

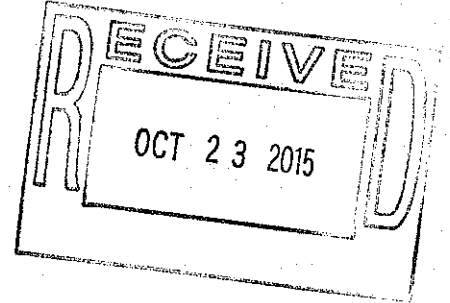


**INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL AND TRANSPORTATION WORKERS'
LOCAL UNION NO. 36**

3605 E. Kearney, Springfield, MO 65803
Tel: (417) 865-4210 Fax: (417) 865-1172

October 23, 2015

Dr. John Jungmann, Superintendent
1359 E. St. Louis Street
Springfield, MO 65802



RE: Certified Payroll Records of Connelly Mechanical for the new Sherwood Elementary School

Dear Dr. Jungmann:

I am a Business Representative with SMART Local 36, Sheet Metal Workers International Association, AFL-CIO. Local 36 is monitoring compliance with the Missouri Prevailing Wage Law by contractors and public bodies. To this end, on behalf of Local 36, please provide to me copies of the certified weekly payroll records submitted to you by Connelly Mechanical for all work performed by Connelly Mechanical and its employees at the above named project.

Under the Missouri Prevailing Wage Act, the contractor and each subcontractor or the officer of the public body in charge of the public works project, is required to keep an accurate record showing the names and occupation of all workmen employed by them in connection with the public works also showing the actual wages paid to each workmen (certified payroll records). See the Missouri Prevailing Wage Act, Section 290.290, R.S. Mo.

Under the rules of the Department of Labor and Industrial Relations, contractors are required to submit certified copies of their current payrolls to the contracting public body each month. The public body, upon receipt of these payrolls on the public works project, is required to keep these payroll records on file for a period of one year from the date of submission of the final payrolls by the contractor. These records must set out accurately and completely, the name and address of each worker, the class or type of work, the rate of pay, daily and weekly number of hours worked for each class and type of work performed by each worker. See Rule of department of Labor and Industrial Relations, Division 30, Chapter 3, 8 CSR 30-3.010 (8).

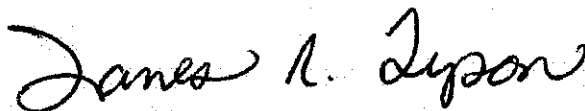
Under the Missouri Sunshine Act, Section 610.023, R.S. Mo. (1986), public governmental bodies are required to make available for inspection and copying by the public body's public records. The Sunshine Act also requires the custodian of public records to act upon each request for access to public records as soon as possible, but in no event later than the third business day following the date the request is received.

The Attorney General for the State of Missouri has determined that the certified payroll records of public works projects retained by public governmental bodies must be made available for inspection and copying pursuant to the Missouri Sunshine Act, Section 610.023. See Opinion of the Attorney General, No. 89-89, Cantrell, June 12, 1989.

In short Missouri law clearly require contractors, subcontractors and public bodies to maintain certified payroll records of public works projects and to make those records available for inspection and copying by the general public. Therefore, we ask that you handle this request as quickly as possible, and we look forward to hearing from you within three days as the law provides.

I ask that you give this matter your immediate attention. I understand that there may be a fee for this, but I feel that the release of the records will benefit the general public and therefore there should be no charge. If there will be a fee, please inform me before you fill the request.

Very truly yours,



James R. Tyson



Helping today's kids fill tomorrow's promise.

John E. Jungmann, Ed.D.
Superintendent

October 27, 2015

Mr. James R. Tyson
International Association of Sheet Metal, Air, Rail
and Transportation Workers' Local Union No. 38
3605 E. Kearney
Springfield, MO 65803

Dear Mr. Tyson:

This letter will respond to your letter dated October 23, 2015. Your letter requests certain public records pursuant to the Missouri Sunshine Statute. More specifically, your letter requests the following:

“...copies of the certified payroll records submitted to you Connelly Mechanical and its employees at the above names project (Sherwood Elementary School).”

Initially, in order to be subject to disclosure under the Missouri Sunshine Law, documents must constitute “public records” of the “public governmental body.” In this case, the “public governmental body” is the Board of Education for the School District of Springfield, R-12. The term “public records” is defined in Section 610.010(6) RSMo. as follows:

(6) “Public record” -- *any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service paid for in whole or in part by public funds; including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term “public record” shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting.*”

Thus, the term "public record" includes only those records, either written or electronic, that are already in existence that the public governmental body is "holding" or "retaining" in its possession. *Jones v Jackson County Circuit Court*, 162 S.W.3d 53, 59 (Mo App 2005).

The District will not provide you with public documents which may be encompassed by your request that are closed records. Included in these closed public documents are the following:

- The minutes of closed meetings of the Board of Education which were closed pursuant to Section 610.021 RSMo, and not otherwise required to be revealed;
- Privileged communications between the Board of Education or its representatives and its attorneys pursuant to Section 610.021(1) RSMo;
- Records involving the hiring, firing, disciplining or promoting of particular employees by the Board of Education when personal information about the employee is discussed or recorded, except those public records which have been made public pursuant to Section 610.021(3) RSMo;
- Records involving software codes for electronic data processing and documentation thereof pursuant to Section 610.021(10) RSMo;
- Documents related to a negotiated contract until a contract is executed, pursuant to Section 610.021(12) RSMo;
- Documents which constitute individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, pursuant to Section 610.021(13) RSMo;
- Records which are protected from disclosure by law pursuant to Section 610.021(14) RSMo;
- Confidential or privileged communications between a public governmental body and its auditors, including all auditor work product pursuant to Section 610.021(17) RSMo;
- Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of the District pursuant to Section 610.021(20) RSMo;
- Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between the Board of Education and a person or entity doing business with the Board pursuant to Section 610.021(21) RSMo.

With this explanation in mind, the Board responds as follows to your request:

Your request is approved by the District. The documents you requested will be provided to you within 5-7 business days.

Thank you for your request.

Sincerely,



Kathy L. Looten
Executive Office Liaison/Records Custodian

cc: Ransom Ellis, III

attachments