

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0341.01 Nicole Myers x4326

SENATE BILL 19-196

SENATE SPONSORSHIP

Lee and Danielson,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING THE MODIFICATION OF PROCUREMENT REQUIREMENTS

102 FOR STATE CONTRACTS FOR PUBLIC PROJECTS.

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://leg.colorado.gov>.)

The bill modifies procurement requirements for state contracts for public projects. The bill makes the following changes:

Invitation for bids: Currently, all construction contracts for public projects that do not receive federal money may be solicited by invitation for bids. The bill specifies that only a construction contract for a public project that is reasonably expected to cost \$1 million or less may be

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

solicited by invitation for bids.

Competitive sealed best value bids: Currently, all construction contracts for public projects that do not receive federal money may be awarded by competitive sealed best value bidding. The bill specifies that, unless prohibited by federal law, a construction contract for a public project that is reasonably expected to cost over \$1 million is required to be awarded through competitive sealed best value bidding or integrated project delivery, and a construction contract for a public project that is reasonably expected to cost \$1 million or less may be awarded through competitive sealed best value bidding or integrated project delivery.

Current law specifies the evaluation factors that are required to be included in an invitation for competitive sealed best value bids for a public project. The bill adds several required evaluation factors including the craft labor staffing plan for the project for the bidder and the bidder's subcontractors, the anticipated utilization by the bidder and its subcontractors of apprentices registered with federal or state apprenticeship agencies to complete the work under the contract, and the safety plan and safety record of the bidder and the bidder's subcontractors.

Disclosure of subcontractors: The bill requires any contractor that responds to a competitive solicitation for a public project to disclose, in its initial bid or proposal, the top 5 subcontractor disciplines it plans to use to fulfill the requirements of the contract. The bill specifies how the top 5 subcontractor disciplines are measured and requires contractors to disclose subcontractors for the mechanical, electrical, and plumbing requirements of the contract, even if they are not included in the top 5 disciplines.

Apprenticeship utilization requirements: The general contractor for a public project financed in whole or in part by state money in the amount of \$1 million or more is required to submit, prior to the contract award, documentation to the contracting agency that certifies that all subcontractors used on the project participate in apprenticeship training programs that have been approved by a federal or state apprenticeship agency and have a proven record of graduating apprentices for at least 3 of the past 5 years. The contractor is required to provide specified supporting documentation to the contracting agency and the agency is required to make the documentation available to the public on its website. A contractor that plans to submit a bid for a public project may request a waiver of the apprenticeship requirements and the contracting agency is required make public all waivers and the specific rationale for granting the waiver.

Integrated project delivery: Current law specifies that integrated project delivery is a project delivery method in which there is a contractual agreement between an agency and a single participating entity for the design, construction, alteration, operation, repair, improvement, demolition, maintenance, or financing, or any combination of these

services, for a public project. The bill adds additional evaluation factors that a contracting agency is required to use to evaluate proposals and the capabilities of participating entities. The additional factors include information about past performance and experience of the bidder, the bidder's project management plan for the contract, the bidder's staffing plan, the bidder's safety plan and safety record, the bidder's job standards, and the availability and use of domestically produced iron, steel, and related manufactured goods to execute the contract.

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

2 **SECTION 1.** The short title of this act is the "Colorado Quality
3 Apprenticeship Training Act of 2019".

4 **SECTION 2.** In Colorado Revised Statutes, 24-92-103, **amend**
5 (1) as follows:

6 **24-92-103. Construction of public projects - invitation for**
7 **bids.** (1) ~~All construction contracts for public projects that do not receive~~
8 ~~federal moneys~~ ONLY A CONSTRUCTION CONTRACT FOR A PUBLIC PROJECT
9 FOR WHICH THE APPROPRIATION OR EXPENDITURE OF MONEY IS
10 REASONABLY EXPECTED NOT TO EXCEED ONE MILLION DOLLARS may be
11 solicited by invitation for bids pursuant to this section.

12 **SECTION 3.** In Colorado Revised Statutes, 24-92-103.5, **amend**
13 (1), (3)(e), (3)(f), and (3)(g); and **add** (3)(e.5) as follows:

14 **24-92-103.5. Construction of public projects - invitation for**
15 **best value bids.** (1) (a) UNLESS PROHIBITED BY APPLICABLE FEDERAL
16 LAW, all construction contracts for public projects ~~that do not receive~~
17 ~~federal moneys may~~ FOR WHICH THE APPROPRIATION OR EXPENDITURE OF
18 MONEY IS REASONABLY EXPECTED TO EXCEED ONE MILLION DOLLARS
19 SHALL be awarded through competitive sealed best value bidding pursuant
20 to this section OR THROUGH INTEGRATED PROJECT DELIVERY PURSUANT TO
21 ARTICLE 93 OF THIS TITLE 24.

1 (b) UNLESS PROHIBITED BY FEDERAL LAW, ALL CONSTRUCTION
2 CONTRACTS FOR PUBLIC PROJECTS FOR WHICH THE APPROPRIATION OR
3 EXPENDITURE OF MONEY IS REASONABLE EXPECTED NOT TO EXCEED ONE
4 MILLION DOLLARS MAY BE AWARDED THROUGH COMPETITIVE SEALED BEST
5 VALUE BIDDING PURSUANT TO THIS SECTION OR THROUGH INTEGRATED
6 PROJECT DELIVERY PURSUANT TO ARTICLE 93 OF THIS TITLE 24.

7 (c) PROJECTS FOR WHICH A CONTRACTING AGENCY OF
8 GOVERNMENT HAS OBTAINED AUTHORIZATION TO USE INTEGRATED
9 PROJECT DELIVERY CONTRACTS SHALL BE GOVERNED BY PROCEDURES
10 SPECIFIED IN ARTICLE 93 OF THIS TITLE 24.

11 (3) The invitation for competitive sealed best value bids must
12 identify the evaluation factors upon which the award will be made. When
13 making the award determination, the responsible officer shall evaluate the
14 factors specified in the invitation for bids and shall not evaluate any other
15 factors other than those specified in the invitation for bids. The factors
16 that must be included in the invitation for bids and that the responsible
17 officer shall consider include, but need not be limited to:

18 (e) The bidder's CRAFT LABOR staffing plan FOR THE PROJECT FOR
19 THE BIDDER AND THE BIDDER'S SUBCONTRACTORS, WHICH SHALL BE
20 ASSESSED BY THEIR ABILITY TO RELIABLY ENSURE A SUFFICIENT SUPPLY
21 OF PROPERLY TRAINED AND QUALIFIED CRAFT LABOR PERSONNEL IN ALL
22 APPROPRIATE TRADES REQUIRED FOR THE PROJECT. THE CRAFT LABOR
23 STAFFING PLAN SHALL ALSO INCLUDE:

24 (I) THE ESTIMATED USE, AS A PERCENTAGE OF THE TOTAL
25 WORKFORCE REQUIRED FOR THE PROJECT, OF REGISTERED APPRENTICES BY
26 THE BIDDER AND ANY SUBCONTRACTORS TO COMPLETE THE WORK UNDER
27 THE CONTRACT; AND

1 (II) THE ESTIMATED USE, AS A PERCENTAGE OF THE TOTAL
2 WORKFORCE REQUIRED FOR THE PROJECT, OF PERSONS WHO ARE MEMBERS
3 OF ANY OF THE GROUPS SPECIFIED IN SECTION 24-49.5-105 (4)(a) TO (4)(e),
4 BY THE BIDDER AND ANY SUBCONTRACTORS TO COMPLETE THE WORK
5 UNDER THE CONTRACT;

6 (e.5) THE ANTICIPATED UTILIZATION BY THE BIDDER AND ITS
7 SUBCONTRACTORS OF APPRENTICESHIP PROGRAMS REGISTERED WITH THE
8 UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR
9 STATE APPRENTICESHIP COUNCILS RECOGNIZED BY THE UNITED STATES
10 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP TO COMPLETE THE
11 WORK UNDER THE CONTRACT;

12 (f) The bidder's safety plan and safety record OF THE BIDDER AND
13 THE BIDDER'S SUBCONTRACTORS;

14 (g) The bidder's job standards, including the bidder's method of
15 personnel procurement, employment of Colorado workers, workforce
16 development and long-term career opportunities of workers, the
17 availability of training programs, including ~~apprenticeships approved by~~
18 APPRENTICESHIP PROGRAMS REGISTERED WITH the United States
19 department of ~~labor~~ LABOR'S OFFICE OF APPRENTICESHIP OR STATE
20 APPRENTICESHIP COUNCILS RECOGNIZED BY THE UNITED STATES
21 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP, the benefits
22 provided to workers, including health care and defined benefit or defined
23 contribution retirement benefits, and whether the bidder pays
24 industry-standard wages; and

25 SECTION 4. In Colorado Revised Statutes, **add** 24-92-115 and
26 24-92-116 as follows:

27 **24-92-115. Disclosure of subcontractors - mechanical,**

1 **electrical, and plumbing contracts - public projects.** ANY CONTRACTOR
2 THAT RESPONDS TO A COMPETITIVE SOLICITATION FOR A PUBLIC PROJECT,
3 INCLUDING A SOLICITATION FOR A PUBLIC PROJECT THAT WILL HAVE AN
4 INTEGRATED PROJECT DELIVERY CONTRACT PURSUANT TO ARTICLE 93 OF
5 THIS TITLE 24, SHALL DISCLOSE IN ITS INITIAL BID OR PROPOSAL THE TOP
6 FIVE SUBCONTRACTOR DISCIPLINES IT PLANS TO USE TO FULFILL THE
7 REQUIREMENTS OF THE CONTRACT. THE TOP FIVE SUBCONTRACTOR
8 DISCIPLINES SHALL BE MEASURED BY THE COST OF EACH DISCIPLINE AS A
9 PERCENTAGE OF THE TOTAL COST OF THE CONTRACT. THE DISCLOSURE OF
10 SUBCONTRACTOR DISCIPLINES SHALL INCLUDE THE MECHANICAL,
11 ELECTRICAL, AND PLUMBING REQUIREMENTS OF THE CONTRACT, EVEN IF
12 THEY ARE NOT INCLUDED IN THE TOP FIVE DISCIPLINES.

13 **24-92-116. Apprenticeship utilization requirements -**
14 **mechanical, electrical, and plumbing contracts - public projects -**
15 **definition.** (1) (a) UNLESS PROHIBITED BY APPLICABLE FEDERAL LAW,
16 THE CONTRACT FOR ANY PUBLIC WORKS PROJECT, INCLUDING A PUBLIC
17 WORKS PROJECT THAT WILL HAVE AN INTEGRATED PROJECT DELIVERY
18 CONTRACT PURSUANT TO ARTICLE 93 OF THIS TITLE 24, FINANCED IN
19 WHOLE OR IN PART BY STATE MONEY IN THE AMOUNT OF ONE MILLION
20 DOLLARS OR MORE SHALL REQUIRE THE GENERAL CONTRACTOR OR OTHER
21 FIRM TO WHICH THE CONTRACT IS AWARDED TO SUBMIT, PRIOR TO THE
22 CONTRACT AWARD, DOCUMENTATION TO THE AGENCY OF GOVERNMENT
23 THAT:

24 (I) IDENTIFIES THE CONTRACTORS OR SUBCONTRACTORS THAT
25 WILL BE USED FOR ALL MECHANICAL, ELECTRICAL, AND PLUMBING WORK
26 REQUIRED ON THE PROJECT;

27 (II) CERTIFIES THAT ALL FIRMS IDENTIFIED PARTICIPATE IN

1 APPRENTICESHIP PROGRAMS REGISTERED WITH THE UNITED STATES
2 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR STATE
3 APPRENTICESHIP COUNCILS RECOGNIZED BY THE UNITED STATES
4 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP AND HAVE
5 GRADUATED APPRENTICES FOR AT LEAST THREE OF THE PAST FIVE YEARS
6 AND HAVE A DEMONSTRATED COMPLETION RATE OF AT LEAST FIFTY
7 PERCENT FOR AT LEAST THREE OF THE PAST FIVE YEARS; AND

8 (III) SUPPLIES SUPPORTING DOCUMENTATION VERIFYING THE
9 INFORMATION PROVIDED IN THE CERTIFICATION SPECIFIED IN SUBSECTION
10 (1)(a)(II) OF THIS SECTION.

11 (b) FOR THE PURPOSES OF SUBSECTION (1)(a)(II) OF THIS SECTION,
12 "GRADUATING" MEANS THE COMPLETION OF A MULTI-YEAR PROGRAM
13 INCLUDING THE REQUISITE CLASSROOM COURSE WORK AND ON-THE-JOB
14 TRAINING REQUIREMENTS, THE ATTAINMENT OF INDUSTRY STANDARD
15 CERTIFICATIONS OR A PROFESSIONAL LICENSE, AND A CERTIFICATE OF
16 COMPLETION ISSUED BY THE UNITED STATES DEPARTMENT OF LABOR'S
17 OFFICE OF APPRENTICESHIP.

18 (2) THE DOCUMENTATION REQUIRED PURSUANT TO SUBSECTION (1)
19 OF THIS SECTION SHALL BE MADE PUBLICLY AVAILABLE BY THE
20 CONTRACTING AGENCY OF GOVERNMENT THROUGH ITS WEBSITE WITHIN
21 THIRTY DAYS FROM WHEN IT IS SUBMITTED.

22 (3) TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF
23 SUBSECTION (1) OF THIS SECTION, THE GENERAL CONTRACTOR OR OTHER
24 FIRM TO WHICH THE CONTRACT IS AWARDED SHALL AGREE TO PROVIDE
25 ADDITIONAL DOCUMENTATION TO THE CONTRACTING AGENCY REGARDING
26 AFFECTED APPRENTICESHIP TRAINING PROGRAMS AND TO PROVIDE THE
27 STATE ACCESS TO ITS BUSINESS RECORDS RELATING TO THE

1 REQUIREMENTS OF THIS SECTION.

2 (4) A CONTRACTOR THAT PLANS TO SUBMIT A BID FOR A PUBLIC
3 WORKS PROJECT MAY REQUEST A WAIVER OF THE REQUIREMENTS OF THIS
4 SECTION PRIOR TO SUBMITTING A BID. A CONTRACTOR THAT REQUESTS A
5 WAIVER MUST PROVIDE SUBSTANTIAL EVIDENCE TO THE AGENCY OF
6 GOVERNMENT SOLICITING THE CONTRACT THAT THERE ARE NO AVAILABLE,
7 ELIGIBLE SUBCONTRACTORS TO FULFILL THE MECHANICAL, ELECTRICAL,
8 OR PLUMBING PORTIONS OF THE CONTRACT. EACH AGENCY OF
9 GOVERNMENT THAT HAS CONTRACTS FOR PUBLIC PROJECTS SUBJECT TO
10 THE REQUIREMENTS OF THIS SECTION SHALL MAKE PUBLIC ALL WAIVERS
11 AND THE SPECIFIC RATIONALE FOR GRANTING THE WAIVER.

12 (5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE
13 THE REQUIREMENTS FOR LICENSED PLUMBERS, LICENSED ELECTRICIANS,
14 OR APPRENTICES REGISTERED WITH THE STATE PURSUANT TO TITLE 12,
15 INCLUDING SECTIONS 12-23-105, 12-23-110.5, 12-58-105, AND 12-58-117.

16 **SECTION 5.** In Colorado Revised Statutes, 24-93-104, **amend**
17 (1) as follows:

18 **24-93-104. Integrated project delivery contracts -**
19 **authorization - effect of other laws.** (1) ~~Notwithstanding any other~~
20 ~~provision of law,~~ Any agency may award an IPD contract for a public
21 project in accordance with ~~the provisions of this article~~ ARTICLE 93 upon
22 the determination by such agency that integrated project delivery
23 represents a timely or cost-effective alternative for a public project AND
24 UPON APPROVAL OF THE AGENCY INVOLVED IN THE CONTRACT.

25 **SECTION 6.** In Colorado Revised Statutes, 24-93-106, **amend**
26 (1) as follows:

27 **24-93-106. Requests for proposals - evaluation and award of**

1 **integrated project delivery contracts.** (1) An agency shall prepare and
2 publish a request for proposals for each IPD contract that complies with
3 the requirements of this section. Requests for proposals for IPD contracts
4 shall, at a minimum, include the following evaluation factors and
5 subfactors that shall be used to evaluate the proposals and capabilities of
6 participating entities:

7 (a) Price;

8 (b) Design and technical approach to the project;

9 ~~(c) Past performance and experience~~ THE EXPERIENCE, PAST
10 PERFORMANCE, AND EXPERTISE OF THE BIDDER AND THE BIDDER'S
11 PRIMARY SUBCONTRACTORS IN CONNECTION WITH PRIOR CONSTRUCTION
12 CONTRACTS, INCLUDING ITS PERFORMANCE IN THE AREAS OF COST,
13 QUALITY, SCHEDULE, SAFETY, COMPLIANCE WITH PLANS AND
14 SPECIFICATIONS, AND ADHERENCE TO APPLICABLE LAWS AND
15 REGULATIONS;

16 (d) Project management capabilities, including financial
17 resources, equipment, management personnel, project schedule, and
18 management plan; ~~and~~

19 ~~(e) Craft labor capabilities, including adequacy of craft labor~~
20 ~~supply and access to federal or state-approved apprenticeship programs,~~
21 ~~if available~~ 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 (f) CRAFT LABOR CAPABILITIES, INCLUDING ADEQUACY OF CRAFT
3 LABOR SUPPLY AND ACCESS TO APPRENTICESHIP PROGRAMS REGISTERED
4 WITH THE UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF
5 APPRENTICESHIP OR STATE APPRENTICESHIP COUNCILS RECOGNIZED BY
6 THE UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP,
7 IF AVAILABLE;

8 (g) THE BIDDER'S STAFFING PLAN, INCLUDING ITS COMMITMENT TO
9 USE CONTRACTORS AND SUBCONTRACTORS THAT:

10 (I) CERTIFY THAT THEY PARTICIPATE IN APPRENTICESHIP
11 PROGRAMS REGISTERED WITH THE UNITED STATES DEPARTMENT OF
12 LABOR'S OFFICE OF APPRENTICESHIP OR STATE APPRENTICESHIP COUNCILS
13 RECOGNIZED BY THE UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF
14 APPRENTICESHIP AND HAVE GRADUATED APPRENTICES FOR AT LEAST
15 THREE OF THE PAST FIVE YEARS AND HAVE A DEMONSTRATED COMPLETION
16 RATE OF AT LEAST FIFTY PERCENT FOR AT LEAST THREE OF THE PAST FIVE
17 YEARS; AND

18 (II) SUPPLY SUPPORTING DOCUMENTATION VERIFYING THE
19 INFORMATION PROVIDED IN THIS CERTIFICATION;

20 (h) THE BIDDER'S SAFETY PLAN AND SAFETY RECORD;

21 (i) THE BIDDER'S JOB STANDARDS, INCLUDING THE BIDDER'S
22 METHOD OF PERSONNEL PROCUREMENT, EMPLOYMENT OF COLORADO
23 WORKERS, WORKFORCE DEVELOPMENT AND LONG-TERM CAREER
24 OPPORTUNITIES OF WORKERS, THE AVAILABILITY OF TRAINING PROGRAMS,
25 INCLUDING APPRENTICESHIP PROGRAMS REGISTERED WITH THE UNITED
26 STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR STATE
27 APPRENTICESHIP COUNCILS RECOGNIZED BY THE UNITED STATES

1 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP, THE BENEFITS
2 PROVIDED TO WORKERS, INCLUDING HEALTH CARE AND DEFINED BENEFIT
3 OR DEFINED CONTRIBUTION RETIREMENT BENEFITS, AND WHETHER THE
4 BIDDER PAYS INDUSTRY-STANDARD WAGES;

5 (j) THE ESTIMATED USE, AS A PERCENTAGE OF THE TOTAL
6 WORKFORCE REQUIRED FOR THE PROJECT, OF REGISTERED APPRENTICES BY
7 THE BIDDER AND ANY SUBCONTRACTORS TO COMPLETE THE WORK UNDER
8 THE CONTRACT;

9 (k) THE ESTIMATED USE, AS A PERCENTAGE OF THE TOTAL
10 WORKFORCE REQUIRED FOR THE PROJECT, OF PERSONS WHO ARE MEMBERS
11 OF ANY OF THE GROUPS SPECIFIED IN SECTION 24-49.5-105 (4)(a) TO (4)(e),
12 BY THE BIDDER AND ANY SUBCONTRACTORS TO COMPLETE THE WORK
13 UNDER THE CONTRACT; AND

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

17 **SECTION 7. Act subject to petition - effective date -**
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
19 the expiration of the ninety-day period after final adjournment of the
20 general assembly (August 2, 2019, if adjournment sine die is on May 3,
21 2019); except that, if a referendum petition is filed pursuant to section 1
22 (3) of article V of the state constitution against this act or an item, section,
23 or part of this act within such period, then the act, item, section, or part
24 will not take effect unless approved by the people at the general election
25 to be held in November 2020 and, in such case, will take effect on the
26 date of the official declaration of the vote thereon by the governor.

1 (2) This act applies to solicitations issued on or after January 1,
2 2020.