

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0398.01 Nicole Myers x4326

**HOUSE BILL 13-1292**

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**House Committees**

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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.**

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**Bill Summary**

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

**Colorado hiring on public works projects.** Current law requires a contractor to use at least 80% Colorado labor for any public works

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.

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.

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

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

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

6           **8-17-101. Colorado labor shall be employed on public**  
7 **works.** (1) Whenever any public works PROJECT financed in whole or in  
8 part by funds of the state, counties, school districts, or municipalities of  
9 the state of Colorado are undertaken in this state, Colorado labor shall be  
10 employed to perform AT LEAST EIGHTY PERCENT OF the work. ~~to the extent~~  
11 ~~of not less than eighty percent of each type or class of labor in the several~~  
12 ~~classifications of skilled and common labor employed on such project or~~  
13 ~~public works.~~ THE 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 **24-92-103.7. Disclosure - competitive sealed bidding -**  
5 **competitive sealed best value bidding.** THE EXECUTIVE DIRECTOR OF AN  
6 AGENCY OF GOVERNMENT OR PRESIDENT OF AN INSTITUTION OF HIGHER  
7 EDUCATION THAT ENTERS INTO A CONSTRUCTION CONTRACT FOR A PUBLIC  
8 PROJECT PURSUANT TO THIS ARTICLE SHALL DISCLOSE TO THE PUBLIC THE  
9 AGENCY OF GOVERNMENT'S RATIONALE OR THE INSTITUTION'S RATIONALE  
10 FOR SELECTING THE COMPETITIVE SEALED BIDDING PROCESS PURSUANT TO  
11 SECTION 24-92-103 OR THE COMPETITIVE SEALED BEST VALUE BIDDING  
12 PROCESS PURSUANT TO SECTION 24-92-103.5 FOR THE PUBLIC PROJECT.  
13 THE AGENCY OR INSTITUTION SHALL POST THE DISCLOSURE ON ITS WEB  
14 SITE.

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

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

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

27 **24-92-110. Rules and regulations.** The executive director of the



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

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

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

1 advantageous to go outside the United States or the state to perform ~~the~~  
2 ~~contract or~~ any subcontracts.

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

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

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

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

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

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

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

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

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

26 (1) FOR THE PURPOSE OF THIS SECTION, "DIRECT LABOR" MEANS LABOR  
27 THAT IS REQUIRED TO BE PERFORMED UNDER A CONTRACT WHEN THE

1 GOVERNMENTAL BODY HAS A DIRECT BUSINESS RELATIONSHIP WITH THE  
2 VENDOR PERFORMING THE CONTRACT. "DIRECT LABOR" DOES NOT  
3 INCLUDE COMPUTER SYSTEMS, INCLUDING HARDWARE AND SOFTWARE,  
4 THAT IS NOT SPECIFICALLY DESIGNED PURSUANT TO THE TERMS OF THE  
5 CONTRACT.

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

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

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

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

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

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

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

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

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

24 **24-103-210. Use of foreign-produced goods - iron, steel, and**  
25 **related manufactured products - disclosure - definitions.** (1) THE  
26 CONTRACTOR FOR ANY PUBLIC WORKS PROJECT THAT IS FUNDED BY A  
27 STATE AGENCY AS DEFINED IN SECTION 24-30-1301 (12), C.R.S., AND

1 THAT COSTS MORE THAN FIVE HUNDRED THOUSAND DOLLARS SHALL, UPON  
2 COMPLETION OF THE PROJECT, MAKE A GOOD FAITH EFFORT TO DISCLOSE  
3 TO THE DEPARTMENT OF PERSONNEL THE FIVE MOST COSTLY GOODS  
4 INCORPORATED INTO THE PROJECT, INCLUDING IRON, STEEL, OR RELATED  
5 MANUFACTURED GOODS.

6 (2) (a) IN THE CASE OF AN IRON OR STEEL PRODUCT,   THE  
7 PRODUCT WILL BE CONSIDERED MANUFACTURED IN THE UNITED STATES  
8 IF ALL OF THE MANUFACTURING PROCESSES FOR THE FINAL PRODUCT TAKE  
9 PLACE IN THE UNITED STATES.

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

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

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

1 RELATED MANUFACTURED GOODS. IN ADDITION, THE DISCLOSURE MUST  
2 STATE WHETHER THE PUBLIC WORKS PROJECT WAS SUBJECT TO ANY  
3 EXISTING DOMESTIC CONTENT PREFERENCE, INCLUDING 41 U.S.C. SEC.  
4 8301 TO 8305, 23 U.S.C. SEC. 313, 49 U.S.C. SEC. 5323, 49 U.S.C. SEC.  
5 24305, 49 U.S.C. SEC. 24405, AND 49 U.S.C. SEC. 50101 TO 50105. THE  
6 CONTRACTOR SHALL DISCLOSE THE INFORMATION IN A MANNER TO BE  
7 DETERMINED BY THE DEPARTMENT.

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

19 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
20 REQUIRES:

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

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

25 (c) "UNITED STATES" MEANS THE UNITED STATES OF AMERICA  
26 AND INCLUDES ALL TERRITORY, CONTINENTAL OR INSULAR, SUBJECT TO  
27 THE JURISDICTION OF THE UNITED STATES.

1           (6) NOTHING IN THIS SECTION CONTRAVENES ANY EXISTING  
2 TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES.  
3 CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW,  
4 AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE  
5 THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS  
6 OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS WOULD  
7 CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE  
8 UNITED STATES.

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

11           **24-109-105. Debarment and suspension.** (2) A person may be  
12 debarred for any of the following reasons:

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

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

19           **40-2-129. New resource acquisitions - factors in determination**  
20 **- local employment - "best value" metrics.** When evaluating electric  
21 resource acquisitions AND REQUESTS FOR A CERTIFICATE OF CONVENIENCE  
22 AND NECESSITY FOR CONSTRUCTION OR EXPANSION OF GENERATING  
23 FACILITIES, INCLUDING BUT NOT LIMITED TO POLLUTION CONTROL OR FUEL  
24 CONVERSION UPGRADES AND CONVERSION OF EXISTING COAL-FIRED  
25 PLANTS TO NATURAL GAS PLANTS, the commission shall consider, on a  
26 qualitative basis, factors that affect employment and the long-term  
27 economic viability of Colorado communities. To this end, the commission



1 shall require utilities to request the following information regarding "best  
2 value" employment metrics: The availability of training programs,  
3 including training through apprenticeship programs registered with the  
4 United States department of labor, office of apprenticeship and training;  
5 employment of Colorado workers as compared to importation of  
6 out-of-state workers; long-term career opportunities; and  
7 industry-standard wages, health care, and pension benefits. When a utility  
8 proposes to construct new facilities of its own, the utility shall supply  
9 similar information to the commission.

10 **SECTION 17. Appropriation.** (1) In addition to any other  
11 appropriation, there is hereby appropriated, out of any moneys in the  
12 general fund, not otherwise appropriated, to the department of labor and  
13 employment, for the fiscal year beginning July 1, 2013, the sum of  
14 \$98,519 and 1.0 FTE, or so much thereof as may be necessary, to be  
15 allocated for the implementation of this act as follows:

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

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

19 (2) In addition to any other appropriation, there is hereby  
20 appropriated to the department of law, for the fiscal year beginning July  
21 1, 2013, the sum of \$34,762 and 0.3 FTE, or so much thereof as may be  
22 necessary, for the provision of legal services for the department of labor  
23 and employment related to the implementation of this act. Said sum is  
24 from reappropriated funds received from the department of labor and  
25 employment out of the appropriation made in paragraph (b) of subsection  
26 (1) of this section.

27 (3) In addition to any other appropriation, there is hereby

1 appropriated, out of any moneys in the general fund, not otherwise  
2 appropriated, to the department of personnel, for the fiscal year beginning  
3 July 1, 2013, the sum of \$364,099 and 2.0 FTE, or so much thereof as  
4 may be necessary, to be allocated for the implementation of this act as  
5 follows:

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

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

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

10 (4) In addition to any other appropriation, there is hereby  
11 appropriated to the department of law, for the fiscal year beginning July  
12 1, 2013, the sum of \$11,588, or so much thereof as may be necessary, for  
13 the provision of legal services for the department of personnel related to  
14 the implementation of this act. Said sum is from reappropriated funds  
15 received from the department of personnel out of the appropriation made  
16 in paragraph (c) of subsection (3) of this section.

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

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