

June 24, 2004

04-172

APPROVE ADOPTION OF THE REVISION TO THE
COLLEGE PUBLIC CONTRACTING RULES, INCREASING
THE FORMAL COMPETITIVE PROCESS LIMIT TO
\$100,000

PREPARED BY: Roger Cardinal, Manager, Procurement & Risk Services

FINANCIAL
RESPONSIBILITY: Wing-Kit Chung, Associate Vice President, Finance

APPROVED BY: Randy McEwen, Vice President, Administrative Services
Dr. Preston Pulliams, District President

REPORT: On November 18, 1985, in accordance with ORS 279.055 (2) the Portland Community College Board adopted Resolution #86-53 establishing the College Board of Directors as the Local Contract Review Board (LCRB) for the College. The primary function of the LCRB is the adoption of rules to govern the College's purchasing activities. At that same time the LCRB adopted the then-current Attorney General's Model Public Contract Rules and the Oregon Administrative Rules, Chapter 125, Public Contract Exemptions, as the purchasing rules for the College.

On October 24, 1991, the LCRB, per Resolution #92-40, adopted the August 1990 Attorney Generals' Model Public Contract Rules and Oregon Administrative Rules, Chapter 125, Public Contract Exemptions.

On January 21, 1993, the LCRB, per Resolution #93-81, increased the formal competitive (Bids and RFPs) limit for the purchase of goods, materials, supplies, services (including personal and professional services), and public improvements to \$25,000.

On September 17, 1998, the LCRB, per Resolution #99-020, adopted more updated and current public contracting rules. A Portland Community College specific set of revised

public contracting rules was developed and adopted, rather than continuing to utilize both the State's Administrative and Model rules. The revised rules increased the limit requiring competitive quotes from \$2,500 to \$5,000, and increased the formal competitive process (for both bid and proposal processes) limit to \$50,000.

It has been almost six (6) years since the last increase and staff now recommends revising the College's Public Contracting Rules to increase the formal competitive process limit to \$100,000. Many other local area public agencies are already at or above this limit; e.g., Tri-Met, and the Portland Housing Authority. In addition, in a separate resolution, Board Policy B 505 increases the level of procurement contracts that the Board of Directors must approve from \$50,000 to \$100,000. This resolution will synchronize the two requirements to minimize confusion.

In order to adopt this proposed revision to the College's Public Contracting Rules the Board of Directors, acting as the LCRB, must hold a public hearing. The purpose of the public hearing, which is required by ORS 279, is to take comments on the draft findings regarding adoption of the revision.

RECOMMENDATION:

That the Board, in their capacity as the LCRB and after the public hearing, finds that it is in the best interest of the College to adopt the proposed revision to the College's Public Contracting Rules increasing the formal competitive process limit to \$100,000.

Resolutions 04-158 through 04-177 were moved for approval by Director Germond and it passed unanimously.

Findings for Portland Community College Resolution 04-172:**Authority to Adopt Revised Public Contracting Rule #200.000, Public Contracts Under Certain Dollar Amounts; and Rule #300.070, Formal Selection Procedures (for Personal Services Contracting)**

The Portland Community College Board of Directors, acting in their capacity as the Local Contract Review Board (LCRB) for the College, approves and adopts the proposed revisions to the College's Public Contracting Rules based upon the following findings:

A. The Board finds that the proposed revisions do increase the potential number of **Public Contracts** exempt from competitive bidding by increasing the exemption limit for competitive bidding from contracts that do not exceed \$50,000, to those that do not exceed \$100,000 (Rule #200.000). It also will increase the limit for the requirement of a formal Request for Proposals process for **Personal Service Contracting** from \$50,000 to \$100,000 (Rule #300.70). Note: Personal Service Contracts are not considered Public Contract under ORS 279, thus the need for the separate rule and revision.

B. Pursuant to ORS 279.011(5), the Board concludes that the following findings justify the increase from \$50,000 to \$100,000:

a. Operational, budget and financial data: The formal competitive process costs from \$5,000 to \$7,000 to conduct, and adds significant time delays. The Board finds that applying the formal process to contracts (both public contracts and personal service contracts) that do not exceed \$100,000 is not cost effective and can discourage smaller, and MWESB companies from submitting formal responses, actually reducing overall competition for College contracts in many cases.

b. Public benefits. The Board finds that exempting contracts that do not exceed \$100,000 will save public funds and enable greater competition, as well as allow the College to involve more MWESB vendors in contracting activities.

c. Value engineering, specialized expertise required, technical complexity, and funding sources. The Board finds that applying these considerations to less formal processes up to \$100,000, will allow for even better utilization of them.

d. Public safety. The exemption for contracts that do not exceed \$100,000 will enable the College to more quickly correct minor safety hazards.

e. Market conditions. Increases in construction, materials, and service costs require an increase in the threshold for competitive bidding at this time.

C. Based upon this analysis, the Board concludes that the increase in the threshold for formal competitive processes from \$50,000 to \$100,000 will not encourage favoritism in public contracts, or personal service contracts, or substantially diminish competition and will result in cost savings to the College because:

a. Formal competitive processes for small contracts are not cost effective in such cases for either the College or contractors;

b. The exemption requires alternative contracting procedures, in this case the price quotation process (which requires a minimum of at least three quotes), which will ensure reasonable (if not better) competition and the best contract prices for the public. This will also help us involve more MWESB vendors in our contracting activities, as it is a College requirement that at least one (1) of the three (3) required quotes be from a certified MWESB vendor.