

HB17-1051 "Procurement Code Modernization" Index

This index of HB17-1051 is a companion document to recommendations submitted to the General Assembly by the Department of Personnel & Administration pursuant to HB16-1451. The recommendations may be downloaded here: <https://www.colorado.gov/osc/pmi>

This index is intended to allow the reader to easily find the location of individual recommendations within HB17-1051 and to help the reader understand the meaning and purpose of each change. This index identifies changes in HB17-1051 by section number, page number, line number, recommendation type, and recommendation number. Much of HB17-1051 is non-substantive clean-up language and conforming amendments. "Clean-up" includes updating definitions, updating terminology for consistency and clarity, updating dates and timeframes, simplifying reporting requirements, and reorganizing provisions.

Please note, any gap or overlap in page or line numbers is due to substantive changes being mixed with clean-up language. The absence of line numbers indicates the entire section relates to the stated recommendation.

If you have questions, please contact Jack Wylie at 303-866-3539 or jack.wylie@state.co.us.

Recommendations (by Section #)

Section #	Page #	Line(s)	Topic(s)	Rec. #	Description
1	4		Conforming Amendments		
2	4		Ethics	7	Establish ethical standards in statute for all persons involved in the procurement process, whether directly or indirectly, including purchasing officials, end users, vendors/contractors, management, and interested third parties, and during all phases of the procurement process (pre-solicitation to post-award).
3	5	11	Grants	17	Clarify and clean up language regarding grants in the Code. Create consistency for handling of grants in the Code including compliance with the OMB Uniform Guidance.
3	5	24-25	Application of the Code	10	Exempt utilities including water, electricity, and natural gas.
3	5	26	Application of the Code	12	Exempt works of art.
3	5-6	27, 1	Application of the Code	12	Exempt copyrighted materials.
3	6	2-4	Application of the Code	13	Exempt conferences including meeting rooms, audio/visual, catering, etc., at hotels/venues.
3	6	5-6	Application of the Code	14	Exempt client-based medical services as specialized professional services.
3	6	7	Application of the Code	16	Exempt dues and memberships.
3	6	8	Application of the Code	*	Exempt annuities.
3	6	9	Application of the Code	**	Exempt real property and interest in real property.
3	6	11-15	Application of the Code	9	Allow a purchasing entity to use a competitive process of procurement when competition exists for a good or service that is exempt from the Code.
3	7		Clean-up		
4	8	3-6	Training	8	Authorize the State to establish a permanent procurement training function to serve State agencies and vendors.

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Section #	Page #	Line(s)	Topic(s)	Rec. #	Description
4	8	7-14	Ethics	7	Establish ethical standards in statute for all persons involved in the procurement process, whether directly or indirectly, including purchasing officials, end users, vendors/contractors, management, and interested third parties, and during all phases of the procurement process (pre-solicitation to post-award).
5	8		Clean-up		
6	8-18		Clean-up	1	Update definitions to be consistent with common use.
6	12	6-13	Grants	17	Clarify and clean up language regarding grants in the Code. Create consistency for handling of grants in the Code including compliance with the OMB Uniform Guidance.
7	18		Confidentiality	35	Clarify the process for classifying confidential or proprietary information in procurement records.
8	18-19		Conforming Amendments		
9	19-20		Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
10	20-22		Clean-up		
11	22-23		Conforming Amendments		
12	23-25		Clean-up		
13	25		Conforming Amendments		
14	25-26		Clean-up		
15	26	15-21	Market Research	26	Clarify appropriate methods for conducting market research.
15	26-27	22-27, 1-9	Market Research	25	Establish the RFI process in the Code as a recognized market assessment and information gathering tool.
15	27	10-17	Confidentiality	36	Designate all responses to RFIs as confidential until after a solicitation is awarded or until it is determined that a solicitation will not be pursued by the State.
16-19	27-32		Clean-up		
20	32-33		Conforming Amendments		
21	33		Confidentiality	35	Clarify the process for classifying confidential or proprietary information in procurement records.
22	33		Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
23-24	33-35		Clean-up		
25-28	35-55		Preferences and Goals	39	Clean up language and requirements related to preferences for consistency.
29	55		Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
30-31	55-56		Conforming Amendments		
32	56		Clean-up		
33	56-57	20-21, 23	Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
34	57		Conforming Amendments		
35	57-58	19, 4	Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
36	58-59		Conforming Amendments		

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Section #	Page #	Line(s)	Topic(s)	Rec. #	Description
37	59-60		Clean-up		
38	60-73		Contract Management System	19	Repeal outdated and ineffective provisions to concentrate efforts on contract compliance rather than reporting.
38	68	7-13	Multi-year Contracts	18	Allow for a reasonable extension of an existing contract, if extenuating circumstances exist, with approval of the State Purchasing Director.
39	73-74		Terms and Conditions	21-24	Prohibit indemnification of vendors by the State, prohibit binding arbitration as a remedy, prohibit vendor's limitation of liability for bodily injury, death, and damage to tangible personal property of the State, and require that State contracts be governed by Colorado law.
40	74	14-19	Administrative Remedies	27	Establish a process for determinations on whether a protesting entity is appropriate as an aggrieved party in a solicitation or award. Limit protests to bidders and prospective bidders.
40	74	20-26	Administrative Remedies	28	Establish that only material issues can be protested and appealed. "Material" means an issue significant enough to have changed the outcome. This will avoid trivial protests and appeals so that the proper attention can be given to significant concerns.
41	75	13-15	Administrative Remedies	28	Establish that only material issues can be protested and appealed. "Material" means an issue significant enough to have changed the outcome. This will avoid trivial protests and appeals so that the proper attention can be given to significant concerns.
42	76	18	Administrative Remedies	28	Establish that only material issues can be protested and appealed. "Material" means an issue significant enough to have changed the outcome. This will avoid trivial protests and appeals so that the proper attention can be given to significant concerns.
42	76	22-24	Administrative Remedies	31	Clarify what remedies are available when a protest or appeal is sustained and remove the distinction between remedies prior to and after the award of a contract.
42	76-77	25-27, 1-4	Administrative Remedies	32	Allow an aggrieved party to move to the next step in the process if the State fails to respond within a defined timeframe.
43	77		Administrative Remedies	30	Clarify when a stay of procurement applies.
44-47			Clean-up		
48	81	9-15	Administrative Remedies	30	Clarify when a stay of procurement applies.
48	81	24-27	Administrative Remedies	28	Establish that only material issues can be protested and appealed. "Material" means an issue significant enough to have changed the outcome. This will avoid trivial protests and appeals so that the proper attention can be given to significant concerns.
49-50	84-85		Clean-up		
51	85-88		Administrative Remedies	31	Clarify what remedies are available when a protest or appeal is sustained.
52	88-90		Cooperative Purchasing	40	Allow State public entities to participate and use solicitations issued by other State public entities.
53-58	90-92		Conforming Amendments		

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Section #	Page #	Line(s)	Topic(s)	Rec. #	Description
59	92	18-19	Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
60-75	92-102		Conforming Amendments		
76-77	102		Clean-up		

Recommendations (by Recommendation #)

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22	33		Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
29	55		Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
33	56-57	20-21, 23	Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
35	57-58	19, 4	Rules	6	Replace mandatory rule-making provisions with permissive rule-making authority.
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36	58-59		Conforming Amendments		
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60-75	92-102		Conforming Amendments		
76-77	102		Clean-up		

* Identified during bill drafting. Addresses an isolated issue when the State must secure an annuity for a lottery winner.

** Identified during bill drafting. Adds needed flexibility when the State needs to purchase a land-only interest in real property.