



Legislative
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Nonpartisan Services for Colorado's Legislature

SB 19-196

FISCAL NOTE

Drafting Number:	LLS 19-0341	Date:	March 20, 2019
Prime Sponsors:	Sen. Lee; Danielson	Bill Status:	Senate SVMA
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Bill Topic: COLORADO QUALITY APPRENTICESHIP TRAINING ACT OF 2019

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill modifies the procurement requirements for public projects. The bill will increase state expenditures beginning in FY 2019-20.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

The bill modifies the procurement requirements for public projects. The bill limits the use of an invitation for bids to construction contracts that are \$1.0 million or less. Construction contracts for over \$1.0 million must be awarded through competitive sealed best value bidding or through integrated project delivery, unless prohibited by federal law.

Competitive sealed best value bids. The bill adds several factors to the current evaluation factors for competitive sealed best value bids for both the bidder and the bidder's subcontractors. The factors include an evaluation of:

- the craft labor staffing plan, including the use of registered apprentices and minority-owned businesses;
- the anticipated use of apprentice programs; and
- the safety plan and record.

Disclosures. Contractors must disclose all subcontractor use for mechanical, electrical, and plumbing requirements. Also, any contractor on a public project must disclose the top five subcontractor disciplines it plans to use to fulfill the contract.

Integrated project delivery contracts. Unless prohibited by federal law, integrated project delivery contracts must include certification that the general contractor and all subcontractors participate in registered apprenticeship programs. This requirement can be waived; however, the waiver and its supporting rationale must be made public.

In addition, the bill adds several factors for evaluation of integrated project delivery contracts. Those factors include:

- the experience, past performance, and expertise of the bidder and the bidder's primary subcontractors;
- a project management plan;
- the bidder's craft labor capabilities;
- a staffing plan, including apprenticeship programs;
- the safety plan and safety record;
- job standards;
- the estimated use of registered apprentices;
- the estimated use of minority-owned businesses; and
- the use of domestic produced iron, steel, and related manufactured goods.

Background

State law governs contracting for construction projects costing more than \$500,000. Public projects are defined as any construction, alteration, repair, demolition, or improvement of any land, building, structure, road, 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 maintenance programs for the upkeep of such projects.

There are three types of bids used to solicit services for large construction projects:

- *Competitive sealed bids, low responsible bidder.* Contracts are awarded to the entity that submits the lowest bid in compliance with listed requirements and within the plans and specifications for a project;
- *Competitive sealed bids, best value.* Best value bids allow the entity soliciting bids to consider factors other than cost when awarding a bid, such as a vendor's employment practices or reliability. After a contract is awarded, an agency must publicize the information it used to make the bid selection; and
- *Integrated project delivery (IPD) or design-bid-build contracting.* The IPD approach allows for a contractual agreement between an agency and a single entity for all of the services required for a public project, such as demolition, design, and construction. An agency may use requests for qualifications to pre-qualify bidders for a project. The entity selecting this method of bidding must publicly disclose its rationale for selecting this project delivery approach.

State Expenditures

The bill may increase state expenditures beginning in FY 2019-20 for state agencies and institutes of higher education that contract for construction projects that are anticipated to cost more than \$1.0 million. Factors that may increase expenditures include:

- fewer available project contractors;
- higher cost bids;
- project award delays;
- increased construction and overhead costs;
- increased workload for contract solicitation and management; and
- updating rules, technical guidance, and existing documentation for public projects.

The IPD approach allows for a contractual agreement between an agency and a single entity for all of the services required, such as demolition, design, and construction. The benefit of such an approach is that one general contractor creates a bid package, with subcontractors selected post-award, which lowers cost. Approval of subcontractors in advance may increase overall project costs.

The fiscal note assumes that should a change in funding be required for any agency, it will be addressed through the annual budget process; however funding from the State Highway Fund is allocated by the Transportation Commission, which will adjust any funds that result from an increase in Department of Transportation expenditures.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

All State Agencies