

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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.

SENATE
3rd Reading Unamended
May 6, 2013

SENATE
Amended 2nd Reading
May 3, 2013

HOUSE
3rd Reading Unamended
April 22, 2013

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 AND IF COMPLIANCE WITH
17 THIS ARTICLE WOULD CREATE AN UNDUE BURDEN THAT WOULD
18 SUBSTANTIALLY PREVENT A PROJECT FROM PROCEEDING TO COMPLETION.
19 A GOVERNMENTAL BODY THAT ALLOWS A WAIVER PURSUANT TO THIS
20 SUBSECTION (1) SHALL POST NOTICE OF THE WAIVER AND A JUSTIFICATION
21 FOR THE WAIVER ON ITS WEB SITE. A GOVERNMENTAL BODY SHALL NOT
22 IMPOSE CONTRACTUAL DAMAGES ON A CONTRACTOR FOR A DELAY IN
23 WORK DUE TO THE WAIVER PROCESS.

24 (2) AS USED IN THIS ARTICLE:

1 (a) "Colorado labor" ~~as used in this article~~ means any person who
2 is a resident of the state of Colorado, ~~at the time of employment~~ AT THE
3 TIME OF THE PUBLIC WORKS PROJECT, without discrimination as to race,
4 color, creed, sex, sexual orientation, marital status, national origin,
5 ancestry, age, or religion except when sex or age is a bona fide
6 occupational qualification. A RESIDENT OF THE STATE OF COLORADO IS A
7 PERSON WHO CAN PROVIDE A VALID COLORADO DRIVER'S LICENSE, A
8 VALID COLORADO STATE-ISSUED PHOTO IDENTIFICATION, OR
9 DOCUMENTATION THAT HE OR SHE HAS RESIDED IN COLORADO FOR THE
10 LAST THIRTY DAYS.

11 
12 (b) "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 state,
17 counties, school districts, or municipalities of the state of Colorado or any
18 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. THE DEPARTMENT SHALL NOT INVESTIGATE OR TAKE ANY OTHER
8 ACTION REGARDING A COMPLAINT FILED MORE THAN NINETY DAYS AFTER
9 THE PROJECT HAS BEEN FINALIZED.

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

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

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

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

27 (b) WHEN THE DEPARTMENT OF LABOR AND EMPLOYMENT

1 RECEIVES A COMPLAINT, IT SHALL NOTIFY THE CONTRACTOR OF THE
2 COMPLAINT, BUT SHALL COMMENCE THE INVESTIGATION ONLY AT THE
3 COMPLETION OF THE PROJECT. THE DEPARTMENT SHALL COMPLETE ANY
4 INVESTIGATION IN RESPONSE TO A COMPLAINT WITHIN NINETY DAYS OF
5 THE DATE THAT THE DEPARTMENT BEGAN THE INVESTIGATION.
6 COMPLIANCE SHALL BE MEASURED OVER THE ENTIRETY OF THE
7 COMPLETED PROJECT.

8 (c) IF THE DEPARTMENT OF LABOR AND EMPLOYMENT HAS IMPOSED
9 THREE FINES ON A CONTRACTOR PURSUANT TO PARAGRAPH (a) OF THIS
10 SUBSECTION (2) WITHIN FIVE YEARS AND FINDS THE VIOLATIONS TO BE
11 EGREGIOUS, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR
12 AND EMPLOYMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY
13 INITIATE THE PROCESS TO DEBAR THE CONTRACTOR PURSUANT TO SECTION
14 24-109-105, C.R.S.

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

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

1 FINAL AGENCY ACTION IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO
2 ARTICLE 4 OF TITLE 24, C.R.S.

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

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

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

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

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

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

6 (c) A PROCEDURE FOR FILING AN APPEAL PURSUANT TO SECTION
7 8-17-104 (3).

8 **8-17-107. Federal and state law.** NOTHING IN THIS ARTICLE
9 APPLIES TO ANY PROJECT THAT RECEIVES FEDERAL MONEYS. IN ADDITION,
10 NOTHING IN THIS ARTICLE CONTRAVENES ANY EXISTING TREATY, LAW,
11 AGREEMENT, OR REGULATION OF THE UNITED STATES. CONTRACTS
12 ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW, AGREEMENT, OR
13 REGULATION OF THE UNITED STATES DO NOT VIOLATE THIS ARTICLE TO
14 THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS OF THIS ARTICLE
15 ARE SUSPENDED IF SUCH REQUIREMENT WOULD CONTRAVENE ANY
16 TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES, OR
17 WOULD CAUSE DENIAL OF FEDERAL MONEYS OR PRECLUDE THE ABILITY TO
18 ACCESS FEDERAL MONEYS THAT WOULD OTHERWISE BE AVAILABLE.

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

21 **8-19-102. Definitions.** As used in this article, unless the context
22 otherwise requires:

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

25 ~~(1)~~ (2) "Public project" means:

26 (a) Any public project as defined in section 24-92-102 (8), C.R.S.,
27 including any such project awarded by any county, including any home

1 rule county, municipality, as defined in section 31-1-101 (6), C.R.S.,
2 school district, special district, or other political subdivision of the state;

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

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

10 (2) (3) "Resident bidder" means:

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

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

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

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

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

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

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

1 ~~whether a preference shall be allowed.~~

2 **SECTION 7.** In Colorado Revised Statutes, **add** 8-19-104 and
3 8-19-105 as follows:

4 **8-19-104. Bid preference - survey - report.** (1) THE EXECUTIVE
5 DIRECTOR OF THE DEPARTMENT OF PERSONNEL, OR THE EXECUTIVE
6 DIRECTOR'S DESIGNEE, SHALL CONDUCT A SURVEY AND COMPILE THE
7 RESULTS INTO A LIST OF WHICH STATES PROVIDE A BIDDING PREFERENCE
8 ON PUBLIC WORKS CONTRACTS FOR THEIR RESIDENT BIDDERS. THE LIST
9 MUST INCLUDE DETAILS ON THE TYPE OF PREFERENCE PROVIDED BY EACH
10 STATE, THE AMOUNT OF THE PREFERENCE, AND HOW THE PREFERENCE IS
11 APPLIED. THE EXECUTIVE DIRECTOR SHALL COMPLETE THE INITIAL LIST ON
12 OR BEFORE JULY 1, 2014, AND SHALL UPDATE THE LIST PERIODICALLY AS
13 NEEDED BUT AT LEAST ON AN ANNUAL BASIS. ON OR BEFORE JANUARY 1,
14 2015, THE DEPARTMENT OF PERSONNEL SHALL SUBMIT A REPORT
15 INCLUDING THE LIST COMPILED PURSUANT TO THIS SUBSECTION (1) AND
16 ANY RECOMMENDATION NECESSARY TO IMPLEMENT THIS SECTION TO THE
17 STANDING COMMITTEE OF REFERENCE IN EACH HOUSE OF THE GENERAL
18 ASSEMBLY EXERCISING JURISDICTION OVER MATTERS CONCERNING STATE
19 AFFAIRS AND LABOR. THE DEPARTMENT SHALL ALSO MAKE THE LIST
20 AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB SITE.

21 (2) IN ANY BIDDING PROCESS FOR PUBLIC WORKS IN WHICH A BID
22 IS RECEIVED FROM A BIDDER WHO IS NOT A RESIDENT BIDDER AND WHO IS
23 FROM A STATE THAT PROVIDES A PERCENTAGE BIDDING PREFERENCE TO
24 RESIDENT BIDDERS OF THAT STATE, A COMPARABLE PERCENTAGE
25 DISADVANTAGE SHALL BE APPLIED TO THE BID OF THAT BIDDER.

26 (3) ANY REQUEST FOR PROPOSALS ISSUED BY A STATE AGENCY OR
27 POLITICAL SUBDIVISION OF THE STATE MUST INCLUDE A NOTICE TO

1 NONRESIDENT BIDDERS THAT IF THE NONRESIDENT BIDDER IS FROM A
2 STATE THAT PROVIDES A BIDDING PREFERENCE TO BIDDERS FROM THAT
3 STATE, THEN A COMPARABLE PERCENTAGE DISADVANTAGE WILL BE
4 APPLIED TO THE BID OF THAT NONRESIDENT BIDDER. THE NOTICE MUST
5 ALSO SPECIFY THAT THE BIDDER MAY OBTAIN ADDITIONAL INFORMATION
6 FROM THE DEPARTMENT OF PERSONNEL'S WEB SITE.

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

12 **8-19-105. Federal and state law.** NOTHING IN THIS ARTICLE
13 APPLIES TO ANY PROJECT THAT RECEIVES FEDERAL MONEYS. IN ADDITION,
14 NOTHING IN THIS ARTICLE CONTRAVENES ANY EXISTING TREATY, LAW,
15 AGREEMENT, OR REGULATION OF THE UNITED STATES. CONTRACTS
16 ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW, AGREEMENT, OR
17 REGULATION OF THE UNITED STATES DO NOT VIOLATE THIS ARTICLE TO
18 THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS OF THIS ARTICLE
19 ARE SUSPENDED IF SUCH REQUIREMENT WOULD CONTRAVENE ANY
20 TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES, OR
21 WOULD CAUSE DENIAL OF FEDERAL MONEYS OR PRECLUDE THE ABILITY TO
22 ACCESS FEDERAL MONEYS THAT WOULD OTHERWISE BE AVAILABLE.

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

25 **24-92-103. Construction of public projects - competitive sealed**
26 **bidding.** (1) All construction contracts for public projects ~~shall~~ THAT DO
27 NOT RECEIVE FEDERAL MONEYS MAY be awarded by competitive sealed

1 bidding ~~except as otherwise provided in section 24-92-104~~ PURSUANT TO
2 THIS SECTION.

3 **SECTION 9.** In Colorado Revised Statutes, **add** 24-92-103.5 and
4 24-92-103.7 as follows:

5 **24-92-103.5. Construction of public projects - competitive**
6 **sealed best value bidding.** (1) ALL CONSTRUCTION CONTRACTS FOR
7 PUBLIC PROJECTS THAT DO NOT RECEIVE FEDERAL MONEYS MAY BE
8 AWARDED THROUGH COMPETITIVE SEALED BEST VALUE BIDDING
9 PURSUANT TO THIS SECTION.

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

15 (3) THE INVITATION FOR COMPETITIVE SEALED BEST VALUE BIDS
16 MUST IDENTIFY THE EVALUATION FACTORS UPON WHICH THE AWARD WILL
17 BE MADE. WHEN MAKING THE AWARD DETERMINATION, THE RESPONSIBLE
18 OFFICER SHALL EVALUATE THE FACTORS SPECIFIED IN THE INVITATION FOR
19 BIDS AND SHALL NOT EVALUATE ANY OTHER FACTORS OTHER THAN THOSE
20 SPECIFIED IN THE INVITATION FOR BIDS. THE FACTORS THAT MUST BE
21 INCLUDED IN THE INVITATION FOR BIDS AND THAT THE RESPONSIBLE
22 OFFICER SHALL CONSIDER INCLUDE, BUT NEED NOT BE LIMITED TO:

- 23 (a) THE PROJECT PRICE STATED IN THE BID;
- 24 (b) THE BIDDER'S DESIGN AND TECHNICAL APPROACH TO THE
25 PUBLIC PROJECT;
- 26 (c) THE EXPERIENCE, PAST PERFORMANCE, AND EXPERTISE OF THE
27 BIDDER AND THE BIDDER'S PRIMARY SUBCONTRACTORS IN CONNECTION

1 WITH PRIOR CONSTRUCTION CONTRACTS, INCLUDING ITS PERFORMANCE IN
2 THE AREAS OF COST, QUALITY, SCHEDULE, SAFETY, COMPLIANCE WITH
3 PLANS AND SPECIFICATIONS, AND ADHERENCE TO APPLICABLE LAWS AND
4 REGULATIONS;

5 (d) THE BIDDER'S PROJECT MANAGEMENT PLAN FOR THE
6 CONSTRUCTION CONTRACT THAT IDENTIFIES THE KEY MANAGEMENT
7 PERSONNEL THAT WILL BE USED FOR THE PROJECT, THE PROPOSED PROJECT
8 SCHEDULE, THE BIDDER'S QUALITY CONTROL PROGRAM AND PROJECT
9 SAFETY PROGRAM, FINANCIAL RESOURCES, EQUIPMENT, AND ANY OTHER
10 INFORMATION THAT DEMONSTRATES THE BIDDER'S COMPETENCY TO
11 PERFORM THE CONTRACT, INCLUDING TECHNICAL QUALIFICATIONS AND
12 RESOURCES;

13 (e) THE BIDDER'S STAFFING PLAN;

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

15 (g) THE BIDDER'S JOB STANDARDS, INCLUDING THE BIDDER'S
16 METHOD OF PERSONNEL PROCUREMENT, EMPLOYMENT OF COLORADO
17 WORKERS, WORKFORCE DEVELOPMENT AND LONG-TERM CAREER
18 OPPORTUNITIES OF WORKERS, THE AVAILABILITY OF TRAINING PROGRAMS,
19 INCLUDING APPRENTICESHIPS APPROVED BY THE UNITED STATES
20 DEPARTMENT OF LABOR, THE BENEFITS PROVIDED TO WORKERS,
21 INCLUDING HEALTHCARE AND DEFINED BENEFIT OR DEFINED
22 CONTRIBUTION RETIREMENT BENEFITS, AND WHETHER THE BIDDER PAYS
23 INDUSTRY-STANDARD WAGES; AND

24 (h) THE AVAILABILITY AND USE OF DOMESTICALLY PRODUCED
25 IRON, STEEL, AND RELATED MANUFACTURED GOODS TO EXECUTE THE
26 CONTRACT.

27 (4) THE CONTRACT SHALL BE AWARDED WITH REASONABLE

1 PROMPTNESS BY WRITTEN NOTICE TO THE BIDDER WHOSE BID IS
2 DETERMINED IN WRITING TO BE THE MOST ADVANTAGEOUS TO THE STATE
3 AND THAT REPRESENTS THE BEST OVERALL VALUE TO THE STATE, TAKING
4 INTO CONSIDERATION THE PRICE AND OTHER EVALUATION FACTORS SET
5 FORTH IN THE INVITATION FOR BIDS IN ACCORDANCE WITH SUBSECTION (3)
6 OF THIS SECTION. THE CONTRACT FILE MAINTAINED BY THE STATE MUST
7 CONTAIN THE BASIS ON WHICH THE AWARD DETERMINATION WAS MADE.

8 (5) A REQUEST FOR COMPETITIVE SEALED BEST VALUE BIDS ISSUED
9 PURSUANT TO THIS SECTION MUST OTHERWISE COMPLY WITH THE
10 REQUIREMENTS OF SECTION 24-103-203 CONCERNING COMPETITIVE
11 SEALED PROPOSALS FOR NONCONSTRUCTION CONTRACTS TO THE EXTENT
12 THAT SUCH REQUIREMENTS DO NOT CONFLICT WITH THIS SECTION. IN THE
13 CASE OF A CONFLICT, THE PROVISIONS OF THIS SECTION SUPERSEDE.

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

17 (a) AFTER SELECTION OF MOST QUALIFIED PARTICIPANTS, ALL
18 STATEMENTS OF QUALIFICATION SHALL BE MADE AVAILABLE TO THE
19 PUBLIC; AND

20 (b) AFTER THE CONTRACT HAS BEEN AWARDED, ALL REQUESTS FOR
21 PROPOSALS SHALL BE MADE PUBLIC WITH THE SCORE SHEETS USED TO
22 MAKE THE BID SELECTION, OMITTING ANY CONFIDENTIAL CORPORATE
23 INFORMATION.

24 **24-92-103.7. Disclosure - competitive sealed bidding -**
25 **competitive sealed best value bidding.** THE EXECUTIVE DIRECTOR OF AN
26 AGENCY OF GOVERNMENT OR PRESIDENT OF AN INSTITUTION OF HIGHER
27 EDUCATION THAT ENTERS INTO A CONSTRUCTION CONTRACT FOR A PUBLIC

1 PROJECT PURSUANT TO THIS ARTICLE THAT IS NOT FUNDED IN ANY PART
2 WITH FEDERAL MONEYS SHALL DISCLOSE TO THE PUBLIC THE AGENCY OF
3 GOVERNMENT'S RATIONALE OR THE INSTITUTION'S RATIONALE FOR
4 SELECTING THE COMPETITIVE SEALED BIDDING PROCESS PURSUANT TO
5 SECTION 24-92-103 OR THE COMPETITIVE SEALED BEST VALUE BIDDING
6 PROCESS PURSUANT TO SECTION 24-92-103.5 FOR THE PUBLIC PROJECT.
7 THE AGENCY OR INSTITUTION SHALL POST THE DISCLOSURE ON ITS WEB
8 SITE.

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

11 **24-93-109. Disclosure.** THE EXECUTIVE DIRECTOR OF AN AGENCY
12 OR PRESIDENT OF AN INSTITUTION OF HIGHER EDUCATION THAT ENTERS
13 INTO A CONSTRUCTION CONTRACT FOR A PUBLIC PROJECT PURSUANT TO
14 THIS ARTICLE SHALL DISCLOSE TO THE PUBLIC THE AGENCY'S RATIONALE
15 OR THE INSTITUTION'S RATIONALE FOR SELECTING THE INTEGRATED
16 PROJECT DELIVERY CONTRACTING PROCESS PURSUANT TO THIS ARTICLE
17 FOR THE PUBLIC PROJECT. THE AGENCY OR INSTITUTION SHALL POST THE
18 DISCLOSURE ON ITS WEB SITE.

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

21 **24-92-110. Rules and regulations.** The executive director of the
22 department of personnel shall promulgate rules and regulations which are
23 designed to implement the provisions of this article; except that the
24 executive director of the department of transportation shall promulgate
25 rules and regulations relating to bridge and highway construction bidding
26 practices including, notwithstanding any other provisions of this article,
27 rules governing debarment of contractors. The rules ~~shall~~ MUST include

1 provisions requiring agencies of government to keep certain public
2 project records, even if duplicative, in accordance with generally accepted
3 cost accounting principles and standards. IN ADDITION, THE RULES MUST
4 INCLUDE CRITERIA TO BE USED BY A RESPONSIBLE OFFICER IN EVALUATING
5 A COMPETITIVE SEALED BEST VALUE BID PURSUANT TO SECTION
6 24-92-103.5 (3).

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

9 **24-102-206. Contract performance outside the United States**
10 **or Colorado - notice - penalty.** (1) (a) Prior to contracting or as a
11 requirement for the solicitation of any contract from the state for services,
12 as appropriate, any prospective vendor shall disclose in a WRITTEN
13 statement of work WHETHER IT ANTICIPATES SUBCONTRACTING ANY
14 SERVICES UNDER THE CONTRACT, where SUCH SUBCONTRACTED services
15 will be performed under the contract, including any subcontracts, and
16 whether any SUBCONTRACTED services under the contract or any
17 subcontracts are anticipated to be performed outside the United States or
18 the state. If the prospective vendor anticipates services under the contract
19 or any subcontracts will be performed outside the United States or the
20 state, the vendor shall provide in its WRITTEN statement of work a
21 provision setting forth why it is necessary or advantageous to go outside
22 the United States or the state to perform the contract or any subcontracts.

23 (b) EACH CONTRACT ENTERED INTO OR RENEWED BY A
24 GOVERNMENTAL BODY PURSUANT TO THIS CODE MUST CONTAIN A CLAUSE
25 THAT REQUIRES THE VENDOR TO PROVIDE WRITTEN NOTICE TO THE
26 GOVERNMENTAL BODY IF THE VENDOR DECIDES, AFTER THE CONTRACT IS
27 AWARDED, TO PERFORM SERVICES UNDER THE CONTRACT OUTSIDE THE

1 UNITED STATES OR THE STATE OR TO SUBCONTRACT SERVICES UNDER THE
2 CONTRACT TO A SUBCONTRACTOR THAT WILL PERFORM SUCH SERVICES
3 OUTSIDE THE UNITED STATES OR THE STATE. THE CONTRACT MUST
4 SPECIFY THAT THE VENDOR IS REQUIRED TO PROVIDE SUCH WRITTEN
5 NOTICE NO LATER THAN TWENTY DAYS FROM THE TIME THE VENDOR
6 DECIDES TO PERFORM SERVICES UNDER THE CONTRACT OUTSIDE THE
7 UNITED STATES OR THE STATE OR SUBCONTRACTS SERVICES UNDER THE
8 CONTRACT TO A SUBCONTRACTOR THAT WILL PERFORM SUCH SERVICES IN
9 A LOCATION OUTSIDE THE UNITED STATES OR THE STATE.

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

16 (3) A GOVERNMENTAL BODY SHALL PROVIDE WRITTEN NOTICE TO
17 THE DEPARTMENT OF PERSONNEL IF IT AWARDS A CONTRACT TO A VENDOR
18 THAT HAS PROVIDED WRITTEN NOTICE PURSUANT TO PARAGRAPH (a) OR
19 (b) OF SUBSECTION (1) OF THIS SECTION THAT THE VENDOR OR THE
20 VENDOR'S SUBCONTRACTOR WILL PERFORM SERVICES UNDER THE
21 CONTRACT OUTSIDE THE UNITED STATES OR THE STATE.

22 (4) IF A VENDOR KNOWINGLY FAILS TO NOTIFY THE
23 GOVERNMENTAL BODY OF ANY OUTSOURCED SERVICES AS SPECIFIED IN
24 THIS SECTION, THE GOVERNMENTAL BODY MAY, IN THE GOVERNMENTAL
25 BODY'S DISCRETION, TERMINATE THE CONTRACT.

26 (5) THE EXECUTIVE DIRECTOR SHALL POST ANY NOTICE THAT A
27 VENDOR PROVIDES TO A GOVERNMENTAL BODY PURSUANT TO THIS

1 SECTION ON THE OFFICIAL WEB SITE OF THE DEPARTMENT.

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

8 (7) NOTHING IN THIS SECTION APPLIES TO ANY PROJECT THAT
9 RECEIVES FEDERAL MONEYS. IN ADDITION, NOTHING IN THIS SECTION
10 CONTRAVENES ANY EXISTING TREATY, LAW, AGREEMENT, OR REGULATION
11 OF THE UNITED STATES. CONTRACTS ENTERED INTO IN ACCORDANCE WITH
12 ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES
13 DO NOT VIOLATE THIS SECTION TO THE EXTENT OF THAT ACCORDANCE.
14 THE REQUIREMENTS OF THIS SECTION ARE SUSPENDED IF SUCH
15 REQUIREMENTS WOULD CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR
16 REGULATION OF THE UNITED STATES, OR WOULD CAUSE DENIAL OF
17 FEDERAL MONEYS OR PRECLUDE THE ABILITY TO ACCESS FEDERAL MONEYS
18 THAT WOULD OTHERWISE BE AVAILABLE.

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

21 =====
22 **24-102-206.5. Contract performance outside the United States**
23 **or Colorado - annual report. (1) ON JANUARY 1, 2014, AND ON EACH**
24 **JANUARY 1 THEREAFTER, A GOVERNMENTAL BODY SHALL SUBMIT AN**
25 **ANNUAL REPORT TO THE GENERAL ASSEMBLY IF THE GOVERNMENTAL**
26 **BODY ENTERED INTO ONE OR MORE CONTRACTS WITH A VENDOR DURING**
27 **THE PREVIOUS STATE FISCAL YEAR AND RECEIVED WRITTEN NOTICE FROM**

1 ONE OR MORE VENDORS PURSUANT TO SECTION 24-102-206 (1) (b), THAT
2 THE VENDOR OR THE VENDOR'S SUBCONTRACTOR WOULD PERFORM
3 SERVICES UNDER THE CONTRACT OUTSIDE THE UNITED STATES OR THE
4 STATE.

5 (2) (a) THE PURPOSE OF THE REPORT REQUIRED IN SUBSECTION (1)
6 OF THIS SECTION IS TO NOTIFY TAXPAYERS AND THE GENERAL ASSEMBLY
7 REGARDING THE USE OF UNITED STATES AND STATE TAX DOLLARS ON
8 STATE CONTRACTS IN WHICH SERVICES UNDER THE CONTRACT ARE
9 PERFORMED OUTSIDE THE UNITED STATES OR THE STATE. THE
10 GOVERNMENTAL BODY SHALL PROVIDE INFORMATION REQUIRED IN THE
11 REPORT BASED ON THE INFORMATION THAT VENDORS SUBMITTED TO THE
12 GOVERNMENTAL BODY PURSUANT TO SECTION 24-102-206 DURING THE
13 PREVIOUS STATE FISCAL YEAR.

14 (b) THE REPORT MUST SEPARATE DATA BY STATE CONTRACT TYPE
15 AND PROVIDE INFORMATION REGARDING THE TYPE AND THE PERCENTAGE
16 OF THE TOTAL SERVICES THAT WERE PERFORMED OUTSIDE THE UNITED
17 STATES OR THE STATE BY EACH VENDOR OR A VENDOR'S SUBCONTRACTOR
18 UNDER EACH STATE CONTRACT.

19 (c) THE REPORT REQUIRED BY SUBSECTION (1) OF THIS SECTION
20 MUST ALSO INCLUDE A DESCRIPTION OF ANY INITIATIVES THAT THE
21 GOVERNMENTAL BODY HAS TAKEN TO ACTIVELY REDUCE THE NUMBER OF
22 CONTRACTS IN WHICH A VENDOR OR VENDOR'S SUBCONTRACTOR PERFORM
23 SERVICES UNDER THE CONTRACT OUTSIDE THE UNITED STATES OR THE
24 STATE.

25 (d) A GOVERNMENTAL BODY THAT IS REQUIRED TO SUBMIT A
26 REPORT PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY INCLUDE THE
27 REPORT IN ITS ANNUAL REPORT TO THE GENERAL ASSEMBLY REQUIRED BY

1 THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
2 TRANSPARENT (SMART) GOVERNMENT ACT".

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

5 **24-103-210. Use of foreign-produced goods - iron, steel, and**
6 **related manufactured products - disclosure - definitions.** (1) THE
7 CONTRACTOR FOR ANY PUBLIC WORKS PROJECT THAT IS FUNDED BY A
8 STATE AGENCY AS DEFINED IN SECTION 24-30-1301 (12), C.R.S., THAT
9 DOES NOT RECEIVE ANY FEDERAL MONEYS, AND THAT COSTS MORE THAN
10 FIVE HUNDRED THOUSAND DOLLARS SHALL, UPON COMPLETION OF THE
11 PROJECT, MAKE A GOOD FAITH EFFORT TO DISCLOSE TO THE DEPARTMENT
12 OF PERSONNEL THE FIVE MOST COSTLY GOODS INCORPORATED INTO THE
13 PROJECT, INCLUDING IRON, STEEL, OR RELATED MANUFACTURED GOODS;
14 EXCEPT THAT, FOR PUBLIC PROJECTS UNDER THE SUPERVISION OF THE
15 DEPARTMENT OF TRANSPORTATION, THE CONTRACTOR SHALL DISCLOSE
16 SUCH INFORMATION TO THE DEPARTMENT OF TRANSPORTATION.

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

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

26 (c) IN ORDER FOR A MANUFACTURED GOOD TO BE CONSIDERED
27 SUBJECT TO DISCLOSURE UNDER THIS ARTICLE, THE PRODUCT MUST BE

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

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

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

1 2 OF ARTICLE 72 OF THIS TITLE. THE DEPARTMENT SHALL MAKE THE
2 REPORT AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB SITE.

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

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

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

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

12 (6) NOTHING IN THIS SECTION APPLIES TO ANY PROJECT THAT
13 RECEIVES FEDERAL MONEYS. IN ADDITION, NOTHING IN THIS SECTION
14 CONTRAVENES ANY EXISTING TREATY, LAW, AGREEMENT, OR REGULATION
15 OF THE UNITED STATES. CONTRACTS ENTERED INTO IN ACCORDANCE WITH
16 ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES
17 DO NOT VIOLATE THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE
18 REQUIREMENTS OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS
19 WOULD CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF
20 THE UNITED STATES, OR WOULD CAUSE DENIAL OF FEDERAL MONEYS OR
21 PRECLUDE THE ABILITY TO ACCESS FEDERAL MONEYS THAT WOULD
22 OTHERWISE BE AVAILABLE.

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

25 **24-109-105. Debarment and suspension.** (2) A person may be
26 debarred for any of the following reasons:

27 (f) THE DEPARTMENT OF LABOR AND EMPLOYMENT HAS IMPOSED

1 THREE FINES ON A CONTRACTOR WITHIN FIVE YEARS PURSUANT TO SECTION
2 8-17-104, C.R.S., FOR FAILURE TO SATISFY COLORADO LABOR
3 REQUIREMENTS.

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

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

24 **SECTION 17. Appropriation.** (1) In addition to any other
25 appropriation, there is hereby appropriated, out of any moneys in the
26 general fund, not otherwise appropriated, to the department of labor and
27 employment, for the fiscal year beginning July 1, 2013, the sum of

1 \$98,519 and 1.0 FTE, or so much thereof as may be necessary, to be
2 allocated for the implementation of this act as follows:

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

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

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

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

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

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

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

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

1 received from the department of personnel out of the appropriation made
2 in paragraph (c) of subsection (3) of this section.

3 **SECTION 18. Applicability.** This act applies to new contracts for
4 which the invitation for bids or the request for proposals was issued on or
5 after January 1, 2014.

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