

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

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HOUSE STATE AFFAIRS

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Sec. 36.30.350. Bid cancellation, rejection. An invitation to bid, a request for proposals, or other solicitation may be cancelled or any or all bids or proposals may be rejected in whole or in part or the date for opening bids or proposals may be delayed when it is in the best interests of the state in accordance with regulations adopted by the commissioner. The reasons for cancellation, rejection, or delay in opening bids or proposals shall be made part of the contract file. (§ 2 ch 106 SLA 1986)

Collateral references. — Authority of state or its subdivision to reject all bids for public contract. 62 ALR4th 186.

Sec. 36.30.360. Determination of responsibility. (a) A written determination of nonresponsibility of a bidder or offeror shall be made by the procurement officer in accordance with regulations adopted by the commissioner. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination of nonresponsibility with respect to the bidder or offeror.

(b) Information furnished by a bidder or offeror under (a) of this section is confidential and may not be disclosed without prior written consent by the bidder or offeror. (§ 2 ch 106 SLA 1986; am § 14 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, substituted "nonresponsibility" for "responsibility" in the first sentence in a subsection (a).

Sec. 36.30.362. Determination to award a contract to a non-resident. Except for awards made under AS 36.30.170, if the procurement officer awards a contract to a person who does not reside or maintain a place of business in the state and if the supplies, services, professional services, or construction that is the subject of the contract could have been obtained from sources in the state, the procurement officer shall issue a written statement explaining the basis of the award. The statement required under this section shall be kept in the contract file. (§ 2 ch 106 SLA 1986; am § 15 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, added "Except for awards made under AS 36.30.170" at the beginning of the first sentence.

Sec. 36.30.365. Notice of intent to award a contract. At least 10 days before the formal award of a contract that is not for construction, and at least five days before the award of a construction contract, under this chapter, except for a contract awarded under AS 36.30.300 — 36.30.320, the procurement officer shall provide to each bidder or

offeror notice of intent to award a contract. The notice must conform to regulations adopted by the commissioner. (§ 2 ch 106 SLA 1986; am § 18 ch 65 SLA 1987)

Sec. 36.30.370. Types of contracts. Subject to limitations of this section, any type of contract that will promote the best interests of the state may be used, except that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing by the procurement officer that a cost-reimbursement contract is likely to be less costly to the state than any other type or that it is impracticable to obtain the supplies, services, professional services, or construction required except under a cost-reimbursement contract. (§ 2 ch 106 SLA 1986)

Sec. 36.30.380. Approval of accounting system. [Repealed, § 24 ch 65 SLA 1987.]

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

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

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

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

(c) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled. The contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies, services, or professional services delivered under the contract that are not otherwise recoverable. The cost of cancellation may be paid from any appropriations available for these purposes. (§ 2 ch 106 SLA 1986)

Sec. 36.30.400. Cost or pricing data. (a) Before an award of a contract or a change order or contract modification, the contractor or prospective contractor shall submit cost and pricing data. The contractor or prospective contractor shall certify that, to the best of the contractor's or prospective contractor's knowledge and belief, the data submitted is accurate, complete, and current as of a mutually determined specified date and will continue to be accurate and complete during the performance of the contract.

(b) When a contractor becomes aware of a situation that may form the basis of a claim for compensation that exceeds the amount designated as the base amount of the contract and before performing additional work or supplying additional materials, the contractor shall submit cost and pricing data on the additional work or materials. The contractor shall certify that, to the best of the contractor's knowledge and belief, the data submitted is accurate, complete, and current and is the actual cost to the contractor of performing the additional work or supplying the additional materials.

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

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

- (1) the contract price is based on adequate price competition;
- (2) the contract price is set by law or regulation; or
- (3) it is determined by the procurement officer in writing and in accordance with regulations adopted by the commissioner that the requirements of (a) of this section may be waived, and the reasons for waiver are stated. (§ 2 ch 106 SLA 1986)

Sec. 36.30.410. Right to inspect plant. The state may, at reasonable times, inspect the part of the plant or place of business of a contractor or subcontractor that is related to the performance of a contract awarded or to be awarded by an agency. (§ 2 ch 106 SLA 1986)

Sec. 36.30.420. Right to audit records. (a) The state may, at reasonable times and places, audit the books and records of a person who has submitted cost or pricing data under AS 36.30.400 to the extent that the books and records relate to the cost or pricing data. A person who receives a contract, change order, or contract modification for which cost or pricing data is required, shall maintain books and records that relate to the cost or pricing data for three years after the

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

(b) The state may audit the books and records of a contractor or a subcontractor to the extent that the books and records relate to the performance of the contract or subcontract. Books and records shall be maintained by the contractor for a period of three years after the date of final payment under the prime contract and by the subcontractor for a period of three years after the date of final payment under the subcontract, unless a shorter period is authorized in writing by the commissioner. (§ 2 ch 106 SLA 1986)

Sec. 36.30.430. Standard modification clauses for contracts.

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

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

- (1) liquidated damages;
- (2) specified excuses for delay or nonperformance;
- (3) termination of the contract for default; and
- (4) termination of the contract in whole or in part for the convenience of the state. (§ 2 ch 106 SLA 1986)

Collateral references. — Construction with state or its subdivision. 66 ALB4th and effect of "changed conditions" clause 1042. in public works or construction contract

Sec. 36.30.460. Modification of standard clauses. The procurement officer or the head of a contracting agency may vary the clauses adopted under AS 36.30.430 for inclusion in a particular state contract if the

- (1) variations are supported by a written determination that states the circumstances justifying the variation; and
- (2) approval required by AS 36.30.340 is obtained. (§ 2 ch 106 SLA 1986)

Sec. 36.30.470. Fiscal responsibility. A contract modification, change order, or contract price adjustment under a construction contract in excess of an amount established by regulation of the commissioner is subject to prior written certification by the fiscal officer of the agency responsible for funding the project or the contract, or other official responsible for monitoring and reporting upon the status of the costs of the total project budget or contract budget, as to the effect of the contract modification, change order, or adjustment in contract price on the total project budget or the total contract budget. If the certification of the fiscal officer or other responsible official discloses a

resulting increase in the total project budget or the total contract budget, the procurement officer may not approve the contract modification, change order, or adjustment in contract price unless sufficient funds are available, or the scope of the project or contract is adjusted to permit the degree of completion that is feasible within the total project budget or total contract budget as it existed before the contract modification, change order, or adjustment in contract price under consideration. A contract modification change order, or adjustment in contract that is signed by both parties and has been reasonably relied on by a contractor, is presumed to be valid even if the provisions of this section have not been met. (§ 2 ch 106 SLA 1986)

Sec. 36.30.480. Cost principle regulations. The commissioner shall adopt regulations setting out cost principles that shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions that provide for the reimbursement of costs. If a written determination is approved at a level above the procurement officer, the cost principles may be modified by contract. (§ 2 ch 106 SLA 1986)

Article 8. Procurement Records and Reports.

Section
500. Retention of procurement records
510. Records of contracts awarded under competitive sealed proposals
620. Records of sole source and emergency procurements

Section
530. Public access to procurement information
640. Report to legislature

Sec. 36.30.500. Retention of procurement records. Procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the state archivist. Retained documents shall be made available to the attorney general or a designee upon request and proper receipt. (§ 2 ch 106 SLA 1986)

Sec. 36.30.510. Records of contracts awarded under competitive sealed proposals. A contract file open for public inspection shall be kept by the commissioner and the contracting agency for each contract awarded under competitive sealed proposals. The file kept by the commissioner must contain a summary of the information in the file of the contracting agency. The file kept by the contracting agency must contain

- (1) a copy of the contract;
- (2) the register of proposals prepared under AS 36.30.230 and a copy of each proposal submitted; and

(3) the written determination to award the contract prepared under AS 36.30.250. (§ 2 ch 106 SLA 1986)

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

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

(b) The Department of Transportation and Public Facilities and any agency to whom the commissioner of administration or the commissioner of transportation and public facilities has delegated procurement authority under AS 36.30.015 shall, by October 1 of each year, submit to the commissioner of administration records of the type specified in (a) of this section. The commissioner of administration shall maintain these records as required by (a) of this section. (§ 2 ch 106 SLA 1986)

Sec. 36.30.530. Public access to procurement information. Procurement information is public except as otherwise provided by law. (§ 2 ch 106 SLA 1986)

Sec. 36.30.540. Report to legislature. Beginning with December 1, 1989, the commissioner shall biennially report to the legislature concerning procurements by agencies. The report must include

- (1) the records maintained by the commissioner under AS 36.30.510 and the records maintained under AS 36.30.520(a) for the previous two fiscal years;
- (2) recommendations for changes in this chapter or other laws based on implementation of this chapter in the previous two fiscal years;
- (3) a description of any matters that involved litigation concerning this chapter in the previous two fiscal years;
- (4) a list of procurements made under this chapter from out-of-state sources during the previous two fiscal years together with the total number of procurement contracts entered into during that period with out-of-state contractors and the total value of these contracts; this paragraph does not apply to procurements made under AS 36.30.320; and

(5) a list of procurements made under this chapter from state sources during the previous two fiscal years together with the total number of procurement contracts entered into during that period with state contractors and the total value of these contracts; this paragraph

does not apply to procurements made under AS 36.30.320. (§ 2 ch 106 SLA 1986)

Article 9. Legal and Contractual Remedies.

Section	Section
660. Filing of a protest	640. Causes for debarment or suspension
665. Time for filing a protest	645. Written determinations
670. Notice of a protest	650. Hearing on a suspension
675. Stay of award	655. List of persons debarred or suspended
680. Decision by the procurement officer	660. Reinstatement
685. Protest remedies	665. Limited participation
690. Appeal on a protest	670. Hearing procedures
695. Notice of a protest appeal	675. Recommendation by the hearing officer
600. Stay of award during protest appeal	680. Final decision by the commissioner
605. Protest report	685. Judicial appeal
610. Decision without hearing	687. Misrepresentations and fraudulent claims
615. Hearing on protest appeal	690. Exclusive remedy
620. Contract controversies	695. Other rules of procedure
625. Appeal on a contract controversy	699. Definition
630. Hearing on a contract controversy	
632. Delegation	
635. Authority to debar or suspend	

Sec. 36.30.560. Filing of a protest. An interested party may protest the award of a contract, the proposed award of a contract, or a solicitation for supplies, services, professional services, or construction by an agency. The protest shall be filed with the procurement officer of the contracting agency in writing and include the following information:

- (1) the name, address, and telephone number of the protester;
- (2) the signature of the protester or the protester's representative;
- (3) identification of the contracting agency and the solicitation or contract at issue;
- (4) a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and
- (5) the form of relief requested. (§ 2 ch 106 SLA 1986)

Sec. 36.30.565. Time for filing a protest. (a) A protest based upon alleged improprieties in an award of a contract or a proposed award of a contract must be filed within 10 days after a notice of intent to award the contract is issued by the procurement officer.

(b) If the protester shows good cause, the procurement officer of the contracting agency may consider a filed protest that is not timely. (§ 2 ch 106 SLA 1986; am § 19 ch 65 SLA 1987)

Sec. 36.30.570. Notice of a protest. The procurement officer shall immediately give notice of a protest filed under AS 36.30.565 to the contractor if a contract has been awarded or, if no award has been made, to all interested parties. (§ 2 ch 106 SLA 1986)

Sec. 36.30.575. Stay of award. If a protest is filed the award may be made unless the procurement officer of the contracting agency determines in writing that a

- (1) reasonable probability exists that the protest will be sustained; or
- (2) stay of the award is not contrary to the best interests of the state. (§ 2 ch 106 SLA 1986)

Sec. 36.30.580. Decision by the procurement officer. (a) The procurement officer of the contracting agency shall issue a written decision containing the basis of the decision within 14 days after a protest has been filed. A copy of the decision shall be furnished to the protester by certified mail or other method that provides evidence of receipt.

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

(c) If a decision is not made by the date it is due, the protester may proceed as if the procurement officer had issued a decision adverse to the protester. (§ 2 ch 106 SLA 1986)

Sec. 36.30.585. Protest remedies. (a) If the procurement officer sustains a protest in whole or in part, the procurement officer shall implement an appropriate remedy.

(b) In determining an appropriate remedy, the procurement officer shall consider the circumstances surrounding the solicitation or procurement including the seriousness of the procurement deficiencies, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent the procurement has been accomplished, costs to the agency and other impacts on the agency of a proposed remedy, and the urgency of the procurement to the welfare of the state. (§ 2 ch 106 SLA 1986)

Sec. 36.30.590. Appeal on a protest. (a) An appeal from a decision of a procurement officer on a protest may be filed by the protester with the commissioner of administration, or for protests involving construction or procurements for the state equipment fleet, the commissioner of transportation and public facilities. An appeal shall be

filed within 10 days after the decision is received by the protester. The protester shall file a copy of the appeal with the procurement officer.

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

- (1) a copy of the decision being appealed; and
- (2) identification of the factual or legal errors in the decision that form the basis for the appeal. (§ 2 ch 106 SLA 1986; am § 16 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment substituted "10 days" for "five days" in the second sentence in subsection (a).

Sec. 36.30.595. Notice of a protest appeal. (a) The procurement officer shall immediately give notice of an appeal filed under AS 36.30.590 to the contractor if a contract has been awarded or, if no award has been made, to all interested parties.

(b) The commissioner of administration or the commissioner of transportation and public facilities, as appropriate, shall, on request, furnish a copy of the appeal to a person notified under (a) of this section, except that confidential material shall be deleted from the copy. (§ 2 ch 106 SLA 1986)

Sec. 36.30.600. Stay of award during protest appeal. If a protest appeal is filed before a contract is awarded and the award was stayed under AS 36.30.575, the filing of the appeal automatically continues the stay until the commissioner of administration or the commissioner of transportation and public facilities, as appropriate, makes a written determination that the award of the contract without further delay is necessary to protect substantial interests of the state. (§ 2 ch 106 SLA 1986)

Sec. 36.30.605. Protest report. (a) The procurement officer of the contracting agency shall file a complete report on the protest and decision with the commissioner of administration or the commissioner of transportation and public facilities, as appropriate, within seven days after a protest appeal is filed. The procurement officer shall furnish a copy of the report to the protester and to interested parties that have requested a copy of the appeal under AS 36.30.595(b).

(b) The procurement officer may request an extension of time to prepare the protest report. The request must be in writing listing the reasons for the request. The commissioner of administration or the commissioner of transportation and public facilities, as appropriate, shall respond to the request in writing. If an extension is granted, the commissioner shall list the reasons for granting the extension and indicate the date the protest report is due. The commissioner shall

notify the protester in writing that the time for submission of the report has been extended and the date the report is due.

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

(d) The protester may request an extension of time to prepare the comments on the protest report. The request must be in writing listing the reasons for the request. The commissioner of administration or the commissioner of transportation and public facilities, as appropriate, shall respond to the request in writing. If an extension is granted, the commissioner shall list the reasons for granting the extension and indicate the date the comments are due. The commissioner shall notify the procurement officer in writing that the time for submission of the comments has been extended and the date the comments are due. (§ 2 ch 106 SLA 1986)

Sec. 36.30.610. Decision without hearing. (a) The commissioner of administration or the commissioner of transportation and public facilities, as appropriate, shall dismiss a protest appeal before a hearing is held if it is determined in writing that the appeal is untimely under AS 36.30.590(a).

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

(c) The commissioner of administration or the commissioner of transportation and public facilities, as appropriate, shall, within 15 days after receipt of an appeal, notify the appellant of the acceptance or rejection of the appeal and, if rejected, the reasons for the rejection. (§ 2 ch 106 SLA 1986; am § 20 ch 65 SLA 1987)

Sec. 36.30.615. Hearing on protest appeal. A hearing on a protest appeal shall be conducted in accordance with AS 36.30.670 and regulations adopted by the commissioner. (§ 2 ch 106 SLA 1986)

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

(b) If a controversy asserted by a contractor concerning a contract awarded under this chapter cannot be resolved by agreement, the procurement officer shall, after receiving a written request by the contractor for a decision, issue a written decision. The decision shall be made no more than 90 days after receipt by the procurement officer of all necessary information from the contractor. Failure of the contractor to furnish necessary information to the procurement officer constitutes a waiver of the claim. Before issuing the decision the procurement officer shall review the facts relating to the controversy and obtain necessary assistance from legal, fiscal, and other advisors.

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

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

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

"This is the final decision of the procurement officer.

This decision may be appealed to the commissioner of (administration/transportation and public facilities). If you appeal, you must file a written notice of appeal with the commissioner within 14 days after you receive this decision."

(e) If a decision is not made by the date it is due, the contractor may proceed as if the procurement officer had issued a decision adverse to the contractor.

(f) If a controversy asserted by the state concerning a contract awarded under this chapter cannot be resolved by agreement the matter shall be immediately referred to the commissioner of administration or the commissioner of transportation and public facilities, as appropriate. (§ 2 ch 106 SLA 1986)

Sec. 36.30.625. Appeal on a contract controversy. (a) An appeal from a decision of the procurement officer on a contract controversy may be filed by the contractor with the commissioner of administration, or for a controversy involving a construction contract or procurement for the state equipment fleet, the commissioner of trans-

portation and public facilities. The appeal shall be filed within 14 days after the decision is received by the contractor. The contractor shall file a copy of the appeal with the procurement officer.

(b) An appeal must contain a copy of the decision being appealed and identification of the factual or legal errors in the decision that form the basis for the appeal. (§ 2 ch 106 SLA 1986)

Sec. 36.30.630. Hearing on a contract controversy. (a) Except as provided in (b) of this section, a hearing shall be conducted according to AS 36.30.670 and regulations adopted by the commissioner of administration on a contract controversy appealed to the commissioner of administration or the commissioner of transportation and public facilities or referred to either commissioner under AS 36.30.620(f).

(b) Within 15 days after receipt of an appeal on a contract controversy the commissioner of administration or the commissioner of transportation and public facilities, as appropriate, may adopt the decision of the procurement officer as the final decision without a hearing. (§ 2 ch 106 SLA 1986)

Sec. 36.30.632. Delegation. The commissioner of administration and the commissioner of transportation and public facilities may delegate responsibilities under AS 36.30.690 and 36.30.630 to the head of the contracting agency. (§ 2 ch 106 SLA 1986)

Sec. 36.30.635. Authority to debar or suspend. (a) After consultation with the using agency and the attorney general and after a hearing conducted according to AS 36.30.670 and regulations adopted by the commissioner of administration, the commissioner of administration or the commissioner of transportation and public facilities may debar a person for cause from consideration for award of contracts. Notice of a debarment hearing shall be provided in writing at least seven days before the hearing. The debarment may not be for a period of more than three years.

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

(c) The authority to debar or suspend shall be exercised in accordance with regulations adopted by the commissioner of administration. (§ 2 ch 106 SLA 1986)

Sec. 36.30.640. Causes for debarment or suspension. The causes for debarment or suspension include

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

(2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a state contractor;

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

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

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

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

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

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

(7) any other cause listed in regulations of the commissioner determined to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for a cause listed in the regulations. (§ 2 ch 106 SLA 1986)

Sec. 36.30.645. Written determinations. (a) The commissioner of administration or the commissioner of transportation and public facilities shall issue a written decision to debar or suspend. The decision must

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

(2) inform the debarred person of rights to judicial appeal or inform the suspended person of rights to administrative and judicial appeal.

(b) A copy of the decision under (a) of this section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other intervening party. (§ 2 ch 106 SLA 1986)

Sec. 36.30.650. Hearing on a suspension. (a) A person suspended under AS 36.30.635 is entitled to a hearing conducted according to AS 36.30.670 and regulations adopted by the commissioner of administration if the person files a written request for a hearing with the commissioner of administration or the commissioner of transportation and public facilities, as appropriate, within seven days after receipt of the notice of suspension under AS 36.30.645.

(b) If a suspended person requests a hearing the commissioner of administration or the commissioner of transportation and public facilities, as appropriate, shall schedule a prompt hearing unless the attorney general determines that a hearing at the proposed time is likely to jeopardize an investigation. A hearing may not be delayed longer than six months after notice of the suspension is provided under AS 36.30.645. (§ 2 ch 106 SLA 1986)

Sec. 36.30.655. List of persons debarred or suspended. The commissioner shall maintain a list of all persons debarred or suspended from consideration for award of contracts. (§ 2 ch 106 SLA 1986)

Sec. 36.30.660. Reinstatement. (a) The commissioner of administration or the commissioner of transportation and public facilities may at any time after a final decision to debar a person from consideration for award of contracts reinstate the person after determining that the cause for which the person was debarred no longer exists or has been substantially mitigated.

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

(c) The commissioner of administration or the commissioner of transportation and public facilities may require a hearing on a reinstatement petition. A decision on reinstatement shall be made in writing within seven days after a reinstatement petition is submitted. The decision must specify the factors on which it is based. A decision under this section is not subject to judicial appeal. (§ 2 ch 106 SLA 1986)

Sec. 36.30.665. Limited participation. The commissioner of administration or the commissioner of transportation and public facilities may permit a debarred person to participate in a contract on a limited basis during the debarment period if the commissioner determines in writing that the participation is advantageous to the state. The determination shall specify the factors on which it is based and the limits imposed on the debarred person. (§ 2 ch 106 SLA 1986)

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

(b) The hearing officer may

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

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

(3) require parties to produce for examination those relevant witnesses and documents under their control;

(4) rule on motions and other procedural matters;

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

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

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

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

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

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

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

(9) administer oaths or affirmations.

(c) A transcribed record of the hearing shall be made available at cost to a party that requests it. (§ 2 ch 106 SLA 1986)

Sec. 36.30.675. Recommendation by the hearing officer. (a) If the commissioner of administration or the commissioner of transportation and public facilities is not acting as hearing officer, the hearing officer shall recommend a decision to the commissioner based on the evidence presented. The recommendation must include findings of fact and conclusions of law.

(b) The commissioner of administration or the commissioner of transportation and public facilities may affirm, modify, or reject the hearing officer's recommendation in whole or in part, may remand the matter to the hearing officer with instructions, or take other appropriate action. (§ 2 ch 106 SLA 1986)

Sec. 36.30.680. Final decision by the commissioner. A decision by the commissioner of administration or the commissioner of transportation and public facilities after a hearing under this chapter is final. A decision shall be sent within 20 days after the hearing to all parties by personal service or certified mail, except that a decision by the commissioner of transportation and public facilities involving procurement of construction shall be sent within 90 days after the hearing to all parties by personal service or certified mail. (§ 2 ch 106 SLA 1986)

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

(b) A final decision of the commissioner of administration or the commissioner of transportation and public facilities under AS 36.30.630(b) may be appealed to the superior court for a trial de novo. (§ 2 ch 106 SLA 1986)

Sec. 36.30.687. Misrepresentations and fraudulent claims. (a) A person who makes or uses in support of a contract claim under this chapter, a misrepresentation, or who practices or attempts to practice a fraud, at any stage of proceedings relating to a procurement or contract controversy under this chapter

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

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

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

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

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

(e) In this section, "misrepresentation" means a false or misleading statement of material fact, or conduct intended to deceive or mislead concerning material fact, whether it succeeds in deceiving or misleading. (§ 2 ch 106 SLA 1986)

Sec. 36.30.690. Exclusive remedy. Notwithstanding AS 44.77 or other law to the contrary, AS 36.30.560 — 36.30.699 and regulations adopted under those sections provide the exclusive procedure for asserting a claim against an agency arising in relation to a procurement under this chapter. (§ 2 ch 106 SLA 1986)

Sec. 36.30.695. Other rules of procedure. The commissioner may adopt by regulation additional rules of procedure providing for the expeditious administrative review of all contract claims or controversies, both before the contracting agency and through an appeal heard de novo. (§ 2 ch 106 SLA 1986)

Sec. 36.30.699. Definition. In AS 36.30.560 — 36.30.695, "interested party" means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a contract solicitation, the award of a contract, or the failure to award a contract; whether an actual or prospective bidder or offeror has an economic interest depends on the circumstances. (§ 2 ch 106 SLA 1986)

Article 10. Intergovernmental Relations.

Section	Section
700. Cooperative purchasing authorized	employing experts on radiation hazards
710. Sale, acquisition, or use of supplies by a public procurement unit	740. Review of procurement requirements
720. Joint use of facilities	750. Contract controversies
730. Supply of personnel, information, and technical services	790. Definitions
735. Restriction on contracting with or	

Sec. 36.30.700. Cooperative purchasing authorized. A public procurement unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of supplies, services, professional services, or construction with one or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. Cooperative purchasing may include joint or multi-party contracts between public procurement units and open-ended state public procurement units contracts that are made available to local public procurement units. (§ 2 ch 106 SLA 1986)

Sec. 36.30.710. Sale, acquisition, or use of supplies by a public procurement unit. (a) A public procurement unit may sell to, acquire from, or use any supplies belonging to another public procurement unit or external procurement activity independent of the requirements of AS 36.30.060 and 36.30.100 — 36.30.260.

(b) A public procurement unit may enter into an agreement, independent of the requirements of AS 36.30.060 and 36.30.100 — 36.30.260, with another public procurement unit or external procurement activity for the cooperative use of supplies or services under the terms agreed upon between the parties. (§ 2 ch 106 SLA 1986)

Sec. 36.30.720. Joint use of facilities. A public procurement unit may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit or an external procurement activity under the terms agreed upon between the parties. (§ 2 ch 106 SLA 1986)

Sec. 36.30.730. Supply of personnel, information, and technical services. (a) A public procurement unit may, upon written request from another public procurement unit or external procurement activity, provide personnel to the requesting public procurement unit or external procurement activity. The public procurement unit or external procurement activity making the request shall pay the public procurement unit providing the personnel the direct and indirect cost of furnishing the personnel, in accordance with an agreement between the parties.

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

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

- (1) standard forms;
- (2) printed manuals;
- (3) product specifications and standards;
- (4) quality assurance testing services and methods;
- (5) qualified products lists;
- (6) source information;
- (7) common use commodities listings;
- (8) supplier performance ratings;
- (9) lists of persons debarred or suspended from consideration for award of state contracts;
- (10) forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and

(11) contracts or published summaries of them, including price and time of delivery information.

(d) The commissioner may provide the following technical services, among others:

- (1) development of product specifications;
- (2) development of quality assurance test methods, including receiving, inspection, and acceptance procedures;
- (3) use of product testing and inspection facilities; and
- (4) use of personnel training programs.

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

(f) *(Repealed, § 28 ch 90 SLA 1991.)* (§ 2 ch 106 SLA 1986; am § 59 ch 14 SLA 1987; am § 28 ch 90 SLA 1991)

Effect of amendments. — The 1991 amendment, effective July 3, 1991, repealed subsection (f).

Sec. 36.30.735. Restriction on contracting with or employing experts on radiation hazards. (a) Except for the Department of Health and Social Services, the Department of Labor, the Department of Environmental Conservation, and the Department of Military and Veterans' Affairs, a state agency may not

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

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

(b) In this section, "state agency"

(1) means a state department or agency, whether in the legislative, judicial, or executive branch;

(2) does not include the University of Alaska, a municipality, or an agency of a municipality.

(c) In this section, "radiation" does not include radiation emitted from a Federal Communications Commission licensed facility emitting radiation of a wave length longer than one centimeter and an average power output not exceeding two kilowatts. (§ 2 ch 106 SLA 1986; am § 113 ch 4 FSSLA 1992)

Effect of amendments. — The 1992 amendment, effective July 1, 1992, in subsection (b), added the paragraph designations and rewrote paragraph (2).

Sec. 36.30.740. Review of procurement requirements. To the extent possible, the commissioner may collect information concerning the type, cost, quality, and quantity of commonly used supplies, equipment for the state fleet, services, or construction being procured or used by state public procurement units. The commissioner may also collect this information from local public procurement units. The commissioner may make this information available to a public procurement unit upon request. (§ 2 ch 106 SLA 1986)

Sec. 36.30.750. Contract controversies. (a) Under a cooperative purchasing agreement, controversies arising between an administering public procurement unit and its bidders, offerors, or contractors shall be resolved in accordance with AS 36.30.660 — 36.30.699.

(b) A local public procurement unit that is not subject to AS 36.30.660 — 36.30.699 may enter into an agreement with another local public procurement unit or external procurement activity to establish procedures or use that unit's or activity's existing procedures to resolve controversies with contractors, whether or not the controversy arose under a cooperative purchasing agreement. (§ 2 ch 106 SLA 1986)

Sec. 36.30.790. Definitions. In AS 36.30.700 — 36.30.790

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

(2) "external procurement activity" means a buying organization not located in this state that, if located in this state, would qualify as a public procurement unit; an agency of the United States is an external procurement activity;

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

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

(5) "state public procurement unit" means the Department of Administration and any other contracting agency of the state. (§ 2 ch 106 SLA 1986)

Article 11. General Provisions.

Section
850. Application of this chapter
860. Supplementary general principles of law applicable

Section
870. Adoption of regulations
880. Requirement of good faith
890. Federal assistance

Section	Section
900. Product preferences	930. Civil and criminal penalties
910. Purchases through general services administration	940. Enforcement
920. Reporting of anticompetitive practices	950. Severability
	990. Definitions
	995. Short title

Sec. 36.30.850. Application of this chapter. (a) This chapter applies only to contracts solicited or entered into after January 1, 1988, unless the parties agree to its application to a contract solicited or entered into before that date.

(b) This chapter applies to every expenditure of state money by the state, acting through an agency, under a contract, except that this chapter does not apply to

- (1) grants;
- (2) contracts for professional witnesses to provide for professional services or testimony relating to existing or probable lawsuits in which the state is or may become a party;
- (3) contracts of the University of Alaska where the work is to be performed substantially by students enrolled in the university;
- (4) contracts for medical doctors and dentists;
- (5) acquisitions or disposals of real property or interest in real property, except as provided in AS 36.30.080;
- (6) disposals under AS 38.05;
- (7) contracts for the preparation of ballots under AS 15.15.030;
- (8) acquisitions or disposals of property and other contracts relating to airports under AS 02.15.070, 02.15.090, 02.15.091, and AS 44.88;
- (9) disposals of obsolete property under AS 19.05.060;
- (10) disposals of obsolete material or equipment under AS 35.20.060;
- (11) agreements with providers of services under AS 44.47.250; AS 47.07; AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;
- (12) contracts of the Department of Fish and Game for flights that involve specialized flying and piloting skills and are not point-to-point;
- (13) purchases of income-producing assets for the state treasury or a public corporation of the state;
- (14) operation of the state boarding school established under AS 14.16, if the State Board of Education or the commissioner of education adopts regulations for use by the state boarding school in procurement and contracting;
- (15) a contract that is a delegation, in whole or in part, of investment powers held by the commissioner of revenue under AS 14.40.400, AS 14.42.200, 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;

(16) a contract that is a delegation, in whole or in part, of investment powers or fiduciary duties of the Board of Trustees of the Alaska Permanent Fund Corporation under AS 37.13;

(17) the purchase of books, book binding services, newspapers, periodicals, audio-visual materials, network information services access, approval plans, professional memberships, archival materials, objects of art, and items for museum or archival acquisition having cultural, historical, or archaeological significance; in this paragraph

(A) "approval plans" means book selection services in which current book titles meeting an agency's customized specifications are provided to the agency subject to the right of the agency to return those books that do not meet with the agency's approval;

(B) "archival materials" means the noncurrent records of an agency that are preserved after appraisal because of their value;

(C) "audio-visual materials" means nonbook prerecorded materials, including records, tapes, slides, transparencies, films, filmstrips, cassettes, videos, compact discs, laser discs, and items that require the use of equipment to render them usable;

(D) "network information services" means a group of resources from which cataloging information, holdings records, inter-library loans, acquisitions information, and other reference resources can be obtained;

(18) contracts for the purchase of standardized examinations for licensure under AS 08;

(19) contracts for home health care and adult residential and foster care services provided under regulations adopted by the Department of Health and Social Services;

(20) contracts for supplies or services for research projects funded by money received from the federal government or private grants;

(21) guest speakers or performers for an educational or cultural activity;

(22) contracts of the Alaska Industrial Development and Export Authority for a clean coal technology demonstration project that

(A) is attempting to develop a coal-fired electric generation project;

(B) uses technology that is capable of commercialization during the 1990's; and

(C) qualifies for federal financial participation under P.L. 99-190 as amended;

(23) disposals of supplies acquired through foreclosure of loans issued under AS 03.10;

(24) purchases of curatorial and conservation services to maintain, preserve, and interpret

(A) objects of art; and

(B) items having cultural, historical, or archaeological significance to the state;

(25) acquisition of confidential seismic survey data necessary for pre-sale oil and gas lease analyses under AS 38.05.180;

(26) contracts for village public safety officers;

(27) purchases of supplies and services to support the operations of the Alaska state troopers or the division of fish and wildlife protection if the procurement officer for the Department of Public Safety makes a written determination that publicity of the purchases would jeopardize the safety of personnel or the success of a covert operation;

(28) expenditures when rates are set by law or ordinance; or

(29) construction of new vessels by the Department of Transportation and Public Facilities for the Alaska marine highway system.

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

(d) Nothing in this chapter or in regulations adopted under this chapter prevents an agency or political subdivision from complying with the terms and conditions of a grant, gift, bequest, cooperative agreement, or federal assistance agreement.

(e) *(Renumbered as AS 36.30.170(e))* (§ 2 ch 106 SLA 1986; am §§ 21, 22 ch 65 SLA 1987; am § 1 ch 38 SLA 1988; am § 5 ch 73 SLA 1988; am § 18 ch 141 SLA 1988; am § 17 ch 102 SLA 1989; am §§ 1, 2 ch 123 SLA 1990; am § 4 ch 66 SLA 1991; am § 9 ch 31 SLA 1992; am § 1 ch 134 SLA 1992; am § 9 ch 2 FSSLA 1992)

Revisor's notes. — Paragraphs (b)(15) — (17) were enacted as (b)(14), (15), and (14), respectively Renumbered in 1988.

Cross references. — For provisions applicable to all insurance contracts involving state money, see AS 36.30.170.

Delayed amendment. — Under §§ 4 and 68, ch. 66, SLA 1991, upon entry of a final order dismissing *Weiss v. State of Alaska*, 4FA-82-2208 Civ. and the expiration of any time for appeal, (b)(16) of this section will be amended by inserting "(A)" after "powers of" and inserting "(B) the Alaska Mental Health Trust Authority under AS 37.14.001 — 37.14.099;" at the end of that paragraph.

Effect of amendments. — The first 1988 amendment inserted subsection (b)(17)

The second 1988 amendment inserted subsection (b)(14).

The third 1988 amendment, effective June 9, 1988, inserted subsections (b)(15) and (b)(16).

The 1989 amendment, effective September 10, 1989, in subsection (b), substituted "money" for "funds, irrespective of their sources, including federal assistance except as otherwise specified in AS

36.30.890" in the introductory language, inserted "AS 44.47.250" in paragraph (11) and added paragraphs (18) (21).

The 1990 amendment, effective June 15, 1990, substituted "02.15.091, and AS 44.88" for "and 02.15.091" at the end of paragraph (b)(8) and added paragraph (b)(22).

The first 1992 amendment deleted section references and made related stylistic changes in paragraph (b)(15).

The second 1992 amendment, effective July 1, 1992, inserted "or fiduciary duties" in paragraph (b)(16).

The third 1992 amendment, effective July 1, 1992, added paragraphs (b)(23) — (b)(29).

Effective date of 1992 amendment. — Under § 28, ch. 31, SLA 1992, the amendment to (b)(15) of this section made by § 9, ch. 31, SLA 1992, takes effect on the earlier of July 1, 1993 or the date established by resolution of the Alaska State Pension Investment Board for the transfer to it of securities and assets of the relevant retirement systems.

Opinions of attorney general. — The exception in paragraph (b)(1) for grants applies where: 1) the legislature makes an

appropriation to a specific program for a specific purpose; 2) the appropriation is for a donative purpose that would more traditionally be characterized as a grant (rather than the purchase of services or supplies); and 3) the nature of the program, known to the legislature, makes application of the procurement code difficult or unreasonable. Mar. 23, 1988 Op. Att'y Gen.

The State Procurement Code does not apply to decisions of the Department of Fish and Game (DF&G) concerning allocation to private nonprofit hatcheries of federal funds granted to the state in connection with the U.S./Canada Pacific Salmon Treaty, since the transaction that occurs when DF&G selects and allocates federal grant money to private nonprofit hatchery projects is not contractual under the State Procurement Code. Apr. 13, 1988 Op. Att'y Gen.

The Department of Transportation and

Public Facilities (DOT/PF) is not required to make the Procurement Code a condition of a Transfer of Responsibility Agreement (TORA). DOT/PF has discretion to negotiate for the inclusion of all or portions of the code in a TORA. June 10, 1988 Op. Att'y Gen.

The Procurement Code does not apply to contract negotiations of the Alaska Marine Highway System (AMHS) with the Port of Bellingham to provide terminal services at Bellingham for the AMHS. However, the AMHS may contract for these services with the Port of Bellingham. Aug. 16, 1989 Op. Att'y Gen.

Although the procurement code mentions the expenditure of money, the procurement code must be read to cover cases where instead of money some other type of valuable consideration is provided by the state in exchange for a good or service. Apr. 17, 1991 Op. Att'y Gen.

Sec. 36.30.860. Supplementary general principles of law applicable. Unless displaced by the particular provisions of this chapter, the principles of law and equity, including the Uniform Commercial Code (AS 45.01 — 45.09), the law merchant, and law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of this chapter. (§ 2 ch 106 SLA 1986)

Sec. 36.30.870. Adoption of regulations. (a) Regulations under this chapter shall be adopted in accordance with AS 44.62 (Administrative Procedure Act).

(b) Regulations under this chapter applicable to procurements of construction or procurements for or disposal of property of the state equipment fleet shall be adopted by the commissioner of administration only after consultation with the commissioner of transportation and public facilities. (§ 2 ch 106 SLA 1986)

Sec. 36.30.880. Requirement of good faith. All parties involved in the negotiation, performance, or administration of state contracts shall act in good faith. (§ 2 ch 106 SLA 1986)

Sec. 36.30.890. Federal assistance. If a procurement involves the expenditure of federal funds or federal assistance and there is a conflict between a provision of this chapter or a regulation adopted under a provision of this chapter and a federal statute, regulation, policy, or requirement, the federal statute, regulation, policy, or requirement shall prevail. (§ 2 ch 106 SLA 1986)

Sec. 36.30.900. Product preferences. This chapter does not modify AS 36.15.010 and 36.15.020 regarding preference for Alaska forest products, or AS 36.15.050 and 36.15.060 regarding preference for Alaska agricultural and fisheries products, except as provided in AS 36.30.170(b), (c), and (e) — (h), and 36.30.339. (§ 2 ch 106 SLA 1986; am § 60 ch 14 SLA 1987; am § 23 ch 65 SLA 1987; am § 5 ch 175 SLA 1990; am § 5 ch 114 SLA 1992)

Effect of amendments. — The 1990 amendment added "and 36.30.339" at the end of the section. The 1992 amendment, effective June 23, 1992, added subsection references.

Sec. 36.30.910. Purchases through general services administration. This chapter does not prevent purchasing through the general services administration as provided by law. (§ 2 ch 106 SLA 1986)

Sec. 36.30.920. Reporting of anticompetitive practices. When for any reason collusion or other anticompetitive practices are suspected among bidders or offerors, a notice of the relevant facts shall be transmitted to the attorney general by the person who suspects the collusion or other anticompetitive practices. (§ 2 ch 106 SLA 1986)

Sec. 36.30.930. Civil and criminal penalties. The following penalties apply to violations of this chapter:

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

(2) a person who intentionally or knowingly contracts for or purchases supplies, equipment for the state fleet, services, professional services, or construction under a scheme or artifice to avoid the requirements of this chapter is guilty of a class C felony. (§ 2 ch 106 SLA 1986)

Sec. 36.30.940. Enforcement. The attorney general on behalf of the state shall enforce the provisions of this chapter. (§ 2 ch 106 SLA 1986)

Sec. 36.30.950. Severability. If any provision of this chapter or any application of this chapter to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable. (§ 2 ch 106 SLA 1986)

Sec. 36.30.990. Definitions. In this chapter, unless the context in which a term is used clearly requires a different meaning or a different definition is prescribed for a particular provision,

(1) "agency"

(A) means a department, institution, board, commission, division, authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of the executive branch of state government;

(B) does not include

(i) the University of Alaska;

(ii) the Alaska Railroad Corporation;

(iii) the Alaska Housing Finance Corporation;

(iv) a regional Native housing authority created under AS 18.55.996 or a regional electrical authority created under AS 18.57.020;

(v) the Department of Transportation and Public Facilities, in regard to the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system;

(vi) the Alaska Aerospace Development Corporation;

(vii) the Alaska State Pension Investment Board;

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

(3) "commissioner" means the commissioner of administration;

(4) "competitive sealed bidding" means the procedure under AS 36.30.100 — 36.30.190;

(5) "competitive sealed proposals" means the procedure under AS 36.30.200 — 36.30.260;

(6) "construction" means the process of building, altering, repairing, maintaining, improving, or demolishing a public highway, structure, building, or other public improvement of any kind to real property other than privately owned real property leased for the use of agencies; it includes services and professional services relating to planning and design required for the construction; it does not include the routine operation of a public improvement to real property nor does it include the construction of public housing;

(7) "contract" means all types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies, equipment for the state fleet, services, professional services, or construction;

(8) "contract modification" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract accomplished by mutual action of the parties to the contract;

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

(10) "employment program" means a nonprofit program to increase employment opportunities for individuals with physical or mental disabilities that constitute substantial handicaps to employment;

(11) "grant" means property furnished by the state, whether real or personal, designated by law, including an appropriation Act, as a grant;

(12) "lease-financing agreement" means a lease-purchase agreement that secures or is related to financing instruments of the lessee, including revenue bonds or certificates of participation;

(13) "lease-purchase agreement" means a lease that

(A) transfers ownership of the property to the lessee by the end of the lease term;

(B) contains a purchase option at a price less than the fair market value of the property on the date the option is exercisable;

(C) has a term, at inception, equal to 75 percent or more of the economic life of the property; or

(D) contains minimum lease payments, including minimum lease payments during a renewal provided for in the agreement, whose present value at the inception of the agreement equals 90 percent or more of the fair market value at the inception of the agreement of the real property that is the subject of the agreement; the present value shall be determined by using as a discount rate the most recent Bond Buyer 20-Bond G.O. Index;

(14) "person" means a business, individual, union, committee, club, other organization, or group of individuals;

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

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

(17) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character, result in the production of a report or the completion of a task, and include analysis, evaluation, prediction, planning, or recommendation;

(18) "public building" means improved real property leased to the state for governmental, public, or educational use, but does not include improved real property owned by the University of Alaska Heating Corporation and leased to the University of Alaska for a purpose

within the scope, as of July 1, 1986, of the heating corporation's charter;

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

(20) "state money" means any money appropriated to an agency or spent by an agency irrespective of its source, including Federal assistance except as otherwise specified in AS 36.30.890, but does not include money held in trust by an agency for a person;

(21) "supplies" means all property of an agency, including equipment, materials, and insurance; it includes privately owned real property leased for the use of agencies, such as office space, but does not include the acquisition or disposition of other interests in land. (§ 2 ch 106 SLA 1986; am § 19 ch 102 SLA 1989; am § 10 ch 30 SLA 1990; am § 10 ch 181 SLA 1990; am § 7 ch 88 SLA 1991; am § 10 ch 31 SLA 1992; am § 3 ch 94 SLA 1992; am § 114 ch 4 FSSLA 1992)

Revisor's notes. — The paragraphs were renumbered in 1989 and 1990 to retain alphabetical order.

Effect of amendments. — The 1989 amendment, effective September 10, 1989, added present paragraphs (10) and (17).

The first 1990 amendment, effective July 1, 1990, added present item (1)(B)(iii) and made related stylistic changes in paragraph (1).

The second 1990 amendment, effective July 1, 1990, added paragraphs (12), (13), and (18).

The 1991 amendment, effective July 2, 1991, in paragraph (1), added item (B)(vi).

The first 1992 amendment added item (1)(B)(vii) and made a stylistic change.

The second 1992 amendment, effective June 19, 1992, in subparagraph (1)(B), added present item (v).

The third 1992 amendment, effective July 1, 1992, in subparagraph (1)(B), deleted former item (ii), relating to the

Alaska State Housing Authority and redesignated the remaining items accordingly.

Effective date of paragraph (1)(B)(vii). — Under §§ 10 and 28, ch. 31, SLA 1992, the effective date of paragraph (1)(B)(vii) is the earlier of July 1, 1993 or the date established by resolution of the Alaska State Pension Investment Board for the transfer to it of securities and assets of the relevant retirement systems.

Opinions of attorney general. — The State Procurement Code does not apply to contracts for the administration of insurance license tests by the Division of Insurance, where the division does not pay any money to the testing service. Instead, all test fees are paid by the applicants directly to the testing service, and therefore, these fees paid do not fit within the definition of state money. Aug. 13, 1991 Op. Atty Gen.

Sec. 36.30.995. Short title. This chapter may be cited as the State Procurement Code. (§ 2 ch 106 SLA 1986)

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 129(STA)

Page 2, following line 2:

Insert a new bill section to read:

"* Sec. 3. AS 36.30.080(c) is amended to read:

(c) If the department, legislative branch, or judicial branch intends to enter into or renew a lease [OR LEASE-PURCHASE AGREEMENT, EXCEPT AN AGREEMENT REFERENCED TO A REFINANCING,] with an annual rent to the department, legislative branch, or judicial branch that is anticipated to exceed \$1,000,000, or with total lease payments that exceed \$10,000,000 for the full term of the lease, the department, legislative branch, or judicial branch shall provide notice to the legislature. If the department, legislative branch, or judicial branch intends to enter into or renew a lease-purchase or lease-financing agreement, the department, legislative branch, or judicial branch shall provide notice to the legislature. The notice must include the anticipated annual lease obligation amount, the anticipated total construction, acquisition, or other costs of the project, and the total lease payments for the full term of the lease, if the agreement is a lease-purchase or lease-financing agreement, or if the agreement is a lease other than a lease-purchase or lease-financing agreement and [, IF] the total lease payments for the full term of the lease exceed \$10,000,000 [, THE TOTAL LEASE PAYMENTS FOR THE FULL TERM OF THE LEASE]. The department may not enter into or renew an agreement requiring notice under this subsection unless the project has been approved by the legislature by law. An appropriation for the project does not constitute approval of the project for purposes of this subsection. The department may not enter into an agreement under this subsection if the optional renewal period allowed under the agreement exceeds two years. In this subsection, "term" includes defined renewal options."

Local
Project

Renumber the following bill sections accordingly.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR FRANK

TO: CSSB 129(STA)

Page 4, following line 21:

Insert a new bill section to read:

"* Sec. 11. LEASE EXTENSIONS AUTHORIZED. (a) Notwithstanding AS 36.30, the Department of Administration, the legislature, and the court system may extend for up to a maximum extension of five years a real property lease that is entered into under AS 36.30, including procedures adopted under AS 36.30.020 - 36.30.030, and that is in existence on the effective date of this Act if a minimum cost savings of

(1) 10 percent can be achieved on the rent due under the lease; or

(2) five percent can be achieved on the rent due under the lease and the lessor agrees to make modifications of the leased real property to bring the real property into compliance with the requirements of 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act of 1990).

(b) The cost savings under (a) of this section shall be calculated on the remaining term of the lease and any renewals, including extensions allowed under (a) of this section.

(c) The Department of Administration, the Alaska Court System, and the Legislative Affairs Agency shall submit a quarterly report to the Legislative Budget and Audit Committee detailing the leases extended and the cost savings achieved under (a) - (b) of this section. The first report is due July 1, 1994, and must cover the period from the effective date of this Act through March 31, 1994. The subsequent reports shall be made October 1, 1994, January 2, 1995, and April 1, 1995."

Re-number the following bill section accordingly.

Page 5, following line 3:

Insert a new bill section to read:

"* Sec. 13. (a) Subsections 11(a) - (b) of this Act are repealed December 31, 1994.

(b) Subsection 11(c) of this Act is repealed April 1, 1995."

AMENDMENT

IN THE SENATE

BY FRANK

TO: CSSB 129(STA)

Page 4, after line 21, insert new sections to read:

" * Sec 11. Notwithstanding AS 36.30, the Department of Administration may extend a lease into under AS 36.30 and that is in existence on the effective date of this Act, if the department can achieve a cost savings minimum of ten percent on the rent due under the lease, or a cost savings of five percent on the rent due under the lease if the lessor agrees to modifications to the facility to bring it in compliance with the Americans with Disabilities Act (ADA). An extension authorized under this section may not exceed five years. The department shall submit a quarterly report to the Legislative Budget & Audit Committee detailing the leases extended and cost savings achieved under this section.

* Sec. 12. Section 11 of this Act is repealed December 31, 1994."

Renumber the following sections accordingly. .

AMENDMENT

IN THE SENATE

BY FRANK

TO: CSSB 129(STA)

Page 4, after line 21, insert new sections to read:

" * Sec 11. Notwithstanding AS 36.30, the Department of Administration may extend a lease into under AS 36.30 and that is in existence on the effective date of this Act, if the department can achieve a unit cost savings on the rent due under the lease. An extension authorized under this section may not exceed five years. The department shall submit a monthly report to the Legislative Budget & Audit Committee detailing the leases and cost savings achieved for leases modified under this section.

* Sec. 12. Section 11 of this Act is repealed December 31, 1994."

Renumber the following sections accordingly.

OK, per Sen. Phillips

Post-It™ brand fax transmittal memo 7671		# of pages >	1	
To	JERRY BURNETT		From	DUGAN PETTY
Co.			Co.	
D. Dept.			Phone #	465-2250
Fax #	465-4979		Fax #	465-2189

RE SB129

Section 5

Subsection (a) of this section requires that the CPO independently examine the material facts of a procurement and independently determine whether it is eligible for the alternate procurement method requested. The requirement for the CPO to independently examine material facts is not practical, and probably not possible given time constraints. The CPO must rely on the honesty of the agency personnel supplying the information on alternative procurement requests. The department head or authorized representative must certify that all information provided on the request is true and accurate. It would not be possible for the CPO, or any other individual to personally examine the material facts of each request received. Reliance on the information given by agencies requesting alternate procurement methods is required.

The CPO also regularly relies on the review and recommendation of a Division of General Services Purchasing Agent and the Purchasing Agent's supervisor. The CPO then makes an independent decision to accept or reject the request for alternative procurement. Without that initial review and recommendation, the CPO would spend inordinate amounts of time reviewing and investigating these requests, leaving little time to perform other required duties.

We suggest that subsection (a) be changed as follows:

In a determination made by the chief procurement officer under AS 36.30.300 - 36.30.310, when, in the chief procurement officer's judgment, there is a need to verify the facts as represented by the requesting agency, the chief procurement officer shall independently examine the material facts of the procurement [contract] and independently determine whether the procurement [contract] is eligible for the procurement method [procedure] requested [selected for the contract].

RE SB129

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To	JERRY BURNETT		From	DUGAN PETTY
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We suggest that subsection (a) be changed as follows:

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not be made through competitive sealed bidding or competitive sealed proposals but shall be made with competition that is practicable under the circumstances. A written determination by the procurement officer of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The determination must include findings of fact that support the determination.

(b) When emergency conditions exist that make procurements through competitive sealed bidding or competitive sealed proposals impracticable or contrary to the public interest, and there is sufficient time to submit findings of fact and receive a written determination by the chief procurement officer, the chief procurement officer shall determine, in writing, the basis for the emergency and the means by which the procurement shall be made. Except for procurements of supplies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(a), the authority to make a determination required by this subsection may not be delegated.

Section 5

Suggest that subsection (a) be changed as follows:

In a determination made by the chief procurement officer under AS 36.30.300 - 36.30.310, when, in the chief procurement officer's judgment, there is a need to verify the facts as represented by the requesting agency, the chief procurement officer shall independently examine the material facts of the procurement [contract] and independently determine whether the procurement [contract] is eligible for the procurement method [procedure] requested [selected for the contract].

Proposed substitute language for SB 129 to address the concerns raised in DOA's bill analysis:

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 2
To <i>Randy Wick</i>	From <i>Tom</i>	
Co.	Co.	
Dept.	Phone #	
Fax # <i>2307</i>	Fax # <i>2307</i>	

Section 2

Suggest deletion of subsection (c).

Concerns over the delegation of the determination necessary for a sole source procurement are already addressed in AS 36.30.300, which states, "Except for procurements of supplies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(a), the authority to make the determination required by this subsection may not be delegated."

Similar language is present in AS 36.30.305 which prohibits the delegation for determinations required for limited competition procurements.

Suggested substitute language to prohibit delegations for determining certain types of emergency conditions is included in Section 4.

Section 4

AS 36.30.310 is amended to read:

Sec. 36.30.310. EMERGENCY PROCUREMENTS. (a) Procurements may be made under emergency conditions as defined in regulations adopted by the commissioner when there exists a threat to public health, welfare, or safety, when a situation exists that makes a procurement through competitive sealed bidding or competitive sealed proposals impracticable or contrary to the public interest, or to protect public or private property. An emergency procurement need

Section Analysis

Section 1. AS 36.30.150. requires the Chief Procurement Officer or Commissioner of Transportation and Public Facilities to make a written determination that a contract based on total or life cycle costs promotes overall economy for the purpose intended, encourages competition, is not unduly restrictive and is in the best interest of the State, before such a contract can be established. This section would eliminate the requirement for that determination.

Procurement officials are required to make numerous written determinations throughout the procurement process. This determination does not appear to be significant or necessary. However, if not performed, a procurement may be considered flawed. Removing this requirement streamlines the process without jeopardizing competition or accountability.

Section 2. AS 36.30.300. sets out the requirements for sole source procurements. The statute currently permits delegation of sole source authority for small procurements of supplies, services or construction, but does not permit delegation of those determinations for professional services. This change will allow the Chief Procurement Officer to delegate the determination of sole source procurements for small procurements of professional services.

The inconsistency in the current law leads to confusion, and makes the procurement process overly complex. Adding the delegation of sole source authority for small procurements of professional services standardizes and streamlines the handling of all procurement types. There is no basis for treating professional services procurements differently than others.

Section 3. AS 36.30.305. sets out the requirements for limited competition procurements. Similar to Section 2, this section adds professional services to the permissible delegations for small procurements made via limited competition. This change will allow the Commissioner of Administration to delegate the

been to respond to the appellant within 15 days of the date comments are received from the appellant.

Section 6. This amendment adds two specific categories of contracts to the list of procurements which are not subject to the Procurement Code: contracts which are to be performed outside the United States requiring knowledge of the customs, procedures, and laws of the area in which the contract will be performed, and contracts by the Department of Law for review or prosecution of possible violations of criminal law in situations where the Attorney General determines that there would be an actual or perceived conflict of interest if the Department of Law were to review or prosecute the possible violation.

The Department of Commerce has difficulty establishing professional services contracts in foreign countries. Our procurement procedures are intended primarily for domestic procurement and do not conform to foreign customs or business practices. The requirements of the Procurement Code for Alaska business licenses and application of the Alaskan bidder/offeror preferences are difficult to accommodate when procuring contracts in foreign countries. This causes agencies to go through cumbersome limited competition procedures for foreign contracts. This amendment would remedy this cumbersome, time consuming and inefficient process.

The Department of Law must occasionally contract for services of a special prosecutor. Under Alaska Statute the authority to bring or dispose of a State criminal action is vested solely in the Attorney General. Appointment of a special prosecutor usually involves delegation of all or part of the Attorney General's discretionary power to bring or dismiss criminal charges. Compliance with the Procurement Code is problematic because of the need for confidentiality, the limited pool of qualified attorneys, potential conflicts of interest of qualified individuals, and the need to assure public confidence in the selection process. Past procurements of special prosecutors have been handled under emergency procedures due to the unique needs of these procurements, especially the need to preserve confidentiality. This results in unnecessary and inefficient procedures. A recent legislative audit recommended

36.30.010

(c) While a person performs the duties of the chief procurement officer under this chapter, the person may not serve in another capacity, or be employed in or appointed to another position with the state.

(d) To protect the independence of the chief procurement officer, and to ensure that the position is free from political influence, except for administrative purposes only, the chief procurement officer shall maintain an office free from oversight by the (commissioner or the department of administration or the executive branch). The department of administration shall provide staff support to the chief procurement officer sufficient to perform the duties of this chapter.

HOW THE STATE OF ALASKA SELLS OUT ALASKA

Denied A Trial to Present Facts
Alaskan Companies Bids Not Even Evaluated
Outside Money Buys Contracts
State Can Give A Bid to Any Company At Any Cost
Wasting Millions
30-100% Waste on Most State Contracts
Budget Cuts Not Needed
State of Alaska Does Not Support "Buy Alaska"
State of Alaska Blatantly Violates Alaska Statutes
PTMS Fraudulently Claims To Be An Alaskan Company
PTMS Bid \$1.5 Million--Changed Bid and Awarded Bid \$8.6 Million
Commission Of Administration Does Not Follow Alaska Law
Appointed Attorney General Defends State of Alaska--No Alaska Laws
No One to Prosecute The State Except You The People
Prosecute The State And You Are Liable For All State Legal Fees
No Checks And Balances On the State Of Alaska
Ombudsman Has No Enforcement Power (Rare-Cases-Grand Jury)
Audit Committee Has No Enforcement Power

THE SUBJECT: RFP IN JUNEAU FOR THE STATE OF ALASKA
APPROXIMATELY 30 OFFICES/4000 STATIONS(PHONES)
ALASKAN COMPANY BIDS NOT EVEN
EVALUATED AND STATE OF ALASKA
ENTERS INTO CONTRACT WITH PTMS
KNOWING THEY FRAUDULENTLY CLAIMED
TO BE ALASKAN COMPANY AND THAT RFP
SPECIFICATIONS ARE NOT MET!!!!!!!

MAJOR PROBLEMS WITH THE RFP:

WTI Bid \$5.2 for a State of the Art System--excluded from analysis by "not subject to award" routine. This is just one of the processes used by the State of Alaska.
ALASKAN COMPANIES BID NOT EVALUATED--WE BID TWICE!!!!!!!!!!!!!!
State of Alaska knew that PTMS has fraudulently claimed to be a Alaskan Company and the State of Alaska still chose to enter into a contract with them!!!! Why?
TUA awarded Bid first without a guaranteed price--proposed \$6.50 per trunk with the customers in Juneau paying the legal rate of approximately \$30 per trunk-ridiculous. WTI protested and the State nine months later agreed and withdrew the bid Award stating that "TUA discovered that it had mistakenly included an erroneous rate for centrex end user charges" end quote.
PTMS awarded Bid claiming to be a Alaskan Company fraudulently--black and white in bid that they were not. Consultant and 3 State evaluation members unable to find this even when pointed out in our very first protest. Nine (9) months later they admitted that it was fraudulent--but "makes no difference". This should have disqualified them.
PTMS bid \$1.5 Million and changed award to \$8.6Million--How does this happen. This again should have disqualified them.
PTMS left out the Microwave specifications and equipment to be provided. This again should have immediately disqualified PTMS.
PTMS has proposed a system that will be subject to massive outages and can very EASILY ENDANGER LIFE AND PROPERTY DAMAGE under circumstances that could very easily happen.

PTMS has proposed a system that can be easily demonstrated NOT TO conform to MAJOR RFP REQUIREMENTS. State of Alaska unable to find or acknowledge. But if that can not find ALASKAN PREFERENCE OR BID PRICE VARIATIONS that are in Black and White, Then there is no hope on this important subject.

THE PLAYERS:

Company/Business/Person	Location	Comments
State of Alaska Division of Information Services	Juneau Anchorage/Juneau	Division of Telecommunication Section Agency in charge of communications for the State of Alaska.
John Morrone	Anchorage	Contracting Officer for the State of Alaska Division of Information Services. One of "experts" that evaluated the bid
John Cameron	Juneau	One of the "experts" that works for the State of Alaska that evaluated the bid.
J. Ruppert	Juneau?	One of the "experts" that evaluated the bid and he is a employee of the State?
State Bid evaluation team (3)	Anchorage/Juneau	Expertise is supposed to be in Telecomm. They are in Div. of Information Services.
Attorney General of Alaska	Juneau	Appointed by the Present Administration Is supposed to enforce the laws of Alaska.
Administration Commissioner	Juneau	Appointed by the Present Administration
Nancy Bear Usera	Juneau	Administration Commissioner
Ombudsman	Juneau	Lawyer on Legislative side--no power!
Audit Committee	Juneau	Legislative Committee--no power!
Wolfe and Associates	Lower 48	Expert (?) in Communications--advises State- Consultant & analyzed the RFP
RFP		One Method of the State buying goods and services. Lowest price not the winner several factors are considered.
PTI (Pacific Telecom Inc)	Lower 48	Parent company of TUA and
Alascom		
TUA	Juneau Telephone Co.	Owned by PTI--same CO as owns Alascom First Winner of Bid award.
PTMS (PACTEL MERIDAN SYSTEMS)	Lower 48	Winner of Bid--When TUA withdrew.
Electrical Administrator Lic	Anchorage	License No AA 536--Per State of Alaska belongs to Ron Wisemore. Comtec Owner or past owner. This License was used on the Business License that was used to illegally claim to be a Alaskan Company.
Comtec Business Systems	Anchorage	Company that is working with PTMS Owner was/is Ron Wisemore(person whose License was used)---company may now have changed owners? This Company is making money on this job--nice.
Microwave		A means of communications using Radio waves with dishes. Subject to failure/noise during snow/rain and subject to signal variations when used in proximity to the ocean.
Centrex	TUA Telephone Switch	A service provided by Telephone Companies only--the Computer is the same one that gives your house telephone service and only the phones reside at the customer premise.
<u>WTI (Winter Telecom Inc)</u>	Anchorage	Alaskan owned company 100%. Company Bid this job twice and bid never evaluated. Company that has been protesting the illegal awarding and wasting of millions of our money on this Bid.
Not Subject to Award excludes		One of the ways the State of Alaska bidders. If they evaluated your bid, you might win--this is one of the processes used.
NTI(Northern Telecom Inc)	Canada/USA	Type telephone of equipment that would be used by both TUA and PTMS

2. COURT DE NOVO TRIAL
SUPERIOR COURT

DENIED

Judge agreed to a expedited consideration. We waited over 2 months. We wanted a hearing to tell our side and get our bid evaluated. But we were never given a opportunity.

3. HANGING HEARING

QUIT

Judge (same one) will allow only the lawyer to talk and present only the facts already developed. I can not testify and I can not get the State of Alaska personnel to testify. Great System--no trial with the facts to be presented and ability to cross examine.

THIS IS THE END OF OUR MOST VALIANT ATTEMPT JUST TO GET OUR BID EVALUATED. WE BID TWICE AND THE STATE OF ALASKA REFUSED TO EVALUATE OUR BID, KNOWING THAT WE WOULD WIN IF WE WOULD HAVE HAD A EQUAL CHANCE! THIS BUSINESS HAS SUFFERED EXTREME LOSSES FINANCIALLY IN AN ATTEMPT JUST TO PROSECUTE THE STATE OF ALASKA THAT BLATANTLY VIOLATES CONSISTENTLY ALASKA STATUES. WE GIVE UP AT THIS POINT AND STRONGLY ADVISE ANY COMPANY OR INDIVIDUAL NOT TO WASTE TIME AND MONEY WITH THIS PROCESS. THERE IS NOTHING TO WIN.

ALL THAT WAS LEFT WAS A "HANGING HEARING". MY LAWYER COULD TELL THE STORY IN FRONT OF A JUDGE, BUT I COULD NOT TESTIFY AND WE COULD NOT CONFRONT THE STATE OF ALASKA WITH THE FACTS AND ASK QUESTIONS. WE CHOSE TO AS FOR A DISMISSAL OF THE CASE AND IT WAS GRANTED. THE STATE OF ALASKA IN IT'S GREAT MERCY CHOSE NOT TO REQUIRE MY BUSINESS TO PAY FOR IT'S LEGAL FEE'S. MY AREN'T THEY GENEROUS.

ONLY IN ALASKA ARE YOU DENIED THE RIGHT TO HAVE A TRIAL/HEARING WITH THE CROOKS AND PRESENT THE FACTS. THAT WAS OUR PRIMARY GOAL---AND WE WOULD HAVE WON--BUT WE WERE BARRED BY BOTH THE STATE OF ALASKA AND THE COURT SYSTEM. CORRUPTION AND INCOMPETENCE MARCH FORWARD HAPPY AND WELL IN ALASKA SUPPORTED BY THE PRESENT ADMINISTRATION AND THE COURT SYSTEM!!!!!!!!!!!!

BY THE WAY, THE STATE OF ALASKA AUDIT COMMITTEE IS INVESTIGATING THIS FRAUD. REMEMBER--THEY HAVE NO POWER WHEN THEY FIND FRAUD.

WASTED MONEY AND SERVICES NOW THAT WE KNOW ABOUT!

This bid	\$3,400,000	Main part of job to be completed by December 15, 1992
UAA Bid	\$0,100,000	This job in progress --we did not bid, protested--A bid with no specifications and UAA refused to give us any. Another Story--one of very many.
Rent of Office space	\$3,400,000	In First level protest. Not our Firm--in Paper recently.
<u>TOTAL</u>	<u>\$6,900,000</u>	<u>Let us vote to raise taxes to support this process OR tap our Permanent Fund!!!!!!</u>

THE STORY:

The Juneau Telephone system was put to bid(RFP) in the fall of 1990 and PTI wrote a letter to the State threatening to sue the State because the Technology requested exceeded/excluded Centrex. The State Government changed in January of 1990 and in the February time frame, just before the award of the contract of which company would be the winner was to be made, the State canceled the RFP award.

The State changed the word "digital telephone" to read "electronic telephone" and added more requirements making it very difficult for an Alaskan Company to be able to bid. The bid was then reissued in the summer of 1991.

Six companies submitted bids on the second go-around (GCI did not submit a bid this time-wonder why). The State of Alaska and a California consultant stated that only two companies were "subject to award" and the other four were not "subject to award". This is a illegal process to determine that one of the two companies will be the winner (one of several tactics employed by the State of Alaska and they all work). One of several ways the State can control the winner, regardless of quality of the system or the price. TUA quoted \$6.50 per line, with the businesses in Juneau already paying the tariffed rate of approximately \$30 per line. The RFP stipulated that the price had to be guaranteed and the \$6.50 price has to be approved as a special contract by the APUC--supposed to be the watchdog for the consumer and competing companies in the State of Alaska.

WTI lodged a first protest in the Fall of 1991 because of several reasons, but the most important one being that \$6.50 was proposed as rate for Trunk/line with everyone in Juneau already paying approximately \$30 per line--a ridiculously low rate and could not be guaranteed because it had to be approved by the APUC. WTI's First Protest was denied. Then a second level protest against the award to TUA was lodged by Winter Telecom. The approval of the APUC was lingering and nine months later, the State of Alaska withdrew the award to TUA stating "TUA has discovered that it had mistakenly included an erroneous rate for Centrex end user charges" end quote. No hearing on the second protest of the TUA award was ever granted to Winter Telecom, instead, the State of Alaska then awarded the Contract to PTMS --another lower 48 company.

WTI again lodged a first level protest against the State of Alaska on the award to PTMS as required by law and it was denied. WTI lodged a second level protest as required by law to the Commissioner of Administration (Nancy Bear Usera--appointed position by the Government in power at the time) - a lengthy process involving documentation of the claim, responses by the agency, and further reply by the claimant. According the law, the Commissioner was required to hold a hearing (only exceptions are if it is a legal question or WTI was not timely on filing protest--nether which was true or claimed by the State of Alaska), but instead she ruled against Winter Telecom without a hearing. The letter from Nancy Bear Usera (see exhibit at end of package) never even claimed it to be a legal matter, but instead had a unilateral meeting without WTI and argued the facts. During this initial process, the awarding agency was proceeding with the contract as awarded, and Winter Telecom had already run up large attorney fees.

Administrative remedies having been exhausted, the company filed suit in Superior Court, asking for an injunction to stay the award process and for a De Novo Trial (takes the place of the hearing denied illegally by the State in the Administrative second protest). The stay was denied, the matter was appealed to the Alaska Supreme Court, and the appeal was denied. In order to under take the lawsuit, the company posted bond, and paid the costs of preparing "the administrative record" for the court, and exposed itself to the possibility of having to pay the State's legal defense costs in the event of an unfavorable judgment. The State during all of this has been proceeding ASAP with the main installation to be completed by Mid December (stating also that the job had to be installed before the next Legislative session with the agency itself delaying the award by two years--convenient how it worked out, eh). Winter Telecom has been waiting two months for Judge Sturtell in Superior Court to rule on the De Novo trial (the Judge had agreed to a expedited consideration!!!!).

PTMS's bid claimed to be a Alaska company illegally (almost one year later the State admitted to this stating "makes no difference"--it is in black and white in the bid and one consultant--Wolfe and Assoc.--and three (3) State agency evaluation RFP "expert" personnel were unable read this even though WTI enumerated this many times before the award of the contract). If the State of Alaska 3 "experts" and Wolfe & Associates can not find this with direction,-- does that raise questions in your mind about the ability and honest evaluation of the bid by the State of Alaska and the Consultant? PTMS filled in the "FINAL TOTAL CONFIGURATION PRICE for approximately 1.5 Million" and the award was for \$8.6 Million. The State of Alaska was able to "easily determine" the price they really meant. Winter Telecom has bid a price of \$5.2 million--a saving to the State of Alaska people of approximately \$3.4 million. This system that is being installed is a later version of the one that is the State of Alaska is presently using with such unreliability--per the State. This system violates specifications and could very easily endanger the public safety in our judgment. The agencies that can be entirely out of communications both internally and externally per the bid are Lemon Creek Correctional Facility, State Troopers, Department of Transportation, Pioneer Home, Auke Bay University, and several others. Some of these are agencies are extremely critical in case of a Correctional facility riot, earthquake, or some other type of disaster.

If Winter Telecom wins, the maximum relief the company can receive will be a partial reimbursement for cost of preparing the bid and possible some minor reimbursement for some of the attorney fees incurred in fighting the battle. Meanwhile the State Attorney General (appointed by the present Administration--should be a elected official!) is using the full resources of the State of Alaska to defend its agency's blatant illegal actions.

Ralph spoke to some Alaska legislators seeking other relief, but found them beholden to the bidders because of campaign contributions. They also stated that we were in Court (like we wanted to be, and had something to win--only a fair evaluation of our bid would be extremely appreciated) and they could not interfere with our court system. But they can do nothing when we win or lose our court case.

The bigger issue is that the State of Alaska on procurement of services or equipment typically in the range of \$100,000 and up is almost 100% immune from violation of a State Statute's. There is no one to prosecute the State, except you and I, and to do so we expose ourselves to the State of Alaska Legal Fees, not to mention our own legal fees. Most bids are running 30%-100% too high because of illegal directing of bids to certain companies by the State of Alaska. Let us raise taxes to support this system and/or give the State of Alaska access to the Permanent Fund!!!!!!

We lost our effort to get a De Novo Trial and it is extremely useless to continue as the lawyer fees continue to escalate. We are will now go to the State of Alaska Attorneys on our knees pleading for them not to require Winter Telecom to pay to State's Attorney fees trying to enforce the State of Alaska Statutes. The State of Alaska Agreed to dismiss the case with WTI only paying for his attorney's fees-- what a bargain!

LEGAL DESCRIPTION STORY:

The State Procurement Code (AS 36.30) sets forth the rules for State procurement from private parties of needed materials and services. The primary safeguard against a State agency's violation of these rules is a lawsuit brought by an individual or company. Absent unusual circumstances, this will be a individual or company who has made a bid or proposal to supply a good or service, but has not received the award.

In order to bring a lawsuit against the State for violation of the State Procurement Code, a claimant must follow the "exclusive procedure for asserting a claim" (see AS 36.30.690), which procedure requires that the claimant first exhaust his administrative remedies through the agency appeal process. Only after this process is completed may the claimant go to court.

To pursue an administrative appeal, the claimant must first file a protest with the procurement officer of the contracting agency, in compliance with rules set forth by statute. See AS 36.30.560, et seq. Because the procurement officer was the same official who made the contract award, a protest rarely results in reversal of the decision; instead, it is used as an opportunity by the agency to supply further written justification for its decision.

Following the decision by the procurement officer to reject the protest, the claimant must appeal to the Commissioner of Administration. AS 36.30.590. Meanwhile, the bid award is not stayed (stopped, pending a final decision), unless the contracting agency itself approves the stay. See AS 36.30.575 and .600. Again, State agencies are reluctant to stop progress on their own bid or RFP awards.

The appeal to the Commissioner of Administration is time-consuming, involving preparation of the appeal and documentation by the claimant; response by the agency; and further reply by the claimant.

Unless the administrative appeal to the Commissioner is untimely or results in no factual issues, the Commissioner is required to hold a hearing on the appeal. AS 36.30.610 However, in the case of Winter Telecom, the Commissioner entered a decision without holding a hearing, though factual issues clearly existed.

Only after a final decision by the Commissioner of Administration may a claimant bring his claim to court, as an administrative appeal. AS 36.30.685. In order to file an administrative appeal to court, a claimant must (1) post a \$750 cost bond with the court; (2) pay for all costs of preparing the "administrative record" for court; and (3) expose himself to the possibility of an award of attorney's fees and costs against him if he is unsuccessful in court. Additionally, in order to have any chance of success, he must retain his own attorney, preferably at the earliest stage of bid protest and appeal to the Commissioner.

Additionally, because of the time which has been consumed before the agency in its appeal process, and the additional time required to develop the administrative record, allow for full briefing by both parties, and hearing and decision by the court, performance of the work specified under the contract award will have been begun, and be perhaps substantially or fully completed. The only remedy available in court, at the time of its final decision, is to stop the award or, at most, to award a claimant his bid preparation costs. Money judgment for lost profits, or judgments against individual State officials, are not authorized by statute.

If the work under a contract is progressing and will already be substantially completed before the court finally is able to make a decision as to whether or not it was illegally awarded, the only effective remedy for a claimant is to seek a court stay of the procurement award, before work thereunder is commenced or completed. In order to obtain a stay, however, courts ordinarily require the posting of a "supersedeas bond", under Appellate Rule 602 (e). The purpose of this bond is to compensate the State for any losses if the court does stay the award, but later determines that the claimant has not proven the illegality of the award. In these cases, the State typically seeks to demonstrate to the court that only a bond for millions of dollars will protect it if it is stopped from proceeding on a bid award. A claimant protesting the award must therefore take the risk that he will be required to pay such full costs, if he obtains a stay but later loses the case. (Would anyone in their right mind post a multi-million dollar bond on the roll a Judge's decision).

In administrative appeal, the court ordinarily applies the "substantial evidence test" under which the court defers to agency expertise and sustains the award unless a clear showing of error or violation of statute can be shown. While a de novo trial can be ordered by the court, the usual process is to simply review the written administrative record.

In summary, the system relies upon a private claimant to require State agencies to adhere to the State's own procurement code.

Yet the system heavily stacks the odds against the private claimant, requiring him to incur substantial costs, undergo a lengthy process, and risk being liable for even greater costs in the event he loses the claim in court. In order to win in court, the claimant must overcome a strong presumption, built into the law, in favor of agency decisions. In addition to the foregoing risk, a claimant bidder or proposer must take the risk that he will incur the wrath of the agency involved, and risk being disfavored on future bids. This is of particular concern on bids of the "RFP" type, where there is no objective price criterion from which the likely winner of the award may ordinarily be determined. RFP awards balance many factors, and courts typically defer to agency judgments on such matters absent clear evidence of wrong doing.

Unless a disappointed bidder or proposer is willing to take the foregoing risk, a violation of the State's procurement laws will likely go unremedied.

THIS SHOULD BE REQUIRED READING FOR ALL COMPANIES THAT HAVE ETHICS AND/OR ARE ALASKAN COMPANIES.

ALASKA BUSINESS LICENSE APPLICATION

1991 - 1992

License Fee: \$50.00
 Tobacco Enforcement Fee: \$15.00
 Fees must be submitted in U.S. Funds

1. Check the appropriate box:

RENEWAL Business License Number: _____

NEW BUSINESS Tax Status: SOLE PROP. Date: MAY 1, 1991

NEW OWNER Date Purchased: _____

Business license is not transferable or assignable. The Department of Commerce must be notified within ten days when a change in business ownership takes place and a new business license must be purchased.

2. Business at (Check one):

Individual (Sole Proprietor)

Partnership

Corporation

If a corporation, please provide your Corporation File No. _____

3. Social Security Number: _____

4. Business License Number (Assigned by Commerce): _____

5. State Code (See State Code Manual): 4181101

6. Social Security Number: _____

7. Do you plan to have employees working in Alaska during the year?

YES NO

If yes, please provide your Federal Employer Identification Number: _____

8. General Name(s) (Last Name, First Name, Middle Initial):
Northern Telecom Ventures Inc. & Social Systems

9. Business Name (Up to 40 characters; appropriate as necessary):
Northern Telecom Ventures

10. Mailing Address (Up to 40 characters; appropriate as necessary):
2401 Crow Canyon Road

City (Up to 20 characters): _____ State (2): CA Zip Code: 94024

11. Physical location of business, if different than mailing address:

12. Business at (Check one):

Alaska Resident

Nonresident

If nonresident, please provide the state of origin or domicile of your business (see instructions on reverse side concerning the origin of your business):
California

NOTE: Nonresident businesses must file an affidavit and comply with the liability insurance requirements on or before June 1 of each year. Please see other side for additional important information.

13. SIGN YOUR APPLICATION AND RETURN IT TO THE ADDRESS ABOVE.

This application must be signed and dated. Applications without the appropriate signature and printed name will be returned unprocessed.

I declare under penalty of perjury that this application is true and complete.

Patience 5/12/91
 Signature Date

Print name of owner, managing partner, sole manager, or registered agent signing this form below:
Patience (printed name)
President Title

YOUR LICENSE WILL BE ISSUED 2-4 WEEKS AFTER YOUR COMPLETE APPLICATION AND FEES IS RECEIVED.

THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES

ALASKA BIDDER CERTIFICATION AND QUALIFICATION FORM

This form must be completed and returned as a part of your response to this solicitation.

Alaskan bidder is defined by statute. (AS 36.10.170)

An "Alaskan Bidder" is a person (firm) who:

- (1) holds a current Alaska business license;
- (2) submits a bid for goods, services or construction under the name as appearing on the person's (firm's) current Alaska business license;
- (3) has maintained a place of business within the state stated by the respondent or an employee of the respondent for a period of six months immediately preceding the date of the solicitation;
- (4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship, and the proprietor is a resident of the state or is a partnership, and all partners are residents of the state;
- (5) if a joint venture, is composed entirely of ventures that qualify under (1) - (4) of this subsection.

Does your business qualify for the Alaska bidder's preference?

No

Yes

FacTel Navigation Systems
(Person) Company Submitting Bid

Gary Nostrand
Authorized Signature

Gary Nostrand
Printed Name

June 11, 1992

June 11, 1992
Date

see attached

Alaska Business License Number

DATE
MAY 1, 92'
NEW LICENSE

JUNE 11, 92'
BID

6 MONTHS

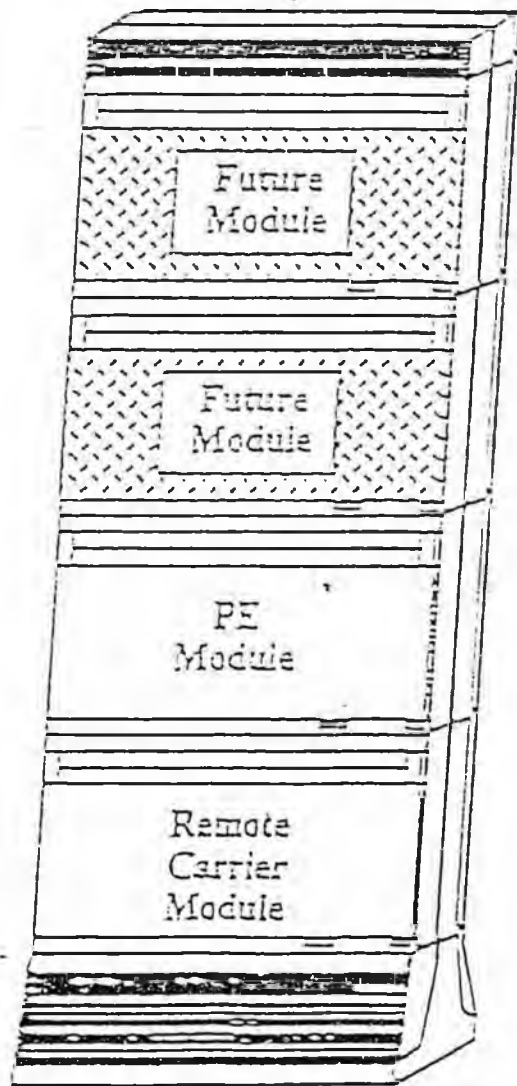
3 STATE & OVERCASH FOR.
CONSULTANT - COULD NOT FIND

MICROWAVE
SPEC'D PAGES

WE COULDN'T
LEARN ANYTHING
ON THIS PAGE EITHER
DID YOU?

State of Alaska - Lemon Creek
Remote Peripheral Equipment

PICTURE of Type of
SYSTEM
used
AT
MANY
LOCATIONS
SEE
NEXT
PAGE



Note:
 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 846. 847. 848. 849. 850. 851. 852. 853. 854. 855. 856. 857. 858. 859. 860. 861. 862. 863. 864. 865. 866. 867. 868. 869. 870. 871. 872. 873. 874. 875. 876. 877. 878. 879. 880. 881. 882. 883. 884. 885. 886. 887. 888. 889. 890. 891. 892. 893. 894. 895. 896. 897. 898. 899. 900. 901. 902. 903. 904. 905. 906. 907. 908. 909. 910. 911. 912. 913. 914. 915. 916. 917. 918. 919. 920. 921. 922. 923. 924. 925. 926. 927. 928. 929. 930. 931. 932. 933. 934. 935. 936. 937. 938. 939. 940. 941. 942. 943. 944. 945. 946. 947. 948. 949. 950. 951. 952. 953. 954. 955. 956. 957. 958. 959. 960. 961. 962. 963. 964. 965. 966. 967. 968. 969. 970. 971. 972. 973. 974. 975. 976. 977. 978. 979. 980. 981. 982. 983. 984. 985. 986. 987. 988. 989. 990. 991. 992. 993. 994. 995. 996. 997. 998. 999. 1000.

Schedule of Alameda - Leasing of
 Remote Peripheral Equipment

Remote Peripheral Equipment: Central Module

| PER Module | PER Slot | Equipment |
|------------|----------|---------------------------------|
| | 1 | 1.5 Mb Converter APC62F |
| | 2 | 21Xs Converter APC66E |
| | 3 | Carrier Interface APC09F |
| | 4 | Remote Peripheral Switch APC65G |
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Remote Peripheral Equipment: Module

| PER Module | PER Slot | Equipment |
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| | 1 | APC570 Digital L. line |
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LOSS REMOVAL
 25 CASH & CASH
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Power Failure Transfer Circuit
2. May Causings

14 BID RE → 31

PER PTMS BID 48/8 = 6 UNITS THIS IS CORRECT!
HENCE MAXIMUM of 6 UNITS

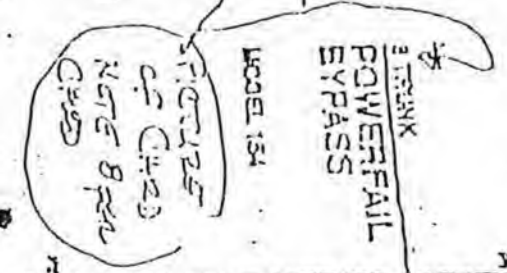
42 Power Failure Transfer PTM
Provide the following information detailing the technical functioning of the proposed power failure transfer circuit for ALL LOCATIONS. Agency of location code designation will reside in data returned that all locations function as provided

43 For product being proposed for C.O. Transmittal circuit Manufacturer, Model #, Name and/or Designation:
DESS, Model 154.

14 BID TAG - 712

PER SPECS IN RFP - REQUIRED AT ALL LOCATIONS

- 9 Trunk Powerfail Bypass Unit
- > Model 154 connected from 48 VDC
- > Model 154A operating from 24 VDC
- > Connect signal designated stations directly to Central Office during powerfail or major alarm on any FAX



NANCY JOHN USERN IS BY LAW REQUIRED TO HAVE HEADLINE IS ALSO IMPORTANT.

THE UTILITARIAN HEADLINE IS ALSO IMPORTANT NOTE - FROM THE LETTER

POWER FAIL TRANSFER REDUNDANCY WAS PROPOSED FOR 48 LOCATIONS BY POWER AT THE ELEVEN SITES. THE AGENCY WAS CORRECT THAT SOME DID NOT NEED TO INCLUDE THE PRECISE LOCATION OF CHASE. UNITS BECAUSE IT WILL BE DECIDED BY THE AGENCY AT A LATER DATE WHERE THE PLACED WILL BE LOCATED. BECAUSE THEY DEFERRED THE 48 UNITS TO BE PLACED AS THE AGENCY REQUESTS, PTMS'S PROPOSAL WAS RESPONSIVE TO THE RFP.

SEE CHASERS LETTER AT END OF PACKET. DOESN'T LOOK LIKE A LEGAL ISSUE TO US. JUST SEE IF NANCY HAS ANY ERRORS.

THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES

Look LIKE \$8,600,000

7.3.10 Training Costs

7.3.10.1 Full training cost associated with extended implementation/migration period—as described in Section 5.4 \$ 317,000

7.3.11 Shipping, Delivery, Storage & Misc Costs \$ 205,000

7.3.12 GRAND TOTAL INSTALLED PRICE FOR "FINAL" CONFIG \$1,508,319

7.3.13 Ongoing MONTHLY leased lines (i.e. C.O. Trunks, OPTs, tie-lines, etc.) associated with proposed FINAL system configuration \$ 12,535

See attached page 143 (a)

7.4 FINAL CENTREX/DIGITEX SYSTEM

Centrex/Digitex Proposer MUST utilize Section 7.3 to present ALL costs associated with any of the items listed in that section that would apply to their proposed FINAL system configuration (i.e. all costs associated with any equipment to be sold to the State, all main costs to be billed to the State, all installation charges, all ongoing utility/line charges, etc.).

Centrex/Digitex Proposer MUST utilize this section to provide all MONTHLY Centrex/Digitex equipment and service charges associated with their proposed FINAL system configuration. Complete explanation of the derivation of all costs quoted below MUST be provided herein.

7.4.1 Primary Node/Switch Location MONTHLY Centrex/Digitex costs (LESS station equipment, peripheral equipment & labor) \$ N/A

7.4.2 MONTHLY Centrex/Digitex costs (LESS station equipment, peripheral equipment & labor) for:
 Secondary Node #: located at \$ N/A
 Secondary Node #: located at \$ N/A
 Secondary Node #: located at \$ N/A

7.4.3 MONTHLY station equipment costs associated with FINAL system configuration proposed herein \$ N/A

7.4.4 MONTHLY peripheral equipment costs associated with FINAL system configuration proposed herein \$ N/A

7.4.5 FINAL CONFIGURATION CENTREX/DIGITEX MONTHLY COSTS \$ N/A

7.5 ADD/DELETE PRICING SCHEDULES

Proposers MUST provide below a complete listing of all system components that the State may desire to add or delete. If any prices for a component vary from one node/switch or location to another, separate schedules MUST be provided for each location; otherwise, a single schedule for each functional element of the overall system will suffice.

Labor must be broken out in all component line item pricing. Station cabling must be listed as a line item (i.e. "cable-only location"); cable costs are NOT TO BE INCLUDED in station instrumentation pricing.

STATED PRICES MUST REMAIN VALID UNTIL "FINAL" SYSTEM CONFIGURATION IMPLEMENTATION (AS REFERENCED BY THIS RFP) IS COMPLETED AND TOTAL SYSTEM IS ACCEPTED.

If proposer anticipates prices changing after completion of total implementation of "Final" system configuration, such must be stated herein along with anticipated/estimated pricing.

If additional space is required for any schedule, please attach additional pages directly behind the appropriate sheet and number pages (a), (b), etc.



STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
STANDARD CONTRACT
for
TELEPHONE EQUIPMENT SOLICITATION

This contract, which is effective only if it is approved by the Department of Services, is between the State of Alaska,

Administration

DEPARTMENT OF

PacTel Meridian Systems

CONTRACTOR

333 Lakeside Drive Foster City
MAILING ADDRESS CITY
CA 9336 6
ALASKA BUSINESS LICENSE 1

This contract has been negotiated under the authority of AS 44.27.310, the Equipment Solicitation (TES) procedure as approved by the Commissioner

This Contract is for Purchase and Installation of a

Completion date: 13 December 1984
DAY MONTH YEAR

The parties to this Contract agree to the following:

Section 1. Appendices and Conditions: The appendices, terms and conditions refer part of it.

Section 2. Acknowledgements: Both the State and the Contractor acknowledge having by its terms and conditions. Further, both parties agree that this Contract ment between the parties which supersedes all proposals or other agree agreements, oral or written, and all other communications between the p

Section 3. Equipment & Services:

Appendix A. Articles 1 through 15 govern this contract (see reverse side)
Appendix B. Telephone Equipment Solicitation (TES), Conditions and At
Appendix C. Contractor Proposal (original) becomes part of this contract
Appendix D. Financial Plan and Assignment become part of this contract
Appendix E. (Optional) Exhibits E1 thru E6

Section 4. Billing: When billing the State, the Contractor shall send the billing to:

Administration Info
DEPARTMENT DIVISION
P.O. Box 110206 Juneau
MAILING ADDRESS CITY

CERTIFICATION: I certify that the facts herein and on supporting documents are correct, that this your funds cited, that sufficient funds are encumbered to pay this obligation, or that there is a sufficient this obligation. I am aware that certifying false, inaccurate or misleading documents constitutes a

Robert Morgan CERTIFYING OFFICER NAME
John Mortone Deputy Director PURCHASING AUTHORITY NAME TITLE
Contractor PacTel Meridian Systems NAME OF FIRM
President TITLE
Ga: SIGNATURE

APPROVAL BY DEPARTMENT OF ADM

NOTICE: This contract has no effect except as an offer until it is approved Telecommunications Services.

John Mortone TYPE NAME

CLIENT AGENCY

I have reviewed your concern of the agency's alleged failure to treat proposals equally. You cite AS 16.30.240 as a mandate to prevent inconsistent treatment of the competing proposals. I agree the statute authorizes the agency to conduct discussions with offerors submitting proposals reasonably susceptible of being selected for award. Because WDM's and WMS's proposals were reasonably susceptible of being selected, they were given an opportunity for discussion and revision of their proposals as authorized by AS 16.30.240.

The agency hired an outside consultant to assist in the procurement process because of the complexity of the subject procurement. AS 16.30.240 did not apply to WTI's proposal because the agency and the consultant collectively determined your offeror's proposal was not considered reasonably susceptible of being selected for award, as were three other proposals. Nothing in the file indicates to me that that decision was incorrect.

You also raise questions regarding redundancy or the ability for the system components to have available backup in the event of equipment failure. The WMS proposal provides the redundancy of all critical system components as required by the RFP. The system offered by WDM provides similar assurances that you claim only WTI's proposal offers. The WDM system offers virtually two components at each location, side by side. The second component is available to take over in the event of failure of the first component. The WDM proposal assures the state that no location will be without telephone communication due to equipment failure for any extended period of time.

Additionally, you question WDM's ability to provide connectivity system redundancy geographically at alternate sites. The RFP did not require proposals to offer two complete alternate communications systems to be available for each location. However, WDM has made that option available. If the agency determines it desirable and economically feasible, they will be able to provide the redundant system as proposed.

However full transfer redundancy was proposed for 48 locations by WDM at the eleven sites. The agency was concerned that WDM did not need to indicate the precise location of these units because it will be decided by the agency at a later date where the units will be located. Because they offered the 48 units to be placed as the agency requires, WDM's proposal was responsive to the RFP.

*all RFP
copy
6 units
one of
them
2 units*

WDM has proposed to provide cable to connect some of the eleven facilities involved with this project. It is their responsibility to secure proper permits from the City and Borough of Juneau and provide the cable as offered in their proposal. The agency assures as their ability is not cost effective and feasible. It

cabling cannot be accomplished for some reason, PTMS will need to provide an alternative acceptable to the agency at no increased cost.

PTMS proposed a complete package, including all riser, feeder, and outside plant cable equipment for each location. There is also a list of equipment to be used complete with its cost to the state. This is within the allowances of the RFP and acceptable to the agency.

The system connectivity described offered by PTMS, you refer to, is the diagram No. A-51542-00-01. This diagram does show the design and function by reference to the frequency and capacity and size of the antenna. Accompanying material describing the equipment offered explains in detail the description necessary to determine compliance with the RFP.

Proposal implementation information for the two buildings you assert is omitted was found in the PTMS proposal. The Fisheries building is or is part of the Anderson building and the Sherwood Lane building is a building occupied by the State Troopers. Both buildings were part of the proposal offered by PTMS.

Training offered by PTMS is two hours of attendant console training and one full day of hands-on experience training. This is in compliance with that required by the RFP.


The PTMS proposal does offer equipment as optional including a remote transmitter to allow a system to be disabled if a fault is found and a redundant remote transmitter or microwave system as discussed previously. The agency has the option to include or exclude this equipment. If the equipment is found necessary, the cost is readily known to facilitate their decision. Additionally, on-line error log capabilities were offered as an option because the agency may not need to purchase equipment it already owns. If the agency needs to purchase the equipment, the proposer has made it available and committed to a firm price.

Finally, I will address several issues raised in the summary and conclusion of your appeal. NTI was not allowed to clarify or correct its proposal because it was determined to be not susceptible to award by the agency and its consultant during the initial evaluation process as discussed above. The PTMS proposal does meet the engineering requirements of the RFP, including those which concern the redundancy of critical elements. Also, you have asked that the agency obtain a second opinion from an independent consultant to review the issues raised in your appeal. The agency has done that. Wolfe and Associates, Inc., were retained to review the proposals and the capabilities of the systems proposed by each proposer. It is their judgment, in concert with the

review the proposals and the capabilities of the systems proposed by each proposer. It is their judgment, in concert with the judgment of the agency, that the RMS proposal is responsive to the RFP.

The issues you raise do not convince me that the decision of the procurement officer should be changed. Consequently, I must reject your appeal. This is considered to be a decision without hearing in accordance with AS 35.30.510. You may appeal this decision to the Superior Court in accordance with the Alaska Rules of Appellate Procedure.

Sincerely,



Nancy Bear Users
Commissioner

NEU/KG

CC: John Morrone, Deputy Director
Division of Information Services
Department of Administration

Post-It™ brand fax transmittal memo 7671

of pages >

| | |
|-------|---------|
| To | From |
| Co. | Cc. |
| Dept. | Phone # |
| Fax # | Fax # |

SB

135

HOUSE COMMITTEE REPORT

3/21/94

(7)
Date Referred: February 28, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-19-94

The STATE AFFAIRS Committee considered:

CSSB 135(FIN)

CS FOR SENATE BILL NO. 135(FIN)

APPRO: AK RAILROAD EXTENSION STUDY

"An Act making a special appropriation to the Department of Transportation and Public Facilities to determine the cost of acquiring real property within the right -of-way of the proposed extension of the Alaska Railroad from Eielson Air Force Base to the Alaska-Canada border; and providing for an effective date."

- RECOMMENDATIONS: |] the same title
 be replaced with _____ |] a new title
- [] have attached amendments(s)
- [] do pass
- [] do not pass
- [] no recommendations
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

[] fiscal impact _____

[] zero fiscal note _____

APPROVES PREVIOUS: _____ (Dept/Date)

[] fiscal note(s) _____

[] zero fiscal note(s) _____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | DNP | NR | AM |
|-----------------------------|-----|----------------------------|-----|-----|----|
| <i>[Signature]</i> VEZEY | X | <i>[Signature]</i> Sanders | | ✓ | |
| <i>[Signature]</i> G. DAVIS | X | <i>[Signature]</i> Olberg | | ✓ | |
| | | <i>[Signature]</i> Ulmer | | X | |
| | | | | | |
| | (2) | | | (3) | |
| | | | | | |
| | | | | | |
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| | | | | | |
| | | | | | |

[Signature] Vezev
CHAIRMAN'S SIGNATURE

FISCAL NOTE

Revision Date:
Title: AK Railroad Extension Study

Department Affected: DOT&PF
BRU: Norther Region D&C

Sponsor: Miller
Requestor:

Component: Right-Of-Way
Component Serial Number: #581

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 |
|-------------------------|------|------|------|------|------|------|
| PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 0 | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING: | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|------|---|---|---|---|---|
| CAPITAL | 10.0 | 0 | 0 | 0 | 0 | 0 |
|---------|------|---|---|---|---|---|

| | | | | | | |
|---------------------|---|---|---|---|---|---|
| REVENUE FUND SOURCE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------------------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|------|---|---|---|---|---|
| 1002 FEDERAL RECEIPTS | 0 | 0 | 0 | 0 | 0 | 0 |
| 1003 GF MATCH | 0 | 0 | 0 | 0 | 0 | 0 |
| 1004 GF | 10.0 | 0 | 0 | 0 | 0 | 0 |
| 1005 GF/PROGRAM RECEIPTS | 0 | 0 | 0 | 0 | 0 | 0 |
| 1006 GF/MHTIA | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL FUNDING: | 10.0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS

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

Estimate of current year (FY94) impact: \$0

ANALYSIS: (Attach a separate page if necessary)

The funding is to update the cost figures for acquiring a railroad right-of-way from Eielson to the Canadian Border.

Prepared by: Norm Piispanen

Phone: 451-2210

Division: Northern Region Planning

Date: November 24, 1993

Approved by Commissioner: 

Phone: 465-3901

B.A. Campbell

Agency: Department of Transportation and Public Facilities

Date: November 24, 1993

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SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/26/93

FURTHER FINANCE

Date of 5-Day Notice: 3-11-93
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-16-93

TRANSPORTATION Committee considered SB 135

~~SB~~ 135 APPRO: AK RAILROAD EXTENSION STUDY and Public Facilities
"making a special appropriation to the Department of Transportation and Public Facilities to determine the cost of acquiring real property within the right-of-way of the proposed extension of the Alaska Railroad from Eielson Air Force Base to the Alaska-Canada border and providing for an effective date."

and recommends: ^{and a majority of the committee recommends do pass}

replace with _____ CS _____ (_____)

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FN

FISCAL NOTE INFORMATION

| Department | Date | Zero | Fiscal |
|------------|--------|-------------------|--------|
| DOTPF | 3/4/93 | 3/4/93 | 10.0 |
| | | | |
| | | | |
| | | | |
| | | | |

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
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Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

① Roll E. Roll Do Pass
 ② [Signature] Do Pass
 ③ Twin Kelly Do Pass

OTHER RECOMMENDATIONS:

② [Signature] NR
Lincoln

① [Signature] - do pass
 Chair: Signature and Recommendation

SENATE FINANCE COMMITTEE REPORT

DATE: 3/18/93

FURTHER:

DATE TURNED INTO OFFICE: 1-24-94

The Finance Committee considered **SENATE BILL NO. 135**

Special appropriation to the Department of Transportation and Public Facilities to determine the cost of acquiring real property within the right-of-way of the proposed extension of the Alaska Railroad from Eielson Air Force Base to the Alaska-Canada border; efd.

and recommends:

- replace with _____ CS SB135 (FINANCE)
- or adopt previous _____ CS _____
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

CS (Fix) coming

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
| | | | |
| | | | |
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PREVIOUS FISCAL NOTES

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
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| | | | |

Appropriation No Fiscal Note

DO PASS

Alvin Rieck
George Parker
Sam Almy

OTHER RECOMMENDATIONS:

1. *Alvin Rieck DO PASS*

Co-Chair: Signature/Recommendation

2. *Alvin Rieck. No Rec*

Co-Chair: Signature/Recommendation

SENATE AMENDMENT

①

By Sharp

To: _____ SENATE BILL No. 135

To: _____ HOUSE BILL No. _____

PAGE: LINE:

Pg 1, Line 7 - change "June 30, 1994"
to "June 30, 1995"

Pg 1, Line 12 - change "July 1, 1993"
to "July 1, 1994"

SENATE FINANCE
COMMITTEE ①
Amendment Number: _____
Bill Number: SR 135
Sponsor: Sharp Date: 1/24/94
Logged In By: (Bm)

Alaska State Legislature

SENATOR
MIKE MILLER
P.O. Box 55094
North Pole, Alaska 99705
(907) 488-0862

Senate District 0



White of Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4976

Senate

To: Senator Drue Pearce, Co-Chair
Senator Steve Frank, Co-Chair
Senate Finance Committee

From: Senator Mike Miller

Re: SB 135 - Approp: Ak. Railroad Extension
Study

Date: March 25, 1993

I would like to request that you schedule a hearing on SB 135 in the Senate Finance Committee at your earliest convenience.

Senate Bill 135 would appropriate \$10,000 to the Department of Transportation & Public Facilities to estimate the cost of acquiring private land for a railroad right-of-way from Eielson Air Force Base to the Canadian border.

Please contact Teresa of my staff if you need additional information. Thank you for your assistance.

REQUEST

Alaska State Legislature

SENATOR
MIKE MILLER
P O Box 55094
North Pole Alaska 99705
(907) 488-0862

Senate District Q



Senate

Winter House
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4976

SPONSOR STATEMENT

Senate Bill 135 would appropriate \$10,000 to the Department of Transportation & Public Facilities to estimate the cost of acquiring private land for a railroad right-of-way from Eielson Air Force Base to the Canadian border.

In 1977 the Legislature directed the department to select a proposed utility corridor and identify a right-of-way for extension of the railroad. A report of that work, the Alaska Railroad Extension Route Selection was done in 1979. A follow up 1982 report includes an update of the route description and an environmental assessment of the route.

The legislation before you would provide adequate funding for an update the title work that was done in 1979 from which a new acquisition estimate can be derived. A current estimate is necessary due to recent completion of land selections and conveyances since the 1982 DOT report.

The cost of the original 1982 title work was \$66,700 and the right-of-way acquisition estimate at that time was \$3.175 million.

SPONSOR STATEMENT

5B135

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
NORTHERN REGION, REGIONAL DIRECTOR

2301 PEGER ROAD
FAIRBANKS, ALASKA 99709-5316
PHONE: (907) 451-2210

December 30, 1992

Re: Railroad Extension
Project R-51034

Red Swanson
113 West 5th Street
Juneau, AK 99801

Dear Mr. Swanson:

You recently requested an estimated cost to acquire the right of way for the Alaska Railroad extension to the Canadian border. I understand your intent was to use this estimate as a basis for obtaining a legislative appropriation to proceed with the project.

When this project was mothballed in 1982, the estimated cost for right of way acquisition was approximately \$3.2 million. This was based on a 300' wide right of way for 270 miles which resulted in a proposed acquisition of nearly 10,000 acres. The majority of the land to be acquired was under the control of the Department of Natural Resources (DNR) or the Bureau of Land Management (BLM) and no compensation would have been required to obtain the right of way. Most of the estimated budget would have been used to develop right of way plans, appraise and acquire the private parcels and perform miscellaneous project-related right of way tasks.

Since 1982 a good deal of the lands to be acquired from BLM and some of the lands to be acquired from DNR have been conveyed to private parties. These lands and improvements, which now would have to be appraised and acquired, along with the expected appreciation in real estate values and the cost of doing business, represent a significant increase in the cost of securing the right of way.

In the normal process of project development we regularly prepare estimates for acquisition. These estimates involve a review of the land title status, an estimate of the value of the land and improvements, an estimate of the cost to appraise, acquire and condemn if necessary, and possibly an estimate to relocate homes and businesses. By the time we are asked to prepare these estimates, funding is generally available for the required staff time.

DOT LETTER

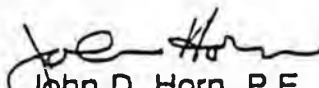
Red Swanson

-2-

December 30, 1992

With regard to the preparation of an estimate for the Railroad Extension Project, we are faced with a project which is several orders of magnitude larger than our typical project and without the funding necessary to perform the task adequately. The size of this project also puts it beyond the realm of tasks that can be performed with our limited overhead budget. Therefore, if we are to prepare an estimate that is anywhere close to reality, it will be necessary for you to secure an appropriation which will allow us to do this preliminary evaluation. Upon receipt of sufficient funding (approximately \$7,500 to \$10,000) we can begin scheduling the staff time necessary to proceed.

Sincerely,



John D. Horn, P.E.
Regional Director
Northern Region

jfb

ALASKA RAILROAD
EXTENSION

JB135

**ROUTE SELECTION
PROJECT X20089**



STATE OF ALASKA
DEPT. OF TRANSPORTATION
& PUBLIC FACILITIES
JULY 1979

**APRIL 1982
UPDATE**

ALASKA RAILROAD EXTENSION

ROUTE SELECTION

PROJECT R20039
& R51033

EIELSON TO CANADIAN BORDER

STATE OF ALASKA

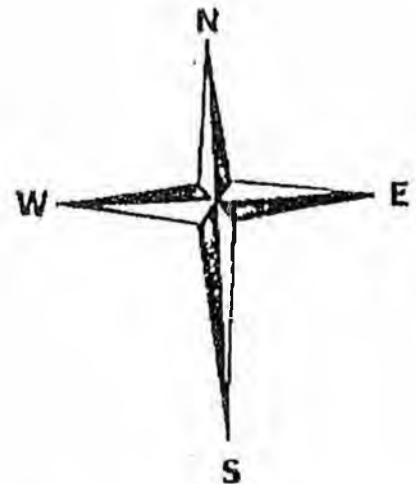
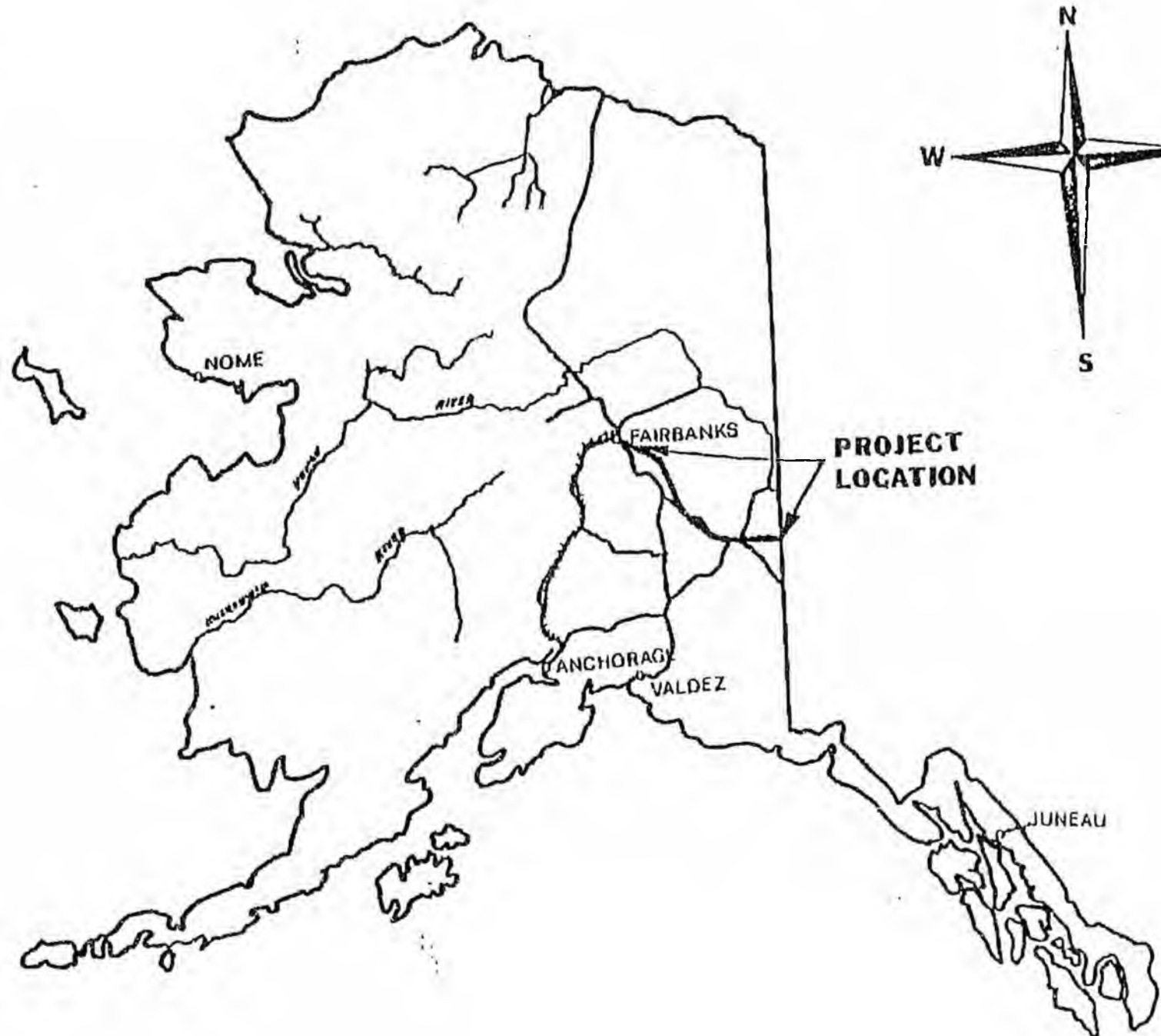
DEPARTMENT OF TRANSPORTATION

& PUBLIC FACILITIES

INTERIOR REGION



APRIL 1982



INTRODUCTION

In the spring of 1977 the first session of the tenth Alaska Legislature passed House Bill 47 dealing with a proposed extension of the Alaska Railroad to the Canadian Border. House Bill 47 directed the Interior Region of the Alaska Department of Transportation and Public Facilities to delineate a proposed utility corridor for extension of the railroad and to identify a proposed railroad right of way.

Over the following two years the Interior Region Department of Transportation and Public Facilities worked on the problem of selecting a route for the proposed rail extension. The basic alternatives under consideration were presented in a Preliminary Route Study in April 1978. The final route selected was presented in a report dated July, 1979. The latter report, Alaska Railroad Extension Route Selection, has been widely distributed. Some segments of right of way along the recommended line have already been reserved through State land disposal areas.

A July, 1981 amendment of House Bill 47 requires the Department to prepare an Environmental Assessment of the recommended railroad route and to move to acquire the necessary right of way. A copy of House Bill 47 as amended is included in the appendix of this report. The amended legislation also includes an April 2, 1982 deadline for a "complete legal description" of the proposed railroad right of way.

A legal description of the route had already been done at the time of the 1979 report. However, since that time, there have been numerous adjustments to the route location. The purpose of this report is to update the route description in conformance with the legislation and to discuss the environmental work and right of way acquisition which will be continuing for many months.

The precise location of the proposed railroad route is presently described in terms of Alaska State Coordinates derived from photogrammetric mapping. The mapping is based on a field survey performed in 1978. The updated coordinate data is not included in this report but is on file at the Interior Regional Department of Transportation and Public Facilities and with the Department of Natural Resources, Division of Lands. The route has been plotted on USGS quadrangle maps at a scale of 1 inch = 1 mile. A set of these maps is included in the back of this report.

The basic route corridor has not been changed since 1979; however, adjustments to the original alignment have been made to reduce impacts on private property, to conform to proposed State land disposals, to accommodate the proposed natural gas pipeline and to place the route on more favorable foundations.

In 1978 and 1979, photogrammetric mapping of the proposed railroad route was produced. The mapping covers a 500 ft. wide strip at a scale of 1 inch = 100 ft. Some of the recent alignment changes have shifted the recommended centerline out of the mapped area. Additional mapping to cover these line changes would have to be acquired before design work is done but this additional mapping will not be necessary to complete the work required by the amended House Bill 47.

The route recommended in the 1979 report had a gap of about 35 miles in the Cathedral Bluffs to Tok area that was not precisely defined because of problems with the control survey across Tanacross lands. The control work has since been completed and the area has been mapped and the route defined to the same accuracy as the rest of the project.

Work on the Environmental Assessment of the proposed corridor is under way and is expected to be completed some time in 1982. The Environmental work will include coordination with appropriate agencies as well as an opportunity for public input.

CRITERIA FOR ROUTE SELECTION

The location of the railroad was the key to defining the utility corridor required by House Bill 47 since the grade and alignment constraints on a railroad are much more restrictive than for any other transportation mode or utility installation. For this reason, the Department concentrated work on the selection of a railroad location. In effect, a utility corridor has been placed around the best available railroad alignment, rather than trying to place a railroad route within a pre-selected corridor.

In order to identify the best available railroad location, several factors were considered:

1. Design Standards The railroad was located so as to meet grade and alignment standards which are commensurate with the transcontinental rail system standards. The Engineering Department of the Alaska Railroad provided the following recommendations for design standards.

Grades

| | |
|------|-----------|
| 1% | desirable |
| 1.7% | maximum |

Curvature

| | | |
|------------------------|-----------|---------|
| 3° valley terrain | desirable | maximum |
| 6° mountainous terrain | " | " |
| 10° absolute maximum | | |

2. Foundations and Materials An attempt was made to locate the railroad on the best available foundations and in areas where construction materials were readily available. Good foundations are essential in keeping construction and operating costs to a minimum. Funding and time limitations did not allow a program of subsurface investigations and soils analysis. Materials investigations consisted primarily of aerial photo interpretation.

3. Safety Potentially hazardous situations such as highway grade crossings were avoided wherever possible. The route described in this report crosses the Richardson Highway one time and the Alaska Highway three times.

4. Service to Communities The railroad route was located so as to serve local communities and enhance local development plans while still maintaining the "through" nature of the route. Early in the reconnaissance study, meetings were held with military personnel at Fort Wainwright, Eielson AFB, Fort Greely and also with the Delta Junction Chamber of Commerce, Citizens of Tok, Alaska Department of Fish and Game and the State Division of Lands. Input from these meetings directly affected the selection of a railroad route through developed communities.

5. Environmental Concerns The scope and funding of the original study did not provide for a full Environmental Assessment of railroad construction and operation. However, the Department's Environmental Section as well as other appropriate agencies were consulted in order to maintain an awareness of environmentally sensitive areas and issues which might affect the selection of a railroad route. As mentioned earlier, the amended House Bill 47 requires a formal Environmental Assessment and this work is now in progress.

6. Right of Way The railroad alignment was placed on public lands wherever possible so as to minimize the costs and impacts of right of way acquisition.

7. Costs Costs of rail construction were kept in mind and minimized where possible. However, the study does not include an estimate of construction costs for the proposed rail project.

ROUTE RECONNAISSANCE

The information on the following three pages is an excerpt from the 1979 report describing the steps leading to the selection of the recommended railroad route.

Previous developments, (highways, pipelines, communications systems, airports), have established a general transportation corridor from the present terminus of the Alaska Railroad at Eielson Air Force Base southeast to the Canadian border. This corridor can be described in broad terms as the valley of the Tanana River or in more narrow terms, as the route of the Richardson and Alaska Highways.

A study of topographic and land status maps of eastern Alaska readily shows that the terrain and the associated economic and environmental considerations effectively rule out any general corridor other than the Tanana River Valley. This route study was confined to the Tanana Valley except for the easternmost 50 miles which follow the Ladue River down to the Canadian border.

The Ladue border crossing was first proposed in 1942 when the U.S. Army Corps of Engineers surveyed a route for a rail connection to Alaska. Interest in that project faded after the end of World War II, but the route chosen at that time has been reaffirmed many times in subsequent years. The Ladue crossing directs the Yukon Territory segment of the railroad route into the broad valleys of the White, Yukon, Pelly and Liard rivers. The valleys provide a fairly direct route to Watson Lake, Y.T., through which the connecting link to the existing transcontinental rail system will pass.

It should also be pointed out that the Ladue River border crossing allows the easiest and most direct route to Whitehorse, Y.T., should Canada decide to run the rail connection through that city. This study considers only the Ladue River border crossing.

The first step in selecting a railroad route was to study topographic maps and to identify on these the route possibilities that appeared to merit further study by means of aerial photography.

From the map study, it was determined that the 108 mile section from Delta Junction to Tok was adequately covered by aerial photographs taken in September 1976 for the purpose of highway reconnaissance. Likewise, the 80 mile segment from Tok to the Canadian border via the Ladue River had previously been photographed in a 1973 rail study. This left only the 75 mile segment from Eielson to Delta Junction lacking in reconnaissance photo coverage. Photographs of this area were scheduled for the fall of 1977.

Map study of the Eielson to Delta Junction area revealed several possible routes including an alignment along the north bank of the Tanana River and several alternatives south of the river. In September 1977, these routes were investigated by a fixed-wing overflight involving the Regional Geologist, Hydrologist and Reconnaissance Engineer. After this investigation, three routes were chosen as the most promising rail locations, one north of the Tanana River and two south of the river.

All three of these routes were subsequently photographed in color on October 1, 1977. All of the aerial photos mentioned above are at a scale of 1 inch = 1000 ft.

Through the winter of 1977-78, considerable time was spent studying the reconnaissance photographs in an effort to select a preliminary alignment. The preliminary route was then studied in detail and refined in 1978 and 1979. Photogrammetric mapping was chosen as the most effective means of selecting a precise route for the railroad. This method allowed a high degree of latitude in final route selection and was adaptable to the time and funding constraints which had been placed on the project. The mapping work was assigned to two consulting firms which were already under contract to provide mapping services to the State of Alaska. The Department also engaged consultants to do the control survey work necessary for accurate mapping.

In all cases, coordinate positions and azimuths were originated from existing Geodetic Survey, U.S. Geological Survey, U.S. Army Corps of Engineers, Bureau of Land Management and two stations established by the International Boundary Commission. The control traverses or nets were also closed with respect to other stations of the same origin or previously established monuments which had been derived from them. After running a field data traverse through the network from geodetic station to station, a compass adjustment was made to position all intermediate points. The thus derived positions of each new traverse or control station were anticipated to be within 1:30,000 accuracy relative to existing control. Actual field determinations have proven this to have been accomplished.

All vertical control was derived from existing U.S.C. & G.S. or U.S.G.S. Bench Marks. A more detailed discussion of the control survey is presented in a report prepared by the consultants upon completion of the survey work. That report also contains a listing of the positions of all control points.

As the Department received control data from the survey consultants, it was sent to the mapping consultants and the production of contour maps began by mid-summer 1978. This was accomplished at a scale of 1 inch = 100 ft. with a 2 inch contour interval. The band of mapping varied from 500 ft. to 800 ft. Over most of the length of the project a 500 ft. wide strip centered on the preliminary route was mapped. In some areas of rough terrain, a wider strip of mapping was requested to allow more flexibility in selecting a final railroad route.

As the mapping was received, the Department placed a railroad centerline on it. Occasionally, the line is tightly controlled by topography. This is most obvious when climbing from the Tanana River to the Ladue Summit. A 1% "Grade Contour" was laid out on the mapping by starting at the Ladue Summit and working down to the highway on the Tanana side. A railroad centerline was then drawn to get the best "fit" to this grade contour. The result is a railroad centerline with a sustained 1% grade and continuous curvature for a distance of about 10 miles.

As the alignment was placed on the mapping, the Regional Geologist and Hydrologist reviewed it and recommended needed changes. When the most desirable "fit" was achieved, the State Plane Coordinates of the tangent intersections were scaled off the contour maps and bearings and distances of the tangents were calculated, as well as all curve data. All of the alignment and coordinate data has been tabulated and is on file at the Interior Regional Office of the Department of Transportation and Public Facilities.

RIGHT OF WAY

A basic right of way width of 300 ft. is recommended for the railroad route. This will be ample for rail construction and still allow a buffer zone between the tracks and adjacent properties. Additional right of way could be needed for facilities such as switching yards, maintenance buildings or depots associated with the railroad. The need for such facilities has not been addressed to date and would be handled during the design phase of the rail project. Material sources for construction would also require lands in addition to the basic 300 ft. right of way.

For right of way purposes the railroad centerline has been described with circular curves in order to simplify the property descriptions. The railroad will actually be built with spiral curves which will deviate slightly from the right of way centerline.

Additional field survey work tying section corners and property corners to the original control survey will be necessary before right of way plans and plats can be produced. Some of these property ties have already been obtained and the rest will be acquired during the 1982 work season.

The Department plans to contract with a consultant to do the necessary title research work. This work will be followed by appraisals, negotiations and acquisition under the direction of Department personnel. Large right of way projects such as this typically involve some condemnation proceedings. The right of way process for the entire route is expected to extend over a period of two to three years. The intent is to begin at the Eielson end of the project and work toward the Canadian border.

Some funding has already been earmarked for property acquisition but additional funds will be required to complete acquisitions along the entire route. As presently laid out, the proposed route would involve no buildings but would require portions of numerous private holdings. The bulk of the route lies on State, military or native corporation lands.

ENVIRONMENTAL ASSESSMENT

The Environmental Assessment for the proposed railroad extension was initiated in early November, 1981, with written contact made to numerous State, federal and local government agencies as well as individuals and organizations interested or affected by the project. Comments and questions on the project were solicited. On November 24, 1981, an interagency scoping meeting was conducted to identify major issues of concern and coordination necessary to address the issues and process the proposal. The scoping process was followed by general data compilation and mapping.

An Alaska Heritage Resource Survey Inventory of the corridor was requested from the State Historic Preservation Office. The State Historic Preservation Office indicated in a follow-up phone contact that they did not have the manpower for an inventory. Department of Transportation and Public Facilities personnel subsequently mapped the corridor cultural resources using information from the State Historic Preservation Office in Anchorage. SHPO later responded with abbreviated inventory information and a recommendation for a preconstruction cultural resource survey.

Information on the extent of mining claims in the Ladue River Valley was provided by the Right of Way Section.

The Soil Conservation Service was contacted to determine the potential for project conflict with prime or unique farmlands. No conflict exists.

General geological hazards of the corridor were mapped by the Geology Section.

Contact with Northwest Alaska Pipeline Company provided information on sensitive wildlife areas and vegetation types in a narrow corridor surrounding the proposed gas pipeline; parts of the data may prove useful for site specific areas of railroad alignment.

Status plats have been researched at the local BLM Office to identify and map land classifications in the railroad corridor area, but further classification research is needed.

Several offices within the Department of Natural Resources have been contacted. State park lands within the corridor have been identified. Proposed disposals of State subdivision, remote and agricultural lands through 1984 have been mapped. Concurrent research for the Tanana Basin Area Plan has provided preliminary data on recreation, forestry and agricultural resources in the corridor area. This information has been mapped.

Considerable contact with the Department of Fish and Game (field biologists at three offices, habitat protection) resulted in detailed information on sensitive fish and wildlife areas within the railroad corridor. Some extremely sensitive areas are present and careful mitigation may be required (e.g., peregrine falcon habitats, the most important chum

spawning location in the State, the Delta Junction Bison Range).

Interpretation and evaluation of the above base information, including document pre-draft writing, is ongoing. Research into additional environmental elements remains to be done; noise, air quality and visual resource information is needed.

A draft of the Environmental Assessment should be available by June and the final document should be completed before the end of 1982.

ROUTE DESCRIPTION

An existing spur of the Alaska Railroad runs 30 miles southeast from Fairbanks to Eielson AFB. The proposed railroad extension takes off of this spur at the south end of the bridge spanning the floodway for the Chena River Flood Control Project. This beginning point (Mile 0), is 5 miles northeast of Eielson near Moose Creek Bluff.

From Mile 0 the proposed route runs southeast between the Richardson Highway and the Tanana River traversing old river bars and crossing numerous slough channels. The route is mostly on State-owned lands for the first six miles. In the area from Mile 1.4 to Mile 5.3, some large parcels are scheduled to be transferred to private agricultural use in the State's June 1982 land disposal program. A 300 ft. right of way will be reserved across the parcels traversed by the proposed railroad extension.

The route remains between the Richardson Highway and the Tanana River up to Mile 20. There are numerous private parcels and homes in this area. Several changes in the alignment have been made to reduce the impacts on these properties. These changes included the introduction of more curvature into the alignment and the shifting of the route across sloughs onto old river bars. At Mile 18.5, the railroad route has been relocated in order to avoid private homes. This location will require bank protection but will provide these homes with protection from erosion which has been severe at this site in recent years.

Near Mile 20, the proposed route turns up the Salcha River to a crossing one mile downstream from the highway bridge. From this point, the route heads toward the Tanana River crossing at the west slope of Flag Hill near Harding Lake.

The railroad route crosses the Tanana River at Mile 24.4. This crossing was chosen early in the route study as by far the best available Tanana crossing and was subsequently considered a fixed point in the route. At Flag Hill, the main river channel is fixed against the hillside and the total width of the active river channel is about $\frac{1}{2}$ mile. In most other areas, the Tanana's braided channels are continually shifting over a channel width of 1 to $1\frac{1}{2}$ miles.

After crossing the river, the route continues up the Tanana valley traversing the flood plain $\frac{1}{2}$ to 1 mile away from the river. From Mile 25.2 to Mile 30.1, the route is located military land (Fort Wainwright). After leaving Fort Wainwright, the route traverses State lands for the next 35 miles.

At Mile 36.5 the route turns south up the Little Delta River to reach secure site for crossing that stream. The route then continues easterly paralleling the Tanana River for the next 12 miles. At Mile 50, the route again turns away from the Tanana in order to reach a favorable site for crossing Delta Creek. The route crosses Delta Creek at Mile 52.8 and then continues easterly passing south of a three mile long

ridge. There is a Federal recreation withdrawal along Clear Creek which runs along the north side of this same ridge and the railroad route has been placed so as to avoid this withdrawal. From the east end of the ridge, (Mile 56.5), the route runs along low terraces about 1/4 mile south of Clear Creek to the headwaters of the creek near Mile 63.

Near Mile 67, the route passes through some private agricultural lands near the confluence of the Delta and Tanana rivers. The route then runs southeast through State lands along the Delta River.

The route turns across the Delta River at Mile 75 and then runs upstream along the east bank of the river for two miles through the Delta Junction area. The location of the railroad is intended to provide bank protection in an area where stream erosion has been a problem in recent years.

At Mile 77.5, the route turns away from the Delta River and runs along the east bank of Jarvis Creek. The route is situated on military lands from Mile 78 to Mile 88.5. At Mile 82, the route is near the developed area of Fort Greely although a bridge across Jarvis Creek would be necessary to provide direct access to the Fort. From Mile 82 the route turns easterly remaining on Fort Greely lands for the next 6.5 miles as a means of avoiding the private property along the Alaska Highway.

After leaving Fort Greely, the route runs east to the vicinity of the Alaska Highway and then closely parallels the highway for the next four miles. At Mile 99, the route makes an "S" curve in order to cross the highway at an acceptable angle. The route then parallels the highway on the north side for the next 11 1/4 miles. The railroad route has been located so as to be compatible with the route for the proposed Northwest Alaska Natural Gas Pipeline which also parallels the highway through this area.

At Mile 111.5, the railroad route bends around a proposed gas line compressor site and then departs from the vicinity of the highway and runs along the bank of the Tanana River from Mile 114 to Mile 120 at Johnson River. A route higher on the hill was considered on the approach to Johnson River but the route adjacent to the Tanana was determined to offer the best grades and foundations even though it will encroach on the river in a few places in order to avoid steep, unstable hillsides.

The railroad route crosses the Johnson River near its mouth and then returns to the vicinity of the Alaska Highway at Mile 123.5. On the accompanying map, the railroad route appears to cross the highway; however, the highway has been reconstructed through this area and has been shifted to the south. The railroad location actually remains north of the new highway alignment and is parallel to it from Mile 123.5 to Mile 128.3.

The railroad route swings away from the Alaska Highway at Mile 130 near Berry Creek and again at Mile 133 in order to maintain the required grades. In the vicinity of Mile 135, the alignment has been adjusted to accommodate a new State subdivision.

From Mile 135 to Mile 145, the railroad route closely parallels the highway. The highway and railroad rights of way actually overlap in the vicinity of Doc Lake in order to minimize the total right of way through the village area.

From Mile 145 the railroad route pulls away from the highway in order to avoid the rough terrain traversed by the highway just north of the Robertson River. The railroad route runs east of the rough terrain and then crosses the Robertson River just above its confluence with the Tanana River. The route remains close to the Tanana River for the next 12 miles in order to maintain acceptable grades through the Cathedral Bluffs area.

From Mile 165, the railroad turns away from the river and converges with the highway near Moon Lake (Mile 171). For the next six miles the route closely parallels the highway.

At Mile 177, the railroad departs from the vicinity of the Alaska Highway and proceeds in a nearly due east direction through the Tanacross and Tok areas. The route is located on section lines for 7 miles to Mile 188.5, two miles north of Tok. From this point, the route turns southeast and gradually converges with the highway.

The route passes north of the Coast Guard installation at Mile 195 and enters Tetlin Village lands at Mile 195.5. The route is located on Tetlin lands for the next 21.5 miles.

At Mile 199.4, the railroad route crosses the Alaska Highway and then crosses the Tanana River just upstream from the highway bridge. The route passes $\frac{1}{2}$ mile south of Tetlin Junction and remains south of the highway to Mile 207. At this point, the route again crosses the highway and begins the climb to the Ladue Summit. This section entails ten miles of sustained 1% grade and sharp curves. The Ladue Summit is the highest point on the proposed railroad route at 2300 ft. above sea level.

From the Ladue Summit, the rest of the proposed route is located on State selected lands. On the Ladue River side of the summit, maximum grades and curves are not necessary. The route reaches the valley floor at about Mile 221 at an elevation of about 2100 ft. From this point on, the route follows gentle grades and alignment down the Ladue Valley to the Canadian border.

The Ladue Valley is relatively narrow so that there is not a wide choice of route locations. For the most part, the railroad route follows along the north side of the valley in order to gain the advantage of a southern exposure. The route reaches the Alaska-Yukon border at Mile 271.

WESTERN ARCTIC COAL Alaska Miner

MARCH, 1993

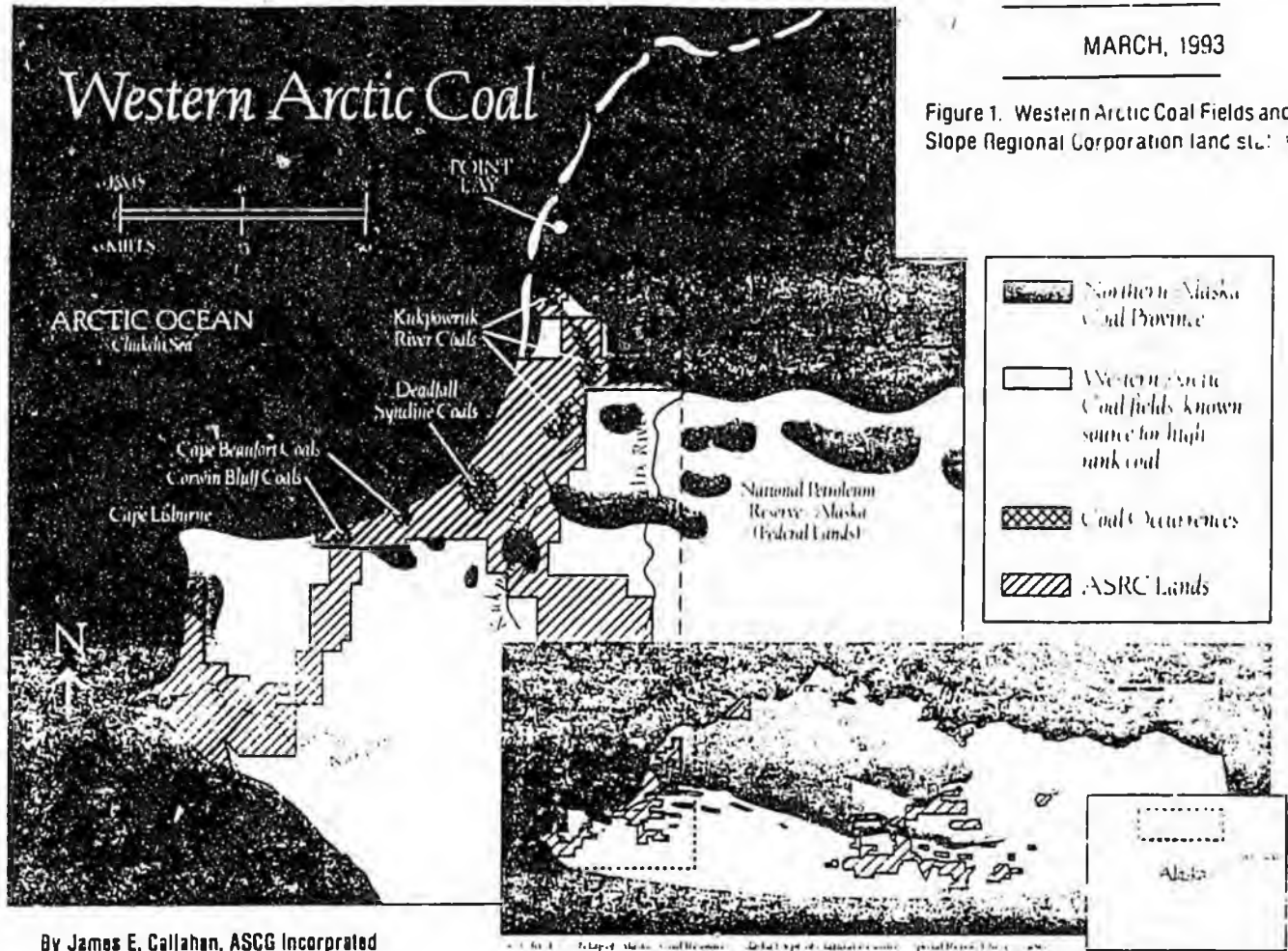


Figure 1. Western Arctic Coal Fields and Arctic Slope Regional Corporation land. SL: 5

By James E. Callahan, ASCG Incorporated
Steve W. Denton, Denton Civil & Mineral
Teresa A. Imm, ASCG Incorporated

INTRODUCTION

Located in northern Alaska is the Northern Alaska Coal Province (NACP), one of the largest coal provinces in the world. The NACP underlies approximately 30,000 square miles and extends 300 miles eastward from the Chukchi Sea. At the western end of the NACP lies the Western Arctic Coal Fields which contain hypothetical reserves of three billion tons of clean-burning, high-rank coal. The Western Arctic Coal Fields (figure 1), which lies outside the National Petroleum Reserve-Alaska boundary, is owned in large part by a private corporation, Arctic Slope Regional Corporation (ASRC). ASRC holds title to both surface and subsurface land and is working actively to market its coal deposits to the world.

GEOLOGY

Substantial bituminous coal resources are present in the Corwin Formation of the Nanushuk Group of Cretaceous age on the Arctic Slope of Alaska. The Corwin is a progradational fluvio-delta plain type deposit which thins in a southwest to northeast direction, from Corwin Bluffs reaching a zero edge south and southwest of Barrow. The

maximum measured thickness is in the type section at Corwin Bluff, where Chapman and Sable (1960) measured a 15,000 foot section. This figure was revised to 11,000 feet by Smiley (1969), based on repetition of floral zones resulting from faulting within the section. Elsewhere, large thicknesses of the upper part of the formation have been removed as a result of post-depositional uplift, deformation and erosion in the northern foothills belt of the Brooks Range. As a consequence of deep burial and subsequent exposure, the best quality coals (i.e., with the greatest heating value) are exposed in the foothills, in broad east-west trending synclinal basins separated by complexly faulted anticlinal belts. In the present Arctic Coastal Plain of the National Petroleum Reserve-Alaska (NPR-A), near surface coals exhibit a steadily decreasing trend in heating values northward from the foothills toward the shoreline.

In the foothills of the western Arctic, west of NPR-A, relatively detailed investigations specifically oriented to evaluation of coal resources have focused on three areas: The Kukpowruk River, Cape Beaufort, and the Deadfall Syncline. On the Kukpowruk River about 30 miles from Point Lay, a 23 foot coal is exposed in the south limb of the Howard

Syncline. This coal has been extensively drilled and sampled in the immediate vicinity of the cutbank exposure, by private interests and by the U.S. Bureau of Mines (USBM) and the U.S. Geological Survey (USGS). However, information on its lateral extent and continuity is limited, particularly to the east. At Cape Beaufort, in the onshore portion of a synclinal basin, about 7,500 feet of the Corwin formation is present. The USBM and USGS conducted drilling and trenching operations in that area to evaluate several promising coals during the 1960's and 1970's. In 1982, exploratory work sponsored by the State of Alaska was begun on private lands of ASRC in the Deadfall Syncline northeast of Cape Beaufort.

At Cape Beaufort, the thickest known coal reaches a maximum thickness of approximately 17 feet, but it contains a thick zone of clay partings interbedded with high ash coal. Several other coal seams reach a thickness of 11 feet, these contain numerous clay partings and a high ash "bony" zone. One 11 foot seam appears to be free of thick partings and maintains its thickness for three miles or more along strike. However, dip angles along the southeast flank of the basin increase fairly rapidly from a minimum of about 15 degrees on the northeast to over 50 degrees at the

southwest end of the syncline. Dip angles also increase quite rapidly downsection in the coal-bearing part of the Corwin Formation. These conditions are less favorable for conventional surface or underground mining.

It is the Deadfall syncline that currently holds the most promise for near-term development. The western extension of the Deadfall Syncline contains 7,000-8,000 feet of Corwin Formation, and known coals are generally comparable in thickness and quality to those coals at Cape Beaufort and the Kukpowruk River, with the added advantage of lower dip angles and dip-slope topography. Reconnaissance drilling funded by the State of Alaska in 1983 confirmed the presence of several thick coals in the axial plunge area of the basin. Exploratory work continued in 1984 by Howard Grey and Associates for Arctic Slope Consulting Engineers at both Cape Beaufort and the Deadfall Syncline. The purpose of the program was to evaluate sites for development of a small scale mining operation to provide coal as a substitute for fuel oil in western Alaska. Based on the 1984 work and preceding investigations, the Deadfall area was selected. In August, 1991, additional exploratory drilling was initiated by the Arctic Slope Consulting Group for the purpose of identifying a block of minable reserves large enough to develop for export. This included drilling to confirm the continuity and quality of an 18-foot coal seam, and relatively deep drilling up- and down-section to begin to assemble a complete stratigraphic record through the coal-bearing section.

In the Deadfall Syncline, the thickest known coal seam, the K3 seam, reaches a maximum thickness of 18 feet. This maximum occurs near the axis of the syncline, where dips are less than 10 degrees over a broad area. Several other coals occur in the same part of the stratigraphic section at Deadfall Syncline. Two of these coal seams are found lower in the section, than the thick K3 seam, and reach thicknesses of greater than eight feet and 12 feet respectively on the north flank of the basin. The project area covers approximately 10% of the eastern end of the syncline (figure 2). Over 100 shallow to moderately deep (750 foot maximum) boreholes, as well as numerous auger holes have been drilled in the project area (figure 3). Drilling on the east end of the syncline has been used to establish the reserve base for future mining in the area. Recent boreholes have been logged using natural gamma and gamma density tools. These tools provide good resolution in coal beds and indicate the lithology of over- and underburden rocks (figure 4).

COAL QUALITY

The apparent rank of most unweathered samples of Nanusuk coals from the foothills basins of the central and western Arctic is high-volatile A to C bituminous, with heating

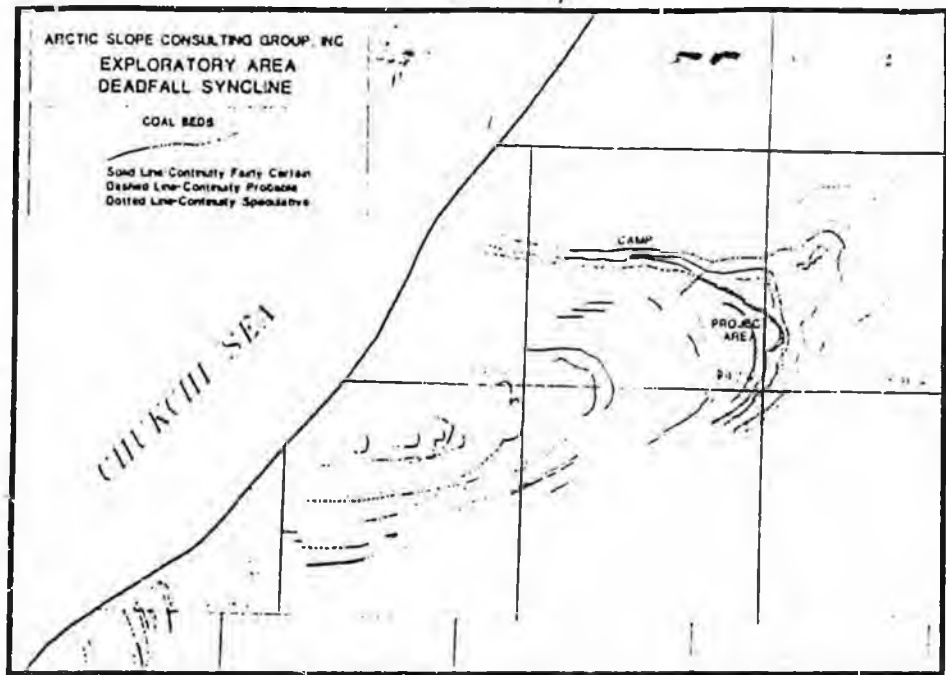


Figure 2 Exploration Area, Deadfall Syncline, Western Arctic Coal Project



Figure 3. Winter drilling operations at Deadfall Syncline

values often exceeding 13,000 BTU's on a moist, mineral matter-free basis. Moisture contents are generally less than 7% for samples taken at depths of greater than thirty feet. Full seam ash contents vary, depending on the

number and thickness of partings, but the inherent ash contents (excluding partings) are generally less than 10%.

The K3 seam at Deadfall Syncline appears exceptionally clean with a full-seam as received weighted average ash content of about 6%. If a four foot, relatively high ash zone (14%) found at the top of the K3 seam is excluded the remaining 13.14 feet averages less than 4%. Percent sulfur of the K3 coal seam ranges from 14% to 39% averaging 23% (figure 5). Analysis of samples from typical boreholes at Deadfall Syncline shows that the coal is an excellent steam coal and is suitable as a blending coal in the formation of coke. Sulfur dioxide emissions are less than a quarter (1/4) of the U.S. Environmental Protection Agency's standard of 12 pounds per million BTU's.

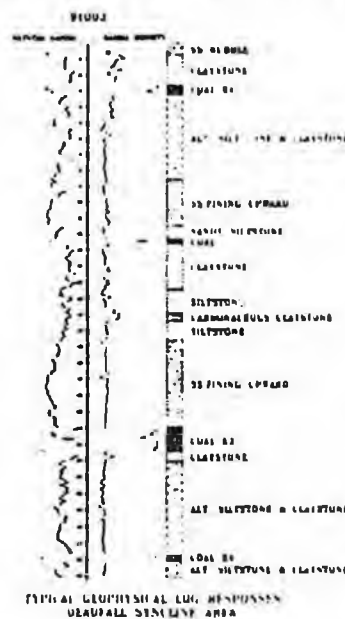


Figure 4. Typical geophysical log responses of coal seam within the Deadfall Syncline.

COAL QUALITY SEAMS K1, K3, AND K4

| | K1 | K3 | K4 |
|------------------------|--------|----------------------------|----------------------------|
| Moisture | 17.2 | 3.26 | 3.20 |
| Ash | 20.39 | 7.21 | 4.21 |
| Heating Value (Btu/lb) | 11,068 | 13,078 | 13,662 |
| Total Sulfur | 0.23 | 0.23 | 0.25 |
| Rank | --- | High Volatile A Bituminous | High Volatile A Bituminous |

• RESULTS FROM 1991 EXPLORATORY DRILLING PROGRAM
Figure 5. Table of coal quality analyses of coals in the Deadfall Syncline.

DEVELOPMENT PLANS

Development of the western Arctic coal resources will be a challenge, but should be relatively straightforward. The only significant impediment to development, that has been identified to date, is the necessity to deal with the arctic climate of the Chukchi Sea. *Continued on page 17*

ice bound season and the heavy dependence of local residents on beluga whales for subsistence during the open water season are an impediment to shipping. However, the very factors which create these hurdles to development have a positive side.

Ledyard Bay, the nearest water body, is protected from the severe ice forces that create the immense pressure ridges typically associated with the Arctic Ocean. This opens up the potential of winter time operations for ice breakers and reduces the risks associated with building structures, such as offshore conveyors. The short open water season means that the time window for whale migration past the site is brief and mitigating impacts on them should be easily achievable.

Although the site is remote, the nearest national parks lands are approximately 50 miles away and national interest land impacts should not be an issue during development of this resource. The Deadfall Syncline is located in the foothills and impacts to coastal plains wetlands will be limited to those associated with the transportation system. Development of the western Arctic coal field can be accomplished in a fashion that will result in a very low level of adverse impact to the local environment. An Alaska Surface Coal Mining Permit has recently been issued for a small demonstration mine on the north limb of the syncline for extraction of 50,000 tons over a five year period.

Mining in the western Arctic coal field is expected to be more conventional than it will be unique. Although winters are long, the severity of the weather is moderated by proximity to the ocean. Minimum temperatures are higher than those experienced by Usibelli Coal Mine at Healy and the experience of the Red Dog Mine points to the likelihood that the western Arctic coals can be mined year round, with very little productivity loss due to weather. Pilot scale surface mining operations, that have been conducted to date, have shown that work can proceed during the full range of seasons and that typical surface mining practices for drilling, blasting and excavating can be employed. Because the area is within an "Arctic desert" zone, volumes of water that must be handled have been low and untreated water quality from the mine pit has been good.

Underground mining has not been studied to the same degree as surface mining, due to local availability of personnel trained in the use of surface-type mining equipment. However, the thickness, quality, continuity and structural simplicity of the deposit suggests that high efficiency underground mining should be well suited to many of the deposits. The major effects of weather will be mitigated by underground mining and environmental impacts would be reduced. However, the effect of permafrost on the behavior of rock types in the formation is largely unknown. We have identified only one coal mine in Spitsbergen, Norway as a possible analogue for underground mining in a permafrost environment. Therefore, large scale mechanized underground mining will probably be preceded by conventional surface and underground mining methods.

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