



PimaCountyCommunityCollegeDistrict

Office of the Chancellor

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Robert Rucker
Manager of Compliance and Complex Evaluations
Higher Learning Commission

Submitted via link: <https://spaces.hightail.com/uplink/HLC-LRA>

Dear Mr. Rucker:

We appreciate the opportunity to address the complaint submitted by former employee William (Bill) Ward. These same allegations have been made repeatedly by others, specifically two Pima Community College Governing Board (Board) members and a community group they are affiliated with called C-FAIRR. The allegations have been reviewed multiple times, both by personnel within and outside of the College. Every review has reached the same conclusion: there is no evidence to support these allegations. In fact, as explained in detail below, the evidence submitted with the complaint actually undermines these allegations. We can assure HLC that Pima College is fully compliant with Criterion 2 and 5, and has in place appropriate, effective policies and procedures to ensure integrity in decision-making.

I. The Factual Background

A. Pima College Launches an Innovative Project

1. Chancellor Lambert's Idea to Leverage Infrastructure Improvements for Education

Lee Lambert became Chancellor in mid-2013. By 2015, Pima College had begun a comprehensive education and facilities master planning process. Building partnerships with industry and developing more robust pathways for career and technical education became key elements of the resulting plan and recommendations. Exhibit 1, Education Master Plan 2015-225, pgs. 10-12, 149, 157-159, 163-165, 172-174

Chancellor Lee Lambert, with the knowledge and blessing of the Board, is actively involved in national organizations and regularly participates in events related to trends and innovation in higher education. He has a particular interest in how higher education can better prepare individuals for careers in developing fields that require higher skill levels and offer sustainable

wages and opportunities for continued advancement. Exhibit 2, Chancellor Goals 2019-20; Exhibit 3, Chancellor's Evaluation Summary 2019-20; Exhibit 4, Chancellor Goals 2020-21.

Over several years, Chancellor Lambert had attended a series of events and discussions related to facilities modernization, especially for sustainability, and about the education and skills needed for emerging careers related to sustainability. These emerging jobs will require individuals who can not only repair and maintain mechanical systems, but also analyze data and run sophisticated computerized operating systems. He had also read about an innovative concept for using higher education facilities as "living laboratories" to provide students with hands-on learning experiences. Chancellor Lambert realized Pima College could benefit from this approach.

Pima College has five campuses. Significant portions of the College infrastructure are outdated and not energy efficient. For example, the main plant that controls heating and cooling at the largest campus is decades old. Similarly, the College buildings do not have integrated sensors or controls that would allow staff to fully monitor or analyze energy and water use so they can promptly identify and resolve issues and maximize efficiency. While the College has made improvements on a piecemeal basis, there has been no comprehensive approach or timeline for College-wide improvement. Moreover, while the College has invested in solar power generation, the benefits cannot be truly realized until the College becomes energy efficient. At the same time, the College has managed its finances prudently and is in a position to make a significant investment.

Chancellor Lambert realized that while renovating the College's infrastructure, the College could turn that same infrastructure and the data it generates into a real-world learning environment for students in state of the art building, construction, and facilities management programs. Rather than be confined to classrooms, students in the next generation of programs could use the entire College as a living laboratory.

2. Finding a Vendor for the Project

Chancellor Lambert shared this idea with the administration leadership team and the project began, requiring coordination between different departments of the College. He shared articles about the concept with members of the team. Exhibit 5, The Campus as a Living Laboratory. The Chancellor assigned primary responsibility to Executive Vice Chancellor for Finance and Administration David Bea, President of Campuses David Dore, and Vice Chancellor for Facilities William (Bill) Ward.

Through his participation with the National Coalition of Certification Centers (NC3) and other events, Chancellor Lambert became familiar with the work of Trane Company, a large manufacturer of building mechanical systems and controls. Trane showed a strong interest in the project and at no cost to the College conducted a preliminary feasibility review. Complaint Exhibit 1, Feb. 19, 2019 email between Jim Knutson and Greg Wilson. Bill Ward participated in these discussions and the review process. Complaint Exhibit 4, Feb. 22, 2019 email series including Jim Knutson and Bill Ward; Complaint Exhibit 11, April 23, 2020 email series including

Jim Knutson and Bill Ward. Based on that review, Trane determined the project was feasible and suggested the College engage Trane's services using a cooperative participation contract the State of Arizona had issued to Trane for energy management services. Complaint Exhibit 22, June 3, 2019 email series including Jim Knutson and Lee Lambert; Complaint Exhibit 30, July 15, 2019 email series including Jim Knutson and David Bea.

The State of Arizona Department of Administration uses competitive processes to issue contracts to vendors for a large variety of goods and services. Local governments like Pima College may use these contracts rather than conducting their own competitive processes, and thereby avoid duplicating the work already performed by the State. These cooperative purchasing agreements reduce delays and administrative expenses for local governments and allow them to benefit from lower pricing based on the larger total volume of purchasing, while retaining the benefits of a competitive vendor selection process. Exhibit 6, July 14, 2021 Board meeting report on state cooperative purchasing agreement.

Instead, Chancellor Lambert decided the College would use an open competitive process to see what range of vendor options might be viable. During the time the Chancellor had been learning about sustainability projects and the living laboratory concept, he had been approached by a number of vendors about providing energy efficiency and management services to the College. Aware that there were multiple potential vendors, the Chancellor wanted to use a competitive selection process so the College could consider alternatives and pick the one that best suited its goals, particularly combining facility systems improvements with educational opportunities. He asked Dr. Bea, whose department includes the College's Procurement Office, to develop the request for proposals (RFP) and Dr. Dore to lead implementation of the project as his responsibilities involved the intersection of academic affairs and campus operations. Complaint Exhibit 24, June 4, 2019 email series including Bill Ward and Lee Lambert.

Pursuant to Pima College Governing Board policy, the Board has delegated to the Chancellor the responsibility for administration of College operations, including financial operations. Exhibit 7, BP 1.05 Delegation of Authority to the Chancellor. The Chancellor, in turn, has approved Administrative Procedures, further defining the parameters for College operations. The authority for all College purchasing is assigned to the Chief Financial Officer and by further delegation to the Director of Purchasing. Exhibit 8, AP 4.01.05 Purchasing. The College publishes a Purchasing Manual that further defines the available processes for selecting vendors, noting that Procurement Services (Purchasing), is responsible for the process. Exhibit 9, PCC Purchasing Manual. In addition, the Purchasing Manual sets forth ethical standards for employees involved in purchases. Exhibit 9, PCC Purchasing Manual pg. 8. The Employee Handbook also explains the ethical duties of College employees. Exhibit 10, Ethical Standards and Conflict of Interest. Anyone serving on a vendor selection committee is required to sign a form reminding them of their obligations while serving in the process. Exhibit 11, Conflict of Interest and Confidentiality Form.

During the summer and fall of 2019, Dr. Bea conducted research and collected examples of RFPs from other public entities seeking energy management services. Exhibit 12, July and

August 2019 email regarding “Draft Energy Program Concept.” The College issued an RFP on October 11, 2019. Five vendors submitted proposals. A selection committee with five members from different units of the College scored the proposals, with Trane receiving the highest score.

Pima College then began contract negotiations with Trane. During the negotiations, the College was represented by outside legal counsel with expertise on energy management contracts for public entities.¹ At a public meeting on June 3, 2020, the Governing Board approved issuing a contract to Trane. Exhibit 13, June 3, 2020 Trane Board Report; Exhibit 14, June 3, 2020 Meeting Minutes, pg. 7, Action Item 11.3 Contract with Trane, Inc.

Trane then began work on the first phase of the project, conducting a comprehensive audit of the College’s energy and water usage and the related equipment and systems to determine whether there were improvements possible that would cost less to implement than the utility savings that would result. If so, the College and Trane would negotiate a detailed project agreement for implementation – phase II. Per the applicable state law and the express terms of the contract, Trane could not be paid more than the amount of savings, which it had to guarantee. If the College does not realize the projected savings, Trane would have to refund the shortfall back to the College. The Trane evaluation and description for the next phases of the project were provided to the Board at a public meeting on April 19, 2021. Exhibit 15, April 19, 2021 Study Session Agenda; Exhibit 16, Energy & Sustainability proposal.²

B. Recurring Allegations and Multiple Reviews Disproving Them

While Trane was conducting the audit, C-FAIRR and two Pima College Board members began questioning the project and making allegations of wrongdoing. In particular, these Board members alleged that Chancellor Lambert had a conflict of interest because he served on the board of the National Coalition of Certification Centers, a national non-profit organization, as did a Trane employee. The College retained outside legal counsel to conduct a review. Legal counsel issued a report concluding that there was no conflict of interest under applicable law or policy and that Chancellor Lambert did not participate in the vendor selection process. Exhibit 17, Susan Segal opinion dated September 30, 2020. The College published the report and the Board discussed it at a public meeting on October 6, 2020. Exhibit 18, Oct. 6, 2020 meeting agenda item on Legal Counsel Opinions.

Despite the results of the independent review, this allegation continued to persist along with a new allegation that Trane improperly participated in the development of the RFP for the energy management project. In January 2021, Board members Maria Garcia and Luis Gonzales wrote to the Arizona Auditor General alleging a conflict of interest and improper conduct in connection with the issuance of a contract to Trane and requesting an Auditor General Review. Upon learning of this request, the College retained outside legal counsel to conduct a further independent review. The review determined that there was no conflict of interest and no

¹ A detailed description of the process with supporting exhibits is contained in the March 10, 2021 review report by attorney Susan Segal accompanying this letter as Exhibit 19.

² The study session was originally scheduled for April 12, but was rescheduled to April 19, 2021.

violations of any applicable College policies or procedures. Moreover, based on the information provided by Ms. Garcia and Mr. Gonzales, the Auditor General concluded there was no basis to believe there was a violation of state conflict of interest laws and declined to conduct a further review. A detailed description of these events along with the supporting documentation is contained in the report of outside legal counsel Susan Segal, attached as Exhibit 19, PCCCD Procurement Report, March 10, 2021; Exhibit 19A, resume for Susan Segal.

Ms. Segal's report was shared with the Board's Finance and Audit Committee, which was asked to review the report and determine whether any additional follow-up was necessary. The Board Chair Demion Clinco and Board member Garcia serve on this Committee. Based on its review and the information provided in response to Committee member questions, the Committee by unanimous vote determined that there was no evidence to support the allegations of conflict of interest or violations of College policies or procedures related to purchasing and contracting. Exhibit 20, Finance and Audit Committee meeting minutes from May 7 and May 27, 2021. The Committee's findings and recommendations were presented to the Board at its June 9, 2021 meeting. Exhibit 21, June 9, 2021 Finance and Audit Committee report on energy project.

While these reviews were pending, Arizona State Senator Sally Ann Gonzales, wife of Pima College Board member Luis Gonzales, wrote to the Arizona Attorney General asking for a criminal investigation of Chancellor Lambert and the College based on the same allegations of misconduct in the selection of Trane as the vendor for the energy management project. After reviewing the information submitted and the College's response to questions, the Arizona Attorney General declined to pursue the matter. Exhibit 22, Sen. Gonzales March 15, 2021 request letter; Exhibit 23, Attorney General March 30, 2021 decision.

C. Concerns about Mr. Ward's Conduct and Performance Lead to His Termination

While the events described above were taking place, Chancellor Lambert developed growing concerns about the performance and conduct of Vice Chancellor for Facilities Bill Ward. In 2018, the College completed a comprehensive education and facilities master planning process. Mr. Ward and Provost Dolores Duran-Cerda served as co-leads of this project. Exhibit 24, May 10, 2017 Board meeting agenda item on Conceptual Educational and Facilities Master Plans. Based on the master plans, the College began a number of capital improvement projects – doubling the capacity of the Aviation Training Center; a new Automotive and Transportation Training Center; a new Advanced Manufacturing Training Center; complete renovation of the Allied Healthcare training facilities. Exhibit 25, May 9, 2018 Board meeting agenda item for approval of specific projects for the Educational and Facilities Master Plans.

As a result, Mr. Ward and the Facilities Department under his supervision had significantly increased project responsibilities. Despite having given repeated direction to Mr. Ward about the importance of collaborating with other units for these capital projects and emphasizing that Facilities was not the final decision-maker, Chancellor Lambert began receiving multiple complaints about Mr. Ward unilaterally making significant project decisions without consulting

other key project members, causing adverse impacts on the projects. Exhibit 26, Chronology for West Campus projects.

On April 20, Chancellor Lambert and Chief Human Resources Officer Carleen Thompson met with Mr. Ward to express concerns and receive information from him. Following the meeting, Chancellor Lambert shared concerns in writing and asked Mr. Ward to respond. Exhibit 27, April 29, 2021 memo from Lambert to Ward. Shortly thereafter, Chancellor Lambert became aware of further information and developed additional concerns and, as a result, placed Mr. Ward on paid administrative leave pending further review. Exhibit 28, May 20, 2021 memo from Lambert to Ward. While Mr. Ward did respond in writing to the initial concerns on May 20, his response did not adequately address them to the Chancellor's satisfaction. Moreover, by the time Mr. Ward was placed on paid administrative leave, Chancellor Lambert had already developed significant additional concerns, including that Mr. Ward had provided inaccurate information to the Board, repeatedly failed to follow directions, and consistently failing to provide or intentionally withholding accurate information about matters under his responsibility. As a result, Chancellor Lambert cancelled Mr. Ward's employment contract, effective at the close of business June 30, 2021. Exhibit 29, June 29, 2021 notice of cancellation.

II. The Complaint Is Unfounded, and Pima College Remains in Full Compliance with HLC Criteria

The complaint alleges the College has not complied with Criteria 2 and 5 related to ethical and effective decision-making to further its mission, claiming violations of applicable law and College standards related to purchasing and contracting services. As the narrative and related exhibits demonstrate, the factual assertions in the complaint are not accurate.

To support the conclusion that Trane (via Jim Knutson) influenced the RFP, the complaint cites a variety of sources; each is addressed in turn.

A. There Is No Evidence Trane Improperly Participated in the RFP Development

The complaint notes that Jim Knutson sent a series of emails to David Bea between July 1 and August 1, 2019. In those emails, Trane suggests the energy-management project could begin more quickly if the College abbreviated the competitive selection process by contracting with Trane directly, based on a state-issued contract available to other public entities including the College. (This is an example of a cooperative purchasing agreement.)³ The email attachments all relate to a state contract issued following a competitive process. However, Pima College did not accept Trane's proposed unilateral approach and instead issued a competitive RFP.

³The complaint references the Facilities Department's critique of the Trane proposal, including Facilities' recommendation that PCC cancel the current contract with Trane and contract directly with a different company using the state cooperative purchasing agreement. Notably, that is the very same cooperative agreement Trane is part of and that Trane unsuccessfully suggested Pima College use in lieu of the competitive RFP process.

If, as the complaint alleges, Pima College administrators wanted to ensure Trane received the contract, the College could have contracted directly with Trane from the very beginning using the state cooperative agreement. The fact that the College instead used an RFP process undermines the complaint's core allegation.

The complaint also refers to an email from Pima employee David Davis asserting the evaluation criteria came from the Trane RFP response. Complaint Exhibit 73. Mr. Davis, who did not write the RFP, has the timeline backwards. The College first issued the RFP; only then did Trane and the other candidate companies submit their responses to that RFP. Trane's proposal, like every other proposal submitted, addresses the specific RFP criteria set forth by the College. This is typical in any RFP response, since candidate companies want to explain clearly how they will provide the specific services outlined in an RFP, and does not indicate any advance knowledge of or influence on the RFP by any candidate company.

Further evidence that the RFP was not tailored to benefit Trane can be found in the Ameresco bid protest included with the complaint materials. Nowhere in the bid protest does Ameresco express concerns about the RFP content. And neither did any other vendor that submitted an RFP proposal. Complaint Exhibit 72, Ameresco bid protest, based on experience with state law on performance contracts, scoring of proposed project personnel, and scoring of references.

The complaint omitted significant (and now well-known) evidence that further demonstrates there was no improper Trane involvement in developing the RFP. As noted in Susan Segal's report, based on a review of documents related to the RFP and interviews of Pima employees who participated in it, Dr. Bea drafted the RFP using as references RFPs from other public entities for comparable projects. Exhibit 30, Dr. Bea July 2019 email to Procurement Director Terry Robinson with RFP examples. Further, according to the senior College buyer, Director of Procurement, and Ms. Segal, the RFP terms are generic, not tailored to any particular vendor. Their testimony is consistent with the sample RFPs, which have terms similar to those in the Pima RFP. The complaint allegation that the RFP's terms were somehow written specifically to benefit Trane is unsupported by the evidence. Exhibit 19, Susan Segal report March 10, 2021.

The complaint also cites the allegation that Solon employee Luke Alm and Trane employee Brice May claim that Mr. Knutson told them he had written the RFP. However, as explained below, this allegation is unsupported by Mr. Alm, who has not agreed to a request to be interviewed, and, more significantly, it is expressly contradicted by Mr. May, who denies ever making such a statement.

Notably, there is no response to Mr. Davis' email question asking for confirmation of the allegation in the materials provided by C-FAIRR and a search of College email did not locate a response. Complaint Exhibit 76. Mr. May was interviewed and he denied making any such statement about Trane preparing the RFP language.

Thus far, Mr. Alm has not agreed to an interview. Even if he were interviewed, there is reason to question whether Mr. Alm would be a reliable, disinterested witness. Mr. Alm is the Vice

President for Sales and Marketing for Solon Corporation. Solon was the vendor to the College for solar power generating panels at a few of the campuses. A review of the many emails between Mr. Alm and Facilities personnel reveals that after completion of the solar panel installation, in 2018 Mr. Alm began negotiating with Mr. Ward and Facilities staff for Pima College to purchase from Solon a battery energy storage system valued at over \$2 million, as well as electric vehicle charging stations, using a non-competitive state cooperative purchasing agreement rather than a competitive RFP process.

Solon did not submit a proposal in response to the College RFP for the comprehensive energy management project for which Trane was selected. The Trane proposal included a variety of possible energy storage approaches. The evidence clearly shows that Mr. Alm believed the project with Trane would prevent Solon from closing its more than \$2 million deal with Pima College. Exhibit 31, April 15, 2020 email from Luke Alm to David Davis; Exhibit 32, June 3, 2019 email between Luke Alm and David Davis about ESSA - Energy Storage Services Agreement; Exhibit 33, Oct. 7 and 12, 2020 email between Luke Alm and David Davis on PCC Project Update. Given the circumstances, it is not unreasonable to consider whether the potential loss of a \$2+ million contract if the Trane project went through might give someone in Mr. Alm's position a strong incentive to say things that could undermine, or at least cast doubt on, the Trane proposal.

More importantly, for the reasons explained above, there is no evidence that Mr. Knutson actually influenced the RFP, regardless of what he might have said to Solon employees. If Mr. Knutson made any of the self-serving statements he is alleged to have made about the RFP process, it appears they were, at most, his own attempts at "business puffing" and had nothing to do with the College.

Finally, it should be noted that, during her review, Ms. Segal interviewed Mr. Ward twice and specifically asked him whether he believed the RFP process used was improper and whether he had any concerns about Trane. His answer to both questions was the same: "No." Mr. Ward stated that he had no concerns with Trane as a vendor; his grievance is a personal one with Mr. Knutson. Exhibit 19, Segal report March 10, 2021.

Nonetheless, Mr. Ward now says he made his concerns about the Trane project known to the Board and College administration, citing specifically (and exclusively) to comments he made on June 3, 2020 at a public meeting of the College's Governing Board. (Ward email to complaints@hlcommission.org (June 30, 2021), p. 2, par. 5). We dispute that Mr. Ward, at any time, expressed concerns as he claims, and the allegations in his complaint grossly mischaracterize what Mr. Ward actually said on June 3, 2020. In fact, Mr. Ward did not express any concerns at all about the Trane project during the June 3, 2020 Board meeting. Exhibit 34, June 3, 2020 transcript, pgs. 88-100. Rather, Mr. Ward simply claimed (inaccurately (see below)) at that Board meeting that he "was not part of the process" that ultimately selected Trane for the energy management project. See Exhibit 34, Transcript p. 99. Not only did Mr. Ward not express any "concerns" about the Trane project at the June 3, 2020 Board meeting, he actually defended it to Ms. Garcia, reassuring her that Trane would not be replacing

Facilities, and that Trane would instead be making recommendations regarding energy savings for capital projects that would go before the Board for approval.

B. There Is No Evidence Mr. Ward Was Improperly Excluded from the Energy Project

The complaint alleges an improper attempt to exclude Mr. Ward from the project. While Mr. Knutson's email does express concerns about Mr. Ward's lack of support for the project, he doesn't ask for Mr. Ward to be removed from the project; rather he proposes how to address the lack of support and possible opposition.

In any case, Mr. Ward and Facilities did actively participate in the project. Dr. Bea discussed with Mr. Ward which Facilities employee(s) should participate in the RFP selection committee, and the Facilities leadership discussed the question as well. Exhibit 35, September 10, 2019 email from Dr. Bea. Multiple emails, including some included with the complaint, confirm that Mr. Ward personally participated in meetings and discussions about the project prior to and after the selection of Trane. A number of documents also establish the following: 1) Superintendent of Operations David Clark (a high-level Facilities employee) served on the RFP selection committee, 2) Facilities personnel, including Mr. Davis, participated in development of the contract with Trane, and 3) Mr. Ward himself submitted questions and comments on contract drafts. Exhibit 19, Segal Report March 10, 2021; Complaint Exhibits 54, 55, and 69.

C. The College Has Appropriate Policies and Procedures in Place Regarding Purchasing and Contracting

As described above, the specific purchase and contract challenged in the complaint has been the subject of numerous reviews, both internal and external – outside legal counsel, the Board's Finance and Audit Committee, the Arizona Auditor General, and the Arizona Attorney General. None found any violation of applicable law or College policies or procedures.

In addition to those reviews, the College engaged the national audit and consulting firm Clifton Larson Allen (Clifton) to review College purchasing procedures and conduct a rigorous sampling of purchases above \$250,000 to determine whether (1) the College had appropriate procedures and controls in place; and (2) whether those procedures and controls had been followed. Clifton's review determined both conditions had been met: the College has appropriate procedures and controls, and no issues were found in any of the transactions Clifton reviewed. (Exhibit 36, Clifton report.)

Conclusion

Pima College trusts that the information provided will fully satisfy the Higher Learning Commission that there is no evidence to support the allegations of the complaint and no reason to be concerned that the energy management project in any way calls into question whether Pima College fully complies with HLC accreditation criteria. To the contrary, this particular project has been the subject of more scrutiny than any in the eight years since Chancellor Lambert was hired, and none of these reviews identified any violation of applicable laws,

policies, or procedures. Of course, if any additional information would be helpful, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee D. Lambert", with a long, sweeping horizontal line extending to the right.

Lee D. Lambert
Chancellor & CEO