

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 13-0398.01 Nicole Myers x4326

**HOUSE BILL 13-1292**

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**A BILL FOR AN ACT**

101     **CONCERNING MODIFICATIONS TO PROCUREMENT REQUIREMENTS FOR**  
102             **GOVERNMENT CONTRACTS RELATED TO UNITED STATES**  
103             **DOMESTIC EMPLOYMENT.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Colorado hiring on public works projects.** Current law requires a contractor to use at least 80% Colorado labor for any public works contract that is financed in whole or in part by state, county, school district, or municipal moneys (Colorado labor requirement). Any violation

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

of the Colorado labor requirement is currently a misdemeanor punishable by fine, imprisonment in county jail, or both. Current law does not specifically require any state entity to enforce the Colorado labor requirement.

The bill repeals the existing criminal penalties and directs the department of labor and employment (CDLE) to enforce the Colorado labor requirement. In connection with its enforcement duties, CDLE is required to receive complaints about potential violations of the Colorado labor requirement, investigate such complaints, and impose fines for violations.

If a contractor has violated the Colorado labor requirements multiple times, the executive director of CDLE may, in his or her discretion, initiate proceedings to debar the contractor. The general assembly is required to appropriate any revenue from the fines collected by CDLE to CDLE to be used for its enforcement of the Colorado labor requirements.

The bill specifies that the Colorado labor requirement applies to each construction phase of the public works project separately. The governmental body financing a public works project may waive the Colorado labor requirement for a specific type or class of labor for a construction phase of a public works project if there is reasonable evidence to demonstrate insufficient Colorado labor in a specific type or class of labor to perform the work of that construction phase of the project.

Compliance with the requirements of the Colorado labor requirement will be calculated on the total taxable wages and fringe benefits, minus any per diem payments, paid to workers employed directly on the site of the project and who satisfy the definition of Colorado labor.

**Nonresident bidder reciprocity.** Colorado is one of many states that requires reciprocal treatment for a non-resident bidder who is from a state that offers a preference for resident bidders of that state (non-resident bidder reciprocity). Current law does not require any state entity to enforce the nonresident bidder reciprocity requirements.

The bill clarifies the current nonresident bidder reciprocity law by specifying that in any bidding process for public works in which a bid is received from a nonresident bidder who is from a state that provides a percentage bidding preference, a comparable percentage disadvantage shall be applied to the bid of that bidder.

The department of personnel (DPA) is required to determine which states provide a bidding preference on public works contracts for their resident bidders and to submit a report to the general assembly that includes the list as well as recommendations for the implementation and enforcement of the nonresident bidder reciprocity law. In addition, the bill requires that any request for proposals issued by a state agency or political

subdivision of the state include notice of Colorado's nonresident bidder reciprocity law.

**Competitive sealed best value bidding for construction contracts for public projects.** Currently, construction contracts for public projects are awarded through competitive sealed bidding. The bill creates a competitive sealed best value bidding process and authorizes construction contracts to be awarded either through the existing competitive sealed bidding process or the new competitive sealed best value bidding process.

The bill requires a contract under competitive sealed best value bidding to be solicited through an invitation for bids that identifies the evaluation factors upon which the award shall be based. The bill specifies certain evaluation factors to be included in the bids.

A contract shall be awarded to the bidder whose bid is determined in writing to be the most advantageous to the state and that represents the best overall value to the state, taking into consideration the price and other evaluation factors set forth in the invitation for bids.

The bill requires the executive director of a governmental agency or the president of an institution of higher education (institution), as applicable, that enters into a construction contract for a public project to disclose to the public the agency or institution's rationale for selecting the competitive sealed bidding process, the competitive sealed best value bidding process, or the integrated project delivery process, which also currently exists in law, as applicable. The agency or institution is required to post the disclosure on its web site.

**Disclosure of outsourcing contract duties by vendor.** Current law requires any prospective vendor for a contract from the state for services to disclose where services will be performed under the contract, including subcontracts, and whether any services under the contract or subcontract are anticipated to be performed outside the state or the United States. The bill modifies current law by requiring prospective vendors to make this disclosure for subcontracts only.

In addition, the bill requires each contract entered into or renewed by a governmental body to contain a clause that requires the vendor to provide written notice to the governmental body if the vendor decides, after the contract is awarded, to subcontract any part of the contract to a subcontractor that will perform such duties in a location outside the state or the United States.

The notice must include the specific duties that will be outsourced and the reason for the outsourcing. The governmental body is required to provide the written notice from a vendor to the director of DPA (director), and the director is required to post the notice on the official web site of DPA. If a vendor fails to notify the governmental body that is a party to the contract of outsourcing, the governmental body may, in its discretion, void the contract.

**Outsourcing of certain contract duties by governmental body prohibited.** The bill prohibits a governmental body from awarding a contract to a vendor outside the United States that will perform the direct labor necessitated by the contract outside the United States. Direct labor includes labor that is required to be performed under a contract when the governmental body has a direct business relationship with the vendor performing the contract. It does not include computer systems, including hardware and software, that is not specifically designed pursuant to the terms of the contract.

Each prospective vendor that submits a bid or proposal to a governmental body is required to certify that the direct labor covered by the bid or proposal will be performed in the United States.

A governmental body may submit to the director written request for a waiver of the direct labor requirements. A governmental body shall include in its written waiver request findings of one or more specified circumstances to justify the need for a waiver.

The director is required to post information regarding any waiver allowed on the official web site of DPA, periodically analyze the direct labor services for which waivers are granted to a governmental body, and work with governmental bodies to facilitate the performance of such outsourced direct labor services within the United States for future contracts.

**Disclose use of foreign-produced iron, steel, and related manufactured goods.** The bill requires the contractor for any public buildings or public works project that is funded in whole or in part by state moneys and that costs more than \$500,000 to disclose to DPA the 5 most costly goods incorporated into the contract.

The bill specifies that, in the case of an iron or steel product, all manufacturing must take place in the United States, and in the case of a manufactured good, a good will be considered manufactured in the United States if all of the manufacturing processes for the final product take place in the United States. In order for a manufactured good to be considered subject to disclosure, the product must be manufactured predominantly of steel or iron.

DPA is required to develop and maintain a list of the 5 most costly goods that are incorporated into each contract and that are not produced in the United States, as disclosed to DPA.

**Public utilities commission consideration of best value metrics in request for proposal process.** Currently, the public utilities commission is required to consider certain best value employment metrics when it evaluates electric resource acquisitions. The bill requires that the public utilities commission also consider the best value employment metrics in connection with requests for a certificate of convenience and necessity for construction or expansion of generating facilities, including pollution control or fuel conservation upgrades and conversion of existing

coal-fired plants to natural gas plants.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1. Short title.** This act shall be known and may be  
3 cited as the "Keep Jobs In Colorado Act of 2013".

4           **SECTION 2.** In Colorado Revised Statutes, **amend** 8-17-101 as  
5 follows:

6           **8-17-101. Colorado labor shall be employed on public**  
7 **works.** (1) Whenever any public works PROJECT financed in whole or in  
8 part by funds of the state, counties, school districts, or municipalities of  
9 the state of Colorado are undertaken in this state, Colorado labor shall be  
10 employed to perform AT LEAST EIGHTY PERCENT OF the work. ~~to the extent~~  
11 ~~of not less than eighty percent of each type or class of labor in the several~~  
12 ~~classifications of skilled and common labor employed on such project or~~  
13 ~~public works.~~ THE EIGHTY PERCENT REQUIREMENT APPLIES TO EACH  
14 CONSTRUCTION PHASE OF THE PUBLIC WORKS PROJECT SEPARATELY. THE  
15 GOVERNMENTAL BODY FINANCING A PUBLIC WORKS PROJECT MAY WAIVE  
16 THE EIGHTY PERCENT REQUIREMENT FOR A SPECIFIC TYPE OR CLASS OF  
17 LABOR FOR A CONSTRUCTION PHASE OF A PUBLIC WORKS PROJECT IF THERE  
18 IS REASONABLE EVIDENCE TO DEMONSTRATE INSUFFICIENT COLORADO  
19 LABOR IN A SPECIFIC TYPE OR CLASS OF LABOR TO PERFORM THE WORK OF  
20 THAT CONSTRUCTION PHASE OF THE PROJECT. A GOVERNMENTAL BODY  
21 THAT ALLOWS A WAIVER PURSUANT TO THIS SUBSECTION (1) SHALL POST  
22 NOTICE OF THE WAIVER AND A JUSTIFICATION FOR THE WAIVER ON ITS WEB  
23 SITE.

24           (2) AS USED IN THIS ARTICLE:

25           (a) "Colorado labor" ~~as used in this article~~ means any person who

1 is a resident of the state of Colorado, at the time of employment, without  
2 discrimination as to race, color, creed, sex, sexual orientation, marital  
3 status, national origin, ancestry, age, or religion except when sex or age  
4 is a bona fide occupational qualification. A RESIDENT OF THE STATE OF  
5 COLORADO IS A PERSON WHO CAN PROVIDE A VALID COLORADO DRIVER'S  
6 LICENSE, A VALID COLORADO STATE-ISSUED PHOTO IDENTIFICATION, OR  
7 DOCUMENTATION THAT HE OR SHE HAS RESIDED IN COLORADO FOR THE  
8 LAST THIRTY DAYS.

9 (b) "CONSTRUCTION PHASE" MEANS THE MECHANICAL,  
10 ELECTRICAL, CIVIL, STRUCTURAL, OR OTHER STANDARD DESIGN PHASES OF  
11 A PUBLIC WORKS PROJECT.

12 (c) "PUBLIC WORKS PROJECT" SHALL HAVE THE SAME MEANING AS  
13 "PUBLIC PROJECT" AS DEFINED IN SECTION 8-19-102 (1).

14 **SECTION 3.** In Colorado Revised Statutes, **repeal** 8-17-103 as  
15 follows:

16 **8-17-103. Penalty for violation.** ~~Any officer or agent of the~~  
17 ~~state, counties, school districts, or municipalities of the state of Colorado~~  
18 ~~or any contractor who violates the provisions of this article is guilty of a~~  
19 ~~misdemeanor and, upon conviction thereof, shall be punished by a fine of~~  
20 ~~not more than five hundred dollars, or by imprisonment in the county jail~~  
21 ~~for not more than one year, or by both such fine and imprisonment.~~

22 **SECTION 4.** In Colorado Revised Statutes, **add** 8-17-104,  
23 8-17-105, 8-17-106, and 8-17-107 as follows:

24 **8-17-104. Enforcement - violation - penalties - Colorado labor**  
25 **enforcement cash fund - creation.** (1) THE DEPARTMENT OF LABOR AND  
26 EMPLOYMENT SHALL ENFORCE THE REQUIREMENTS OF THIS ARTICLE IN THE  
27 EVENT OF A COMPLAINT ALLEGING A POTENTIAL VIOLATION OF THE

1 REQUIREMENTS OF THIS ARTICLE. IN CONNECTION WITH THE  
2 DEPARTMENT'S DUTY TO ENFORCE THE REQUIREMENTS OF THIS ARTICLE,  
3 THE DEPARTMENT SHALL RECEIVE COMPLAINTS ABOUT POTENTIAL  
4 VIOLATIONS OF SUCH REQUIREMENTS, INITIATE INVESTIGATIONS BASED ON  
5 SUCH COMPLAINTS, AND IMPOSE PENALTIES FOR THE VIOLATION OF THE  
6 REQUIREMENTS OF THIS ARTICLE PURSUANT TO SUBSECTION (2) OF THIS  
7 SECTION.

8 (2) (a) AFTER CONDUCTING AN INVESTIGATION OF A COMPLAINT  
9 ALLEGING A VIOLATION OF THE PROVISIONS OF THIS ARTICLE, IF THE  
10 DEPARTMENT OF LABOR AND EMPLOYMENT DETERMINES THAT A  
11 CONTRACTOR HAS KNOWINGLY VIOLATED THE REQUIREMENTS OF THIS  
12 ARTICLE BY IMPORTING LABOR IN EXCESS OF THAT PERMITTED PURSUANT  
13 TO SECTION 8-17-101 (1), THE EXECUTIVE DIRECTOR OF THE DEPARTMENT  
14 OF LABOR AND EMPLOYMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE  
15 SHALL IMPOSE A FINE ON SUCH CONTRACTOR AS FOLLOWS:

16 (I) FOR THE FIRST VIOLATION, FIVE THOUSAND DOLLARS OR AN  
17 AMOUNT EQUAL TO ONE PERCENT OF THE COST OF THE CONTRACT,  
18 WHICHEVER IS LESS;

19 (II) FOR THE SECOND VIOLATION, TEN THOUSAND DOLLARS OR AN  
20 AMOUNT EQUAL TO ONE PERCENT OF THE COST OF THE CONTRACT,  
21 WHICHEVER IS LESS; OR

22 (III) FOR THE THIRD VIOLATION AND ANY VIOLATION THEREAFTER,  
23 TWENTY-FIVE THOUSAND DOLLARS OR AN AMOUNT EQUAL TO ONE  
24 PERCENT OF THE COST OF THE CONTRACT, WHICHEVER IS LESS.

25 (b) WHEN THE DEPARTMENT OF LABOR AND EMPLOYMENT  
26 RECEIVES A COMPLAINT, IT SHALL NOTIFY THE CONTRACTOR OF THE  
27 COMPLAINT, BUT SHALL COMMENCE THE INVESTIGATION ONLY AT THE

1 COMPLETION OF THE PROJECT. COMPLIANCE SHALL BE MEASURED OVER  
2 THE ENTIRETY OF THE COMPLETED PROJECT BY EACH CONSTRUCTION  
3 PHASE AS SPECIFIED IN SECTION 8-17-101 (1).

4 (c) IF THE DEPARTMENT OF LABOR AND EMPLOYMENT HAS IMPOSED  
5 THREE FINES ON A CONTRACTOR PURSUANT TO PARAGRAPH (a) OF THIS  
6 SUBSECTION (2) WITHIN FIVE YEARS AND FINDS THE VIOLATIONS TO BE  
7 EGREGIOUS, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR  
8 AND EMPLOYMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY  
9 INITIATE THE PROCESS TO DEBAR THE CONTRACTOR PURSUANT TO SECTION  
10 24-109-105, C.R.S.

11 (d) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND  
12 EMPLOYMENT MAY DISMISS A COMPLAINT IN HIS OR HER DISCRETION IF,  
13 AFTER CONDUCTING AN INVESTIGATION PURSUANT TO THIS SECTION, THE  
14 DEPARTMENT DETERMINES THAT THE CIRCUMSTANCES THAT LED TO THE  
15 COMPLAINT WERE THE RESULT OF A MINOR PAPERWORK VIOLATION.

16 (3) A CONTRACTOR WHO IS FOUND TO BE IN VIOLATION OF THE  
17 PROVISIONS OF THIS ARTICLE MAY APPEAL SUCH FINDING TO THE  
18 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT.  
19 THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE  
20 SHALL HOLD A HEARING TO REVIEW SUCH NOTICE OR ORDER AND TAKE  
21 FINAL ACTION IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND  
22 MAY EITHER CONDUCT THE HEARING PERSONALLY OR APPOINT AN  
23 ADMINISTRATIVE LAW JUDGE FROM THE DEPARTMENT OF PERSONNEL.  
24 FINAL AGENCY ACTION IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO  
25 ARTICLE 4 OF TITLE 24, C.R.S.

26 (4) THE REVENUE COLLECTED FROM THE FINES IMPOSED PURSUANT  
27 TO SUBSECTION (2) OF THIS SECTION SHALL BE TRANSMITTED TO THE



1 STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE COLORADO  
2 LABOR ENFORCEMENT CASH FUND, WHICH IS HEREBY CREATED. THE  
3 GENERAL ASSEMBLY SHALL MAKE APPROPRIATIONS FROM THE FUND AS  
4 NECESSARY TO COVER THE DIRECT AND INDIRECT COSTS OF THE  
5 DEPARTMENT OF LABOR AND EMPLOYMENT IN CONNECTION WITH THE  
6 REQUIREMENTS OF THIS ARTICLE. ALL MONEYS NOT EXPENDED OR  
7 ENCUMBERED AND ALL INTEREST EARNED ON THE INVESTMENT OR  
8 DEPOSIT OF MONEYS IN THE FUND REMAINS IN THE FUND AND DOES NOT  
9 REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY  
10 FISCAL YEAR.

11 (5) THE REQUIREMENTS OF THIS ARTICLE MAY NOT BE ENFORCED  
12 THROUGH A PRIVATE RIGHT OF ACTION.

13 **8-17-105. Compliance standard.** COMPLIANCE WITH THE  
14 REQUIREMENTS OF THIS ARTICLE SHALL BE CALCULATED ON THE TOTAL  
15 TAXABLE WAGES AND FRINGE BENEFITS, MINUS ANY PER DIEM PAYMENTS,  
16 PAID TO WORKERS EMPLOYED DIRECTLY ON THE SITE OF THE PROJECT AND  
17 WHO SATISFY THE DEFINITION OF COLORADO LABOR.

18 **8-17-106. Rules.** (1) THE EXECUTIVE DIRECTOR OF THE  
19 DEPARTMENT OF LABOR AND EMPLOYMENT SHALL PROMULGATE RULES  
20 FOR THE IMPLEMENTATION OF THIS ARTICLE. SUCH RULES SHALL BE  
21 PROMULGATED IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE  
22 PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., AND MUST INCLUDE,  
23 BUT NEED NOT BE LIMITED TO:

24 (a) A PROCEDURE FOR FILING A COMPLAINT ALLEGING THAT A  
25 CONTRACTOR IS IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE;

26 (b) A PROCEDURE FOR THE UNIFORM INVESTIGATION OF ANY  
27 COMPLAINT ALLEGING A VIOLATION OF THE PROVISIONS OF THIS ARTICLE;

1 AND

2 (c) A PROCEDURE FOR FILING AN APPEAL PURSUANT TO SECTION  
3 8-17-104 (3).

4 **8-17-107. Federal and state law.** NOTHING IN THIS ARTICLE  
5 CONTRAVENES ANY EXISTING TREATY, LAW, AGREEMENT, OR REGULATION  
6 OF THE UNITED STATES. CONTRACTS ENTERED INTO IN ACCORDANCE WITH  
7 ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES  
8 DO NOT VIOLATE THIS ARTICLE TO THE EXTENT OF THAT ACCORDANCE.  
9 THE REQUIREMENTS OF THIS ARTICLE ARE SUSPENDED IF SUCH  
10 REQUIREMENT WOULD CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR  
11 REGULATION OF THE UNITED STATES.

12 **SECTION 5.** In Colorado Revised Statutes, **amend** 8-19-102 as  
13 follows:

14 **8-19-102. Definitions.** As used in this article, unless the context  
15 otherwise requires:

16 (1) "NONRESIDENT BIDDER" MEANS A BIDDER THAT DOES NOT  
17 SATISFY THE CRITERIA TO BE A RESIDENT BIDDER.

18 ~~(1)~~ (2) "Public project" means:

19 (a) Any public project as defined in section 24-92-102 (8), C.R.S.,  
20 including any such project awarded by any county, including any home  
21 rule county, municipality, as defined in section 31-1-101 (6), C.R.S.,  
22 school district, special district, or other political subdivision of the state;

23 (b) Any publicly funded contract for construction entered into by  
24 a governmental body of the executive branch of this state which is subject  
25 to the "Procurement Code", articles 101 to 112 of title 24, C.R.S.; and

26 (c) Any highway or bridge construction, whether undertaken by  
27 the department of transportation or by any political subdivision of this

1 state, in which the expenditure of funds may be reasonably expected to  
2 exceed fifty thousand dollars.

3 ~~(2)~~ (3) "Resident bidder" means:

4 (a) A person, partnership, corporation, or joint venture which is  
5 authorized to transact business in Colorado and which maintains its  
6 principal place of business in Colorado; or

7 (b) A person, partnership, corporation, or joint venture which:

8 (I) Is authorized to transact business in Colorado;

9 (II) Maintains a place of business in Colorado; AND

10 (III) Has paid Colorado unemployment compensation taxes in at  
11 least ~~seventy-five percent~~ SIX of the eight quarters immediately prior to  
12 bidding on a construction contract for a public project.

13 **SECTION 6.** In Colorado Revised Statutes, **repeal** 8-19-102.5 as  
14 follows:

15 **8-19-102.5. Resident bidder - reciprocity.** ~~In addition to any~~  
16 ~~other criteria for awarding a preference under this article, the residence,~~  
17 ~~registration, unemployment compensation, and other preference~~  
18 ~~conditions applied to a Colorado resident bidder doing business in another~~  
19 ~~state or foreign country shall be applied to a resident bidder from that~~  
20 ~~state or foreign country doing business in Colorado in determining~~  
21 ~~whether a preference shall be allowed.~~

22 **SECTION 7.** In Colorado Revised Statutes, **add** 8-19-104 and  
23 8-19-105 as follows:

24 **8-19-104. Bid preference - survey - report.** (1) THE EXECUTIVE  
25 DIRECTOR OF THE DEPARTMENT OF PERSONNEL, OR THE EXECUTIVE  
26 DIRECTOR'S DESIGNEE, SHALL CONDUCT A SURVEY AND COMPILE THE  
27 RESULTS INTO A LIST OF WHICH STATES PROVIDE A BIDDING PREFERENCE

1 ON PUBLIC WORKS CONTRACTS FOR THEIR RESIDENT BIDDERS. THE LIST  
2 MUST INCLUDE DETAILS ON THE TYPE OF PREFERENCE PROVIDED BY EACH  
3 STATE, THE AMOUNT OF THE PREFERENCE, AND HOW THE PREFERENCE IS  
4 APPLIED. THE EXECUTIVE DIRECTOR SHALL COMPLETE THE INITIAL LIST ON  
5 OR BEFORE JULY 1, 2014, AND SHALL UPDATE THE LIST PERIODICALLY AS  
6 NEEDED BUT AT LEAST ON AN ANNUAL BASIS. ON OR BEFORE JANUARY 1,  
7 2015, THE DEPARTMENT OF PERSONNEL SHALL SUBMIT A REPORT  
8 INCLUDING THE LIST COMPILED PURSUANT TO THIS SUBSECTION (1) AND  
9 ANY RECOMMENDATION NECESSARY TO IMPLEMENT THIS SECTION TO THE  
10 STANDING COMMITTEE OF REFERENCE IN EACH HOUSE OF THE GENERAL  
11 ASSEMBLY EXERCISING JURISDICTION OVER MATTERS CONCERNING STATE  
12 AFFAIRS AND LABOR. THE DEPARTMENT SHALL ALSO MAKE THE LIST  
13 AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB SITE.

14 (2) IN ANY BIDDING PROCESS FOR PUBLIC WORKS IN WHICH A BID  
15 IS RECEIVED FROM A BIDDER WHO IS NOT A RESIDENT BIDDER AND WHO IS  
16 FROM A STATE THAT PROVIDES A PERCENTAGE BIDDING PREFERENCE TO  
17 RESIDENT BIDDERS OF THAT STATE, A COMPARABLE PERCENTAGE  
18 DISADVANTAGE SHALL BE APPLIED TO THE BID OF THAT BIDDER.

19 (3) ANY REQUEST FOR PROPOSALS ISSUED BY A STATE AGENCY OR  
20 POLITICAL SUBDIVISION OF THE STATE MUST INCLUDE A NOTICE TO  
21 NONRESIDENT BIDDERS THAT IF THE NONRESIDENT BIDDER IS FROM A  
22 STATE THAT PROVIDES A BIDDING PREFERENCE TO BIDDERS FROM THAT  
23 STATE, THEN A COMPARABLE PERCENTAGE DISADVANTAGE WILL BE  
24 APPLIED TO THE BID OF THAT NONRESIDENT BIDDER. THE NOTICE MUST  
25 ALSO SPECIFY THAT THE BIDDER MAY OBTAIN ADDITIONAL INFORMATION  
26 FROM THE DEPARTMENT OF PERSONNEL'S WEB SITE.

27 (4) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL

1 SHALL PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION OF THIS  
2 SECTION. SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH THE  
3 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,  
4 C.R.S.

5 **8-19-105. Federal and state law.** NOTHING IN THIS ARTICLE  
6 CONTRAVENES ANY EXISTING TREATY, LAW, AGREEMENT, OR REGULATION  
7 OF THE UNITED STATES. CONTRACTS ENTERED INTO IN ACCORDANCE WITH  
8 ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES  
9 DO NOT VIOLATE THIS ARTICLE TO THE EXTENT OF THAT ACCORDANCE.  
10 THE REQUIREMENTS OF THIS ARTICLE ARE SUSPENDED IF SUCH  
11 REQUIREMENT WOULD CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR  
12 REGULATION OF THE UNITED STATES.

13 **SECTION 8.** In Colorado Revised Statutes, 24-92-103, **amend**  
14 (1) as follows:

15 **24-92-103. Construction of public projects - competitive sealed**  
16 **bidding.** (1) All construction contracts for public projects ~~shall~~ MAY be  
17 awarded by competitive sealed bidding ~~except as otherwise provided in~~  
18 ~~section 24-92-104~~ PURSUANT TO THIS SECTION.

19 **SECTION 9.** In Colorado Revised Statutes, **add** 24-92-103.5 and  
20 24-92-103.7 as follows:

21 **24-92-103.5. Construction of public projects - competitive**  
22 **sealed best value bidding.** (1) ALL CONSTRUCTION CONTRACTS FOR  
23 PUBLIC PROJECTS MAY BE AWARDED THROUGH COMPETITIVE SEALED BEST  
24 VALUE BIDDING PURSUANT TO THIS SECTION.

25 (2) AN INVITATION FOR BIDS UNDER COMPETITIVE SEALED BEST  
26 VALUE BIDDING SHALL BE MADE IN THE SAME MANNER AS PROVIDED IN  
27 SECTION 24-92-103 (2), (3), AND (4); EXCEPT THAT ADEQUATE PUBLIC

1 NOTICE OF THE INVITATION FOR BIDS SHALL BE GIVEN AT LEAST THIRTY  
2 DAYS PRIOR TO THE DATE SET FORTH THEREIN FOR THE OPENING OF BIDS.

3 (3) THE INVITATION FOR COMPETITIVE SEALED BEST VALUE BIDS  
4 MUST IDENTIFY THE EVALUATION FACTORS UPON WHICH THE AWARD WILL  
5 BE MADE. WHEN MAKING THE AWARD DETERMINATION, THE RESPONSIBLE  
6 OFFICER SHALL EVALUATE THE FACTORS SPECIFIED IN THE INVITATION FOR  
7 BIDS AND SHALL NOT EVALUATE ANY OTHER FACTORS OTHER THAN THOSE  
8 SPECIFIED IN THE INVITATION FOR BIDS. THE FACTORS THAT MUST BE  
9 INCLUDED IN THE INVITATION FOR BIDS AND THAT THE RESPONSIBLE  
10 OFFICER SHALL CONSIDER INCLUDE, BUT NEED NOT BE LIMITED TO:

11 (a) THE PROJECT PRICE STATED IN THE BID;

12 (b) THE BIDDER'S DESIGN AND TECHNICAL APPROACH TO THE  
13 PUBLIC PROJECT;

14 (c) THE EXPERIENCE, PAST PERFORMANCE, AND EXPERTISE OF THE  
15 BIDDER AND THE BIDDER'S PRIMARY SUBCONTRACTORS IN CONNECTION  
16 WITH PRIOR CONSTRUCTION CONTRACTS, INCLUDING ITS PERFORMANCE IN  
17 THE AREAS OF COST, QUALITY, SCHEDULE, SAFETY, COMPLIANCE WITH  
18 PLANS AND SPECIFICATIONS, AND ADHERENCE TO APPLICABLE LAWS AND  
19 REGULATIONS;

20 (d) THE BIDDER'S PROJECT MANAGEMENT PLAN FOR THE  
21 CONSTRUCTION CONTRACT THAT IDENTIFIES THE KEY MANAGEMENT  
22 PERSONNEL THAT WILL BE USED FOR THE PROJECT, THE PROPOSED PROJECT  
23 SCHEDULE, THE BIDDER'S QUALITY CONTROL PROGRAM AND PROJECT  
24 SAFETY PROGRAM, FINANCIAL RESOURCES, EQUIPMENT, AND ANY OTHER  
25 INFORMATION THAT DEMONSTRATES THE BIDDER'S COMPETENCY TO  
26 PERFORM THE CONTRACT, INCLUDING TECHNICAL QUALIFICATIONS AND  
27 RESOURCES;

1 (e) THE BIDDER'S STAFFING PLAN;  
2 (f) THE BIDDER'S SAFETY PLAN AND SAFETY RECORD;  
3 (g) THE BIDDER'S JOB STANDARDS, INCLUDING THE BIDDER'S  
4 METHOD OF PERSONNEL PROCUREMENT, EMPLOYMENT OF COLORADO  
5 WORKERS, WORKFORCE DEVELOPMENT AND LONG-TERM CAREER  
6 OPPORTUNITIES OF WORKERS, THE AVAILABILITY OF TRAINING PROGRAMS,  
7 INCLUDING APPRENTICESHIPS APPROVED BY THE UNITED STATES  
8 DEPARTMENT OF LABOR, THE BENEFITS PROVIDED TO WORKERS,  
9 INCLUDING HEALTHCARE AND DEFINED BENEFIT OR DEFINED  
10 CONTRIBUTION RETIREMENT BENEFITS, AND WHETHER THE BIDDER PAYS  
11 INDUSTRY-STANDARD WAGES; AND

12 (h) THE AVAILABILITY AND USE OF DOMESTICALLY PRODUCED  
13 IRON, STEEL, AND RELATED MANUFACTURED GOODS TO EXECUTE THE  
14 CONTRACT.

15 (4) THE CONTRACT SHALL BE AWARDED WITH REASONABLE  
16 PROMPTNESS BY WRITTEN NOTICE TO THE BIDDER WHOSE BID IS  
17 DETERMINED IN WRITING TO BE THE MOST ADVANTAGEOUS TO THE STATE  
18 AND THAT REPRESENTS THE BEST OVERALL VALUE TO THE STATE, TAKING  
19 INTO CONSIDERATION THE PRICE AND OTHER EVALUATION FACTORS SET  
20 FORTH IN THE INVITATION FOR BIDS IN ACCORDANCE WITH SUBSECTION (3)  
21 OF THIS SECTION. THE CONTRACT FILE MAINTAINED BY THE STATE MUST  
22 CONTAIN THE BASIS ON WHICH THE AWARD DETERMINATION WAS MADE.

23 (5) A REQUEST FOR COMPETITIVE SEALED BEST VALUE BIDS ISSUED  
24 PURSUANT TO THIS SECTION MUST OTHERWISE COMPLY WITH THE  
25 REQUIREMENTS OF SECTION 24-103-203 CONCERNING COMPETITIVE  
26 SEALED PROPOSALS FOR NONCONSTRUCTION CONTRACTS TO THE EXTENT  
27 THAT SUCH REQUIREMENTS DO NOT CONFLICT WITH THIS SECTION. IN THE

1 CASE OF A CONFLICT, THE PROVISIONS OF THIS SECTION SUPERSEDE.

2 **24-92-103.7. Disclosure - competitive sealed bidding -**  
3 **competitive sealed best value bidding.** THE EXECUTIVE DIRECTOR OF AN  
4 AGENCY OF GOVERNMENT OR PRESIDENT OF AN INSTITUTION OF HIGHER  
5 EDUCATION THAT ENTERS INTO A CONSTRUCTION CONTRACT FOR A PUBLIC  
6 PROJECT PURSUANT TO THIS ARTICLE SHALL DISCLOSE TO THE PUBLIC THE  
7 AGENCY OF GOVERNMENT'S RATIONALE OR THE INSTITUTION'S RATIONALE  
8 FOR SELECTING THE COMPETITIVE SEALED BIDDING PROCESS PURSUANT TO  
9 SECTION 24-92-103 OR THE COMPETITIVE SEALED BEST VALUE BIDDING  
10 PROCESS PURSUANT TO SECTION 24-92-103.5 FOR THE PUBLIC PROJECT.  
11 THE AGENCY OR INSTITUTION SHALL POST THE DISCLOSURE ON ITS WEB  
12 SITE.

13 **SECTION 10.** In Colorado Revised Statutes, **add** 24-93-109 as  
14 follows:

15 **24-93-109. Disclosure.** THE EXECUTIVE DIRECTOR OF AN AGENCY  
16 OR PRESIDENT OF AN INSTITUTION OF HIGHER EDUCATION THAT ENTERS  
17 INTO A CONSTRUCTION CONTRACT FOR A PUBLIC PROJECT PURSUANT TO  
18 THIS ARTICLE SHALL DISCLOSE TO THE PUBLIC THE AGENCY'S RATIONALE  
19 OR THE INSTITUTION'S RATIONALE FOR SELECTING THE INTEGRATED  
20 PROJECT DELIVERY CONTRACTING PROCESS PURSUANT TO THIS ARTICLE  
21 FOR THE PUBLIC PROJECT. THE AGENCY OR INSTITUTION SHALL POST THE  
22 DISCLOSURE ON ITS WEB SITE.

23 **SECTION 11.** In Colorado Revised Statutes, **amend** 24-92-110  
24 as follows:

25 **24-92-110. Rules and regulations.** The executive director of the  
26 department of personnel shall promulgate rules and regulations which are  
27 designed to implement the provisions of this article; except that the



1 executive director of the department of transportation shall promulgate  
2 rules and regulations relating to bridge and highway construction bidding  
3 practices including, notwithstanding any other provisions of this article,  
4 rules governing debarment of contractors. The rules ~~shall~~ MUST include  
5 provisions requiring agencies of government to keep certain public  
6 project records, even if duplicative, in accordance with generally accepted  
7 cost accounting principles and standards. IN ADDITION, THE RULES MUST  
8 INCLUDE CRITERIA TO BE USED BY A RESPONSIBLE OFFICER IN EVALUATING  
9 A COMPETITIVE SEALED BEST VALUE BID PURSUANT TO SECTION  
10 24-92-103.5 (3).

11 **SECTION 12.** In Colorado Revised Statutes, **amend** 24-102-206  
12 as follows:

13 **24-102-206. Contract performance outside the United States**  
14 **or Colorado - subcontractors - notice - penalty.** (1) (a) Prior to  
15 contracting or as a requirement for the solicitation of any contract from  
16 the state for services, as appropriate, any prospective vendor shall  
17 disclose in a WRITTEN statement of work WHETHER IT ANTICIPATES  
18 SUBCONTRACTING ANY DUTIES UNDER THE CONTRACT, where SUCH  
19 SUBCONTRACTED services will be performed under the contract, ~~including~~  
20 ~~any subcontracts~~, and whether any SUBCONTRACTED services ~~under the~~  
21 ~~contract or any subcontracts~~ are anticipated to be performed outside the  
22 United States or the state. If the prospective vendor anticipates services  
23 under ~~the contract or~~ any subcontracts will be performed outside the  
24 United States or the state, the vendor shall provide in its WRITTEN  
25 statement of work a provision setting forth why it is necessary or  
26 advantageous to go outside the United States or the state to perform ~~the~~  
27 ~~contract or~~ any subcontracts.

1           (b) EACH CONTRACT ENTERED INTO OR RENEWED BY A  
2           GOVERNMENTAL BODY PURSUANT TO THIS CODE MUST CONTAIN A CLAUSE  
3           THAT REQUIRES THE VENDOR TO PROVIDE WRITTEN NOTICE TO THE  
4           GOVERNMENTAL BODY IF THE VENDOR DECIDES, AFTER THE CONTRACT IS  
5           AWARDED, TO SUBCONTRACT DUTIES UNDER THE CONTRACT TO A  
6           SUBCONTRACTOR THAT WILL PERFORM SUCH DUTIES IN A LOCATION  
7           OUTSIDE THE UNITED STATES OR THE STATE. THE CONTRACT MUST  
8           SPECIFY THAT THE VENDOR IS REQUIRED TO PROVIDE SUCH WRITTEN  
9           NOTICE NO LATER THAN TWENTY DAYS FROM THE TIME THE VENDOR  
10          SUBCONTRACTS DUTIES UNDER THE CONTRACT TO A SUBCONTRACTOR  
11          THAT WILL PERFORM SUCH DUTIES IN A LOCATION OUTSIDE THE UNITED  
12          STATES OR THE STATE.

13          (2) THE WRITTEN NOTIFICATION REQUIRED BY PARAGRAPHS (a)  
14          AND (b) OF SUBSECTION (1) OF THIS SECTION MUST INCLUDE, BUT NEED  
15          NOT BE LIMITED TO, A STATEMENT OF THE SPECIFIC DUTIES THAT WILL BE  
16          PERFORMED AT A LOCATION OUTSIDE THE UNITED STATES OR THE STATE  
17          AND THE REASON WHY IT IS NECESSARY OR ADVANTAGEOUS TO GO  
18          OUTSIDE THE UNITED STATES OR THE STATE TO PERFORM SUCH DUTIES.

19          (3) A GOVERNMENTAL BODY SHALL PROVIDE WRITTEN NOTICE TO  
20          THE DEPARTMENT OF PERSONNEL IF IT AWARDS A CONTRACT TO A VENDOR  
21          THAT HAS PROVIDED WRITTEN NOTICE PURSUANT TO PARAGRAPH (a) OR  
22          (b) OF SUBSECTION (1) OF THIS SECTION THAT THE VENDOR WILL  
23          SUBCONTRACT DUTIES UNDER THE CONTRACT TO A SUBCONTRACTOR THAT  
24          WILL PERFORM SUCH DUTIES IN A LOCATION OUTSIDE THE STATE OR THE  
25          UNITED STATES.

26          (4) IF A VENDOR KNOWINGLY FAILS TO NOTIFY THE  
27          GOVERNMENTAL BODY OF ANY OUTSOURCED DUTIES AS SPECIFIED IN THIS

1 SECTION, THE GOVERNMENTAL BODY MAY, IN THE GOVERNMENTAL BODY'S  
2 DISCRETION, TERMINATE THE CONTRACT.

3 (5) THE EXECUTIVE DIRECTOR SHALL POST ANY NOTICE THAT A  
4 VENDOR PROVIDES TO A GOVERNMENTAL BODY PURSUANT TO THIS  
5 SECTION ON THE OFFICIAL WEB SITE OF THE DEPARTMENT.

6 ~~(2)~~ (6) Nothing in ~~subsection (1)~~ of this section shall be construed  
7 to apply to any contract to which the state is a party under medicare, the  
8 "Colorado Medical Assistance Act", articles 4 to 6 of title 25.5, C.R.S.,  
9 the "Children's Basic Health Plan Act", article 8 of title 25.5, C.R.S., or  
10 the "Colorado Indigent Care Program", part 1 of article 3 of title 25.5,  
11 C.R.S.

12 (7) NOTHING IN THIS SECTION CONTRAVENES ANY EXISTING  
13 TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES.  
14 CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW,  
15 AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE  
16 THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS  
17 OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS WOULD  
18 CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE  
19 UNITED STATES.

20 **SECTION 13.** In Colorado Revised Statutes, **add** 24-102-206.5  
21 as follows:

22 **24-102-206.5. Outsourcing of contract duties by governmental**  
23 **body - vendor outside the United States - prohibition - waiver.**

24 (1) FOR THE PURPOSE OF THIS SECTION, "DIRECT LABOR" MEANS LABOR  
25 THAT IS REQUIRED TO BE PERFORMED UNDER A CONTRACT WHEN THE  
26 GOVERNMENTAL BODY HAS A DIRECT BUSINESS RELATIONSHIP WITH THE  
27 VENDOR PERFORMING THE CONTRACT. "DIRECT LABOR" DOES NOT

1 INCLUDE COMPUTER SYSTEMS, INCLUDING HARDWARE AND SOFTWARE,  
2 THAT IS NOT SPECIFICALLY DESIGNED PURSUANT TO THE TERMS OF THE  
3 CONTRACT.

4 (2) A GOVERNMENTAL BODY SHALL NOT AWARD A CONTRACT  
5 PURSUANT TO THIS CODE TO A VENDOR OUTSIDE THE UNITED STATES THAT  
6 WILL PERFORM THE DIRECT LABOR AT A LOCATION OUTSIDE THE UNITED  
7 STATES. EACH PROSPECTIVE VENDOR THAT SUBMITS A BID OR PROPOSAL  
8 TO A GOVERNMENTAL BODY SHALL CERTIFY THAT THE DIRECT LABOR  
9 COVERED BY THE BID OR PROPOSAL WILL BE PERFORMED IN THE UNITED  
10 STATES.

11 (3) (a) THE EXECUTIVE DIRECTOR MAY WAIVE THE REQUIREMENTS  
12 OF SUBSECTION (2) OF THIS SECTION FOR A GOVERNMENTAL BODY FOR A  
13 SPECIFIED CONTRACT IF THE GOVERNMENTAL BODY SUBMITS A WRITTEN  
14 REQUEST FOR A WAIVER TO THE DIRECTOR. A GOVERNMENTAL BODY  
15 SHALL INCLUDE IN ITS WRITTEN WAIVER REQUEST FINDINGS OF ONE OR  
16 MORE OF THE FOLLOWING CIRCUMSTANCES:

17 (I) THE CONTRACT REQUIRES A SERVICE THAT A VENDOR WITHIN  
18 THE UNITED STATES CANNOT PERFORM USING DIRECT LABOR WITHIN THE  
19 UNITED STATES IN A FORM OR MANNER THAT IS COMPARABLE TO THE  
20 SERVICE THAT A VENDOR OUTSIDE THE UNITED STATES CAN PERFORM  
21 USING DIRECT LABOR OUTSIDE THE UNITED STATES;

22 (II) THE GOVERNMENTAL BODY DID NOT RECEIVE A BID OR  
23 PROPOSAL FROM A VENDOR WITHIN THE UNITED STATES THAT CERTIFIED  
24 THAT THE DIRECT LABOR REQUIRED BY THE CONTRACT WOULD BE  
25 PERFORMED IN THE UNITED STATES; OR

26 (III) THE CONTRACT IS NECESSARY TO PROVIDE A UNIQUE SERVICE,  
27 AS DETERMINED BY THE GOVERNMENTAL BODY, THAT CANNOT BE

1 ADEQUATELY PERFORMED USING A VENDOR OR DIRECT LABOR IN THE  
2 UNITED STATES.

3 (b) THE EXECUTIVE DIRECTOR SHALL POST INFORMATION  
4 REGARDING ANY WAIVER ALLOWED PURSUANT TO PARAGRAPH (a) OF THIS  
5 SUBSECTION (3) ON THE OFFICIAL WEB SITE OF THE DEPARTMENT.

6 (c) THE EXECUTIVE DIRECTOR SHALL PERIODICALLY, BUT AT LEAST  
7 ANNUALLY, ANALYZE THE DIRECT LABOR SERVICES FOR WHICH WAIVERS  
8 ARE GRANTED TO A GOVERNMENTAL BODY PURSUANT TO PARAGRAPH (a)  
9 OF THIS SUBSECTION (3), AND SHALL WORK WITH GOVERNMENTAL BODIES  
10 IN AN EFFORT TO FACILITATE THE PERFORMANCE OF SUCH OUTSOURCED  
11 DIRECT LABOR SERVICES IN THE UNITED STATES FOR FUTURE CONTRACTS.

12 (4) NOTHING IN THIS SECTION CONTRAVENES ANY EXISTING  
13 TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES.  
14 CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW,  
15 AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE  
16 THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS  
17 OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS WOULD  
18 CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE  
19 UNITED STATES.

20 **SECTION 14.** In Colorado Revised Statutes, **add** 24-103-210 as  
21 follows:

22 **24-103-210. Use of foreign-produced goods - iron, steel, and**  
23 **related manufactured products - disclosure - definitions.** (1) THE  
24 CONTRACTOR FOR ANY PUBLIC BUILDINGS OR PUBLIC WORKS PROJECT  
25 THAT IS FUNDED IN WHOLE OR IN PART BY STATE MONEYS AND THAT COSTS  
26 MORE THAN FIVE HUNDRED THOUSAND DOLLARS SHALL, UPON  
27 COMPLETION OF THE PROJECT, MAKE A GOOD FAITH EFFORT TO DISCLOSE

1 TO THE DEPARTMENT OF PERSONNEL THE FIVE MOST COSTLY GOODS  
2 INCORPORATED INTO THE PROJECT, INCLUDING IRON, STEEL, OR RELATED  
3 MANUFACTURED GOODS.

4 (2) (a) IN THE CASE OF AN IRON OR STEEL PRODUCT, ALL  
5 MANUFACTURING MUST TAKE PLACE IN THE UNITED STATES, EXCEPT  
6 METALLURGICAL PROCESSES INVOLVING THE REFINEMENT OF STEEL  
7 ADDITIVES.

8 (b) IN THE CASE OF A MANUFACTURED GOOD, A GOOD WILL BE  
9 CONSIDERED MANUFACTURED IN THE UNITED STATES IF ALL OF THE  
10 MANUFACTURING PROCESSES FOR THE FINAL PRODUCT TAKE PLACE IN THE  
11 UNITED STATES IRRESPECTIVE OF THE ORIGIN OF THE MANUFACTURED  
12 GOOD'S SUBCOMPONENTS.

13 (c) IN ORDER FOR A MANUFACTURED GOOD TO BE CONSIDERED  
14 SUBJECT TO DISCLOSURE UNDER THIS ARTICLE, THE PRODUCT MUST BE  
15 MANUFACTURED PREDOMINANTLY OF STEEL OR IRON. THE  
16 MANUFACTURED GOOD IS DEEMED A PRODUCT MANUFACTURED  
17 PREDOMINANTLY OF STEEL OR IRON IF THE PRODUCT CONSISTS OF MORE  
18 THAN FIFTY PERCENT STEEL OR IRON CONTENT WHEN IT IS DELIVERED TO  
19 THE JOB SITE FOR INSTALLATION.

20 (3) THE DISCLOSURE MUST STATE THE TOTAL COST AND COUNTRY  
21 OF ORIGIN OF THE FIVE MOST COSTLY GOODS USED ON A PROJECT,  
22 INCLUDING IRON, STEEL, AND RELATED MANUFACTURED GOODS  
23 DESCRIBED PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION. THE  
24 CONTRACTOR MAY RELY ON DOCUMENTS PROVIDED BY THIRD-PARTY  
25 VENDORS WHEN DISCLOSING THE COUNTRY OF ORIGIN OF IRON, STEEL, OR  
26 RELATED MANUFACTURED GOODS. IN ADDITION, THE DISCLOSURE MUST  
27 STATE WHETHER THE PUBLIC WORKS PROJECT WAS SUBJECT TO ANY

1 EXISTING DOMESTIC CONTENT PREFERENCE, INCLUDING 41 U.S.C. SEC.  
2 8301 TO 8305, 23 U.S.C. SEC. 313, 49 U.S.C. SEC. 5323, 49 U.S.C. SEC.  
3 24305, 49 U.S.C. SEC. 24405, AND 49 U.S.C. SEC. 50101 TO 50105. THE  
4 CONTRACTOR SHALL DISCLOSE THE INFORMATION IN A MANNER TO BE  
5 DETERMINED BY THE DEPARTMENT.

6 (4) THE DEPARTMENT SHALL ISSUE AN ANNUAL REPORT DETAILING  
7 THE INFORMATION THAT CONTRACTORS SUBMITTED TO THE DEPARTMENT  
8 PURSUANT TO SUBSECTIONS (1) TO (3) OF THIS SECTION. THE REPORT MUST  
9 INCLUDE AGGREGATE DATA COLLECTED FOR THE CALENDAR YEAR AND  
10 ANALYSIS OF THE DATA BROKEN DOWN BY PRODUCT AND PUBLIC WORKS  
11 PROJECT TYPE. THE REPORT SHALL NOT PUBLICLY DISCLOSE ANY  
12 PROPRIETARY INFORMATION PROVIDED BY THE CONTRACTOR THAT IS NOT  
13 SUBJECT TO DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS  
14 ACT", PART 2 OF ARTICLE 72 OF THIS TITLE. THE DEPARTMENT SHALL  
15 MAKE THE REPORT AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB  
16 SITE.

17 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
18 REQUIRES:

19 (a) "COUNTRY OF ORIGIN" SHALL HAVE THE MEANING ASCRIBED TO  
20 IT UNDER 19 U.S.C. SEC. 1304 AND 19 CFR 134.

21 (b) "PUBLIC BUILDINGS OR PUBLIC WORKS" MEANS ANY  
22 STRUCTURE, BUILDING, HIGHWAY, WATERWAY, TREATMENT WORKS,  
23 DRINKING WATER DISTRIBUTION SYSTEM, STREET, BRIDGE, TRANSIT  
24 SYSTEM, AIRPORT, OR OTHER BETTERMENT, WORK, OR IMPROVEMENT,  
25 WHETHER OF A PERMANENT OR TEMPORARY NATURE AND WHETHER FOR  
26 GOVERNMENTAL OR PROPRIETARY USE. "PUBLIC BUILDINGS OR PUBLIC  
27 WORKS" INCLUDES ANY RAILWAY, STREET RAILWAY, SUBWAY, ELEVATED

1 AND MONORAIL PASSENGER OR PASSENGER AND RAIL ROLLING STOCK,  
2 SELF-PROPELLED CAR, GALLERY CAR, LOCOMOTIVE, PASSENGER BUS, WIRE,  
3 POLES AND EQUIPMENT FOR ELECTRIFICATION OF A TRANSIT SYSTEM, RAIL,  
4 TRACK, ROADBED, GUIDEWAY, ELEVATED STRUCTURE, BUILDING, SCHOOL,  
5 HOSPITAL, STATION, TERMINAL, DOCK, SHELTER, PIPELINE, RESERVOIR,  
6 CULVERT, SEWER, LEVEE, AND REPAIRS TO ANY OF THE FOREGOING.

7 (c) "UNITED STATES" MEANS THE UNITED STATES OF AMERICA  
8 AND INCLUDES ALL TERRITORY, CONTINENTAL OR INSULAR, SUBJECT TO  
9 THE JURISDICTION OF THE UNITED STATES.

10 (6) NOTHING IN THIS SECTION CONTRAVENES ANY EXISTING  
11 TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES.  
12 CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW,  
13 AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE  
14 THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS  
15 OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS WOULD  
16 CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE  
17 UNITED STATES.

18 **SECTION 15.** In Colorado Revised Statutes, 24-109-105, **add** (2)  
19 (f) as follows:

20 **24-109-105. Debarment and suspension.** (2) A person may be  
21 debarred for any of the following reasons:

22 (f) THE DEPARTMENT OF LABOR AND EMPLOYMENT HAS IMPOSED  
23 THREE FINES ON A CONTRACTOR WITHIN FIVE YEARS PURSUANT TO  
24 SECTION 8-17-104, C.R.S., FOR FAILURE TO SATISFY COLORADO LABOR  
25 REQUIREMENTS.

26 **SECTION 16.** In Colorado Revised Statutes, **amend** 40-2-129 as  
27 follows:



1           **40-2-129. New resource acquisitions - factors in determination**  
2   **- local employment - "best value" metrics.** When evaluating electric  
3 resource acquisitions AND REQUESTS FOR A CERTIFICATE OF CONVENIENCE  
4 AND NECESSITY FOR CONSTRUCTION OR EXPANSION OF GENERATING  
5 FACILITIES, INCLUDING BUT NOT LIMITED TO POLLUTION CONTROL OR FUEL  
6 CONVERSION UPGRADES AND CONVERSION OF EXISTING COAL-FIRED  
7 PLANTS TO NATURAL GAS PLANTS, the commission shall consider, on a  
8 qualitative basis, factors that affect employment and the long-term  
9 economic viability of Colorado communities. To this end, the commission  
10 shall require utilities to request the following information regarding "best  
11 value" employment metrics: The availability of training programs,  
12 including training through apprenticeship programs registered with the  
13 United States department of labor, office of apprenticeship and training;  
14 employment of Colorado workers as compared to importation of  
15 out-of-state workers; long-term career opportunities; and  
16 industry-standard wages, health care, and pension benefits. When a utility  
17 proposes to construct new facilities of its own, the utility shall supply  
18 similar information to the commission.

19           **SECTION 17. Applicability.** This act applies to new contracts  
20 for which the invitation for bids or the request for proposals was issued  
21 on or after January 1, 2014.

22           **SECTION 18. Safety clause.** The general assembly hereby finds,  
23 determines, and declares that this act is necessary for the immediate  
24 preservation of the public peace, health, and safety.