

# Office of the State Architect OSA 101 Construction Contracting

February 2023



# SYLLABUS

- Introduction: History, The Basics, Delegation
- Module 1: Consultant Contracting
- Module 2a: Contractor Contracting
- **Module 2b: Construction Statutes**
- Module 3: All other relevant Statutes
- Module 4a: Procurement Code/Rules CRS 24-101 - 112
- Module 4b: Fiscal Rules CRS 23-30-202
- Module 5: Basic Steps Checklist



# The Basics

- Construction Requirements are governed by:
- § 24-91 Construction Contracts with Public Entities
- § 24-92: Construction Bidding for Public Projects
- § 24-93 Construction Contracts
- § 38-26 Contractor's Bonds and Lien on Funds
- § 24 Article 105 of the Procurement Code is specific to Construction.

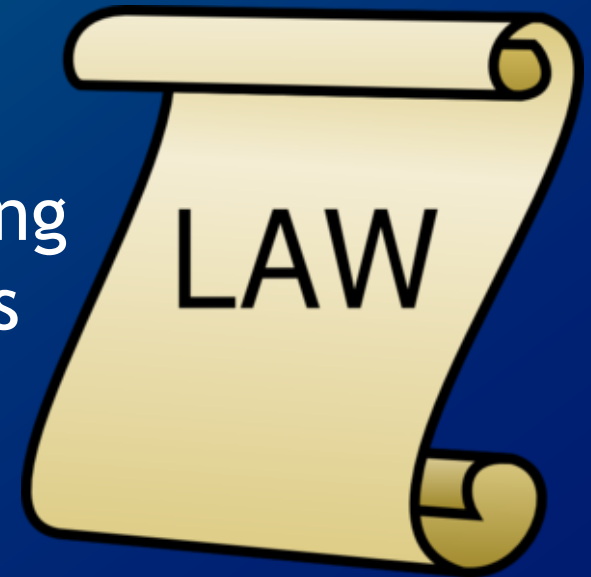


These articles are not OSA specific.

Unless exclusions are made in statute, they apply to all State agencies and institutions.

Also applies to the state or a county, city, county, town, or district.

OSA is responsible for incorporating these requirements in the Policies and Procedures for Design and Construction.



# A SNAPSHOT OF THE STATUTES

An Act

# ARTICLE 91. CONSTRUCTION CONTRACTS WITH PUBLIC ENTITIES

## Important Definitions:

(1) “Acceptable securities” means:

(a) United States bonds, United States treasury notes, or United States treasury bills;

(b) General obligation or revenue bonds of this state;

(c) General obligation or revenue bonds of any political subdivision of this state;

(d) Certificates of deposit from a state or national bank or a savings and loan association insured by the federal deposit insurance corporation or its successor and having its principal office in this state.

(1.5) “Construction” includes the terms capital construction, capital renewal, and controlled maintenance as defined in section 24-30-1301.

(2) “Contractor” means any person, company, firm, or corporation which is a party to a contract with a public entity to construct, erect, alter, install, or repair any highway, public building, public work, or public improvement, structure, or system.



# 24-91-103 Partial Payments

Commonly referred to as retainage:

(1) (a) A public entity awarding a contract exceeding one hundred fifty thousand dollars for the construction, alteration, or repair of any highway, public building, public work, or public improvement, structure, or system, including real property as defined in section 24-30-1301 (15), shall authorize partial payments of the amount due under such contract at the end of each calendar month, or as soon thereafter as practicable, to the contractor, if the contractor is satisfactorily performing the contract. The public entity shall pay at least ninety-five percent of the calculated value of completed work. The withheld percentage of the contract price of any contracted work, improvement, or construction may be retained until the contract is completed satisfactorily and finally accepted by the public entity.

Final Settlement Payment:

(b) The public entity shall make a final settlement in accordance with section 38-26-107, C.R.S., within sixty days after the contract is completed satisfactorily and finally accepted by the public entity.



# 24-91-103. Public entity - contracts - partial payments

## Within OSA contracts:

(2) Whenever a contractor receives payment pursuant to this section, the contractor shall make payments to each of his subcontractors of any amounts actually received which were included in the contractor's request for payment to the public entity for such subcontracts. The contractor shall make such payments within seven calendar days of receipt of payment from the public entity in the same manner as the public entity is required to pay the contractor under this section if the subcontractor is satisfactorily performing under his contract with the contractor. The



## 24-91-103.6

This section dictates requirements that must be included in each contract including:

- Contract amount
- Requirement of an amendment or Change Document prior to adding scope of work
- Remedies for additional compensation



# 24-91-104 and 24-91-105

These two sections describe the steps to take if contractor cannot complete the work. Including withholding retainage and if the project is over \$150K, reaching out to the surety (bonding company)



24-91-106 Escrow Agreement

24-91-107 Interest Income

24-91-108 & 109 Retained payments

106: Provides for the ability of the State to enter into such agreements as an alternative way to fund construction projects

107: Depending how the escrow agreement is written, it allows for the collection of interest

108/109: After the retainage is withheld the contractor is entitled to any dispersed interest



# 24-91-110. Contracts Excepted from Article

- Exemptions can be found throughout Colorado statutes.
- Federally funded provisions take precedence over State provisions



# ARTICLE 92. CONSTRUCTION BIDDING FOR PUBLIC PROJECTS

An Act

# ARTICLE 92. CONSTRUCTION BIDDING FOR PUBLIC PROJECTS

## Important Definitions:

(2) "Construction contract" or "contract" means any agreement for building, altering, repairing, improving, or demolishing any public project of any kind. For the purposes of this article, the terms include capital construction, capital renewal, and controlled maintenance, as defined in section 24-30-1301.

(5) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

(6) "Low responsible bidder" means any contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a public project, who is the low bidder, and who has furnished bonds or their equivalent as required by law.

# PUBLIC PROJECT Part 1

(8) (a) "Public project" 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 the public health, welfare, or safety and any maintenance programs for the upkeep of such projects.

(b) Except as provided in paragraph (c) of this subsection (8), "public project" does not include any project for which appropriation or expenditure of moneys may be reasonably expected not to exceed five hundred thousand dollars in the aggregate for any fiscal year. Nothing in this paragraph (b) shall affect the requirements for the delivery of bonds or security pursuant to sections 24-105-202, 38-26-105, and 38-26-106, C.R.S.

(c) "Public project" does not include any project under the supervision of the department of transportation for which appropriation or expenditure of funds may be reasonably expected not to exceed one hundred fifty thousand dollars in the aggregate of any fiscal year.

# PUBLIC PROJECT Part 2

(5) "Public project" 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 operation or maintenance programs for the operation and upkeep of such projects. "Public project" includes any work, construction, or repair performed by a private party through a contract to rent, lease, or purchase at least fifty percent of the project by one or more agencies of government.

Part 2 is specific to prevailing wage. This definition is essentially the same with the added language in yellow above



# 24-92-103 Competitive Sealed Bidding

(3) Adequate public notice of the invitation for bids shall be given at least fourteen days prior to the date set forth therein for the opening of bids, pursuant to rules. Such notice may include publication by electronic on-line access pursuant to section 24-92-104.5 or in a newspaper of general circulation at least fourteen days prior to bid opening or in an electronic medium approved by the executive director of the department of personnel.

(4) Bids shall be opened publicly in the presence of one or more witnesses



# 24-92-103 Competitive Sealed Bidding

(5) Bids shall be unconditionally accepted, except as authorized by subsection (7) of this section. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in the evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life-cycle costs.

(7) The contract shall be awarded with reasonable promptness by written notice to the low responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event that all bids for a construction project exceed available funds, as certified by the appropriate fiscal officer, the responsible officer is authorized, in situations where time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the low responsible bidder in order to bring the bid within the amount of available funds, except that the functional specifications integral to completion of the project may not be reduced in scope, taking into account the project plan, design, and specifications and quality of materials.



# 24-92-103.5 Invitation for Best Value Bids

This is still an IFB and once the selection is complete, is contracted as a Design/Bid/Build

## **24-92-103.5 (2022). Construction of public projects - invitation for best value bids.**

- (1) All construction contracts for public projects that do not receive federal moneys may be awarded through competitive sealed best value bidding pursuant to this section.
- (2) An invitation for bids under competitive sealed best value bidding shall be made in the same manner as provided in section 24-92-103 (2), (3), and (4); except that adequate public notice of the invitation for bids shall be given at least thirty days prior to the date set forth therein for the opening of bids.
- (3) The invitation for competitive sealed best value bids must identify the evaluation factors upon which the award will be made. When making the award determination, the responsible



# 24-92-103.5 Invitation for Best Value Bids

Note that the qualifications and scoresheets must be made public.

(5) An invitation for best value bids issued pursuant to this section must otherwise comply with the requirements of section 24-103-203 concerning requests for proposals for nonconstruction contracts to the extent that such requirements do not conflict with this section. In the case of a conflict, the provisions of this section supersede.

(6) To ensure that the best value bidding process pursuant to this section is open and transparent to the greatest possible degree;

(a) After selection of most qualified participants, all statements of qualification shall be made available to the public; and

(b) After the contract has been awarded, all requests for proposals shall be made public with the score sheets used to make the bid selection, omitting any confidential corporate information.

# 24-92-103.7 Disclosure

Posting the rationale for an IFB or RFP-CSVB is statutorily required!

The executive director of an agency of government or president of an institution of higher education that enters into a construction contract for a public project pursuant to this article that is not funded in any part with federal moneys shall disclose to the public the agency of government's rationale or the institution's rationale for selecting the competitive sealed bidding process pursuant to section 24-92-103 or the competitive sealed best value bidding process pursuant to section 24-92-103.5 for the public project. The agency or institution shall post the disclosure on its web site.

**WOW!**

# 24-92-104 Exemptions

(1) The provisions of sections 24-92-103 (IFB) and 24-92-103.5 (CSBV) do not apply to:

(a) A public project for which the agency of government receives no bids or for which all bids have been rejected; or

(b) A situation for which the responsible officer determines it is necessary to make emergency procurements or contracts because there exists a threat to public health, welfare, or safety under emergency conditions, but such emergency procurements or contracts shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(c) Contracts for architectural, engineering, land surveying, and landscape architectural services as provided for in part 14 of article 30 of this title.

NOTE: The requirement to post solicitation rationale is not exempted by the above language



# 24-92-104 Exemptions

(3) This article shall not apply to any county, municipality, school district, special district, or political subdivision of the state and shall not be construed to affect any requirements which may otherwise apply to such entities for awarding contracts for public projects, except as provided in section 24-92-109.

Local jurisdictions are exempt from Article 24-92 except the Section related to Cost Estimates.



# Prequalification

Contractors may be prequalified:

**24-92-107 (2022). Prequalification of contractors**

Prospective contractors may be prequalified for particular types of construction, and the method of compiling a list of and soliciting from such potential contractors shall be pursuant to rules.

OSA Policies and Procedures *Best Practices: Design Professionals and Construction Solicitations* provides steps on to conduct a contractor prequalification as described in a GMP delivery method.





# COST REIMBURSEMENT CONTRACTS

## 24-92-108 (2022). Types of contracts

Subject to the limitations of this section, any type of contract which will promote the best interests of the agency of government may be used; except that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the agency of government than any other type of contract or that it is impracticable to obtain the construction required unless the cost-reimbursement contract is used.

Not Allowed:

With a cost-plus-percentage-of-cost contract, the contractor receives payment for all costs incurred and a percentage of these costs.



# COST REIMBURSEMENT CONTRACTS

## Cost-Reimbursement Types:

- Cost-Sharing: The contractor agrees to assume part of the contract expenses in a cost-sharing contract. The state reimburses the contractor for an agreed-upon portion of the expenses. The contractor receives no additional fee.
- Cost-Plus-Fixed-Fee: The contractor receives reimbursement plus a predetermined fee that is negotiated with the contract. This fee will not change based on the actual contract cost.
- Cost-Plus-Incentive-Fee: The contractor receives reimbursement plus an adjustable fee. The initial contract establishes targets for cost and fee, as well as a minimum and maximum fee and a formula for fee adjustment. When the construction is complete the State would pay the contractor based on this formula. It's in the contractor's best interest to keep costs as low as possible — the less money spent, the more money the contractor receives as profit, up to the maximum.



# 24-92-109 Agency of Government to Submit Cost Estimate

If an agency proposes to self perform work in excess of \$50k, they are required to submit a bid with the outside contractors. They must also document the accounting of their work and kept on file for 6 years and available for public inspection.



# 24-92-110 Rules and regulations

The executive director of the department of personnel shall promulgate rules and regulations which are designed to implement the provisions of this article; except that the executive director of the department of transportation shall promulgate rules and regulations relating to bridge and highway construction bidding practices including, notwithstanding any other provisions of this article 92, rules governing debarment of contractors. The rules must include provisions requiring agencies of government to keep certain public project records, even if duplicative, in accordance with generally accepted cost accounting principles and standards. In addition, the rules must include criteria to be used by a responsible procurement official in evaluating a response to an invitation for best value bids pursuant to section 24-92-103.5 (3).

OSA Does this through the SBP Policies and Procedures available on the OSA website



# 24-92-114 Prohibition of dividing work

It is unlawful for any person to divide a work of a public project into two or more separate projects for the sole purpose of evading or attempting to evade the requirements of this article.



# 24-92-115 Apprenticeship Utilization Requirements

(1)(a) Unless prohibited by applicable federal law, and except as otherwise provided in subsection (1)(b) of this section, the contract for any public works project that does not receive federal money, including a public project that will have an integrated project delivery contract pursuant to article 93 of this title 24, in the amount of one million dollars or more shall require the general contractor or other firm to which the contract is awarded to submit, at the time the mechanical, electrical, or plumbing subcontractor is put under contract, documentation to the agency of government that:

- (I) Identifies the contractors or subcontractors that will be used for all mechanical, sheet metal, fire suppression, sprinkler fitting, electrical, and plumbing work required on the project;
- (II) Certifies that all firms identified participate in apprenticeship programs registered with the United States department of labor's employment and training administration or state apprenticeship councils recognized by the United States department of labor and have a proven record of graduating apprentices...

## Statutory language that requires apprenticeship certification



# 24-92-115 Apprenticeship Utilization Requirements

(2) The documentation required pursuant to subsection (1) of this section shall be made publicly available by the contracting agency of government through its website within thirty days from when it is submitted.

Agencies are required to make each certification publically available within 30 days of receipt. (Post on a public facing website)

A waiver process is available on the OSA website



# CRS 24-92 PART 2

## Prevailing Wage for Public Projects

### **24-92-202. Contractors subject to provisions - weekly payment of employees - rules.**

(1) Except as otherwise provided in subsection (2) of this section, any contractor who is awarded a contract for a public project by an agency of government in the amount of five hundred thousand dollars or more, and any subcontractors working on the public project, shall pay their employees at weekly intervals and shall comply with the enforcement provisions established in section 24-92-209. This part 2 applies to a contract for a public project awarded pursuant to part 1 of this article 92 and to an integrated project delivery contract for a public project awarded pursuant to article 93 of this title 24. This part 2 does not apply to contracts for public projects that receive federal funding.

(2) This part 2 does not apply to the department of transportation, regardless of the amount or





# CRS 24-92 PART 2

## Highlights

24-92-203 describes the requirements for construction solicitations.

- An agency of government shall specify the general prevailing rate of the regular, holiday, and overtime wages paid and the payments on behalf of employees to the welfare, pension, vacation, apprentice training, and education funds existing in the geographic locality for each employee needed to execute the contract or work. These wages shall remain the same for the duration of the work on the public project.

24-92-204 Specifies language required in the contracts including, weekly payment, daily logs and consequences of worker non-payment



# 24-92-205 Determination of Prevailing Wage

(1) In determining the applicable prevailing wage for public projects pursuant to section 24-92-204, the director shall use appropriate wage determinations issued by the United States department of labor in accordance with the "Davis-Bacon Act", 40 U.S.C. sec. 3141, et seq., to establish the prevailing wage rates for the applicable trades or occupation for the geographic locality of the public project. The director shall keep a schedule on file in his or her office of the customary prevailing rate of wages and payments made to or on behalf of the employees, which shall be open to public inspection.

DPA selected LCPTracker as the way to stay in compliance with the requirement of maintaining the wage rates and the payments made



# 24-92-205 Determination of Prevailing Wage

(2) The director shall update the applicable prevailing wage for public projects as determined pursuant to subsection (1) of this section on or before July 1, 2022, and on or before July 1 each year thereafter.

DPA has chosen to update twice a year in lieu of the required one before July 1.



# 24-92-207 Prevailing Wage Rates - Posting

Contracts for public works projects shall contain the specific obligations of the contractor under this section including provisions regarding the posting of posters on the job site as required.

## EMPLOYEE RIGHTS

**FOR EMPLOYEES ON APPLICABLE STATE OF COLORADO CONSTRUCTION PROJECTS**

### Prevailing Wage For Public Projects

- PREVAILING WAGES**

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.
- OVERTIME**

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.
- ENFORCEMENT**



Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Prevailing wage and apprenticeship contract clauses allow contract termination and debarment of contractors from future State contracts per C.R.S. 824-109-105. A violation of C.R.S. 824-92-204 is subject to a private right of action as defined in C.R.S. 824-92-210. Enforcement of rules by the Colorado Department of Labor & Employment are defined in C.R.S. 824-92-209.
- APPRENTICES**

Apprentice rates apply only to apprentices properly registered under approved State apprenticeship programs for projects in the amount of \$1M dollars or more. This pertains to the contractors or subcontractors that will be used for all mechanical, sheet metal, fire suppression, sprinkler fitting, electrical and plumbing work required on the project. The provisions of this requirement do not apply to the Colorado Department of Transportation, regardless of the amount of funding source of the public project. The provisions of this requirement do not apply to any county, city and county, city, municipality, town, school district, special district, or any other political subdivision of the state.
- PROPER PAY**

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

**Insert by Agency/Institution Division if applicable**  
**Contact phone number • Contact email address**

Employees can contact the Division of Labor Standards and Statistics by calling 303-318-8441 (888-390-7936 toll free) or by emailing [cdle\\_labor\\_standards@state.co.us](mailto:cdle_labor_standards@state.co.us).



**COLORADO**  
Office of the State Architect  
Department of Personnel & Administration



# 24-92-208 Apprenticeship Contribution Rate

Labor compliance isn't just about the prevailing wage...

(1) (a) The director shall establish a separate apprenticeship contribution rate under the prevailing wage and fringe benefit requirements of this part 2.

If State prevailing wage is required, so are the apprenticeship contribution rates

(d) The applicable apprenticeship contribution rate specified in the competitive solicitation and in the contract for a public project pursuant to this subsection (1) shall remain the same for the duration of the work on the public project.

# 24-92-209 Enforcement - rules

This section describes the complaint process and names the Department of Labor and Employment as responsible for complaints if they cannot be resolved by the agency.



# ARTICLE 93. CONSTRUCTION CONTRACTS

An Act

Article 91 focuses on standard contract language, Article 93 short title says it all...

**24-93-101 (2022). Short title**

This article shall be known and may be cited as the "Integrated Delivery Method for Public Projects Act".

# 24-93-103 Definitions

(1) "Agency" means any agency, department, division, board, bureau, commission, institution, or other agency of the executive, legislative, or judicial branch of state government that is a budgetary unit exercising construction contracting authority or discretion.

(2) "Contract" means any agreement for designing, building, altering, repairing, improving, demolishing, operating, maintaining, or financing a public project. For purposes of this article, "contract" includes capital construction as defined in section 24-30-1301 (2).

(3) "Cost-reimbursement contract" means a contract under which a participating entity is reimbursed for costs that are allowable and that is allocable in accordance with the contract terms and provisions of this article.

(4) "Integrated project delivery" or "IPD" means 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.

(5) "IPD contract" means a contract using an integrated project delivery method.

This article is specific to the State





# Public Project defined again!

(7) "Public project" 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 the public health, welfare, or safety and any operation or maintenance programs for the operation and upkeep of such projects.

Note that this definition does not qualify with a dollar amount or have any exclusions.



# 24-93-104 ... Effect of Other Laws

- (1) Notwithstanding any other provision of law, any agency may award an IPD contract for a public project in accordance with the provisions of this article upon the determination by such agency that integrated project delivery represents a timely or cost-effective alternative for a public project.
- (2) Nothing in this article is intended to affect or limit the applicability of article 91 or 92 of this title to the extent the provisions of said articles are not inconsistent with the provisions of this article. To the extent there is a conflict between the provisions of article 91 or 92 of this title and this article, the provisions of this article shall control.
- (3) Nothing in this article shall be construed as exempting any agency or participating entity from applicable federal, state, or local laws, rules, resolutions, or ordinances governing labor relations, professional licensing, public contracting, or other related laws, except to the extent that an exemption is granted under such legal authority or created by necessary implication from such legal authority.

# 24-93-105 Prequalification

It is a common misconception that qualifications must be posted for the requisite 14 or 30 days before the qualifications can be received... this language disproves that notion...

(1) An agency may prequalify participating entities for IPD contracts by public notice of its request for qualifications prior to the date set forth in the notice

**WOW!**

# 24-93-106 RFP's

RFP's at a minimum must evaluate:

- (a) Price;
- (b) Design and technical approach to the project;
- (c) Past performance and experience;
- (d) Project management capabilities, including financial resources, equipment, management personnel, project schedule, and management plan; and
- (e) Craft labor capabilities, including adequacy of craft labor supply and access to federal or state-approved apprenticeship programs, if available.

The agency may expand the evaluation beyond these for elements



# Supplemental Provisions

## 24-93-107 (2022). Supplemental provisions

The executive director of the department of personnel may establish supplemental provisions that are designed to implement the provisions of this article; except that the executive director of the department of transportation may establish supplemental provisions relating to bridge and highway construction contract procurement practices, including, notwithstanding any other provision of this article, provisions governing debarment of participating entities.

OSA has provided supplemental provisions in the *Basic Steps Checklist for Integrated Project Delivery Methods (SBP-BSC-GMP)*



# 24-93-108 Types of Contracts

Once again the prohibition of a Cost-plus-percentage contract is prohibited, and limitations are given on the Cost-Reimbursement contract.

Subject to the requirements of this section, any agency making use of the provisions of this article may award any type of contract that will promote the best interests of the agency; except that the use of a cost-plus-a-percentage-of-cost contract under this article is prohibited. An agency may award a cost-reimbursement contract only when a determination is made in writing that such contract is either likely to be less costly to the agency than any other type of contract or that it is impracticable to obtain the required construction or other services authorized under this article unless the cost-reimbursement contract is used. Operation and maintenance elements may be procured on a cost-reimbursement basis under or in connection with an IPD contract.



# 24-93-109 Disclosure

The executive director of an agency or president of an institution of higher education that enters into a construction contract for a public project pursuant to this article shall disclose to the public the agency's rationale or the institution's rationale for selecting the integrated project delivery contracting process pursuant to this article for the public project. The agency or institution shall post the disclosure on its web site.

**WOW!**

# ARTICLE 26. CONTRACTOR'S BONDS AND LIEN ON FUNDS

An Act



# 38-26-105 Public works contractor's bond - conditions - applicability - definitions

This article includes requirements for local jurisdictions. The section that applies to the state is as follows:

(2) Notwithstanding the monetary qualification provided in subsection (1) of this section, the state, or the governing body of any county, municipality, school district, or other political subdivision determining it to be in the best interest of this state, or any county, municipality, school district, or other political subdivision may require the execution of a penal bond for any contract of fifty thousand dollars or less.

# 38-26-106 Contractor executes bond - applicability

(2) A bond or other acceptable surety shall be duly executed ...shall provide that, if the contractor or his or her subcontractor fails to duly pay for any labor, materials, team hire, sustenance, provisions, provender, or other supplies used or consumed by such contractor or his or her subcontractor in performance of the work contracted to be done or fails to pay any person who supplies laborers, rental machinery, tools, or equipment, all amounts due as the result of the use of such laborers, machinery, tools, or equipment, in the prosecution of the work, the surety or other qualified financial institution will pay the same ... with interest at the rate of eight percent per annum. ... A certified or cashier's check or a bank money order made payable to the treasurer of the state of Colorado or to the treasurer or other officer designated by the governing body of the contracting local government may be accepted in lieu of a bond or other acceptable surety.



# 38-26-106 Contractor executes bond - applicability

(3) This section applies to:

(a) A contractor who is awarded a contract for more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation, or other public works for any county, city and county, municipality, school district, or other political subdivision of the state;

(b) A contractor who is awarded a contract for more than one hundred fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation, or other public works for this state; and

(c) All contracts for more than one hundred fifty thousand dollars awarded by any county, city and county, municipality, school district, or other political subdivision of the state to a private entity for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation, or other public works that is situated or located on publicly owned property using any public or private money or public or private financing.

# 38-26-107 Supplier may file statement - notice - withholding funds

## Commonly referred to as Final Settlement

(1) Any person, as defined in section 2-4-401 (8), C.R.S., that has furnished labor, materials, sustenance, or other supplies used or consumed by a contractor or... subcontractor in...the performance of the work ... or that supplies laborers, rental machinery, tools, or equipment ...whose claim...has not been paid by the...at any time up to and including the time of final settlement...file with the...contracting body...a verified statement of the amount due...If the amount of the contract...exceeds one hundred fifty thousand dollars, the...contracting body...shall, no later than ten days before the final settlement is made, publish a notice of the final settlement at least twice in a newspaper of general circulation in any county where the work was contracted for or performed or in an electronic medium approved by the executive director of the department of personnel. It is unlawful for any person to divide a public works contract into two or more separate contracts for the sole purpose of evading or attempting to evade the requirements of this subsection (1).



# Questions?

Please send to:

[tana.lane@state.co.us](mailto:tana.lane@state.co.us)

Manager of State Buildings Program

