONTRACT. At least
26 10 days before the formal award of a contract under this chapter the
27 procurement officer shall provide to each bidder or offeror notice of
28 intent to award a contract. The notice shall conform to regulations
29 adopted by the commissioner.

1 Sec. 36.30.370. TYPES OF CONTRACTS. Subject to limitations of
2 this section, any type of contract that will promote the best inter-
3 ests of the state may be used, except that the use of a cost-plus-
4 a-percentage-of-cost contract is prohibited. A cost-reimbursement
5 contract may be used only when a determination is made in writing by
6 the procurement officer that a cost-reimbursement contract is likely
7 to be less costly to the state than any other type or that it is
8 impracticable to obtain the supplies, services, professional services,
9 or construction required except under a cost-reimbursement contract.

10 Sec. 36.30.380. APPROVAL OF ACCOUNTING SYSTEM. Except for a
11 contract awarded through competitive sealed bidding and a firm fixed-
12 price contract, a contract type may not be used unless it has been
13 determined in writing by the procurement officer that the proposed
14 contractor's accounting system

15 (1) will permit timely development of all necessary cost
16 data in the form required by the specific contract type contemplated;
17 and

18 (2) is adequate to allocate costs in accordance with gen-
19 erally accepted accounting principles.

20 Sec. 36.30.390. MULTI-TERM CONTRACTS. (a) Unless otherwise
21 provided by law, a contract for supplies, services, or professional
22 services may be entered into for any period of time considered to be
23 in the best interests of the state provided the term of the contract
24 and conditions of renewal or extension, if any, are included in the
25 solicitation and funds are available for the first fiscal period at
26 the time of contracting. Payment and performance obligations for
27 succeeding fiscal periods shall be subject to the availability and
28 appropriation of funds for them.

29 (b) Before using a multi-term contract, the procurement officer

1 shall determine in writing that

2 (1) estimated requirements cover the period of the contract
3 and are reasonably firm and continuing; and

4 (2) the contract will serve the best interests of the state
5 by encouraging effective competition or otherwise promoting economies
6 in state procurement.

7 (c) When funds are not appropriated or otherwise made available
8 to support continuation of performance in a subsequent fiscal period,
9 the contract shall be cancelled. The contractor may only be reim-
10 bursed for the reasonable value of any nonrecurring costs incurred but
11 not amortized in the price of the supplies, services, or professional
12 services delivered under the contract that are not otherwise
13 recoverable. The cost of cancellation may be paid from any appropria-
14 tions available for these purposes.

15 Sec. 36.30.400. COST OR PRICING DATA. (a) Before an award of a
16 contract or a change order or contract modification, the contractor or
17 prospective contractor shall submit cost and pricing data. The con-
18 tractor or prospective contractor shall certify that, to the best of
19 the contractor's or prospective contractor's knowledge and belief, the
20 data submitted is accurate, complete, and current as of a mutually
21 determined specified date and will continue to be accurate and com-
22 plete during the performance of the contract.

23 (b) When a contractor becomes aware of a situation that may form
24 the basis of a claim for compensation in addition to that provided for
25 under the contract and before performing work or supplying materials
26 not required under the contract, the contractor shall submit cost and
27 pricing data on the additional work or materials. The contractor
28 shall certify that, to the best of the contractor's knowledge and
29 belief, the data submitted is accurate, complete, and current and is

1 the actual cost to the contractor of performing the additional work or
2 supplying the additional materials.

3 (c) A contract, change order, or contract modification under
4 which a certificate is required under (a) or (b) of this section must
5 contain a provision that the price to the state, including the con-
6 tractor's profit or fee, will be adjusted to exclude any significant
7 sums by which the state finds that the price is increased because the
8 cost or pricing data furnished by the contractor or prospective
9 contractor is inaccurate, incomplete, or not current as of the date
10 agreed upon by the parties.

11 (d) The requirements of this section do not apply when

12 (1) the contract price is based on adequate price competi-
13 tion;

14 (2) the contract price is set by law or regulation; or

15 (3) it is determined by the procurement officer in writing
16 and in accordance with regulations adopted by the commissioner that
17 the requirements of this section may be waived, and the reasons for
18 waiver are stated.

19 Sec. 36.30.410. RIGHT TO INSPECT PLANT. The state may, at
20 reasonable times, inspect the part of the plant or place of business
21 of a contractor or subcontractor that is related to the performance of
22 a contract awarded or to be awarded by an agency.

23 Sec. 36.30.420. RIGHT TO AUDIT RECORDS. (a) The state may, at
24 reasonable times and places, audit the books and records of a person
25 who has submitted cost or pricing data under AS 36.30.400 to the
26 extent that the books and records relate to the cost or pricing data.
27 A person who receives a contract, change order, or contract modifica-
28 tion for which cost or pricing data is required, shall maintain books
29 and records that relate to the cost or pricing data for three years

1 after the date of final payment under the contract, unless a shorter
2 period is authorized in writing by the commissioner.

3 (b) The state may audit the books and records of a contractor or
4 a subcontractor to the extent that the books and records relate to the
5 performance of the contract or subcontract. Books and records shall
6 be maintained by the contractor for a period of three years after the
7 date of final payment under the prime contract and by the subcontrac-
8 tor for a period of three years after the date of final payment under
9 the subcontract, unless a shorter period is authorized in writing by
10 the commissioner.

11 Sec. 36.30.430. STANDARD MODIFICATION CLAUSES FOR CONTRACTS.

12 (a) The commissioner shall adopt regulations permitting the inclusion
13 of clauses providing for adjustments in prices, time of performance,
14 or other contract provisions as appropriate.

15 (b) The commissioner shall adopt regulations permitting or
16 requiring the inclusion in state contracts of clauses providing for
17 appropriate remedies and covering the following subjects:

- 18 (1) liquidated damages;
19 (2) specified excuses for delay or nonperformance;
20 (3) termination of the contract for default; and
21 (4) termination of the contract in whole or in part for the
22 convenience of the state.

23 Sec. 36.30.460. MODIFICATION OF STANDARD CLAUSES. The procure-
24 ment officer or the head of a contracting agency may vary the clauses
25 adopted under AS 36.30.430 for inclusion in a particular state con-
26 tract if the

27 (1) variations are supported by a written determination
28 that states the circumstances justifying the variation; and

29 (2) approval required by AS 36.30.270 is obtained.