

State of Alaska FY2002 Governor's Operating Budget

Department of Transportation/Public Facilities
Contracting, Procurement and Appeals
Component

Component: Contracting, Procurement and Appeals

Contact: Mark O'Brien, Chief Contracts Officer

Tel: (907) 465-6990 **Fax:** (907) 586-8365 **E-mail:** Mark_OBrien@dot.state.ak.us

Component Mission

The mission of Contracting, Procurement & Appeals is to execute the DOT&PF Commissioner's statutory responsibility for construction contracting, and to execute authority delegated by the Commissioner of the Department of Administration for non-construction procurements under AS 36.30.015.

Component Services Provided

Services provided by the Contracting, Procurement and Appeals component are to:

- develop, implement, and maintain those policies, procedures, and operational standards that assure all transportation modes and regions (marine highways, statewide aviation, statewide design and engineering services, the regional highway construction and maintenance groups, and those sister agencies with a DOT&PF delegation of construction authority) receive responsive and consistent guidance in the administration of construction and non-construction procurements and contracts.
- provide direct and instant support on procurement practices, contract formation and contract administration.
- assist the DOT&PF Commissioner in protest and claim appeal resolution.
- oversee Departmental compliance with federal and state laws, regulations, and policies governing procurements and contracts administration.
- recommend changes to procurement law when appropriate.
- review and improve where necessary solicitation and contract language that serves to minimize exposure to claims and protests.
- analyze and assist in the resolution of contract and procurement claims and disputes before they become appeals.
- process procurement Waiver Requests.
- approve Term Agreements, Public Interest Findings, and Force Account work.
- make determinations on Design/Build needs.
- set-up leases.
- supervise warehouse, inventory and property control.
- give training on how to solicit for and manage construction and non-construction procurement contracts.

Staff also monitor and report

- procurements made from sources out of state.
- the value of all procurements made annually.
- the number of bidders or offerors that bid or made proposals.
- litigation completed and in process.

Component Goals and Strategies

To ensure compliance with all federal and state laws, regulations, and policies governing all forms of contracting and procurement.

- Provide the advise, guidance, training and tools necessary to assure funding eligibility in accordance with federal aid and grant requirements.
- Establish statewide consistency by the promulgation of statewide policy, regulation and procedures concerning procurements and contract administration.
- Evaluate and document all procurement waivers and public interest findings to ensure compliance with federal and state law.
- Act as liaison with the Department of Administration on evaluating shared interests in current regulatory and statutory authorities. Recommend changes in legislation where necessary to promote procurement efficiencies.
- Coordinate and review current and proposed procurement and contracting procedures with stakeholders, e.g. Associated General Contractors of Alaska, construction Labor Unions.
- Review and resolve all protest and claim appeals filed with the Commissioner.

To evaluate new methods that promote efficient and economical contracts and/or improve project deliveries.

- Review procurement and contracting methods in use by other governmental entities and implement as appropriate;
- Continue to assess and advance the incorporation of electronic bidding procedures as appropriate.
- Promote cost savings by taking advantage of economies of scale and the establishment of department-wide term contracts;
- Establish new contracts and leases when required, renewing existing contracts and leases in a timely manner to assure continuity of operations, and by purchasing one-time requirements in a timely manner to meet project deadlines.

To provide responsible oversight of inventory and property control:

- Promote responsible management of state property by documenting loss, theft, or damaged equipment and requesting the disposal of obsolete and excess property items.
- Establish sound departmental warehouse inventory levels and procedures by conducting annual reviews of regional warehouse functions.

Key Component Issues for FY2001 – 2002

- Develop, in coordination with the Associated General Contractors of America (AGC) and regional staff, revisions to the adjudication of the construction claims appeal process. This will involve the review of other state's successes of incorporating adjudication procedures such as binding arbitration and a claims board of appeals. Based on findings and work with the AGC, the Department's will develop additional means and methods for timely resolving construction claim disputes.
- Revise or create new policy and procedures on issues of: Force Account Work; Public Interest Findings; (Remote) Camp Determinations; and, Requesting Design/Build Procurement Approval.
- Continue providing direct and immediate support to the regions and sister agencies so that uniform and consistent procurement and contract administration is assured.
- Train regional and sister agency staff on contracting and managing construction contracts.
- Oversee Departmental compliance with federal and state laws, regulations, and policies governing all forms of procurement and contract administration.
- Identify needs for additional policy and procedural guidelines related to procurement and contract administration, and develop appropriate documents to achieve desired results.
- Work with the Department of Labor to support the Department's and the Governor's efforts to promote local hire - continue work with the Department of Labor in encouraging local communities to assist the State in supporting local hire issues.

Major Component Accomplishments for FY2000

- Established a task group with the Associated General Contractors of Alaska and published draft revisions to the statutory claims resolution process.
- Completed and distributed a new statewide master lease agreement for village airports.
- Compiled and submitted statutory required reports detailing DOT&PF and Sister Agency construction procurements made during the FY.
- Established statewide master contracts for use by all regions.

Statutory and Regulatory Authority

U. S.C. Title 23
AS Title 02, Aeronautics
AS Title 19, Highways and Ferries
AS Title 35, Public Buildings, Works and Improvements
AS Title 36, (Procurement Code)
AS Title 44, (Applicable Portions)
2 AAC 12, Procurement Regulations
AAM (Alaska Administrative Manual)

Key Performance Measures for FY2002

Measure: The percentage of protests and claims appealed to the DOT&PF Commissioner that the courts on subsequent appeal overturn.

(Revised from Legislature's FY2001 version.)

Current Status:

During FY2000, there were 4 DOT&PF claim appeals that were either already in or made their way to the Alaska Courts. None of these cases were finally adjudicated in FY2000. Therefore, based on the most recent fiscal year data available, 0% of the division's protest or claim decisions were overturned by the courts. We anticipate that such performance will be duplicated in continuing years (i.e. if protests or claims are appealed to the courts, our administrative decisions will not be overturned).

Benchmark:

There is no established national standard for this performance measure. It is, however, the Department's goal to have 0% of our protest or claim appeals overturned by the appellate court.

Background and Strategies:

Appeals adjudicated by the Department's administrative hearing process average 4.8 per year.

From 1992 though 1999, 49 construction protest and claim appeals that were filed with the DOT&PF Commissioner were directed for a formal administrative hearing. This does not include those appeals receiving a directed decision by the Commissioner. Of the appeals directed to hearing: 23 were claims, 23 were protests, and 3 were leases. 10 of these appeals were settled before hearings started. 39 were heard or, in some instances, partially heard (i.e. settlement was reached during the hearing process, thus stopping it).

Of the 49 appeals, 12 have been appealed to the courts where one was remanded for settlement, the State prevailed on 7 (i.e. the original administrative decision of the Department was upheld) and 4 currently reside in the courts.

Status of FY2001 Performance Measures

	<i>Achieved</i>	<i>On track</i>	<i>Too soon to tell</i>	<i>Not likely to achieve</i>	<i>Needs modification</i>
<ul style="list-style-type: none"> The percentage of protest and claim decisions of the division overturned by the courts during the fiscal year. 		X			

Contracting, Procurement and Appeals**Component Financial Summary***All dollars in thousands*

	FY2000 Actuals	FY2001 Authorized	FY2002 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	383.7	440.5	437.5
72000 Travel	12.1	12.0	12.0
73000 Contractual	8.5	35.1	35.1
74000 Supplies	8.6	6.9	6.9
75000 Equipment	0.0	0.0	0.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	412.9	494.5	491.5
Funding Sources:			
1004 General Fund Receipts	272.5	277.3	273.8
1007 Inter-Agency Receipts	14.0	41.9	41.9
1026 Highway Working Capital Fund	33.6	34.6	34.5
1027 International Airport Revenue Fund	34.7	35.7	35.6
1061 Capital Improvement Project Receipts	58.1	105.0	105.7
Funding Totals	412.9	494.5	491.5

Estimated Revenue Collections

Description	Master Revenue Account	FY2000 Actuals	FY2001 Authorized	FY2001 Cash Estimate	FY2002 Governor	FY2003 Forecast
Unrestricted Revenues						
None.		0.0	0.0	0.0	0.0	0.0
Unrestricted Total		0.0	0.0	0.0	0.0	0.0
Restricted Revenues						
Interagency Receipts	51015	14.0	41.9	41.9	41.9	41.9
Highway Working Capital Fund	51050	33.6	34.6	34.6	34.5	34.5
International Airport Revolving Fund	51055	34.7	35.7	35.7	35.6	35.6
Capital Improvement Project Receipts	51200	58.1	105.0	105.0	105.7	105.7
Restricted Total		140.4	217.2	217.2	217.7	217.7
Total Estimated Revenues		140.4	217.2	217.2	217.7	217.7

Contracting, Procurement and Appeals
Proposed Changes in Levels of Service for FY2002

None.

Summary of Component Budget Changes
From FY2001 Authorized to FY2002 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2001 Authorized	277.3	0.0	217.2	494.5
Adjustments which will continue current level of service:				
-Year 2 Labor Costs - Net Change from FY2001	-3.5	0.0	-2.1	-5.6
Proposed budget increases:				
-Add \$2.6 CIP to fund increases in Engineers pay resulting from a classification study	0.0	0.0	2.6	2.6
FY2002 Governor	273.8	0.0	217.7	491.5

Contracting, Procurement and Appeals

Personal Services Information

Authorized Positions			Personal Services Costs	
	FY2001 Authorized	FY2002 Governor		
Full-time	6	6	Annual Salaries	330,496
Part-time	0	0	COLA	6,398
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	113,543
			<i>Less 2.87% Vacancy Factor</i>	(12,937)
			Lump Sum Premium Pay	0
Totals	6	6	Total Personal Services	437,500

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Administrative Clerk II	0	0	1	0	1
Chief Contracts Officer	0	0	1	0	1
Engineering Associate	0	0	1	0	1
Procurement Spec II	0	0	1	0	1
Procurement Spec III	0	0	1	0	1
Supply Chief, DOT & PF	0	0	1	0	1
Totals	0	0	6	0	6