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EXPLANATION: CONSTRUCTION CONTRACTS BIDDING AND AWARDS

In *Lakeside Roofing Co. v. Nixon*, 2012 WL 709276 (March 5, 2012), the U.S. District Court for the Eastern District of Missouri found the state's excessive unemployment statute unconstitutional. MSBA is removing all references to this law.

MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.					
X	Board Secretary	X	Business Office		Coaches/Sponsors
	Facility Maintenance		Food Service		Gifted
	Human Resources		Principals		Library/Media Center
	Health Services		Counselor		Special Education
	Transportation		Public Info/Communications		Technology

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CONSTRUCTION CONTRACTS BIDDING AND AWARDS

The Camdenton R-III School District seeks to provide and maintain safe facilities capable of supporting the educational mission of the district, while at the same time utilizing public funds prudently.

Definitions

For the purposes of this policy, the following definitions apply:

Construction – Building a new facility or improving, enlarging, altering, painting, decorating, excavating, demolishing or performing major repairs on an existing facility.

Facility – A building, structure, stadium, field or parking lot, or part thereof, such as a roof or heating or air conditioning system.

Major Repair – Replacement or repair of existing facilities when the size, type or extent of the facility is changed or increased.

Project Planning

Construction projects will be planned to cause the least disruption to the district's educational program and to ensure the safest possible environment for students, staff and the public. District staff will rely on the district's long-term facilities plan when making decisions regarding construction and major repair of district facilities. The district is committed to providing accessible facilities. All projects will comply with laws regarding accommodations for individuals with disabilities, and the district will consider recommended accommodations as well.

Before bidding a project, the district will determine whether engineering, architectural or land surveying services are required and will select those services in accordance with law and Board policy. The superintendent or designee is authorized to contact legal counsel for assistance in drafting or reviewing proposed contract language.

The district may enter into a union-only project labor agreement if the district 1) is utilizing no more than 50 percent of state funds on the construction project, 2) conducts an impact analysis, 3) publishes the results of that analysis and the reasons for requiring such an agreement, and 4) holds a public hearing, as required by law. The district will publish its determination on whether to require a union-only project labor agreement within 30 days of the public hearing.

Purchasing Materials

All materials purchased either directly by the district or indirectly by the contractor or subcontractors must comply with legal requirements, including the purchasing preferences required by law.

Bidding

All construction projects that may exceed an expenditure of \$15,000 shall be advertised in a newspaper of general circulation, in accordance with law, and may also be advertised in business, trade or minority newspapers or other modes of communication such as the district's website or other websites. Projects will not be split or artificially divided for the purpose of avoiding these competitive bidding requirements.

Prior to advertising for bids, the superintendent or designee and the architect or construction manager, if applicable, will draft detailed bid specifications for the construction project. Bid specifications will include all legal mandates including, but not limited to, requiring:

1. Compliance with prevailing wage requirements.
2. Laborers to receive mandatory safety training.
3. ~~Laborers to be Missouri residents or residents of approved states when excessive unemployment restrictions apply.~~
4. ~~Contractors bidding on a contract for services in excess of \$5,000 to provide a sworn affidavit and supporting documentation that affirms the contractor's participation in a federal work authorization program, such as E-Verify, and that the bidder will not employ illegal workers for the project. A contractor is only required to provide this affidavit to the district annually.~~
54. A performance bond if the project is estimated to exceed \$25,000.

The Board of Education may also require a bidder's bond in an amount determined by the estimated cost of the project.

In accordance with the Sunshine Law and Board policy, the Board will discuss bid specifications in closed session, and the content of bid specifications will remain confidential until they are officially approved by the Board or published for bidding. Likewise, sealed bids and related documents will be closed until the bids are opened.

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Sealed bids may be opened at a public meeting of the Board of Education or by administrative personnel. In either case, all bids shall be publicly opened, and the date, time and place of the bid opening shall be included in the bid notice. Notice of the bid opening will also be posted for the public.

The district will not entertain bids that are not made in accordance with the specifications furnished by the district. The district reserves the right to waive minor technical defects in a bid, reject any or all bids, reject any part of a bid and to advertise for new bids. If the scope of the project changes substantially, the district will rebid the project.

The Board will determine which responsible bidder has the lowest bid and direct the superintendent or designee to negotiate a satisfactory contract prior to final approval of the bid.

Contracting

The superintendent or designee is authorized to consult legal counsel regarding contract language. Any contract the district enters into must include all legally required provisions. The contract must be approved by an affirmative vote of a majority of the whole Board to be binding.

Payment

When applicable, the architect or construction manager shall approve all payment requests from contractors prior to submission to the Board of Education for payment. The superintendent or designee will examine all work performed on projects where no architects or construction managers are used.

Pursuant to prevailing wage laws, an Affidavit of Compliance must be filed with the district before payment will be approved. The district will withhold and retain any amounts due as a result of any violation of the prevailing wage law prior to making final payment with any contractor.

The district will make prompt payment on any invoices received, after thorough inspection of the work provided and verification that all legal requirements have been met. However, in accordance with law, the district may retain a portion of the payment until after the entire project has been completed. The Board must approve the payment of all bills by an affirmative vote of a majority of the whole Board.

Construction Projects Conducted on Behalf of the District

The district appreciates business and community support of its educational mission and welcomes both financial and physical contributions to the district. It is important for taxpayers and patrons to understand that various laws apply to projects conducted on behalf of the district, even if not directly

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funded by the district. Further, because the district facilities are used by a large number of people, it is essential that all construction projects adhere to the highest level of quality and safety. The district and the donor must ensure compliance with all applicable laws before a construction project is conducted on school grounds, regardless of the source of the labor or method of payment.

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Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.

Adopted: 08/08/1994

Revised: 12/13/1999; 06/13/2005; 01/10/2011;

Cross Refs: BBFA, Board Member Conflict of Interest and Financial Disclosure
DJF, Purchasing
DK, Payment Process

Legal Refs: §§ 34.057, .059, .216, 107.170, 162.301, 177.086, 285.530, 290.210 - .340, ~~.550-~~
~~.580~~, 292.675, 432.070 - .080, 493.010 - .140, 610.021, RSMo.
8 C.S.R. 30-3.010 - .060

Camdenton R-III School District, Camdenton, Missouri