



COLORADO Procurement Guidance

A Publication of the State Purchasing Office

Rev. 10/20/2014

TOPIC

The “Keep Jobs in Colorado Act of 2013”, H.B. 13-1292, (effective January 1, 2014) has implications for all State and Local Governments impacting services and public works projects.

SCOPE

PURCHASING UNITS (Units) - STATE AGENCIES, STATE INSTITUTIONS OF HIGHER EDUCATION AND LOCAL GOVERNMENTS AS IT RELATES TO:

TITLE 8-ARTICLE 17 COLORADO LABOR ON PUBLIC WORKS

TITLE 8-ARTICLE 19 BID PREFERENCE – PUBLIC PROJECTS

TITLE 24 ARTICLE 92 CONSTRUCTION BIDDING FOR PUBLIC PROJECTS

TITLE 24 ARTICLE 93 CONSTRUCTION CONTRACTS

TITLE 24 ARTICLE 102 PROCUREMENT ORGANIZATION

TITLE 24 ARTICLE 103 DEFINITIONS

TITLE 24 ARTICLE 109 REMEDIES

You may find it helpful to read each section of the Act side-by-side with the corresponding section of Colorado Procurement Guidance. A link to the Act is available on the Procurement Resources/*Colorado Procurement Guidance* tab found on the State Purchasing Office website at www.colorado.gov/SPO.

Government entities subject to the requirements of the Act are strongly urged to contact their legal counsel for detailed advice specific to their situation.

SERVICES IMPLICATIONS

24-102-206 Contract Performance for Services Outside US or CO - Now requires vendor to give written notice if any services are performed outside the United States or Colorado. Applies to new, renewed and amended contracts, including construction services except for Professional Services as defined in 24-30-1402, but not commitment voucher’s (Purchase Order’s). Not applicable if Contract Funds include any federal funds.

All State renewals and amendments to contracts and grants needs to include this new provision as provided by the Central Contracts Unit (CCU):

“Following the Effective Date, Contractor shall provide written notice to the State, in accordance with §16 (Notices and Representatives), within 20 days of the earlier to occur of Contractor’s decision to perform, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado and/or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado and/or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations. All notices received by the State pursuant to this §8.C shall be posted on the Colorado Department of Personnel & Administration’s website. Knowing failure by Contractor to provide notice to the State under this §8.C shall constitute a material breach of this Contract.”



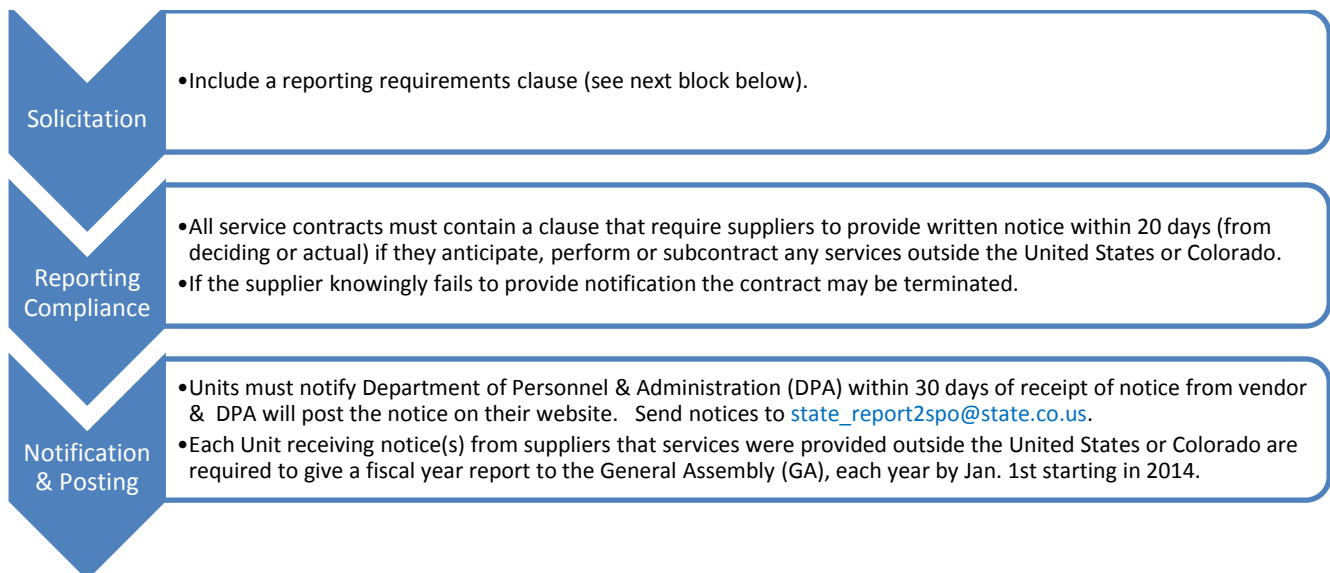
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SERVICES IMPLICATIONS (continued)

An Amendment is a change in: time, scope, vendor or any change that was not contemplated in the original solicitation/contract. For example, an Option Letter to extend for a second year when the original contract included a term of one initial year and four additional option years would not be an amendment.



PUBLIC WORK PROJECTS IMPLICATIONS

24-92-103 Competitive Sealed Bidding (CSB)

Changed from “shall” to “may” be awarded by... Not applicable if Contract Funds include any federal funds.

24-92-103.5 Competitive Sealed Best Value Bidding (CSBV) – Solicitation type Added

Not applicable if Contract Funds include any federal funds.

24-92-103.7 Requires rationale and posting on Units’ website for choosing Competitive Sealed or CSBV bidding (i.e. cost, schedule, time). Not applicable if Contract Funds include any federal funds.

24-93-109 Units must disclose Integrated Project Delivery (IPD) rationale.

Requires rationale for IPD contracting method & posting on Unit’s website. Not applicable if Contract Funds include any federal funds.



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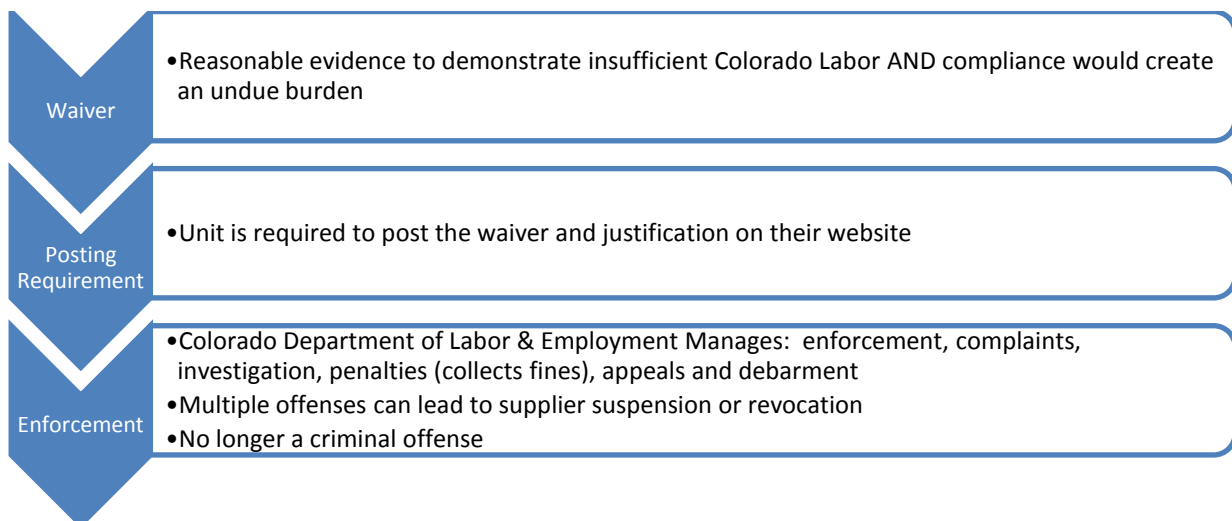
PUBLIC WORK PROJECTS IMPLICATIONS (continued)

24-103-210 Reporting & Posting Requirements for Use of Foreign Goods on Public Works Projects. Not applicable if Contract funds include any federal funds. Only applicable if funded by a State Agency.

- A good faith effort must be made by the contractor, upon completion of the project, to report the total cost and the country of origin for each of the five most costly goods.

CDOT Projects	<ul style="list-style-type: none"> •Contractor Reports to CDOT •CDOT posts on website
State Agency & IHE Projects	<ul style="list-style-type: none"> •Contractor Reports to the Agency, as determined by the DPA •Agency reports to Office of the State Architect (OSA), DPA •OSA posts on website
Local Governments	<ul style="list-style-type: none"> •Not Applicable

8-17-101 for Public Works Projects amended by eliminating class of labor sub-categories and allowing for a waiver process if 80% CO labor is not met. Not applicable if Contract Funds include any federal funds.





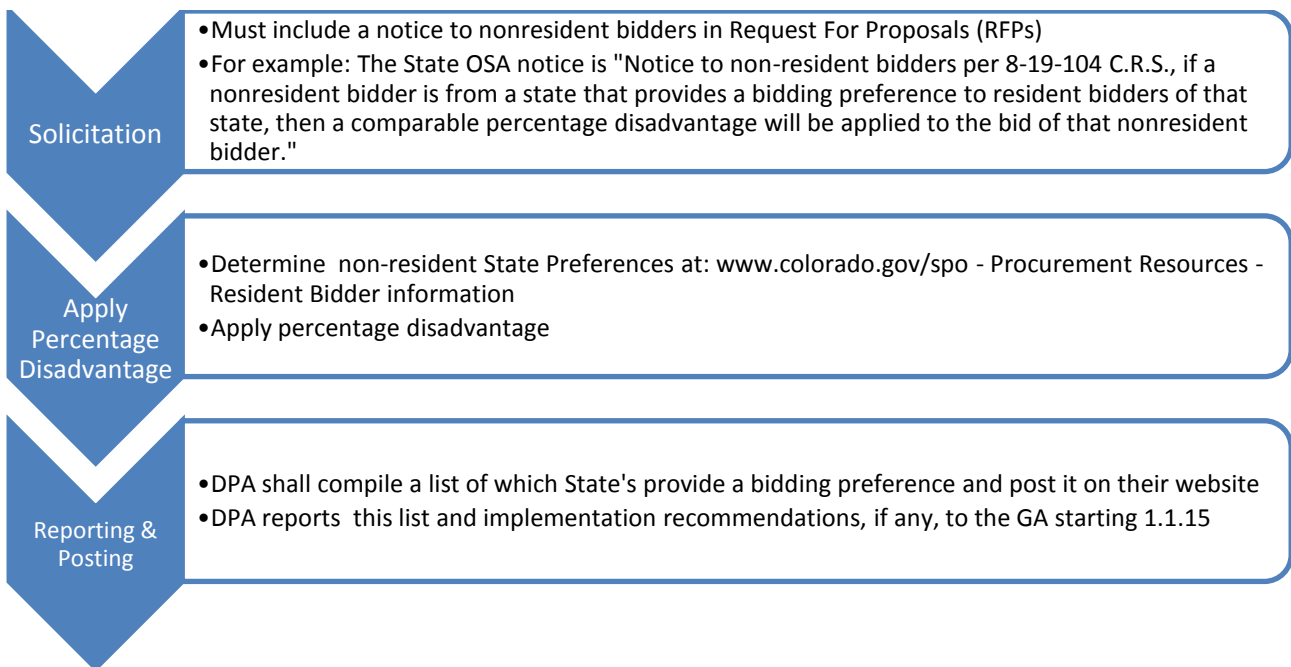
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PUBLIC WORK PROJECTS IMPLICATIONS (continued)

8-19-104 Non-resident Bidder - requires a comparable percentage disadvantage be applied to a bid from a contractor based in a State that provides a percentage bidding preference. Not applicable if Contract Funds include any federal funds.





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PUBLIC WORK MATRICES

Reporting

This Matrix indicates where a Unit reports notices received.

Unit	Outsourcing CO or US	Top 5 Goods
Agency	DPA/SPO & GA	DPA/OSA
IHE	DPA/SPO & GA	DPA/OSA
Local	DPA/SPO & GA	N/A
CDOT Public Project	DPA/SPO & GA	CDOT

Posting

This Matrix indicates website posting responsibility.

Posting Unit	Outsourcing CO or US	80% CO Labor	Top 5 Goods	Rationale for Public Projects Solicitations
Agency	DPA/SPO	Agency	DPA/OSA	Agency
IHE	DPA/SPO	IHE	DPA/OSA	IHE
Local	DPA/SPO	Local	N/A	Local
CDOT Public Project	DPA/SPO	CDOT	CDOT	CDOT



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FAQ's

1. What is considered justifiable to grant a waiver for 80% CO Labor?

A Governmental Body shall waive if there is reasonable evidence to demonstrate insufficient Colorado Labor AND compliance would create an undue burden that would substantially prevent a project from proceeding to completion. It is the Units judgment and decision if the vendor's written notice qualifies as reasonable evidence.

2. Is there a form or a process for granting the 80% CO labor waiver?

No. Each Unit has the discretion for determining how this process will work. Waivers must be granted prior to award.

3. Do OSA's forms and templates fulfill all of the requirements for posting 80% CO labor waiver?

No. OSA provides policy and guidance but units are required to post the waiver and justification on their website.

4. How can I report services performed outside Colorado to the General Assembly on January 1, 2014 when the legislation takes affect that same day?

Since reporting starts 1/1/2014 the first potential report would be due 1/1/2015.

5. Can I report my supplier notices of services performed outside Colorado & the US to DPA when I report to the General Assembly?

No. Units have 30 calendar days from receipt of notice from supplier to report to DPA.

6. Does the outsourcing requirement (24-102-206) apply to contracts resulting from DQ's, IFB's and RFP's?

Yes, if the solicitation is for services.

7. How can I reach the State Purchasing Office and who should I contact?

Contact David Musgrave at 303-866-3640 or at David.Musgrave@state.co.us