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LEGAL UPDATE

January 26, 2022

To: Superintendents/Presidents/Chancellors, Member Community
College Districts

From: Loren W. Soukup *LS*
Senior Associate General Counsel

Subject: Anti-Bias Training is Considered a Professional Service/Special
Service and Exempt from the Competitive Bidding Requirements
Memo No. 04-2022(CC)

On December 15, 2021, the California Court of Appeal, Second District, issued a decision in *Fair Education Santa Barbara v. Santa Barbara Unified School District et al.*¹ The Court determined that the school district’s contract for anti-bias training was considered “professional services” under Public Contract Code section 20111² and “special services” under Government Code section 53060 and therefore, was exempt from the competitive bidding requirements.

Public Contract Code section 20651 requires that the “governing board of any community college district ... shall let any contracts involving an expenditure of more than fifty thousand dollars (\$50,000)” for the purchase of equipment, materials, supplies, certain repairs, or *services*, “to the lowest responsible bidder ... or else reject all bids.” These bidding requirements “shall not apply to *professional services* or advice.” (*Id.* at subd. (c), italics added.) In addition, Government Code section 53060 permits a legislative body of any public corporation or district to “contract with and employ any persons for the furnishing [of] ... special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if such persons are specially trained and experienced and competent to perform the special services required.”

In determining whether the anti-bias training fell within either of these two bidding exemptions, the Court looked at the nature of the services, the necessary qualifications required of a person furnishing the services, and the availability of the service from public sources. The Court found that the anti-bias training

¹ 72 Cal.App.5th 884

² Public Contract Code section 20651 for community college districts



facilitators has specialized training, knowledge, and skills that met the school district’s specific needs for training staff, students and parents. In addition, many of the facilitators were former educators who held a bachelor’s degree or other advanced degrees and all of the facilitators were required to undergo at least 60 hours of training. The facilitators were required to live locally and had either attended or worked in local school systems and had experience training other school districts, government entities and organizations. In light of these factors, the Court concluded that the anti-bias training fell within the definition of both “professional services” and “special services” and did not have to be competitively bid.

This decision is a good reminder that services must be competitively bid if the contract will exceed the bid limit³ unless the community college district determines that the services being provided fall within the definition of “professional services” under Public Contract Code section 20651 or “special services” under Government Code section 53060. Community college districts are encouraged to contact our office for any assistance in determining whether certain services will fall under one or both of these bidding exemptions.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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³ \$99,100 for 2022