

EXHIBIT A

FINDINGS IN SUPPORT OF RESOLUTION NO. 2023-01 ADOPTING PUBLIC CONTRACTING CODE RULES

ORS 279B.085 and 279C.335 authorize Lane Council of Government's (LCOG) Executive Board of Directors, sitting as LCOG's local contract review board, to approve findings submitted and exemptions requested by LCOG's Executive Board of Directors upon adoption of appropriate findings, to establish special selection, evaluation and award procedures for, or exempt from competition, the award of a specific contract or classes of contracts.

Pursuant to that authority, the Board makes the following findings in support of Resolution No. 2023-01, which establishes exempt classes of contracts and the solicitation methods for their award:

No Findings Required

Pursuant to ORS 279A.025 and 279A.055, LCOG is not required to adopt findings with respect to the solicitation methods and awards of the following classes of contracts identified in LCOG's Public Contracting Rules 2022, Class Exemptions:

E-4	Contracts for Price Regulated Items
E-6	Investment Contracts
E-12	Insurance, Employee Benefit
E-17	Personal Service Contracts
E-18	Liability Insurance Contracts

The above Rules govern subjects specifically authorized by state law and, therefore, require no local exemption.

Specific Findings for Public Improvement Exemptions (ORS 279C.335)

LCOG is not adopting any exemptions for specific classes of public improvement contracts at this time. LCOG will adopt such exemptions, pursuant to ORS 279C.335, if and when it desires to use an alternative

contracting method for any particular individual or class of public improvement contract.

Specific Findings for Adopted Class Special Procurements for Goods and Services (ORS 279B.085)

The Board approves LCOG's following findings supporting the establishment of special procurement methods for the classes of public contracts described below, and also finds that the establishment of each class of contracts and methods approved for their award:

1. Is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts because such exemptions still require alternative contracting procedures, ensuring: (1) reasonable competition; (2) the best contract price for the public; and (3) a cost-effective process for both contractors and LCOG;
2. The awarding of public contracts under these exemptions will result in substantial cost savings to LCOG because LCOG will avoid costs associated with unnecessary documentation and formal solicitation procedures, where it is unmerited by the type and/or relatively low cost of the contracts; and
3. The awarding of public contracts pursuant to any of the requested exemptions substantially promotes the public interest in a manner that could not practicably be realized by formal competitive solicitation procedures, given the fact that such exemptions facilitate smooth operation of LCOG's administration and operations, include procedures and mechanisms to ensure the best product, service or outcome is obtained at the least cost to the public and LCOG, and identified classes address areas of public contracting left unresolved by state statute which are essential for LCOG's operations, such as awarding personal service contract, purchasing used personal property, and the disposing of surplus personal property.

Specifically, the Board finds:

E-2 – Advertising Contracts.

Alternate Award Process. In LCOG’s discretion. The process selected may be competitive or non-competitive.

Cost Savings and Other Benefits. Size of and frequency of average advertisement (including all notices required to be published by LCOG) does not justify the cost of solicitation. Period of time from recognition of need to advertise until advertising date is too short to issue solicitation.

Effect on Competition. The potential market is limited because not all advertisers work in every market. Choice of advertising medium is somewhat price sensitive, but primarily driven by location and size of circulation in comparison with LCOG’s target audience.

No Favoritism. Not applicable due to the lack of competitors and specialized contracting needs.

E-3 – Equipment Repair and Overhaul.

Alternate Award Process. As needed, in LCOG’s discretion.

Cost Savings and Other Benefits.

1. Pre-contract pricing is difficult to obtain and cannot be relied upon.
2. LCOG has discretion to decide whether costs of solicitation are justified in relationship to size of contract and availability of skilled technicians to repair the specific equipment.
3. Delay required for solicitation would impair LCOG’s ability to respond to equipment breakdown and be injurious to the public interest.
4. Experience with contractor is crucial because reliability over the course of several projects is important.

Effect on Competition. Allows contractor to be selected based on ability to provide accurate, reliable and fast service.

Effect on Favoritism. Favoritism will not be greater than if statutory request for proposals process is used.

E-5 - Copyrighted Materials.

Alternate Award Process. As needed, in LCOG's discretion.

Cost Savings and Other Benefits. Necessary to allow LCOG to acquire special needs products that are unique.

Effect on Competition. None. There is no competitive market for a unique product. Copyrighted materials are generally acquired from a sole-source copyright holder, as used property, or by donation.

No Favoritism. Not applicable due to the lack of competitors and specialized contracting needs.

E-7 – Requirements Contracts.

Alternate Award Process. Original contract must be based on a competitive process.

Cost Savings and Other Benefits. Size and frequency of procurements does not justify the cost of solicitation. Period of time from recognition of need until good or service required too short to issue solicitation.

Effect on Competition. Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years.

Effect on Favoritism. Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years.

E-8 – Office Copier Purchases.

Alternate Award Process. Original contract must be based on a competitive process.

Cost Savings and Other Benefits. Size and frequency of procurements does not justify the cost of solicitation. Period of time from recognition of need until good or service required too short to issue solicitation.

Effect on Competition. Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years. In addition, rule requires evaluation and award based upon multiple factors, not just cost.

Effect on Favoritism. Minimal, due to underlying competitive process and requirement to renew contract via formal solicitation at least every five years. In addition, rule requires evaluation and award based upon set factors, in addition to cost.

Other Factors. Allows Contracting Agency to address emergency circumstances. Cannot anticipate when immediate replacement or repairs will be needed to ensure normal operations.

E-9 - Manufacturer Direct Supplies.

Alternate Award Process. Subject to cost saving analysis.

Cost Savings and Other Benefits. Allowed only after a formal solicitation is completed and manufacturer's price is less than offers received. Cost of formal solicitation, therefore not merited.

Effect on Competition. None. Allowed only after assessment of manufacturer's costs to distributor within the same pool of potential contractors that would be qualified to respond to an invitation to bid.

Effect on Favoritism. None. Allowed only after assessment of manufacturer's costs to distributor within the same pool of potential contractors that would be qualified to respond to an invitation to bid.

Other Factors. Allowed on a contract-by-contract basis and shall not result in an ongoing price agreement, further fostering competition.

E-10 – Gasoline, Diesel Fuel, Heating Oil, Lubricants and Asphalt.

Alternate Award Process. Intermediate procurement process.

Cost Savings and Other Benefits. Frequency and amount of exempt item purchases do not justify the cost of solicitation. Period of time from recognition of need through contract award too long for needed purchases of exempt fungible goods.

Effect on Competition. Minimal. Intermediate procurement process surveys market and ensures level of competition appropriate for these frequently purchased goods.

Effect on Favoritism. Purchase based on cost. Intermediate procurement process sufficiently avoids any favoritism.

E-11 – Hazardous Material Removal; Oil Cleanup.

Alternate Award Process. Rule encourages competitive procedures to the extent reasonable under the circumstances.

Cost Savings and Other Benefits. Avoids unnecessary cost and delay associated with procurement procedures when most qualified available contractor required for immediate performance. Primary consideration is public safety and compliance with hazardous material laws.

Effect on Competition. Minimal, given competitive procedures encouraged by Rule and supporting findings describing circumstance requiring clean up.

Effect on Favoritism. Minimal, given competitive procedures encouraged by Rule and supporting findings describing circumstance requiring clean up.

Other Factors. Exemption necessary to ensure LCOG's ability to comply with State law governing hazardous materials.

E-13 – Provision of Contracting Agency Services or Use of Assets.

Alternate Award Process. In LCOG's discretion. Requires certain findings prior to contract execution.

Cost Savings and Other Benefits. Avoids unnecessary costs and delay associated with procurement procedures in order to promote:
(1) the economic development of LCOG, of the geographical area in which LCOG is situated, or of other public bodies that perform similar functions; or
(2) the public interest.

Effect on Competition. Not applicable—involves use of goods and services offered by LCOG.

Effect on Favoritism. Not applicable—involves use of goods and services offered by LCOG. Further, the negotiation of terms of conditions for providing the service or asset constitutes a market based, arm's length transaction. Contract approval criteria include asset and/or service availability and cost recovery.

Other Factors. To the extent LCOG's provision of services and goods promote economic development, such agreements or arrangements are exempt per ORS 279A.185.

E-15 – Used Personal Property, Purchase of.

Alternate Award Process. Rule requires individualized ORS 279B.085 findings and an intermediate procurement process, where feasible.

Cost Savings and Other Benefits. Allows LCOG to take advantage of unique opportunity to acquire needed goods and services for discounted prices.

Effect on Competition. No impact. Responds to unique opportunities.

Effect on Favoritism. No impact. Responds to unique opportunities.

E-16 – Surplus Personal Property, Disposition of.

Alternate Award Process. Any means in LCOG’s best interest, after making individualized ORS 279B.085 findings. Items with a residual value of more than \$10,000 require local contract review board prior authorization.

Cost Savings and Other Benefits.

1. Avoids unnecessary solicitation expense by allowing LCOG to determine whether cost of solicitation is justified by value of surplus property.
2. Allows LCOG to establish programs for donation to charitable organizations.

Effect on Competition. No impact. Responds to unique opportunities.

Effect on Favoritism. No impact. Responds to unique opportunities.

Other Factors. Variations in the type, quantity, quality and opportunities for recycling of surplus property are too large to have this class of contracts governed by a single solicitation method.