
 <p style="text-align: center;">STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES</p> <p style="text-align: center;">Policy and Procedure</p>	POLICY AND PROCEDURE NUMBER 10.02.050	PAGE 1 of 2
	EFFECTIVE DATE December 14, 2007	
SUBJECT Specifying of Brand Name Products	SUPERSEDES 10.02.050	DATED September 1, 2006
CHAPTER Procurement and Property	SECTION Contracting	APPROVED BY 

PURPOSE

This formalizes the policy and procedure (P&P) of the department on specifying brand name or proprietary products in construction contracts.

POLICY

Construction contract specifications will not unduly limit the furnishing of products, materials, equipment, or processes to those of particular brand names, makes, or proprietors.

PROCEDURE

Writers and reviewers of construction contract specifications will ensure that the specifications are written to permit the use of any product, material, equipment, or process that will perform the required function while meeting the standards of quality set for such items in the contract.

The specifications will not restrict any item to be used in the project to that of a particular brand name, make, and catalog number, or proprietor, unless:

- the item specified must match an existing item or system to facilitate operation, maintenance, or continuity; or
- the item specified is the only one that will perform the required function.

When only one product is acceptable as described above, the designer or project manager must request and receive approval before advertising.

For Federal Highway Administration (FHWA) funded projects, the chief contracts officer must approve a public interest finding (PIF). (See **P&P 10.02.013**, *The Public Interest Finding*.) If the public interest finding is approved, the contract will specify “no substitutes”.

For Federal Aviation Administration (FAA) funded projects, contracts specifying “brand name” products are considered sole source procurements. Therefore, FAA review and approval are required according to the **FAA Airport Improvement Program Handbook, section 901(a)(2)**, which states:

a. Pre-Award Review Required. Pre-award review of proposed contracts is required in the following cases:

(2) The proposed contract is to be awarded on a sole source basis or when only one bid or proposal is received in which the aggregate expenditures exceed \$100,000 **(all proposed contracts specifying “brand name” products shall be considered sole source procurements).**

Whether FAA, Federal Transit Authority, or state funded, the contracting/procurement officer must approve a brand specific determination (also called a PIF) in accordance with 2AAC 12.100. The procedure for developing this determination is described in P&P 10.02.013 *The Public Interest Finding*.

When more than one acceptable product exists, reference to a particular brand name, etc., may be used only to establish the standard of quality and will not be used to limit competition among like items. In this case, the substitution of an approved equal will be allowed, provided there is no increase in contract price. When used in this manner, the brand name must be accompanied by the salient characteristics that describe the minimum performance requirements. Alternate products that satisfy the salient characteristics will be considered equal to the specified brand name.

AUTHORITY

AS 36.30.060
2 AAC 12.090-100
23 CFR 635.411(c)

IMPLEMENTATION RESPONSIBILITY

Regional directors, system directors/ managers, project managers, engineering managers, and contracts staff

DISTRIBUTION

All department employees via the DOT&PF website