

DRAFT FINDINGS  
BLUE MOUNTAIN COMMUNITY COLLEGE  
LOCAL CONTRACT REVIEW BOARD

This matter came before the Blue Mountain Community College Board of Education, sitting as BMCC's Local Contract Review Board, to consider proposed findings of BMCC staff for exempting a public contract from the competitive bidding requirements of ORS 279C.335(1) as allowed by ORS 279C.335(2).

The Board of Education finds as follows:

1. The project is for a series of repairs, replacements, and new systems for controls of HVAC systems at several buildings owned and operated by BMCC.

2. The projects involve five locations in the summer of 2016, two in the winter of 2016, three in the summer of 2017, and potentially two more projects at other locations at some time after the earlier projects. Some of the projects will be for repair, replacement, upgrades and modernizing existing control systems; some will involve new construction.

3. In recent years HVAC controls have changed from pneumatic to direct digital controls. These systems are far superior to preexisting technology. Such controls offer automation, better functioning, higher efficiency, and better monitoring and maintenance of building temperatures. Some of the existing systems have become archaic.

4. The new technology is complex. Putting together such systems requires advanced technical skills, experience, judgment, and knowledge. The experts who would provide such services are highly compensated professionals. However, the various vendors/manufacturers of such systems are familiar with their respective technologies, with how their products work together, and with how their products can be configured and designed to meet the needs of the particular installations.

5. It is the conclusion of the board that the costs of the projects to BMCC and to the public would be substantially reduced by asking vendors/manufacturers to propose systems that meet performance standards which BMCC will develop through its consultants, thereby saving the costs of expensive engineering and design work that would otherwise be prepared by engineering professionals retained by BMCC. The vendors will in essence do

the design work themselves by putting together systems with which they are very familiar.

6. It is found that there is no reason to believe that using requests for competitive proposals instead of invitations for competitive bids will result in favoritism or substantially diminish competition. BMCC shall set forth the general parameters for what is needed, the expected performance for the control systems, and general specifications in a fashion that will neither expressly nor by implication suggest that a particular vendor's product is desired or preferred. Vendors will compete on equal footing, and all will be driven by the desire to further their own business interests. That in turn will result in their seeking an award of a contract with BMCC on a competitive basis.

7. Moreover, it is found that there is a limited number of vendors in reasonable proximity to the various BMCC campuses involved. Vendors are located in Boise, Portland, and the Tri-Cities. With what is a limited number of reasonably available vendors, it seems most appropriate to allow each to "pitch" their designs instead of having a BMCC-retained engineer devise plans which unintentionally could cause a vendor to be eliminated because a retained engineer incorporated into his/her specifications a component that a particular vendor does not employ in its systems. It is concluded that a better way is to enable each available vendor/manufacturer to design a system that each believes will work for BMCC and for BMCC then to make the judgment call as to which vendor/manufacturer has made the best proposal.

8. There are some additional factors which ORS 279C.335(2)(b) requires consideration to the extent applicable to the given project. They are:

(a) The current construction budget for the project is \$1,568,000, in the aggregate for the bonded projects. However, the dollar amount of the project is not felt to be relevant to the conclusions stated above. Whether the project is expensive or cheap, it is felt that having vendors propose to BMCC how their respective products and components will work to meet the needs specified by BMCC would be at a substantially lesser cost to BMCC than if BMCC were to hire a design professional.

(b) We cannot make findings regarding operation costs, but will expect vendors to address that in their proposals.

(c) It is not felt that granting the exemption will in any way affect the sources of funding for the public improvement. Some of the projects will be performed using bond proceeds, and some,

particularly the latter two, may be pursued with general fund monies. Either way, requests for proposals are fully authorized by law provided that applicable laws and regulations are followed. Neither form of funding is dependent upon whether a request for proposal versus an invitation to bid is used.

(d) BMCC will be expecting vendors to address the extent to which their proposed prices can be available over time so that one proposal may potentially be used for all of the projects. This will allow BMCC to better control the effects of market conditions which may cause prices to raise as time goes on for the later projects.

(e) BMCC has a project manager that is capable and experienced in not only putting together the general specifications and expected performance standards for the installations, but also, who is capable of assisting BMCC in evaluating and judging the relative merits of every proposal which is received. BMCC also has legal counsel familiar with public contracting rules and regulations, particularly those relating to requests for proposal processes. With these consultants, BMCC can negotiate, administer, and enforce the contracts which are ultimately let for this project.

9. The BMCC board therefore directs staff, and its consultants and legal counsel, to proceed with the projects mentioned with requests for proposals, in lieu of invitations to bid, in accordance with ORS 279A, 279B, and 279C, as well as in accordance with all other applicable procurement rules and regulations.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2016.

BLUE MOUNTAIN COMMUNITY COLLEGE  
LOCAL CONTRACT REVIEW BOARD

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