

Findings to Document the Need for the Exemption of a Public Contract by for purposes of construction of fiber optic facilities and installation of optical equipment in the Douglas County portion of LCOG's Broadband grant.

August 1, 2010

The purpose of this document is to provide findings that state the need for an exemption to the Competitive Bidding process per LCOG's Public Contracting Regulations. LCOG wishes to contract with Douglas Fastnet, without competitive procurement, for construction of fiber optic facilities and installation of optical equipment for sites in Douglas County.

The specific arguments are defined under each of the required categories listed below as per Section 279C.330, as detailed in LCOG's regulations. These are provided for consideration of the Lane Council of Governments Executive Board acting in its capacity of the LCOG Contract Review Board. These factual statements, in the aggregate, provide a compelling basis for adopting findings in favor of an exemption.

Under chapter 7, Public Contracts – Process for Approval of Special Solicitation Methods and Exemptions, section B, Basis for Approval, requires these six items:

- 1) The nature of the contract or class of contracts for which the special solicitation or exemption is requested

Douglas Fastnet (DFN) is a subsidiary of Douglas Electric Co-op, which serves rural Douglas County communities and unincorporated areas. DFN was organized by the utility to address community needs concerning lack of telecommunications services in the region. The grant funds are to be used to expand the reach of the current system, in order to ultimately offer services to underserved areas. The nature of this contract is to pay for the construction and installation of the system. Other subsequent processes will define provision of services and ownership of grant funded facilities

In the Broadband Technology and Opportunities Program grant application submitted to the federal government by LCOG, plan details, including sites, technology to light the system, and cost estimates were generated by Douglas Fastnet for inclusion in the grant application.

- 2) Estimated contract price for the project: **\$1,439,245**
- 3) Findings to support the substantial cost savings enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from the competitive solicitation

In order for LCOG to prepare bid documents, solicit and evaluate proposals, obtain necessary pole attachment and other permits, to supervise the installation, and to integrate the new facilities into the existing DFN network, LCOG would need to duplicate the staff resources of DFN. LCOG does not have the staff to perform this work, and would need to bring in outside engineering consultants. A substantial percentage of their time would be spent learning about the local area. Travel costs and time would add to the costs. LCOG estimates this would triple engineering costs, budgeted at \$79,625. To fund the additional \$160,000, a program change reflecting fewer served locations and higher engineering costs would have to be submitted and approved by the federal government. This would not be popular locally or in Washington.

DFN intends to use its own staff to do the construction. Substantial costs of preparing bid specifications, awarding contracts, and contract monitoring can be avoided. DFN has the relationships, contacts and local knowledge to perform the work.

The BTOP program is an economic stimulus measure. For LCOG to solicit, select, contract with, and re create the local knowledge would cause a project delay of several months. LCOG is

required by the grant conditions to substantially complete the project by February of 2012. To meet this deadline, it is important to get started as soon as possible.

- 4) Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not be practicably be realized by complying with the solicitation requirements that otherwise would be applicable under these regulations.

There is no other organization in Douglas County that would be competing for the contract without the use of an additional contractor to perform engineering, procurement, and project monitoring services. An entity to perform these engineering and related services would be from outside the area.

- 5) A description of the alternative contracting method to be employed.

LCOG plans to make a direct award.

- 6) The estimated date by which it would be necessary to let the contract

September 1, 2010. In the grant application, LCOG outlined a build schedule that required 24 months for completion. Six months will have elapsed with no construction due to requirements to complete an environmental assessment. LCOG needs DFN to get started as soon as possible on the work to meet the grant deadlines.