

EXHIBIT A

Pima Community College
Institutional Response
July 8, 2022

HIGHER LEARNING COMMISSION
INSTITUTIONAL ACTIONS COUNCIL

>> MS. MARIA GARCIA: Thank you.

>> MR. DEMION CLINCO: Dr. Hay? Did you have a question? No?

Any other questions?

Okay. Thank you very much. Great work. It's great to see a lot

of these projects coming to fruition. Okay.

>> DR. LAMATA MITCHELL: Thank you.

>> Thank you.

>> MR. DEMION CLINCO: Thank you. Next we have our update on board member statements asserting evidence about the comprehensive integrated energy management program RFP.

Mr. Silvyn, our general counsel. You have five minutes.

>> MR. JEFF SILVYN: Thank you, Mr. Chair. So let me just set the context for this.

So there was an April 19 study session, and one of the items on the study session was an update on the comprehensive integrated energy management program. That's a program where on a project rather where the specific details are still under development. The point of it would be to do a significant update to college equipment and systems that manage our buildings like heating and cooling, lighting systems, to achieve significant reductions in energy and the related utility costs and also to create updated curriculum and a living lab environment where students who are taking certain construction and building trades and building management programs would have access to college-wide information and experience.

The reason for this update is at that study session, two board members made representations that they had received evidence indicating that a representative of the vendor who received the contract had written the RFP, which if true would represent a significant problem. So I followed up on that, and the point of this

is to report back to the board about that.

So the specific information was requested. It hasn't been disclosed. Normally if you need to figure out what happened based on, well, witness one said one thing, and witness two said another, that can be difficult. In this case though we have the actual RFP document which we can look at to see whether or not there might actually be evidence to support that allegation.

So what I wanted to do is just highlight some specific elements of the RFP. What's projected on the screen here is -- I'm not going to go through the RFP, it's way too long, but what's on the screen is the scope of work that the potential vendors for the project were asked to address. Those are assessing current systems and equipment, establishing and tracking sustainability, related information, identifying and providing funding sources, implementing smart technology and data analytics, designing and implementing living labs and promoting program awareness.

That's the scope of work, the description they were asked to respond to.

In the responses they were asked to provide the information that you see up on the screen, a description of their firm and who would be involved in the project, detailed evidence of their experience and similar projects, detailed evidence of their ability to develop a sustainable program, detailed evidence of experience implementing data analytics and business intelligence platforms, detailed evidence of experience partnering with academic organizations.

What you see now is these are the selection criteria upon which the proposals were evaluated. Their market sector experience, project management and coordination approach, experience integrating systems into training programs and marketing, evaluation of the project personnel, how they planned to staff the project, their cost

proposal and their references.

The point of this is if you look at all this information, there is nothing in there that's particular to any vendor or would give one vendor an advantage over another one. In other words, the scope of the project, the information requested, and the selection criteria are all quite general and very common in the solicitations that we use and that other institutions use for comparable solicitations. And we also know that none of the companies that bid on this proposal expressed any concerns about the RFP language, that it was in any way favoring one vendor over another.

The firms that bid on this project were all large companies. They have done public bidding before and have bid on and have been awarded contracts with other public entities, so presumably should be aware that if they had a concern they could have raised it but they didn't.

The point of all this is whatever information might have been provided to board members, there is not evidence from the RFP itself that suggests in any way that any vendor influenced what the language in the RFP was in any way that might have favored one vendor over another.

One concern I know that has been raised periodically when people have said they have information but they are concerned about coming forward, and that is there is a written college policy that prohibits retaliation, that recognizes whistle blowing as a protected activity. This is an excerpt from the employee handbook that makes engaging in retaliation prohibited and warns employees that engaging in retaliatory actions can result in discipline up to and including termination.

So I just want everyone to be comfortable that the college does in fact have a written policy that protects whistle blowing.

Finally, I wanted to put out there, if someone does have evidence, whether in this particular instance or in any case where they have a concern about improper actions happening, a violation of state law, violation of policy, any concern like that, there is multiple ways that those concerns can be expressed or evidence shared. So I put my contact information up there.

There is also the Office of Dispute Resolution, has an e-mail address and phone number that they answer. Then finally, if someone is really uncomfortable, we have a third-party vendor that provides an anonymous reporting service. The phone number is listed on the slide as is the link to the website.

The way that works is someone can make a complaint or report a problem either using that phone number or the website. That will generate a report to the college. It does not disclose who they are. It does not disclose their phone number, their address, we do not

have any way to know who they are.

So if someone is really concerned, there is a truly anonymous way for individuals to provide information. We can actually communicate with them through this website. We can message them through the website so we can communicate with them, still protecting their anonymity, we don't know who it is, so we can collect evidence and do follow-up.

I just want to put that out there in case there is, like I said in this case or any other case, we have multiple ways for individuals to report information including anonymously, so hopefully that can at least resolve this particular question.

>> MR. DEMION CLINCO: Are there any questions or comments from the board? Ms. Garcia?

>> MS. MARIA GARCIA: I'd like to read a statement if you can allow me?

>> MR. DEMION CLINCO: Sure. Go ahead, Ms. Garcia.

>> MS. MARIA GARCIA: First of all, Jeff, I just want you to know that I believe that the policies that are in place are great if people follow them, including myself. But the other thing, so I'm going to read this statement and leave out some names for various reasons.

So there are well-established procedures involved in drafting RFPs that deal with procurement of goods and services. You have stated that you -- okay. Someone has stated they were solely responsible for drafting the energy management RFP.

I have to state this. As vice chancellor for finance, it is my opinion that you do not possess the qualifications to have played any role in drafting the energy management RFP. Further, you failed to involve the subject experts in our facilities department.

I have repeatedly asked for a detailed evaluation or assessment to assure the total expenditures I am being asked to approve is the best value for our taxpayer dollars. To date I have received none. If the information I have -- I have received none of the information I have requested. I should inform you that as a board member I have the right, obligation, and fiduciary responsibility to consult with experts in the field in question.

I would do this in order to independently verify that I am voting for something that will maximize the benefit to our taxpayers and eliminate the risk of loss or waste.

I am responsible to my constituents. I feel that in my best interest of my constituents I must demand that I be provided with any and all information that I request before I am asked to spend tax dollars.

You must understand that the board is responsible to approve expenditures in an open and transparent institution. I would not have to be telling you this. Whether I am in the majority or not is

My suggestion is we clearly need to have some follow-up conversation, and as I think board members already know, there certainly will be further board meetings where the subject of this project is on the agenda, and all board members will have an opportunity to receive additional information, ask whatever follow-up questions they feel appropriate.

Again, the point of all of this is to make sure that you and all board members get the information that you need so you can feel comfortable you're making a fully informed decision. We all understand as staff that's absolutely our responsibility to assist you in carrying out your responsibilities.

>> MS. MARIA GARCIA: Thank you.

>> MR. DEMION CLINCO: Any other comments from any board members?

Okay. I just will close with a comment, and I have said it before and I'm sure we will continue to talk about this, the Governing Board bylaws, Article 12, provides a detailed responsibility for board members on how to handle complaints when they come forward. It is spelled out. This is the guiding document that is ratified by this board that provides the framework for how complaints should be handled.

By not handling them in this way -- this is set up to protect the college, to protect individual board members, to limit risk. I mean, that's really what this is about is so that the institution isn't sued and that individual board members aren't sued. Because in the past, people came with complaints to board members and board members,

in at least one very well-documented case, didn't take action in an appropriate way, and there were multiple lawsuits and people resigned. It was a very detailed -- I mean, it ultimately ended up the college, was part of the reason the college ended up on academic probation from the accreditors because the board isn't following its

not an issue and should not play no role in fulfilling a board member's request for information.

As for the person trusted with the preparation of budgets, I trust I will not have to remind you again that your responsibility to

provide members with information so that we may make informed decisions.

So based on this statement that I am making, I am saying that there is a lot to be desired, in my opinion, it is my opinion, and we have received information and I can't state the name but from a vendor stating that this person actually stated that this RFP was not written by the person questioned.

>> MR. JEFF SILVYN: So I understand that, but the evidence, the best evidence, which is the RFP, does not support that allegation. So it may be that you received information which is not correct, and of course we are fully prepared to answer your questions. We had a study session on this very topic, and you didn't attend, which would have been an opportunity to ask questions.

But be that as it may, absolutely, please, provide your questions to me or questions. We are more than happy to provide that information so the board, all board members, can make a fully informed decision and feel comfortable that they have the information.

>> MS. MARIA GARCIA: Okay, but I have already requested that information on the assessment and I have yet to receive it.

>> MR. JEFF SILVYN: And I asked a follow-up question to help clarify what you're looking for and you didn't respond to that. So one of the problems we have here is we need to have a detailed conversation so we can understand exactly what it is that you're looking for so that we can provide that information.

own policy.

By not following policy, we are also validating individuals who work for this institution to not follow the stated employment policies by not following this guideline.

It is undermining the ability of this institution to function well. It's undermining the ability of this board to function well. And it really has to stop.

I'm going to leave it at that, but this board will have to take some sort of significant action if it continues, because it is creating havoc in the system. Okay.

>> MS. CATHERINE RIPLEY: I'd like to offer, just for the listening audience, that we are having a board retreat over the next two days, and the public needs to know that. I think there are a lot of things that need to be discussed amongst us at this retreat, these topics being one of them.

I think that with the past year being secluded with COVID -- I'm going to blame things on COVID, of course -- but I really do think we need to come together and talk frankly with transparency about this and several other issues as a board together, and I think in the next two days hopefully we'll resolve some of these issues. Thanks.

>> MR. DEMION CLINCO: Thank you very much, Ms. Ripley.

Our next item on our agenda is our Culture of Care with Dolores Duran-Cerda, our provost and executive vice chancellor for academic excellence, and David Bea, executive vice chancellor for finance and administration.

>> DR. DOLORES DURAN-CERDA: Thank you, Chairman Clinco.

Dr. Bea and I are going to be presenting on building on our Culture of Care. I'd like to provide some context for this.

At the last board meeting, our faculty board rep, Brooke Anderson, brought up faculty burnout issues. As Board Member Ripley stated, this has been a tumultuous year with the pandemic, with