

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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, AND, IN CONNECTION THEREWITH,**
104 **MAKING AN APPROPRIATION.**

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

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.

HOUSE
Amended 2nd Reading
April 19, 2013

contract that is financed in whole or in part by state, county, school district, or municipal moneys (Colorado labor requirement). Any violation 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.

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 GOVERNMENTAL BODY FINANCING A PUBLIC WORKS
14 PROJECT SHALL WAIVE THE EIGHTY PERCENT REQUIREMENT IF THERE IS
15 REASONABLE EVIDENCE TO DEMONSTRATE INSUFFICIENT COLORADO
16 LABOR TO PERFORM THE WORK OF THE PROJECT. A GOVERNMENTAL BODY
17 THAT ALLOWS A WAIVER PURSUANT TO THIS SUBSECTION (1) SHALL POST
18 NOTICE OF THE WAIVER AND A JUSTIFICATION FOR THE WAIVER ON ITS WEB
19 SITE. A GOVERNMENTAL BODY SHALL NOT IMPOSE CONTRACTUAL
20 DAMAGES ON A CONTRACTOR FOR A DELAY IN WORK DUE TO THE WAIVER
21 PROCESS.

22 (2) AS USED IN THIS ARTICLE:
23 (a) "Colorado labor" ~~as used in this article~~ means any person who
24 is a resident of the state of Colorado, ~~at the time of employment~~ AT THE

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

9 [REDACTED]
10 (b) "PUBLIC WORKS PROJECT" SHALL HAVE THE SAME MEANING AS
11 "PUBLIC PROJECT" AS DEFINED IN SECTION 8-19-102 (1).

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

14 **8-17-103. Penalty for violation.** ~~Any officer or agent of the state,~~
15 ~~counties, school districts, or municipalities of the state of Colorado or any~~
16 ~~contractor who violates the provisions of this article is guilty of a~~
17 ~~misdemeanor and, upon conviction thereof, shall be punished by a fine of~~
18 ~~not more than five hundred dollars, or by imprisonment in the county jail~~
19 ~~for not more than one year, or by both such fine and imprisonment.~~

20 SECTION 4. In Colorado Revised Statutes, **add** 8-17-104,
21 8-17-105, 8-17-106, and 8-17-107 as follows:

22 **8-17-104. Enforcement - violation - penalties - Colorado labor**
23 **enforcement cash fund - creation.** (1) THE DEPARTMENT OF LABOR AND
24 EMPLOYMENT SHALL ENFORCE THE REQUIREMENTS OF THIS ARTICLE IN THE
25 EVENT OF A COMPLAINT ALLEGING A POTENTIAL VIOLATION OF THE
26 REQUIREMENTS OF THIS ARTICLE. IN CONNECTION WITH THE
27 DEPARTMENT'S DUTY TO ENFORCE THE REQUIREMENTS OF THIS ARTICLE,

1 THE DEPARTMENT SHALL RECEIVE COMPLAINTS ABOUT POTENTIAL
2 VIOLATIONS OF SUCH REQUIREMENTS, INITIATE INVESTIGATIONS BASED ON
3 SUCH COMPLAINTS, AND IMPOSE PENALTIES FOR THE VIOLATION OF THE
4 REQUIREMENTS OF THIS ARTICLE PURSUANT TO SUBSECTION (2) OF THIS
5 SECTION. THE DEPARTMENT SHALL NOT INVESTIGATE OR TAKE ANY OTHER
6 ACTION REGARDING A COMPLAINT FILED MORE THAN NINETY DAYS AFTER
7 THE PROJECT HAS BEEN FINALIZED.

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. THE DEPARTMENT SHALL COMPLETE ANY
2 INVESTIGATION IN RESPONSE TO A COMPLAINT WITHIN NINETY DAYS OF
3 THE DATE THAT THE DEPARTMENT BEGAN THE INVESTIGATION.
4 COMPLIANCE SHALL BE MEASURED OVER THE ENTIRETY OF THE
5 COMPLETED PROJECT.

6 (c) IF THE DEPARTMENT OF LABOR AND EMPLOYMENT HAS IMPOSED
7 THREE FINES ON A CONTRACTOR PURSUANT TO PARAGRAPH (a) OF THIS
8 SUBSECTION (2) WITHIN FIVE YEARS AND FINDS THE VIOLATIONS TO BE
9 EGREGIOUS, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR
10 AND EMPLOYMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY
11 INITIATE THE PROCESS TO DEBAR THE CONTRACTOR PURSUANT TO SECTION
12 24-109-105, C.R.S.

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

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

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

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

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

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

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

1 (b) A PROCEDURE FOR THE UNIFORM INVESTIGATION OF ANY
2 COMPLAINT ALLEGING A VIOLATION OF THE PROVISIONS OF THIS ARTICLE;
3 AND

4 (c) A PROCEDURE FOR FILING AN APPEAL PURSUANT TO SECTION
5 8-17-104 (3).

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

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

16 **8-19-102. Definitions.** As used in this article, unless the context
17 otherwise requires:

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

20 ~~(1)~~ (2) "Public project" means:

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

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

1 (c) Any highway or bridge construction, whether undertaken by
2 the department of transportation or by any political subdivision of this
3 state, in which the expenditure of funds may be reasonably expected to
4 exceed fifty thousand dollars.

5 ~~(2)~~ (3) "Resident bidder" means:

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

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

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

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

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

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

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

24 **SECTION 7.** In Colorado Revised Statutes, **add** 8-19-104 and
25 8-19-105 as follows:

26 **8-19-104. Bid preference - survey - report.** (1) THE EXECUTIVE
27 DIRECTOR OF THE DEPARTMENT OF PERSONNEL, OR THE EXECUTIVE

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

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

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

1 FROM THE DEPARTMENT OF PERSONNEL'S WEB SITE.

2 (4) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL
3 SHALL PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION OF THIS
4 SECTION. SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH THE
5 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,
6 C.R.S.

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

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

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

21 **SECTION 9.** In Colorado Revised Statutes, **add** 24-92-103.5 and
22 24-92-103.7 as follows:

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

27 (2) AN INVITATION FOR BIDS UNDER COMPETITIVE SEALED BEST

1 VALUE BIDDING SHALL BE MADE IN THE SAME MANNER AS PROVIDED IN
2 SECTION 24-92-103 (2), (3), AND (4); EXCEPT THAT ADEQUATE PUBLIC
3 NOTICE OF THE INVITATION FOR BIDS SHALL BE GIVEN AT LEAST THIRTY
4 DAYS PRIOR TO THE DATE SET FORTH THEREIN FOR THE OPENING OF BIDS.

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

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

14 (b) THE BIDDER'S DESIGN AND TECHNICAL APPROACH TO THE
15 PUBLIC PROJECT;

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

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

1 PERFORM THE CONTRACT, INCLUDING TECHNICAL QUALIFICATIONS AND
2 RESOURCES;

3 (e) THE BIDDER'S STAFFING PLAN;

4 (f) THE BIDDER'S SAFETY PLAN AND SAFETY RECORD;

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

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

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

25 (5) A REQUEST FOR COMPETITIVE SEALED BEST VALUE BIDS ISSUED
26 PURSUANT TO THIS SECTION MUST OTHERWISE COMPLY WITH THE
27 REQUIREMENTS OF SECTION 24-103-203 CONCERNING COMPETITIVE

1 SEALED PROPOSALS FOR NONCONSTRUCTION CONTRACTS TO THE EXTENT
2 THAT SUCH REQUIREMENTS DO NOT CONFLICT WITH THIS SECTION. IN THE
3 CASE OF A CONFLICT, THE PROVISIONS OF THIS SECTION SUPERSEDE.

4 (6) TO ENSURE THAT THE BEST VALUE BIDDING PROCESS PURSUANT
5 TO THIS SECTION IS OPEN AND TRANSPARENT TO THE GREATEST POSSIBLE
6 DEGREE:

7 (a) AFTER SELECTION OF MOST QUALIFIED PARTICIPANTS, ALL
8 STATEMENTS OF QUALIFICATION SHALL BE MADE AVAILABLE FOR PUBLIC
9 VIEWING ON THE DEPARTMENT'S WEB SITE; AND

10 (b) AFTER THE CONTRACT HAS BEEN AWARDED, ALL REQUESTS FOR
11 PROPOSALS SHALL BE MADE PUBLIC ON THE DEPARTMENT'S WEB SITE WITH
12 THE SCORE SHEETS USED TO MAKE THE BID SELECTION, OMITTING ANY
13 CONFIDENTIAL CORPORATE INFORMATION.

14 **24-92-103.7. Disclosure - competitive sealed bidding -**
15 **competitive sealed best value bidding.** THE EXECUTIVE DIRECTOR OF AN
16 AGENCY OF GOVERNMENT OR PRESIDENT OF AN INSTITUTION OF HIGHER
17 EDUCATION THAT ENTERS INTO A CONSTRUCTION CONTRACT FOR A PUBLIC
18 PROJECT PURSUANT TO THIS ARTICLE SHALL DISCLOSE TO THE PUBLIC THE
19 AGENCY OF GOVERNMENT'S RATIONALE OR THE INSTITUTION'S RATIONALE
20 FOR SELECTING THE COMPETITIVE SEALED BIDDING PROCESS PURSUANT TO
21 SECTION 24-92-103 OR THE COMPETITIVE SEALED BEST VALUE BIDDING
22 PROCESS PURSUANT TO SECTION 24-92-103.5 FOR THE PUBLIC PROJECT.
23 THE AGENCY OR INSTITUTION SHALL POST THE DISCLOSURE ON ITS WEB
24 SITE.

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

27 **24-93-109. Disclosure.** THE EXECUTIVE DIRECTOR OF AN AGENCY

1 OR PRESIDENT OF AN INSTITUTION OF HIGHER EDUCATION THAT ENTERS
2 INTO A CONSTRUCTION CONTRACT FOR A PUBLIC PROJECT PURSUANT TO
3 THIS ARTICLE SHALL DISCLOSE TO THE PUBLIC THE AGENCY'S RATIONALE
4 OR THE INSTITUTION'S RATIONALE FOR SELECTING THE INTEGRATED
5 PROJECT DELIVERY CONTRACTING PROCESS PURSUANT TO THIS ARTICLE
6 FOR THE PUBLIC PROJECT. THE AGENCY OR INSTITUTION SHALL POST THE
7 DISCLOSURE ON ITS WEB SITE.

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

10 **24-92-110. Rules and regulations.** The executive director of the
11 department of personnel shall promulgate rules and regulations which are
12 designed to implement the provisions of this article; except that the
13 executive director of the department of transportation shall promulgate
14 rules and regulations relating to bridge and highway construction bidding
15 practices including, notwithstanding any other provisions of this article,
16 rules governing debarment of contractors. The rules ~~shall~~ MUST include
17 provisions requiring agencies of government to keep certain public
18 project records, even if duplicative, in accordance with generally accepted
19 cost accounting principles and standards. IN ADDITION, THE RULES MUST
20 INCLUDE CRITERIA TO BE USED BY A RESPONSIBLE OFFICER IN EVALUATING
21 A COMPETITIVE SEALED BEST VALUE BID PURSUANT TO SECTION
22 24-92-103.5 (3).

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

25 **24-102-206. Contract performance outside the United States**
26 **or Colorado - subcontractors - notice - penalty.** (1) (a) Prior to
27 contracting or as a requirement for the solicitation of any contract from

1 the state for services, as appropriate, any prospective vendor shall
2 disclose in a WRITTEN statement of work WHETHER IT ANTICIPATES
3 SUBCONTRACTING ANY DUTIES UNDER THE CONTRACT, where SUCH
4 SUBCONTRACTED services will be performed under the contract, ~~including~~
5 ~~any subcontracts~~, and whether any SUBCONTRACTED services ~~under the~~
6 ~~contract or any subcontracts~~ are anticipated to be performed outside the
7 United States or the state. If the prospective vendor anticipates services
8 under ~~the contract or~~ any subcontracts will be performed outside the
9 United States or the state, the vendor shall provide in its WRITTEN
10 statement of work a provision setting forth why it is necessary or
11 advantageous to go outside the United States or the state to perform ~~the~~
12 ~~contract or~~ any subcontracts.

13 (b) EACH CONTRACT ENTERED INTO OR RENEWED BY A
14 GOVERNMENTAL BODY PURSUANT TO THIS CODE MUST CONTAIN A CLAUSE
15 THAT REQUIRES THE VENDOR TO PROVIDE WRITTEN NOTICE TO THE
16 GOVERNMENTAL BODY IF THE VENDOR DECIDES, AFTER THE CONTRACT IS
17 AWARDED, TO SUBCONTRACT DUTIES UNDER THE CONTRACT TO A
18 SUBCONTRACTOR THAT WILL PERFORM SUCH DUTIES IN A LOCATION
19 OUTSIDE THE UNITED STATES OR THE STATE. THE CONTRACT MUST
20 SPECIFY THAT THE VENDOR IS REQUIRED TO PROVIDE SUCH WRITTEN
21 NOTICE NO LATER THAN TWENTY DAYS FROM THE TIME THE VENDOR
22 SUBCONTRACTS DUTIES UNDER THE CONTRACT TO A SUBCONTRACTOR
23 THAT WILL PERFORM SUCH DUTIES IN A LOCATION OUTSIDE THE UNITED
24 STATES OR THE STATE.

25 (2) THE WRITTEN NOTIFICATION REQUIRED BY PARAGRAPHS (a)
26 AND (b) OF SUBSECTION (1) OF THIS SECTION MUST INCLUDE, BUT NEED
27 NOT BE LIMITED TO, A STATEMENT OF THE SPECIFIC DUTIES THAT WILL BE

1 PERFORMED AT A LOCATION OUTSIDE THE UNITED STATES OR THE STATE
2 AND THE REASON WHY IT IS NECESSARY OR ADVANTAGEOUS TO GO
3 OUTSIDE THE UNITED STATES OR THE STATE TO PERFORM SUCH DUTIES.

4 (3) A GOVERNMENTAL BODY SHALL PROVIDE WRITTEN NOTICE TO
5 THE DEPARTMENT OF PERSONNEL IF IT AWARDS A CONTRACT TO A VENDOR
6 THAT HAS PROVIDED WRITTEN NOTICE PURSUANT TO PARAGRAPH (a) OR
7 (b) OF SUBSECTION (1) OF THIS SECTION THAT THE VENDOR WILL
8 SUBCONTRACT DUTIES UNDER THE CONTRACT TO A SUBCONTRACTOR THAT
9 WILL PERFORM SUCH DUTIES IN A LOCATION OUTSIDE THE STATE OR THE
10 UNITED STATES.

11 (4) IF A VENDOR KNOWINGLY FAILS TO NOTIFY THE
12 GOVERNMENTAL BODY OF ANY OUTSOURCED DUTIES AS SPECIFIED IN THIS
13 SECTION, THE GOVERNMENTAL BODY MAY, IN THE GOVERNMENTAL BODY'S
14 DISCRETION, TERMINATE THE CONTRACT.

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

18 ~~(2)~~ (6) Nothing in ~~subsection (1)~~ of this section shall be construed
19 to apply to any contract to which the state is a party under medicare, the
20 "Colorado Medical Assistance Act", articles 4 to 6 of title 25.5, C.R.S.,
21 the "Children's Basic Health Plan Act", article 8 of title 25.5, C.R.S., or
22 the "Colorado Indigent Care Program", part 1 of article 3 of title 25.5,
23 C.R.S.

24 (7) NOTHING IN THIS SECTION CONTRAVENES ANY EXISTING
25 TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES.
26 CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW,
27 AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE

1 THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS
2 OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS WOULD
3 CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE
4 UNITED STATES.

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

7 **24-102-206.5. Outsourcing of contract duties by governmental**
8 **body - vendor outside the United States - prohibition - waiver.**

9 (1) FOR THE PURPOSE OF THIS SECTION, "DIRECT LABOR" MEANS LABOR
10 THAT IS REQUIRED TO BE PERFORMED UNDER A CONTRACT WHEN THE
11 GOVERNMENTAL BODY HAS A DIRECT BUSINESS RELATIONSHIP WITH THE
12 VENDOR PERFORMING THE CONTRACT. "DIRECT LABOR" DOES NOT
13 INCLUDE COMPUTER SYSTEMS, INCLUDING HARDWARE AND SOFTWARE,
14 THAT IS NOT SPECIFICALLY DESIGNED PURSUANT TO THE TERMS OF THE
15 CONTRACT.

16 (2) A GOVERNMENTAL BODY SHALL NOT AWARD A CONTRACT
17 PURSUANT TO THIS CODE TO A VENDOR OUTSIDE THE UNITED STATES THAT
18 WILL PERFORM THE DIRECT LABOR AT A LOCATION OUTSIDE THE UNITED
19 STATES. EACH PROSPECTIVE VENDOR THAT SUBMITS A BID OR PROPOSAL
20 TO A GOVERNMENTAL BODY SHALL CERTIFY THAT THE DIRECT LABOR
21 COVERED BY THE BID OR PROPOSAL WILL BE PERFORMED IN THE UNITED
22 STATES.

23 (3) (a) THE EXECUTIVE DIRECTOR MAY WAIVE THE REQUIREMENTS
24 OF SUBSECTION (2) OF THIS SECTION FOR A GOVERNMENTAL BODY FOR A
25 SPECIFIED CONTRACT IF THE GOVERNMENTAL BODY SUBMITS A WRITTEN
26 REQUEST FOR A WAIVER TO THE DIRECTOR. A GOVERNMENTAL BODY
27 SHALL INCLUDE IN ITS WRITTEN WAIVER REQUEST FINDINGS OF ONE OR

1 MORE OF THE FOLLOWING CIRCUMSTANCES:

2 (I) THE CONTRACT REQUIRES A SERVICE THAT A VENDOR WITHIN
3 THE UNITED STATES CANNOT PERFORM USING DIRECT LABOR WITHIN THE
4 UNITED STATES IN A FORM OR MANNER THAT IS COMPARABLE TO THE
5 SERVICE THAT A VENDOR OUTSIDE THE UNITED STATES CAN PERFORM
6 USING DIRECT LABOR OUTSIDE THE UNITED STATES;

7 (II) THE GOVERNMENTAL BODY DID NOT RECEIVE A BID OR
8 PROPOSAL FROM A VENDOR WITHIN THE UNITED STATES THAT CERTIFIED
9 THAT THE DIRECT LABOR REQUIRED BY THE CONTRACT WOULD BE
10 PERFORMED IN THE UNITED STATES; OR

11 (III) THE CONTRACT IS NECESSARY TO PROVIDE A UNIQUE SERVICE,
12 AS DETERMINED BY THE GOVERNMENTAL BODY, THAT CANNOT BE
13 ADEQUATELY PERFORMED USING A VENDOR OR DIRECT LABOR IN THE
14 UNITED STATES.

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

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

24 (4) NOTHING IN THIS SECTION CONTRAVENES ANY EXISTING
25 TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES.
26 CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW,
27 AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE

1 THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS
2 OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS WOULD
3 CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE
4 UNITED STATES.

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

7 **24-103-210. Use of foreign-produced goods - iron, steel, and**
8 **related manufactured products - disclosure - definitions.** (1) THE
9 CONTRACTOR FOR ANY PUBLIC WORKS PROJECT THAT IS FUNDED BY A
10 STATE AGENCY AS DEFINED IN SECTION 24-30-1301 (12), C.R.S., AND
11 THAT COSTS MORE THAN FIVE HUNDRED THOUSAND DOLLARS SHALL, UPON
12 COMPLETION OF THE PROJECT, MAKE A GOOD FAITH EFFORT TO DISCLOSE
13 TO THE DEPARTMENT OF PERSONNEL THE FIVE MOST COSTLY GOODS
14 INCORPORATED INTO THE PROJECT, INCLUDING IRON, STEEL, OR RELATED
15 MANUFACTURED GOODS.

16 (2) (a) IN THE CASE OF AN IRON OR STEEL PRODUCT, THE
17 PRODUCT WILL BE CONSIDERED MANUFACTURED IN THE UNITED STATES
18 IF ALL OF THE MANUFACTURING PROCESSES FOR THE FINAL PRODUCT TAKE
19 PLACE IN THE UNITED STATES.

20 (b) IN THE CASE OF A MANUFACTURED GOOD, A GOOD WILL BE
21 CONSIDERED MANUFACTURED IN THE UNITED STATES IF ALL OF THE
22 MANUFACTURING PROCESSES FOR THE FINAL PRODUCT TAKE PLACE IN THE
23 UNITED STATES IRRESPECTIVE OF THE ORIGIN OF THE MANUFACTURED
24 GOOD'S SUBCOMPONENTS.

25 (c) IN ORDER FOR A MANUFACTURED GOOD TO BE CONSIDERED
26 SUBJECT TO DISCLOSURE UNDER THIS ARTICLE, THE PRODUCT MUST BE
27 MANUFACTURED PREDOMINANTLY OF STEEL OR IRON. THE

1 MANUFACTURED GOOD IS DEEMED A PRODUCT MANUFACTURED
2 PREDOMINANTLY OF STEEL OR IRON IF THE PRODUCT CONSISTS OF MORE
3 THAN FIFTY PERCENT STEEL OR IRON CONTENT WHEN IT IS DELIVERED TO
4 THE JOB SITE FOR INSTALLATION.

5 (3) THE DISCLOSURE MUST STATE THE TOTAL COST AND COUNTRY
6 OF ORIGIN OF THE FIVE MOST COSTLY GOODS USED ON A PROJECT,
7 INCLUDING IRON, STEEL, AND RELATED MANUFACTURED GOODS
8 DESCRIBED PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION. THE
9 CONTRACTOR MAY RELY ON DOCUMENTS PROVIDED BY THIRD-PARTY
10 VENDORS WHEN DISCLOSING THE COUNTRY OF ORIGIN OF IRON, STEEL, OR
11 RELATED MANUFACTURED GOODS. IN ADDITION, THE DISCLOSURE MUST
12 STATE WHETHER THE PUBLIC WORKS PROJECT WAS SUBJECT TO ANY
13 EXISTING DOMESTIC CONTENT PREFERENCE, INCLUDING 41 U.S.C. SEC.
14 8301 TO 8305, 23 U.S.C. SEC. 313, 49 U.S.C. SEC. 5323, 49 U.S.C. SEC.
15 24305, 49 U.S.C. SEC. 24405, AND 49 U.S.C. SEC. 50101 TO 50105. THE
16 CONTRACTOR SHALL DISCLOSE THE INFORMATION IN A MANNER TO BE
17 DETERMINED BY THE DEPARTMENT.

18 (4) THE DEPARTMENT SHALL ISSUE AN ANNUAL REPORT DETAILING
19 THE INFORMATION THAT CONTRACTORS SUBMITTED TO THE DEPARTMENT
20 PURSUANT TO SUBSECTIONS (1) TO (3) OF THIS SECTION. THE REPORT MUST
21 INCLUDE AGGREGATE DATA COLLECTED FOR THE CALENDAR YEAR AND
22 ANALYSIS OF THE DATA BROKEN DOWN BY PRODUCT AND PUBLIC WORKS
23 PROJECT TYPE. THE REPORT SHALL NOT PUBLICLY DISCLOSE ANY
24 PROPRIETARY INFORMATION PROVIDED BY THE CONTRACTOR THAT IS NOT
25 SUBJECT TO DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS
26 ACT", PART 2 OF ARTICLE 72 OF THIS TITLE. THE DEPARTMENT SHALL
27 MAKE THE REPORT AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB

1 SITE.

2 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
3 REQUIRES:

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

6 (b) "PUBLIC WORKS" SHALL HAVE THE SAME MEANING AS "PUBLIC
7 PROJECT" AS DEFINED IN SECTION 24-92-102 (8) (a), C.R.S.

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

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

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

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

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

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

1 follows:

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

20 **SECTION 17. Appropriation.** (1) In addition to any other
21 appropriation, there is hereby appropriated, out of any moneys in the
22 general fund, not otherwise appropriated, to the department of labor and
23 employment, for the fiscal year beginning July 1, 2013, the sum of
24 \$98,519 and 1.0 FTE, or so much thereof as may be necessary, to be
25 allocated for the implementation of this act as follows:

26 (a) \$63,757 and 1.0 FTE for personal services and operating
27 expenses in the division of labor; and

1 (b) \$34,762 for the purchase of legal services.

2 (2) In addition to any other appropriation, there is hereby
3 appropriated to the department of law, for the fiscal year beginning July
4 1, 2013, the sum of \$34,762 and 0.3 FTE, or so much thereof as may be
5 necessary, for the provision of legal services for the department of labor
6 and employment related to the implementation of this act. Said sum is
7 from reappropriated funds received from the department of labor and
8 employment out of the appropriation made in paragraph (b) of subsection
9 (1) of this section.

10 (3) In addition to any other appropriation, there is hereby
11 appropriated, out of any moneys in the general fund, not otherwise
12 appropriated, to the department of personnel, for the fiscal year beginning
13 July 1, 2013, the sum of \$364,099 and 2.0 FTE, or so much thereof as
14 may be necessary, to be allocated for the implementation of this act as
15 follows:

16 (a) \$127,511 and 2.0 FTE to be allocated to the office of the state
17 architect for personal services and operating expenses;

18 (b) \$225,000 for computer programming costs; and

19 (c) \$11,588 for the purchase of legal services.

20 (4) In addition to any other appropriation, there is hereby
21 appropriated to the department of law, for the fiscal year beginning July
22 1, 2013, the sum of \$11,588, or so much thereof as may be necessary, for
23 the provision of legal services for the department of personnel related to
24 the implementation of this act. Said sum is from reappropriated funds
25 received from the department of personnel out of the appropriation made
26 in paragraph (c) of subsection (3) of this section.

27 **SECTION 18. Applicability.** This act applies to new contracts

1 for which the invitation for bids or the request for proposals was issued
2 on or after January 1, 2014.

3 **SECTION 19. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.