

**OFFICE OF THE STATE ARCHITECT  
STATE BUILDINGS PROGRAMS  
POLICIES AND PROCEDURES**

**PUBLIC PROJECTS**

---

House Bill HB13-1292 enacted into law during the 2012/2013 legislative session, amended various solicitation and reporting requirements of public projects as highlighted in *italics* below and will apply to new contracts which the invitation for bids or the request for proposals was issued on or after January 1, 2014.

**Definitions**

**Public Project** – As per CRS 8-18-102(1) and 24-92-102(8), means any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of public health, welfare, or safety and any maintenance programs for the upkeep of such projects and (b), to projects for which appropriation or expenditure of funds equal or exceeds **\$500,000**.

**Colorado Labor** – As per Procurement Rules R24-103-101-01(d) and R24-11-102-03, means any person who is a resident of the state of Colorado at the time of the public works project

**Public Works** – As per Procurement Rule R24-103-101-01(k), shall have the same definition as “Public Project” as defined in CRS 8-19-102(1) and 24-92-102(8).

**Resident Bidder** - As per Procurement Rule R24-103-101-01 (j), means a person, partnership, corporation, or joint venture which is authorized to transact business in Colorado, maintains a place of business in Colorado and pays unemployment compensation taxes.

**State Agency** – As per CRS 24-30-1301(12), “State agency” means this state or department, institution, or other agency of the state, including institutions of higher education.

**Director of State Buildings Program** – Is synonymous with the Office of the State Architect

**SBP** – State Buildings Program is one of three programs within the Office of the State Architect which is within the Colorado Department of Personnel & Administration.

**Excerpts From Fiscal Rules 4-1 Capital Construction Administration**

- Formal contracts shall be required when expending funds in excess of \$100,000 appropriate for emergency maintenance projects including construction services or installation of fixed equipment unless previous approval has been obtained from the Office of the State Architect to use a purchase order.
- Approved formal contracts are available on the website of the Office of the State Architect.

**Process for State Agencies**

- SBP Delegate at all state agencies will review scope of work for all construction projects to determine if code review and the services of an Architect/Engineer are required.
- Public Projects.
  - Advertisement for Bids (AFB) as a BIDS notice may be used and contracts may be awarded by Competitive Sealed Bidding per Procurement Rule R24-103-202b-04, with adequate public notice given at least fourteen days prior to opening of bids or *Competitive Sealed Best Value*

*Bidding per Procurement rule R24-103-202.3-01, with adequate public notice given at least thirty days prior to the opening of bids. (Refer to Advertisement for Bids by Competitive Sealed Best Value Bidding (Information Packet) on OSA web site) or,*

- *Request For Proposals (RFP) as a BIDS notice may be used and contracts may be awarded by an Integrated Project Delivery Method (IPD) per CRS 24-93-101, with adequate public notice given at a minimum of thirty calendar days prior to submission of proposals. (Refer to Integrated Delivery Methods Policy and Procedures on OSA web site).*
- *Rationale for selecting the contracting method by State agency (type of AFB or RFP) to be posted on its web site per Procurement Rule R24-103-202.3-02 and CRS 24-93-109. Rationale should include but not be limited to project schedule impacts, cost limitations, complexity of work and any other specific requirements of the project impacting the selection of the contracting method. The **posting of the agency's written rationale** should be made on the date of the first published solicitation and remain for not less than thirty (30) calendar days in a conspicuous web site location of the state agency under the title – "Reporting Requirements for Public Projects as per HB13-1292". (Does not apply to any project that receives federal moneys and does not apply to the selection of the Sealed Best Value Bidding Contracting Method).*
- *No newspaper advertisement required.*
- *Colorado Labor shall be employed to perform at least eighty percent (80%) of the work on a public works project per CRS 8-17-101. BIDS notice to require contractor to indicate 80% Colorado labor in bid or proposal and provide written justification if the 80% Colorado labor is not included in the bid. **The justification is a requirement of the bid or proposal submittal.** State Agency shall waive the 80% requirement and post justification on its web site; if there is reasonable evidence to demonstrate insufficient Colorado labor to perform the work and, if compliance with the 80% would create an undue burden that would substantially prevent a project from proceeding to completion. **Posting of the agency's written waiver** should include but not be limited to contractor's justification for insufficient available Colorado labor and the agency's determination that there is an undue burden negatively impacting the project schedule, budget/appropriation, quality/standards of care or any other specific requirement of the project due to compliance with the 80% Colorado labor requirement. The posting of rationale should be made on the date of the award and remain for not less than thirty (30) calendar days in a conspicuous web site location of the state agency under the title – "Reporting Requirements for Public Projects as per HB13-1292".*
- *Contract Performance outside the United States or Colorado per Procurement Rules R24-102-206-01 and R24-102-206-02. BIDS notice to contain a clause requiring the contractor to provide in a written statement of work to the state agency whether it anticipates subcontracting any services outside the United States or Colorado, the types of services that will be performed and the location and the reason why it is necessary or advantages to do so. **The written statement is a requirement of the bid or proposal submittal and contract** (Does not apply to any project that receives federal moneys). If contractor fails to notify the state agency of any outsourced services, the state agency may terminate the contract.*
  - *Each contract for construction services entered into by a state agency will contain a clause requiring the **contractor to disclose in writing to the state agency** within twenty days of decision to perform or subcontract services outside the United States or Colorado per Procurement Rules R24-102-206-01 and R24-102-206-02.*
  - *Each state agency is required to provide **written notice to the Department of Personnel & Administration/Division of Finance and Procurement** for each contract it awards with services performed outside the United States or Colorado to be posted on the State Purchasing Website per Procurement Rules R24-102-206-01 and R24-102-206-02.*
  - *Each state agency is required to submit an **annual report to the general assembly** of contracts from the previous year that were awarded for any work performed outside the United States or state separating data by type of contract, percentage of total services performed by contractor and or subcontractor and initiatives that the state agency has taken to actively reduce services performed outside the United States or Colorado per Procurement Rules R24-102-206-01 and R24-102-206-02.*
  - *Each contract for construction services issued through an invitation for bid or the request for proposal prior to January 1, 2014 and is renewed (through a contract modification document to revise the original scope of work) on or after January 1, 2014 must contain*

*the same written notice clause and comply with the same reporting requirements as construction services contracts where the invitation for bid or the request for proposal was issued on or after January 1, 2014.*

- *Bid Preference shall be applied per Procurement Rule R24-111-102-02(c). BIDS notice to contain a clause to nonresident bidders from a state that provides a percentage bidding preference to bidders from that state that a comparable percentage disadvantage will be applied to the bid of that nonresident bidder and that additional information may be obtained from the department of Personnel and Administration's (DPA) web site. (Refer to the State Purchasing Office web site for a list of all bidding preferences per state). Does not apply to any project that receives federal moneys.*
- *Contract required as commitment voucher per Fiscal Rules.*
- *Bid bond required.*
- *Performance bond required.*
- *Labor and material payment bond required.*
- *Certification and Affidavit regarding Unauthorized Immigrants required.*
- *Use of Foreign-produced goods per CRS 24-103-210. **At each project close out** the state agency will submit in a written disclosure to OSA the Five Most Costly Goods, total cost and country of origin of the goods and any applicable federal domestic content preferences incorporated into the project, including iron, steel, or related manufactured goods as provided by the contractor per contract pre-settlement requirement. The agency information is to be submitted with the **Exhibit L-2**, Budget Reconciliation/Project Evaluations Transmittal and will then be published in the OSA annual report to the Capital Development Committee in December and will then be available on the OSA web site. (Refer to Project Monitoring and Cost Management Guidelines Policy and Procedures for Exhibit L-2). Does not apply to any project that receives federal moneys.*
  - *In the case of iron or steel product, the product will be considered manufactured in the United States if all of the manufacturing processes for the final product take place in the United States. The manufactured good is deemed a product manufactured predominantly of steel or iron if the product consists of more than fifty percent steel or iron content when it is delivered to the job site for installation.*
  - *In the case of a manufactured good, a good will be considered manufactured in the United States if all of the manufacturing process for the final product take place in the United States irrespective of the origin of the manufactured good's subcomponents.*

## References

C.R.S. 24-91-101-110 Construction Contracts with Public Entities  
C.R.S. 24-92-101-114 Construction Bidding for Public Contracts  
C.R.S. 24-93-101-108 Construction Contracts  
Procurement Code and Rules  
C.R.S. 24-105-201 Bid Security  
C.R.S. 24-105-202 Contract Performance and Payment Bonds  
Fiscal Rules  
Basic Steps Checklist (Office of the State Architect)

End of Policy  
SBP/PP  
1/2014