

**COMMUNITY COLLEGE MODEL RULES TASK FORCE
MEETING MINUTES 10-6-10
Clackamas Community College**

Attendance

Yassamin Alayan, Clackamas
Sheri Bransfield, Rogue
Jodie Fulton, Rogue
Elaine McDougal, Linn-Benton
Eileen Miller, Chemeketa
Julie Mosier, Central Oregon
Jack Nowak, Klamath (by phone)
Chris Robuck, Clackamas
Linda Spaccarotelli, Umpqua

Background, POCC and Status of CCRP Amendment for Summer 2010

The task force began in 2004, as a result of a rewrite of ORS 279, and developed the Community College Rules of Procurement (CCRP). Sections 100 and 200 are uniform for all participants. Section 300 is unique to the individual college.

With each legislative session, the Attorney General reviews the model public contract rules (divisions 46-49 of OAR chapter 137). Our Model Rules Task Force reviews the changes and prepares revisions to CCRP Sections 100 and 200 for adoption by the Local Contract Review Boards of participating colleges. The latest changes are dated June 8, 2010 and are at the OCCA website at <http://www.occa17.com/mc/page.do?sitePageld=98519>. The document is with markups; Eileen will send a clean "after adoption" version to OCCA for posting. Clackamas has adopted the changes; others are planning to adopt this fall/winter.

The group discussed the time lag between changes by the Attorney General and adoption of changes to the CCRP by the colleges. Which rules prevail in the interim? Eileen provided an email from William Nessly at the Department of Justice, but it does not give a clear answer. Eileen will continue to research.

The current Attorney General's Public Contracts Manual is dated 2010. The Department of Justice is reluctant to share the electronic version, but Eileen suggested they may accommodate for those who have purchased the paper copy. The electronic version is helpful in that one can do an electronic search for terms.

Eileen distributed an updated contact list; please let her know any changes. The list shows eleven colleges have signed the Participating Oregon Community College (POCC) agreement.

Proposed Amendments to HB 2867

HB 2867 contains the cost analysis requirement for services contracts greater than \$250,000. It does not apply to contracts/services covered in ORS 279C. A cost analysis and non-feasibility determination form are on the OCCA website at <http://www.occa17.com/mc/page.do?sitePageld=98519>.

Eileen distributed Legislative Concept 764, which would modify HB 2867 by:

- restricting the ability to piggyback onto another agency's contract for services without satisfying the requirements of HB 2867

- prohibit fragmentation for purposes of avoiding the \$250,000 threshold
- allow withholding the results of a cost analysis until after issuing notice of intent to award, except for certain disclosures to collective bargaining units
- eliminate the 60-day requirement on emergency provisions

Of those in attendance, only Elaine has had a circumstance which would have triggered an HB 2867 analysis.

Alternative Contracting Methods (U of O)

Eileen provided handouts on alternative contracting methods used by U of O to construct a facility. Essentially, Phil Knight is building the facility as a private project, using his own funds and a state contribution, and then will gift it to the U of O. This approach bypasses the public purchasing process. The group discussed issues with gifts/donations, including the “strings attached,” inability to require insurance coverages typical in public contracts, and future maintenance/repair issues.

First-Tier Subcontract Disclosure and Contracting Agency’s Obligations

With public improvements, contractors must disclose their first-tier subcontractors. Eileen had a situation where the successful bidder did not submit the disclosure form and other bidders objected. The group agreed that our colleges are not obligated to verify the accuracy of the disclosures. Colleges should, however, verify that contractors are registered with the Construction Contractors Board (CCB) at <http://www.oregon.gov/CCB/>. Contractors are required to register and post a bond in order to bid on public projects. Chemeketa now requires that their departments indicate that they have checked that the contractor is on CCB when they submit the requisition form to Purchasing.

Purchasing Cooperatives

Various coops have asked if they can do presentations for our group. Eileen will pursue setting up some for our next meeting.

Yassamin asked that anyone using Office Max let her know what coop contract they are using.

Eileen reminded everyone of the requirement that we publish a public notice for interstate coop contracts and for permissive coop contracts in excess of the specified amount. All those attending are doing these notices electronically on their college websites. Coop contracts must have been competitively solicited and advertised in the state of Oregon. We should obtain/read a copy of the actual contract before relying on it.

We have a list of coops on the OCCA website at <http://data.memberclicks.com/site/occa/Co-op%20Purchasing%20Participants%20List.pdf>. If you’ve used a coop that isn’t listed, please send the information to Eileen and she’ll revise the list at the website.

Information Exchange

a. Oregon Commission for the Blind (OCB)

Clackamas is dealing with OCB wanting to take over vending machines operated by student clubs. Chemeketa has not been able to avoid that situation. The machines are on college property and the ORS gives OCB right of first refusal on that basis. Linn-Benton was able to end the relationship with OCB because OCB did not follow through on their contract.

Pouring rights are for beverages made from syrups and served in cups (as opposed to cans in vending machines). Those in attendance bundle their pouring rights with their food service

contracts. OCB may have the authority to take over pouring rights but has not pursued this as aggressively as vending machines.

b. Surplus Property Disposal

Chris asked for feedback on a draft update of Clackamas's section 300 on surplus disposal.

- *Sales to the general public.* Years ago, Chemeketa has held auctions but now uses the State Surplus Property Division. Some other colleges have used Craig's list to solicit bids. Central Oregon has an annual public IT equipment sale, which gives students the opportunity (but not the exclusive right), to buy surplus computers. Julie specifies minimums when requesting sealed bids. Craig Johnsen at the Port of Portland may be a helpful contact for surplus disposal by auction.
- *Trading surplus for other goods or services of equivalent value.* The group thought this was a legitimate method of disposal but that public notice of the potential trade should be provided to avoid any impression of an "inside deal."
- Clackamas's existing policy that items be given to nonprofits only if they "are certified to receive federal surplus" is probably from outdated purchasing rules in the 1990s.

c. Ethics

Eileen gave a handout of a presentation by Theodore Lucas of Jackson Health System, Miami, which provided guidelines to avoid the appearance of conflict of interest. Eileen is planning to revise Chemeketa's conflict of interest/nondisclosure form for evaluation committee members to incorporate some of the definitions and ideas.

d. Local Preference

Eileen provided a handout of Legislative Concept 705, which would require preference to proposers who are local. Linn-Benton has a local preference provision in section 300 of their CCRP. Attendees in geographically isolated areas tend to use local suppliers anyway. Clackamas could be harmed by such legislation because "local" would undoubtedly exclude Vancouver, Washington businesses.

e. Purchasing Thresholds

Eileen provided an updated list of the dollar amounts at which we each define small/intermediate/formal procurements.

f. ORPIN

Eileen is on the DAS workgroup that has been formed to investigate new e-procurement solutions to replace ORPIN.

g. Solar Installations and Reporting Requirements

ORS 279C.527 requires a written determination of whether the inclusion of solar energy technology in a public improvement is appropriate. The report "[1.5% for Solar Technology in Public Buildings](#)", at the State Department of Energy website, is to be electronically filed by the public entity before entering into a public improvement contract.

h. Qualified Rehabilitation Facilities (QRFs)

Yassamin asked about experience with QRFs. Attendees have used them for custodial, mail presort, recycling pickup, and landscaping/grounds services, with varying results.

Next Meeting

April 13, 2011, from 9:30 am to 12:30 pm at Chemeketa.