

LEG. FINANCE - BILLS 1985 - 1986 2235
SB 341 cont. - CSSB 341 2235

1 Sec. 36.30.470. FISCAL RESPONSIBILITY. A contract modification,
2 change order, or contract price adjustment under a construction con-
3 tract in excess of an amount established by regulation of the commis-
4 sioner is subject to prior written certification by the fiscal officer
5 of the agency responsible for funding the project or the contract, or
6 other official responsible for monitoring and reporting upon the
7 status of the costs of the total project budget or contract budget, as
8 to the effect of the contract modification, change order, or adjust-
9 ment in contract price on the total project budget or the total con-
10 tract budget. If the certification of the fiscal officer or other
11 responsible official discloses a resulting increase in the total
12 project budget or the total contract budget, the procurement officer
13 may not approve the contract modification, change order, or adjustment
14 in contract price unless sufficient funds are available, or the scope
15 of the project or contract is adjusted to permit the degree of
16 completion that is feasible within the total project budget or total
17 contract budget as it existed before the contract modification, change
18 order, or adjustment in contract price under consideration. A
19 contract modification change order, or adjustment in contract that is
20 signed by both parties and has been reasonably relied on by a
21 contractor, is presumed to be valid even if the provisions of this
22 section have not been met.

23 Sec. 36.30.480. COST PRINCIPLE REGULATIONS. The commissioner
24 shall adopt regulations setting out cost principles that shall be used
25 to determine the allowability of incurred costs for the purpose of
26 reimbursing costs under contract provisions that provide for the
27 reimbursement of costs. If a written determination is approved at a
28 level above the procurement officer, the cost principles may be
29 modified by contract.

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ARTICLE 6. PROCUREMENT RECORDS AND REPORTS.

Sec. 36.30.500. RETENTION OF PROCUREMENT RECORDS. Procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the state archivist. Retained documents shall be made available to the attorney general or a designee upon request and proper receipt.

Sec. 36.30.510. RECORDS OF CONTRACTS AWARDED UNDER COMPETITIVE SEALED PROPOSALS. A contract file open for public inspection must be kept by the commissioner and the contracting agency for each contract awarded under competitive sealed proposals. The file must contain

- (1) a copy of the contract;
- (2) the register of proposals prepared under AS 36.30.230 and a copy of each proposal submitted;
- (3) the written determination to award the contract prepared under AS 36.30.250; and
- (4) a summary of the information required under (1) - (3) of this section.

Sec. 36.30.520. RECORDS OF SOLE SOURCE AND EMERGENCY PROCUREMENTS. (a) The commissioner shall maintain for a minimum of five years a record listing all sole source procurement contracts made under AS 36.30.300 and emergency procurements made under AS 36.30.310. The record must contain

- (1) each contractor's name;
- (2) the amount and type of each contract; and
- (3) a listing of the supplies, services, professional services, or construction procured under each contract.

(b) The Department of Transportation and Public Facilities and any agency to whom the commissioner of administration or the commissioner of transportation and public facilities has delegated

1 procurement authority under AS 36.30.015 shall, by October 1 of each
2 year, submit to the commissioner of administration records of the type
3 specified in (a) of this section. The commissioner of administration
4 shall maintain these records as required by (a) of this section.

5 Sec. 36.30.530. PUBLIC ACCESS TO PROCUREMENT INFORMATION.
6 Procurement information is public except as otherwise provided by law.

7 Sec. 36.30.540. REPORT TO LEGISLATURE. Beginning with Decem-
8 ber 1, 1989, the commissioner shall biennially report to the legisla-
9 ture concerning procurements by agencies. The report must include

10 (1) the records prepared under AS 36.30.510(4) and 36.30.-
11 520(a) for the previous two fiscal years;

12 (2) recommendations for changes in this chapter or other
13 laws based on implementation of this chapter in the previous two
14 fiscal years; and

15 (3) a description of any matters that involved litigation
16 concerning this chapter in the previous two fiscal years.

17 ARTICLE 7. LEGAL AND CONTRACTUAL REMEDIES.

18 Sec. 36.30.560. FILING OF A PROTEST. An interested party may
19 protest the award of a contract, the proposed award of a contract, or
20 a solicitation for supplies, services, professional services, or
21 construction by an agency. The protest shall be filed with the
22 procurement officer of the contracting agency in writing and include
23 the following information:

24 (1) the name, address, and telephone number of the pro-
25 tester;

26 (2) the signature of the protester or the protester's
27 representative;

28 (3) identification of the contracting agency and the solici-
29 tation or contract at issue;

1 (4) a detailed statement of the legal and factual grounds
2 of the protest, including copies of relevant documents; and

3 (5) the form of relief requested.

4 Sec. 36.30.565. TIME FOR FILING A PROTEST. (a) A protest based
5 upon alleged improprieties in a solicitation involving competitive
6 sealed bidding that are apparent before the bid opening shall be filed
7 before the bid opening. A protest based on alleged improprieties in a
8 solicitation involving competitive sealed proposals that are apparent

9 (1) before the due date for receipt of initial proposals
10 shall be filed before that due date;

11 (2) after the due date for receipt of initial proposals
12 shall be filed before the next due date for receipt of adjusted pro-
13 posals that occurs after the improprieties are apparent.

14 (b) In situations not covered under (a) of this section, pro-
15 tests shall be filed within 10 days after a notice of intent to award
16 the contract is issued by the procurement officer.

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

20 Sec. 36.30.570. NOTICE OF A PROTEST. The procurement officer
21 shall immediately give notice of a protest filed under AS 36.30.565 to
22 the contractor if a contract has been awarded or, if no award has been
23 made, to all interested parties.

24 Sec. 36.30.575. STAY OF AWARD. If a protest is filed the award
25 may be made unless the procurement officer of the contracting agency
26 determines in writing that a

27 (1) reasonable probability exists that the protest will be
28 sustained; or

29 (2) stay of the award is not contrary to the best interests

1 of the state.

2 Sec. 36.30.580. DECISION BY THE PROCUREMENT OFFICER. (a) The
3 procurement officer of the contracting agency shall issue a written
4 decision containing the basis of the decision within 14 days after a
5 protest has been filed. A copy of the decision shall be furnished to
6 the protester by certified mail or other method that provides evidence
7 of receipt.

8 (b) The time for a decision may be extended up to 26 days for
9 good cause by the commissioner of administration, or for protests
10 involving construction or procurements for the state equipment fleet,
11 the commissioner of transportation and public facilities. If an
12 extension is granted, the procurement officer shall notify the
13 protester in writing of the date the decision is due.

14 (c) If a decision is not made by the date it is due, the pro-
15 tester may proceed as if the procurement officer had issued a decision
16 adverse to the protester.

17 Sec. 36.30.585. PROTEST REMEDIES. (a) If the procurement
18 officer sustains a protest in whole or in part, the procurement offi-
19 cer shall implement an appropriate remedy.

20 (b) In determining an appropriate remedy, the procurement offi-
21 cer shall consider the circumstances surrounding the solicitation or
22 procurement including the seriousness of the procurement deficiencies,
23 the degree of prejudice to other interested parties or to the
24 integrity of the procurement system, the good faith of the parties,
25 the extent the procurement has been accomplished, costs to the agency
26 and other impacts on the agency of a proposed remedy, and the urgency
27 of the procurement to the welfare of the state.

28 Sec. 36.30.590. APPEAL ON A PROTEST. (a) An appeal from a
29 decision of a procurement officer on a protest may be filed by the

1 protester with the commissioner of administration, or for protests
2 involving construction or procurements for the state equipment fleet,
3 the commissioner of transportation and public facilities. An appeal
4 shall be filed within five days after the decision is received by the
5 protester. The protester shall file a copy of the appeal with the
6 procurement officer.

7 (b) An appeal must contain the information required under
8 AS 36.30.560. In addition, the appeal must include

- 9 (1) a copy of the decision being appealed; and
10 (2) identification of the factual or legal errors in the
11 decision that form the basis for the appeal.

12 Sec. 36.30.595. NOTICE OF A PROTEST APPEAL. (a) The procure-
13 ment officer shall immediately give notice of an appeal filed under
14 AS 36.30.590 to the contractor if a contract has been awarded or, if
15 no award has been made, to all interested parties.

16 (b) The commissioner of administration or the commissioner of
17 transportation and public facilities, as appropriate, shall, on
18 request, furnish a copy of the appeal to a person notified under (a)
19 of this section, except that confidential material shall be deleted
20 from the copy.

21 Sec. 36.30.600. STAY OF AWARD DURING PROTEST APPEAL. If a
22 protest appeal is filed before a contract is awarded and the award was
23 stayed under AS 36.30.575, the filing of the appeal automatically
24 continues the stay until the commissioner of administration or the
25 commissioner of transportation and public facilities, as appropriate,
26 makes a written determination that the award of the contract without
27 further delay is necessary to protect substantial interests of the
28 state.

29 Sec. 36.30.605. PROTEST REPORT. (a) The procurement officer of

1 the contracting agency shall file a complete report on the protest and
2 decision with the commissioner of administration or the commissioner
3 of transportation and public facilities, as appropriate, within seven
4 days after a protest appeal is filed. The procurement officer shall
5 furnish a copy of the report to the protester and to interested par-
6 ties that have requested a copy of the appeal under AS 36.30.595(b).

7 (b) The procurement officer may request an extension of time to
8 prepare the protest report. The request must be in writing listing
9 the reasons for the request. The commissioner of administration or
10 the commissioner of transportation and public facilities, as
11 appropriate, shall respond to the request in writing. If an extension
12 is granted, the commissioner shall list the reasons for granting the
13 extension and indicate the date the protest report is due. The com-
14 missioner shall notify the protester in writing that the time for
15 submission of the report has been extended and the date the report is
16 due.

17 (c) The protester may file comments on the protest report with
18 the commissioner of administration or the commissioner of
19 transportation and public facilities, as appropriate, within seven
20 days after the report is received. The protester shall provide copies
21 of the comments to the procurement officer and to interested parties
22 that have requested a copy of the appeal under AS 36.30.595(b).

23 (d) The protester may request an extension of time to prepare
24 the comments on the protest report. The request must be in writing
25 listing the reasons for the request. The commissioner of
26 administration or the commissioner of transportation and public
27 facilities, as appropriate, shall respond to the request in writing.
28 If an extension is granted, the commissioner shall list the reasons
29 for granting the extension and indicate the date the comments are due.

1 The commissioner shall notify the procurement officer in writing that
2 the time for submission of the comments has been extended and the date
3 the comments are due.

4 Sec. 36.30.610. DECISION WITHOUT HEARING. (a) The commissioner
5 of administration or the commissioner of transportation and public
6 facilities, as appropriate, shall dismiss a protest appeal before a
7 hearing is held if it is determined in writing that the appeal is
8 untimely under AS 36.30.590(a).

9 (b) The commissioner of administration or the commissioner of
10 transportation and public facilities, as appropriate, may issue a
11 decision on an appeal without a hearing if the appeal involves ques-
12 tions of law without genuine issues of fact.

13 Sec. 36.30.615. HEARING ON PROTEST APPEAL. A hearing on a
14 protest appeal shall be conducted in accordance with AS 36.30.670 and
15 regulations adopted by the commissioner.

16 Sec. 36.30.620. CONTRACT CONTROVERSIES. (a) A contractor shall
17 file a claim concerning a contract awarded under this chapter with the
18 procurement officer. The contractor shall certify that the claim is
19 made in good faith, that the supporting data are accurate and complete
20 to the best of the contractor's knowledge and belief, and that the
21 amount requested accurately reflects the contract adjustment for which
22 the contractor believes the state is liable.

23 (b) If a controversy asserted by a contractor concerning a
24 contract awarded under this chapter cannot be resolved by agreement,
25 the procurement officer shall, after receiving a written request by
26 the contractor for a decision, issue a written decision. The decision
27 shall be made no more than 90 days after receipt by the procurement
28 officer of all necessary information from the contractor. Failure of
29 the contractor to furnish necessary information to the procurement

1 officer constitutes a waiver of the claim. Before issuing the
2 decision the procurement officer shall review the facts relating to
3 the controversy and obtain necessary assistance from legal, fiscal,
4 and other advisors.

5 (c) The time for issuing a decision under (b) of this section
6 may be extended for good cause by the commissioner of administration,
7 or for a controversy involving a construction contract or procurement
8 for the state equipment fleet, the commissioner of transportation and
9 public facilities, if the controversy concerns an amount in excess of
10 \$50,000. The procurement officer shall notify the contractor in
11 writing that the time for the issuance of a decision has been extended
12 and of the date by which a decision shall be issued.

13 (d) The procurement officer shall furnish a copy of the decision
14 to the contractor by certified mail or other method that provides
15 evidence of receipt. The decision shall include a

- 16 (1) description of the controversy;
- 17 (2) reference to the pertinent contract provisions;
- 18 (3) statement of the agreed upon and disputed facts;
- 19 (4) statement of reasons supporting the decision; and
- 20 (5) statement substantially as follows:

21 "This is the final decision of the procurement officer.
22 This decision may be appealed to the commissioner of
23 _____ (administration/transportation
24 and public facilities). If you appeal, you must file
25 a written notice of appeal with the commissioner within
26 five days after you receive this decision."

27 (e) If a decision is not made by the date it is due, the con-
28 tractor may proceed as if the procurement officer had issued a deci-
29 sion adverse to the contractor.

1 (f) If a controversy asserted by the state concerning a contract
2 awarded under this chapter cannot be resolved by agreement the matter
3 shall be immediately referred to the commissioner of administration or
4 the commissioner of transportation and public facilities, as
5 appropriate.

6 Sec. 36.30.625. APPEAL ON A CONTRACT CONTROVERSY. (a) An
7 appeal from a decision of the procurement officer on a contract con-
8 troversy may be filed by the contractor with the commissioner of
9 administration, or for a controversy involving a construction contract
10 or procurement for the state equipment fleet, the commissioner of
11 transportation and public facilities. The appeal shall be filed
12 within five days after the decision is received by the contractor.
13 The contractor shall file a copy of the appeal with the procurement
14 officer.

15 (b) An appeal shall contain a copy of the decision being ap-
16 pealed and identification of the factual or legal errors in the deci-
17 sion that form the basis for the appeal.

18 Sec. 36.30.630. HEARING ON A CONTRACT CONTROVERSY. (a) Except
19 as provided in (b) of this section, a hearing shall be conducted
20 according to AS 36.30.670 and regulations adopted by the commissioner
21 of administration on a contract controversy appealed to the commis-
22 sioner of administration or the commissioner of transportation and
23 public facilities or referred to either commissioner under
24 AS 36.30.620(f).

25 (b) Within 15 days after receipt of an appeal on a contract
26 controversy the commissioner of administration or the commissioner of
27 transportation and public facilities, as appropriate, may adopt the
28 decision of the procurement officer as the final decision without a
29 hearing.

1 Sec. 36.30.632. DELEGATION. The commissioner of administration
2 and the commissioner of transportation and public facilities may
3 delegate responsibilities under AS 36.30.590 and 36.30.630 to the head
4 of the contracting agency.

5 Sec. 36.30.635. AUTHORITY TO DEBAR OR SUSPEND. (a) After
6 consultation with the using agency and the attorney general and after
7 a hearing conducted according to AS 36.30.670 and regulations adopted
8 by the commissioner of administration, the commissioner of administra-
9 tion or the commissioner of transportation and public facilities may
10 debar a person for cause from consideration for award of contracts.
11 Notice of a debarment hearing shall be provided in writing at least
12 seven days before the hearing. The debarment may not be for a period
13 of more than three years.

14 (b) The commissioner of administration or the commissioner of
15 transportation and public facilities, after consultation with the
16 using agency and the attorney general, may suspend a person from
17 consideration for award of contracts if there is probable cause for
18 debarment and compelling reasons require suspension to protect state
19 interests. The suspension may not be for a period exceeding three
20 months.

21 (c) The authority to debar or suspend shall be exercised in
22 accordance with regulations adopted by the commissioner of adminis-
23 tration.

24 Sec. 36.30.640. CAUSES FOR DEBARMENT OR SUSPENSION. The causes
25 for debarment or suspension include the following:

26 (1) conviction for commission of a criminal offense as an
27 incident to obtaining or attempting to obtain a public or private
28 contract or subcontract, or in the performance of the contract or
29 subcontract;

1 (2) conviction under state or federal statutes of embezzle-
2 ment, theft, forgery, bribery, falsification or destruction of re-
3 cords, receiving stolen property, or other offense indicating a lack
4 of business integrity or business honesty that currently and seriously
5 affects responsibility as a state contractor;

6 (3) conviction or civil judgment finding a violation under
7 state or federal antitrust statutes;

8 (4) violation of contract provisions of a character that is
9 regarded by the commissioner to be so serious as to justify debarment
10 action, such as

11 (A) knowing failure without good cause to perform in
12 accordance with the specifications or within the time limit
13 provided in the contract; or

14 (B) failure to perform or unsatisfactory performance
15 in accordance with the terms of one or more contracts, except
16 that failure to perform or unsatisfactory performance caused by
17 acts beyond the control of the contractor may not be considered
18 to be a basis for debarment;

19 (5) for violation of the ethical standards set out in law
20 or regulation;

21 (6) for a violation of this chapter punishable under
22 AS 36.30.930(2); and

23 (7) any other cause listed in regulations of the
24 commissioner determined to be so serious and compelling as to affect
25 responsibility as a state contractor, including debarment by another
26 governmental entity for a cause listed in the regulations.

27 Sec. 36.30.645. WRITTEN DETERMINATIONS. (a) The commissioner
28 of administration or the commissioner of transportation and public
29 facilities shall issue a written decision to debar or suspend. The

1 decision must

2 (1) state the reasons for the action taken; and

3 (2) inform the debarred person of rights to judicial appeal
4 or inform the suspended person of rights to administrative and judi-
5 cial appeal.

6 (b) A copy of the decision under (a) of this section shall be
7 mailed or otherwise furnished immediately to the debarred or suspended
8 person and any other intervening party.

9 Sec. 36.30.650. HEARING ON A SUSPENSION. (a) A person suspend-
10 ed under AS 36.30.635 is entitled to a hearing conducted according to
11 AS 36.30.670 and regulations adopted by the commissioner of adminis-
12 tration if the person files a written request for a hearing with the
13 commissioner of administration or the commissioner of transportation
14 and public facilities, as appropriate, within seven days after receipt
15 of the notice of suspension under AS 36.30.645.

16 (b) If a suspended person requests a hearing the commissioner of
17 administration or the commissioner of transportation and public
18 facilities, as appropriate, shall schedule a prompt hearing unless the
19 attorney general determines that a hearing at the proposed time is
20 likely to jeopardize an investigation. A hearing may not be delayed
21 longer than six months after notice of the suspension is provided
22 under AS 36.30.645.

23 Sec. 36.30.655. LIST OF PERSONS DEBARRED OR SUSPENDED. The
24 commissioner shall maintain a list of all persons debarred or suspend-
25 ed from consideration for award of contracts.

26 Sec. 36.30.660. REINSTATEMENT. (a) The commissioner of
27 administration or the commissioner of transportation and public
28 facilities may at any time after a final decision to debar a person
29 from consideration for award of contracts reinstate the person after

1 determining that the cause for which the person was debarred no longer
2 exists or has been substantially mitigated.

3 (b) A debarred person may request reinstatement by submitting a
4 petition to the commissioner of administration or the commissioner of
5 transportation and public facilities supported by evidence showing
6 that the cause for debarment no longer exists or has been substantial-
7 ly mitigated.

8 (c) The commissioner of administration or the commissioner of
9 transportation and public facilities may require a hearing on a
10 reinstatement petition. A decision on reinstatement shall be made in
11 writing within seven days after a reinstatement petition is submitted.
12 The decision shall specify the factors on which it is based. A
13 decision under this section is not subject to judicial appeal.

14 Sec. 36.30.665. LIMITED PARTICIPATION. The commissioner of
15 administration or the commissioner of transportation and public
16 facilities may permit a debarred person to participate in a contract
17 on a limited basis during the debarment period if the commissioner
18 determines in writing that the participation is advantageous to the
19 state. The determination shall specify the factors on which it is
20 based and the limits imposed on the debarred person.

21 Sec. 36.30.670. HEARING PROCEDURES. (a) The commissioner of
22 administration or the commissioner of transportation and public
23 facilities shall act as a hearing officer or appoint a hearing officer
24 for a hearing conducted under this chapter. The hearing officer shall
25 arrange for a prompt hearing and notify the parties in writing of the
26 time and place of the hearing. The hearing shall be conducted in an
27 informal manner. The provisions of AS 44.62 (Administrative Procedure
28 Act) do not apply to a hearing conducted under this chapter.

29 (b) The hearing officer may

1 (1) hold prehearing conferences to settle, simplify, or
2 identify the issues in a proceeding, or to consider other matters that
3 may aid in the expeditious disposition of the proceeding;

4 (2) require parties to state their positions concerning the
5 various issues in the proceeding;

6 (3) require parties to produce for examination those rele-
7 vant witnesses and documents under their control;

8 (4) rule on motions and other procedural matters;

9 (5) regulate the course of the hearing and conduct of the
10 participants;

11 (6) establish time limits for submission of motions or
12 memoranda;

13 (7) impose appropriate sanctions against a person who fails
14 to obey an order of the hearing officer, including

15 (A) prohibiting the person from asserting or opposing
16 designated claims or defenses or introducing designated matters
17 into evidence;

18 (B) excluding all testimony of an unresponsive or
19 evasive witness; and

20 (C) excluding a person from further participation in
21 the hearing;

22 (8) take official notice of a material fact not appearing
23 in evidence, if the fact is among the traditional matters subject to
24 judicial notice;

25 (9) administer oaths or affirmations.

26 (c) A transcribed record of the hearing shall be made available
27 at cost to a party that requests it.

28 Sec. 36.30.675. RECOMMENDATION BY THE HEARING OFFICER. (a) If
29 the commissioner of administration or the commissioner of

1 transportation and public facilities is not acting as hearing officer,
2 the hearing officer shall recommend a decision to the commissioner
3 based on the evidence presented. The recommendation shall include
4 findings of fact and conclusions of law.

5 (b) The commissioner of administration or the commissioner of
6 transportation and public facilities may affirm, modify, or reject the
7 hearing officer's recommendation in whole or in part, may remand the
8 matter to the hearing officer with instructions, or take other
9 appropriate action.

10 Sec. 36.30.680. FINAL DECISION BY THE COMMISSIONER. A decision
11 by the commissioner of administration or the commissioner of
12 transportation and public facilities after a hearing under this
13 chapter is final. A decision shall be sent within 20 days after the
14 hearing to all parties by personal service or certified mail, except
15 that a decision by the commissioner of transportation and public
16 facilities involving procurement of construction shall be sent within
17 90 days after the hearing to all parties by personal service or
18 certified mail.

19 Sec. 36.30.685. JUDICIAL APPEAL. (a) A final decision of the
20 commissioner of administration or the commissioner of transportation
21 and public facilities under AS 36.30.610, 36.30.635(a), 36.30.650, or
22 36.30.680 may be appealed to the superior court in accordance with the
23 Alaska Rules of Appellate Procedure.

24 (b) A final decision of the commissioner of administration or
25 the commissioner of transportation and public facilities under
26 AS 36.30.630(b) may be appealed to the superior court for a trial de
27 novo.

28 Sec. 36.30.690. EXCLUSIVE REMEDY. Notwithstanding AS 44.77 or
29 other law to the contrary, AS 36.30.560 - 36.30.699 and regulations

1 adopted under those sections provide the exclusive procedure for
2 asserting a claim against an agency arising in relation to a
3 procurement under this chapter.

4 Sec. 36.30.695. OTHER RULES OF PROCEDURE. The commissioner may
5 adopt by regulation additional rules of procedure providing for the
6 expeditious administrative review of all contract claims or contro-
7 versies, both before the contracting agency and through an appeal
8 heard de novo.

9 Sec. 36.30.699. DEFINITION. In AS 36.30.560 - 36.30.695,
10 "interested party" means an actual or prospective bidder or offeror
11 whose economic interest may be affected substantially and directly by
12 the issuance of a contract solicitation, the award of a contract, or
13 the failure to award a contract; whether an actual or prospective
14 bidder or offeror has an economic interest depends on the
15 circumstances.

16 ARTICLE 8. INTERGOVERNMENTAL RELATIONS.

17 Sec. 36.30.700. COOPERATIVE PURCHASING AUTHORIZED. A public
18 procurement unit may either participate in, sponsor, conduct, or
19 administer a cooperative purchasing agreement for the procurement of
20 supplies, services, professional services, or construction with one or
21 more public procurement units or external procurement activities in
22 accordance with an agreement entered into between the participants.
23 Cooperative purchasing may include joint or multi-party contracts
24 between public procurement units and open-ended state public procure-
25 ment unit contracts that are made available to local public procure-
26 ment units.

27 Sec. 36.30.710. SALE, ACQUISITION, OR USE OF SUPPLIES BY A
28 PUBLIC PROCUREMENT UNIT. (a) A public procurement unit may sell to,
29 acquire from, or use any supplies belonging to another public

1 procurement unit or external procurement activity independent of the
2 requirements of AS 36.30.070 and 36.30.100 - 36.30.280.

3 (b) A public procurement unit may enter into an agreement,
4 independent of the requirements of AS 36.30.060 and 36.30.100 - 36.-
5 30.280, with another public procurement unit or external procurement
6 activity for the cooperative use of supplies or services under the
7 terms agreed upon between the parties.

8 Sec. 36.30.720. JOINT USE OF FACILITIES. A public procurement
9 unit may enter into agreements for the common use or lease of ware-
10 housing facilities, capital equipment, and other facilities with
11 another public procurement unit or an external procurement activity
12 under the terms agreed upon between the parties.

13 Sec. 36.30.730. SUPPLY OF PERSONNEL, INFORMATION, AND TECHNICAL
14 SERVICES. (a) A public procurement unit may, upon written request
15 from another public procurement unit or external procurement activity,
16 provide personnel to the requesting public procurement unit or exter-
17 nal procurement activity. The public procurement unit or external
18 procurement activity making the request shall pay the public procure-
19 ment unit providing the personnel the direct and indirect cost of
20 furnishing the personnel, in accordance with an agreement between the
21 parties.

22 (b) The informational, technical, and other services of a public
23 procurement unit may be made available to another public procurement
24 unit or external procurement activity except that the requirements of
25 the public procurement unit tendering the services has precedence over
26 the requesting public procurement unit or external procurement activi-
27 ty. The requesting public procurement unit or external procurement
28 activity shall pay for the expenses of the services so provided, in
29 accordance with an agreement between the parties.

1 (c) Upon request, the commissioner may make available to public
2 procurement units or external procurement activities the following
3 services, among others:

- 4 (1) standard forms;
- 5 (2) printed manuals;
- 6 (3) product specifications and standards;
- 7 (4) quality assurance testing services and methods;
- 8 (5) qualified products lists;
- 9 (6) source information;
- 10 (7) common use commodities listings;
- 11 (8) supplier performance ratings;
- 12 (9) lists of persons debarred or suspended from considera-
13 tion for award of state contracts;
- 14 (10) forms for invitations for bids, requests for proposals,
15 instructions to bidders, general contract provisions, and other con-
16 tract forms; and
- 17 (11) contracts or published summaries of them, including
18 price and time of delivery information.

19 (d) The commissioner may provide the following technical ser-
20 vices, among others:

- 21 (1) development of product specifications;
- 22 (2) development of quality assurance test methods, includ-
23 ing receiving, inspection, and acceptance procedures;
- 24 (3) use of product testing and inspection facilities; and
- 25 (4) use of personnel training programs.

26 (e) The commissioner may enter into contractual arrangements and
27 publish a schedule of fees for the services provided under (c) and (d)
28 of this section.

29 Sec. 36.30.735. RESTRICTION ON CONTRACTING WITH OR EMPLOYING

1 EXPERTS ON RADIATION HAZARDS. (a) Except for the Department of
2 Health and Social Services, the Department of Labor, the Department of
3 Environmental Conservation, and the Department of Military and Veter-
4 ans' Affairs, a state agency may not

5 (1) contract, other than with the Department of Health and
6 Social Services, to have services performed that require expertise in
7 determining or reducing the hazards of radiation; or

8 (2) employ a person whose duties require expertise in
9 determining or reducing the hazards of radiation.

10 (b) In this section, "state agency" means a state department or
11 agency, whether in the legislative, judicial, or executive branch,
12 including such entities as the Alaska State Housing Authority, but not
13 including the University of Alaska, a municipality, or an agency of a
14 municipality.

15 (c) In this section, "radiation" does not include radiation
16 emitted from a Federal Communications Commission licensed facility
17 emitting radiation of a wave length longer than one centimeter and an
18 average power output not exceeding two kilowatts.

19 Sec. 36.30.740. REVIEW OF PROCUREMENT REQUIREMENTS. To the
20 extent possible, the commissioner may collect information concerning
21 the type, cost, quality, and quantity of commonly used supplies,
22 equipment for the state fleet, services, or construction being
23 procured or used by state public procurement units. The commissioner
24 may also collect this information from local public procurement units.
25 The commissioner may make this information available to a public
26 procurement unit upon request.

27 Sec. 36.30.750. CONTRACT CONTROVERSIES. (a) Under a coopera-
28 tive purchasing agreement, controversies arising between an adminis-
29 tering public procurement unit and its bidders, offerors, or

1 contractors shall be resolved in accordance with AS 36.30.560 -
2 36.30.699.

3 (b) A local public procurement unit that is not subject to
4 AS 36.30.560 - 36.30.699 may enter into an agreement with another
5 local public procurement unit or external procurement activity to
6 establish procedures or use that unit's or activity's existing proce-
7 dures to resolve controversies with contractors, whether or not the
8 controversy arose under a cooperative purchasing agreement.

9 Sec. 36.30.790. DEFINITIONS. In AS 36.30.700 - 36.30.790

10 (1) "cooperative purchasing" means procurement conducted
11 by, or on behalf of, more than one public procurement unit, or by a
12 public procurement unit with an external procurement activity;

13 (2) "external procurement activity" means a buying orga-
14 nization not located in this state that, if located in this state,
15 would qualify as a public procurement unit; an agency of the United
16 States is an external procurement activity;

17 (3) "local public procurement unit" means a municipality or
18 other subdivision of the state or other entity that expends public
19 funds for the procurement of supplies, services, professional ser-
20 vices, and construction, and any nonprofit corporation operating a
21 charitable hospital;

22 (4) "public procurement unit" means either a local public
23 procurement unit or a state public procurement unit;

24 (5) "state public procurement unit" means the Department of
25 Administration and any other contracting agency of the state.

26 ARTICLE 9. GENERAL PROVISIONS.

27 Sec. 36.30.850. APPLICATION OF THIS CHAPTER. (a) This chapter
28 applies only to contracts solicited or entered into after January 1,
29 1987, unless the parties agree to its application to a contract

1 solicited or entered into before that date.

2 (b) This chapter applies to the disposal of state supplies and
3 every expenditure of state funds irrespective of their sources, in-
4 cluding federal assistance except as otherwise specified in AS 36.-
5 30.890, by the state, acting through an agency, under a contract,
6 except that this chapter does not apply to

7 (1) grants;

8 (2) contracts for professional witnesses to provide for
9 professional services or testimony relating to existing or probable
10 lawsuits in which the state is or may become a party;

11 (3) contracts of the University of Alaska where the work is
12 to be performed substantially by students enrolled in the university;

13 (4) contracts for medical doctors and dentists;

14 (5) contracts for the purchase of residential child care
15 services under AS 47.40;

16 (6) disposals of land or interests in land;

17 (7) disposals under AS 38.05;

18 (8) contracts for the preparation of ballots under AS 15.-
19 15.030;

20 (9) acquisitions or disposals of property and other con-
21 tracts relating to airports under AS 02.15.070, 02.15.090, and 02.15.-
22 091;

23 (10) acquisitions of real property or disposals of obsolete
24 property under AS 19.05.060, 19.05.100, 19.05.110, or 19.05.120;

25 (11) disposals of obsolete material or equipment under
26 AS 35.20.060; or

27 (12) leases of ferry terminal facilities under AS 19.60.010.

28 (c) Except for AS 36.30.700 - 36.30.790, this chapter does not
29 apply to contracts between two or more agencies, the state and its

1 political subdivisions, or the state and other governments.

2 (d) Nothing in this chapter or in regulations adopted under this
3 chapter prevents an agency or political subdivision from complying
4 with the terms and conditions of a grant, gift, bequest, or coopera-
5 tive agreement.

6 Sec. 36.30.860. SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLIC-
7 ABLE. Unless displaced by the particular provisions of this chapter,
8 the principles of law and equity, including the Uniform Commercial
9 Code (AS 45.01 - AS 45.09), the law merchant, and law relative to
10 capacity to contract, agency, fraud, misrepresentation, duress, coer-
11 cion, mistake, or bankruptcy shall supplement the provisions of this
12 chapter.

13 Sec. 36.30.870. ADOPTION OF REGULATIONS. (a) Regulations under
14 this chapter shall be adopted in accordance the Administrative
15 Procedure Act (AS 44.62).

16 (b) Regulations under this chapter applicable to procurements of
17 construction or procurements for or disposal of property of the state
18 equipment fleet shall be adopted by the commissioner of administration
19 only after consultation with the commissioner of transportation and
20 public facilities.

21 Sec. 36.30.880. REQUIREMENT OF GOOD FAITH. All parties involved
22 in the negotiation, performance, or administration of state contracts
23 shall act in good faith.

24 Sec. 36.30.890. FEDERAL ASSISTANCE. If a procurement involves
25 the expenditure of federal funds or federal assistance and there is a
26 conflict between a provision of this chapter or a regulation adopted
27 under a provision of this chapter and a federal statute or regulation
28 the federal statute or regulation shall prevail.

29 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter

1 does not modify, amend, or alter AS 36.15.010 and 36.15.020 regarding
2 preference for Alaska forest products, or AS 36.20.010 regarding
3 preference to producers or dealers in Alaska except as provided in
4 AS 36.30.170(b).

5 Sec. 36.30.910. PURCHASES THROUGH GENERAL SERVICES ADMINISTRA-
6 TION. This chapter does not prevent purchasing through the general
7 services administration as provided by law.

8 Sec. 36.30.920. REPORTING OF ANTICOMPETITIVE PRACTICES. When
9 for any reason collusion or other anticompetitive practices are sus-
10 pected among bidders or offerors, a notice of the relevant facts shall
11 be transmitted to the attorney general by the person who suspects the
12 collusion or other anticompetitive practices.

13 Sec. 36.30.930. CIVIL AND CRIMINAL PENALTIES. The following
14 penalties apply to violations of this chapter:

15 (1) a person who contracts for or purchases supplies,
16 equipment for the state fleet, services, professional services, or
17 construction in a manner contrary to the requirements of this chapter
18 or the regulations adopted under this chapter is personally liable for
19 the recovery of all state money paid plus 20 percent of that amount,
20 legal interest from the date of payment, and all costs and damages
21 arising out of the violation;

22 (2) a person who intentionally or knowingly contracts for
23 or purchases supplies, equipment for the state fleet, services,
24 professional services, or construction under a scheme or artifice to
25 avoid the requirements of this chapter is guilty of a class C felony.

26 Sec. 36.30.940. ENFORCEMENT. The attorney general on behalf of
27 the state shall enforce the provisions of this chapter.

28 Sec. 36.30.990. DEFINITIONS. In this chapter, unless the con-
29 text in which a term is used clearly requires a different meaning or a

1 different definition is prescribed for a particular provision,

2 (1) "agency" means a department, institution, board, com-
3 mission, division, authority, public corporation, the Alaska Pioneers'
4 Home, or other administrative unit of the executive branch of state
5 government, including the University of Alaska; it does not include
6 the Alaska Railroad Corporation;

7 (2) "change order" means a written order signed by the
8 procurement officer, directing the contractor to make changes that the
9 changes clause of the contract authorizes the procurement officer to
10 order without the consent of the contractor;

11 (3) "commissioner" means the commissioner of the Department
12 of Administration;

13 (4) "competitive sealed bidding" means the procedure under
14 AS 36.30.100 - 36.30.190;

15 (5) "competitive sealed proposals" means the procedure
16 under AS 36.30.200 - 36.30.270;

17 (6) "construction" means the process of building, altering,
18 repairing, maintaining, improving, or demolishing a public highway,
19 structure, building, or other public improvement of any kind to real
20 property; it includes planning and design required for the construc-
21 tion; it does not include the routine operation of a public improve-
22 ment to real property;

23 (7) "contract" means all types of state agreements, regard-
24 less of what they may be called, for the procurement or disposal of
25 supplies, equipment for the state fleet, services, professional
26 services, or construction;

27 (8) "contract modification" means a written alteration in
28 specifications, delivery point, rate of delivery, period of perfor-
29 mance, price, quantity, or other provisions of a contract accomplished

1 by mutual action of the parties to the contract;

2 (9) "department" means the Department of Administration;

3 (10) "grant" means the furnishing by the state of assis-
4 tance, whether financial or otherwise, to a person to support a pro-
5 gram authorized by law; it does not include an award whose primary
6 purpose is to procure an end product, whether in the form of supplies,
7 services, professional services, or construction; a contract resulting
8 from such an award is not a grant but a procurement contract;

9 (11) "person" means a business, individual, union, commit-
10 tee, club, other organization, or group of individuals;

11 (12) "procurement" means buying, purchasing, renting, leas-
12 ing, or otherwise acquiring supplies, equipment for the state fleet,
13 services, or construction; it also includes functions that pertain to
14 the obtaining of a supply, equipment for the state fleet, service, or
15 construction, including description of requirements, selection and
16 solicitation of sources, preparation and award of contract, and all
17 phases of contract administration;

18 (13) "procurement officer" means a person authorized to
19 enter into and administer contracts for an agency and make written
20 determinations with respect to them; it also includes an authorized
21 representative of a procurement officer acting within the limits of
22 authority;

23 (14) "professional services" means professional, technical,
24 or consultant's services that are predominantly intellectual in char-
25 acter, result in the production of a report or the completion of a
26 task, and include analysis, evaluation, prediction, planning, or
27 recommendation; "professional services" does not include services
28 performed under an employment contract for services to be performed
29 under direct supervision, regardless of whether there is an employer-

1 employee relationship, if the person responsible for awarding the
2 contract files with the commissioner of administration a written
3 justification for the contract;

4 (15) "services" means the furnishing of labor, time, or
5 effort by a contractor, not involving the delivery of a specific end
6 product other than reports that are merely incidental to the required
7 performance; it does not include employment agreements or collective
8 bargaining agreements;

9 (16) "supplies" means all property procured for the use of
10 an agency, including equipment, materials, and insurance; it includes
11 leases of privately owned real property for the use of agencies, such
12 as office space, but does not include the procurement or disposition
13 of other interests in land; and

14 (17) "using agency" means an agency that uses supplies,
15 equipment from the state fleet, services, professional services, or
16 construction procured under this chapter.

17 Sec. 36.30.995. SHORT TITLE. This chapter may be cited as the
18 State Procurement Code.

19 * Sec. 3. AS 03.22.030 is amended to read:

20 Sec. 03.22.030. CENTER SITE, BUILDINGS AND EQUIPMENT. The
21 department shall obtain a site, either by donation, lease, or pur-
22 chase, and erect suitable buildings on the site, if they are needed
23 for the use of the plant materials center. The department shall also
24 acquire the agricultural land, scientific instruments and equipment
25 necessary to carry on the work of the center. Acquisition of scien-
26 tific instruments and equipment under this section is governed by
27 AS 36.30 (State Procurement Code).

28 * Sec. 4. AS 05.20.040 is amended to read:

29 Sec. 05.20.040. PERSONNEL TO INSPECT DEVICES. The department

1 shall designate a person qualified in experience and training as the
2 inspector of devices. The department may employ additional employees
3 as are necessary to administer this chapter. The inspector and the
4 employees may be hired on a temporary basis or borrowed from other
5 state departments or political subdivisions of the state, or the
6 department may contract with individuals or firms for the inspecting
7 service on an independent basis. The department shall prescribe the
8 salary or other remuneration for this service. Contracting under this
9 section is governed by AS 36.30 (State Procurement Code).

10 * Sec. 5. AS 09.50.250 is amended to read.

11 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
12 or corporation having a contract, quasi-contract, or tort claim
13 against the state may bring an action against the state in the superi-
14 or court. A person who may present the claim under AS 44.77 may not
15 bring an action under this section except as set out in AS 44.77.-
16 040(c). A person who may bring an action under AS 36.30.560 - 36.30.-
17 695 may not bring an action under this section except as set out in
18 AS 36.30.685. However, no action may be brought under this section if
19 the claim

20 (1) is an action for tort, and is based upon an act or
21 omission of an employee of the state, exercising due care, in the
22 execution of a statute or regulation, whether or not the statute or
23 regulation is valid; or is an action for tort, and based upon the
24 exercise or performance or the failure to exercise or perform a dis-
25 cretionary function or duty on the part of a state agency or an em-
26 ployee of the state, whether or not the discretion involved is abused;

27 (2) is for damages caused by the imposition or establish-
28 ment of a quarantine by the state;

29 (3) arises out of assault, battery, false imprisonment,

1 false arrest, malicious prosecution, abuse of process, libel, slander,
2 misrepresentation, deceit, or interference with contract rights.

3 * Sec. 6. AS 14.08.101 is amended to read:

4 Sec. 14.08.101. POWERS. A regional school board may

5 (1) sue and be sued;

6 (2) contract with the department, the Bureau of Indian
7 Affairs, or any other school district, agency, or regional board for
8 the provision of services, facilities, supplies or utilities;

9 (3) determine its own fiscal procedures including but not
10 limited to policies and procedures for the purchase of supplies and
11 equipment; the regional school boards are exempt from the Fiscal
12 Procedures Act (AS 37.05) and the State Procurement Code (AS 36.30);

13 (4) appoint, compensate and otherwise control all school
14 employees in accordance with this title; these employees are not
15 subject to the State Personnel Act (AS 39.25);

16 (5) adopt regulations governing organization, policies and
17 procedures for the operation of the schools;

18 (6) establish, maintain, operate, discontinue and combine
19 schools subject to the approval of the commissioner;

20 (7) recommend to the department projects for construction,
21 rehabilitation, and improvement of schools and education-related
22 facilities as specified in AS 14.11.010(a), and plan, design, and
23 construct the project when the responsibility for it is assumed under
24 AS 14.11.020;

25 (8) exercise those other functions that may be necessary
26 for the proper performance of its responsibilities;

27 (9) by resolution adopted by a majority of all the members
28 of the board and provided to the commissioner of the department,
29 assume ownership of all land and buildings used in relation to the

1 schools in the regional educational attendance area;

2 (10) provide housing for rental to teachers, by leasing
3 existing housing from a local agency or individual, or by entering
4 into contractual arrangements with a local agency or individual to
5 lease housing that will be constructed by the local agency or indi-
6 vidual for that purpose.

7 * Sec. 7. AS 16.05.050 is amended to read:

8 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commis-
9 sioner has, but not by way of limitation, the following powers and
10 duties:

11 (1) assist the United States Fish and Wildlife Service in
12 the enforcement of federal laws and regulations pertaining to fish and
13 game;

14 (2) through the appropriate state agency and under the
15 provisions of AS 36.30 (State Procurement Code), acquire by gift,
16 purchase, or lease, or other lawful means, land, buildings, water,
17 rights-of-way, or other necessary or proper real or personal property
18 when the acquisition is in the interest of furthering an objective or
19 purpose of the department and the state;

20 (3) under the provisions of AS 36.30, design and construct
21 hatcheries, pipelines, rearing ponds, fishways, and other projects
22 beneficial for the fish and game resources of the state;

23 (4) accept money from any person under conditions requiring
24 the use of the money for specific purposes in the furtherance of the
25 protection, rehabilitation, propagation, preservation, or investiga-
26 tion of the fish and game resources of the state or in settlement of
27 claims for damages to fish or game resources;

28 (5) collect, classify, and disseminate statistics, data and
29 information that, in the commissioner's discretion, will tend to

1 promote the purposes of this title except AS 16.51 and AS 16.52;

2 (6) capture, propagate, transport, buy, sell, or exchange
3 fish or game or eggs for propagating, scientific or stocking purposes;

4 (7) under the provisions of AS 36.30, provide public facil-
5 ities where necessary or proper to facilitate the taking of fish or
6 game, and enter into cooperative agreements with any person to effect
7 them;

8 (8) exercise administrative, budgeting, and fiscal powers;

9 (9) under the provisions of AS 36.30, construct, operate,
10 supervise, and maintain vessels used by the Department of Fish and
11 Game;

12 (10) authorize the holder of an interim-use permit under
13 AS 16.43 to engage on an experimental basis in commercial taking of a
14 fishery resource with vessel, gear, and techniques not presently
15 qualifying for licensing under this chapter in conformity with stand-
16 ards established by the Alaska Commercial Fisheries Entry Commission;

17 (11) not later than January 31 of each year, provide to the
18 commissioner of revenue the names of those fish and shellfish species
19 which the commissioner of fish and game designates as developing
20 commercial fish species for that calendar year; a fish or shellfish
21 species is a developing commercial fish species if, within a specified
22 geographical region,

23 (A) the optimum yield from the harvest of the species
24 has not been reached;

25 (B) a substantial portion of the allowable harvest of
26 the species has been allocated to fishing vessels of a foreign
27 nation; or

28 (C) a commercial harvest of the fish species has
29 recently developed;

1 (12) initiate or conduct research necessary or advisable to
2 carry out the purposes of this title except AS 16.51 and AS 16.52;

3 (13) enter into cooperative agreements with agencies of the
4 federal government, educational institutions, or other agencies or
5 organizations, when in the public interest, to carry out the purposes
6 of this title except AS 16.51 and AS 16.52.

7 * Sec. 8. AS 16.05.826(c) is amended to read:

8 (c) The department may contract to others the performance of the
9 department's responsibilities under this section. Contracting under
10 this subsection is governed by AS 36.30 (State Procurement Code),
11 except that a [A] contract may include provisions for advance payment
12 or reimbursement for services performed under the contract. All costs
13 incurred under this section may be paid from the fish and game fund.

14 * Sec. 9. AS 18.15.120 is amended to read:

15 Sec. 18.15.120. TUBERCULOSIS CONTROL PROGRAM AUTHORIZED. The
16 department may establish a comprehensive program for the control of
17 tuberculosis in the state, and may

18 (1) arrange means by which persons in the state may be
19 X-rayed to determine the presence of tuberculosis;

20 (2) establish necessary out-patient clinics for the care of
21 tuberculosis;

22 (3) encourage and promote the establishment of adequate
23 sanatorium facilities within the state to care for persons suffering
24 from tuberculosis and allied conditions;

25 (4) under the provisions of AS 36.30 (State Procurement
26 Code), obtain, by purchase or donation from surplus federal property
27 or otherwise, medical supplies and equipment useful in carrying out
28 this program and to allot or resell these supplies and equipment to
29 private institutions engaged by the department to carry out this

1 program;

2 (5) under the provisions of AS 36.30, contract with hos-
3 pitals, associations, or sanatoria qualified and equipped to give
4 adequate care inside or outside the state;

5 (6) employ necessary and trained personnel to carry out the
6 purposes of AS 18.15.120 - 18.15.140;

7 (7) pay the costs of care and incidental expenses for
8 residents of the state, in whole or in part, depending on the ability
9 of each patient to pay, and the temporary costs of care and transpor-
10 tation for nonresidents on the same basis until they can be trans-
11 ferred to their residence;

12 (8) enlist the cooperation of state and federal agencies
13 operating in the state for the furtherance of this program;

14 (9) establish standards in accordance with department
15 procedure for the care of tuberculars receiving treatment under
16 AS 18.15.120 - 18.15.140.

17 * Sec. 10. AS 18.55.100 is amended by adding a new subsection to read:

18 (d) The authority's power to contract, lease, rent, construct,
19 acquire, procure, and provide for services under this section is
20 governed by AS 36.30.

21 * Sec. 11. AS 19.05.020 is amended to read:

22 Sec. 19.05.020. REGULATIONS. The department shall adopt regu-
23 lations necessary to carry out the purpose of AS 19.05 - AS 19.25.
24 The regulations may not conflict with AS 36.30 (State Procurement
25 Code) or regulations adopted by the Department of Administration to
26 implement that chapter.

27 * Sec. 12. AS 19.05.080 is amended to read:

28 Sec. 19.05.080. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-
29 RIALS BY PURCHASE OR EMINENT DOMAIN. The department on behalf of the

1 state and as part of the cost of constructing or maintaining a highway
2 may purchase in the open market, acquire, take over, or condemn under
3 the right and power of eminent domain land in fee simple or easements
4 which it considers necessary for present public use, either temporary
5 or permanent, or which it considers necessary and reasonable for the
6 public use. By the same means, the department may obtain material,
7 including clay, gravel, sand, or rock, or the land necessary to obtain
8 material, including access to it. The department may acquire the land
9 or materials notwithstanding the fact that title to it is vested in
10 the state or a department, agency, commission or institution of the
11 state. Acquisition of materials by purchase in the open market under
12 this section is governed by AS 36.30 (State Procurement Code).

13 * Sec. 13. AS 19.10.160 is amended to read:

14 Sec. 19.10.160. STANDARD PLANS AND SPECIFICATIONS. The depart-
15 ment shall prepare and adopt uniform standard plans and specifications
16 for the establishment, construction and maintenance of highways in the
17 state. The department may amend the plans and specifications as it
18 considers advisable. The standards shall conform as closely as
19 practicable to those adopted by the American Association of State
20 Highway and Transportation Officials.

21 * Sec. 14. AS 19.10.170(a) is amended to read:

22 (a) Except as provided in [AS 36.98 AND] AS 44.33.300, it is
23 [SHALL BE] the general policy of the state [DEPARTMENT] to require the
24 construction of all highways under bid contract in accordance with
25 AS 36.30 (State Procurement Code). However, subject to the provisions
26 of (b) of this section, when the estimated cost of a construction
27 project is less than \$100,000 or when it appears to be in the best
28 interests of the state, the department may perform the work notwith-
29 standing any other provisions of law.

1 * Sec. 15. AS 19.10.180 is repealed and reenacted to read:

2 Sec. 19.10.180. REQUEST FOR PUBLIC BIDS. Requests for public
3 bids are governed by AS 36.30 (State Procurement Code). The request
4 for public bids may require the contractor to furnish equipment,
5 labor, materials, and supplies for the project, or it may state that
6 the department will furnish the materials and supplies. If the de-
7 partment elects to provide materials and supplies for a project, it
8 shall do so at the time it adopts the construction program. The
9 department shall acquire these materials and supplies under AS 36.30
10 by requesting bids for them according to the class, type, and nature
11 of the materials and supplies. The contract for materials and sup-
12 plies may be awarded either upon the basis of delivery to the con-
13 struction project directly or to a central storehouse or storehouses
14 maintained by the department. Those materials and supplies so pur-
15 chased by the department may be delivered to the project site without
16 expense to the contractor, or it may sell them to the contractor at
17 cost and make the materials and supplies a part of the construction
18 cost.

19 * Sec. 16. AS 19.10.200 is repealed and reenacted to read:

20 Sec. 19.10.200. PROCEDURES FOR THE AWARD OF CONTRACTS. The
21 award of a contract for highway construction work is governed by
22 AS 36.30 (State Procurement Code), AS 19.05 - AS 19.25, and regula-
23 tions adopted under those laws.

24 * Sec. 17. AS 19.30.070 is amended to read:

25 Sec. 19.30.070. CONTRACTS FOR CONSTRUCTION OF ROADS. The
26 director of the division of lands may contract with private persons
27 for the construction of roads to and on state lands programmed for
28 surface disposal which are not more than six miles from existing roads
29 or highways. Contracts under this section are governed by AS 36.30

1 (State Procurement Code).

2 * Sec. 18. AS 19.30.080 is amended to read:

3 Sec. 19.30.080. CONSTRUCTION STANDARDS AND MAINTENANCE. An
4 access road constructed under AS 19.30.060 - 19.30.100 shall be of low
5 standard, not necessarily suitable for all weather use. The state is
6 not under obligation to maintain an access road constructed under AS
7 19.30.060 - 19.30.100. If an access road is constructed outside a
8 municipality that has zoning ordinances, the right-of-way width for
9 the road shall be determined by the division of lands and the Depart-
10 ment of Transportation and Public Facilities. If an access road is
11 constructed within the boundaries of a municipality that has zoning
12 ordinances, the right-of-way width shall conform to the subdivision
13 control ordinances of the municipality. Contracts for the work on an
14 access road are governed by AS 36.30 (State Procurement Code) [SHALL
15 BE AWARDED TO THE LOWEST RESPONSIBLE BIDDER QUALIFIED TO CONTRACT WITH
16 THE STATE].

17 * Sec. 19. AS 19.60.010 is amended to read:

18 Sec. 19.60.010. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL
19 FACILITIES. The department shall construct, purchase or lease ferry
20 terminal facilities at locations it selects for the loading and un-
21 loading of passengers and vehicles under their own power, on and off
22 ferries. The department shall repair and maintain these facilities.
23 Construction and purchasing under this section are governed by
24 AS 36.30 (State Procurement Code).

25 * Sec. 20. AS 23.15.611(a) is amended to read:

26 (a) The department may [IS AUTHORIZED TO] participate in pro-
27 grams of manpower training if it finds they are necessary to meet the
28 occupational needs of the state. This authorization includes authori-
29 ty to execute on behalf of the state agreements or contracts which may

1 be necessary or desirable to enable the state to participate in a
2 program, to receive and expend all appropriate funds made available
3 for programs by the state or from other sources, to supervise the
4 expenditure of the funds and conduct of the programs by other public
5 and private agencies of the state, and to make the reports and certifi-
6 cates which are called for, and in cooperative arrangements with the
7 Department of Education. Contracts with private entities under this
8 subsection are governed by AS 36.30 (State Procurement Code).

9 * Sec. 21. AS 23.20.075(a) is amended to read:

10 (a) The department may acquire in the name of the state by term
11 purchase agreements based on competitive bids in accordance with
12 AS 36.30 (State Procurement Code) land and buildings upon terms and
13 conditions that [WHICH] are approved by the Bureau of Employment
14 Security of the United States, or its successor, for the purpose of
15 providing office space for the department at a place which the depart-
16 ment finds necessary and suitable.

17 * Sec. 22. AS 23.35.110 is amended to read:

18 Sec. 23.35.110. CONTRACTS FOR CARE. In carrying out this
19 chapter, the department may enter into contracts or other arrangements
20 with hospitals and doctors in the state for furnishing care on an
21 annual basis to persons entitled to benefits. Contracting under this
22 section is governed by AS 36.30 (State Procurement Code).

23 * Sec. 23. AS 24.55.275 is amended to read:

24 Sec. 24.55.275. CONTRACT PROCEDURES. The ombudsman shall adopt
25 by regulation procedures consistent with AS 36.30 [AS 24.23] to be
26 followed by the office of the ombudsman in contracting for services.
27 However, the procedure for requests for proposals does not apply to
28 contracts for investigations under AS 24.55.100.

29 * Sec. 24. AS 24.60.040(a) is amended to read:

1 (a) A person to whom this chapter applies may not be a party to
2 or have an interest in a state contract or lease unless the contract
3 or lease is let under the competitive bid procedure in AS 36.30 (State
4 Procurement Code) [AS 37.05.230] or the total annual amount of the
5 state contract or lease is \$1,000 or less, or is a standardized con-
6 tract or lease which was developed under publicly established guide-
7 lines and is generally available to the public at large, members of a
8 profession, occupation or group. A person has an interest in a state
9 contract or lease under this section if the person receives direct or
10 indirect financial benefits.

11 * Sec. 25. AS 26.05.230(a) is amended to read:

12 (a) Buildings and sites for armory purposes may be leased or
13 constructed, based upon location and size of units to be organized,
14 and shall be financed through state and federal appropriations or
15 both. These facilities may be made available by local communities or
16 by the cooperative arrangement between the state and the federal
17 government and any local community. Leasing and construction under
18 this subsection are governed by AS 36.30 (State Procurement Code).

19 * Sec. 26. AS 26.05.280 is amended to read:

20 Sec. 26.05.280. TRANSPORTATION, SUBSISTENCE, AND SUPPLIES.
21 There shall be provided by the state, transportation and subsistence
22 for all officers and enlisted persons who are ordered into active
23 service by the state for encampment, field duty, or other duty. Neces-
24 sary transportation, stores and subsistence for troops when ordered on
25 duty shall be contracted by the proper officers and paid for as other
26 military bills. Contracting under this section is governed by AS 36.-
27 30 (State Procurement Code).

28 * Sec. 27. AS 27.21.030 is amended to read:

29 Sec. 27.21.030. GENERAL POWERS. To accomplish the purposes of

1 this chapter, the commissioner may

2 (1) in accordance with the Administrative Procedure Act
3 (AS 44.62) adopt, amend, and enforce regulations pertaining to surface
4 coal mining and reclamation operations;

5 (2) issue permits;

6 (3) conduct hearings and conferences;

7 (4) issue orders requiring an operator to take the actions
8 necessary to comply with this chapter and the regulations adopted
9 under this chapter;

10 (5) issue orders modifying previous orders;

11 (6) after opportunity for a due process hearing, issue a
12 final order revoking the permit of an operator who has failed to
13 comply with an order of the commissioner to take action required by
14 this chapter or regulations adopted under this chapter;

15 (7) order the immediate cessation of all or part of a
16 surface coal mining and reclamation operation if the commissioner
17 finds that the operation or part of the operation creates an imminent
18 danger to the health or safety of the public or is causing or can
19 reasonably be expected to cause significant imminent harm to land,
20 air, or water resources, and, to the extent reasonable, necessary to
21 eliminate or alleviate those conditions, take other action or make
22 changes in a permit, as provided in this chapter;

23 (8) hire and authorize the hiring of employees and private
24 contractors, subject to the conflict of interest provisions of this
25 chapter and subject to AS 36.30 (State Procurement Code), to assist in
26 carrying out the requirements of this chapter;

27 (9) enter and inspect a surface coal mining operation that
28 is subject to the provisions of this chapter to assure that the opera-
29 tion is in compliance with this chapter;

1 (10) conduct, encourage, request, and participate in
2 studies, surveys, investigations, research, experiments, training, and
3 demonstrations;

4 (11) prepare reports and require permittees to prepare
5 reports;

6 (12) accept, receive, and administer grants, gifts, or other
7 money made available for the purposes of this chapter regardless of
8 the source of the grants, gifts, or money;

9 (13) take the steps necessary to allow the state to partici-
10 pate to the fullest extent practicable in the abandoned mine land
11 program provided in Title IV of the Surface Mining Control and Recla-
12 mation Act of 1977, including engaged in any work and adopting, amend-
13 ing and enforcing regulations;

14 (14) take the actions necessary to establish and maintain
15 exclusive jurisdiction over surface coal mining and reclamation opera-
16 tions in the state under the provisions of the Surface Mining Control
17 and Reclamation Act of 1977, including making recommendations for
18 legislation to clarify or amend this chapter to conform with the terms
19 of the Surface Mining Control and Reclamation Act of 1977;

20 (15) contract with state agencies to obtain the professional
21 and technical services necessary to carry out the provisions of this
22 chapter;

23 (16) coordinate the review of applications and issuance of
24 permits for surface coal mining and reclamation operations with other
25 federal or state permit processes applicable to those operations;

26 (17) enter into cooperative agreements with the Secretary of
27 the United States Department of the Interior for the regulation of
28 surface coal mining operations on federal land in accordance with the
29 Surface Mining Control and Reclamation Act of 1977; and

1 (18) perform other duties required by this chapter.

2 * Sec. 28. AS 33.30.050 is amended to read:

3 Sec. 33.30.050. COMMISSIONER TO PROVIDE MEDICAL SERVICES. The
4 commissioner shall detail physicians, nurses, and psychiatrists, or
5 their aides, and laboratory technicians, employed by the department to
6 any prison facility where state prisoners are detained or confined,
7 for the purpose of furnishing necessary medical services, including
8 examinations for communicable and infectious diseases. However, if
9 medical services cannot be furnished by physicians, nurses, psychia-
10 trists, or their aides, and laboratory technicians, regularly employed
11 by the department, the commissioner may contract with private practi-
12 tioners located in the area of a prison facility to furnish these
13 services. The cost of contracted services shall be paid out of appro-
14 priations made to the department. Contracting for services under this
15 section is governed by AS 36.30 (State Procurement Code).

16 * Sec. 29. AS 33.30.062(a) is amended to read:

17 (a) The commissioner may enter into an agreement with a private-
18 ly operated correctional facility, but only if the facility is located
19 in the state and if the purpose of the agreement is to involve prison-
20 ers in a work or rehabilitation furlough program established under
21 this chapter, to provide necessary facilities under AS 33.30.282 -
22 33.30.288, or to confine prisoners convicted of a misdemeanor. An
23 [NOTWITHSTANDING AS 37.05.230(1)(B), AN] agreement awarded under this
24 subsection is governed by AS 36.30 (State Procurement Code) [SHALL BE
25 BASED ON COMPETITIVE BIDS].

26 * Sec. 30. AS 33.32.015(b) is amended to read:

27 (b) The commissioner of corrections may
28 (1) subject to AS 36.30 (State Procurement Code) [THE
29 FISCAL PROCEDURES ACT (AS 37.05)], use, purchase, lease, equip, and

1 maintain buildings, machinery, and other equipment, and may purchase
2 materials and enter into contracts, which may be necessary for the
3 correctional industries program;

4 (2) provide for prisoners to be employed in rendering
5 services and producing articles, materials, and supplies needed by a
6 state agency, a political subdivision of the state, an agency of the
7 federal government, other states or their political subdivisions, or
8 for use by nonprofit organizations;

9 (3) if the Correctional Industries Commission established
10 in AS 33.32.070 approves, employ prisoners to provide services or
11 products as needed by private industry if the services or products
12 have potential for contributing to the economy of the state and will
13 have minimal negative impact on an existing private industry or labor
14 force in the state.

15 * Sec. 31. AS 35.05.010 is amended to read:

16 Sec. 35.05.010. PLANNING AND CONSTRUCTION. The department is
17 responsible for the planning and construction of public works except
18 as provided for court facilities in AS 22.05.025. Contracts for
19 planning and construction of public works are governed by AS 36.30
20 (State Procurement Code).

21 * Sec. 32. AS 35.05.020 is amended to read:

22 Sec. 35.05.020. RULES AND REGULATIONS. The department shall
23 adopt [RULES AND] regulations that [WHICH] it considers necessary to
24 carry out the purpose of this title. The regulations may not conflict
25 with AS 36.30 (State Procurement Code) or the regulations adopted by
26 the Department of Administration under that chapter.

27 * Sec. 33. AS 35 is amended by adding a new section to read:

28 Sec. 35.10.195. CONFORMANCE WITH AS 36.30. The contractual
29 techniques for the procurement of labor, materials, and contractual

1 services under the policies developed under this chapter must conform
2 to the requirements of AS 36.30 (State Procurement Code).

3 * Sec. 34. AS 35.15.010(a) is amended to read:

4 (a) Except as provided in [AS 36.98 AND] AS 44.33.300, it is
5 [SHALL BE] the general policy of the state [DEPARTMENT] to require the
6 construction of all public works under bid contract in accordance with
7 AS 36.30 (State Procurement Code). However, when the estimated cost
8 of a construction project is less than \$100,000, or when it appears to
9 be in the best interests of the state, the department may perform the
10 work, notwithstanding any other provisions of law. A complete record
11 shall be kept by the commissioner or the commissioner's designee of
12 all transactions entered into under this section including names of
13 employees involved in the transactions.

14 * Sec. 35. AS 35.15.020 is repealed and reenacted to read:

15 Sec. 35.15.020. REQUEST FOR PUBLIC BIDS. The solicitation of
16 bids for construction of public works is governed by AS 36.30 (State
17 Procurement Code). The request for bids may require the contractor to
18 furnish equipment, labor, materials, and supplies for the project, or
19 it may state that the department will furnish the materials and sup-
20 plies. If the department elects to provide materials and supplies for
21 a project, it shall make the election at the time it adopts the con-
22 struction program. The department shall acquire these materials and
23 supplies under AS 36.30 by requesting bids for them according to the
24 class, type, and nature of the materials and supplies. The contract
25 may be awarded either upon the basis of delivery to the construction
26 project directly or to a central storehouse or storehouses maintained
27 by the department. Those materials and supplies so purchased by the
28 department may be delivered to the project site without expense to the
29 contractor, or it may sell them to the contractor at cost and make the

1 materials and supplies a part of the construction cost.

2 * Sec. 36. AS 35.15.040 is repealed and reenacted to read:

3 Sec. 35.15.040. PROCEDURES FOR THE AWARD OF CONTRACTS. Award of
4 a contract for the construction of a public work shall comply with
5 this title, AS 36.30 (State Procurement Code), and the regulations
6 adopted under those laws.

7 * Sec. 37. AS 35.20.010 is amended to read:

8 Sec. 35.20.010. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-
9 RIALS BY PURCHASE OR EMINENT DOMAIN. The department, on behalf of the
10 state and as part of the cost of constructing or maintaining a public
11 work, may purchase in the open market, acquire, take over, or condemn
12 under the right and power of eminent domain land in fee simple or
13 easements which it considers necessary for present public use, either
14 temporary or permanent, or which it considers necessary and reasonable
15 for the public use. By the same means, the department may obtain
16 material including clay, gravel, sand, or rock, or the land necessary
17 to obtain the material, and the necessary land or easements to provide
18 access to it. The department may acquire the land or material
19 notwithstanding the fact that the title to it is in the state or a
20 department, agency, commission or institution of the state.
21 Acquisition of material in the open market under this section is
22 governed by AS 36.30 (State Procurement Code).

23 * Sec. 38. AS 37.05 is amended by adding a new section to read:

24 Sec. 37.05.232. PETTY CASH ACCOUNTS. The department shall
25 determine the amount of the petty cash accounts needed by each state
26 agency and inspect the petty cash accounts at least once each year to
27 determine that the total plus amounts of receipts for unreplenished
28 disbursements is equal to the fixed sum of cash set aside. Shortages
29 in petty cash accounts are a personal liability of the responsible

1 head of the agency to whom the account is set aside. The department
2 shall adopt necessary regulations governing use and replenishment of
3 petty cash funds.

4 * Sec. 39. AS 41.21.020(a) is amended to read:

5 (a) The Department of Natural Resources shall

6 (1) develop a continuing plan for the conservation and
7 maximum use in the public interest of the scenic, historic, archaeo-
8 logic, scientific, biological, and recreational resources of the
9 state;

10 (2) plan for and develop a system of state parks and recre-
11 ational facilities, to be established as the legislature authorizes
12 and directs;

13 (3) acquire by gift, purchase, or transfer from state or
14 federal agencies, or from individuals, corporations, partnerships or
15 associations, land necessary, suitable and proper for roadside, pic-
16 nic, recreational or park purposes;

17 (4) control, develop and maintain state parks and recrea-
18 tional areas;

19 (5) provide for the acquisition, care, control, supervi-
20 sion, improvement, development, extension and maintenance of public
21 recreational land, and make necessary arrangements, contracts or
22 commitments for the improvement and development of land acquired under
23 AS 41.21.010 - 41.21.040; contracting for improvement and development
24 under this paragraph is governed by AS 36.30 (State Procurement Code);

25 (6) adopt, in accordance with this section and the Adminis-
26 trative Procedure Act (AS 44.62), regulations governing the use and
27 designating incompatible uses within the boundaries of state park and
28 recreational areas to protect the property and to preserve the peace;

29 (7) cooperate with the United States and its agencies and

1 local subdivisions of the state to secure the effective supervision,
2 improvement, development, extension, and maintenance of state parks,
3 state monuments, state historical areas, and state recreational areas,
4 and secure agreements or contracts for the purpose of AS 41.21.010 -
5 41.21.040;

6 (8) encourage the organization of state public park and
7 recreational activities in the local political subdivisions of the
8 state;

9 (9) provide for consulting service designed to develop
10 local park and recreation facilities and programs;

11 (10) provide clearing-house services for other state agen-
12 cies concerned with park and recreation matters; and

13 (11) perform other duties as are prescribed by executive
14 order or by law;

15 (12) maintain memorials to Alaska veterans located in state
16 parks;

17 (13) adopt, in accordance with the Administrative Procedure
18 Act (AS 44.62), regulations governing the use of the Chena River State
19 Recreation Area and designating incompatible uses within the bound-
20 aries of the Chena River State Recreation Area in accordance with
21 AS 41.21.490.

22 * Sec. 40. AS 42.40.920(b) is amended to read:

23 (b) Unless specifically provided otherwise in this chapter, the
24 following laws do not apply to the operations of the corporation:

25 (1) AS 19;

26 (2) AS 30.15;

27 (3) AS 35;

28 (4) S 36.30, except as specifically provided in AS 36.30

29 (State Procurement 'e);

- 1 (5) AS 37.05;
2 (6) [(5)] AS 37.07;
3 (7) [(6)] AS 37.10.010 - 37.10.060;
4 (8) [(7)] AS 37.10.085;
5 (9) [(8)] AS 37.20;
6 (10) [(9)] AS 37.25;
7 (11) [(10)] AS 38;
8 (12) [(11)] AS 44.62.040 - 44.62.320.

9 * Sec. 41. AS 44.21.310(a) is amended to read:

10 (a) The telecommunications divisions, as directed by the deputy
11 commissioner, shall

12 (1) advise the governor on matters of policy and comprehen-
13 sive state planning for telecommunications services;

14 (2) make an annual report to the governor and to the legis-
15 lature on the activities of the telecommunications divisions;

16 (3) coordinate, manage, and supervise state programs in
17 telecommunications, including the management of those telecommunica-
18 tion services for the state obtained from common carriers and from the
19 communications industry;

20 (4) when requested, provide technical and consulting assis-
21 tance to the executive, judicial, and legislative branches of state
22 government, to the University of Alaska, and to private noncommercial
23 entities which request that assistance in facility procurement and
24 leasing and in identifying long-range goals and objectives for the
25 state and its political subdivisions in all aspects of telecommunica-
26 tions, including public, educational, and instructional telecommunica-
27 tions;

28 (5) prepare and maintain a state comprehensive telecommu-
29 nications development plan to further state telecommunications devel-

1 opment and to meet state telecommunications needs and prepare and
2 maintain a comprehensive inventory of all state communications facil-
3 ities;

4 (6) whenever feasible, procure services from private enter-
5 prise or certified and franchised utilities and contract for the
6 construction, management, operation and maintenance of telecommunica-
7 tions systems, and develop a procurement policy consistent with
8 AS 36.30 (State Procurement Code) [UNDER AS 37.05.010 - 37.05.410];
9 the procurement policy must seek to achieve the maximum benefit to the
10 public, and methods of procurement, including lease, purchase, rental,
11 or combinations of lease, purchase, and rental, must be selected on
12 the basis of factors such as the ratio of long-range costs versus
13 benefits, life cycle costing, and the costs to the communications
14 industry to the extent that these costs may affect local and long
15 distance basic telephone rates; procurement, contracting, construc-
16 tion, and maintenance under this paragraph is governed by AS 36.30:

17 (7) provide information and assistance to state agencies to
18 promote governmental coordination and unity in the preparation of
19 agency plans and programs involving the use of telecommunications;

20 (8) apply for and accept federal and private money, proper-
21 ty, or assistance, that may be appropriated, granted, or otherwise
22 made available to the telecommunications divisions and use and dis-
23 burse money and property for purposes consistent with AS 44.21.300 -
24 44.21.330 and AS 44.21.256 - 44.21.290, subject to reasonable limita-
25 tions imposed by the grantor;

26 (9) participate with other governmental units in planning,
27 and assist local governments and governmental conferences and councils
28 in the state in planning and coordinating their activities relating to
29 telecommunications;

1 (10) provide for the orderly transition to new telecommu-
2 nications services and systems by state agencies;

3 (11) serve as a clearinghouse for information, data, and
4 other materials which may be necessary or helpful to federal, state,
5 or local governmental agencies in the development of telecommunication
6 systems;

7 (12) coordinate their services and activities with those of
8 other state departments and agencies to the fullest extent possible to
9 avoid unnecessary duplication; and

10 (13) provide that all activities of the telecommunications
11 divisions are responsive to state statutes and regulations, and to the
12 regulations and rulings of the Federal Communications Commission.

13 * Sec. 42. AS 44.19.144(b) is amended to read:

14 (b) The director may

15 (1) with the written concurrence of the governor, enter
16 into contracts and subcontracts on behalf of the state to carry out
17 the provisions of AS 44.19.141 - 44.19.152; contracting under this
18 paragraph is governed by AS 36.30 (State Procurement Code);

19 (2) act for the state in the initiation, investigation,
20 evaluation of or participation in any program relative to the stated
21 purpose of AS 44.19.141 - 44.19.152 which may involve more than one
22 government or governmental unit;

23 (3) on behalf of the state, accept and expend any gifts or
24 grants made to the state with the approval of the governor where such
25 gifts or grants were made for the purposes of furthering the objec-
26 tives of the office.

27 * Sec. 43. AS 44.33.300 is amended to read:

28 Sec. 44.33.300. WAIVER OF CERTAIN PROVISIONS. When the
29 governor has by proclamation declared an area impacted by an economic

1 disaster, the following provisions regarding public contracts may be
2 waived to the extent specified in the proclamation:

3 (1) the requirement of a contractor's bond as prescribed in
4 AS 36.25.010 may be waived if the contract amount does not exceed
5 \$100,000;

6 (2) the public bid requirements as contained in AS 19.10.-
7 170, AS [19.10.190,] 19.30.191(b), AS 35.15.010 - 35.15.020, and
8 AS 36.30 (State Procurement Code) [AND AS 35.15.010 - 35.15.030] may
9 be waived if the contract is to be performed by a contractor whose
10 principal office is in the designated area and the contract amount
11 does not exceed \$50,000;

12 (3) the general policy to require all construction to be
13 under bid contract as contained in AS 19.10.170, AS 35.15.010, and
14 AS 36.30 (State Procurement Code) may be waived if the contract is to
15 be performed by the state, another governmental entity, or a nonprofit
16 entity.

17 * Sec. 44. AS 44.47.250 is amended by adding a new subsection to read:

18 (c) Contracts with persons or nongovernmental entities under
19 this section are governed by AS 36.30.

20 * Sec. 45. AS 44.47.490(a) is amended to read:

21 (a) The director may establish field offices under this chapter,
22 may hire one or more lending officers, and, under AS 36.30 (State
23 Procurement Code), may contract for the services of

24 (1) real property appraisers who are familiar with rural
25 construction; and

26 (2) engineers who are familiar with engineering problems in
27 arctic and subarctic regions.

28 * Sec. 46. AS 44.71.010 is amended to read:

29 Sec. 44.71.010. DISPOSITION OF OBSOLETE OR SURPLUS STATE PROP-

1 ERTY. The Department of Administration shall take possession of
2 obsolete or surplus property of the state for which there is no imme-
3 diate or prospective use, except abandoned or obsolete school build-
4 ings and other school property. It shall also take possession of
5 property remaining in the control of a commission or board of the
6 state government after the commission or board stops functioning. The
7 Department of Administration shall sell, lease, license, or dispose of
8 the property on the terms it considers for the best interests of the
9 state in conformance with regulations adopted under AS 36.30 (State
10 Procurement Code).

11 * Sec. 47. AS 44.77.010(a) is amended to read:

12 (a) Except as provided in (d) of this section, every [EVERY]
13 claim for reimbursement for money expended, or for compensation for
14 labor, materials, or supplies furnished, or services given to or for
15 the state, whether based on a contract or on a ratification, shall be
16 promptly presented to the appropriate administrative or executive
17 officer for approval and payment.

18 * Sec. 48. AS 44.77.010 is amended by adding a new subsection to read:

19 (d) A claim that is governed by AS 36.30.560 - 36.30.699 is not
20 governed by this chapter.

21 * Sec. 49. AS 44.85.120 is amended to read:

22 Sec. 44.85.120. CARE AND CUSTODY OF BONDS. The bond bank
23 authority, in accordance with AS 36.30 (State Procurement Code), may
24 enter into agreements or contracts with a bank, trust company, banking
25 or financial institution inside or outside the state as may be neces-
26 sary, desirable or convenient, in the opinion of the bond bank author-
27 ity, for rendering services in connection with the care, custody or
28 safekeeping of municipal bonds or other investments held or owned by
29 the bond bank authority, for rendering services in connection with the

1 payment or collection of amounts payable as to principal or interest,
2 and for rendering services in connection with the delivery to the bond
3 bank authority of municipal bonds or other investments purchased by it
4 or sold by it, and to pay the cost of those services. The bond bank
5 authority may also, in connection with any of the services to be
6 rendered by a bank, trust company or banking or financial institution
7 as to the custody and safekeeping of its municipal bonds or invest-
8 ments, require security in the form of collateral bonds, surety agree-
9 ments or security agreements in such form and amount as, in the opin-
10 ion of the bond bank authority, is necessary or desirable.

11 * Sec. 50. AS 44.99.001 is amended to read:

12 Sec. 44.99.001. ADMINISTRATION OF HIGHWAY SAFETY PROGRAM. The
13 governor may contract and do all other things necessary on behalf of
14 this state under 23 U.S.C. 401-404 (Highway Safety Act of 1966), and
15 may cooperate with interested persons and agencies to effectuate the
16 purposes of that Act. Contracting under this section is governed by
17 AS 36.30 (State Procurement Code). The governor may designate a
18 person to serve as the governor's highway safety representative;
19 however, the governor is the official in this state having the ulti-
20 mate responsibility for dealing with the federal government with
21 respect to programs and activities under the Federal Highway Safety
22 Act of 1966. The governor shall coordinate the activities relating to
23 highway safety of state departments, agencies and subdivisions and of
24 the Governor's Commission on Transportation Safety established in
25 AS 44.19.190.

26 * Sec. 51. AS 46.04.090(a) is amended to read:

27 (a) The department, when feasible, shall enter into contracts
28 with persons or private organizations to provide the personnel,
29 equipment, or other services or supplies which may be required to

1 carry out this chapter. Contracts under this section are governed by
2 AS 36.30 (State Procurement Code). When private contracting is not
3 feasible, the department may establish and maintain at ports, harbors,
4 or other locations in the state, the cleanup personnel, equipment, and
5 supplies which, in its judgment, are necessary to carry out this
6 chapter.

7 * Sec. 52. AS 46.07.040(a) is amended to read:

8 (a) The commissioner shall provide for the construction of
9 facilities under this chapter, and is authorized to provide for the
10 construction by contract or through grants to public agencies or
11 private nonprofit organizations, or otherwise. A [NO] contribution
12 toward the cost of the construction of a facility may not be required
13 from its users. Construction under this section by contract is gov-
14 erned by AS 36.30 (State Procurement Code).

15 * Sec. 53. AS 46.15.020(a) is amended to read:

16 (a) The commissioner shall exercise all those powers and do all
17 those acts necessary to carry out the provisions and objectives of
18 this chapter. The commissioner may

19 (1) subject to AS 36.30 (State Procurement Code), enter
20 into contractual agreements necessary to carry out the provisions of
21 this chapter including agreements with federal, state and local agen-
22 cies;

23 (2) apply for, accept, administer and expend grants, gifts,
24 and loans from the federal government and any other public or private
25 sources for the purposes of this chapter, and adopt procedures and do
26 acts not otherwise restricted by law which are necessary to qualify
27 the state to receive grants, gifts and loans;

28 (3) establish a division of water in the Department of
29 Natural Resources and assign to that division the responsibility for

1 carrying out the provisions of this chapter.

2 * Sec. 54. AS 47.05.015(c) is amended to read:

3 (c) A contract authorized under this section is exempt from the
4 competitive bid requirements of AS 36.30 (State Procurement Code)
5 [AS 37.05.230]. In awarding a contract under this section the depart-
6 ment shall [PUBLISH A] request [FOR] proposals in accordance with
7 regulations of the Department of Administration under AS 36.30 (State
8 Procurement Code) [DEPARTMENT].

9 * Sec. 55. AS 47.30.350(a) is amended to read:

10 (a) The department shall

11 (1) develop and submit to the Surgeon General of the United
12 States Public Health Service a comprehensive program for the con-
13 structing and equipping of hospitals and other facilities for the
14 examination, observation, care, and treatment of the mentally ill;

15 (2) develop and submit to the Surgeon General plans and
16 specifications for the constructing and equipping of the hospitals and
17 other facilities;

18 (3) construct and equip the hospitals and other facilities
19 in accordance with the program, plans, and specifications approved by
20 the Surgeon General; construction and equipping under this paragraph
21 is governed by AS 36.30 (State Procurement Code);

22 (4) cooperate, coordinate, and contract, wherever indicated
23 and desirable, with other state boards, departments and agencies, and
24 agencies of the United States in the construction program, and hire
25 necessary personnel and enter into contracts with private individuals
26 and companies, to the end that the hospitals and other facilities are
27 constructed in the most economical and expeditious manner; contracting
28 and construction under this section are governed by AS 36.30 (State
29 Procurement Code).

1 * Sec. 56. AS 47.30.660 is amended to read:

2 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The depart-
3 ment is the mental health authority of the state and shall

4 (1) administer a comprehensive program for the prevention
5 of mental illness and the care and treatment of the mentally ill,
6 including inpatient and outpatient care and treatment and the procure-
7 ment of services of specialists or other persons on a contractual or
8 other basis;

9 (2) take the actions and undertake the obligations which
10 are necessary to participate in federal grants-in-aid programs and
11 accept federal or other financial aid from whatever sources for the
12 study, examination, care, and treatment of the mentally ill;

13 (3) administer AS 47.30.660 - 47.30.915;

14 (4) designate, operate, and maintain treatment facilities
15 equipped and qualified to provide inpatient and outpatient care and
16 treatment for the mentally ill;

17 (5) provide for the placement of mentally ill patients in
18 designated treatment facilities;

19 (6) enter into arrangements with governmental agencies for
20 the care or treatment of the mentally ill in facilities of the govern-
21 mental agencies in the state or in another state;

22 (7) enter into contracts with treatment facilities for the
23 custody and care or treatment of the mentally ill; contracts under
24 this paragraph are governed by AS 36.30 (State Procurement Code);

25 (8) enter into contracts which incorporate safeguards
26 consistent with AS 47.30.660 - 47.30.915 and the preservation of the
27 civil rights of the patients with another state for the custody and
28 care or treatment of patients previously committed from this state
29 under 48 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd

1 Session, 70 Stat. 709;

2 (3) prescribe the form of applications, records, reports,
3 requests for release, and consents to medical or psychological treat-
4 ment required by AS 47.30.660 - 47.30.915;

5 (10) require reports from the head of a treatment facility
6 concerning the care of patients;

7 (11) visit each treatment facility at least annually to
8 review methods of care or treatment for patients;

9 (12) investigate complaints made by a patient or an inter-
10 ested party on behalf of a patient;

11 (13) delegate upon mutual agreement to another officer or
12 agency of it, or a political subdivision of the state, or a treatment
13 facility designated, any of the duties and powers imposed upon it by
14 AS 47.30.660 - 47.30.915; and

15 (14) adopt regulations to implement the provisions of
16 AS 47.30.660 - 47.30.915.

17 * Sec. 57. AS 47.35.010(a) is amended to read:

18 (a) The department may

19 (1) license and supervise boarding homes, foster homes,
20 group homes, nurseries, institutions caring for children and foster
21 homes, group homes and institutions caring for dependent adults;

22 (2) investigate and supervise licensees;

23 (3) enforce the standards established by it;

24 (4) contract with private or municipal agencies to investi-
25 gate and make recommendations to the department for the licensing and
26 supervision of boarding homes, foster homes, group homes, nurseries,
27 institutions caring for children and foster homes, group homes and
28 institutions caring for dependent adults under procedures and
29 standards of operation established by the department; contracts with

1 private agencies under this paragraph are governed by AS 36.30 (State
2 Procurement Code).

3 * Sec. 58. AS 47.37.030 is amended to read:

4 Sec. 47.37.030. POWERS OF OFFICE. The office may

5 (1) plan, establish, and maintain treatment programs as
6 appropriate;

7 (2) make contracts and award grants necessary or incidental
8 to the performance of its duties and the execution of its powers,
9 including contracts with and grants to public and private agencies,
10 organizations, and individuals, to pay them for services rendered or
11 furnished to alcoholics or intoxicated persons; to the maximum extent
12 possible, contracts and grants shall be for a period of two years;
13 contracts under this paragraph are governed by AS 36.30 (State Pro-
14 curement Code);

15 (3) solicit and accept for use a gift of money or property
16 or a grant of money, services, or property from the federal govern-
17 ment, the state, or a political subdivision of it or a private source,
18 and do all things necessary to cooperate with the federal government
19 or any of its agencies in making an application for a grant;

20 (4) administer or supervise the administration of the
21 provisions relating to alcoholics and intoxicated persons of any state
22 plan submitted for federal funding under federal health, welfare, or
23 treatment legislation;

24 (5) coordinate its activities and cooperate with alcoholism
25 programs in this and other states, and make contracts and other joint
26 or cooperative arrangements with state, local, or private agencies for
27 the treatment of alcoholics and intoxicated persons and for the common
28 advancement of alcoholism programs in this and other states;

29 (6) keep records and engage in research and the gathering

1 of relevant statistics;

2 (7) do other acts necessary to implement the authority
3 expressly granted to it;

4 (8) acquire, hold, or dispose of real property or any
5 interest in it, and construct, lease, or otherwise provide treatment
6 facilities for alcoholics and intoxicated persons; however, the office
7 shall encourage local initiative, involvement and financial participa-
8 tion under grants-in-aid whenever possible in preference to the con-
9 struction or operation of facilities directly by the office; contract-
10 ing and construction under this paragraph are governed by AS 36.30.

11 * Sec. 59. AS 47.37.130(g) is amended to read:

12 (g) The office may contract for the use of any facility as an
13 approved public treatment facility if the coordinator, subject to the
14 regulations of the department, considers this an effective and econom-
15 ical course to follow. Contracting under this subsection is governed
16 by AS 36.30 (State Procurement Code).

17 * Sec. 60. AS 47.90.010(a) is amended to read:

18 (a) The commissioner, in consultation with state and local
19 government agencies, community groups, and groups concerned with
20 displaced homemakers, may

21 (1) contract with eligible private profit and nonprofit
22 corporations for multipurpose service centers for displaced home-
23 makers; contracting under this paragraph is governed by AS 36.30
24 (State Procurement Code); and

25 (2) coordinate existing state programs for displaced home-
26 makers.

27 * Sec. 61. AS 47.40.041(b) is amended to read:

28 (b) Notices published by the department concerning the opening
29 of the application process for a grant award shall specify the geo-

1 graphical area in which services are needed, the type of services, the
2 number of beds anticipated to be needed, the maximum number of days of
3 care, and any other requirements established by the department.
4 Grants authorized under this section are exempt from AS 36.30 (State
5 Procurement Code) [THE COMPETITIVE BID REQUIREMENTS OF AS 37.05.230].

6 * Sec. 62. REPORT. By December 1, 1987, the commissioner of adminis-
7 tration and the commissioner of transportation and public facilities shall
8 report to the legislature concerning procurements by state agencies during
9 the first six months of 1987. The report must include

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

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

13 (3) a description of any matters that involved litigation con-
14 cerning AS 36.30 during those six months.

15 * Sec. 63. REGULATIONS DEADLINE. The regulations required under
16 AS 36.30 as added by sec. 2 of this Act, shall be adopted by January 1,
17 1987 and shall be effective on that date. Regulations adopted under laws
18 repealed in sec. 64 of this Act become ineffective January 1, 1987.

19 * Sec. 64. REPEALER. The following laws are repealed: AS 14.40.340;
20 AS 19.10.190, 19.10.210; AS 24.23; AS 35.15.030, 35.15.050; AS 36.98;
21 AS 37.05.220, 37.05.230, 37.05.231, 37.05.240, 37.05.250, 37.05.260, 37.-
22 05.270, 37.05.280, 37.05.290, 37.05.400(2) and (3); AS 44.65; AS 44.77.-
23 010(c); and AS 47.90.010(c).

24 * Sec. 65. Section 63 of this Act takes effect immediately in accor-
25 dance with AS 01.10.070(c).

26 * Sec. 66. Except as provided in sec. 65, this Act takes effect Janu-
27 ary 1, 1987.

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

1/14/86

Date 3/18/86

Mr. President

The Committee on JUDICIARY considered SB 341
relating to state procurement practices and procedures; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 341 (Jud)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING

DO PASS

John Lubi
Tim Kelly
John - NO PASS, but
only if ASHA is excluded
from bill

MEMBERS HAVING

OTHER RECOMMENDATIONS

Rich Hayford NO REC

Patrick Brady
Chairman
NO PASS
Chairman recommendation

**HOUSE
COMMITTEE REPORT**

(11)

Date referred: 5/10/86

FURTHER REFERRALS:

DATE: 5-11-86

The FINANCE Committee has considered CSSB 341 (Jud) am

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

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with HCS CS SB (7in) 341 same title
- new title

and recommends DO PASS

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note new 5/10/86

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Mike Szynski
Ronald Carson
John F. ...
...
...
...

John F. ...
Chairman

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

Revision Date : _____

REQUEST

Bill/Resolution No. : HCS CSSB 341 (JUD)
 Title : state procurement
practices

Sponsor : Senate Rules by request
 Requestor : House Finance Committee
 Date of Request : 5/10/86

FISCAL DETAIL

Agency Affected : _____
 BRU : _____

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		0	---	---	---	---
TRAVEL		0	---	---	---	---
CONTRACTUAL		0	---	---	---	---
SUPPLIES		0	---	---	---	---
EQUIPMENT		0	---	---	---	---
LAND & STRUCTURES		0	---	---	---	---
GRANTS, CLAIMS		0	---	---	---	---
MISCELLANEOUS		0	---	---	---	---
TOTAL OPERATING		0	---	---	---	---

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

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

FUNDING : (Thousands of Dollars)

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

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

With the exception of one section, the House version of this bill does not take effect until July 1, 1987. Therefore fiscal impact does not occur until FY 88. Necessary funds can be provided for in the budget process.

Prepared by : Al Adams, Chair APA Phone : 465-3706
 Division : House Finance Committee Date : 5/10/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

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

Original sponsor: Rules Committee
By Request

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 341 (Finance)

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) establish consistent procurement principles for all branches
15 of state government;

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

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

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

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

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

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

29 (9) eliminate and prevent discrimination in state contracting

1 because of race, religion, color, national origin, sex, age, marital sta-
2 tus, pregnancy, parenthood, handicap, or political affiliation.

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

4 CHAPTER 30. STATE PROCUREMENT CODE.

5 ARTICLE 1. ORGANIZATION OF STATE PROCUREMENT.

6 Sec. 36.30.005. CENTRALIZATION OF PROCUREMENT AUTHORITY. (a)

7 Except as otherwise provided, all rights, powers, duties, and author-
8 ity relating to the procurement of supplies, services, and profes-
9 sional services, and the control over supplies, services, and profes-
10 sional services vested in or exercised by an agency on January 1,
11 1987, are transferred to the commissioner of administration and to the
12 chief procurement officer. Authority granted under this subsection
13 shall be exercised in accordance with this chapter.

14 (b) Except as otherwise provided, all rights, powers, duties,
15 and authority relating to the procurement of construction and procure-
16 ments of equipment or services for the state equipment fleet and the
17 control over construction of state facilities and the state equipment
18 fleet vested in or exercised by an agency on January 1, 1987, are
19 transferred to the commissioner of transportation and public
20 facilities, subject to regulations adopted by the commissioner of
21 administration. Notwithstanding AS 44.71.010, authority relating to
22 disposals from the state equipment fleet is vested in the the
23 commissioner of transportation and public facilities, subject to
24 regulations adopted by the commissioner of administration. Authority
25 granted under this subsection shall be exercised in accordance with
26 this chapter.

27 (c) Notwithstanding other provisions of law, all rights, powers,
28 duties, and authority relating to the procurement of supplies, servi-
29 ces, professional services, and construction and the disposal of

1 supplies for the University of Alaska are transferred to the Board of
2 Regents. To the maximum extent possible, authority granted under this
3 subsection shall be exercised in accordance with this chapter. The
4 Board of Regents shall adopt regulations under this subsection that
5 are substantially equivalent to the regulations adopted by the commis-
6 sioner of administration to implement this chapter. For the purposes
7 of this subsection, unless the context otherwise requires, in this
8 chapter

9 (1) "agency" means a subunit of the University of Alaska;

10 (2) "attorney general" means the president of the
11 University of Alaska;

12 (3) "chief procurement officer" means a person designated
13 by the president of the University of Alaska whose qualifications are
14 substantially equivalent to those provided in AS 36.30.010(a);

15 (4) "commissioner," "commissioner of administration," or
16 "commissioner of transportation and public facilities" means the Board
17 of Regents or the president of the University of Alaska if so
18 designated by the Board of Regents by regulations adopted under this
19 subsection;

20 (5) "department" means the University of Alaska.

21 Sec. 36.30.010. CHIEF PROCUREMENT OFFICER. (a) The commis-
22 sioner shall appoint to the partially exempt service the chief pro-
23 curement officer of the state. The chief procurement officer must
24 have at least five years of prior experience in public procurement,
25 including large scale procurement of supplies, services, or profes-
26 sional services, and must be a person with demonstrated executive and
27 organizational ability. The chief procurement officer may be removed
28 by the commissioner only for cause. The term of office of the chief
29 procurement officer is four years.

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 commis-
22 sioner of transportation and public facilities may delegate to another
23 agency the authority to contract for construction. Before delegating
24 authority to an agency under this subsection, the commissioner of
25 transportation and public facilities shall make a written determina-
26 tion that the agency is capable of implementing the delegated author-
27 ity. Notwithstanding delegation of authority under this subsection,
28 contracts for construction are governed by this chapter and regula-
29 tions adopted by the commissioner of administration under this

1 chapter.

2 (b) The commissioner of administration may delegate to an agency
3 the authority to contract for and manage services, professional servi-
4 ces, and supplies. Notwithstanding delegation of authority under this
5 subsection, an agency's exercise of the authority is governed by this
6 chapter and regulations adopted by the commissioner under this chap-
7 ter. Before delegating authority to an agency under this subsection,
8 the commissioner shall make a written determination that the agency is
9 capable of implementing the delegated authority.

10 (c) The commissioner of administration may not delegate the
11 authority to dispose of supplies or the authority to adopt regulations
12 under this chapter.

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

15 (e) The boards of directors of the Alaska Railroad Corporation
16 and the Alaska State Housing Authority shall adopt procedures to
17 govern the procurement of supplies, services, professional services,
18 and construction by the corporation. The procedures must be
19 substantially equivalent to the procedures prescribed in this chapter
20 and in regulations adopted under this chapter.

21 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall
22 adopt and publish procedures to govern the procurement of supplies,
23 services, professional services, and construction by the legislative
24 branch. The procedures must be based on the competitive principles
25 consistent with this chapter and must be adapted to the special needs
26 of the legislative branch as determined by the Legislative Council.

27 Sec. 36.30.030. COURT SYSTEM. The administrative director of
28 courts shall adopt and publish procedures to govern the procurement of
29 supplies, services, professional services, and construction by the

1 judicial branch. The procedures must be based on the competitive
2 principles consistent with this chapter and must be adapted to the
3 special needs of the judicial branch as determined by the administra-
4 tor of courts.

5 Sec. 36.30.040. PROCUREMENT REGULATIONS. (a) The commissioner
6 shall adopt regulations governing the procurement, management, and
7 control of supplies, services, professional services and construction
8 by agencies. The commissioner may audit and monitor the implementa-
9 tion of the regulations and the requirements of this chapter with
10 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 of agency supplies;

28 (9) transfer, sale or other disposal of supplies;

29 (10) definitions and classes of contractual services and

1 procedures for acquiring them;

2 (11) providing for conducting price analysis;

3 (12) use of payment and performance bonds in connection with
4 contracts for supplies, services, and construction;

5 (13) guidelines for use of cost principles in negotiations,
6 adjustments, and settlements;

7 (14) conditions under which an agency may use the services
8 of an employment program as defined under AS 36.30.100(c);

9 (15) a bidder's or offeror's duties under AS 36.30.115 and
10 36.30.210; and

11 (16) the elimination and prevention of discrimination in
12 state contracting because of race, religion, color, national origin,
13 sex, age, marital status, pregnancy, parenthood, handicap, or politi-
14 cal affiliation.

15 Sec. 36.30.050. LISTS OF CONTRACTORS. (a) The commissioner
16 shall establish and maintain lists of persons who desire to provide
17 supplies, services, professional services, or construction services to
18 the state.

19 (b) A person who desires to be on a list shall submit to the
20 commissioner evidence of a valid Alaska business license together with
21 a biennial fee established by regulation in an amount reasonably
22 calculated to pay the costs of administering this section. A con-
23 struction contractor shall also submit a valid certificate of regis-
24 tration issued under AS 08.18. The commissioner, by regulation, may
25 require submission of additional information.

26 (c) The lists may be used by the chief procurement officer or an
27 agency when issuing invitations to bid or requests for proposals under
28 this chapter. The lists may be used by the Legislative Council, the
29 court system, the Alaska State Housing Authority, and the Alaska

1 Railroad Corporation.

2 (d) The lists shall be used in providing notice of intent to
3 make a small procurement to Alaska bidders as defined under AS 36.30.-
4 170(c). A procurement officer who intends to make a procurement under
5 AS 36.30.320 shall request names from the appropriate list and the
6 department shall furnish names of Alaska bidders on a rotating basis
7 from the list in response to each request.

8 Sec. 36.30.060. SPECIFICATIONS. (a) The commissioner shall
9 adopt regulations governing the preparation, revision, and content of
10 specifications for supplies, services, professional services, and
11 construction required by an agency. The commissioner shall monitor
12 the use of these specifications.

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

16 (c) The commissioner may obtain expert advice and assistance
17 from personnel of using agencies in the development of specifications.
18 Specifications must promote overall economy for the purposes intended
19 and encourage competition in satisfying the state's needs, and may not
20 be unduly restrictive. The requirements of this subsection regarding
21 the purposes and nonrestrictiveness of specifications apply to all
22 specifications, including those prepared by architects, engineers,
23 designers, and other professionals.

24 (d) In this section, "specification" means a description of the
25 physical or functional characteristics, or of the nature of a supply,
26 service, professional service, or construction project; it may include
27 requirements for licensing, inspecting, testing, and delivery.

28 Sec. 36.30.070. SUPPLY MANAGEMENT. The commissioner shall adopt
29 regulations governing the

- 1 (1) management of supplies during their entire life cycle;
- 2 (2) sale, lease, or disposal of surplus supplies by public
- 3 auction, competitive sealed bidding, or other appropriate method;
- 4 (3) purchase of surplus supplies by an employee of the
- 5 using or disposing agency; and
- 6 (4) transfer of excess supplies.

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

13 (b) The department may enter into lease-financing agreements,
14 including lease-purchase agreements and agreements related to the
15 issuance of certificates of participation. A lease-financing agree-
16 ment must provide that lease payments are subject to annual appropria-
17 tion.

18 (c) If the department intends to enter into a lease or lease-
19 financing agreement with an annual rent to the state anticipated to
20 exceed \$1,000,000, the department shall provide notice to the legisla-
21 ture. The notice must include the anticipated annual lease obligation
22 amount and the anticipated total construction, acquisition, or other
23 costs of the project. The department may not enter into an agreement
24 under this subsection unless the project has been approved by the
25 legislature by law. An appropriation for the project does not consti-
26 tute approval of the project for purposes of this subsection.

27 ARTICLE 2. COMPETITIVE SEALED BIDDING.

28 Sec. 36.30.100. GENERAL POLICY. (a) Except as otherwise pro-
29 vided in this chapter, or unless specifically exempted by law, an

1 agency contract shall be awarded by competitive sealed bidding.

2 (b) Competitive sealed bidding is not required

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

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

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

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

12 (5) for professional services; or

13 (6) for concessions operated on state property.

14 (c) In this section "employment program" means a nonprofit
15 program to increase employment opportunities for individuals with
16 physical or mental disabilities that constitute substantial handicaps
17 to employment.

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

23 (b) When responding to the invitation to bid, the bidder shall
24 supply evidence of the bidder's valid Alaska business license. A
25 bidder for a construction contract shall also submit evidence of the
26 bidder's registration under AS 08.18.

27 Sec. 36.30.115. SUBCONTRACTORS. (a) Within 24 hours after
28 opening of bids, the two apparent low bidders shall submit a list of
29 the subcontractors the bidders propose to use in the performance of

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

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

8 (1) fails to comply with AS 08.18;

9 (2) files for bankruptcy or becomes insolvent;

10 (3) fails to execute a contract with the bidder involving
11 performance of the work for which the subcontractor was listed;

12 (4) fails to obtain bonding;

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

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

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

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

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

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

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

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

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

5 (1) cancel the contract; or

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

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

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

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

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

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

1 officer determines that the bid fails to comply in a nonsubstantial
2 manner with the security requirements.

3 Sec. 36.30.130. PUBLIC NOTICE OF INVITATION TO BID. (a) The
4 procurement officer shall give adequate public notice of the invita-
5 tion to bid at least 21 days before the date for the opening of bids.
6 If a determination is made in writing that a shorter notice period is
7 necessary for a particular bid, the 21-day period may be shortened.
8 The determination shall be made by the chief procurement officer for
9 bids for supplies, services, or professional services. The determina-
10 tion shall be made by the commissioner of transportation and public
11 facilities for bids for construction or acquisition of property for
12 the state equipment fleet. Notice shall be published in the Alaska
13 Administrative Journal. The time and manner of notice must be in
14 accordance with regulations adopted by the commissioner of adminis-
15 tration. When practicable, notice may include

16 (1) publication in a newspaper calculated to reach prospec-
17 tive bidders;

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

20 (3) notices mailed to all active prospective contractors on
21 the appropriate list maintained under AS 36.30.050.

22 (b) Failure to comply with the notice requirements of this
23 section does not invalidate a bid or the award of a contract. If the
24 state fails to substantially comply with the requirements of (a) of
25 this section, the state is liable for damages caused by that failure.

26 Sec. 36.30.140. BID OPENING. (a) The procurement officer shall
27 open bids publicly in the presence of one or more witnesses at the
28 time and place designated in the invitation to bid. The amount of
29 each bid and other relevant information that is specified by

1 regulation of the commissioner, together with the name of each bidder,
2 shall be recorded.

3 (b) The information recorded under (a) of this section is open
4 to public inspection as soon as practicable before the notice of
5 intent to award a contract is given under AS 36.30.365. The bids are
6 not open for public inspection until after the notice of intent to
7 award a contract is given. To the extent the bidder designates and
8 the procurement officer concurs, trade secrets and other proprietary
9 data contained in a bid document are confidential.

10 Sec. 36.30.150. BID ACCEPTANCE AND BID EVALUATION. (a) Bids
11 shall be unconditionally accepted without alteration or correction,
12 except as authorized in AS 36.30.160. The procurement officer shall
13 evaluate bids based on the requirements set out in the invitation to
14 bid, which may include criteria to determine acceptability such as
15 inspection, testing, quality, delivery, and suitability for a parti-
16 cular purpose. The criteria that will affect the bid price and be
17 considered in evaluation for award must be objectively measurable,
18 such as discounts, transportation costs, and total or life cycle
19 costs. The invitation to bid must set out the evaluation criteria to
20 be used. Criteria may not be used in bid evaluation if they are not
21 set out in the invitation to bid.

22 (b) A contract based on total or life cycle costs may be awarded
23 only when the chief procurement officer or, for construction contracts
24 or procurements for the state equipment fleet, the commissioner of
25 transportation and public facilities, determines in writing at the
26 time of contract solicitation that the contract promotes overall
27 economy for the purposes intended, encourages competition, is not
28 unduly restrictive, and is in the best interests of the state.

29 Sec. 36.30.160. LATE BIDS; CORRECTION OR WITHDRAWAL OF BIDS;

1 CANCELLATION OF AWARDS. (a) Bids received after the bid due date and
2 time indicated on the invitation to bid may not be accepted unless the
3 delay was due to an error of the contracting agency.

4 (b) Correction or withdrawal of inadvertently erroneous bids
5 before or after bid opening, or cancellation of awards or contracts
6 based on bid mistakes may be permitted in accordance with regulations
7 adopted by the commissioner. After bid opening, changes in bid prices
8 or other provisions of bids prejudicial to the interest of the state
9 or fair competition may not be permitted. Except as otherwise provid-
10 ed by regulation, a decision to permit the correction or withdrawal of
11 a bid, or to cancel an award or contract based on a bid mistake, shall
12 be supported by a written determination made by the procurement offi-
13 cer. If a bidder is permitted to withdraw a bid before award, an
14 action may not be maintained against the bidder or the bid security.

15 Sec. 36.30.170. CONTRACT AWARD AFTER BIDS. (a) Except as
16 provided in (b) of this section, the procurement officer shall award a
17 contract based on the solicited bids with reasonable promptness by
18 written notice to the lowest responsible and responsive bidder whose
19 bid conforms in all material respects to the requirements and criteria
20 set out in the invitation to bid.

21 (b) Notwithstanding an Alaska product preference under AS 36.-
22 30.322 - 36.30.338, the procurement officer shall award a contract
23 based on solicited bids to the lowest responsible and responsive
24 Alaska bidder if the bid is not more than five percent higher than the
25 lowest nonresident bidder's. In this subsection, "Alaska bidder"
26 means a person who

27 (1) holds a current Alaska business license;

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

1 license;

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

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

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

11 (c) If a bidder qualifies under (b) of this section as an Alaska
12 bidder, is offering services through an employment program as defined
13 under AS 36.30.100(c), and is the lowest responsible and responsive
14 bidder with a bid that is not more than 10 percent higher than the
15 lowest bid of a nonresident, the procurement officer shall award the
16 contract to that bidder.

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

24 ARTICLE 3. COMPETITIVE SEALED PROPOSALS.

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

1 (c) of this section are met.

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

16 (c) When the chief procurement officer determines that it is
17 advantageous to the state, a procurement officer may issue a request
18 for proposals requesting the submission of offers to provide con-
19 struction in accordance with a design provided by the offeror. The
20 request for proposals shall require that each proposal submitted
21 contain a single price that includes the design/build.

22 Sec. 36.30.210. REQUEST FOR PROPOSALS. (a) A request for
23 competitive sealed proposals must contain the date, time and place for
24 delivering proposals, a specific description of the supplies, con-
25 struction, services, or professional services to be provided under the
26 contract, and the terms under which the supplies, construction, ser-
27 vices, or professional services are to be provided. The request shall
28 require the offeror to submit evidence of the offeror's valid Alaska
29 business license and, no later than the date by which proposals must

1 be received, to list subcontractors the offeror proposes to use in the
2 performance of the contract. The list shall include the name and
3 location of the place of business for each subcontractor and evidence
4 of the subcontractor's valid Alaska business license. An offeror for
5 a construction contract shall also submit evidence of the offeror's
6 registration under AS 08.18 and evidence of registration for each
7 listed subcontractor.

8 (b) A request for proposals must contain that information neces-
9 sary for an offeror to submit a proposal or contain references to any
10 information that cannot reasonably be included with the request. The
11 request must provide a description of the factors that will be con-
12 sidered by the procurement officer when evaluating the proposals
13 received, including the relative importance of price and other evalu-
14 ation factors.

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

20 (d) The provisions of AS 36.30.115(b) - (e) apply to competitive
21 sealed proposals.

22 Sec. 36.30.220. STANDARD OVERHEAD RATE. (a) An agency that
23 provides services to another agency under a contract covered by this
24 chapter shall establish a standard overhead rate. If an agency sub-
25 mits a proposal in response to a request for competitive sealed pro-
26 posals, the agency must include its standard overhead rate within its
27 proposal.

28 (b) In this section, "standard overhead rate" means a charge
29 established for services and professional services from an agency that

1 is designed to compensate the agency for administration and support
2 services incidentally provided with the services contracted for.

3 Sec. 36.30.230. TREATMENT OF PROPOSALS. The procurement officer
4 shall open proposals so as to avoid disclosure of contents to compet-
5 ing offerors during the process of negotiation. A register of pro-
6 posals containing the name and address of each offeror shall be pre-
7 pared in accordance with regulations adopted by the commissioner. The
8 register and the proposals are open for public inspection after the
9 notice of intent to award a contract is issued under AS 36.30.365. To
10 the extent that the offeror designates and the procurement officer
11 concurs, trade secrets and other proprietary data contained in the
12 proposal documents are confidential.

13 Sec. 36.30.240. DISCUSSION WITH RESPONSIBLE OFFERORS AND REVI-
14 SIONS TO PROPOSALS. As provided in the request for proposals, and
15 under regulations adopted by the commissioner, discussions may be
16 conducted with responsible offerors who submit proposals determined to
17 be reasonably susceptible of being selected for award for the purpose
18 of clarification to assure full understanding of, and responsiveness
19 to, the solicitation requirements. Offerors reasonably susceptible of
20 being selected for award shall be accorded fair and equal treatment
21 with respect to any opportunity for discussion and revision of pro-
22 posals, and revisions may be permitted after submissions and before
23 the award of the contract for the purpose of obtaining best and final
24 offers. In conducting discussions, the procurement officer may not
25 disclose information derived from proposals submitted by competing
26 offerors. AS 44.62.310 does not apply to meetings with offerors under
27 this section.

28 Sec. 36.30.250. AWARD OF CONTRACT. (a) The procurement officer
29 shall award a contract under competitive sealed proposals to the

1 responsible and responsive offeror whose proposal is determined in
2 writing to be the most advantageous to the state taking into consid-
3 eration price and the evaluation factors set out in the request for
4 proposals. Other factors and criteria may not be used in the evalu-
5 ation. The contract file must contain the basis on which the award is
6 made.

7 (b) In determining whether a proposal is advantageous to the
8 state, the procurement officer shall take into account, in accordance
9 with regulations of the commissioner, whether the offeror qualifies as
10 an Alaskan bidder under AS 36.30.170(b) or is offering the services of
11 an employment program as defined in AS 36.30.100(c).

12 Sec. 36.30.260. CONTRACT EXECUTION. A contract awarded under
13 competitive sealed proposals must contain

14 (1) the amount of the contract stated on its first page;

15 (2) the date for the supplies to be delivered or the dates
16 for construction, services, or professional services to begin and be
17 completed;

18 (3) a description of the supplies, construction, services,
19 or professional services to be provided; and

20 (4) certification by the project director for the contract-
21 ing agency, the head of the contracting agency, or a designee that
22 sufficient funds are available in an appropriation to be encumbered
23 for the amount of the contract.

24 Sec. 36.30.270. ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING
25 CONTRACTS. (a) Notwithstanding conflicting provisions of AS 36.30.-
26 100 - 36.30.260, a procurement officer shall negotiate a contract for
27 an agency with the most qualified and suitable firm or person of
28 demonstrated competence for architectural, engineering, or land
29 surveying services. The procurement officer shall award a contract

1 for those services at fair and reasonable compensation as determined
2 by the procurement officer, after consideration of the estimated value
3 of the services to be rendered, and the scope, complexity, and
4 professional nature of the services. When determining the most
5 qualified and suitable firm or person, the procurement officer shall
6 consider the

7 (1) proximity to the project site of the office of the firm
8 or person unless federal law prohibits this factor from being
9 considered in the awarding of the contract; and

10 (2) employment practices of the firm or person with regard
11 to women and minoricies.

12 (b) If negotiations with the most qualified and suitable firm or
13 person under (a) of this section are not successful, the procurement
14 officer shall negotiate a contract with other qualified firms or
15 persons of demonstrated competence, in order of public ranking. The
16 procurement officer may reject all or part of a proposal.

17 (c) This section does not apply to contracts awarded in a
18 situation of public necessity if the procurement officer certifies in
19 writing that a situation of public necessity exists.

20 (d) Notwithstanding the other provisions of this section, a
21 procurement officer may include price as an added factor in selecting
22 architectural, engineering, and land surveying services when, in the
23 judgment of the procurement officer, the services required are repeti-
24 tious in nature, and the scope, nature, and amount of services re-
25 quired are thoroughly defined by measurable and objective standards to
26 reasonably enable firms or persons making proposals to compete with a
27 clear understanding and interpretatior of the services required. In
28 order to include price as a factor in selection, a majority of the
29 persons involved by the procurement officer in evaluation of the