

ALASKA LEGISLATURE COMMITTEE FILES 1980-1980 00/2

4102 SJUD SB 341 (FILE 6)

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1 shall encourage local initiative, involvement and financial participa-
2 tion under grants-in-aid whenever possible in preference to the con-
3 struction or operation of facilities directly by the office; contract-
4 ing and construction under this paragraph are governed by AS 36.30
5 (State Procurement Code).

6 * Sec. 63. AS 47.37.130(g) is amended to read:

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

12 * Sec. 64. AS 47.40.041(b) is amended to read:

13 (b) Notices published by the department concerning the opening
14 of the application process for a grant award shall specify the geo-
15 graphical area in which services are needed, the type of services, the
16 number of beds anticipated to be needed, the maximum number of days of
17 care, and any other requirements established by the department.
18 Grants authorized under this section are exempt from the competitive
19 bid requirements of AS 36.30 [AS 37.05.230].

20 * Sec. 65. AS 47.90.010(a) is amended to read:

21 (a) The commissioner, in consultation with state and local
22 government agencies, community groups, and groups concerned with
23 displaced homemakers, may

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

28 (2) coordinate existing state programs for displaced home-
29 makers.

1 * Sec. 66. AS 47.40.041(b) is amended to read:

2 (b) Notices published by the department concerning the opening
3 of the application process for a grant award shall specify the geo-
4 graphical area in which services are needed, the type of services, the
5 number of beds anticipated to be needed, the maximum number of days of
6 care, and any other requirements established by the department.
7 Grants authorized under this section are exempt from AS 36.30 (State
8 Procurement Code) [THE COMPETITIVE BID REQUIREMENTS OF AS 37.05.230].

9 * Sec. 67. REPORT. By December 1, 1987, the commissioner of adminis-
10 tration and the commissioner of transportation and public facilities shall
11 report to the legislature concerning procurements by state agencies during
12 the first six months of 1987. The report must include

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

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

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

18 * Sec. 68. REGULATIONS DEADLINE. The regulations required under
19 AS 36.30 as added by sec. 2 of this Act, shall be adopted by January 1,
20 1987 and shall be effective on that date. Regulations adopted under laws
21 repealed in sec. 69 of this Act become ineffective January 1, 1987.

22 * Sec. 69. REPEALER. The following laws are repealed: AS 14.40.340;
23 AS 19.10.190, 19.10.210; AS 24.23; AS 35.15.030, 35.15.050; AS 36.98;
24 AS 37.05.220, 37.05.230, 37.05.231, 37.05.240, 37.05.250, 37.05.260, 37.-
25 05.270, 37.05.280, 37.05.290, 37.05.400(2) and (3); AS 44.65; AS 44.77.-
26 010(c); and AS 47.90.010(c).

27 * Sec. 70. Section 68 of this Act takes effect immediately in accor-
28 dance with AS 01.10.070(c).

29 * Sec. 71. Except as provided in sec. 70, this Act takes effect

1 January 1, 1987.

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Cook
3/5/86

Original sponsor: Rules Committee
By Request

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 341 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state procurement practices and
7 procedures; and providing for an effective date."

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

9 * Section 1. PURPOSE. This Act shall be construed and applied to
10 promote its underlying purposes and policies. The underlying purposes and
11 policies of this Act are to

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

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

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

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

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

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

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

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

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

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

5 CHAPTER 30. STATE PROCUREMENT CODE.

6 ARTICLE 1. ORGANIZATION OF STATE PROCUREMENT.

7 Sec. 36.30.005. CENTRALIZATION OF PROCUREMENT AUTHORITY. (a)
8 Except as otherwise provided, all rights, powers, duties, and author-
9 ity relating to the procurement of supplies, services, and profes-
10 sional services, and the control over supplies, services, and profes-
11 sional services vested in or exercised by an agency on January 1,
12 1987, are transferred to the commissioner of administration and to the
13 chief procurement officer. Authority granted under this subsection
14 shall be exercised in accordance with this chapter.

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

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

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

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

10 (2) "commissioner," "commissioner of administration," or
11 "commissioner of transportation and public facilities" means the Board
12 of Regents; and

13 (3) "chief procurement officer" or "attorney general" means
14 the president of the University of Alaska.

15 Sec. 36.30.010. CHIEF PROCUREMENT OFFICER. (a) The commis-
16 sioner shall appoint to the partially exempt service the chief pro-
17 curement officer of the state. The chief procurement officer must
18 have at least five years of prior experience in public procurement,
19 including large scale procurement of supplies, services, or profes-
20 sional services, and must be a person with demonstrated executive and
21 organizational ability. The chief procurement officer may be removed
22 by the commissioner only for cause. The term of office of the chief
23 procurement officer expires when the term of the governor expires.

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

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

28 (2) exercise general supervision and control over all
29 inventories of supplies belonging to an agency and prescribe the

1 manner in which supplies shall be purchased, delivered, stored, and
2 distributed;

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

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

8 (5) establish and maintain programs for the inspection,
9 testing, and acceptance of supplies and services and the testing of
10 samples submitted with bids;

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

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

15 Sec. 36.30.015. EXECUTIVE BRANCH AGENCIES. (a) The commis-
16 sioner of transportation and public facilities may delegate to another
17 agency the authority to contract for construction. Before delegating
18 authority to an agency under this subsection, the commissioner of
19 transportation and public facilities shall make a written determina-
20 tion that the agency is capable of implementing the delegated author-
21 ity. Notwithstanding delegation of authority under this subsection,
22 contracts for construction are governed by this chapter and regula-
23 tions adopted by the commissioner of administration under this chap-
24 ter.

25 (b) The commissioner of administration may delegate to an agency
26 the authority to contract for and manage services, professional servi-
27 ces, and supplies. Notwithstanding delegation of authority under this
28 subsection, an agency's exercise of the authority is governed by this
29 chapter and regulations adopted by the commissioner under this

1 chapter. Before delegating authority to an agency under this
2 subsection, the commissioner shall make a written determination that
3 the agency is capable of implementing the delegated authority.

4 (c) The commissioner of administration may not delegate the
5 authority to dispose of supplies or the authority to adopt regulations
6 under this chapter.

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

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

14 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall
15 adopt procedures to govern the procurement of supplies, services,
16 professional services, and construction by the legislature, legisla-
17 tors, and legislative agencies and committees. The procedures must be
18 substantially equivalent to the procedures prescribed in this chapter.

19 Sec. 36.30.030. COURT SYSTEM. The supreme court shall adopt
20 procedures to govern the procurement of supplies, services, profes-
21 sional services, and construction by the judicial branch. The proce-
22 dures must be substantially equivalent to the procedures prescribed in
23 this chapter.

24 Sec. 36.30.040. PROCUREMENT REGULATIONS. (a) The commissioner
25 shall adopt regulations governing the procurement, management, and
26 control of supplies, services, professional services and construction
27 by agencies. The commissioner may audit and monitor the implementa-
28 tion of the regulations and the requirements of this chapter with
29 respect to using agencies.

1 (b) The commissioner shall adopt regulations pertaining to the
2 following:

3 (1) suspension, debarment, and reinstatement of prospective
4 bidders and contractors;

5 (2) bid protests;

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

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

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

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

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

16 (8) storerooms and inventories, including determination of
17 appropriate stock levels and the management of agency supplies;

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

19 (10) definitions and classes of contractual services and
20 procedures for acquiring them;

21 (11) providing for conducting price analysis;

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

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

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

28 (15) a bidder's or offeror's duties under AS 36.30.115 and
29 36.30.210; and

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

5 Sec. 36.30.050. LISTS OF CONTRACTORS. (a) The commissioner
6 shall establish and maintain lists of persons who desire to provide
7 supplies, services, professional services, or construction services to
8 the state.

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

16 (c) The lists may be used by the chief procurement officer or an
17 agency when issuing invitations to bid or requests for proposals under
18 this chapter. The lists may be used by the Legislative Council, the
19 court system, and the Alaska Railroad Corporation.

20 (d) The lists shall be used in providing notice of intent to
21 make a small procurement. A procurement officer who intends to make a
22 procurement under AS 36.30.320 shall request names from the appropri-
23 ate list and the department shall furnish names on a rotating basis
24 from the list in response to each request. If possible, the names
25 furnished in response to each request shall include Alaska bidders as
26 defined in AS 36.30.170(b).

27 Sec. 36.30.060. SPECIFICATIONS. (a) The commissioner shall
28 adopt regulations governing the preparation, revision, and content of
29 specifications for supplies, services, professional services, and

1 construction required by an agency. The commissioner shall monitor
2 the use of these specifications.

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

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

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

18 Sec. 36.30.070. SUPPLY MANAGEMENT. The commissioner shall adopt
19 regulations governing the

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

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

1 years. An agency requiring office, warehouse, or other space shall
2 lease the space through the department.

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

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

17 ARTICLE 2. COMPETITIVE SEALED BIDDING.

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

21 (b) Competitive sealed bidding is not required

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

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

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

29 (4) for the purchase of products or services provided by

1 the correctional industries program established under AS 33.32;

2 (5) for professional services; or

3 (6) for concessions operated on state property.

4 (c) In this section "employment program" means a nonprofit
5 program to increase employment opportunities for individuals with
6 physical or mental disabilities that constitute substantial handicaps
7 to employment.

8 Sec. 36.30.110. INVITATION TO BID. (a) When competitive sealed
9 bidding is used, the procurement officer shall issue an invitation to
10 bid. It must include a time, place and date by which the bid must be
11 received, purchase description, and all contractual terms and condi-
12 tions applicable to the procurement.

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

17 Sec. 36.30.115. SUBCONTRACTORS. (a) Within 24 hours after the
18 opening of bids, each bidder shall submit a list of the subcontractors
19 the bidder proposes to use in the performance of the contract. The
20 list shall include the name and location of the place of business for
21 each subcontractor and evidence of the subcontractor's valid Alaska
22 business license. A bidder for a construction contract shall also
23 submit evidence of each subcontractor's registration under AS 08.18.

24 (b) A bidder may replace a listed subcontractor only if the
25 subcontractor

26 (1) fails to comply with AS 08.18;

27 (2) files for bankruptcy or becomes insolvent;

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

- 1 (4) fails to obtain bonding;
2 (5) fails to obtain insurance acceptable to the state;
3 (6) fails to perform the contract with the bidder involving
4 work for which the subcontractor was listed; or
5 (7) is determined by the commissioner not to be a
6 responsible bidder.

7 (c) If a bidder fails to list a subcontractor or lists more than
8 one subcontractor for the same portion of work and the value of that
9 work is in excess of half of one percent of the total bid, the bidder
10 shall be considered to have agreed to perform that portion of work
11 without the use of a subcontractor and to have represented the bidder
12 to be qualified to perform that work.

13 (d) A bidder who attempts to circumvent the requirements of this
14 section by listing as a subcontractor another contractor who, in turn,
15 sublets the majority of the work required under the contract violates
16 this section.

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

- 19 (1) cancel the contract; or
20 (2) after notice and a hearing, assess a penalty on the
21 bidder in an amount that does not exceed 10 percent of the value of
22 the subcontract at issue.

23 Sec. 36.30.120. BID SECURITY. (a) Bid security shall be re-
24 quired for all competitive sealed bidding for construction contracts
25 when the price is estimated by the procurement officer to exceed an
26 amount established by regulation of the commissioner. Bid security on
27 construction contracts under the amount set by the commissioner may be
28 required when the circumstances warrant. Bid security may be required
29 for competitive sealed bidding for contracts for supplies, services,

1 or professional services in accordance with regulations of the commis-
2 sioner when needed for the protection of the state.

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

7 (1) 10 percent of the amount of the bid if the bid does not
8 exceed \$100,000; or

9 (2) 10 percent of the first \$100,000 and five percent of
10 the amount of the bid over \$100,000 if the bid exceeds \$100,000 up to
11 a maximum of \$200,000 in security.

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

17 Sec. 36.30.130. PUBLIC NOTICE OF INVITATION TO BID. (a) The
18 procurement officer shall give adequate public notice of the invita-
19 tion to bid at least 21 days before the date for the opening of bids.
20 If a determination is made in writing that a shorter notice period is
21 necessary for a particular bid, the 21-day period may be shortened.
22 The determination shall be made by the chief procurement officer for
23 bids for supplies, services, or professional services. The determina-
24 tion shall be made by the commissioner of transportation and public
25 facilities for bids for construction or acquisition of property for
26 the state equipment fleet. Notice shall be published in the Alaska
27 Administrative Journal. The time and manner of notice must be in
28 accordance with regulations adopted by the commissioner of adminis-
29 tration. When practicable, notice may include

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

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

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

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

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

17 (b) The information recorded under (a) of this section is open
18 to public inspection as soon as practicable before the notice of
19 intent to award a contract is given under AS 36.30.365. The bids are
20 not open for public inspection until after the notice of intent to
21 award a contract is given. To the extent the bidder designates and
22 the procurement officer concurs, trade secrets and other proprietary
23 data contained in a bid document are confidential.

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

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

7 Sec. 36.30.160. LATE BIDS; CORRECTION OR WITHDRAWAL OF BIDS;
8 CANCELLATION OF AWARDS. (a) Bids received after the bid due date and
9 time indicated on the invitation to bid may not be accepted unless the
10 delay was due to an error of the contracting agency.

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

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

28 (b) The procurement officer shall award a contract based on
29 solicited bids to the lowest responsible and responsive Alaska bidder

1 if the bid is not more than five percent higher than the lowest non-
2 resident bidder's. In this subsection, "Alaska bidder" means a person
3 who

4 (1) holds a current Alaska business license;

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

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

11 (4) is incorporated under the laws of the state, is a sole
12 proprietorship, and the proprietor is a resident of the state or is a
13 partnership, and all partners are residents of the state;

14 (5) derives at least 50 percent of its income from sources
15 in the state exclusive of investment income; and

16 (6) if a joint venture, is composed entirely of ventures
17 that qualify under (1) - (5) of this subsection.

18 (c) If a bidder qualifies under (b) of this section as an Alaska
19 bidder, is offering services through an employment program as defined
20 under AS 36.30.100(c), and is the lowest responsible and responsive
21 bidder with a bid that is not more than 10 percent higher than the
22 lowest bid of a nonresident, the procurement officer shall award the
23 contract to that bidder.

24 Sec. 36.30.190. MULTI-STEP SEALED BIDDING. When it is con-
25 sidered impractical to initially prepare a definitive purchase de-
26 scription to support an award based on price, the procurement officer
27 may issue an invitation to bid requesting the submission of unpriced
28 technical offers to be followed by an invitation to bid limited to the
29 bidders whose offers are determined to be technically qualified under

1 the criteria set out in the first solicitation.

2 ARTICLE 3. COMPETITIVE SEALED PROPOSALS.

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

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

21 Sec. 36.30.210. REQUEST FOR PROPOSALS. (a) A request for
22 competitive sealed proposals must contain the date, time and place for
23 delivering proposals, a specific description of the supplies,
24 construction, services, or professional services to be provided under
25 the contract, and the terms under which the supplies, construction,
26 services, or professional services are to be provided. The request
27 shall require the offeror to submit evidence of the offeror's valid
28 Alaska business license and, within 24 hours after the date by which
29 proposals must be received, to list subcontractors the offeror

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

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

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

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

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

27 (b) In this section, "standard overhead rate" means a charge
28 established for services and professional services from an agency that
29 is designed to compensate the agency for administration and support

1 services incidentally provided with the services contracted for.

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

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

26 Sec. 36.30.250. AWARD OF CONTRACT. (a) The procurement officer
27 shall award a contract under competitive sealed proposals to the
28 responsible and responsive offeror whose proposal is determined in
29 writing to be the most advantageous to the state taking into

1 consideration price and the evaluation factors set out in the request
2 for proposals. Other factors and criteria may not be used in the
3 evaluation. The contract file must contain the basis on which the
4 award is made.

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

10 Sec. 36.30.260. CONTRACT EXECUTION. A contract awarded under
11 competitive sealed proposals must contain

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

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

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

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

22 ARTICLE 4. OTHER PROCUREMENT METHODS.

23 Sec. 36.30.300. SOLE SOURCE PROCUREMENTS. (a) A contract may
24 be awarded for supplies, services, professional services, or construc-
25 tion without competitive sealed bidding, competitive sealed proposals,
26 or other competition in accordance with regulations adopted by the
27 commissioner of administration. A contract may be awarded under this
28 section only when the chief procurement officer or, for construction
29 contracts or procurements for the state equipment fleet, the

1 commissioner of transportation and public facilities determines in
2 writing that there is only one source for the required procurement or
3 construction. A sole source procurement may not be awarded if a rea-
4 sonable alternative source exists. The written determination must
5 include findings of fact that support by clear and convincing evidence
6 the determination that only one source exists. The authority to make
7 the determination required by this subsection may not be delegated.

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

13 (c) The procurement officer shall negotiate with the single
14 supplier, to the extent practicable, to obtain a contract advantageous
15 to the state.

16 Sec. 36.30.310. EMERGENCY PROCUREMENTS. Procurements may be
17 made under emergency conditions as defined in regulations adopted by
18 the commissioner when there exists a threat to public health, welfare,
19 or safety, when a situation exists that makes a procurement through
20 competitive sealed bidding or competitive sealed proposals impracti-
21 cable or contrary to the public interest, or to protect public or
22 private property. An emergency procurement need not be made through
23 competitive sealed bidding or competitive sealed proposals but shall
24 be made with competition that is practicable under the circumstances.
25 A written determination by the procurement officer of the basis for
26 the emergency and for the selection of the particular contractor shall
27 be included in the contract file. The written determination must
28 include findings of fact that support the determination.

29 Sec. 36.30.320. SMALL PROCUREMENTS. (a) A procurement for

1 supplies, services, or construction that does not exceed an aggregate
2 dollar amount of \$5,000 may be made in accordance with regulations
3 adopted by the commissioner for small procurements.

4 (b) A contract for professional services that does not exceed
5 \$25,000 may be made under regulations adopted by the commissioner for
6 small procurements, except that an agency may not contract for the
7 services of legal counsel without the approval of the attorney
8 general.

9 (c) Small procurements need not be made through competitive
10 sealed bidding or competitive sealed proposals but shall be made with
11 competition that is practicable under the circumstances.

12 (d) Procurement requirements may not be artificially divided or
13 fragmented so as to constitute a purchase under this section or to
14 circumvent the source selection procedures required by AS 36.30.100 -
15 36.30.260.

16 (e) The procurement officer shall give adequate public notice of
17 intent to make a procurement under this section in accordance with
18 regulations adopted by the commissioner. Notices shall be mailed to
19 those active prospective contractors on the appropriate list main-
20 tained under AS 36.30.050 designated by the commissioner.

21 ARTICLE 5. CONTRACT FORMATION AND MODIFICATION.

22 Sec. 36.30.340. REVIEW AND APPROVAL BY DEPARTMENT OF LAW. If a
23 contract contains a term that is in conflict with a state standard
24 form contract term or if a standard term is deleted or modified by a
25 term that is not standard, the contract must be reviewed by the De-
26 partment of Law and approved as to form.

27 Sec. 36.30.350. BID CANCELLATION, REJECTION. An invitation to
28 bid, a request for proposals, or other solicitation may be cancelled
29 or any or all bids or proposals may be rejected in whole or in part or

1 the date for opening bids or proposals may be delayed when it is in
2 the best interests of the state in accordance with regulations adopted
3 by the commissioner. The reasons for cancellation, rejection, or
4 delay in opening bids or proposals shall be made part of the contract
5 file.

6 Sec. 36.30.360. DETERMINATION OF RESPONSIBILITY. (a) A written
7 determination of responsibility of a bidder or offeror shall be made
8 by the procurement officer in accordance with regulations adopted by
9 the commissioner. The unreasonable failure of a bidder or offeror to
10 promptly supply information in connection with an inquiry with respect
11 to responsibility is grounds for a determination of nonresponsibility
12 with respect to the bidder or offeror.

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

16 Sec. 36.30.365. NOTICE OF INTENT TO AWARD A CONTRACT. At least
17 10 days before the formal award of a contract under this chapter the
18 procurement officer shall provide to each bidder or offeror notice of
19 intent to award a contract. The notice shall conform to regulations
20 adopted by the commissioner.

21 Sec. 36.30.370. TYPES OF CONTRACTS. Subject to limitations of
22 this section, any type of contract that will promote the best inter-
23 ests of the state may be used, except that the use of a cost-plus-
24 a-percentage-of-cost contract is prohibited. A cost-reimbursement
25 contract may be used only when a determination is made in writing by
26 the procurement officer that a cost-reimbursement contract is likely
27 to be less costly to the state than any other type or that it is
28 impracticable to obtain the supplies, services, professional services,
29 or construction required except under a cost-reimbursement contract.

1 Sec. 36.30.380. APPROVAL OF ACCOUNTING SYSTEM. Except for a
2 contract awarded through competitive sealed bidding or a firm fixed-
3 price contract, a contract type may not be used unless it has been
4 determined in writing by the procurement officer that the proposed
5 contractor's accounting system

6 (1) will permit timely development of all necessary cost
7 data in the form required by the specific contract type contemplated;
8 and

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

11 Sec. 36.30.390. MULTI-TERM CONTRACTS. (a) Unless otherwise
12 provided by law, a contract for supplies, services, or professional
13 services may be entered into for any period of time considered to be
14 in the best interests of the state provided the term of the contract
15 and conditions of renewal or extension, if any, are included in the
16 solicitation and funds are available for the first fiscal period at
17 the time of contracting. Payment and performance obligations for
18 succeeding fiscal periods shall be subject to the availability and
19 appropriation of funds for them.

20 (b) Before using a multi-term contract, the procurement officer
21 shall determine in writing that

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

24 (2) the contract will serve the best interests of the state
25 by encouraging effective competition or otherwise promoting economies
26 in state procurement.

27 (c) When funds are not appropriated or otherwise made available
28 to support continuation of performance in a subsequent fiscal period,
29 the contract shall be cancelled. The contractor may only be

1 reimbursed for the reasonable value of any nonrecurring costs incurred
2 but not amortized in the price of the supplies, services, or
3 professional services delivered under the contract that are not
4 otherwise recoverable. The cost of cancellation may be paid from any
5 appropriations available for these purposes.

6 Sec. 36.30.400. COST OR PRICING DATA. (a) Before an award of a
7 contract or a change order or contract modification, the contractor or
8 prospective contractor shall submit cost and pricing data. The con-
9 tractor or prospective contractor shall certify that, to the best of
10 the contractor's or prospective contractor's knowledge and belief, the
11 data submitted is accurate, complete, and current as of a mutually
12 determined specified date and will continue to be accurate and com-
13 plete during the performance of the contract.

14 (b) When a contractor becomes aware of a situation that may form
15 the basis of a claim for compensation that exceeds the amount desig-
16 nated as the base amount of the contract and before performing addi-
17 tional work or supplying additional materials, the contractor shall
18 submit cost and pricing data on the additional work or materials. The
19 contractor shall certify that, to the best of the contractor's knowl-
20 edge and belief, the data submitted is accurate, complete, and current
21 and is the actual cost to the contractor of performing the additional
22 work or supplying the additional materials.

23 (c) A contract, change order, or contract modification under
24 which a certificate is required under (a) or (b) of this section must
25 contain a provision that the price to the state, including the con-
26 tractor's profit or fee, will be adjusted to exclude any significant
27 sums by which the state finds that the price is increased because the
28 cost or pricing data furnished by the contractor or prospective con-
29 tractor is inaccurate, incomplete, or not current as of the date

1 agreed upon by the parties.

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

3 (1) the contract price is based on adequate price competi-
4 tion;

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

6 (3) it is determined by the procurement officer in writing
7 and in accordance with regulations adopted by the commissioner that
8 the requirements of (a) of this section may be waived, and the reasons
9 for waiver are stated.

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

14 Sec. 36.30.420. RIGHT TO AUDIT RECORDS. (a) The state may, at
15 reasonable times and places, audit the books and records of a person
16 who has submitted cost or pricing data under AS 36.30.400 to the
17 extent that the books and records relate to the cost or pricing data.
18 A person who receives a contract, change order, or contract modifica-
19 tion for which cost or pricing data is required, shall maintain books
20 and records that relate to the cost or pricing data for three years
21 after the date of final payment under the contract, unless a shorter
22 period is authorized in writing by the commissioner.

23 (b) The state may audit the books and records of a contractor or
24 a subcontractor to the extent that the books and records relate to the
25 performance of the contract or subcontract. Books and records shall
26 be maintained by the contractor for a period of three years after the
27 date of final payment under the prime contract and by the subcontrac-
28 tor for a period of three years after the date of final payment under
29 the subcontract, unless a shorter period is authorized in writing by

1 the commissioner.

2 Sec. 36.30.430. STANDARD MODIFICATION CLAUSES FOR CONTRACTS.

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

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

- 9 (1) liquidated damages;
10 (2) specified excuses for delay or nonperformance;
11 (3) termination of the contract for default; and
12 (4) termination of the contract in whole or in part for the

13 convenience of the state.

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

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

20 (2) approval required by AS 36.30.340 is obtained.

21 Sec. 36.30.470. FISCAL RESPONSIBILITY. A contract modification,
22 change order, or contract price adjustment under a construction con-
23 tract in excess of an amount established by regulation of the commis-
24 sioner is subject to prior written certification by the fiscal officer
25 of the agency responsible for funding the project or the contract, or
26 other official responsible for monitoring and reporting upon the
27 status of the costs of the total project budget or contract budget, as
28 to the effect of the contract modification, change order, or adjust-
29 ment in contract price on the total project budget or the total

1 contract budget. If the certification of the fiscal officer or other
 2 responsible official discloses a resulting increase in the total
 3 project budget or the total contract budget, the procurement officer
 4 may not approve the contract modification, change order, or adjustment
 5 in contract price unless sufficient funds are available, or the scope
 6 of the project or contract is adjusted to permit the degree of com-
 7 pletion that is feasible within the total project budget or total
 8 contract budget as it existed before the contract modification, change
 9 order, or adjustment in contract price under consideration. A con-
 10 tract modification change order, or adjustment in contract that is
 11 signed by both parties and has been reasonably relied on by a contrac-
 12 tor, is presumed to be valid even if the provisions of this section
 13 have not been met.

14 Sec. 36.30.480. COST PRINCIPLE REGULATIONS. The commissioner
 15 shall adopt regulations setting out cost principles that shall be used
 16 to determine the allowability of incurred costs for the purpose of
 17 reimbursing costs under contract provisions that provide for the
 18 reimbursement of costs. If a written determination is approved at a
 19 level above the procurement officer, the cost principles may be modi-
 20 fied by contract.

21 ARTICLE 6. PROCUREMENT RECORDS AND REPORTS.

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

27 Sec. 36.30.510. RECORDS OF CONTRACTS AWARDED UNDER COMPETITIVE
 28 SEALED PROPOSALS. A contract file open for public inspection shall be
 29 kept by the commissioner and the contracting agency for each contract

1 awarded under competitive sealed proposals. The file kept by the
2 commissioner shall contain a summary of the information in the file of
3 the contracting agency. The file kept by the contracting agency must
4 contain

- 5 (1) a copy of the contract;
- 6 (2) the register of proposals prepared under AS 36.30.230
7 and a copy of each proposal submitted; and
- 8 (3) the written determination to award the contract pre-
9 pared under AS 36.30.250.

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

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

19 (b) The Department of Transportation and Public Facilities and
20 any agency to whom the commissioner of administration or the commis-
21 sioner of transportation and public facilities has delegated procure-
22 ment authority under AS 36.30.015 shall, by October 1 of each year,
23 submit to the commissioner of administration records of the type
24 specified in (a) of this section. The commissioner of administration
25 shall maintain these records as required by (a) of this section.

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

28 Sec. 36.30.540. REPORT TO LEGISLATURE. Beginning with Decem-
29 ber 1, 1989, the commissioner shall biennially report to the

1 legislature concerning procurements by agencies. The report must
2 include

3 (1) the records maintained by the commissioner under
4 AS 36.30.510 and the records maintained under AS 36.30.520(a) for the
5 previous two fiscal years;

6 (2) recommendations for changes in this chapter or other
7 laws based on implementation of this chapter in the previous two
8 fiscal years;

9 (3) a description of any matters that involved litigation
10 concerning this chapter in the previous two fiscal years;

11 (4) a list of procurements made under this chapter from
12 out-of-state sources during the previous two fiscal years together
13 with the total number of procurement contracts entered into during
14 that period with out-of-state contractors and the total value of these
15 contracts; this paragraph does not apply to procurements made under
16 AS 36.30.320; and

17 (5) a list of procurements made under this chapter from
18 state sources during the previous two fiscal years together with the
19 total number of procurement contracts entered into during that period
20 with state contractors and the total value of these contracts; this
21 paragraph does not apply to procurements made under AS 36.30.320.

22 ARTICLE 7. LEGAL AND CONTRACTUAL REMEDIES.

23 Sec. 36.30.560. FILING OF A PROTEST. An interested party may
24 protest the award of a contract, the proposed award of a contract, or
25 a solicitation for supplies, services, professional services, or
26 construction by an agency. The protest shall be filed with the pro-
27 curement officer of the contracting agency in writing and include the
28 following information:

29 (1) the name, address, and telephone number of the

1 protester;

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

4 (3) identification of the contracting agency and the solic-
5 itation or contract at issue;

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

8 (5) the form of relief requested.

9 Sec. 36.30.565. TIME FOR FILING A PROTEST. (a) A protest based
10 upon alleged improprieties in a solicitation involving competitive
11 sealed bidding that are apparent before the bid opening shall be filed
12 before the bid opening. A protest based on alleged improprieties in a
13 solicitation involving competitive sealed proposals that are apparent

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

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

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

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

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

29 Sec. 36.30.575. STAY OF AWARD. If a protest is filed the award

1 may be made unless the procurement officer of the contracting agency
2 determines in writing that a

3 (1) reasonable probability exists that the protest will be
4 sustained; or

5 (2) stay of the award is not contrary to the best interests
6 of the state.

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

13 (b) The time for a decision may be extended up to 26 days for
14 good cause by the commissioner of administration, or for protests
15 involving construction or procurements for the state equipment fleet,
16 the commissioner of transportation and public facilities. If an
17 extension is granted, the procurement officer shall notify the pro-
18 tester in writing of the date the decision is due.

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

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

25 (b) In determining an appropriate remedy, the procurement offi-
26 cer shall consider the circumstances surrounding the solicitation or
27 procurement including the seriousness of the procurement deficiencies,
28 the degree of prejudice to other interested parties or to the integri-
29 ty of the procurement system, the good faith of the parties, the

1 extent the procurement has been accomplished, costs to the agency and
2 other impacts on the agency of a proposed remedy, and the urgency of
3 the procurement to the welfare of the state.

4 Sec. 36.30.590. APPEAL ON A PROTEST. (a) An appeal from a
5 decision of a procurement officer on a protest may be filed by the
6 protester with the commissioner of administration, or for protests
7 involving construction or procurements for the state equipment fleet,
8 the commissioner of transportation and public facilities. An appeal
9 shall be filed within five days after the decision is received by the
10 protester. The protester shall file a copy of the appeal with the
11 procurement officer.

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

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

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

21 (b) The commissioner of administration or the commissioner of
22 transportation and public facilities, as appropriate, shall, on re-
23 quest, furnish a copy of the appeal to a person notified under (a) of
24 this section, except that confidential material shall be deleted from
25 the copy.

26 Sec. 36.30.600. STAY OF AWARD DURING PROTEST APPEAL. If a
27 protest appeal is filed before a contract is awarded and the award was
28 stayed under AS 36.30.575, the filing of the appeal automatically
29 continues the stay until the commissioner of administration or the

1 commissioner of transportation and public facilities, as appropriate,
2 makes a written determination that the award of the contract without
3 further delay is necessary to protect substantial interests of the
4 state.

5 Sec. 36.30.605. PROTEST REPORT. (a) The procurement officer of
6 the contracting agency shall file a complete report on the protest and
7 decision with the commissioner of administration or the commissioner
8 of transportation and public facilities, as appropriate, within seven
9 days after a protest appeal is filed. The procurement officer shall
10 furnish a copy of the report to the protester and to interested par-
11 ties that have requested a copy of the appeal under AS 36.30.595(b).

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

22 (c) The protester may file comments on the protest report with
23 the commissioner of administration or the commissioner of transporta-
24 tion and public facilities, as appropriate, within seven days after
25 the report is received. The protester shall provide copies of the
26 comments to the procurement officer and to interested parties that
27 have requested a copy of the appeal under AS 36.30.595(b).

28 (d) The protester may request an extension of time to prepare
29 the comments on the protest report. The request must be in writing

1 listing the reasons for the request. The commissioner of administra-
2 tion or the commissioner of transportation and public facilities, as
3 appropriate, shall respond to the request in writing. If an extension
4 is granted, the commissioner shall list the reasons for granting the
5 extension and indicate the date the comments are due. The commission-
6 er shall notify the procurement officer in writing that the time for
7 submission of the comments has been extended and the date the comments
8 are due.

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

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

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

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

28 (b) If a controversy asserted by a contractor concerning a
29 contract awarded under this chapter cannot be resolved by agreement,

1 the procurement officer shall, after receiving a written request by
2 the contractor for a decision, issue a written decision. The decision
3 shall be made no more than 90 days after receipt by the procurement
4 officer of all necessary information from the contractor. Failure of
5 the contractor to furnish necessary information to the procurement
6 officer constitutes a waiver of the claim. Before issuing the deci-
7 sion the procurement officer shall review the facts relating to the
8 controversy and obtain necessary assistance from legal, fiscal, and
9 other advisors.

10 (c) The time for issuing a decision under (b) of this section
11 may be extended for good cause by the commissioner of administration,
12 or for a controversy involving a construction contract or procurement
13 for the state equipment fleet, the commissioner of transportation and
14 public facilities, if the controversy concerns an amount in excess of
15 \$50,000. The procurement officer shall notify the contractor in
16 writing that the time for the issuance of a decision has been extended
17 and of the date by which a decision shall be issued.

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

- 21 (1) description of the controversy;
22 (2) reference to the pertinent contract provisions;
23 (3) statement of the agreed upon and disputed facts;
24 (4) statement of reasons supporting the decision; and
25 (5) statement substantially as follows:

26 "This is the final decision of the procurement officer.

27 This decision may be appealed to the commissioner of

28 _____ (administration/transportation

29 and public facilities). If you appeal, you must file

1 a written notice of appeal with the commissioner within
2 14 days after you receive this decision."

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

6 (f) If a controversy asserted by the state concerning a contract
7 awarded under this chapter cannot be resolved by agreement the matter
8 shall be immediately referred to the commissioner of administration or
9 the commissioner of transportation and public facilities, as appro-
10 priate.

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

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

23 Sec. 36.30.630. HEARING ON A CONTRACT CONTROVERSY. (a) Except
24 as provided in (b) of this section, a hearing shall be conducted
25 according to AS 36.30.670 and regulations adopted by the commissioner
26 of administration on a contract controversy appealed to the commis-
27 sioner of administration or the commissioner of transportation and
28 public facilities or referred to either commissioner under AS 36.30.-
29 620(f).

1 (b) Within 15 days after receipt of an appeal on a contract
2 controversy the commissioner of administration or the commissioner of
3 transportation and public facilities, as appropriate, may adopt the
4 decision of the procurement officer as the final decision without a
5 hearing.

6 Sec. 36.30.632. DELEGATION. The commissioner of administration
7 and the commissioner of transportation and public facilities may
8 delegate responsibilities under AS 36.30.590 and 36.30.630 to the head
9 of the contracting agency.

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

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

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

29 Sec. 36.30.640. CAUSES FOR DEBARMENT OR SUSPENSION. The causes

1 for debarment or suspension include the following:

2 (1) conviction for commission of a criminal offense as an
3 incident to obtaining or attempting to obtain a public or private
4 contract or subcontract, or in the performance of the contract or
5 subcontract;

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

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

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

16 (A) knowing failure without good cause to perform in
17 accordance with the specifications or within the time limit
18 provided in the contract; or

19 (B) failure to perform or unsatisfactory performance
20 in accordance with the terms of one or more contracts, except
21 that failure to perform or unsatisfactory performance caused by
22 acts beyond the control of the contractor may not be considered
23 to be a basis for debarment;

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

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

28 (7) any other cause listed in regulations of the commis-
29 sioner determined to be so serious and compelling as to affect

1 responsibility as a state contractor, including debarment by another
2 governmental entity for a cause listed in the regulations.

3 Sec. 36.30.645. WRITTEN DETERMINATIONS. (a) The commissioner
4 of administration or the commissioner of transportation and public
5 facilities shall issue a written decision to debar or suspend. The
6 decision must

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

8 (2) inform the debarred person of rights to judicial appeal
9 or inform the suspended person of rights to administrative and judi-
10 cial appeal.

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

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

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

28 Sec. 36.30.655. LIST OF PERSONS DEBARRED OR SUSPENDED. The
29 commissioner shall maintain a list of all persons debarred or

1 suspended from consideration for award of contracts.

2 Sec. 36.30.660. REINSTATEMENT. (a) The commissioner of admin-
3 istration or the commissioner of transportation and public facilities
4 may at any time after a final decision to debar a person from consid-
5 eration for award of contracts reinstate the person after determining
6 that the cause for which the person was debarred no longer exists or
7 has been substantially mitigated.

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

13 (c) The commissioner of administration or the commissioner of
14 transportation and public facilities may require a hearing on a rein-
15 statement petition. A decision on reinstatement shall be made in
16 writing within seven days after a reinstatement petition is submitted.
17 The decision shall specify the factors on which it is based. A deci-
18 sion under this section is not subject to judicial appeal.

19 Sec. 36.30.665. LIMITED PARTICIPATION. The commissioner of
20 administration or the commissioner of transportation and public facil-
21 ities may permit a debarred person to participate in a contract on a
22 limited basis during the debarment period if the commissioner deter-
23 mines in writing that the participation is advantageous to the state.
24 The determination shall specify the factors on which it is based and
25 the limits imposed on the debarred person.

26 Sec. 36.30.670. HEARING PROCEDURES. (a) The commissioner of
27 administration or the commissioner of transportation and public facil-
28 ities shall act as a hearing officer or appoint a hearing officer for
29 a hearing conducted under this chapter. The hearing officer shall

1 arrange for a prompt hearing and notify the parties in writing of the
2 time and place of the hearing. The hearing shall be conducted in an
3 informal manner. The provisions of AS 44.62 (Administrative Procedure
4 Act) do not apply to a hearing conducted under this chapter.

5 (b) The hearing officer may

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

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

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

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

14 (5) regulate the course of the hearing and conduct of the
15 participants;

16 (6) establish time limits for submission of motions or
17 memoranda;

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

20 (A) prohibiting the person from asserting or opposing
21 designated claims or defenses or introducing designated matters
22 into evidence;

23 (B) excluding all testimony of an unresponsive or
24 evasive witness; and

25 (C) excluding a person from further participation in
26 the hearing;

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

1 (9) administer oaths or affirmations.

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

4 Sec. 36.30.675. RECOMMENDATION BY THE HEARING OFFICER. (a) If
5 the commissioner of administration or the commissioner of transporta-
6 tion and public facilities is not acting as hearing officer, the
7 hearing officer shall recommend a decision to the commissioner based
8 on the evidence presented. The recommendation shall include findings
9 of fact and conclusions of law.

10 (b) The commissioner of administration or the commissioner of
11 transportation and public facilities may affirm, modify, or reject the
12 hearing officer's recommendation in whole or in part, may remand the
13 matter to the hearing officer with instructions, or take other appro-
14 priate action.

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

24 Sec. 36.30.685. JUDICIAL APPEAL. (a) A final decision of the
25 commissioner of administration or the commissioner of transportation
26 and public facilities under AS 36.30.610, 36.30.635(a), 36.30.650, or
27 36.30.680 may be appealed to the superior court in accordance with the
28 Alaska Rules of Appellate Procedure.

29 (b) A final decision of the commissioner of administration or

1 the commissioner of transportation and public facilities under AS 36.-
2 30.630(b) may be appealed to the superior court for a trial de novo.

3 Sec. 36.30.687. MISREPRESENTATIONS AND FRAUDULENT CLAIMS. (a)
4 A person who makes or uses in support of a contract claim under this
5 chapter, a misrepresentation, or who practices or attempts to practice
6 a fraud, at any stage of proceedings relating to a procurement or
7 contract controversy under this chapter:

8 (1) forfeits all claims relating to that procurement or
9 contract; and

10 (2) is liable to the state for reimbursement of all sums
11 paid on the claim, for all costs attributable to review of the claim,
12 and for a civil penalty equal to the amount by which the claim is
13 misrepresented.

14 (b) The procurement officer, commissioner or court shall make
15 specific findings of misrepresentation, attempted fraud or fraud
16 before declaring a forfeiture under (a)(1) of this section.

17 (c) Suits to recover costs and penalties under (a)(2) of this
18 section must be commenced within six years after the discovery of the
19 misrepresentation, fraud, or attempted fraud.

20 (d) A person who in a matter relating to a procurement or a
21 contract controversy or claim under this chapter makes a misrepresen-
22 tation to the state through a trick, scheme, or device is guilty of a
23 class C felony.

24 (e) In this section, "misrepresentation" means a false or mis-
25 leading statement of material fact, or conduct intended to deceive or
26 mislead concerning material fact, whether it succeeds in deceiving or
27 misleading.

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

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

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

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

15 ARTICLE 8. INTERGOVERNMENTAL RELATIONS.

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

26 Sec. 36.30.710. SALE, ACQUISITION, OR USE OF SUPPLIES BY A
27 PUBLIC PROCUREMENT UNIT. (a) A public procurement unit may sell to,
28 acquire from, or use any supplies belonging to another public procure-
29 ment unit or external procurement activity independent of the

1 requirements of AS 36.30.060 and 36.30.100 - 36.30.260.

2 (b) A public procurement unit may enter into an agreement,
3 independent of the requirements of AS 36.30.060 and 36.30.100 - 36.-
4 30.260, with another public procurement unit or external procurement
5 activity for the cooperative use of supplies or services under the
6 terms agreed upon between the parties.

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

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

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

29 (c) Upon request, the commissioner may make available to public

1 procurement units or external procurement activities the following
2 services, among others:

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

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

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

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

28 Sec. 36.30.735. RESTRICTION ON CONTRACTING WITH OR EMPLOYING
29 EXPERTS ON RADIATION HAZARDS. (a) Except for the Department of

1 Health and Social Services, the Department of Labor, the Department of
2 Environmental Conservation, and the Department of Military and Veter-
3 ans' Affairs, a state agency may not

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

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

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

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

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

26 Sec. 36.30.750. CONTRACT CONTROVERSIES. (a) Under a coopera-
27 tive purchasing agreement, controversies arising between an adminis-
28 tering public procurement unit and its bidders, offerors, or contrac-
29 tors shall be resolved in accordance with AS 36.30.560 - 36.30.699.

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

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

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

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

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

20 (4) "public procurement unit" means either a local public
21 procurement unit or a state public procurement unit;

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

24 ARTICLE 9. GENERAL PROVISIONS.

25 Sec. 36.30.850. APPLICATION OF THIS CHAPTER. (a) This chapter
26 applies only to contracts solicited or entered into after January 1,
27 1987, unless the parties agree to its application to a contract solic-
28 ited or entered into before that date.

29 (b) This chapter applies to every expenditure of state funds

1 irrespective of their sources, including federal assistance except as
2 otherwise specified in AS 36.30.890, by the state, acting through an
3 agency, under a contract, except that this chapter does not apply to

4 (1) grants;

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

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

10 (4) contracts for medical doctors and dentists;

11 (5) acquisitions or disposals of real property or interest
12 in real property, except as provided in AS 36.30.080;

13 (6) disposals under AS 38.05;

14 (7) contracts for the preparation of ballots under AS 15.-
15 15.030;

16 (8) acquisitions or disposals of property and other con-
17 tracts relating to airports under AS 02.15.070, 02.15.090, and 02.15.-
18 091;

19 (9) disposals of obsolete property under AS 19.05.060;

20 (10) disposals of obsolete material or equipment under
21 AS 35.20.060;

22 (11) agreements with providers of services under AS 47.07;
23 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310.

24 (c) Except for AS 36.30.700 - 36.30.790, this chapter does not
25 apply to contracts between two or more agencies, the state and its
26 political subdivisions, or the state and other governments.

27 (d) Nothing in this chapter or in regulations adopted under this
28 chapter prevents an agency or political subdivision from complying
29 with the terms and conditions of a grant, gift, bequest, or

1 cooperative agreement.

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

9 Sec. 36.30.870. ADOPTION OF REGULATIONS. (a) Regulations under
10 this chapter shall be adopted in accordance with the Administrative
11 Procedure Act (AS 44.62).

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

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

20 Sec. 36.30.890. FEDERAL ASSISTANCE. If a procurement involves
21 the expenditure of federal funds or federal assistance and there is a
22 conflict between a provision of this chapter or a regulation adopted
23 under a provision of this chapter and a federal statute or regulation
24 the federal statute or regulation shall prevail.

25 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter
26 does not modify, amend, or alter AS 36.15.010 and 36.15.020 regarding
27 preference for Alaska forest products, or AS 36.20.010 regarding
28 preference to producers or dealers in Alaska except as provided in
29 AS 36.30.170(b) and (c).

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

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

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

11 (1) a person who contracts for or purchases supplies,
12 equipment for the state fleet, services, professional services, or
13 construction in a manner the person knows to be contrary to the re-
14 quirements of this chapter or the regulations adopted under this
15 chapter is liable for all costs and damages to the state arising out
16 of the violation;

17 (2) a person who intentionally or knowingly contracts for
18 or purchases supplies, equipment for the state fleet, services, pro-
19 fessional services, or construction under a scheme or artifice to
20 avoid the requirements of this chapter is guilty of a class C felony.

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

23 Sec. 36.30.990. DEFINITIONS. In this chapter, unless the con-
24 text in which a term is used clearly requires a different meaning or a
25 different definition is prescribed for a particular provision,

26 (1) "agency" means a department, institution, board, com-
27 mission, division, authority, public corporation, the Alaska Pioneers'
28 Home, or other administrative unit of the executive branch of state
29 government, except for the University of Alaska and the Alaska

1 Railroad Corporation; it does not include a regional Native housing
2 authority created under AS 18.55.996, or a regional electrical
3 authority created under AS 18.57.020;

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

8 (3) "commissioner" means the commissioner of the Department
9 of Administration;

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

12 (5) "competitive sealed proposals" means the procedure
13 under AS 36.30.200 - 36.30.260;

14 (6) "construction" means the process of building, altering,
15 repairing, maintaining, improving, or demolishing a public highway,
16 structure, building, or other public improvement of any kind to real
17 property other than privately owned real property leased for the use
18 of agencies; it includes services and professional services relating
19 to planning and design required for the construction; it does not
20 include the routine operation of a public improvement to real
21 property;

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

26 (8) "contract modification" means a written alteration in
27 specifications, delivery point, rate of delivery, period of perfor-
28 mance, price, quantity, or other provisions of a contract accomplished
29 by mutual action of the parties to the contract;

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

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

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

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

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

23 (14) "professional services" means professional, technical,
24 or consultant's services that are predominantly intellectual in char-
25 acter, result in the production of a report or the completion of a
26 task, and include analysis, evaluation, prediction, planning, or
27 recommendation;

28 (15) "services" means the furnishing of labor, time, or
29 effort by a contractor, not involving the delivery of a specific end

1 product other than reports that are merely incidental to the required
2 performance; it does not include employment agreements or collective
3 bargaining agreements;

4 (16) "supplies" means all property of an agency, including
5 equipment, materials, and insurance; it includes privately owned real
6 property leased for the use of agencies, such as office space, but
7 does not include the acquisition or disposition of other interests in
8 land.

9 Sec. 36.30.995. SHORT TITLE. This chapter may be cited as the
10 State Procurement Code.

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

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

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

21 Sec. 05.20.040. PERSONNEL TO INSPECT DEVICES. The department
22 shall designate a person qualified in experience and training as the
23 inspector of devices. The department may employ additional employees
24 as are necessary to administer this chapter. The inspector and the
25 employees may be hired on a temporary basis or borrowed from other
26 state departments or political subdivisions of the state, or the
27 department may contract with individuals or firms for the inspecting
28 service on an independent basis. The department shall prescribe the
29 salary or other remuneration for this service. Contracting under this

1 section is governed by AS 36.30 (State Procurement Code).

2 * Sec. 5. AS 09.50.250 is amended to read:

3 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
4 or corporation having a contract, quasi-contract, or tort claim
5 against the state may bring an action against the state in the superi-
6 or court. A person who may present the claim under AS 44.77 may not
7 bring an action under this section except as set out in AS 44.77.-
8 040(c). A person who may bring an action under AS 36.30.560 - 36.30.-
9 695 may not bring an action under this section except as set out in
10 AS 36.30.685. However, no action may be brought under this section if
11 the claim

12 (1) is an action for tort, and is based upon an act or
13 omission of an employee of the state, exercising due care, in the
14 execution of a statute or regulation, whether or not the statute or
15 regulation is valid; or is an action for tort, and based upon the
16 exercise or performance or the failure to exercise or perform a dis-
17 cretionary function or duty on the part of a state agency or an em-
18 ployee of the state, whether or not the discretion involved is abused;

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

21 (3) arises out of assault, battery, false imprisonment,
22 false arrest, malicious prosecution, abuse of process, libel, slander,
23 misrepresentation, deceit, or interference with contract rights.

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

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

26 (1) sue and be sued;

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

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

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

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

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

12 (7) recommend to the department projects for construction,
13 rehabilitation, and improvement of schools and education-related
14 facilities as specified in AS 14.11.010(a), and plan, design, and
15 construct the project when the responsibility for it is assumed under
16 AS 14.11.020;

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

19 (9) by resolution adopted by a majority of all the members
20 of the board and provided to the commissioner of the department,
21 assume ownership of all land and buildings used in relation to the
22 schools in the regional educational attendance area;

23 (10) provide housing for rental to teachers; by leasing
24 existing housing from a local agency or individual, or by entering
25 into contractual arrangements with a local agency or individual to
26 lease housing that will be constructed by the local agency or indi-
27 vidual for that purpose.

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

29 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The

1 commissioner has, but not by way of limitation, the following powers
2 and duties:

3 (1) assist the United States Fish and Wildlife Service in
4 the enforcement of federal laws and regulations pertaining to fish and
5 game;

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

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

15 (4) accept money from any person under conditions requiring
16 the use of the money for specific purposes in the furtherance of the
17 protection, rehabilitation, propagation, preservation, or investiga-
18 tion of the fish and game resources of the state or in settlement of
19 claims for damages to fish or game resources;

20 (5) collect, classify, and disseminate statistics, data and
21 information that, in the commissioner's discretion, will tend to
22 promote the purposes of this title except AS 16.51 and AS 16.52;

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

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

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

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

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

9 (11) not later than January 31 of each year, provide to the
10 commissioner of revenue the names of those fish and shellfish species
11 which the commissioner of fish and game designates as developing
12 commercial fish species for that calendar year; a fish or shellfish
13 species is a developing commercial fish species if, within a specified
14 geographical region,

15 (A) the optimum yield from the harvest of the species
16 has not been reached;

17 (B) a substantial portion of the allowable harvest of
18 the species has been allocated to fishing vessels of a foreign
19 nation; or

20 (C) a commercial harvest of the fish species has
21 recently developed;

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

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

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

29 (c) The department may contract to others the performance of the

1 department's responsibilities under this section. Contracting under
2 this subsection is governed by AS 36.30 (State Procurement Code),
3 except that a [A] contract may include provisions for advance payment
4 or reimbursement for services performed under the contract. All costs
5 incurred under this section may be paid from the fish and game fund.

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

7 Sec. 18.15.120. TUBERCULOSIS CONTROL PROGRAM AUTHORIZED. The
8 department may establish a comprehensive program for the control of
9 tuberculosis in the state, and may

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

12 (2) establish necessary out-patient clinics for the care of
13 tuberculosis;

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

17 (4) under the provisions of AS 36.30 (State Procurement
18 Code), obtain, by purchase or donation from surplus federal property
19 or otherwise, medical supplies and equipment useful in carrying out
20 this program and to allot or resell these supplies and equipment to
21 private institutions engaged by the department to carry out this
22 program;

23 (5) under the provisions of AS 36.30, contract with hos-
24 pitals, associations, or sanatorium qualified and equipped to give
25 adequate care inside or outside the state;

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

28 (7) pay the costs of care and incidental expenses for
29 residents of the state, in whole or in part, depending on the ability

1 of each patient to pay, and the temporary costs of care and transpor-
2 tation for nonresidents on the same basis until they can be trans-
3 ferred to their residence;

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

6 (9) establish standards in accordance with department
7 procedure for the care of tuberculars receiving treatment under
8 AS 18.15.120 - 18.15.140.

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

10 (d) The authority's power to contract, lease, rent, construct,
11 acquire, procure, and provide for services under this section is
12 governed by AS 36.30. However, to the extent that AS 36.30 conflicts
13 with responsibilities of the authority under AS 18.55.110, the provi-
14 sions of AS 18.55.110 prevail.

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

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

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

22 Sec. 19.05.080. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-
23 RIALS BY PURCHASE OR EMINENT DOMAIN. The department on behalf of the
24 state and as part of the cost of constructing or maintaining a highway
25 may purchase in the open market, acquire, take over, or condemn under
26 the right and power of eminent domain land in fee simple or easements
27 which it considers necessary for present public use, either temporary
28 or permanent, or which it considers necessary and reasonable for the
29 public use. By the same means, the department may obtain material,

1 including clay, gravel, sand, or rock, or the land necessary to obtain
2 material, including access to it. The department may acquire the land
3 or materials notwithstanding the fact that title to it is vested in
4 the state or a department, agency, commission or institution of the
5 state. Acquisition of materials by purchase in the open market under
6 this section is governed by AS 36.30 (State Procurement Code).

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

8 Sec. 19.10.160. STANDARD PLANS AND SPECIFICATIONS. The depart-
9 ment shall prepare and adopt uniform standard plans and specifications
10 for the establishment, construction and maintenance of highways in the
11 state. The department may amend the plans and specifications as it
12 considers advisable. The standards shall conform as closely as prac-
13 ticable to those adopted by the American Association of State Highway
14 and Transportation Officials.

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

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

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

25 Sec. 19.10.180. REQUEST FOR PUBLIC BIDS. Requests for public
26 bids are governed by AS 36.30 (State Procurement Code). The request
27 for public bids may require the contractor to furnish equipment,
28 labor, materials, and supplies for the project, or it may state that
29 the department will furnish the materials and supplies. If the

1 department elects to provide materials and supplies for a project, it
2 shall do so at the time it adopts the construction program. The
3 department shall acquire these materials and supplies under AS 36.30
4 by requesting bids for them according to the class, type, and nature
5 of the materials and supplies. The contract for materials and sup-
6 plies may be awarded either upon the basis of delivery to the con-
7 struction project directly or to a central storehouse or storehouses
8 maintained by the department. Those materials and supplies so pur-
9 chased by the department may be delivered to the project site without
10 expense to the contractor, or it may sell them to the contractor at
11 cost and make the materials and supplies a part of the construction
12 cost.

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

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

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

19 Sec. 19.30.070. CONTRACTS FOR CONSTRUCTION OF ROADS. The
20 director of the division of lands may contract with private persons
21 for the construction of roads to and on state lands programmed for
22 surface disposal which are not more than six miles from existing roads
23 or highways. Contracts under this section are governed by AS 36.30
24 (State Procurement Code).

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

26 Sec. 19.30.080. CONSTRUCTION STANDARDS AND MAINTENANCE. An
27 access road constructed under AS 19.30.060 - 19.30.100 shall be of low
28 standard, not necessarily suitable for all weather use. The state is
29 not under obligation to maintain an access road constructed under AS

1 19.30.060 - 19.30.100. If an access road is constructed outside a
2 municipality that has zoning ordinances, the right-of-way width for
3 the road shall be determined by the division of lands and the Depart-
4 ment of Transportation and Public Facilities. If an access road is
5 constructed within the boundaries of a municipality that has zoning
6 ordinances, the right-of-way width shall conform to the subdivision
7 control ordinances of the municipality. Contracts for the work on an
8 access road are governed by AS 36.30 (State Procurement Code) [SHALL
9 BE AWARDED TO THE LOWEST RESPONSIBLE BIDDER QUALIFIED TO CONTRACT WITH
10 THE STATE].

11 * Sec. 19. AS 19.40.020(a) is amended to read:

12 (a) Subject to (b) of this section, the department may contract
13 in accordance with AS 36.30 for the construction of a secondary high-
14 way from the Yukon River to the Arctic Ocean. [THE DEPARTMENT MAY
15 REQUEST BIDS AND AWARD CONTRACTS FOR THE CONSTRUCTION OF THE HIGHWAY,
16 OR IT MAY ELECT TO DIRECTLY NEGOTIATE CONTRACTS FOR THE CONSTRUCTION
17 OF THE HIGHWAY IF IT APPEARS TO BE IN THE BEST INTERESTS OF THE
18 STATE.] The provisions of AS 36.10 govern in employment practices on
19 all work authorized by this chapter.

20 * Sec. 20. AS 19.60.010 is amended to read:

21 Sec. 19.60.010. ACQUISITION AND MAINTENANCE OF FERRY TERMINAL
22 FACILITIES. The department shall construct, purchase or lease ferry
23 terminal facilities at locations it selects for the loading and un-
24 loading of passengers and vehicles under their own power, on and off
25 ferries. The department shall repair and maintain these facilities.
26 Construction and purchasing under this section are governed by AS 36.-
27 30 (State Procurement Code).

28 * Sec. 21. AS 23.15.611(a) is amended to read:

29 (a) The department may [IS AUTHORIZED TO] participate in

1 programs of manpower training if it finds they are necessary to meet
2 the occupational needs of the state. This authorization includes
3 authority to execute on behalf of the state agreements or contracts
4 which may be necessary or desirable to enable the state to participate
5 in a program, to receive and expend all appropriate funds made
6 available for programs by the state or from other sources, to
7 supervise the expenditure of the funds and conduct of the programs by
8 other public and private agencies of the state, and to make the
9 reports and certificates which are called for, and in cooperative
10 arrangements with the Department of Education. Contracts with private
11 entities under this subsection are governed by AS 36.30 (State
12 Procurement Code).

13 * Sec. 22. AS 23.20.075(a) is amended to read:

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

21 * Sec. 23. AS 23.35.110 is amended to read:

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

27 * Sec. 24. AS 24.55.275 is amended to read:

28 Sec. 24.55.275. CONTRACT PROCEDURES. The ombudsman shall adopt
29 by regulation procedures consistent with AS 36.30 [AS 24.23] to be

1 followed by the office of the ombudsman in contracting for services.
2 However, the procedure for requests for proposals does not apply to
3 contracts for investigations under AS 24.55.100.

4 * Sec. 25. AS 24.60.040(a) is amended to read:

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

15 * Sec. 26. AS 26.05.230(a) is amended to read:

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

23 * Sec. 27. AS 26.05.280 is amended to read:

24 Sec. 26.05.280. TRANSPORTATION, SUBSISTENCE, AND SUPPLIES.
25 There shall be provided by the state, transportation and subsistence
26 for all officers and enlisted persons who are ordered into active
27 service by the state for encampment, field duty, or other duty. Neces-
28 sary transportation, stores and subsistence for troops when ordered on
29 duty shall be contracted by the proper officers and paid for as other

1 military bills. Contracting under this section is governed by AS 36.-
2 30 (State Procurement Code).

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

4 Sec. 27.21.030. GENERAL POWERS. To accomplish the purposes of
5 this chapter, the commissioner may

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

9 (2) issue permits;

10 (3) conduct hearings and conferences;

11 (4) issue orders requiring an operator to take the actions
12 necessary to comply with this chapter and the regulations adopted
13 under this chapter;

14 (5) issue orders modifying previous orders;

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

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

27 (8) hire and authorize the hiring of employees and private
28 contractors, subject to the conflict of interest provisions of this
29 chapter and subject to AS 36.30 (State Procurement Code), to assist in

1 carrying out the requirements of this chapter;

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

5 (10) conduct, encourage, request, and participate in
6 studies, surveys, investigations, research, experiments, training, and
7 demonstrations;

8 (11) prepare reports and require permittees to prepare
9 reports;

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

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

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

24 (15) contract with state agencies to obtain the professional
25 and technical services necessary to carry out the provisions of this
26 chapter;

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

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

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

6 * Sec. 29. AS 33.30.050 is amended to read:

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

20 * Sec. 30. AS 33.30.062(a) is amended to read:

21 (a) The commissioner may enter into an agreement with a private-
22 ly operated correctional facility, but only if the facility is located
23 in the state and if the purpose of the agreement is to involve prison-
24 ers in a work or rehabilitation furlough program established under
25 this chapter, to provide necessary facilities under AS 33.30.282 -
26 33.30.288, or to confine prisoners convicted of a misdemeanor. An
27 [NOTWITHSTANDING AS 37.05.230(1)(B), AN] agreement awarded under this
28 subsection is governed by AS 36.30 (State Procurement Code) [SHALL BE
29 BASED ON COMPETITIVE BIDS].

1 * Sec. 31. AS 33.32.015(b) is amended to read:

2 (b) The commissioner of corrections may

3 (1) subject to AS 36.30 (State Procurement Code) [THE
4 FISCAL PROCEDURES ACT (AS 37.05)], use, purchase, lease, equip, and
5 maintain buildings, machinery, and other equipment, and may purchase
6 materials and enter into contracts, which may be necessary for the
7 correctional industries program;

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

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

19 * Sec. 32. AS 35.05.010 is amended to read:

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

25 * Sec. 33. AS 35.05.020 is amended to read:

26 Sec. 35.05.020. RULES AND REGULATIONS. The department shall
27 adopt [RULES AND] regulations that [WHICH] it considers necessary to
28 carry out the purpose of this title. The regulations may not conflict
29 with AS 36.30 (State Procurement Code) or the regulations adopted by

1 the Department of Administration under that chapter.

2 * Sec. 34. AS 35 is amended by adding a new section to read:

3 Sec. 35.10.195. CONFORMANCE WITH AS 36.30. The contractual
4 techniques for the procurement of labor, materials, and contractual
5 services under the policies developed under this chapter must conform
6 to the requirements of AS 36.30 (State Procurement Code).

7 * Sec. 35. AS 35.15.010(a) is amended to read:

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

18 * Sec. 36. AS 35.15.020 is repealed and reenacted to read:

19 Sec. 35.15.020. REQUEST FOR PUBLIC BIDS. The solicitation of
20 bids for construction of public works is governed by AS 36.30 (State
21 Procurement Code). The request for bids may require the contractor to
22 furnish equipment, labor, materials, and supplies for the project, or
23 it may state that the department will furnish the materials and sup-
24 plies. If the department elects to provide materials and supplies for
25 a project, it shall make the election at the time it adopts the con-
26 struction program. The department shall acquire these materials and
27 supplies under AS 36.30 by requesting bids for them according to the
28 class, type, and nature of the materials and supplies. The contract
29 may be awarded either upon the basis of delivery to the construction

1 project directly or to a central storehouse or storehouses maintained
2 by the department. Those materials and supplies so purchased by the
3 department may be delivered to the project site without expense to the
4 contractor, or it may sell them to the contractor at cost and make the
5 materials and supplies a part of the construction cost.

6 * Sec. 37. AS 35.15.040 is repealed and reenacted to read:

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

11 * Sec. 38. AS 35.20.010 is amended to read:

12 Sec. 35.20.010. ACQUISITION OF LAND, RIGHTS-OF-WAY, AND MATE-
13 RIALS BY PURCHASE OR EMINENT DOMAIN. The department, on behalf of the
14 state and as part of the cost of constructing or maintaining a public
15 work, may purchase in the open market, acquire, take over, or condemn
16 under the right and power of eminent domain land in fee simple or
17 easements which it considers necessary for present public use, either
18 temporary or permanent, or which it considers necessary and reasonable
19 for the public use. By the same means, the department may obtain
20 material including clay, gravel, sand, or rock, or the land necessary
21 to obtain the material, and the necessary land or easements to provide
22 access to it. The department may acquire the land or material not-
23 withstanding the fact that the title to it is in the state or a
24 department, agency, commission or institution of the state. Acquisi-
25 tion of material in the open market under this section is governed by
26 AS 36.30 (State Procurement Code).

27 * Sec. 39. AS 37.05 is amended by adding a new section to read:

28 Sec. 37.05.232. PETTY CASH ACCOUNTS. The department shall
29 determine the amount of the petty cash accounts needed by each state

1 agency and inspect the petty cash accounts at least once each year to
2 determine that the total plus amounts of receipts for unreplenished
3 disbursements is equal to the fixed sum of cash set aside. Shortages
4 in petty cash accounts are a personal liability of the responsible
5 head of the agency to whom the account is set aside. The department
6 shall adopt necessary regulations governing use and replenishment of
7 petty cash funds.

8 * Sec. 40. AS 37.05.316 is amended to read:

9 Sec. 37.05.316. GRANTS TO NAMED RECIPIENTS. When an amount is
10 appropriated or allocated to a department as a grant for a named
11 recipient which is not a municipality, the department to which the
12 appropriation or allocation is made shall promptly notify the named
13 recipient of the availability of the grant and request the named
14 recipient to submit a proposal to provide the goods or services speci-
15 fied in the appropriation act, or both, for which the appropriation or
16 allocation is made. At the same time, the department may issue a
17 request for proposals from other qualified persons to provide the same
18 goods or services, or both, in the same area. The department shall
19 contract with the named recipient unless the Office of the Governor,
20 with due regard for any local expertise or experience among those
21 making proposals, determines that an award of the contract to a dif-
22 ferent party would better serve the public interest. If the contract
23 is awarded to another party than that named by the legislature, the
24 basis of that action shall be stated in writing at the time the grant
25 is issued and a copy of the written statement shall be sent to the
26 Legislative Budget and Audit Committee. A contract shall be executed
27 within 60 days after the effective date of the appropriation or allo-
28 cation. The purchase of the goods or services, or both, shall be in
29 accordance with AS 36.30.100(b) [AS 37.05.230(1)(B)].

1 * Sec. 41. AS 41.21.020(a) is amended to read:

2 (a) The Department of Natural Resources shall

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

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

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

14 (4) control, develop and maintain state parks and recrea-
15 tional areas;

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

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

26 (7) cooperate with the United States and its agencies and
27 local subdivisions of the state to secure the effective supervision,
28 improvement, development, extension, and maintenance of state parks,
29 state monuments, state historical areas, and state recreational areas,

1 and secure agreements or contracts for the purpose of AS 41.21.010 -
2 41.21.040;

3 (8) encourage the organization of state public park and
4 recreational activities in the local political subdivisions of the
5 state;

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

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

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

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

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

19 * Sec. 42. AS 42.40.920(b) is amended to read:

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

22 (1) AS 19;

23 (2) AS 30.15;

24 (3) AS 35;

25 (4) AS 36.30, except as specifically provided in AS 36.30
26 (State Procurement Code);

27 (5) AS 37.05;

28 (6) [(5)] AS 37.07;

29 (7) [(6)] AS 37.10.010 - 37.10.060;

1 (8) [(7)] AS 37.10.085;

2 (9) [(8)] AS 37.20;

3 (10) [(9)] AS 37.25;

4 (11) [(10)] AS 38;

5 (12) [(11)] AS 44.62.040 - 44.62.320.

6 * Sec. 43. AS 44.21.310(a) is amended to read:

7 (a) The telecommunications divisions, as directed by the deputy
8 commissioner, shall

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

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

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

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

25 (5) prepare and maintain a state comprehensive telecommu-
26 nications development plan to further state telecommunications devel-
27 opment and to meet state telecommunications needs and prepare and
28 maintain a comprehensive inventory of all state communications facil-
29 ities;

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

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

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

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

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

29 (11) serve as a clearinghouse for information, data, and

1 other materials which may be necessary or helpful to federal, state,
2 or local governmental agencies in the development of telecommunication
3 systems;

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

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

10 * Sec. 44. AS 44.19.144(b) is amended to read:

11 (b) The director may

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

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

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

24 * Sec. 45. AS 44.33.300 is amended to read:

25 Sec. 44.33.300. WAIVER OF CERTAIN PROVISIONS. When the gover-
26 nor has by proclamation declared an area impacted by an economic
27 disaster, the following provisions regarding public contracts may be
28 waived to the extent specified in the proclamation:

29 (1) the requirement of a contractor's bond as prescribed in

1 AS 36.25.010 may be waived if the contract amount does not exceed
2 \$100,000;

3 (2) the public bid requirements as contained in AS 19.10.-
4 170, AS [19.10.190,] 19.30.191(b), AS 35.15.010 - 35.15.020, and
5 AS 36.30 (State Procurement Code) [AND AS 35.15.010 - 35.15.030] may
6 be waived if the contract is to be performed by a contractor whose
7 principal office is in the designated area and the contract amount
8 does not exceed \$50,000;

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

14 * Sec. 46. AS 44.47.250 is amended by adding a new subsection to read:

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

17 * Sec. 47. AS 44.47.490(a) is amended to read:

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

21 (1) real property appraisers who are familiar with rural
22 construction; and

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

25 * Sec. 48. AS 44.47.730(a) is amended to read:

26 (a) The commissioner shall contract for a study of the feasibil-
27 ity of establishing a borough in the unorganized borough by following
28 the procedures under AS 36.30 (State Procurement Code) [SET OUT IN
29 AS 36.98]. The commissioner shall include terms in the contract that

1 provide for

- 2 (1) public participation in the preparation of the study;
- 3 (2) completion of the study not later than June 30 of the
- 4 third year after the year the contract is executed.

5 * Sec. 49. AS 44.62.175(a) is amended to read:

6 (a) The lieutenant governor shall publish or contract for the

7 publication of the Alaska Administrative Journal. The journal shall

8 be published weekly. The journal must include

9 (1) notices of proposed actions given under AS 44.62.-

10 190(a);

11 (2) notices of state agency meetings required under AS 44.-

12 62.310(e), even if the meeting has been held;

13 (3) notices of solicitations to bid issued under AS 36.30.-

14 130 [AS 37.05.230];

15 (4) notices of state agency requests for proposals issued

16 under AS 18.55.255, 18.55.320; [AS 19.10.190; AS 19.40.020; AS 35.15.-

17 030; AS 36.98.030; AS 37.05.230,] AS 37.05.315(d); AS 38.05.120; and

18 AS 43.40.010;

19 (5) executive orders and administrative orders issued by

20 the governor;

21 (6) written delegations of authority made by the governor

22 or the head of a principal department under AS 44.17.010;

23 (7) the text or a summary of the text of a regulation or

24 order of repeal of a regulation for which notice is given under AS

25 44.62.190(a), including an emergency regulation or repeal whether or

26 not it has taken effect;

27 (8) a summary of the text of recently issued formal opin-

28 ions and memoranda of advice of the attorney general; and

29 (9) a list of vacancies on boards, commissions, and other

1 bodies whose members are appointed by the governor.

2 * Sec. 50. AS 44.71.010 is amended to read:

3 Sec. 44.71.010. DISPOSITION OF OBSOLETE OR SURPLUS STATE PROP-
4 ERTY. The Department of Administration shall take possession of
5 obsolete or surplus property of the state for which there is no imme-
6 diate or prospective use, except abandoned or obsolete school build-
7 ings and other school property. It shall also take possession of
8 property remaining in the control of a commission or board of the
9 state government after the commission or board stops functioning. The
10 Department of Administration shall sell, lease, license, or dispose of
11 the property on the terms it considers for the best interests of the
12 state in conformance with regulations adopted under AS 36.30 (State
13 Procurement Code).

14 * Sec. 51. AS 44.77.010(a) is amended to read:

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

21 * Sec. 52. AS 44.77.010 is amended by adding a new subsection to read:

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

24 * Sec. 53. AS 44.85.120 is amended to read:

25 Sec. 44.85.120. CARE AND CUSTODY OF BONDS. The bond bank
26 authority, in accordance with AS 36.30 (State Procurement Code), may
27 enter into agreements or contracts with a bank, trust company, banking
28 or financial institution inside or outside the state as may be neces-
29 sary, desirable or convenient, in the opinion of the bond bank

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

15 * Sec. 54. AS 44.99.001 is amended to read:

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

1 * Sec. 55. AS 46.04.090(a) is amended to read:

2 (a) The department, when feasible, shall enter into contracts
3 with persons or private organizations to provide the personnel, equip-
4 ment, or other services or supplies which may be required to carry out
5 this chapter. Contracts under this section are governed by AS 36.30
6 (State Procurement Code). When private contracting is not feasible,
7 the department may establish and maintain at ports, harbors, or other
8 locations in the state, the cleanup personnel, equipment, and supplies
9 which, in its judgment, are necessary to carry out this chapter.

10 * Sec. 56. AS 46.07.040(a) is amended to read:

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

18 * Sec. 57. AS 46.15.020(a) is amended to read:

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

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

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