

EXHIBIT B

FINDINGS IN SUPPORT OF THE DESIGNATION OF CERTAIN CLASSES OF CONTRACTS FOR GOODS AND SERVICES AS SPECIAL PROCUREMENTS UNDER ORS 279B.085

The Board of Directors of School District No. 1J, Multnomah County, Oregon, acting as the Local Public Contract Review Board (the "Board"), makes the following findings in support of amendments and additions to the District's class special procurements for goods and services incorporated in the District's 2018 amendments to its Public Contracting Rules ("2018 Amendments").

I. Class Special Procurements.

A. Applicable Criteria. ORS 279B.085(4) empowers the Board to designate classes of contracts for goods or services for special procurement outside of the competitive procurement processes otherwise required under ORS Chapter 279B and the District's Public Contracting Rules. In order to approve a class special procurement, the Board must find that the designation of a class of contracts for special procurement:

1. Is unlikely to encourage favoritism in the award of public contracts or to substantially diminish competition for public contracts; and
2. Either:
 - a. Is reasonably expected to result in substantial cost savings to the contracting agency or to the public; or
 - b. Otherwise substantially promotes the public interest in a manner that could not practicably be realized by complying with the requirements that are otherwise applicable under ORS Chapter 279B or the District's rules adopted to implement those rules.

B. Findings. The District's class special procurements are set forth in District Public Contracting Rules at PPS-47-0288 (Exhibit A). The District's 2018 Amendments amend two existing class special procurements and adopt two new class special procurements as follows:

1. Copyrighted Materials and Creative Work (PPS-47-0288(4)).
 - a. Findings of Fact. The 2018 Rules amend this section to add instructional software applications, other digital resources, and assessments and related assessment materials and reports available from only one source, and to remove the specific reference to the District's Instructional Resource Intake Survey ("IRIS") process, which would be covered by the new language.
 - b. Conclusions of Law. This amendment will not discourage competition because instructional materials (including digital resources) and assessments are so specialized or unique that they cannot be effectively competed. In

addition, many instructional materials must be reviewed prior to approval for use at the District, and this allows for creation of a list of vetted and approved materials, including digital resources, from which programs and teachers can select. This promotes the public interest in high quality and relevant instructional materials in a way that cannot practicably be realized through the standard ORS 279B procurement process.

2. Software and Hardware Maintenance and Upgrades (PPS-47-0288(11)).

a. Findings of Fact. The 2018 Rules modify this special procurement to allow direct procurement of software and hardware maintenance, licenses, subscriptions, and upgrades where they are only available from a single source or, when available from multiple providers, are best procured from the incumbent provider who has knowledge of the District's systems. The superintendent must document the reasons for exercising this exemption in the procurement file.

b. Conclusions of Law. This amendment is unlikely to diminish competition because it can only be employed where no competition exists, or where the contract has previously been completed and the product is already fully integrated with the District's systems or the incumbent provider has specialized knowledge of the District's systems. It promotes the public interest in a way that cannot practicably be realized through the standard ORS 279B procurement process because it makes efficient use of the District's existing systems and does not require the District to conduct a competitive process where no competition exists.

3. Specialized Assistive Equipment (PPS-47-0288(27)).

a. Findings of Fact. The 2018 Rules add a new special procurement that allows direct procurement of specialized assistive equipment for students, including without limitation positioning equipment for orthopedically impaired students and assistive technology for blind/vision impaired, deaf/hard of hearing, and deaf/blind students and augmentative and alternative communication equipment for students who require such assistance. This equipment has to be procured on short notice, is very specialized, is usually available from only one source, and frequently has to be customized for the specific student.

b. Conclusions of Law. This amendment is unlikely to diminish competition because this equipment is so specialized and customized it cannot be effectively competed. It promotes the public interest in a way that cannot practicably be realized through the standard ORS 279B procurement process because it allows the District to quickly and efficiently acquire the specialized equipment needed for such students.

4. Repair and Maintenance of Products Under Warranty.

a. Findings of Fact. The 2018 Rules add a new special procurement that allows direct procurement of service, repair, or maintenance services from a manufacturer, dealer, or authorized service provider for a product or a system

subject to a warranty when the terms of the warranty require use of a particular maintenance service provider or providers, or when the manufacturer or approved provider must diagnose a problem because the system or part is proprietary.

b. Conclusions of Law. This amendment is unlikely to diminish competition because the original acquisition of the product or system will have been competitively procured, and this exemption will only apply where the warranty or proprietary nature of the product or service requires that the District use a particular vendor for repair or maintenance. It promotes the public interest in a way that cannot practicably be realized through the standard ORS 279B procurement process because it allows the District to comply with the product warranty or recognize the proprietary nature of certain products or equipment.

II. Existing Special Procurement and Exemptions Continued. No other substantive amendments to existing special procurements or exemptions, or new special procurements or exemptions, are being proposed as part of the 2018 Amendments to the District's Public Contracting Rules.