

**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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A BILL FOR AN ACT

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

Bill Summary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

coal-fired plants to natural gas plants.

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
25 TIME OF THE PUBLIC WORKS PROJECT, without discrimination as to race,

1 color, creed, sex, sexual orientation, marital status, national origin,
2 ancestry, age, or religion except when sex or age is a bona fide
3 occupational qualification. A RESIDENT OF THE STATE OF COLORADO IS A
4 PERSON WHO CAN PROVIDE A VALID COLORADO DRIVER'S LICENSE, A
5 VALID COLORADO STATE-ISSUED PHOTO IDENTIFICATION, OR
6 DOCUMENTATION THAT HE OR SHE HAS RESIDED IN COLORADO FOR THE
7 LAST THIRTY DAYS.

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

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

13 **8-17-103. Penalty for violation.** ~~Any officer or agent of the state,
14 counties, school districts, or municipalities of the state of Colorado or any
15 contractor who violates the provisions of this article is guilty of a
16 misdemeanor and, upon conviction thereof, shall be punished by a fine of
17 not more than five hundred dollars, or by imprisonment in the county jail
18 for not more than one year, or by both such fine and imprisonment.~~

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

21 **8-17-104. Enforcement - violation - penalties - Colorado labor**
22 **enforcement cash fund - creation.** (1) THE DEPARTMENT OF LABOR AND
23 EMPLOYMENT SHALL ENFORCE THE REQUIREMENTS OF THIS ARTICLE IN THE
24 EVENT OF A COMPLAINT ALLEGING A POTENTIAL VIOLATION OF THE
25 REQUIREMENTS OF THIS ARTICLE. IN CONNECTION WITH THE
26 DEPARTMENT'S DUTY TO ENFORCE THE REQUIREMENTS OF THIS ARTICLE,
27 THE DEPARTMENT SHALL RECEIVE COMPLAINTS ABOUT POTENTIAL

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

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

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

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

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

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

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

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

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

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

27 (4) THE REVENUE COLLECTED FROM THE FINES IMPOSED PURSUANT

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

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

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

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

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

27 (b) A PROCEDURE FOR THE UNIFORM INVESTIGATION OF ANY

1 COMPLAINT ALLEGING A VIOLATION OF THE PROVISIONS OF THIS ARTICLE;
2 AND

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

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

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

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

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

19 ~~(1)~~ (2) "Public project" means:

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

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

27 (c) Any highway or bridge construction, whether undertaken by

1 the department of transportation or by any political subdivision of this
2 state, in which the expenditure of funds may be reasonably expected to
3 exceed fifty thousand dollars.

4 ~~(2)~~ (3) "Resident bidder" means:

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

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

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

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

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

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

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

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

25 **8-19-104. Bid preference - survey - report.** (1) THE EXECUTIVE
26 DIRECTOR OF THE DEPARTMENT OF PERSONNEL, OR THE EXECUTIVE
27 DIRECTOR'S DESIGNEE, SHALL CONDUCT A SURVEY AND COMPILE THE

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

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

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

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

6 **8-19-105. 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 8.** In Colorado Revised Statutes, 24-92-103, **amend**
15 (1) as follows:

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

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

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

26 (2) AN INVITATION FOR BIDS UNDER COMPETITIVE SEALED BEST
27 VALUE BIDDING SHALL BE MADE IN THE SAME MANNER AS PROVIDED IN

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

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

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

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

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

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

1 RESOURCES;

2 (e) THE BIDDER'S STAFFING PLAN;

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

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

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

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

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

1 THAT SUCH REQUIREMENTS DO NOT CONFLICT WITH THIS SECTION. IN THE
2 CASE OF A CONFLICT, THE PROVISIONS OF THIS SECTION SUPERSEDE.

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

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

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

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

26 **24-92-110. Rules and regulations.** The executive director of the
27 department of personnel shall promulgate rules and regulations which are

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

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

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

1 ~~contract or~~ any subcontracts.

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

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

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

27 (4) IF A VENDOR KNOWINGLY FAILS TO NOTIFY THE

1 GOVERNMENTAL BODY OF ANY OUTSOURCED DUTIES AS SPECIFIED IN THIS
2 SECTION, THE GOVERNMENTAL BODY MAY, IN THE GOVERNMENTAL BODY'S
3 DISCRETION, TERMINATE THE CONTRACT.

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

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

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

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

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

25 (1) FOR THE PURPOSE OF THIS SECTION, "DIRECT LABOR" MEANS LABOR
26 THAT IS REQUIRED TO BE PERFORMED UNDER A CONTRACT WHEN THE
27 GOVERNMENTAL BODY HAS A DIRECT BUSINESS RELATIONSHIP WITH THE

1 VENDOR PERFORMING THE CONTRACT. "DIRECT LABOR" DOES NOT
2 INCLUDE COMPUTER SYSTEMS, INCLUDING HARDWARE AND SOFTWARE,
3 THAT IS NOT SPECIFICALLY DESIGNED PURSUANT TO THE TERMS OF THE
4 CONTRACT.

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

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

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

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

27 (III) THE CONTRACT IS NECESSARY TO PROVIDE A UNIQUE SERVICE,

1 AS DETERMINED BY THE GOVERNMENTAL BODY, THAT CANNOT BE
2 ADEQUATELY PERFORMED USING A VENDOR OR DIRECT LABOR IN THE
3 UNITED STATES.

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

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

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

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

23 **24-103-210. Use of foreign-produced goods - iron, steel, and**
24 **related manufactured products - disclosure - definitions.** (1) THE
25 CONTRACTOR FOR ANY PUBLIC WORKS PROJECT THAT IS FUNDED BY A
26 STATE AGENCY AS DEFINED IN SECTION 24-30-1301 (12), C.R.S., AND
27 THAT COSTS MORE THAN FIVE HUNDRED THOUSAND DOLLARS SHALL, UPON

1 COMPLETION OF THE PROJECT, MAKE A GOOD FAITH EFFORT TO DISCLOSE
2 TO THE DEPARTMENT OF PERSONNEL THE FIVE MOST COSTLY GOODS
3 INCORPORATED INTO THE PROJECT, INCLUDING IRON, STEEL, OR RELATED
4 MANUFACTURED GOODS.

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

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

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

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

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

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

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

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

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

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

27 (6) NOTHING IN THIS SECTION CONTRAVENES ANY EXISTING

1 TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES.
2 CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW,
3 AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE
4 THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS
5 OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS WOULD
6 CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE
7 UNITED STATES.

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

10 **24-109-105. Debarment and suspension.** (2) A person may be
11 debarred for any of the following reasons:

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

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

18 **40-2-129. New resource acquisitions - factors in determination**
19 **- local employment - "best value" metrics.** When evaluating electric
20 resource acquisitions AND REQUESTS FOR A CERTIFICATE OF CONVENIENCE
21 AND NECESSITY FOR CONSTRUCTION OR EXPANSION OF GENERATING
22 FACILITIES, INCLUDING BUT NOT LIMITED TO POLLUTION CONTROL OR FUEL
23 CONVERSION UPGRADES AND CONVERSION OF EXISTING COAL-FIRED
24 PLANTS TO NATURAL GAS PLANTS, the commission shall consider, on a
25 qualitative basis, factors that affect employment and the long-term
26 economic viability of Colorado communities. To this end, the commission
27 shall require utilities to request the following information regarding "best

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

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

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