

2917 HSA RENOVATION OF GOV.'S MANSION REPORT

UNION BROTHERHOOD OF CARPENTERS
LOCAL 1000
SEATTLE, WA 98101



MATERIAL CONTRACT

AA - 1475 Job Name Governors Mansion - Alaska
Contractor's Registration Number
L 537004 Contractor's Job No. CC 83 - 5
Contractor's Washington Resale Number Supplier's Job No. _____

THIS AGREEMENT, issued this 29 day of July, 19 83,
by and between Queen City Industries, Inc., 1001 Mercer Street, Seattle, WA 98109
(seller's name and address)
hereinafter called the Seller, and Coogan Construction Company,
(contractor)
hereinafter called the Contractor,

WITNESSETH:

Section 1. The Seller agrees to furnish all material set forth in "Section 2" hereof necessary in the construction of Governors Mansion Renovation for State of Alaska
(name of project) (owner)
hereinafter called the Owner, at Juneau, Alaska
(location of project)
in accordance with the plans and specifications together with Addendas No. N / A,
and Alternates No. N / A, prepared by Minch - Ritter - Forrest,
(architect or engineer)
all of which shall be considered part of this Agreement by reference thereto. The Seller agrees that the material supplied will be in accordance with the plans and specifications and will be subject to inspection and acceptance by the supervising authority to determine conformance thereto.

Section 2. It is agreed that the materials to be furnished by the Seller are as follows: _____
Including but not limited to the following: Ceramics, hardwood,
back-up materials, waterproofing, finishes, and wonder board @ walls
behind tile.
Section 9.300 and Section 9.550; tile and wood flooring.
Both of these sections in their entirety.

Section 3. All material furnished under this Agreement is to be furnished F.O.B. Seattle Dock.
Delivery schedule shall be As Soon As Possible!!! To be coordinated in forthcoming
correspondence.
If this space is not filled in, the schedule shall be mutually agreed upon within two weeks after acceptance of this contract. Contractor shall inspect all materials at time of delivery and note on a Bill of Lading any apparent defects. Satisfactory performance shall be contingent upon timely written approval of both parties of the following material samples, shop drawings, and credit submittals: As required by sections 01.300 and those
sections mentioned above in "section 2" of this material contract.
Six (6) copies of material submittals are required.

Section 4. The contractor agrees to pay the Seller for the material as follows: \$44,178.00
Forty four thousand, eight hundred and 00/100 dollars.

subject to additions and deductions agreed to in writing by Contractor and Seller for changes as may result from operations of Contractor's contract with Owner. Terms of payment are as follows: Net 30 days
from receipt of invoice, or initial acceptance of material by owners
representative, whichever occurs last.

No payment on account shall operate as an approval and acceptance of materials furnished, or any part thereof.



O'KEEFE CONSTRUCTION CO.

P.O. BOX 129

BUREAU, WISCONSIN

7-24-54

document #13

Section 5. 2 copies of invoices shall be mailed to All invoices received after the payment cut-off date of the 5th and 25th of every month (page 2 of 2) will go into the next month's account.

Section 6. In the event of any breach of contract, lien, claim or other liability asserted against the Contractor by a third party arising out of the Seller's performance hereunder, the Contractor shall have the right to retain out of any payments due or to become due to the Seller in amount sufficient to protect the Contractor from damage resulting therefrom, until the situation has been eliminated or adjusted by the Seller.

Section 7. Seller warrants the material to be in accordance with the plans and specifications, except as noted in Section 2., and to be free from defects at time of delivery. THE PRECEDING WARRANTY IS IN LIEU OF AND SELLER HEREBY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR ANY PARTICULAR PURPOSE.

Section 8. Consideration of extension of time shall be contingent upon written request for such extension by the Seller within three working days of Seller's good faith determination that there will be a delay.

Section 9. In the event the Seller fails to comply with the provisions herein and fails to commence corrective measures immediately, or to notify Contractor for the delay in such corrective measures after written request by the Contractor, the Contractor may, without prejudice to any other right or remedy, after written notice, furnish or secure elsewhere the necessary materials to remedy the breach, and the necessary cost of which will be at the expense of the Seller.

Section 10. Only material listed in Section 2. will be furnished. No separate installation items or materials will be furnished unless shown on plans and specifications or noted herein.

Section 11. The Seller shall obtain and pay, except as provided otherwise in the specifications, for all patent rights, permits, licenses, tests and official inspections necessary to his performance under this agreement, and shall comply with all laws, ordinances, taxes and regulations bearing on the production of his material and the furnishing thereof.

Section 12. The Seller shall indemnify the Contractor against and save him harmless from any and all claims, suits or liability for injuries to property, injuries to persons, including death, and from any other claims, suits or liability on account of any negligent act or omission of the Seller, or any of his officers, agents, employees or servants. The Contractor shall indemnify the Seller against and save him harmless from any and all claims, suits or liability for injuries to property, injuries to persons, including death, and from any other claims, suits or liability on account of any negligent act or omission of the Contractor, or any of his officers, agents, employees or servants. In any action to enforce this section, including trial and appellate proceedings, reasonable attorneys' fees shall be awarded to the prevailing party.

Section 13. The Seller shall not assign or contract a substantial portion of any special fabrication necessary for this contract without prior written consent of the Contractor. If the Seller assigns the proceeds of the contract, he shall give written notification thereof to the Contractor.

Section 14. In any case of litigation between parties concerning this Material Contract, including trial and appellate proceedings, reasonable attorneys' fees shall be awarded to the prevailing party; and venue any choice of law shall be that of the State of Washington.

Date

Contractor

By

Date

Seller

By



REC'D
AUG 31 1983
U.S. DEPARTMENT OF TRANSPORTATION

Snow Goose Productions

Phyllice Bradner • 623 Basin Road • Juneau, Alaska 99801 • (907) 563-3897

August 31, 1983

MEMO TO: Tom Freeman
Department of Transportation/PF

FROM: Phyllice Bradner

RE: Carpet Selection

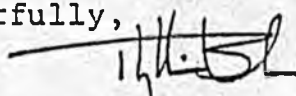
Tom:
I am currently in the process of making carpet selections in the mansion and would just like to clarify the procedure for expediting that order.

~~I spoke to Tom Metlicka last week and we both agreed that the quickest and least complicated process would be to extend the Coogan/Capital contract to include carpet work.~~

Among the carpet needs will be some specialty carpet with borders sewn on for the main staircase, master bedroom, and Chamber D. These are the sort of items that will quite likely be available through very limited sources. We will also need a more standard sort of carpet for the back stair hall and basement area. In order to simplify matters I intend to choose that carpet from among the stock items offered by the company that supplies the specialty carpet.

~~I have been in contact with Queen City, the people who are supplying our other flooring needs, and they have been very accomodating in locating information about the unusual carpeting I have requested. If it is o y with your department, I would like to proceed under the assumption that we can do business with Queen City as I have found them to be very co-operative and reputable.~~

Thank you, your prompt decision in this matter will speed the job along.

Respectfully,

Phyllice Bradner

cc: Tom Metlicka ✓



(206) 622-6222

Queen City INDUSTRIES, INC.

1001 MERCER ST. • P.O. BOX 9885
SEATTLE, WASHINGTON 98109

STATE CONTR. REG. NO.
223-01 OU-EE-NC 1374 N09

- HARDWOODS
- FLOOR COVERINGS
- SYNTHETICS
- CERAMICS
- TENNIS COURTS
- TRACKS

TO: GOOGAN CONST
JUNEAU ALASKA

ATTN: JOE
PROPOSAL FOR:

Date 10/7/83

CARPET FOR GOV. MANSION.

GENTLEMEN:

IT IS A PLEASURE TO SUBMIT OUR QUOTATION TO FURNISH MATERIALS AND OR LABOR AS FOLLOWS:

PURSUANT TO OUR CONVERSATIONS
WE ARE PROCEEDING WITH THE ORDER DEFINED
AS FOLLOWS:

PROVIDE CARPET AND ~~LAESCIZ~~ IN THE FOLLOWING AREAS.

- | | | |
|--|---|---|
| FIELDSTONE BY WELCO
COOR SANDSTONE
AND 40 OZ HAIR JUTE
PAD. | { | #14 HALL "B", #15 STAIR HALL, #16 HALL
#17 MAIDS ROOM, #40 STAIR HALL, STAIRS
AND #63 STAIR HALL (NONE IN CLOSETS)
[EXTRA ATTIC STOCK AS POSSIBLE] |
| "FLORAL PERSONA" BY ALEX
SMITH WITH "GRAMMERCY
PARK BY COLONADE COOR
FILIBET WITH PAD | { | AREA RUG WITH A 1 FOOT (APPROX)
BORDER INSET FOR #54 CHAMBER "C"
USING THIN AREA RUG PAD |
| GRAMMERCY PARK BY COLON-
NADE COOR FILIBET | { | INSET AREA RUG, OUNERS RUG WILL
BE ON AREA RUG PAD ON TOP. |
| ROYAL CRYSTAL BY C.I.
QUARTZ W/ STD BORDER
OF 6 3/4" | { | MAIN STAIR CRT 48" WIDE (APPROX)
DOES NOT INCLUDE THE FIRST 2 STAIRS
AND LYNCHING |

ALSO TO PROVIDE AREA RUG PAD FOR OWNER
SUPPLIED CARPETS, APPROX COST 30 - 35¢ PER SQ FT.

TOTAL NOT TO EXCEED \$15,000.00
W/INT APPROX. 2400#
FOB, SEATTLE DECK, NO SUBSURFACE PREP.
LABOR FIGURED ON NORMAL WORKING HOURS

THIS QUOTE DOES NOT INCLUDE WASHINGTON STATE SALES TAX

THIS PROPOSAL IS SUBJECT TO ACCEPTANCE WITHIN N/A DAYS AND TO CONDITIONS ON THE REVERSE SIDE HEREOF.

QUEEN CITY INDUSTRIES, INC.

BY Alexander P. Cooper

VERBAL
BY E. 10/6/83
ACCEPTED

DATE 10/7/83

TERMS AND CONDITIONS

GENERAL CONDITIONS

1. The price is only for such work as is specifically described in the scope of work.
2. SALES TAX: Applicable tax is included in the quotation.
3. TERMS are CASH ON COMPLETION, or as otherwise agreed. No advance payment of credit. Overdue accounts will be charged 1 1/2% per month for service charge.
4. We assume no liability for delay or cancellation from causes beyond our control, such as acts of God, labor disturbances, car shortage, war and acts of the Government, transportation delays and accidents beyond our control.
5. Claims for shortages must be claimed by the purchaser within five days.
6. Back Charges. No claims for labor performed or for materials furnished by others as a part of this contract will be allowed except upon written order of the seller. The seller will not assume any charge for use of telephone, general cleaning, office expenses, lighting, power, watchman or temporary structures pro rata charges of any kind or description.
7. Structural Work. Unless otherwise noted on the face of this proposal, complete erection of frames and other materials for the reception of the seller's material is to be done by others. It is essential that such work be done in exact accordance with working details and specifications under which seller's quotation is made. Any charges requiring additional work or material by the seller will be charged to the purchaser. It should specifically be noted that our quotations are based on the premise that the sub surfaces are ready to receive our materials.
8. The builder and/or owner shall maintain a temperature of 70 F. for 48 hours before and after and during the progress of the installation of the floor covering. Sufficient lighting and power shall be furnished to the floor contractor.
9. If the job has been estimated from plans and the interior dimensions of any room or room shall be found to be larger than on the plans, the builder and/or owner agrees to pay for the additional area at the current market price. The size of each room area to be the basis of comparison and no consideration will be given to the exterior dimensions of the building.
10. Any work necessary to repair sub surfaces and sub floors, cut door jambs, baseings, repair or prepare counters may be charged as an extra.
11. The purchaser shall provide seller a safe storage space convenient to the site of the work and out of construction facilities such as hoists and elevators without charge to the seller.
12. Notification to Proceed. The purchaser shall notify seller seven (7) days prior to installation date and shall provide sufficient work ahead so that the seller's work can be carried on without undue interruption.
13. Purchaser's Contract Form. If purchaser should accept seller's quotation yet use his own contract form, it is agreed that the true copy of seller's quotation and these terms and conditions shall be incorporated therein and made a part of this agreement.
14. Regular Working Hours. Our proposal is based on the premise that the work can be performed in regular working hours unless otherwise noted on the face of this proposal.
15. Delays. The seller will not take responsibility for any delays occasioned by labor trouble, transportation, fire, accidents or any other cause beyond the seller's control. If completion of our contract is delayed for thirty (30) days or more, through no fault of ours, the purchaser will take delivery of the balance of the materials contracted for and payment for all labor and material furnished shall be due forthwith.
16. It is the intention of the floor contractor to furnish materials as shown on the face of the proposal, however if by error the wrong materials are delivered to the contractor and/or owner must accept the delivered material if floor contractor is not at fault of error within 24 hours after delivery of material.
17. We assume no responsibility for manufacturing defects where a material is sold to us as conforming to size and grade figured for the material on face of the proposal.

WOOD FLOOR CONDITIONS:

1. We assume no responsibility for imperfections in sub floors and we do not guarantee against cupping, buckling, shrinking or for defects which show up in material which are within the scope of the grading rules which are applied for the industry.
2. The contractor and/or owner is to turn the job over to the floor contractor broom-clean and furnish sufficient electric power to operate floor equipment, such as sanders, edgers and polishers.
3. Wood floors shall be finished with a natural finish unless otherwise stated on the face of proposal and should color be desired, the contractor and/or owner shall pay extra for the specific color.
4. Eighty-five percent (85%) of the contract price will be due and payable when floors are laid and the balance upon the completion of the finishing of the job.
5. Inasmuch as the seller cannot control the humidity, heat or moisture condition on the job, we hereby want it understood that we cannot be responsible for the movement of a wood floor or any other condition which may result from moisture and/or heat conditions.

RESILIENT FLOOR, WALL COVERING, & CARPET CONDITIONS:

1. We assume no responsibility for imperfections in sub floors and we do not guarantee against cupping, buckling, shrinking or for defects which show up in material which are within the scope of the grading rules which are applied for the industry.
2. Any imperfections in sub floor which are remedied by the floor contractor shall be considered an extra unless otherwise agreed to on the face of this proposal.
3. The contractor and/or owner is to turn the job over to the floor contractor broom-clean and furnish sufficient electric power to operate floor equipment, such as sanders, edgers and polishers.
4. If material or pattern group other than specified or agreed upon is selected, the price shall be considered as an extra.
5. On jobs where the seller makes the installation, he agrees to clean up his own debris, but it is expected daily clean up on the face of the proposal is subsequent cleaning and waxing is not to be considered a part of the work included in this agreement.
6. Inasmuch as the seller cannot control heat, moisture, and humidity conditions on the job, we hereby want it understood that we cannot be responsible for the movement, cracking, spreading and other defects of a floor, as the result of these conditions.

CERAMIC TILE CONDITIONS:

1. We assume no responsibility for defects caused by structural and/or sub surface conditions, or defects caused by extreme high and or low temperatures.
2. Any imperfections in sub surfaces which are remedied by floor contractor shall be considered an extra for which a reasonable amount may be charged to contractor and/or owner unless otherwise agreed upon on face of proposal.
3. The contractor and/or owner is to turn the job over to the floor contractor broom-clean and furnish sufficient electric power to operate floor equipment, such as sanders, edgers and polishers.
4. If material or pattern group other than specified or agreed upon is selected, the price shall be considered as an extra.

MEMORANDUM


State of Alaska
Department of Transportation & Public Facilities

TO: D. D. Dieckmeyer, Director
Design and Construction
Southeast Region
DOT/PF

DATE: October 28, 1983

FILE NO:

TELEPHONE NO: 354-4366

FROM: W.I. Deboff 
Chief, Buildings
Design & Construction
DOT/PF

SUBJECT: Governor's Mansion
H-79164

The construction contractor on the architecture renovations for the governor's mansion has quoted the following costs for carpet installation:

Carpet (State is committed to pay this cost:	\$12,500.00
Labor (5 days)	
Subsistance) -	<u>\$ 3,084.00</u>
Airfair)	
TOTAL AMOUNT:	\$15,584.00

Estimated quantity of carpet: 300 yards
 Cost of carpet and installation: \$15,584.00 for 300 yards = \$51.95 per yard
 Cost of carpet installation: \$ 3,084.00 for 300 yards = \$10.28 per yard

WD/sch



Seattle's Flooring Center

Queen City INDUSTRIES, INC.

(206) 622-6222

STATE CONTR. REG. NO. 223-01 OU-EE-NC 137-1 N09
1001 MERCER ST. • P.O. BOX 9285 • SEATTLE, WA 98109

ALL CLAIMS FOR SHORTAGES MUST BE MADE AT TIME OF DELIVERY
1% MONTHLY SERVICE CHARGE ON OVERDUE ACCOUNTS

*1-907-586-3010

SHIPPED TO

SOLD Coogan Construction Co.
TO P O Box 209
Juneau, AK 99802

Governor's Mansion
Material contract

Attention: W.D.Coogan, Proj.Mgr. Job #1944 & 19661

CUST. ORDER NUMBER	RESALE NUMBER	SHIPPED VIA	INVOICE DATE	SALESMAN	TERMS
			9/20/83		Net
QUANTITY	DESCRIPTION			PRICE	AMOUNT
	Section #9.300 Tile				
	Section #9.550 Wood floor				
	Per contract as quoted			\$44,808.00	\$44,808.00

40645

OCI 1017-4



Queen City INDUSTRIES, INC.

STATE CONTR. REG. NO. 223-01 QU-EE-NC 1374 N08
1001 MERCER STREET • (206) 622-6222
P.O. BOX 9885
SEATTLE, WASHINGTON 98109

October 4, 1983

Coogan Construction Co.
P O Box 209
Juneau, AK 99802

Re: Governor's Mansion - Change Orders thru Sept. 30, 1983

Gentlemen:

WOOD

Description of Change

Hardwood change order for walnut and oak millwork.

CERAMIC TILE

Room # Name

Description of Change

12 Bath:
Floor

(Bid-
(Wood per dwg. A-1
(Actual-
(Ceramic tile w/design

Shower
Walls

(Bid-1"x1" sw. ungl. ct w/1/2" borders.
(Actual-3x6 glazed "crown" tiles with
(feature strip.

19 Rec/Jac

Bid-Field tile Bianco Antico plain 8"x8"
Design Musa Ciclamino border w/(4) Almeria 219.
Actual- Field tile Incepa bright white 6"x6"
border dbl. band of M.S. Girafa. Need to
modify substrate to accept the (2) different
thickness of tile.

Rear Vest.

- No flooring in basic bid.
Actual- Quarry tile to match Vest. #30.

38 Scullery

Bid- 2x2 one color no design floor & walls.
Actual- Two color offset on floor & walls.

52 Bath

Bid- 1" sq. tile wainscot 36" high.
Chg. to- 3x6 or 4x8 glossy white w/Maderia
domed relief molding & white 1/4 rd.
Actual- 3x6 gl. wt. tile w/black feature strip
& M.S. ogee cap molding.

CERAMIC TILE con't.

<u>Room #</u>	<u>Name</u>	<u>Description of Change</u>
55	Bath Floor	(Bid floor- Border design 1" Sq. Corallin & (Sandalwood. (Actual- 1" Sq. beige w/1x2 molted Coralin.
	Wainscot	(Bid- Field St. Florient rose, border Zeta (marble. (Actual - Chg border to 4" of Botticino and (2" of Rosso Vecona. (Marble & border on all floor walls - 4' high
55	Whirlpool	Bid- 1" Sq. CT on floor & walls (sndwd border) Actual- 1" Sq. floor w/beige border. Walls have 3x6 glossy white tile in brick pattern.
	Threshold	Bid- Marble stock threshold. Actual- 1-3/4" x6" w/bevel special milled threshold.
61	Bath	Bid- 4 1/4 x 4 1/4 white tile w/wood cap Actual- 3"x6" Glossy white w/feature strip & M.S. OG (if possible) for cap.
	Shower	Bid- 1" Sq. tiles on walls w/black border. Actual- 3x6 Glassy White w/feature strip.
65	Bath	Bid- Std. 1" White hex field, 1" sq. border white & black. Actual- 1" Hex field w/1" blue border and design.
		Bid- Cleavage Membrane per std. tile specifications to Actual- Bithuthane a special self-healing membrane.
		Raise wainscot to 42" in Room #52.
		Provide (3) white porcelain recessed soap and towel holders.
		Cut special beige border tiles out of a (3) color random pattern (18 sf needed out of 54 sf).
		Preparation of material for air freight shipment from Seattle to Juneau.
		Freight bills not shipped collect.

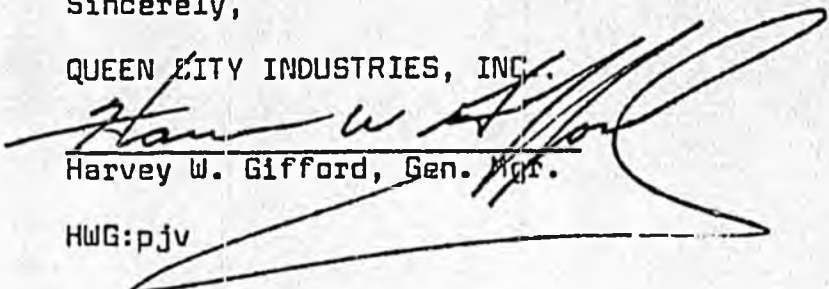
Glenn Cooper's time needed to facilitate change orders beyond basic material contract including but not limited to the following:

To investigate a variety of ceramic tile manufacturers in regards to alternate products and their availability. Provide the designer with these alterantes and samples to choose from. Investigate potential installation problems and methods for a solution. Change material takeoff to include changes. Order materials to facilitate installation in a timely manner. Personally expedite material from Seattle dock to Juneau.

Total to date -----\$13,721.00
Thru Sept. 30, 1983

Sincerely,

QUEEN CITY INDUSTRIES, INC.



Harvey W. Gifford, Gen. Mgr.

HWG:pjv

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802

THE EAST REGION

January 6, 1984

RE: Governor's Mansion
Architectural Renovations
Project No. H-79164
220E

File 19-2

Coogan/Capitol Construction Co., J.V.
P. O. Box 209
Juneau, Alaska 99802

Gentlemen:

Tom Metlicka has talked to you by phone regarding the Queen City Contract. We need the information that he requested before we can process Pay Estimate Nos. 13 and 14.

To state the problem we are concerned about, we need a break down on that contract. How much for the different items of material supplied and also labor cost break down. Why are we billed for G. Copper's airfare, car rental and food? Was he requested by us to come up, etc.?

Please supply this information as soon as possible.

Very truly yours,

Nello Long
Nello Long
Project Inspector

NL:ma

cc: Tom Metlicka

Project # H-79164

Sent via Teleconference on 1-9-84

Joe Lath & wife from Queen City



Queen City INDUSTRIES, INC.

STATE CONTR REG. NO. 223-01 OU-EE-NC 1374 NCS
1001 MERCER STREET • (206) 622-6222
P.O. BOX 9885
SEATTLE, WASHINGTON 98109

January 27, 1984

Coogan Construction
4950 Glacier Highway
Juneau, AK 99802

Attention: Wayne Coogan
Re: Governor's Mansion

Gentlemen:

Enclosed is the breakdown on the material bid portion of the Governor's Mansion contract. We find the request for bid breakdown very unusual. We expect this information will facilitate the State's payment of our invoice plus interest owing from the due date to present.

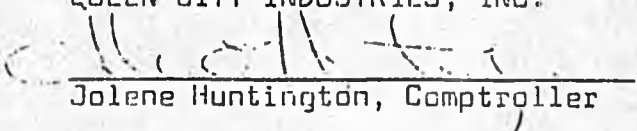
Also enclosed is an invoice for the time involved in breaking out the bid. I estimate it took in excess of one man day each for Bob and Glenn to provide this information. Their combined billing time per hour is \$78.00. The invoice also includes the DHL charge for shipment of this information.

Lastly enclosed are copies of all the other itemized billing on the Governor's Mansion.

Hopefully, Wayne, this will put the State to rest. We are most anxious to receive payment. If I can be of any further help please feel free to contact me.

Sincerely,

QUEEN CITY INDUSTRIES, INC.


Jolene Huntington, Comptroller

JH:pjv
Enc.

2 Name Coogan Construction

Governor's Mansion

Wood, Tile & Flooring Contract

<u>Room No.</u>	<u>Material per Room</u>	
19	Recreation Room	\$6107.00
30	Entry vestibule & Closet	93.00
31	Foyer	110.00
32	Main Hall	372.00
33	Ballroom	471.00
34	Library	1489.00
35	Conservatory	1420.00
36	Dining Room	1032.00
37	Serving/Pantry	900.00
42	Office	146.00
50	2nd Floor Hall	563.00
	Chamber "D"	980.00
54	Master Bedroom "C"	1840.00
57	Study	2980.00
60	Chamber "A"	458.00
54	Chamber "E"	147.00
12	Bath - Shower floor & Side walls	1000.00
19	Rec. Room - Enclosure Top Surface & Back Wall Panel	5600.00
30	Vestibule - Floor	1400.00
38	Scullery - Floor & Walls	4550.00
52	Bath - Floor & Wainscot	2000.00
55	Bath - Floor & Wainscot	7300.00
	Shower - Floor & Steps & Walls	
58	Kitchenette/Bath - Floor in each room	900.00
61	Bath - Floor & Wainscot & Shower	2350.00
65	Bath - Floor	600.00

\$ 44,208.00

Handwritten: (DHL) *Seattle City*

1993 MAR 13, 1984
 1000 MAR 13, 1984 • P.O. BOX 3005 • SEATTLE, WASH. 98108

ALL CLAIMS FOR SHORTAGES MUST BE MADE AT TIME OF DELIVERY
 IS MONTHLY SERVICE CHARGE ON OVERDUE ACCOUNTS.

SHIPPED TO

TO
 10
 Coogan Construction
 4950 Glacier Highway
 Juneau, AK 99802

Governor's Mansion

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Time involved in breaking out the bid	\$ 624.00	
	DHL charge	19.00	
		\$643.00	\$643.00

No. 40920

CHECK NUMBER | INVOICE NUMBER | ORDER NO. VIA | INVOICE DATE | SALESMAN | TERMS

| | | | 1/27/84 | Bob Hansen & B | on Cooper | npt

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
SOUTHEAST REGION

P.O. BOX 1467
JUNEAU, ALASKA 99802
(907) 364-4222

February 2, 1984

Re: Project No. H79164
Governor's Mansion
Queen City Information
File 19-2

Coogan/Capitol Const. Co., J.V.
P. O. Box 209
Juneau, Al' 99802

Gentlemen:

Thank you for supplying us with information from Queen City regarding the material they furnished for the Governor's Mansion project. We need more information, however.

They listed the rooms and their prices for material for each room. We requested and still need invoices for the material they sent. We need the square footage amounts for the different items of material they sent, as well as prices per square foot. Also needed are the amounts and prices for the related materials such as floor finishing material, bedding, underlayment, mastic, grout, etc.

Please supply this information as soon as you can because we would like to close this project out, and I am sure you would also.

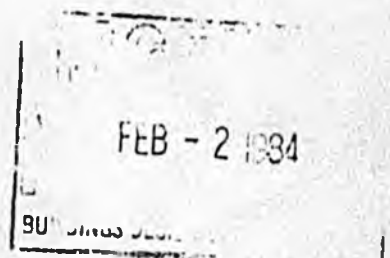
Sincerely,

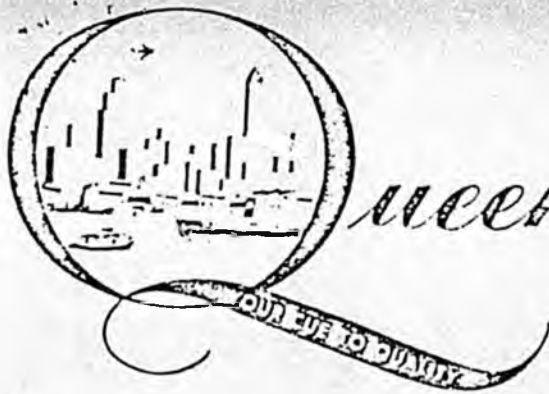
Barry L. Bergdoll, P.E.
Construction Chief

Nello Long
Nello Long
Project Inspector

NL:hn

cc: Jon Scribner, Deputy Commissioner
D. D. Dieckmeyer, Director
Tom Metlicka, Design
Mike Nizich, Governor's Office





Queen City INDUSTRIES, INC.

STATE CONTR. REG. NO. 223-01 QUEE-NC 1374 NOS
1001 MERCER STREET • (206) 622-6222
P.O. BOX 9885
SEATTLE, WASHINGTON 98109

March 23, 1984

Coogan Construction Co.
P O Box 209
Juneau, AK 99802

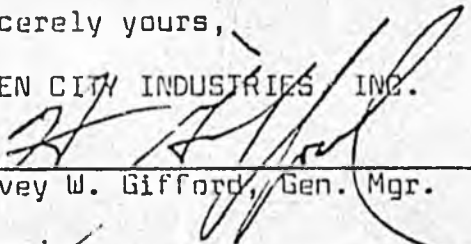
Re: Governor's Mansion

Gentlemen:

Pursuant to your request enclosed is the approximate
breakdown on the above project.

Sincerely yours,

QUEEN CITY INDUSTRIES, INC.


Harvey W. Gifford, Gen. Mgr.

HWG:pjy
Enc.

RECEIVED
MAR 25 1984

COOGAN CONSTRUCTION CO

ITEM ANALYSIS SHEET

SHEET NO. _____ PROJECT Gov. Mansion LOCATION JUNEAU, ALASKA
 ITEM NO. MATERIALS TYPE OF WORK WOOD FLOOR ESTIMATOR BOZEL DATE 3/19/84

COST ITEM NO.	DESCRIPTION	QUANTITY	UNIT	SMALL TOOLS SUPPLIES & EXPENDABLE MATERIAL		PERMANENT MATERIAL IN PROJECT		DIRECT LABOR		SUB CONTRACTS		TOTAL DIRECT COST	
				U.P.	TOTAL	U.P.	TOTAL	U.P.	TOTAL	U.P.	TOTAL	U.P.	TOTAL
1	"14 RECREATION ROOM - LEVELING MAT. SEE 201 & OAK PLANK - SANDING & FINISH - INC. MATERIAL						6056 ⁰⁰						
2	"30 ENTRY VESTIBULE CLOSET - SAND PAPER & FINISH, OAK.					752 ⁰⁰							
3	"31 FOYER - MATCHING PATCHING NATURAL, SAND PAPER & FINISH.					110 ⁰⁰							
4	"32 MAIN HALL - SAND PAPER & FINISH.					372 ⁰⁰							
5	"33 BALL ROOM - SAND PAPER & FINISH					471 ⁰⁰							
6	"34 LIBRARY - SAND PAPER & FINISH.					269 ⁰⁰							
7	"35 CENTER HALLWAY - FLOORING, SAND PAPER & FINISH.					1404 ⁰⁰							
8	"36 DINING ROOM - SAND PAPER & FINISH					357 ⁰⁰							
9	"37 SERVING, PANTRY - FLOOR- ING, SAND PAPER & FINISH.					5000 ⁰⁰							
10	"11 OFFICE - SAND PAPER & FINISH.					146 ⁰⁰							
11	"10 2ND FLOOR HALL - MATCHING OAK (PATCHING) SAND PAPER & FINISH.					1740 ⁰⁰							
12	"51 CHAMBER "D" - OAK, SAND PAPER & FINISH					1076 ⁰⁰							
13	"54 CHAMBER "C" OAK, SAND PAPER & FINISH.					1920 ⁰⁰							
14	"57 STUDY, FLOORING, SAND PAPER & FINISH.					3136 ⁰⁰							
15	"60 CHAMBER "A" SAND PAPER & FINISH.					280 ⁰⁰							
16	"61 CHAMBER "B" SAND PAPER & FINISH.					1100 ⁰⁰							

document #21
(page 3 of 7)

SCULLERS MANSION / JUNEAU ALASKA
LOCATED COAST - CERAMIC TILE MATERIAL ONLY

12 BATH COST \$1000-

A - SHOWER FLOOR UNGLAZED 1" WHITE HEX TILES.
IN MORTAR BED & GROUTED

B - SHOWER WALLS UNGLAZED 1" WHITE SQ TILED
GLASS MESH BACKED BACK, CEMENT & GROUT

19 REC ROOM COST \$5000

A - TOP SURFACE KITCHEN CERAMIC "MOSAIC" TILE 6" x 6"
GLASS MESH BACKING, CEMENT MORTAR & GROUT

B - BACK WALL 6" x 6" GLAZED TILE WITH FIELD
& BORDER SAME INSTALLATION AS ABOVE

30 VESTIBULE COST \$1400

A - 6" SQ. UNGLAZED QUARRY TILE

REPAIR MORTAR BED CEMENT MORTAR & GROUT

38 SCULLERY COST \$4550

A - FLOOR UNGLAZED CERAMIC MOSAIC TILE 2" SQ.
ONE COLOR NO DESIGN, CEMENT MORTAR & GROUT.

B - WALLS UNGLAZED C.M.T. 2" SQ, ONE COLOR
NO DESIGN GLASS MESH BACKING, MORTAR & GROUT

com # 52

BATH

COST \$2000

- A- FLOOR UNGL HEX TILES 1", MORTAR & GROUT
- B- WAINSCOT 36" HIGH UNGL. 1" SQ TILES MORTAR & GROUT

com # 55

MASTER BATH

COST \$7300

- A- FLOOR - UNGL WHITE HEX AND 1" SQ TILES, (PER PATTERN ON PLANS), TYPICAL INSTALLATION
- B- WALLS MARBLE TILES (SEE DETAILS ON PLANS), MASTER BATH SHOWER

- A- FLOOR UNGL 1" SQ TILES, TYP. INSTALLATION
SLOPE TO DRAIN
- B STEPS & WALLS 1" SQ TILES (SEE PLANS FOR DETAILS) TYP INSTALLATION.

com # 58

KITCHENETTE / BATH

COST \$900

- A - FLOORS UNGL 1" HEX TILES, (SEE PLANS FOR DETAILS.) TYP INSTALLATION.

com # 61

BATH

COST \$2350

- A- FLOORS UNGL 1" HEX TILES (SEE PATTERN ON PLANS) TYP INSTALLATION.
- B- WAINSCOT GUNBOSS WALL TILE $4\frac{1}{4} \times 4\frac{1}{4}$
- C- SHOWER. MORTAR AND GROUT.
- A- FLOOR 1" HEX TILES, TYP. INSTALLATION
- B WALLS 1" SQ TILES, TYP. INSTALLATION

room # 65

BATH

COST \$ 600

A - FLOOR UNGL WHITE HEX TILES WITH
PATTERN (SEE DRAWINGS)

NOTE:

GENERAL SPECIFICATIONS CALL FOR CLEARANCE
MEMORANDUM WHICH REQUIRED.

TOTAL COST \$ 25,700⁰⁰

Insurance paid to Peoples Loan & Savings City
Per estimate # 2 8/1/53 for gas materials
Subscribed to service continuing pd \$1,513.42

for estimate # 6 8/1/53
materials continued pd 2,524.20

Per estimate # 8 10/1/53
labor pd 32,179.61

for estimate # 3
materials - change order pd 13,721.00

estimate # 10
labor pd 23,123.62

Per estimate # 12 12/1/53
for estimate # 10 pd 3,216.47

Per estimate # 13 12/1/53 Mat/Print
Labor Billing (continued) 2,635.63

for estimate # 15
labor materials not paid. 1,304.31
paid materials not paid. 14,311.90

According to my ledger was over-handling
from Peoples City. 22,337.53

Rec'd to Queen City, Estimates
2 thru # 14 total 113,842.19

Out of that - for labor. 56,916.72

In material 61,925.47

Have not paid.
From estimate # 13 - held out 8,633.63

Estimate # 15 - all holding. 14,301.90

We are holding at total of 22,931.53



Queen City INDUSTRIES, INC.

(206) 622-6222

STATE CONTR REG NO 223-01 OU-EE NC 1374 1109
1001 MERCER ST. • P.O. BOX 9885 • SEATTLE, WA 98109

ALL CLAIMS FOR SHORTAGES MUST BE MADE AT TIME OF DELIVERY
1% MONTHLY SERVICE CHARGE ON OVERDUE ACCOUNTS

*1-907-586-3010

SHIPPED TO

SOLD Coogan Construction Co.
TO P O Box 209
Juneau, AK 99802

Governor's Mansion

Job # 9364

CUST. ORDER NUMBER	RESALE NUMBER	SHIPPED VIA	DATE	TERMS
			12/20/83	net
Harvey W. Gifford				
QUANTITY	DESCRIPTION	PRICE	AMOUNT	
	<u>Item</u>			
	<u>Basic contract</u>			
120 SY	"Fieldstone" - Sandston	8)		
27 SY	Border for area rugs (Gramacy PK))		
25 SY	Floral Persian Area Rug)		
24 SY	Field Stair Carpet (Royal Chrystal))	12,962.00	
78 LF	Border for stair carpet)		
	<u>Additions & Credits to Basic</u>			
DD 120 SY	40 oz. hair jute pad		+ 480.00	
DD 1980 SF	4 rolls of area rug pad 54"x60' per contract @.35 SF		+ 693.00	
REDIT	(Freight credit for extra shipment of carpet pad)		- 89.10	
DD 40 SY	Full carpet in "D" chamber		+ 200.00	
EDUCT 8 SY	Change carpet in chamber closet to Fieldstone, delete ptn. of Gram. Pk		- 100.00	
DD	Widen main stair carpet		+ 100.00	
DD	Closets per Phylis, basement, 1st & 2nd floor		+ 550.00	
REDIT	Subsistence not used		- 150.00	
REDIT	Labor - carpet installed by others		- 344.00	
	Total		\$ 14,301.90	\$14,301.90

40854

OCI 1017-4

FILE COPY

May 1, 1984

Representative Mitch Abood
Chairman
House State Affairs
Pouch V
Juneau, Alaska 99811

Dear Representative Abood:

The following compiled figures represent actual invoice amounts for materials needed to repair and replace flooring items required to complete scheduled work in the Governor's Mansion renovation which was recently performed by Coogan Construction Company and their subcontractor Queen City Industries of Seattle.

No freight charges are included. Queen Cities material quotes were FOB Seattle dock. Only ceramic tile known costs were cited in this evaluation, namely plain white and 6" quarry tile used in vestibule floor with the white tile being used around built-in tub in room 19.

In my opinion, the tile in rooms 38 and 55 seem to be overpriced, but no color schedule for this material was available so cross referencing was impossible.

It is interesting to note that Coogan Construction had contractually agreed to obligate the state to pay Queen City \$44,808 for materials to be used on the Governor's Mansion project 23 days prior to issuing Queen City a subcontract for doing the work. Also, that this amount became the actual submitted billing after all the change orders and surprises that occurred as the project evolved.

A recent inspection of the project showed many cracks opening in the new first floor in room 35. This could probably be attributed to improper handling and/or storing the wood prior to installation or indifference to environmental considerations like low heat, no heat or high humidity.

The end product in room 50 must have been a disappointment to the owners inasmuch as the parquet repair seemed to be structurally acceptable, but the material used to fill the nail holes in the top milled pieces was not colored to match the wood. The nail holes had been filled with material much lighter in color than the wood resulting in hundreds of little light colored spots.

The specifications required that some amount of each kind of material used be left for future repairs. An inspection of flooring stored at the Department of Transportation's building on Willoughby Avenue near the school showed about 300 feet of 5/16" x 2" square edge but only a few scraps of 3, 4, and 5. The 5/16 flooring was apparently very old inasmuch as I have not seen strip flooring bundled

in a like manner since WW II. Age, however, is no measure of quality as long as no apparent oxidation by exposure to sunlight has occurred.

The material costs used to project the cost items per room are as follows: 5/16" oak @ \$1.89 per sq. ft.; 3-4-5 oak plank @ \$2.45; glitza floor finish @ \$24.50 a gallon; machine rental per day @ \$124; finishing materials @ \$.33 per sq. ft.

I called Queen City at 8:01 am April 20th on $\frac{1}{2}$ " quarry tile prices and they quoted \$2.97 a square foot retail, but looking at room #30, it seems like the charges billed to the Mansion job was more like \$13.00 a square foot. There should be some explanation for discrepancies of this magnitude.

The 1x4 existing fir floors which were refinished in chamber "A" and "E" shows material in the large cracks to be breaking up and falling out in chunks. On a tour of the mansion with Phyllice Bradner and again with Jerry Woods, I suggested that the fir flooring be carefully removed and relaid to eliminate the exceedingly large cracks to preclude this problem from happening. Mr. Hanson from Queen City convinced Mr. Winders that this would be impractical and hence a less than acceptable product is the result.

If an evaluation in greater depth would be helpful to determine more specifically if required procedures have been satisfied, I would be available to assist in any manner within my capabilities.

Respectfully submitted,

Elmer E. Cowdy
Box 125
Douglas, Alaska 99824

ACTUAL COST OF MATERIALS TO REPAIR AND REPLACE		Q.C.F. BILLING PER ROOM	
ROOM NO.	FLOORS IN ROOMS AS SHOWN	LOWDY	
19	Wood floors and tub surround- ing only. No millwork should be included in Oct. 4 billing.	\$1,668	\$6,107
30	Onl base shoe molding	12.00	93.00
30*	98 not maximum 6x6 quarry tile, gout and mostic	330.00	1,400
31	An acceptable figure		
32	Not unreasonable		
34	Minor repair at door to room #35 and at radiator	282.00	1,489
35	135 sq.ft. 1x4 fir @ \$1.50 FBM plus finish material	242.00	1,420
36	Not to include millwork for window seats, included in separate Oct. 4 billing	278.00	1,032
42	Not to far out of line		146.00
50	A reasonable figure		563.00
51	Wood, finish material, machine rent	456.00	980.00
54	250 sq.ft. total 160 sq. ft. new	385.00	1,840
60	Refinish 151 - \$30.00 for repair material	181.00	458.00
54	Not unreasonable		147.00
19	Recreation room ceramic tile to surface and back wall panel plain white basic feature tile on back wall panel priced from similar decorative items sold by American Olean Tile Co. epoxy, tile, trim shapes and feature tile gout	318.00	5,600

* Called Queen City Flooring regarding retail price 1/2 quarry
tile FOB, & their showroom quoted \$2.97 sq.ft. 8:01 am YST 4/20/84

Room 57 was inadvertantly omitted. Please refer to May 2 submitted.

May 2, 1984

FILE COPY

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

Dear Representative Abood:

The following is in further reference to my May 1 letter regarding Queen City Floor' and the Governor's Mansion renovation project:

Line item Queen City Floor' inc. Hardwood floors, tile and carpet. Materials only. \$68,650

Hardwood floors and tile as shown in cost per room schedule 1/27/84 in lieu of original invoice, \$44,808 (44,808)
\$23,842

Since no invoices were submitted and wood and tile items are included in \$44,808 items this must be the cost of carpeting. There was only 50 square yards of carpet required for back hall and stairs and about 30 yards or less for maids room. Carpet used in these areas are basic low budget types. 90 yards of this quality goods should have cost no more than \$1,000 with pad and fastening systems adding \$300 or \$350 more. It would be prudent to require Queen City Flooring to submit carpet roll cost with product description and sample to match enclosed sample. All three of the "cost per room" analysis charts defy all logic. These again are materials only FOB Seattle dock. Take room 19 as an example.

Cost per schedule submitted by Jolene Huntington
January 27, 1984

Room 19, recreation room \$6,107

Hardfloors/materials only (Bob H) 3/19/84 #1 \$6,056

Item analysis sheet " " " " #1 \$6,056

Actual Cost:
600 sq.ft. 3", 4", 5" select oak plank
(decorative plugs as specified were not installed)
@ \$2.45 \$1,470
3 gallons glitza 78
3 machines used, rental cost 124
abrasives 20
applicator covers 6

\$1,698

Millwork, stair tread, wood trim, etc. is listed under Oct. 4 billing and no doubt is included in misc. cost of \$13,721.

Room 30 from "item analysis" sheet initialed Bob H., wood floors.	\$752.00
<u>No wood floors in this room!!!</u> Jolene Huntington schedule	93.00

Actual cost - only wood item that could possibly be construed as applicable is base shoe molding at less than \$12.00. An additional charge for room 30 is shown January 27, cost per room schedule.	\$1,400
--	---------

Actual - about 98 sq. ft. 6x6 quarry tile @ \$300	294
Grant hydrament, additional misc. - \$36	36
	<hr/>
	\$330.00

Room 57 - Study	\$3,136
Bob H. - Item analysis sheet	2,980
Jolene H. 1/27/84 Cost for room schedule	3,136

<u>Actual Cost</u>	
300 ft. 2"x5/16" SE oak @ \$1.89	\$567.00
1½ gallon Glitza	39.00
machine rental	124.00
abrasives, applicator, etc.	26.00
	<hr/>
	\$756.00!!!!!!

For room 35 they show a cost of \$1,420 on one chart and \$1,420 on another. Actual costs as follows:

136 FBM ft. 1x4 fir @ FBM	\$194.00
finish, materials, machine use, etc.	48.00
	<hr/>
	\$242.00

Please refer to cost comparison schedule dated May 1 for further discrepancies.

It would seem to have been much simpler for Queen City to have submitted actual invoices showing unit costs and number of units delivered rather than try to substantiate the highly overpriced "costs per room" schedule which they will ultimately embarrassingly find increasingly difficult to defend.

I offered to do all floorwork other than tile and carpet for \$36,400.00. It was DOT's opinion that a sole source contract was impossible and they (Woods and Metlika) were certain that Queen City would do it for much less.

Elmer Cowdy

DOT/PF

document #26
(page 1 of 8)

This list was completed and submitted
on July 3, 1954 by Hellevoors

— various renovation project # 179164

This is an estimate - to the best of my ability of
the hardwood flooring and ceramic tile materials
used on the renovation work on this project.

I believe I have been generous in figuring the
sq. ft. areas. I believe I have been generous with
the prices for sq. ft. etc.

The hardwood flooring and related materials comes
to a total of \$12,874.60

The Ceramic tile, special tile, and related
materials comes to a total of \$2,118.00

Total of material in my estimate = \$34,492.60

Hellevoors

First Floor.

- Dining Room #36 (Oak floor)
20' x 24' room = 480 sq. ft.
Estimated replacement. 20% 96 sq. ft.

- Conservatory Room #35 (Fur flooring used.)
10' x 18' room = 180 sq. ft.
Complete replacement. 180 sq. ft.

- main Hall Room #32
20' x 25' room = 500 sq. ft. (Oak flooring)
Estimated 15% replacement. 100 sq. ft.

- Office Room #42
13' x 15' room. 195 sq. ft. (Oak flooring)
Estimated 15% replacement. 36 sq. ft.

- Vestibule Room #30 and closet
7' x 9' room = 63 sq. ft. - Vestibule closet. (Oak material) 63 sq. ft.
1' x 7' room. 42 sq. ft. Vestibule area. (Oak wood.) 42 sq. ft.

- Foyer Room #31
6' x 14' = 84 sq. ft. + (Oak flooring) 100 sq. ft.

7. Serving pantry Rm. # 37 (Oak flooring)
11' X 12' Rm. = 132 sq. ft. (Complete replacement.) 133 sq. ft.

8. Ball Rm # 33 (Oak flooring)
20 X 32 Rm. 640 sq. ft. Estimate 15% replacement. 96 sq. ft.

9. Library Rm. # 34 (Oak flooring)
20' X 22' Rm. = 440 sq. ft. Estimate 15% replacement. 66 sq. ft.

2nd floor.

1. Chamber C Rm. # 54 (Oak flooring used)
5' X 20' area = 100 sq. ft. 100 sq. ft.

2. Chamber D Rm. # 51 (Oak flooring used)
1.5' X 52' area = 78 sq. ft.
5' X 22' area = 110 sq. ft. 188 sq. ft.

3. Main Hall Rm. # 50 (Oak flooring)
20 X 20 Rm. 600 sq. ft. Estimate 25% replacement. 150 sq. ft.

3. Dress Study Rm. # 57 (Oak flooring)
18 X 20 Rm. = 360 sq. ft. Complete carriage. 360 sq. ft.

14 - Office Room # 64 (Fin Flooring)
14' x 14' Rm. = 196 sq. ft. estimate 20% replacement.

40 sq. ft.

15 - Chamber A Rm # 60 (Fin Flooring)
18' x 20' Rm. = 360 sq. ft. estimate 20% replacement.

72 sq. ft.

(Basement)

16 - Reception Rm. # 19 (Est. flooring)
30' x 30' Rm. = 600 sq. ft.
3' x 16' area on Hot tub wall.

600 sq. ft.

45 sq. ft.

Sub Total

20% for waste

3469 sq. ft.

Total

495.80

at \$3.30 per sq. ft. in Juneau. X

2962.80 sq. ft.

Total cost of flooring

\$9777.24

A explanation of pricing

Total flooring	2449 sq. ft.
20% for waste - cuts & etc.	493 sq. ft.
Total sq. ft.	2962.50 sq. ft.

\$3.30 per sq. ft. in Geneva. \$9774.60

Plugs for Resurrection floor	\$100.00
Lead Paper & related material	\$500.00
Seam filler - sealant and finish	\$2500.00
	\$12874.60

First Floor

Ceramic tile

1- Entry Room #38 (Ceramic tile)

8' x 12' Room = 96 sq ft.

7' x 4' wall area = 360 sq ft.

456 sq ft.

(First floor)

2- Bath Room #41 (Ceramic tile)

5' x 11' Room = 55 sq ft.

3.5' x 32' wall area (main part) = 112 sq ft.

167 sq ft.

(First floor)

3- Vestibule #30 (6" x 6" tile)

3' x 5' area = 15 sq ft.

15 sq ft.

(Basement)

4- Bath Room + shower Room #12 Ceramic tile

9' x 16' wall area in shower = 144 sq ft.

4' x 4' floor area in shower = 16 sq ft.

Rest room area 5' x 10' = 50 sq ft.

wall area 3.5' x 30' = 105 sq ft.

= 315 sq ft.

(Basement)

5- Recreation Room #19 Ceramic tile

that took chd.

walls and ceiling = 110 sq ft of coverage.

110 sq ft.

2nd floor.

- Bath Rm. # 61 (Ceramic tile)
8' x 10' Rm. = 80 sq ft on floor.
3.5' x 36' wainscot on walls. = 125 sq. ft.
4' x 4' perimeter wall with 8.5' walls = 144 sq. ft. 349 sq. ft.

Bath Rm. # 58 (Ceramic tile)
8' x 13' floor area = 104 ✓
2' x 10' counter top area with 4" splash. = 25 sq. ft. 129 sq. ft.

- Office Bath Rm. # 65 (Ceramic tile floor)
4' x 10' Rm. 40 sq. ft. 40 sq. ft.

- Chamber D Bath # 52 (Ceramic tile)
4' x 11' Rm. = 44 sq. ft.
wainscot 3.5' x 38' = 133 sq. ft. 223 sq. ft.

- Master bath to Chamber C # 55 (Ceramic tile)
6' x 8' floor area = 48 sq. ft. 84 sq. ft.
4' x 40' wall (wainscot) (Enamel tile) 160 sq. ft. * 100 sq. ft.
Jungie + shower area.
6' x 6' floor and tub deck area. 36 sq. ft. 36 sq. ft.
walls 24' x 5.5' area = 204 sq. ft. 504 sq. ft.

An explanation of pricing Ceramic tile and special
tile. I have checked with Pan Abel and Fidelity
to advise for an estimate. I'm using high cost here
in June.

For regular tile 2128 sq ft + 20% for breakage
estimate = 2553.60 at \$5.00 per sq ft. = \$12768.00

Marble tile for son's bath
160 sq ft. at \$10.00 per sq ft. \$1600.00

Special tile on back wall of hot tub area.
200 sq. at \$12.50 per piece. = \$2500.00

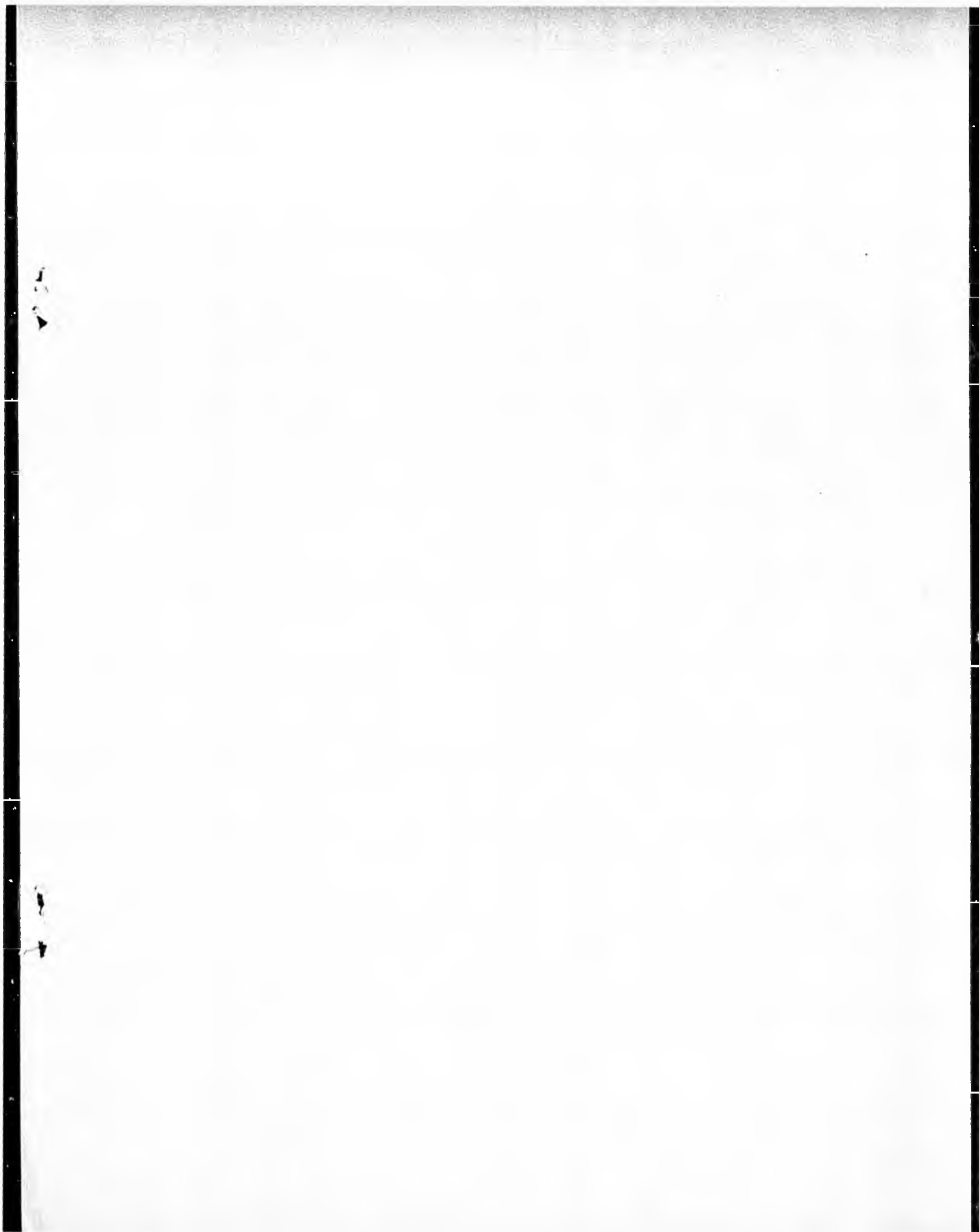
I also must have material for tile
2000 sq ft at \$2.50 per sq ft. = 5000.00

Decorating, painting and water proof material
I believe \$1000.00 as a generous figure 1000.00

Special approved accent strip etc 1000.00

total

\$21618.00



OMBUDSMAN COMPLAINT

J83-0683



ombudsman

John B. Chenoweth

August 4, 1983

Jon W. Scribner, Acting Deputy Commissioner
Southeast Region
Department of Transportation and Public Facilities
Post Office Box 1467
Juneau, Alaska 99802

State of Alaska

Reply to:

- 840 K Street, Room 203
Anchorage, Alaska 99501
(907) 275-4011
- Pouch WQ
Juneau, Alaska 99811
(907) 465-4970
- P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

RE: Ombudsman Complaint J83-0683

Dear Mr. Scribner:

Extensive renovations planned for the Governor's Mansion culminated in the issuance of several contracts for repair and construction for that building, and in the issuance of at least one professional services contract related to the renovation effort. The latter contract, formally identified as Agreement Number 83SB269, is an agreement for project management and coordination services for the renovation project. The contract, in a face amount of \$25,000.00, was entered into between the Southeast Design and Construction Division's Building Section and Jerry D. Wood, P.E., and executed on July 7, 1983. Your signature appears on behalf of the state.

The complaint alleges that the execution of the contract was improper.

The "summary of services" provision of the executed agreement relates that the contractor is to

[p]rovide "on-site" Project Management for the Governor's Mansion Renovations, Phase I and Phase II. Consultant shall also provide const. mgmt. using computerized scheduling and manpower scheduling techniques. Consultant shall provide written and/or oral reports to the State Project Manager, Mr. Tom Metlicka, as required for efficient project construction.

An appendix more specifically describes the contractor's "basic services":

Project Manager services shall consist of:

a. Physically inspecting the Governor's Mansion to become familiar with the extent of the planned renovations.

b. Becoming familiar with the contracted private firms who are conducting the planning, providing the Bid Documents, and providing the construction services necessary to complete the renovations.

c. Providing expertise to insure effective and harmonious cooperation between the Division of Buildings, private firms, the Governor, and the Governor's staff.

d. Using computerized scheduling, and up-to-date scheduling techniques to insure that all renovation activities are conducted in an efficient and safe manner.

e. Providing management reports, as necessary, oral and/or written, to the State Project Manager, Mr. Tom Metlicka, on a timely basis to facilitate a smooth transition of all phases of the work.

The extent of the state's maximum financial obligation under the contract totals exactly \$25,000. The contractor is to be paid "2,110/wk. for 10 weeks; from 7/7/83 to 9/15/83", allowing a total of \$21,100 for "all fees[,] expenses[,] travel and per diem", with, in addition, an option in the department to retain the consultant for his services, with a rate of \$300 per day for a maximum of 13 days beyond the mid-September contract performance date. (The \$2,110/wk. rate -- at 60 hours per week, an effective rate of \$35.16 per hour -- places the contractor's compensation generally at the level of compensation comparable to that paid other contractors for similar services.)

The maximum financial obligation established in the contract does not constitute the full extent of the state's obligations under the agreement. Elsewhere in the agreement the state obligates itself to furnish the contractor with a vehicle "with which to travel from his place of residence to the Governor's Mansion, and to use as otherwise necessary in conducting his duties."

I

The background applicable to the issuance of this contract appears to be as follows:

Planning for renovation to the mansion goes back some months. Early in his term, the governor appointed a "Mansion Renovation Committee" to oversee renovation and repairs in the residence. In so doing, the governor apparently acknowledged that the needed repairs would inconvenience him, but expressed concern that the time in which his occupancy and use of the building would be disrupted be held to a minimum.

As late as mid-May, 1983, officials of the department's Southeast Region expected to complete the bulk of the work within the residence on

August 4, 1983

a "lump sum" bid basis, with time and material contracts reserved for contingency and specialty work. The period of disruption anticipated under this approach was noted, on May 13, to be between June 1 and September 1. On May 25, department personnel concerned with the project proposed to shift gears to a "time and materials" basis. In a May 25 memo to you, Buildings Chief Wally DeBoff explained:

In the second phase of the bidding process, this office planned to issue bidding documents to all prequalified bidders and request bids for the work. The lowest bidder would then be awarded the contract.

Contractor prequalification was considered necessary on this project because of the sensitivity of renovating the Governor's Mansion. . . . Prequalification would assure us that the contractor and his subcontractors would be highly skilled in their trades, would be well established in the [City and] Borough [of Juneau], and would have reputable work experience records.

Only one contractor responded to the prequalification advertisement. The bidding documents are not suitably developed for bidding purposes and will not be ready for a minimum of two weeks.

Since we have one contractor who is qualified and has expressed an interest in doing the work, we propose to award a time and materials contract. Although this proposal is a change in direction, it will still permit the earliest possible start of work with a contractor selected by formal advertising. In addition, the construction plans which are not suitably developed to permit bidding, are complete enough to permit ordering of materials and commencement of work on a time and materials basis.

. . . [I]f our proposal for a time and materials contract is not satisfactory, and competitive bids are mandatory, we will have to extend the advertising period and solicit other contractors and await the completion of construction plans (probably mid-June). We could then anticipate a July starting date with a much later completion date.

Please advise of the direction we should proceed.

The instructions given to Mr. DeBoff were, apparently, to proceed as he had outlined.

Within 48 hours, you contacted Mr. Wood to confirm that his assistance as a one-time consultant on this project would be available to you:

Thank you for agreeing to come to Juneau on June 13 to review construction management techniques and procedures with Commissioner Dan Casey, my staff and me. [Deputy Commissioner] Fred Seeger has recommended you highly as one who might be able to give us some good advice.

We look forward to learning of ways we might better manage and facilitate certain types of construction work. . . .

. . . .
I would propose we begin with a tour of the project site and review the project scope in the morning. Then we could discuss your impressions on how the work might be managed based on your experience. Finally, we could have a wrap-up with Commissioner Casey, and you could be on your way back north on an evening flight.

. . . .
At the time Mr. Wood arrived in Juneau, you provided Commissioner Casey with a copy of the gentleman's resume, noting at the top:

cc Commissioner Casey:

Per your request & FYI

Mr. Wood's review of the project was, I would guess, mutually satisfactory and, ultimately, mutually profitable. Not more than 24 hours after his visit, you wrote to Commissioner Casey:

6/14/83

Would appreciate your calling Frank Turpin re availability of Jerry Wood. It is agreeable that Jerry come to work w/ us next week (or 2 at most!) to help w/ Gov Mansion. We will put him on a prof svc contract at \$20.0 k. He will be available to work w/ us thru September; then he's off to other things.

The commissioner moved quickly to accommodate the request, responding to you:

John Scribner,

I've spoken with Frank Turpin, Pres. of Alyeska on this. He says no problem. He['] pass word along. Go ahead @ your end with Jerry ASAP. Thanks. /s/

August 4, 1983

By June 23, plans for a professional services contract with Mr. Wood were in progress. On that date, you presented a memorandum of justification (to which reference is made later in this letter) and, in a separate document, advised Commissioner Casey:

In order to reduce construction time to a minimum, we have to date proceeded with time and materials contracts with two contractors who will also have several subcontractors. The most critical elements in completing the work quickly, efficiently and correctly will be for the State to provide a high level of construction management.

This will prevent interference and overlaps in work by the various crews and will insure that all work, including materials delivery[,] will follow a detailed critical path schedule.

In the usual type of contract (lump sum), we are not directly involved in scheduling of the work since this is a basic requirement of the contractor. Consequently, we doubt that our in-house buildings [sic] people are experienced in construction management to the degree needed on this project. Therefore, we propose to retain a consultant who has proven experience and competence in this type of work to supervise this project.

Our existing consultant selection procedures, Policy and Procedure 28-8000, paragraph 6.5A states in part ". . . Project Manager should develop a short list based on at least three informal proposals obtained from prequalified contractors and then obtain negotiation authority." Additionally, this section refers to a limit of \$20,000 in agreement cost although later legislation and administrative code addresses contracts of over \$25,000. We assume that P&P28-8000 should be changed to be consistent with law and regulations.

Because of the tight time frame as well as the sensitivity of renovating this designated historical structure, we request that you approve waiving the requirement for proposals from three or more professional services contractors, and approve an original agreement cost not to exceed \$25,000.

Approved _____ Date _____
Daniel A. Casey
Commissioner

[Emphasis added.]

I have been unable to determine that Commissioner Casey signed the requested waiver.

On June 28, you confirmed with Mr. Wood award of his contract:

We are pleased to offer you a professional services contract for specialized construction management services on the Governor's Mansion code upgrade, renovation and restoration project.

The work under this contract will begin July 6, 1983 and is expected to be complete about September 15, 1983.

The contract is being sent to you separately for signature and includes rates negotiated with you.

. . . .

II

The contract recites that it is entered into under AS 35.05.040, a provision that, in part, authorizes the Department of Transportation and Public Facilities to "procure directly materials, labor and contractual services for planning, designing and constructing public facilities of the state." State statutes require departments to enter into agreements in accordance with competitive bid procedures, with exception made in certain specified circumstances by AS 37.05.230(1)(C). Professional services are exempt. AS 37.05.230(1)(C)(vi). Specific procedures relating to contracts for professional services are set out in AS 36.98.

Contract approval authority for professional services contracts to be entered into by the Department of Transportation and Public Facilities is assigned to that department rather than the Department of Administration. AS 36.98.080(1). In addition to the applicable statutory requirements, the department has adopted regulations (17 AAC 07.010 - 7 AAC 07.900) and Policy and Procedure entries (P&P 28-8000 and P&P 28-8001) for the selection and use of contractors for professional services. The regulations provide, at 17 AAC 07.010, that they apply to "contracts for professional services let by the Department of Transportation and Public Facilities in accordance with AS 36.98 where the contract amount exceeds \$25,000."

Since the regulations are nominally inapplicable, I have relied principally for the Policy and Procedure entries for guidance in this investigation. Either of two provisions is applicable. Paragraph 6.5(B) of P&P 28-8000 provides:

If Agreement cost estimate exceeds \$20,000, but does not exceed \$100,000, the Project Manager shall establish a Selection Committee which shall: prepare a Request for Proposal; solicit Proposals (and price quotations if services are non-exempt) from all Contractors prequalified for the required services;

score proposals; prepare a Committee Evaluation Report; ~~and~~ obtain Negotiation Authority.

In an accompanying memo, you have re-interpreted the "\$20,000" to be one that should be regarded as consistent with the general statute, AS 36.-98.010(1), effectively setting the limit as "\$25,000". You suggest that solicitation of proposals should not thereby be required. Assuming you are correct -- and I do not believe your re-interpretation is supportable -- Paragraph 6.5(A) of P&P 28-8000 would apply:

If Agreement cost estimate exceeds \$2,500 but does not exceed [\$25,000], [the] Project Manager should develop a short list based on at least three informal proposals obtained from prequalified Contractors and then obtain Negotiation Authority.

Either of these provisions appears mandatory. I find no authorization for waiver.

The department has apparently processed this contract consistently with its general regulations covering professional services contracting and the issuance of sole source contracts thereunder (17 AAC 07.070). The award of a proposed professional services contract under a sole source waiver requires review and approval by a commissioner. AS 36.98.040(c); 17 AAC 07.070(1).

Apparently believing that the proposed professional services agreement between the state and Mr. Wood required the commissioner's review and formal approval, Commissioner Casey gave his approval to the agreement. In a June 23 memorandum, belatedly signed by Commissioner Casey and Labor Commissioner Robison, you provided a justification based largely on time constraints and Mr. Wood's singular talents:

As you know we are in the process of considering contracting with Mr. Jerry Wood to help us manage construction of the Governor's Mansion renovation and code upgrade project.

We have set a very ambitious completion schedule for this project, which if it is to be met, will require an unusually large degree of scheduling and manpower utilization/assignment effort.

While our staff is quite capable of handling this project under more normal contracting methods and procedures, they are lacking in capability to use computerized scheduling and manpower assignment techniques needed to complete this project in the tight time frame desired.

In looking for ways to meet this time frame we have interviewed Mr. Jerry Wood and are satisfied that he has special skills in scheduling and experience in project management which could help us expedite the

work. He is also a registered professional engineer in Alaska. Although we have not solicited proposals from Alaskan firms we feel it would be unlikely that any could provide the specialized expertise required and be available immediately as is the case in this instance.

. . . .

In view of the limited time to solicit other proposals we are proposing to contract with Mr. Wood immediately to help us manage the construction work. The contract would be signed for less than \$25,000, thus there is no need for competitive selection under AS 36.98. He would report directly to our Buildings Design and Construction Staff, but would work full time out of the Governor's Mansion at the project. Occasionally, he may need to use State facilities and services to support his effort, but this is expected to be minimal. This contract would be for professional services and Mr. Wood would represent the State's interests as the "owner" rather than the construction contractor. The duration of the project is expected to be less than three months so it is not feasible to select and hire an employee for the work.

The purpose of this memorandum is to document the rationale for hiring Mr. Wood and to establish his relationship to the project. [Emphasis added.]

Sole source or single source professional services contracts are authorized. By AS 36.98.030(d),

The provisions of [AS 36.98.030, relating to solicitation of proposals for professional services contracts] do not apply if

(1) the contracting agency demonstrates that there is a single source of the expertise or knowledge required or that one person or firm can clearly perform the required tasks more satisfactorily because of the person's or firm's prior work; however, this exemption applies only if the head of the state agency has submitted a written request to the commissioner that details the reasons for the exemption and the commissioner or deputy commissioner has authorized in writing the state agency to enter contract negotiations with the single source; [or]

(2) the commissioner makes a written determination that public necessity will not permit delay incident to the procedures otherwise required by this chapter; [Emphasis added.]

The regulation adopted and followed by the department is substantially similar:

The requirements of 17 AAC 07.030, pertaining to the solicitation of services, do not apply if the commissioner authorizes a limited solicitation before negotiations begin and

(1) there is a single source of the expertise or knowledge required or a particular person or firm can clearly perform the required tasks more satisfactorily because of the person's or firm's prior work; however, this exception applies only when the commissioner has approved a written request that details the reasons for the exemption and authorizes negotiations with the single source; [or]

(2) the commissioner makes a written determination that public necessity will not permit the delay incident to the procedures otherwise required by this chapter; [Emphasis added.]

Assuming, for purposes of this discussion, that justification under AS 36.98.030(d) and 17 AAC 07.070 was required in this instance, the statute places the burden on the requesting agency, in this case your division, to demonstrate the unique and unusual conditions that necessitate selection of the selected contractor. Moreover, the demonstration must be based on the proposed contractor's prior record of work.

Mr. Wood's record of work, at least insofar as it is written, is summarized in his resume. His credentials are impressive. In his most recent endeavors, between May, 1982, and the date of his consultancy contract with your division, and, before that, between April, 1980 and November, 1981, Mr. Wood served the Alyeska Pipeline Service Company as a Project Supervisor or Site Representative/Field Engineer, chiefly responsible for coordination, supervision, and "orchestration" of project construction efforts involving shop facilities, permanent housing facilities, and permanent offices at various pipeline-related pump stations. Earlier work, including a year-long association with the Everett, Washington-based SeeWood Corporation, provided opportunity to be involved in architectural and structural design in a variety of fields.

Impressive as Mr. Wood's credentials may be, your June 23rd memorandum is hardly sufficient to discharge the burden imposed by AS 36.98.030(d). You stress in the memorandum reliance on "computerized scheduling and manpower assignment techniques" because of a tight time frame for completion of the project renovations. You suggest that in-house staff capacity to match these stringent assignments and scheduling requirements is "lacking", and indicate that, because of the short-term nature of the project, "it is not feasible to select and hire an employee for the work." You turned to Mr. Wood, you recite, because you "are satisfied that he has special skills in scheduling and

experience in project management which would help us expedite the work," though you do not specifically enumerate those skills as displayed by the gentleman's work history. You do not compare Mr. Wood's experience to any other contractor or firm, eliminating the need to treat with any others with a brief dismissal: "[W]e feel it would be unlikely that any could provide the specialized expertise required and be available immediately as is the case in this instance." (Whether Mr. Wood was "immediately available" is open to question for, elsewhere in the memo, you note that he is "presently working full-time in Alaska." and, indeed, you had earlier enlisted the commissioner's aid in obtaining Mr. Wood's services from Alyeska.)

Critics acknowledge that sole source contracts lend themselves to abuse. Paragraph 8106 of the Division of General Services and Supply's May, 1983, professional services contracts memorandum enunciates a general state policy with respect to them:

It is the policy of the State that, whenever possible, professional services should be provided by State or University of Alaska personnel. If the State or University does not have qualified personnel to perform your required services, or you have determined that qualified personnel are not available, you may request authority to seek the required professional services from a contractor. [Emphasis added.]

In a recent report, issued under the name "Choosing and Using Contractors," publication of which preceded the statutory provisions enacted as AS 36.98, the consultants presented this criticism with respect to sole source agreements:

In a few situations, public agencies may elect not to use a competitive selection process. The sole (or single) source approach . . . selecting a firm without going through a competitive selection process . . . should be used only in cases when the contracting agency is certain of the services needed and can demonstrate that the firm selected is uniquely qualified to undertake that project. Contracting agencies who use sole source procurements must be extremely cautious in ensuring that the consultant is the most qualified and cost-efficient for the task. This approach [i.e. use of sole source contracts] is considered appropriate when the contract fee is below a set amount . . ., only one source is available, public necessity requires that the work be performed immediately, or competitive proposals or bids are in violation of the ethical rules under which the professional service is practiced (e.g., engineers, doctors, and attorneys). It may also be used to respond to unsolicited proposals which originate with the consultant.

Sole source contracting practices are exceptional only in the sense that their use avoids the requirements generally relating to formal or informal solicitation and evaluation of competing proposals. Sole source procedures do not eliminate the need to comply with other general safeguards and requirements of law. Reliance on a sole source contract request approved by the commissioner of your department does not appear to eliminate, for example, the need to obtain and act in accordance with the provisions of your department's policy manual which relate to completing and securing the signature of a proper "Authority to Negotiate" or "ATN" before executing the sole source contract. I find no authority for waiver of obtaining an ATN, and have discovered no record of a signed ATN in any files relating to the award of this contract, and assume from this that no action to obtain an ATN was taken.

III

Beyond the compensation payable to Mr. Wood under the contract entered into with him is the obligation on the part of the department to provide its contractor with a vehicle "with which to travel from his place of residence to the Governor's Mansion, and to use as otherwise necessary in conducting his duties." A vehicle has been provided. On July 6, before the date of execution of the agreement under which the department obligates itself to provide the vehicle, Mr. Metlicka arranged use of an automobile under a rental agreement with the state's contractor, National Car Rental (Juneau Airport office), under state TR 336690, for Mr. Wood. The contract indicates that the car is under a monthly rental, at a monthly rental rate of approximately \$920.00, exclusive of any expenditures related to insurance coverage. (When I made inquiry of the State Equipment Fleet as to whether a vehicle had been requested, I was advised by an employee of that division that, at the request of the Governor's Office, arrangements had earlier been made to put an excess Department of Public Safety vehicle at the service of the Mansion for Mr. Wood's use, but that, after preparation of the vehicle, the request was withdrawn.)

The state's lease of the vehicle for Mr. Wood's exclusive use presents an additional problem. As earlier noted, the maximum allowable under this professional services contract is \$25,000, a sum that in my opinion was contrived in order to remove the contract from the requirement that the division otherwise adhere to the provisions of AS 36.98. Yet, even from before the date of execution of the contract, the state has in fact incurred liability under this contract not only as to the stated maximum amount for the contractor's professional services, but also as to the additional charges incurred under state TR 336690 for the vehicle rental, a minimum of \$920 for at least this first month of the vehicle's use.

Inclusion of the charges for the vehicle, for which the division obligated itself under paragraph B.3.1 of the July 7 agreement, within the ambit of the division's potential liability under this contract is sufficient, in my judgment, to regard this contract as one for which the total amount of contract services will, in fact, exceed \$25,000. Actual expenditures under the contract may not exceed \$25,000, of course,

depending on whether the division exercises the option of retaining the contractor's services for as many as 13 additional days after mid-September.

Candidly, it matters little whether or not that option is ultimately exercised or whether the division ultimately expends more or less than \$25,000. For our purposes, it probably shouldn't matter. The \$25,000 exemption for professional services contracts was intended to provide the state's agencies opportunity for quick access to professional services contractors' services for matters that could not be accomplished in-house. As an exception to standard professional services contracts, the exception should be reasonably, albeit narrowly, construed. Its application and efficacy as an exception ultimately depends, in the first instance, on the issuing agency's estimate of just how much it reasonably expects to obligate to pay under the specific terms of the agreement. If that reasonable expectation comes in at \$25,000 or less, the legislature has exempted the agency from satisfying the usual contracting process applicable to professional services contracts under AS 36.98. If, as in this instance, one can look at the terms of the contract and reasonably calculate that the incurred liability will exceed \$25,000, the agency cannot take advantage of the exception.

FINDING:

The combination of actual obligations imposed on the division under the contract in question and the division's opportunity to secure additional services from its contractor for a period of additional days is sufficient to define, in my mind, a probable expenditure of more than \$25,000 by the division in satisfaction of the liabilities incurred by the department that are directly attributable to this contract. If, relying on the exemption of AS 36.98.010(1), you sought to qualify this contract under the exemption, I cannot conclude that you have properly done so.

Whether we determine that the contract does or does not exceed \$25,000, I suggest that, in order to maintain a degree of control of agency professional service contract management, it appears that the provisions of the department's regulations and policy and procedure entries should apply in full force to Department of Transportation and Public Facilities professional services contracts. Justification of sole source contracts appears to be required. The justification provided for this contract is insufficient. Moreover, the record in this matter does not show prior approval of the procurement method by department officials, nor does it evidence a completed ATN for the contract in question executed by your department.

Under either analysis, the contract was, in my view, improperly entered into, and the complaint is, in my opinion, justified.

*

Because they were brought to my attention in the course of investigation, several additional factors bear brief mention.

First, the statutory regime for professional services contractors authorizes an agency to refer to the state's professional services contractors' register. AS 36.98.020(a); AS 36.98.030(c); 17 AAC 07.020; 17 AAC 07.030(1) and (2). You selected Mr. Wood without making that contact or following those procedures. Moreover, quick research discloses that Mal Linthwaite, an employee of the regional office, made a belated attempt to add Mr. Wood's name to the register on June 14 and that Mr. Wood has not qualified himself on the professional services register in the standard or usual fashion of submitting the requisite prequalification submittal documentation. Mr. Wood's name is listed under the heading of "Construction Management" (code 021) with a notation that is indicative that his name was added per Mr. Linthwaite's intervention and specific instruction. I question both your failure to use the professional services contract register and, surely more important, the effort to misuse the department's professional services contract register in so flagrant a manner.

In your June 23 memo, you stated that you expected Mr. Wood's dependence on state facilities and support services to be minimal. In fact, his dependence commenced immediately upon the gentleman's filing of his application for a business license, which occurred on the date of execution of the agreement. Your memorandum notes that "Mr. Wood is presently a resident of Everett, Washington, but he has spent about seven years of the last nine working in Alaska, about five of which were as a full time resident in Anchorage, and he is presently working full time in Alaska." Presumably, Mr. Wood sees his business contact with the state as short-term, perhaps related to only this one project, and does not seem to be interested in maintaining ties to the state after completion of his work under this agreement: on his business license application, he lists the Southeast Regional Office's mailing address as his "business location" address, and the Southeast Regional Office's telephone number as the "daytime phone number of the owner or contact".

On this point, I should note that, in the course of investigation, those with whom I spoke indicated that the state was providing its contractor with office space in the Governor's Mansion and with necessary clerical assistance. You allude to the possibility of these support services being provided in your June 23 memo. The provision of these support services by the state to its contractor may be sufficient to disallow treatment of the agreement as a "professional services contract" under AS 36.98 and require that it be examined and treated as a "personal services" contract. See in this regard paragraph 8130 of the state Administrative Manual:

The State cannot enter into a contract with a State employee. If a person is an independent contractor, a contract must be negotiated and the person paid through the general disbursement system; therefore it is necessary to ensure an employer/employee relationship does not exist.

An employer/employee relationship may exist if the following conditions apply:

1. The person is subject to the control of the State -- not only as to what shall be done but when, where, and how it shall be done. It is not necessary that the State actually direct or control the manner in which services are performed; it is sufficient that the State has the right to do so.

. . .

3. The State furnishes the tools, equipment, and a place to work for the individual performing the services.

. . . .

Next, I am advised that the handling of workers' compensation insurance coverage under this agreement is not in compliance with department practice, as indicated in Paragraph 8.3(F)(2) of Policy and Procedure Number 28-8001. No letter signed by the contractor appears as a matter or record. Waiver by contract addendum or by signature of the commissioner and of the commissioner of labor is not authorized.

Then, a question was raised regarding compliance of the contractor with the provisions of AS 36.10.010, a so-called general "local hire" provision. I understand that the applicability of this provision to professional services agreements initiated by the department is to be placed under active review with an attorney assigned to the department, and therefore I am declining to initiate action with respect to it at this time.

Finally, apart from or in addition to the explanation provided above, the complaint suggests that this contract ought not to have been entered into, citing at least two additional reasons: (1) the description of the principal services which served to justify the contract -- "using computerized scheduling, and up-to-date scheduling techniques to insure that all renovation activities are conducted in an efficient and safe manner" -- is not sufficient to warrant issuance of a sole source contract under the criteria set out in AS 36.98.030(d)(1); and (2) the contractor cannot clearly demonstrate on the basis of past job experience that he can "clearly perform the required tasks more satisfactorily" than can the division's own Building's section. While my research has touched on these matters and found some substance to each, I have opted to treat with the investigation to this point on the narrowest grounds presented.

Several of those with whom I spoke in this matter are of the view that the selection of the contractor was improper because of the contractor's business relationship to a department Deputy Commissioner. Before his retention under contract, Mr. Wood distributed business cards to department personnel in which there was express evidence of an earlier business partnership between Mr. Wood and the department's Deputy Commissioner, Fred J. Seeger, under the name "SeeWood Corp.", bearing an Everett, Washington, address. The "Corporations Section"

office of the Secretary of State for the State of Washington advised me on July 26 and 27 that the corporation is registered in good stead through March 31, 1984. On the public record readily available to me from Washington state, Deputy Commissioner Seeger now appears alone as a principal in that business, with no evidence from Washington officials that Mr. Wood continues to participate as a party to a current business relationship. (The disclosure form filed by Deputy Commissioner Seeger with the state's Public Offices Commission confirms Mr. Seeger's participation as an owner and officer in that corporation).

A December 3, 1982, Opinion of the Attorney General addresses the subject of "Conflict of Interest." In the absence of significant statutory provisions, the opinion details the Department of Law's reasons for examination of, and willingness to apply, common law definitions of conflict of interest to guide the behavior of state officials. The opinion concludes:

The common law of conflict of interests aims not only to prevent officials from actually taking unfair advantage of their office. It also aims to eliminate the potential for abuse and the appearance to the public that officials are subject to temptation. For these reasons, the courts have dealt sternly with officials in conflict situations, and they will continue to do so. . . .

Earlier in the opinion, in a section headed "Legislator Conflicts" but surely relating language of applicability to all state officers and employees, the Attorney General quotes favorably from a 1959 law review note to indicate the potential breadth of the common law prohibitions:

The first question does not concern classic self-dealing, the letting of contracts by an official to himself or his relatives, associates or company. It is a different problem described in the following terms:

There is a great possibility that an official who has no immediate administrative connection with the contract may be sufficiently motivated by his personal interest to exert whatever influence his position allows to pressure the public official who in fact has a direct responsibility concerning the contract to favor that personal interest. In this way, an official without a personal interest in the contract acquires a conflicting interest in the sense that he must choose between appeasing the pressuring official and properly discharging his duties in the matter.

Experience indicates the harm that may flow from [this situation]. Contracts may be awarded that are over-priced or unnecessary, or the performance rendered under the contract may be inferior, all because of official favoritism, compromise or intentional oversight. Even if the abuse is nothing more than partiality in awarding a contract, it may import an aspect of unfairness into public administration, engendering popular disrespect for government.

Note, Conflict of Interests of Government Personnel:
An Appraisal of the Philadelphia Situation, 107 U.
Pa. L. Rev. 985, 987-988 (1959).

. . . .

I suggest to you that, irrespective of whether the award of the contract in question is regarded as the result of a conflict of the kind described in the law school note, strict adherence to agency contract requirements would exclude (or at least substantially reduce) the potential that such activities would constitute a conflict and would certainly guard against claims of an "appearance" of a conflict.

RECOMMENDATIONS:

I appreciate that substantial work has been completed under the contract in question, and, for that reason, am reluctant to recommend termination of the agreement. Though your division has apparently not relied on Mr. Wood's skills to provide computerized management of the project, I am advised by those who have been directly involved with the project that Mr. Woods' efforts in support of the renovation have not been insignificant. Charles Matlock, acting for you in your recent absence from Juneau as I had this matter under examination, testified in support of the contract, claiming that Mr. Wood had skills that were useful for this "sensitive" and "difficult" project, leaving those in the Southeast Regional Office who are principally responsible for the timely completion of this project confident that the renovation work is being well-handled. Mr. Matlock suggests that, without the active participation of Mr. Wood, the tasks would not have been handled as smoothly and efficiently. (Indeed, Mr. Matlock was so firm in defense of this contract arrangement that he shared with me the observation that, while he believed the decision to retain Mr. Wood's services to have been yours, he was of the view that you would not have opted to contract with him without assurance from him [Matlock] that Mr. Wood had the requisite credentials, experience, and skills for the job.)

Nevertheless, and despite the time constraints for completion of Mansion renovations now in place (in response to the promise of performance allegedly made by Commissioner Casey to Governor Sheffield), for the reasons set out above, I am of the view that the contract was not properly entered into and am persuaded that the contract should now be invalidated. Paragraph A11.2 of the contract authorizes termination

by the state, and I would very much like to recommend that the paragraph be invoked to set aside the agreement. My understanding of the work performed suggests that, as between the division's own Project Manager and the division's on-site inspector, regular attention is being given to the project. Moreover, it appears that one of the principal reasons for which Mr. Wood's services were retained -- his ability to use his special skills in computer-based management of resources necessary for the renovation project -- are not, in fact, being utilized. It is difficult to see that termination of the agreement would preclude timely completion of those phases of the project for which Mr. Wood's supervisory services were engaged.

To maintain the integrity and propriety of the professional services contracting authority granted to the department, and to blunt the criticism of the department citing conflict of interest, I recommend cancellation of the agreement.

Secondly, the statute (AS 36.98.020(a)) and applicable departmental regulations (17 AAC 07.020(a)) providing for the establishment and maintenance of a professional services contractors' register generally prescribe the procedures for addition of a contractor's name to the register. No prequalification form was submitted by Mr. Wood. I am recommending that his name be removed from the register until he is properly qualified.

Next, as earlier noted, I am advised that Mr. Wood's name was included on the register at the direction of Mr. Linthwaite. This manner of qualifying the contractor is irregular. I ask that you verify to your own satisfaction that Mr. Linthwaite improperly directed the addition of Mr. Wood's name to the register and, if your findings conform to mine, that you formally reprimand Mr. Linthwaite (and any others who may be responsible for the decision to qualify Mr. Wood's name without examination of his credentials in accordance with 17 AAC 07.020(a)).

Finally, I would ask for some expression from you that the affairs of the Southeast region will be conducted so as to avoid or reduce future claims of improper contracting by the Department of Transportation and Public Facilities. May I have your assurance that, hereafter, issuance of professional services contracts will conform strictly to applicable law. Especially would I like to establish as a matter of record that the Southeast Region does not regularly award its professional services contracts with so shallow a regard for the department's own professional services contracting procedures, and will not in the future.

My first recommendation is not intended to be critical in any way of Mr. Wood or of his performance under the contract. Moreover, there is no evidence that he was a party to the improper addition of his name to the register.

A regulation of the ombudsman's office, 21 AAC 05.080, asks an agency officer or employee to indicate within 30 days whether he will

accept and implement the finding and recommendations of the ombudsman or reject them. In accordance with the regulation, may I hear from you at your earliest convenience concerning my suggested disposition of this matter before the expiration of the deadline.

You should know that, because I am concerned about the allegations of continued abuse by the department in its professional services contracting, I may pursue other aspects of this investigation apart from the issues raised by the award of this contract.

Sincerely,

John B. Chenoweth
Ombudsman

JBC:jdt

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
SOUTHEAST REGION

P.O. BOX 1467
JUNEAU, ALASKA 99802
PHONE: 364-4360

RECEIVED

August 9, 1983

AUG 9 1983

Jack Chenoweth, Ombudsman
Pouch W0
Juneau, Alaska 99811

JUNEAU
OFFICE OF OMBUDSMAN

Dear Mr. Chenoweth:

I have carefully reviewed your report to me on complaint J83-0683 and find that I cannot agree with your conclusions or recommendations.

The matter of contracting with Mr. Jerry D. Wood to help our staff manage the Governor's Mansion Renovation project is a management decision that involves only four basic questions:

1. Is the contract covered by AS 36.98?
2. Was the selection done according to Department of Transportation and Public Facilities P&P 28-8000 which is applicable to this contract?
3. Does Mr. Wood's place of residence affect whether the Department can contract with him?
4. Was there a conflict of interest between Jerry Wood and Fred Seeger?

If the answer to each of these questions is "No" there should be no question about the propriety of this contract.

1. Your review should have clearly revealed our concern and respect for AS 36.98. It is mentioned several times in the correspondence and is clearly spelled out in the contract that the total amount of the contract may not exceed \$25,000. In fact, our estimates were always much less than the \$25,000 limit, which is one reason why we were able to consider this contract procedure. The option to keep Mr. Wood on for an additional period should we choose was specifically added to the contract to provide additional flexibility and still stay within the \$25,000 statutory limit. Even as written, the Department is not obligated to spend the full \$25,000. You have somehow twisted these facts by suggesting that we deliberately subverted the law and planned to exceed this limit from the beginning by providing Mr. Wood with transportation and not including it in the total contract value.

Jack Chenoweth
August 9, 1983
Page 2.

I cannot disagree enough with your supposition, but, regardless, you may be assured that his contract will not exceed \$25,000 with transportation and any other extra "benefit" we can conceive included in the total. See enclosure #1 which further clarifies that the statutory limit will be adhered to.

In conclusion of this point, the total amount of this contract falls below the minimum amount of concern to the Legislature. Hence AS 36.98, by specific exclusion of the Legislature, is not applicable. Even the Legislature recognized that for small contracts such as this one it is not prudent to set rigid procedures on selection, etc.

2. My staff and I extensively discussed the applicability of Department of Transportation and Public Facilities P&P 28-8000. We all agreed that the only way to bring this, or any other, contractor on in the short time available was to waive certain of the time consuming requirements of the P&P. Waivers are specifically provided for in the P&P for just this type of unusual and exceptional situation. It is also consistent with AS 36.98 which doesn't apply to this contract. This waiver was requested on June 23 and signed the next day by Commissioner Casey. (See enclosure #2.) Hence, on this point also, I take exception that applicable procedures were not followed.
3. Notwithstanding the two previous questions, the matter of residency also was of great concern. I am very much aware of AS 36.10.010, about which there has been considerable discussion and not much concrete direction for years. See enclosure #3 which is our current guidance from the Attorney General's office and you'll sense our frustration.

I did not stop here, however. In order to air the question and get further guidance, I prepared another memo June 23 (enclosure #4) which provided the background of our proposal and discussed in some detail the residency issue. Commissioner Casey discussed the issue personally with Commissioner Robison and both concurred that residency was not an issue of concern for this contract. (Note concurring signatures at the bottom of enclosure #4.)

4. This Governor's Mansion Renovation project is exceptionally sensitive because it involves high public visibility. Everyone is interested in it and many would seize the opportunity to find fault with this particular project and be critical to embarrass the Governor or other public officials. It also is exceptional because of the short time allowed for completion. In addition to being a public facility, and an historic building, it is the home of Alaska's Governor and he must suffer great inconvenience while the work is being done. Finally, the public perception that Department of Transportation and Public Facilities does not efficiently administer projects still persists within top levels of this new administration. For these reasons, Commissioner Casey, Charles Matlock and I, as managers, have been concerned about this project getting the best possible attention and also about using procedures above reproach. When it became apparent

Jack Chenoweth
August 9, 1983
Page 3.

our normal lump sum contract procedures would change in favor of time and materials contracts, the desire for additional help became even stronger. In the course of securing this help the matter was discussed with Fred Seeger who, incidentally, has no direct or indirect responsibility for this project whatsoever. Fred suggested Jerry Wood as one who might be able to help. Having no other immediate suggestions, I arranged for Jerry to come to Juneau for one day to view the project and share the benefit of his experiences with our people. Jerry came at his own expense except travel and per diem. During his visit, it was apparent that Jerry could work well with our staff and was imminently capable of helping to facilitate this project. In the close out conference with Commissioner Casey and myself the possibility of a longer term relationship was first discussed. Afterward, I checked with Charles Matlock and our buildings staff. Charles saw, as I did, substantial benefits to this arrangement. Other staff were less enthusiastic initially (a natural reaction), but felt they could work well together. In addition to his strong project management capabilities, Jerry would provide a buffer for our staff during the project. We could learn from him how to better administer these types of contracts and in turn Jerry could share his views on the capabilities of our staff with top management. Throughout this process Fred Seeger never exerted any kind of direct or indirect pressure to hire Jerry Wood. In fact, I had made it clear to Charles Matlock that if he had problems with this proposal I would not authorize it. Hence, the tedious process of effecting this contract came about. It is hard to imagine any impropriety or conflict of interest, real or perceived, that this process might suggest.

As to the many other issues you raised, it appears they either don't apply to this case or are so insignificant as to merit no further discussion. If you see it differently I am available and willing to pursue it in greater detail.

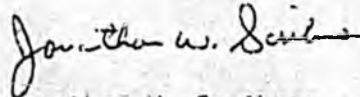
I welcome your detailed review of our use of consultant contract administration procedures. While I am sure you will not find everything perfectly in order, you should be assured that we are seriously concerned with the law, regulations and procedures and always make every effort to comply fully, especially with the substantive provisions.

I am perhaps the single person who has a comprehensive knowledge of the sequence of this matter from its beginning and can offer perspectives not available otherwise. Accordingly, most of your concerns could probably have been satisfactorily addressed had I been given the opportunity to discuss them with you ahead of time as you are required to do in your authorizing legislation.

Jack Chenoweth
August 9, 1983
Page 4.

Jack, the need for this contract was perceived to supplement our staff, to maintain a continuous work flow and provide a cohesive work force to get the job done correctly and on time. Up to the present time, the decision has proven to be quite beneficial to the State, to say the least.

Sincerely,



Jonathan W. Scribner
Acting Deputy Commissioner
Southeast Region

JWS/lrc

Enclosures

MEMORANDUM

State of Alaska Department of Transportation & Public Facilities

TO: W. J. DeBoff, P. E.
Buildings Chief
Building Design & Construction
DOT/PF

FROM: Charles S. Matlock *CSM*
Acting Director
S. E. Region Design & Construction
DOT/PF

DATE: August 9, 1983

FILE NO:

TELEPHONE NO.

SUBJECT: Consultant Contract
Governor's Mansion
Project No. H-79164

Please take the appropriate action to insure that the Consultant Contract for Jerry Wood does not exceed the contract amount of \$25,000.00, including extended services and vehicle rental.

CSM:JUT:ma

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO: Daniel A. Casey, Commissioner
Department of Transportation
and Public Facilities

DATE: June 23, 1983

FILE NO.

TELEPHONE NO.

364-4347

SUBJECT

Governor's Mansion
Construction Management

FROM:

Jonathan W. Scribner
Acting Deputy Commissioner
Southeast Region

In order to reduce construction time to a minimum, we have to date proceeded with time and materials contracts with two contractors who will also have several subcontractors. The most critical elements in completing the work quickly, efficiently and correctly will be for the State to provide a high level of construction management.

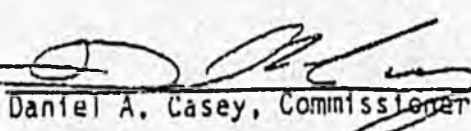
This will prevent interference and overlaps in work by the various crews and will insure that all work, including materials delivery will follow a detailed critical path schedule.

In the usual type of contract, (lump sum) we are not directly involved in scheduling of the work since this is normally a basic requirement of the contractor. Consequently, we doubt that our in-house buildings people are experienced in construction management to the degree needed on this project. Therefore, we propose to retain a consultant who has proven experience and competence in this type of work to supervise this project.

Our existing consultant selection procedures, Policy & Procedure 28-8000, paragraph 6.5A states in part "...Project Manager should develop a short list based on at least three informal proposals obtained from prequalified contractors and then obtain negotiation authority." Additionally, this section refers to a limit of \$20,000 in agreement cost although later legislation and administrative code addresses contracts of over \$25,000. We assume that P&P 28-8000 should be changed to be consistent with law and regulations.

Because of the tight time frame as well as the sensitivity of renovating this designated historical structure, we request that you approve waiving the requirement for proposals from three or more professional services contractors, and approve an original agreement cost not to exceed \$25,000.

Approved


Daniel A. Casey, Commissioner

Date

6/24/83

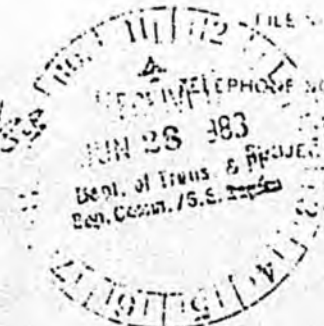
MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

TO Daniel A. Casey
Commissioner,
Department of Transportation
and Public Facilities

June 23, 1983

FROM Jonathan W. Scribner
Acting Deputy Commissioner
Southeast Region
Department of Transportation
and Public Facilities



361-4300

Professional Services
Contract for Governor's
Mansion Project

As you know we are in the process of considering contracting with Mr. Jerry Wood to help us manage construction on the Governor's Mansion renovation and code upgrade project.

We have set a very ambitious completion schedule for this project, which if it is to be met, will require an unusually large degree of scheduling and manpower utilization/assignment effort.

While our staff is quite capable of handling this project under more normal contracting methods and procedures, they are lacking in capability to use computerized scheduling and manpower assignment techniques needed to complete this project in the tight time frame desired.

In looking for ways to meet this time frame we have interviewed Mr. Jerry Wood and are satisfied that he has special skills in scheduling and experience in project management which could help us expedite the work. He is also a registered professional engineer in Alaska. Although we have not solicited proposals from Alaskan firms we feel it would be unlikely that any could provide the specialized expertise required and be available immediately as is the case in this instance.

Mr. Wood is presently a resident of Everett Washington, but he has spent about seven years of the last nine working in Alaska, about five of which were as a full time resident in Anchorage and he is presently working full time in Alaska.

In view of the limited time to solicit other proposals we are proposing to contract with Mr. Wood immediately to help us manage the construction work. The contract would be signed for less than \$25,000, thus there is no need for competitive selection under AS 36.98. He would report directly to our Buildings Design and Construction Staff, but would work full time out of the Governor's Mansion at the project. Occasionally, he may need to use State facilities and services to support his effort, but this is expected to be minimal. This contract would be for professional services and Mr. Wood would represent the State's interests as the "owner" rather than the construction contractor. The duration of the project is expected to be less than three months so it is not feasible to select and hire an employee for the work.

The purpose of this memorandum is to document the rationale for hiring Mr. Wood and to establish his relationship in the project.

JWS/sh

Commissioner Department

MEMORANDUM

State of Alaska

ENCLOSURE #4

Edwin B. Thompson, A.I.A.
Chief, Technical Services
Design and Construction
Central Region

September 14, 1981

FILE NO

TELEPHONE NO

SUBJECT

FROM

Donald W. McClintock
Assistant Attorney General
Department of Law - Anchorage
Transportation Section

File No. 220H
Anchorage State Office
Building
Project No. H60090;
AS. 36.10, Employment
Preference

PS This opinion will no doubt
be changed soon for 7/25

By memorandum of August 24, 1981, you requested our
opinion on the following question:

Will AS 36.10.010, Employment Preference, be binding
to the winning development team in the performance of
contract with the State?

AS 36.10.010 provides as follows:

SEP 22 '81

EMPLOYMENT PREFERENCE.

In the performance of contracts let by the
state or political subdivision of the state
for construction, repair, preliminary
surveys, engineering studies, consulting,
maintenance work, or any other retention of
services necessary to complete any given
project, 95 percent residents shall be
employed where they are available and
qualified. If 10 or fewer persons are
employed under the contract, then 90 percent
residents shall be employed where they are
available and qualified. In all cases of
public works projects, a preference shall be
given to residents.

Design & Const.	Cost	A.I.A.
Central Region		
Director		
Deputy Director		
Chief Engineer		
Chief Estimator		
Chief Inspector		
Chief Surveyor		
Chief Traffic Control		
Chief Utility Services		
Chief Water Services		
Chief Wastewater Services		
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Edwin B. Thompson, A.I.A.
September 14, 1981
Page Two

In conclusion, it is our opinion that DOT/PF should not attempt to bind the winning developer team by contract to the requirements of AS 36.10.010. This memorandum of advise is not intended to be a firm opinion regarding constitutional issues, but is intended to be of guidance to you in your contract process.

DWM/mjr

cc: David LeBlond

MEMORANDUM

State of Alaska

03:31 11:41

TO: The Honorable Helen D. Beirne
Commissioner, Department of
Health and Social Services

DATE:

July 28, 1981

FILE NO:

TELEPHONE NO:

FROM: Wilson L. Condon
Attorney General

Daniel W. Hickey
Chief Prosecutor

By: Michael J. Stark *MJS*
Assistant Attorney General

SUBJECT:

Opinion as to Legal
Requirements for Palmer
Correctional Center Addition

AUG 07 1981

CENTRAL REGION
DIVISION OF GENERAL
DESIGN AND CONSTRUCTION
ANCHORAGE, AK

You have asked us to comment on certain questions raised regarding requirements relating to out of state bidders for a contract to construct an addition to the Palmer Correctional Facility. Specifically you have asked our opinion as to the application of:

- (1) AS 08.18.011 to out of state contractors;
- (2) AS 08.48.281 to out of state architects and engineers; and
- (3) AS 36.10.010 to out of state construction and design work.

Each of these questions will be answered in turn.

A. AS 08.18.011

AS 08.18.011 makes it unlawful for a person to submit a bid or work as a contractor in Alaska until he has been issued a certificate of registration by the Department of Commerce and Economic Development. While the registration process is relatively simple, you should be aware that there are also bonding and insurance requirements that must be met before a certificate of registration will issue. See AS 08.18.071--08.18.115 and 12 AAC 21.010 et. seq.

B. AS 08.48.281

AS 08.48.281 prohibits the practice of architecture, engineering or land surveying in the State of Alaska by any person who is not registered with the Board of Registration for Architects, Engineers, and Land Surveyors.

We have been informed by the Director of the Division of Occupational Licensing and the President of the Board that registration may be achieved by being licensed in another state and either associating with a state licensed individual who places his stamp on any design work, passing a course on arctic and earthquake conditions given by the Board, or by writing a treatise on these subjects. The requirement for knowledge in the permafrost area is the only one for engineers while architects must also be qualified in the area of earthquakes. Clearly the easiest of these choices is associating with an engineer or architect who is already registered in the state and is willing to place his registration stamp on the design plans.

C. AS 36.10.010

AS 36.10.010 provides that in contracts let by the state for construction, engineering studies, etc., 95 percent residents shall be employed where they are available and qualified; and where 10 or fewer persons are employed under the contract then the figure shall be 90 percent.

As you are aware, in 1978 the United States Supreme Court struck down the Alaska Hire Act as it pertained to employment on the Alaska pipeline. Hicklin v. Orbeck, 437 U.S. 518, 57 L.Ed.2d 397, 98 S.Ct. 2432 (1978). As a result of that decision a substantial question exists as to the constitutionality of AS 36.10.010. Because a court has not yet ruled on this question, the Department of Law is not in a position to state that the law is unenforceable. However, based on the Hickland decision, AS 36.10.010 is being narrowly interpreted.

Thus, the Department of Labor has been advised that the statute does not apply to work which is conducted outside the state.

After the bid is awarded for the Palmer addition project, if the company awarded the bid is located outside the state, then you should immediately inquire whether the portion of the construction work which will take place in Alaska (i.e., actual assembly of the facility on site) can be accomplished by available and qualified Alaska residents. If the response is affirmative then no conflict with AS 36.10.010 exists. If, however, the response is in the negative, then under the statute as long as qualified Alaskans are available to work, AS 36.10.010 would require their employment. If this latter situation arises, the Department of Law is available to advise you on the implementation of applicable laws.

The Honorable Helen D. Beirne
Commissioner, Department of
Health and Social Services

July 28, 1981
Page 3

One last point is worth mention. AS
36.05.010 requires that prevailing wages be paid employees
who work on public works projects whether they be Alaskan
residents or are brought in from outside the state.

If you have any questions regarding our response
to your questions, please contact us at your convenience.

MJS:dm



Ombudsman

John B. Chenoweth

State of Alaska

November 9, 1983

Jonathan W. Scribner, Deputy Commissioner
Department of Transportation and Public Facilities
Post Office Box 1467
Juneau, Alaska 99802-2500

Reply to:

- 3201 C Street, Suite 606
Anchorage, Alaska 99503
(307) 276-4011
- Pouch W0
Juneau, Alaska 99811
(907) 465-4970
- P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

RE: Ombudsman Complaint J83-0553

Dear Mr. Scribner:

While I appreciate the promptness and thoroughness of your response to my August 4 letter, I was less than satisfied in your response to the recommendations.

In the intervening months, the Legislative Budget and Audit Committee has directed a comprehensive review of the Governor's Mansion project. That decision suggests to me that the committee is interested in the particulars of liabilities incurred and expenditures approved in conjunction with the improvements to the Mansion and is not now interested in the related questions of departmental contracting policy and practices as I am.

We disagree, as we've discussed, as to several issues presented in this complaint. I have reviewed your August 9 response in light of my own analysis, and, in candor, I am not persuaded that the earlier finding should be amended.

You suggest, first, that the contract is not covered by AS 36.98, and that I am guilty of "[twisting] these facts" to support my conclusion that the department entered into the agreement by deliberately subverting the law. May I respectfully suggest that the only twisting and subversion that were done occurred in your shop, in your effort, by a stroke of the pen, to alter the limit on professional services set out in the Policy and Procedure provision from \$20,000 to \$25,000. I continue to maintain that the original document exposed the state under the agreement to a potential liability of \$25,000 plus the cost of automobile rental, and that the handling of the contract was therefore improper under applicable law.

You next suggest that the provisions of P&P 28-8000 may be waived. Jon, under the P&P section as it was written at the time this contract was entered into, there was simply no provision for waiver of the kind you have suggested to cover this situation. The only authority for

waiver involves reference to the "sole source" statutes, and it is there provided that the commissioner may authorize a limited solicitation of services prior to negotiations. That was not done.

Third, while the residency issue may have been of concern to you, for purposes of this investigation it was not. In my August 4 letter, I related that I had declined to initiate examination of the matter.

Finally, I agree that the evidence does not support a finding of an actual "conflict of interest" in the matter of the Seeger - Wood relationship. I made no such finding, for I was not formally asked to examine the matter. In my August letter, I discussed the business relationship between the two gentlemen at some length (1) to try to set out that relationship and to put to rest the charge, emanating from within your own department, of conflict and (2) to alert you to the Department of Law's December, 1982, position relating to conflicts and, more particularly, the "appearances" of conflict of interest.

On the central allegation of this complaint -- that the contract was entered into improperly -- I stand by the earlier finding of "justified."

*

May I next speak to the four recommendations I offered, commencing at page 16 of my August 4 letter?

As to the first, of course, the department did not see fit to cancel the contract with Mr. Wood in response to the rationale I presented, and, for our purposes, the matter is moot. As to the last, your August 9 statement that "you should be assured that we are seriously concerned with the law, regulations and procedures and always make every effort to comply fully, especially with substantive provisions," will have to stand for itself. I do note that P&P 28-8000 has since been reissued.

Two recommendations remain.

On November 3, I received a phone call from Mal Linthwaite. Mr. Linthwaite took issue with the substance of the third of my four recommendations, offered at page 17 of the letter, which read:

[T]he statute (AS 36.98.020(a)) and applicable department regulations (17 AAC 07.020(a)) providing for the establishment of a professional services contractors' register generally prescribe the procedures for addition of a contractor's name to the register. No prequalification form was submitted by Mr. Wood. I am recommending that his name be removed from the register until he is properly qualified.

Next, as earlier noted, I am advised that Mr. Wood's name was included on the register at the

direction of Mr. Linthwaite. This manner of qualifying the contractor is irregular. I ask that you verify to your own satisfaction that Mr. Linthwaite improperly directed the addition of Mr. Wood's name to the register and, if your findings conform to mine, that you formally reprimand Mr. Linthwaite (and any others who may be responsible for the decision to qualify Mr. Wood's name without examination of his credentials in accordance with 17 AAC 07.020(a)).

The regulation to which I make reference provides:

(a) The department will maintain a professional services contractors' register. A person or firm wishing to perform professional services for the department may be placed on the register by completing a prequalification form (Form 25A 272) which may be obtained from the department's contracts administration office. [Emphasis added.]

The effective date of the provision is August 11, 1982.

When he first called me, Mr. Linthwaite acknowledged that he had contacted the contracts administration office and directed inclusion of Mr. Wood's name to the professional services contractors' register. He asserts that he did so because he had been advised in a conversation with personnel of that office some weeks previously that this was a proper way to register a person interested in obtaining a professional services contract.

Mr. Linthwaite and I met on November 7. At the time he handed me a copy of his memorandum to the file (copy attached) which recounts his recollection of his contacts with the contract administration personnel and his understanding of the inclusion of Jerry Wood's name on the Professional Services Contracting register.

Between Mr. Linthwaite's original contact and his delivery of the file memorandum, on November 3 I collectively interviewed the current personnel of the department's contracts administration office, Derwin F. Halvorson and Coralie Sparks. I did not take their sworn statements. It was Ms. Sparks recollection that, over a period of weeks prior to the inclusion of Mr. Wood's name on the professional services contractors' register, she and Mr. Halvorson had been contacted by telephone at least four times from Southeast regional office personnel with respect to professional services contract register requirements. Each time she was contacted, Ms. Sparks said, the questions became more specific about the registration requirements and the inclusion of interested parties. Ms. Sparks reported that she advised the callers, including Mr. Linthwaite, that, when the contracts administration office receives calls from a person or firm inquiring about registration, the name of the person or firm is added to an "alpha" register in "open status."

The "alpha" register, Mr. Halvorson and Ms. Sparks explained, is a device to keep track of parties indicating or expressing interest. A party that provides a name and address is, in turn, mailed a copy of the prequalification form, 25A 272, properly titled the "Prequalification Submittal". It is not until that form or "Submittal" is completed and returned to the contracts administration office that there is sufficient information available to personnel in that office to place the person or firm making application into a category and discipline. Ms. Sparks indicated that the "alpha" register is an intraoffice reference that does not serve as the basis of providing professional services registration certifications to personnel of other divisions, and cannot be validly construed as "the register" intended by the statute and regulation. Ms. Sparks stressed that she has repeatedly advised that inclusion on the register cannot be only by request of department employees. In her explanation to me, she was certain that there should be no confusion on these points.

Mr. Halvorson acknowledged at least two telephone contacts in mid-June from Mr. Linthwaite. In the first, Mr. Linthwaite specifically directed inclusion of Mr. Wood's name on the professional services contract register. Mr. Linthwaite specified that Mr. Wood's name was to be included in the discipline of "Civil Engineer" and in category "021", that is, as I understand, "contract management." In his second, coming apparently 24 hours later, Mr. Linthwaite specifically requested the professional services contracts register that displayed that discipline and category. His second request, Mr. Halvorsen implied, was made with the expectation that Mr. Wood's name would appear on the list.

On November 3 I had the opportunity to review the current register. Inspection revealed that there has been no new information provided in support of Mr. Wood's inclusion on the register. No Prequalification Submission form has ever been completed. Mr. Wood's name is still maintained on the register, in contraversion of the requirements of your department's own regulation. I reiterate the second recommendation of my August 4 letter: the gentleman's name should be removed.

As to Mr. Linthwaite's objection: In our telephone conversation, Mr. Linthwaite acknowledged his directing the inclusion of Mr. Wood's name. The source of the directive has been verified by Ms. Sparks and Mr. Halvorson. I see no genuine dispute as to the fact that it was Mr. Linthwaite who directed the addition of Jerry Wood's name to the register.

The unsworn statements of Ms. Sparks and Mr. Halvorson suggest that Mr. Linthwaite was quite specific in his orders. He directed Mr. Halvorson to include Mr. Wood's name on the list of one category and discipline, and it appears that this was done.

When he provided me the copy of the file memorandum in our meeting of November 7, Mr. Linthwaite noted that the professional services contract register now serves a purpose different from the department's prequalification list that he had used in years past. I noted that the change in purpose came as the result of the change of statute (Ch. 144,

SLA 1982) and by the department's addition of regulations to implement the statute.

I respectfully suggest that Mr. Linthwaite's directive violated the procedures set out in 17 AAC 07.020(a). Whether Mr. Linthwaite acted with actual knowledge that, in directing the inclusion of Jerry Wood's name to the register without submission of the required form, his action did not comply with the requirement of the applicable regulation, whether he was erroneously advised in this matter, or whether there was a legitimate misunderstanding on the part of Mr. Linthwaite are, to my mind, factors bearing on imposition or mitigation of discipline of Mr. Linthwaite's actions. I reiterate the third of my recommendations: Verify to your own satisfaction that Mr. Linthwaite improperly directed the addition of Mr. Wood's name to the register and, if your findings conform to mine, formally reprimand Mr. Linthwaite and any others who may be responsible for the decision to qualify Mr. Wood's name without examination of his credentials in accordance with the applicable regulation.

Incidentally, I do not regard the matters of violation of departmental regulation and the statute on which it was based as "insignificant," and I am confident that the legislature does not share that evaluation and would not readily accept your categorization.

In closing, as an observation that may be of some benefit to you in the management of this region, there seems to be continuing degree of confusion concerning applicable contracting authorities. As an example, when I advised Mr. Linthwaite that P&P 28-3000 had been reissued over the signature of Deputy Commissioner Fred Seeger on October 20, he was not aware of the issuance of the amended provision. At least within the Southeast Region, you may want to make it a point to keep the division directors and senior staff apprised of these important procedural changes relating to professional services contracting.

In our last phone conversation, November 3, you reiterated your invitation to meet with me on matters in which we are in disagreement. If there remain matters that you believe can be resolved, may I suggest a meeting in the week of November 14, at your convenience? Otherwise, may I receive a formal reply from you in response to my request for reconsideration of the two recommendations set out above by November 28.

Sincerely,

John B. Chenoweth
Ombudsman

JBC:jdt
Enclosure

MEMORANDUM
RECEIVED

State of Alaska

Department of Transportation & Public Facilities

TO: File

NOV 8 1983

DATE: November 4, 1983

FILE NO:

JUNEAU
OFFICE OF OMBUDSMAN

TELEPHONE NO:

FROM:

M. A. Linthwaite
Chief, Technical Services
Southeast Design and Construction

SUBJECT: Contact with the
Ombudsman

Yesterday, for the first time, I read a copy of the Ombudsman's Report on his investigation on the Governor's Mansion Renovation dated August 4, 1983. Shortly after reading the report I called the Ombudsman, Jack Chenoweth, to require on what information he based his recommendation concerning me.

I explained that a few weeks prior to any mention of Jerry Woods, I had called Coralie Sparks, at Charles Matlock's request, to obtain some packets which we could mail to consultants who called in, rather than have them call back to her. She explained that they wanted to be aware of anyone who received a packet and the only way they could control them was to mail them out themselves.

She further explained that her office would gladly take the name and address from us, and mail a packet out to a consultant, and add the consultant's name to the register, pending receipt of the completed packet.

When Jerry Wood's name was first mentioned to me, Mr. Matlock asked how Woods could get on the register. I told him what Coralie said, and after we reviewed his resume, we decided that he could probably get on the register under the Construction Management (CM) section. I then called the Contracts Administration office to have a packet sent to him and have his name added to the register.

It was a few days later when Wood's name came up in regards to a contract for construction management on the Governor's Mansion. At that time, Jay Davis received a printout of the CM register and Jerry Wood's name was there, with a notation that I had requested he be listed there. I told Jay at the time that I didn't see anything wrong with that, as I only followed the procedure outlined by Contracts Administration.

The Ombudsman advised me that he would investigate further to determine, if in fact, his recommendations were correct. He stated that he would get back to me within 10 days.

I only wish I could have seen the Report at an earlier date, so I could have had this matter cleared up more timely.

MAL/jw

c: John B. Chenoweth, Ombudsman, State of Alaska
Donald D. Dieckmeyer, Director, Southeast Design and Construction,
Department of Transportation and Public Facilities

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802

SOUTHEAST REGION

November 14, 1983

Re: Ombudsman Complaint
J83-0683

Mr. Jack Chenoweth, Ombudsman
Office of the Ombudsman
Pouch W0
Juneau, Alaska 99811

Dear Mr. Chenoweth:

I have now received your second letter on Jerry Wood's contract without the opportunity for discussion. It is most frustrating to read of the complaints, your interviews with others and your analysis without the courtesy of personal discussion.

Nevertheless, the following response to your continuing concerns is again offered:

I suppose as long as you are convinced that Jerry Wood's contract had the "potential" to exceed \$25,000 we can never agree on its propriety. No where in the development of this contract was it anticipated the contract would exceed \$25,000. The record contains several references to this effect which, inexplicably, have received no consideration by you. All of our cost estimates to do the work were well below \$25,000 and we did not fabricate unrealistic estimates to subvert AS 36 or 17 AAC. 07, as you conclude. AS 36.98 and 17 AAC. 07 simply were not applicable because they apply only to contracts exceeding \$25,000. That is why P & P 28-8000, albeit dated, was the only document applicable for this selection process.

P & P 28-8000 provides different procedures for each of three levels of agreements: > \$2,500 but < \$20,000; > \$20,000 but < \$100,000; and > \$100,000. A departmental review was done earlier which, among other things, recommended the \$20,000 limit be raised to \$25,000 to be consistent with AS 36.98 and 17 AAC. 07. The P & P was finally changed officially on October 20, 1983.

Neither the procedures for contracts < \$20,000 nor for contracts > \$20,000 could be met given the urgency to proceed. In such cases paragraph 5.2 provides: "When determined by the Commissioner of the Department of Transportation and Public Facilities to be in the best interest of the State, this procedure (P & P 28-8000) may be waived."

Given the need for this contract; there was no question that a waiver of the entire procedure would have been granted by the Commissioner had it been requested. In retrospect this may have been cleaner, but we wanted to preserve as much of the procedure as we could reasonably expect to accomplish and still enable the job to get done. That is why a "limited" waiver was requested of the Commissioner in accordance with P & P 28-8000.

With the waiver approved, we proceeded to develop and execute the contract. The construction was to be complete September 2, 1983; hence it appeared reasonable that Jerry Wood's work, including any outstanding paperwork, etc., could be completed by September 15, 1983. These costs amounted to a firm fixed price of \$21,100. Since we were still well below the \$25,000 trigger for AS 36.98/17 AAC. 07 we decided to add an option to keep Jerry Wood on at the rate of \$300/day for a maximum of 13 days just in case we ran into unanticipated problems in completing the construction and Jerry Wood's services were still needed. In addition, the "Maximum Amount" possible for payment under the contract was \$25,000 to very clearly distinguish this contract from falling under AS 36.98 and 17 AAC. 07.

Not until you raised the question, was there even a hint that nonmonetary services provided in the contract might be construed as falling within the "total amount of the contract" contained in AS 36.98. No where in AS 36.98 can I find a definition of "total amount of the contract" in AS 36.98 to support your position. I would suggest that "total amount of the contract" refers to the actual dollars the State is obligated to pay a contractor and that the cost of other services like car rental would not be included because these costs would be incurred whether or not a contractor was involved.

Regardless, it seemed pointless to argue, so instructions were issued immediately to ensure that the "total amount of the contract" including such things as car rental would not exceed \$25,000.

On the question of residency, further research has revealed that AS 36.10.010 applies only to employees. Jerry Wood was a proprietor or employer, not an employee. There is no issue here.

The conflict of interest question is still unresolved, apparently. My understanding is that common law conflicts of interest, actual or apparent, exist primarily when there is a potential for gain from an actual business relationship. The Department of Law, in its proposal to the last legislative session to clarify this issue suggested that to avoid any "appearance" of conflict of interest there should be no business relationship for at least six months. In this case there was a clean break in the business relationship between Jerry Wood and Fred Seeger of well over two years, long before either of them had any idea they would be working with the State of Alaska.

November 14, 1983

I agree that anytime there is a "perception" or "appearance" of impropriety there is cause for concern. But if we based all our decisions on certain people's "perception" of a problem, one can readily imagine government coming to a virtual standstill.

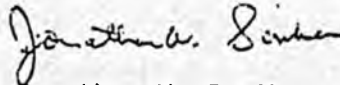
It is regrettable that a copy of the gentlemen's business card from their previous relationship received such wide circulation, but it hardly seems appropriate or responsible to use that as a basis for suggesting the contract be terminated.

Regarding your two remaining recommendations:

1. Removal of Jerry Wood's name from the department's register was requested November 14, 1983. No action was taken previously because the register played no part in the hiring of Jerry Wood, since the contract was not over \$25,000.
2. No action was taken to reprimand Mr. Linthwaite previously because the contract was not over \$25,000 and a register was not required. Also departmental procedures for prequalification were virtually useless.

Obviously, you have gone to considerable effort subsequent to your first analysis on this issue which suggests further examination is appropriate. I also accept this recommendation and will report to you on the actions taken when my review is complete.

Sincerely,


Jonathan W. Scribner
Deputy Commissioner

sh

MEMORANDUM

State of Alaska

TO: Jonathan W. Scribner
Deputy Commissioner
Southeast Region
Department of Transportation
and Public Facilities

DATE: November 16, 1983

FILE NO: 366-124-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Review of department's project management contract for conflict of interest

By: Diane T. Colvin
Assistant Attorney General
Department of Law

You asked us to review the contract award made to Jerry D. Wood by the Department of Transportation and Public Facilities. Mr. Wood was hired in conjunction with renovation of the Governor's mansion to provide project management services. On August 4 the Ombudsman issued an opinion in response to a complaint received on the project services contract. One of the Ombudsman's findings was that the contract involved a conflict of interest, because of Mr. Wood's business relationship with Fred Seeger, Deputy Commissioner, Department of Transportation and Public Facilities. You have asked us to review the conflict of interest issue.

According to your response of August 9 to the Ombudsman, Mr. Seeger suggested Jerry Wood for the management services project initially. After that recommendation was made, you claim that Mr. Seeger had no further involvement in the award of the contract to Mr. Wood. You have also informed us that although Mr. Seeger and Mr. Wood did have a prior business relationship, that relationship was severed at least two years ago.

As you may know, the applicable standard for conflict of interest is the common law. This is a strict standard, prohibiting not only actual conflicts of interest but also requiring avoidance of even the appearance of impropriety. See 1982 Op. Att'y Gen. No. 15 (Dec. 3).

Based on the facts you provided, we find no conflict of interest in the award of the Wood contract because Mr. Seeger did not and could not benefit as a private person from the contract. The issue arose because of the previous business relation between the two individuals. However, if as you state, the relationship was severed two years ago, the potential for conflict is tenuous. Even under the common law, the amount of time involved here between the business association and the award of the contract diminishes the possibility of a conflict.

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NOV 22 1983

JUNEAU
OFFICE OF OMBUDSMAN

Jonathan W. Scribner
Deputy Commissioner
Southeast Region -- DOT-PF
366-124-84

November 16, 1983
Page 2

The conflict issue is, unfortunately, enhanced in this case because the Wood contract was awarded on a sole source basis. While there may have been justification for sole source in this particular instance, it would have been preferable, had time and circumstances allowed, to solicit proposals in order to avoid raising the issue of conflict of interest.

If you have further questions, please contact us.

DTC:eja



ombudsman

John B. Chenoweth

December 9, 1983

Jon Scribner, Deputy Commissioner
Southeast Region
Department of Transportation
Post Office Box 1467
Juneau, Alaska 99802

RE: Ombudsman Complaint J83-0683

Dear Mr. Scribner:

I have had an opportunity to review your November 14 reply. I'm appreciative of your action and proposed action with respect to the specific recommendations resubmitted for your consideration.

There is no disagreement between us in the matter of the perception that Mr. Wood's contract constituted an actual conflict of interest, and I don't know that there ever was. Assistant Attorney General Colvin's conclusion in her November 16 opinion supports your point. Ms. Colvin adds a caution, advising that, in order to avoid raising the conflict of interest issue, "it would have been preferable, had time and circumstances allowed, to solicit proposals . . ." It is the appearance of irregularity to the public, I respectfully suggest, with which she is, and I had been, concerned.

Though not part of the complaint from my perspective, you and I have given attention to the issue of compliance with the "Alaska hire" provision, AS 36.10.010. In your November 14 letter, you assert that ". . . further research has revealed that AS 36.10.010 applies only to employees [and that] Jerry Wood was a proprietor or employer, not an employee." I am advised that the last, most comprehensive opinion on the subject of the application of the "Alaska hire" provision was issued on September 12. I am enclosing a copy and, while the opinion is a technical discussion not directly relevant to the Department of Transportation and Public Facilities, I direct your attention to the discussion at pages 5 - 8 of consultants' and related contracts. The Alaska Department of Labor is drafting regulations to interpret the provisions of AS 36.10.010. Randy Carr, a statewide supervisor for the Department's Division of Labor Standards and Safety, this week advised me that the draft of the proposed regulations does exempt or exclude from the provisions of AS 36.10.010(b) certain professional services and consultant's services provided under contract by a professional services contractor under agreement with a state agency.

State of Alaska

Reply to:

- 3201 C Street, Suite 606
Anchorage, Alaska 99503
(907) 276-4011
- Pouch W0
Juneau, Alaska 99811
(907) 465-4970
- P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

I am addressing this matter to emphasize that, if I understand Mr. Carr correctly, the Department of Labor's proposed regulations will distinguish between kinds or types of contractors, and not merely on the basis of the employer-employee relationship. Those proposed regulations are due to go to public hearing. Because they may bear upon the kinds of contracts entered into by the division directors and others employed in your department's Southeast Region, you may want to review these regulations as they become available.

Finally, between us there remains a difference of opinion as to the matter of the cost or value of the original contract between the department and Mr. Wood.

Assuming, as you have suggested I should, that the contract, before its amendment, was one that did not exceed \$25,000, Commissioner Casey's June 27 signature of a waiver may fulfill the requirements of the statute (AS 36.98.030(d)). While I would like to offer a supportive conclusion, my review of the record leads me to conclude, again, that it is far from clear that the commissioner's signature of the waiver complied with either the letter or the spirit of the companion regulation, 17 AAC 07.030, as I discussed at pages 9 - 11 of my August 4 letter.

I was heartened by our discussion and the content of your November 16 response to the criticisms and comments provided in the Internal Review conducted by Bob Janes. From the perspective of this office, I appreciate the attention you have given the matter. Please know, too, that the members of the staff with whom I spoke have also given the matter their good cooperation.

I propose to advise the complainant of the attention given to this complaint and conclude the investigation.

Sincerely,

John B. Chenoweth
Ombudsman

JBC:pjc
Enclosure

BILL SHEFFIELD, GOVERNOR

RECEIVED
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802

JAN 16 1984

SOUTHEAST REGION

(907) 364-4360

JUNEAU
OFFICE OF OMBUDSMAN

January 12, 1984

Re: Governor's Mansion
Project

Mr. Jack Chenoweth
Office of the Ombudsman
Pouch W0
Juneau, Alaska 99811

Dear Mr. Chenoweth:

Thank you for your December 9, 1983 letter on the Governor's Mansion project. I feel good, after finally having an opportunity to discuss your concerns, that we seem to have reached a mutually satisfying understanding on all issues except whether Jerry Wood's contract was subject to AS 36.98.

I would first like to report to you on your November 9 recommendation as promised in my November 14, 1983 letter:

1. Jerry Wood's name was removed from the register.
2. After reviewing how Mr. Wood's name came to be placed on the Professional Services register, I have determined not to reprimand Mr. Linthwaite. The enclosed memorandum from D. D. Dieckmeyer summarizes the basis for my determination. I have shared this information with Ron Lind, Director Administrative Policy & Fiscal Management. The Contracts Administration Section reports to Mr. Lind. He agrees with my determination and the information has been provided to him for any action he may deem appropriate.

Finally, your firm position that AS 36.98 was applicable to the Jerry Wood contract without acknowledgement or consideration of the procedures used or the intent continues to concern me deeply because it falsely portrays a flagrant disregard for State law. So, I asked the Attorney General's Office to review this matter. I would like to share with you the enclosed response which supports the propriety of our actions.

Sincerely,



Jonathan W. Scribner
Deputy Commissioner

Enclosures

JWS/sh

MEMORANDUM

State of Alaska
Department of Transportation & Public Facilities

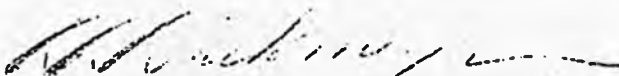
TO: Jonathan W. Scribner
Deputy Commissioner
Southeast Region

Confidential

DATE: December 14, 1983

FILE NO: SHC-010

TELEPHONE NO: 361-4347

FROM: 
D. D. Dieckmeyer, Director
S.E. Region Design & Construction

SUBJECT: Professional Services
Contractors Register

Reference: Letter J. B. Chenoweth to J. W. Scribner, dated November 3, 1983;
Re: Ombudsman Complaint JS3-0683

I have reviewed the above referenced letter with regard to the recommendation that W. A. Lintwaite be reprimanded for directing activities in violation of statutes and regulations that relate to the Department's Professional Services Contractors Register.

AS 36.98.020(a) and 17 AAC 07.020(a) require that a professional services contractors register be established and maintained by the Department. Regulations further define the requirements that must be met in order for a contractor to be placed on the register.

At issue is the claim that Mr. Lintwaite directed the addition of a contractor to the register without requiring the contractor to meet the regulation requirements.

I submit the following:

- 1) Responsibility for the maintenance of the Department's Professional Services Contractors Register is assigned to the Contract Administration Section within the Standards & Statewide Programs group. Employees of the Contract Administration Section are solely responsible for maintaining the integrity of the register.
- 2) Employees within the Contracts Administration Section acknowledged that they knew the exact requirements that must be met in order for a contractor to be placed on the register.
- 3) Employees within the Contracts Administration Section contend that they repeatedly advised that inclusion on the register cannot be only by request of department employees, and they were certain that there was no confusion on the point.
- 4) Employees of the Contract Administration Section are not accountable to anyone in the Southeastern Region, nor are they responsible for receiving direction from anyone in the Southeastern Region.

Mr. Lintwaite is an employee of the Southeastern Region and, therefore, has no authority to direct the activities of employees within the Contracts Administration Section.