

Keep Jobs in Colorado Act (KJICA)

The 80% Colorado Labor Requirement §8-17-101, et. seq., C.R.S.

The Keep Jobs in Colorado Act requires that Colorado labor be employed to perform at least 80% of the work on a public works project. The law applies to new contracts for which invitations for bids or the request for proposals were issued on or after January 1, 2014. For more information, visit the [Keep Jobs in Colorado Act website](#).

Coverage:

§8-17-101(1) & § 8-17-107

Applies to contractors who are working on public works projects funded in whole or in part by counties, school districts, or municipalities of the State of Colorado, and the project is undertaken in the State of Colorado.

The Division does not have authority to assist you if:

1. The project is not a public works project.
2. The public works project is financed with any amount of federal money.
3. A waiver of the 80% Colorado labor requirement was granted by the governmental body overseeing the public works project.
4. The public works project was bid on and/or completed before January 1, 2014.
5. The public works project was completed more than 90 days prior to filing the complaint.

Core Requirement:

§8-17-101(1)

Whenever any public works project financed in whole or in part by funds of the state, counties, school districts, or municipalities of the State of Colorado are undertaken in this state, Colorado labor shall be employed to perform at least 80% of the work.

Compliance:

§8-17-105 & § 8-17-101(2)(a)

In order for a contractor to be found in compliance, 80% of total taxable wages plus fringe benefits must be paid to workers who satisfy the definition of Colorado labor and are employed directly on the site of the public works project.

Definitions:

§8-17-101(2)(a)-(b), § 8-19-102(2), § 24-92-102(8)

"Public works project" shall have the same meaning as "public project" as defined in § 8-19-102(2). In accordance with § 8-19-102(2), C.R.S., and § 24-92-102(8), C.R.S., "public works project" is defined as:

- i. any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvements 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, including any such project awarded by any county, including any home rule county, municipality, as defined in § 31-1-101(6), C.R.S., school district, special district, or other political subdivision of the state for which appropriation or expenditures of moneys in the aggregate fiscal year maybe reasonably expected to exceed \$500,000.

- ii. any project under the supervision of the Colorado Department of Transportation (CDOT) for which appropriation or expenditures of moneys in the aggregate fiscal year may be reasonably expected to exceed \$150,000.
- iii. any highway or bridge construction, whether undertaken by the Department of Transportation or by any political subdivision of the state of Colorado for which appropriation or expenditures of moneys in the aggregate fiscal year may be reasonably expected to exceed \$50,000.
- iv. any project for construction entered into by a governmental body of the executive branch of Colorado which is subject to the "Procurement Code." (§§ 24-101-101 through 24-112-101, C.R.S.).

"Colorado labor" means any person who is a resident of the state of Colorado, at the time of the public works project, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification.

- i. A resident of the state of Colorado is a person who can provide a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last thirty days.

The terms "site of the project" and "worker" are not defined in the law. Davis Bacon definitions are utilized for each of the terms.

"Site of the project" is the physical place or places where the building or work called for in the contract will remain; and any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project. It does not include permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular public works contract or project.

"Worker" is defined pursuant to the Davis Bacon Act, 29 C.F.R. § 5.2. Workers are those whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual.

Contract Provision:

§8-17-102

All contracts let for public works financed in whole or in part by funds of the state, counties, school districts, or municipalities of the State of Colorado shall contain provision for the preference in employment of Colorado labor.

Contractor Obligations:

§8-17-104(1) & § 8-17-105

In the event of an investigation, the contractor shall provide the following documentation to the Division within 14 days of a request, unless additional time is granted at the Division's discretion:

- i. Total taxable wages plus fringe benefits for each covered worker on the public works project;
AND
- ii. The required residency documentation for each covered worker on the public works project.

Upon request by the contractor, each subcontractor on the public works project shall provide the required documentation listed above to the contractor. Each subcontractor shall retain the required documentation for at least 180 days after the completion of the entire public works project.

Waiver of the 80% Colorado Labor Requirement:

§8-17-101(1)

The governmental body financing a public works project shall waive the 80% Colorado labor requirement if there is reasonable evidence to demonstrate insufficient Colorado labor to perform the work of the project and if compliance with the law would create an undue burden that would substantially prevent a project from proceeding to completion.

A governmental body that allows a waiver shall post notice of the waiver and a justification for the waiver on its website. A governmental body shall not impose contractual damages on a contractor for delay in work due to the waiver process.

Complaints:

A person who alleges a potential violation may file a written complaint with the Division, using the Division-approved form. Anonymous complaints will not be accepted. The complaint shall include the complainant's signature, contact information, and basis for the complaint. Failure to include this information may result in administrative dismissal of the complaint. Complaint instructions and the form are available at the [Keep Jobs in Colorado website](#).

Residency Documentation:

§8-17-101(2)(a)

In order for a worker to satisfy the residency requirement, the worker must provide documentation that he or she has resided in Colorado for the last 30 days prior to his or her first date of work on the public works project. Workers who establish residency during the course of the project may also qualify pursuant to the Division's determination.

Examples of acceptable residency documentation include a valid Colorado driver's license, or a valid Colorado state-issued photo identification.

Examples of potentially acceptable residency documentation may include, but not be limited to, Colorado voter registration, utility bill, rental lease, state income tax returns, ownership of residential real property, and additional documentation which establishes proof of residency in the State of Colorado.

Penalties:

§8-17-104(2)(a)-(d)

After conducting an investigation of a complaint, if the Division determines that a contractor has knowingly violated the requirements of the law, the Division shall impose a fine on such contractor as follows:

- i. First violation: \$5,000 or an amount equal to 1% of the cost of the contract, whichever is less;
- ii. Second violation: \$10,000 or an amount equal to 1% of the cost of the contract, whichever is less;
- iii. Third violation or any thereafter: \$25,000 or an amount equal to 1% of the cost of the contract, whichever is less.

If the Division has imposed three fines on a contractor within 5 years and finds the violations to be egregious, the Division may initiate the process to debar the contractor pursuant to § 24-109-105, C.R.S.

The Division may dismiss a complaint at its discretion if, after conducting an investigation, the Division determines that the circumstances that led to the complaint were the result of a minor paperwork violation.

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