DAN RAYFIELD
ATTORNEY GENERAL

BENJAMIN GUTMAN
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

December 17, 2025

VIA E-MAIL ONLY: kimrobertscovill@gmail.com

Kim Scoville
1 Radburn Ln
Newark, Delaware 19711

Re: Petition for Public Records Disclosure Order
Department of Administrative Services
DOJ File No.: 107090 GA0177-25

Dear Ms. Scoville:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.431. Your petition seeks assistance from the Attorney General in obtaining records from the Department of Administrative Services (DAS). The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1).

Your petition stems from a records request to DAS for certain categories of records related to DAS's notice of intent to award a sole source contract to Century Link Communications (the Notice).[1] On October 22, 2025, DAS responded to your request by stating that DAS did not have any responsive records. Your petition followed.

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[1] Your request sought various categories of records regarding the procurement including "sole source justification and supporting materials including any decision criteria" and "procurement planning documents and internal communications."

Your petition argues that DAS should have records responsive to your request. Your petition explains that Oregon's "standard process of competitive procurement" mandates that DAS create certain records documenting the decision process. Specifically, you argue that ORS 279A.015(3) requires an "evaluation of performance factors and other aspects of service and product quality, as well as pricing, in arriving at best value." You further argue that ORS 279B.075(1) permits sole source contracts only when the agency makes certain written determinations. Therefore, you conclude that DAS must have created these records in connection with the Notice.

After receiving your petition, DAS conducted another search for responsive records responsive to your requests and located three emails discussing the procurement, which have now been produced to you. In connection with your petition, we contacted DAS to gain an understanding of why DAS has so few responsive records. DAS explained that it has limited records responsive to your request because the contract at issue is not subject to the Oregon Public Contracting Code:

> DAS has few records responsive to the request, in part, because the contract in question was made under ORS 279A.025(2)(g), which provides an exemption from the Oregon Public Contracting Code for "[s]ole-source expenditures when rates are set by law or ordinance for purposes of source selection." A contract made under that provision is not subject to the requirements of the Public Contracting Code, including those found in ORS Chapter 279B.075, that may require justification or determinations for sole source awards. The contract at issue here was made under ORS 279A.025(2)(g). Supporting or justification materials related to the selection process are not required and DAS does not have any of those materials.

Under the circumstances, we have no reason to second-guess DAS's explanation that the records you seek do not exist. And because we cannot order DAS to disclose records that do not exist, we must respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn
c via e-mail only: Christina Mason (DAS Procurement Services)