

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**LEE'S SUMMIT LICENSE, LLC, ET AL.**

**RESPONDENTS,**

**v.  
OFFICE OF ADMINISTRATION, ET AL.**

**APPELLANTS.**

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DOCKET NUMBER WD78694

DATE: January 19, 2016

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Appeal From:

Cole County Circuit Court  
The Honorable Daniel R. Green, Judge

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Appellate Judges:

Division One: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

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Attorneys:

Amanda J. Montee and James A. Montee, St. Joseph, MO, for respondents.

Nicole M. Bock and James Leyton, Jefferson City, MO, for appellants.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**LEE'S SUMMIT LICENSE, LLC, ET AL.,**

**RESPONDENTS,**

**v.**

**OFFICE OF ADMINISTRATION, ET AL.,**

**APPELLANTS.**

No. WD78694

Cole County

Before Division One: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

The Missouri Office of Administration, Division of Purchasing & Materials Management, and Department of Revenue (collectively "State") appeal from a judgment granting a motion for judgment on the pleadings filed by Lee's Summit License, LLC and James Ryan Williams, the plaintiffs in a declaratory judgment and injunctive relief action that challenged procedures and policies used by the State to award a contract to operate a license fee office. The trial court erroneously concluded that the inclusion of a return to state provision in the State's request for proposal was unlawful.

**Judgment reversed and vacated.**

Division One holds:

1. The concept of return to state, where a vendor under contract with the state agrees to pay a portion of receipts to the state, is authorized by Chapter 34 which gives the State's commissioner of administration broad purchasing authority on behalf of the State.
2. State license fee office contracts entered into pursuant to section 136.055 are Chapter 34 State contracts. Return to state provisions are thus authorized in license fee office contracts, although an amendment to section 34.040.4 in 2015 no longer permits such provisions to be a scored evaluation criteria in determining the "lowest and best" bidder.
3. Evaluation criteria identified in requests for proposals as relevant to determining the "lowest and best" bidder for a State contract need not be expressly authorized by statute.
4. The inclusion of a return to state provision in a request for proposal to award a license fee office does not conflict with section 136.055.

Opinion by Cynthia L. Martin, Judge

January 19, 2016

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