Contracting Professional Services by Five Parish School Boards

Jefferson, Orleans, Plaquemines, St. Bernard and St. Tammany

June 1998
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Overview

Under current Louisiana law, school boards, cities, and other such political subdivisions are not required to award professional service contracts through a competitive selection or bid process.

The rationale behind the lack of a mandated competitive selection process is that price is not the most important factor when selecting services that depend on artistic, creative, technical, or specialized skills. Under this theory, attorneys, architects, engineers, accountants, public relation specialists, counselors, marketing and other types of consultants should be selected on factors such as experience and qualifications. Basing a decision on factors such as experience and qualifications, rather than simply the lowest cost, is more subjective.

The more subjective nature of the selection process for professional services has often led to charges that political considerations and campaign contributions dominate the awarding of contracts. It is possible, however, to establish an open, fair, competitive selection process even where elements of judgment (and thus subjectivity) are involved. The American Bar Association’s Model Procurement Code provides a model for just such a process.

Fairness in contracting for professional services requires a written selection policy, so that all competitors may know what is involved. An open and fair process requires a written statement of the need for services, authorization to seek outside services, advertisement of the need for services, and a clear statement of work to be done and the factors to be considered in evaluating and selecting contractors.

An open, competitive process frequently involves briefings for new proposers, in the form of orientation to the jurisdiction’s policy and process, as well as pre-proposal conferences for specific requests for services.

Assurance of fairness and openness of competition also requires a well-documented record of the jurisdiction following its written policy and a well-documented record of each selection, including the reasons for particular choices.

When there is an open, fair, and competitive process, the public entity benefits by having a wider pool from which to select and by possibly being able to negotiate more favorable terms. A lawsuit by an unsuccessful proposer is also less likely to prevail if there is documentation of an objective procedure. Documentation of an objective process also provides a defense against the perception of undue influence by campaign donors even in cases where contracts are awarded to campaign contributors.

The Specific Problem

The mass media in the New Orleans area have frequently reported on connections between firms and individuals making campaign contributions to public officials and receiving contracts for public business. Such reports suggest to many the need for heightened public scrutiny of local governmental contracting and procurement procedures. The result of such scrutiny might be to change the procedures, or it might be to assure the public that procedures in place provide adequate protection against public contracts going only to campaign contributors.

The Study

In order to address the need for more scrutiny of local contracting for professional services, BGR conducted a review of the procurement and contracting policies and practices of the public school boards of Jefferson, Orleans, Plaquemines, St. Bernard, and St. Tammany Parishes. The policies and practices of each
school district were compared to a model code and regulations developed by the American Bar Association. The specific features sought by BGR are summarized in the BGR Model for Professional Service Contracting on page 9.

This BGR study is the first of its kind, in that no organization has ever before performed a systematic review of the procurement and contracting policies of the area school boards.

**BGR’s study was designed to address the following questions:**

- Is there a correlation between campaign contributions to school board members and the individuals and firms that currently hold contracts with the respective school boards?
- To what extent do the school boards procurement policies and procedures provide for fair and open competition in the selection of contractors?
- What changes, if any, should be made to existing procurement systems in order to eliminate real or perceived improprieties in the awarding of contracts?

**How was the study conducted?**

BGR gathered information on campaign contributions to school board members from campaign finance reports on file with the Supervisory Committee for Campaign Finance, Louisiana Board of Ethics. Every campaign donation made in the period from October 1991 through September 1996 to school board members who were elected from October 1994 through September 1996 (the incumbents at the start of BGR’s study) was examined. Correlating the donor list with names of service providers allowed BGR to calculate the number and percentage of contracts awarded to donors in each parish school system.

BGR staff analyzed the school boards’ procurement policies and procedures through on-site inspection of contract files and related documents and through interviews with school board personnel in each of the five parishes.

The contract procurement system in place in each of the five parishes was compared to BGR’s best practices model, based largely on the Model Procurement Code developed by the American Bar Association. The ABA Model formed the basis of BGR’s recommendations in 1990 on such policies and procedures for all local governments in Orleans Parish. It continues to serve as a model because of its thorough treatment of professional purchasing procedures and its acceptance by nationally respected organizations such as the National Institute of Government Purchasing and the National Association of State Purchasing Officials.

**What were the findings?**

**Is there a correlation between campaign contributions to school board members and the individuals and firms that currently hold contracts with the respective school boards?**

The percentage of professional service contracts held by donors ranged from zero in St. Bernard Parish to 47 percent in Jefferson Parish.

The Jefferson Parish School Board had in effect, during the BGR study period, 100 professional service contracts totaling $3,477,270. The 47 contracts held by campaign donors aggregated $1,542,215. Construction-related professional service contracts awarded to campaign contributors comprised 84.6 percent of all construction-related contracts in effect (44 of 52).
The Orleans Parish School Board awarded 26.6 percent of its 94 professional service contracts to donors. The dollar value of the contracts to donors was low; of the $14,070,357 in total contract value, $295,737 (2.1 percent) went to contract holders who had made campaign contributions. One ten-year contract of $8.8 million is included in the total of contracts in effect.

The three smaller parishes' school boards had a low percentage of contract awards to campaign donors. Plaquemines had only one donor awarded a contract under its unwritten process. BGR found no campaign contributions from contract holders in the St. Bernard school system. The St. Tammany School Board records showed four of 42 contracts awarded to campaign contributors, six percent of the $1,141,636 total of all professional service contracts.

The number and percentage of contract awards taken alone should not be considered as either proof of political favoritism or of an absence of donor influence in that school board's selection. It is possible for a high percentage to exist with good written policies in place. It is conversely possible that a low percentage can exist in spite of procedures that allow favoritism by the school board or its employees.

Through an analysis of the policies and procedures in place and documentation of adherence to those policies, the public can determine whether opportunities for donor influence on selection can occur.

To what extent do the school board's procurement policies and procedures provide for fair and open competition in the selection of contractors?

None of the five school boards had written procedures covering all professional service contracts. Contract documentation was usually disorganized and at its worst missing. Files were not centralized in any district studied, nor was there a simple list of all professional service contracts. BGR's research often required uniting a contract with its Request for Qualifications (RFQ)/Request for Proposals (RFP), submitted proposals, and proof of advertisement. Documentation of proposals received was often missing.

None of the school boards BGR visited had written or informal procedures requiring a minimum number of proposals and re-advertising if less than the minimum were received.

When reviewing the post-award phase of professional service contracts, BGR found no evidence of formal evaluation of on-going or completed work and only some evidence of informal review. Responsibilities for the evaluation of on-going and completed contracts were not addressed in any written procedures. Certification of progress in construction-related design contracts was usually the responsibility of the architect, though not all school boards specified this requirement in writing.

Contract renewal clauses were written into some service contracts. The norm was an option to renew annually for three years. It is a questionable practice to renew a contract without formal evidence of school board satisfaction with the provider. A few school boards reported dissatisfaction with contractors informally, but these incidences were undocumented.

In the Jefferson Parish school system, where the percentage of construction-related contracts held by donors is 84.6 percent, there is at least the appearance of a quid pro quo, because the school board members have the authority to personally select construction-related contract recipients. The Jefferson Parish School Board's written policies require firms to qualify for a list of potential contractors. This is a good method of screening companies, but it does not go far enough in assuring an unbiased selection. Once a firm is on that list, no additional objective review is required. The board may select any firm for any reason without benefit of staff recommendations. The Jefferson Parish School Board is not required to give a reason for a selection.
The Orleans Parish School Board has written procedures that follow the BGR model for capital-projects-related professional service contracts. Contract documentation indicates that the staff generally applies the same procedures to contracting for other types of professional services.

Plaquemines Parish’s school system has no written procedures and appears to favor one construction-related design firm (not a contributor). The St. Bernard school system has been following sound, though unwritten, policies.

The St. Tammany system had an unfortunate experience with the lack of formal policy and board member involvement in the selection of professional service providers but has learned from past mistakes. St. Tammany’s policies for selection of construction-related professional service firms were adopted in 1993. They have not, however, been extended to other professional services.

**Recommendations**

**What changes, if any, should be made to existing procurement systems in order to eliminate real or perceived improprieties in the awarding of contracts?**

**All School Boards**

- Enact a set of comprehensive written policies for all professional service contracting; where a written policy exists for construction-related contracts, extend the policy to include all professional service contracting.
- Use Request for Qualifications/Request for Proposals to advertise the need for services and to facilitate evaluation of proposals.
- Require a minimum number of proposals and re-advertise if fewer than the minimum number of proposals is received.
- Make proposal evaluation the responsibility of staff and/or qualified professionals with no financial interest in the contract.
- Require that the board accept the recommendations or provide a written explanation of their reasons for any other award.
- Document the contracting process, organize contract files in a consistent manner, and create and maintain a centralized list of professional service contracts.
- Establish procedures for in-process and final evaluations of contracted work to serve as contract history and a basis for contract renewals.

**Jefferson Parish School Board**

- End the current practice of school board member selection of contract recipients.
- Replace school board selection with action on staff recommendations, based on staff or other professional evaluation and ranking of proposals.

**Orleans Parish School Board**

- Extend existing written policies and procedures to all professional service contracts, not just capital projects.
- Develop and maintain a consistent method of contract documentation.

**Plaquemines Parish School Board**

- Adapt written policies and procedures covering all elements in the BGR model.
- Include a maximum reimbursement amount in contracts.

**St. Bernard Parish School Board**

- Adopt in written form the policies and procedures now in practice.
- Establish procedures for in-process and final evaluations of contracted work to serve as contract history and a basis for contract renewals.
St. Tammany Parish School Board

- Extend current written policy for construction-related contracts to all professional service contracts.
- Include written recommendations of the evaluation committee in the contract file.

Conclusion

BGR examined campaign contributions to elected school board members in five parishes to determine whether there was a correlation between campaign contributions and contract awards. Generally, the data were inconclusive. In Jefferson Parish, however, there was both a high percentage of professional service contracts to campaign contributors (47 percent of all professional services contracts and 84.6 percent of construction-related professional service contracts) and a selection procedure that left ranking of potential contractors, as well as final selection, solely in the hands of school board members.

Professional service contracting procedures in the region have improved over the last several years, particularly by the school boards of Orleans and St. Tammany Parishes. Even in those school districts, however, the formal contract policies and procedures for professional service apply only to those services that are construction-related. Across the five-parish area, an absence of written policies and procedures to guide the professional service contractor selection process prevails.

Documentation of selection of contractors is also a serious deficiency in all school districts. The Orleans Parish School Board has the most complete documentation, but contractor selection documents are often located in multiple folders, with no consistency from one contract to the next. The Jefferson Parish School Board's contractor selection documentation was also inconsistent, depending on where the documents were located. The three smaller school districts of Plaquemines, St. Bernard, and St. Tammany Parishes all had problems with adequate and consistent documentation of their contract selection processes.

Improved evaluation of work by professional service contractors is needed. Before a contract is extended or renewed, the work performance of the contractor should be carefully evaluated. This practice is not being followed on a consistent basis in any of the five school districts reviewed by BGR. Monitoring and evaluation evidence should be included (or have the location given) in contract documentation packages.

Prompt implementation of the recommendations outlined in this report will provide greater public accountability on how and on what basis professional service contractors are selected. Greater accountability, in turn, can lead to increased public trust and confidence in the respective school systems.
The Study

Much attention has been directed toward the purchasing of goods and services by public agencies.

Public agencies have received criticism for not getting their money's worth from contractors, hiring outside contractors unnecessarily, and choosing contractors on the basis of money and friendship rather than skills and abilities. Public school boards, in particular, are increasingly expected to provide new services requiring specialized skills, such as physical and speech therapy, computer networking, and special testing services. These new services are in addition to traditional professional services such as legal services, external auditing services, and engineering and architectural services. Public agencies, including school boards, have increasingly turned to the private sector for the provision of these new services.

Because Louisiana does not apply laws requiring competitive selection of service providers to local jurisdictions, there is opportunity for political favoritism in professional service contractor selection. Suspicions are created when contracts are awarded to service providers which have made campaign donations. Public scrutiny and locally-adopted policies and procedures are the controls restraining those who would take advantage of Louisiana's lack of mandated procedure.

The Bureau of Governmental Research (BGR) has undertaken this study of professional services contracting to provide the public with a view of professional services contracting as handled by the public school boards of Jefferson, Orleans, Plaquemines, St. Bernard, and St. Tammany Parishes. BGR had formerly studied the professional services contracting of all the major local governments in Orleans Parish, including the school board.

The parish school systems are major employers and generators of public spending in their respective communities (see Table 1). The parish school boards are the trustees of significant financial resources in the process of educating our most valuable human resources, our children, so it is essential that the public have confidence in these boards.

<table>
<thead>
<tr>
<th>Table 1</th>
<th>Area School Boards</th>
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<tbody>
<tr>
<td>Budgets and Student Population - FY 1997</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Jefferson</td>
</tr>
<tr>
<td>Total Budget*</td>
<td>$321,829,543</td>
</tr>
<tr>
<td>Student Population</td>
<td>52,024</td>
</tr>
</tbody>
</table>

* Totals adjusted to include general, capital, special and debt service funds, and operating transfers out.
Student populations provided by parish school boards.

1 Wallace Stevens, Inc. v. Lafourche Hospital, 323 So. 2nd 794, (LA. 1975).
This study was conducted in order to find out whether there is a correlation between campaign contributions to school board members and contracts with school boards and whether the professional services procurement practices used by area school systems protect the public interest by providing a fair and open selection process. BGR performed analyses of both campaign donations and professional service contracting procedures in order to answer these questions.

Although professional service contracts represent a relatively small portion of each school board's total budget (see Table 2), they can have a disproportionately large impact on perceptions of school board integrity and fiscal responsibility.

Model Professional Service Procurement Policy

The Model

Specific concerns over the awarding of public contracts have been addressed in numerous BGR studies and reports. Prior BGR reports have recommended the American Bar Association (ABA) Model Procurement Code for State and Local Governments as the standard for services contracting. Professional governmental purchasing organizations such as the National Institute of Government Purchasing (NIGP) and the National Association of State Purchasing Officials (NASPO) also recommend the ABA Model Code. BGR continues to base the elements in its own model on the standard of the ABA Model Procurement Code.

Definition of Professional Services

To determine which types of contracts can be classified as professional services, BGR examined the American Bar Association's Model Procurement Code and Louisiana State Law. State law defines professional services in terms drawn almost directly from the ABA Model Procurement Code. However, the State of Louisiana differs in that it exempts professional service contracts from the competitive processes and allows independently-elected agencies (such as parish school boards) discretion in awarding these contracts. State legal definitions provide a source common to all district school boards included in this study; therefore, BGR used the state definitions and provided copies to the school administrations before viewing contracts.

Table 2

<table>
<thead>
<tr>
<th>Area School Boards</th>
<th>Professional Service Contracts in Effect - FY1997</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Jefferson</strong></td>
<td><strong>Orleans</strong></td>
</tr>
<tr>
<td>Total Budgeted Expense</td>
<td>$321,829,54</td>
</tr>
<tr>
<td>Number of Contracts</td>
<td>100</td>
</tr>
<tr>
<td>Amount of Contracts</td>
<td>$3,477,270</td>
</tr>
<tr>
<td><strong>Plaquemines</strong></td>
<td><strong>St. Bernard</strong></td>
</tr>
<tr>
<td>Total Budgeted Expense</td>
<td>$35,252,776</td>
</tr>
<tr>
<td>Number of Contracts</td>
<td>27</td>
</tr>
<tr>
<td>Amount of Contracts</td>
<td>$810,829</td>
</tr>
<tr>
<td><strong>St. Tammany</strong></td>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>Total Budgeted Expense</td>
<td>$232,904,441</td>
</tr>
<tr>
<td>Number of Contracts</td>
<td>42</td>
</tr>
<tr>
<td>Amount of Contracts</td>
<td>$1,141,636</td>
</tr>
</tbody>
</table>

*In each parish, some contract amounts are not included in the total dollar amount because not every contract specified a total. Contracts that did not specify totals were "fee for service" contracts, payment per hour contracts, or construction-related contracts in which the final amount of the contract would be based on a formula involving the final cost of the construction.

**$8.8 million of this amount is in a single 10-year energy management project.**

Source: School board records, BGR calculations.

BGR
Model for Professional Service Contracting

Written procedures

• Follow a set of comprehensive, written procedures for ALL professional service contracting.

Maximized competition

• Advertise contract availability.
• Conduct outreach programs.

Request for Qualifications (RFQ)/Request for Proposals (RFP) or similar standardized contract procedure with written criteria

• Require every proposer to submit RFQ/RFP or similar standardized proposal for each contract.
• Include and follow written criteria in proposal evaluations.

Removal of elected officials from proposal evaluations and selections

• Place responsibility for contract evaluation with staff or committees of staff and objective, relevant professionals.

• Require a written explanation to accompany the rejection if a school board rejects a staff/committee recommendation.

• Re-advertise the contract if the first, second, and third staff/committee recommendations are all rejected.

Written appeals process

• Include a formal, standardized procedure for contractor appeals in written procedures.

Administration and organization of contracts and documentation

• Organize contract documentation packages.
• Maintain a list of current professional services contracts with description of service, contractor name, dollar amount, and location of complete documentation.

Monitoring of contract work and evaluation of completed contract

• Monitor progress of contract work.
• Evaluate work upon completion of contract.
• Keep written records of evaluations of work performed.

This model is based on the Model Procurement Code of the American Bar Association
State Law Categories

The four general categories of service contracts as defined in Louisiana Revised Statutes Section 39:1484 are: Professional Services, Social Services, Personal Services, and Consulting Services. These services are defined as follows:

1. Professional Services: "work rendered by an independent contractor who has professional knowledge of some department of learning or science used by its practical applications to the affairs of others or in the practice of an art founded on it, which independent contractor shall include but not be limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, accountants and claims adjusters. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word 'professional' implies professed attainments in special knowledge as distinguished from mere skill." {LSA-R.S. 39:1484(18)}

2. Social Services: "work rendered by any person, firm, corporation, governmental body, or governmental agency in furtherance of the general welfare of the citizens of Louisiana, including, but not limited to the following objectives: rehabilitation and health support... habilitation and socialization... protection for adults and children... improvements of living conditions and health... evaluation, testing and remedial educational services for exceptional handicapped or learning disabled nonpublic school students..." {LSA-R.S. 39:1484(25)}

3. Personal Services: "work rendered by individuals which requires use of creative or artistic skills, such as but not limited to graphic artists, sculptors, musicians, photographers, and writers, or which requires use of highly technical or unique individual skills or talents, such as but not limited to, paramedicals, therapists, handwriting analysts, foreign representatives, and expert witnesses for adjudications or other court proceedings." {LSA-R.S. 39:1484(16)}

4. Consulting Services: "work other than professional, personal, or social service, rendered by either individuals, or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, or improvements in programs or services, including but not limited to such areas as management, personnel, finances, accounting, planning, data processing, and advertising contracts, except for the printing associated therewith." {LSA-R.S. 39:1484(4)(a)}

For brevity's sake, BGR will use the common term "professional services" to refer to all four service categories defined in state law.

Methodology

To determine whether there is a relationship between campaign contributions and contracts awarded, data were collected on donations and loans to the campaigns of Jefferson, Orleans, Plaquemines, St. Bernard, and St. Tammany Parish School Board members elected during the period October 1994 to September 1996. Some incumbents had funds donated to a previous campaign that state law permitted to be applied to an election during our study period, therefore donations back to 1991 were included. During the study period there was one school board election each in Jefferson, Plaquemines, and St. Tammany Parishes. Orleans Parish had
two elections. In St. Bernard, there were three elections with a total of thirteen positions involved. Jefferson Parish School Board had nine members elected, Orleans Parish School Board had eight, and Plaquemines Parish School Board had nine. In the St. Tammany School Board election fifteen members were elected.\(^3\)

The names of the professional service providers and their company officers were compared with reported campaign donations to the elected school board members. Campaign donation and loan data were obtained from the Louisiana Board of Ethics, Supervisory Committee on Campaign Finance.

To determine whether the area school boards have professional service procurement policies and procedures that safeguard the public interest, BGR examined their professional service contracting practices. Each school board had its own set of policies and procedures. The number of students, the anticipated building programs, and the amount of work done in-house affect the number and amount of professional service contracts. Completeness and organization of documentation varied for each school district. This report presents both general observations and a separate analysis of each school board's practices. Table 5 on pages 18 through 20 summarizes the present practices. The individual analysis for Jefferson, Orleans, Plaquemines, St. Bernard, and St. Tammany Parish School Boards begins on page 16.

BGR made site visits to the school boards' administrative offices and other school board locations that held copies of contracts. BGR viewed every contract provided and identified by the school district as a professional service contract. BGR tabulated information for each contract. Information gathered included company name, type of service, amount of contract, company principals, office addresses, and duration of the contract. The number and the amount of donor-awarded contracts were then compared to the total number and amount of professional service contracts in effect.

It should be noted that amounts of donations and numbers of contracts used to generate the ratio are narrowly defined. BGR looked only at pre-election contributions to the members who were incumbents during the study period. BGR examined only contracts in effect within that two-year period (school years 1995-96 and 1996-97). BGR compared only donations and loans that could be matched with companies holding contracts in effect during the two-year period.

The correlation between campaign donations and subsequent contract selection may actually be higher than BGR's figures but not lower. BGR may have undercounted contract-related donations. For instance, BGR's method may not have recognized donations from individuals connected by employment or familial relationship to companies that later were awarded contracts. Adjustment for such an undercount would result in higher donation totals from contract recipients and possibly identification of more contracts to contributors. The percentage of awards going to donors could be lower only if school boards did not make available to BGR all professional service contracts. In that case, the total number and dollar amount of all professional service contracts would be higher. Possible unprovided contracts would likely be distributed between donor-related and non-donor-related in the same proportions as the provided contracts; therefore, BGR's ratio of contracts to identified donors would remain constant.

BGR also analyzed school board procurement policies and procedures for professional services in Jefferson, Orleans, Plaquemines, St. Bernard, and St. Tammany Parishes. BGR reviewed written policies and actual procedures in order to determine whether the best possible practices for professional services contracting were in place in the area school boards.

\(^3\) Five seats were uncontested, and two of the contested seats were ultimately conceded when one of the two candidates withdrew in each.

\(^4\) One of the contested seats was ultimately conceded when one of the two candidates withdrew.
BGR examined each school system's professional service contracts in effect during 1995-96 and 1996-97 school years. Because some contracts active between 1995 and 1997 were part of multi-year contracts or had been renewed or continued beyond the original specified contact dates, the actual start dates of these contracts may have been prior to the 1995-1997 study period. In addition to reviewing the contracts in effect, BGR also analyzed the documentation in the contract packages to determine whether actual procedures followed written policies. BGR examined every professional service contract and its documentation that was made available by that school system. It is possible, but not likely, that some contracts were not provided because school boards' administration employees may not have had knowledge of contracts at other locations; or the school system may have had a different understanding of the definitions of professional services provided.

To determine the degree to which a parish school board was promoting fair and open competition, BGR looked at the contract process and attempted to determine if that school district's contracting procedures were followed in the awarding of contracts. Where there were incomplete or no written policies, BGR interviewed school board members and staff to determine what practices were to be followed. BGR inquired whether the school board had been conducting outreach to inform service providers of school board needs and to educate potential providers on proposal requirements. BGR also looked for staff or committee tabulation sheets, which would indicate that proposals had been analyzed. The overall content of relevant school board written procedures was also evaluated for adherence to model procedures.

**Findings:**

**All School Boards**

The percentages of total contracts and the amount of total professional service contracts awarded to campaign donors ranged from zero percent for St. Bernard Parish to 47 percent for Jefferson Parish (see Tables 3 and 4).

The Jefferson Parish school system had in effect during the study period 100 professional service contracts totaling $3,477,270. The 47 contracts held by campaign donors had a total value of $1,542,215. Most of the donor-awarded contracts (44 of 47) were for professional services related to construction.

The Orleans Parish School Board awarded 26.6 percent of its 94 professional service contracts to donors. The dollar value of these contracts was low; of the $14,070,357 in total contract value, $295,737 (2.1 percent) went to contract holders who had made campaign contributions. If the ten-year, $8,776,000 energy management contract is excluded, the $295,737 represents 5.6 percent of the contracts to campaign donors.

The three smaller parishes' school boards had a low percentage of contract awards to campaign donors. Plaquemines had only one donor-awarded contract under its unwritten process. BGR found no campaign contributions to St. Bernard School Board members from contract holders. The St. Tammany School Board records showed four of 42 contracts awarded to campaign contributors; six percent of the $1,141,636 total of all professional service contracts.

Although the range of figures is interesting, BGR suggests that these research findings alone are insufficient to draw conclusions regarding a correlation between campaign donations, or the lack thereof, and the awarding of contracts. There are several possible explanations for a high percentage of contracts going to campaign donors including:
Donor corporations were the most qualified and submitted the best proposals.

Donor corporations are the most successful in their specialties and consequently have the most money with which to make donations.

Potential contractors, believing donations affect awards, make campaign donations, so any group of contractors would include a high percentage of donors.

Campaigns are expensive and candidates seek donations from any possible source.

Conversely, a low percentage of contract awards to campaign donors does not, by itself, prove the absence of political favoritism in the awarding of contracts. Possible explanations for a low percentage include:

- Campaign finance reports were incomplete or filed after the study period.
- Donations were made subsequent to contract award.
- Influence may be acquired by other means; for example, by potential contractors cultivating special relationships with staff.
- There is a small pool of businesses eligible to compete and, therefore, no need to make donations.

Campaigns are inexpensive, and donations are not a significant source of influence.

Despite other possible explanations, a high percentage of contracts going to campaign donors, as in the case of Jefferson Parish School Board, may indicate a need for improved policies and procedures.

Any quantitative relationship of donors to contract holders needs to be examined not in isolation but in light of opportunities for donor influence, or other political favoritism, allowed by the contracting procedures of the particular school system. If the procurement procedures are vague, non-existent, or ineffective, a high percentage of contracts going to campaign donors may indeed be significant and indicate the need for improved policies.

Only through an analysis of the policies and procedures in place and the implementation of those procedures can the public determine whether opportunities for donor influence can occur in contractor selection. The following section provides first an overview of the procurement procedures used in the local school boards and then an individual assessment of each of the five school boards included in the review.

Table 3
Area School Boards
Professional Service Contracts Held by Campaign Donors - FY 1997

<table>
<thead>
<tr>
<th></th>
<th>Jefferson</th>
<th>Orleans</th>
<th>Plaquemines</th>
<th>St. Bernard</th>
<th>St. Tammany</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Professional Service Contracts</td>
<td>100</td>
<td>94</td>
<td>27</td>
<td>20</td>
<td>42</td>
</tr>
<tr>
<td>Number of Contracts Held by Donors</td>
<td>47</td>
<td>25</td>
<td>1</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Percentage of Contracts Held by Donors</td>
<td>47.0%</td>
<td>26.6%</td>
<td>3.7%</td>
<td>0.0%</td>
<td>9.5%</td>
</tr>
</tbody>
</table>

Source: School board records and BGR calculations.
To what extent do the school boards' procurement policies and procedures provide for fair and open competition in the selection of contractors?

Written procedures

Three school boards had written procedures, but these procedures were not comprehensive. They applied only to professional service contracts associated with capital projects, and they did not address all stages of contracting (e.g., post-award evaluations were not required in any written procedures). The other two parish school boards had no written policies at all. BGR often found that staff and school board members were making sincere efforts to practice desirable procedures, but that these procedures were not formally enacted.

Contracts for construction-related, or capital project, services were usually subject to more formal and explicit requirements. Capital projects contract packages tended to reflect greater adherence to desirable service contracting procedures. Construction projects were divided into two phases, design and construction. Typically the design phase involved either advertising for proposals or assigning from a list of pre-qualified service providers.

It was general practice that an architect was prohibited from being the construction contractor on the same project. Once an architect was selected, school boards varied in the degree of control that the architect had in the final selection of a construction contractor.

Maximized competition

In general, BGR found fairly consistent use of advertisement as a means of generating competition in cases where a Request for Qualifications (RFQ)/Request for Proposals (RFP) was used. These advertisements were often accompanied by a mailing list of previous proposers.

However, BGR was more concerned with those contracts that did not follow RFQ/RFP procedures and instead were let informally. These contracts varied in approach, but they generally lacked outreach, relying on minimal phone lists and word-of-mouth, and resulted in an extremely limited number of respondents. These weaknesses were of particular concern in one parish where a high number of construction-related contracts were let without evidence of adequate outreach.

<table>
<thead>
<tr>
<th>Table 4</th>
<th>Area School Boards</th>
<th>Dollar Amount of Professional Service Contracts Held by Campaign Donors - FY 1997</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jefferson</td>
<td>Orleans</td>
</tr>
<tr>
<td>Value of Professional Service Contracts</td>
<td>$ 3,477,270</td>
<td>$ 14,070,357*</td>
</tr>
<tr>
<td>Value of Contracts Held by Donors</td>
<td>$ 1,542,215</td>
<td>$ 295,737</td>
</tr>
<tr>
<td>Percentage Value of Contracts Held by Donors</td>
<td>44.4%</td>
<td>2.1%</td>
</tr>
</tbody>
</table>

* Includes one $8.8-million ten-year contract.
Source: School board records and BGR calculations
No parish had a policy that required re-advertisement if less than a minimum number of proposals was received. Most parishes would re-advertise under other circumstances, such as board rejection of staff recommendations or if proposals exceeded budgeted amounts.

Every parish had some contracts that had been rolled over or renewed without solicitation of competitive proposals. Typically these were contracts for financial, auditing, or information systems services.

**RFQ/RFP or similar standardized contracting procedure**

School boards were inconsistent in their use of contracting procedures. Where written procedures existed for capital projects, several parish school boards used a minimum of a Request for Qualifications (RFQ). In some cases, qualified providers were then simply placed on lists from which contracts were awarded by rotation. While award by rotation is not preferred, it is acceptable, because all pre-qualified firms enjoy equal access to work. It was not clear in the case of at least one school board whether the rotation was being followed or whether subjective considerations were taking precedence. Requests for Proposals (RFPs) were used inconsistently in the school boards and were more commonly used for larger contracts.

**Removal of elected officials from proposal evaluations and selections**

The ability of area public school boards to either ignore staff selection or influence the final selection varied. At one school board, BGR witnessed a controversy between board and staff over the advertisement of a contract and its resulting proposals. The controversy was rooted in a lack of written procedures and miscommunication between board and staff. This school board had a history of board involvement in contract management.

Another school board appeared to accept staff recommendations but lacked the written procedures to support this practice. At another school system, committee recommendations were sometimes presented to the school board, but no written policy required the board to accept these recommendations and the reasons for contract award were not included in contract records.

Two school boards had written policies and procedures requiring the acceptance of staff/committee recommendations for those professional services used in capital projects. These procedures require the board to review second and third staff recommendations upon rejection of the first; after three rejections, procedures require the contract to be re-bid.

**Written appeals process**

Conflict resolution was not handled in a consistent manner among the school boards. Proposers who were disqualified in initial stages of contract awards usually received immediate notice of their rejection. Qualified proposers who were rejected in final stages did not always receive timely notice. There was rarely time for a review committee to hear challenges to the selection process before the contract was signed.

**Administration and organization of contracts and documentation**

Organization and management of contract files were seriously lacking in most of the parishes. This lack of organization and management made it difficult for BGR to examine contracts, increasing time and effort both on the part of BGR and school system administrators. Contract documentation sought by BGR included documentation of the selection and award process, copies of the RFPs, signed contracts, and documentation of monitoring and evaluation. Such contract documentation packages were often incomplete, missing proposals or evidence of advertisement, and sometimes contained contracts that were not signed. Compiling contract documentation often involved collecting materials from several offices, with inconsistencies in organization and confusion as to responsibility among the different offices.
One school board had consistent organization in about half of its contracts; however, its professional services contracts were spread out across several offices and this consistency did not carry from office to office. The school board with by far the most complete contract documentation still lacked consistent organization of materials within the files, resulting in lost sections of files or contract materials mixed in with another contract’s files. The three other school board’s files were not only inconsistent, but also often incomplete, in both the package contents and the administration of the contracts.

Every parish reported staff problems related to contract administration, from authorized unfilled positions to increased workloads without proportional staffing changes. No school board had a centralized list of professional services contracts; two school systems had limited lists of only construction-related contracts.

**Monitoring of contract work and evaluation of completed contract**

BGR found minimal evidence of monitoring of contract work in any of the school boards. For construction-related contracts, the architect/engineer was required to certify the work of the contractor before progress payments to the contractor and the architect/engineer. Retention of a percentage of invoiced amounts tended to be a feature of progress payments, providing some protection from contractor default. All other contracts lacked evidence of formal or informal monitoring.

No school board had a policy that required and implemented formal evaluation of completed contracts. One school board had evaluated completed contracts in the past but had abandoned this practice after legal difficulties ensuing from a lawsuit.

**Findings: By parish**

The following analysis of individual parish school boards provides a more complete picture of the professional service procurement policies and procedures in place in each of the school boards.

All the school districts were unique in that each demonstrated a varying degree of conformance to BGR’s model for professional services contracting (see Table 5).

**Jefferson Parish**

In our comparison of the number of contract awards to donors, the Jefferson Parish School Board produced the highest ratio (see Tables 3 and 4). Nearly one-half (47 percent) of the professional service contracts and nearly one-half (44.4 percent) of the identifiable contracting dollars were awarded to campaign donors. Of the 52 construction-related contracts BGR examined, 44 were awarded to donors (84.6 percent). The evidence presented in the high donor-contract ratios is not itself proof that campaign contributions influenced contract awards by the Jefferson Parish School Board. However, given the ability of the Board to direct the selection of construction service contractors, an appearance of patronage is created.

Jefferson Parish School Board contracts out the pre-qualification process of construction-related service providers. Jefferson Parish School Board employs a single, private company to manage all its construction-related, or capital projects. The company maintains offices in a school board building to facilitate close coordination and fast emergency response. The management company pre-qualifies all construction-related service providers and prepares a list of work to be accomplished during a given cycle, occasionally including recommendations for specific construction-related service providers. This list is then reviewed by the Construction Committee, which is made up of elected board members, staff members, and management company representatives.
This Construction Committee may or may not include in its report a recommendation for a particular service provider. If there is a committee recommendation, the Board is under no written obligation to follow it. The contracting documents do not record the frequency with which the school board follows recommendations. In fact, most construction-related contract packages lacked any written justification for the award of a particular project to a specific construction-related contractor. Board minutes may contain the reason for a selection, but no minutes were part of contract documentation.

The Jefferson Parish School Board tended to have the best-organized contract files of any in the five-parish area. This organization appeared to be a function of the particular staff member preparing the package, however, and therefore differed from office to office. With a more uniform system, the organization of these contract packages could be a model for ensuring an open, public record.

The contract documentation packages, however, were not always complete. Where the documentation was complete and the contract package organized, the contract, competing proposals, the solicitation, tally sheet, evaluations, and qualifications were all part of the record.

The Jefferson Parish School Board also uses a very casual contracting form. In many contracts, the names of the persons signing for the service provider were not typed under their signatures and addresses of providers were not listed. This practice may not have any legal significance, but it does not promote public accountability.

**Orleans Parish**

The ratio of contract awards to donors for Orleans Parish School Board professional service contracts was 26.6 percent. These donor-held contracts represented 2.1 percent of the total dollar amount of professional service contracts. Of Orleans Parish School Board’s total professional service contract dollar amount, $8.8 million belongs to a single contract extended over a ten-year period; there were no contributions identified as related to the contractor. If that large energy management contract is deleted from the total contract amount, the donor-held contracts represent 5.6 percent of the resulting sum.

Like the Jefferson Parish School Board, the Orleans Parish School Board’s donor-to-contract ratio is higher than that of the smaller parishes. However, the ratio for Orleans Parish School Board is less of a concern to BGR because: (1) the dollar amounts of donor-awarded contracts were relatively low in comparison to other professional services contracts, representing only 2.1 percent of the total professional services contract fees; and, (2) BGR did indeed find documentation of objective, staff-controlled contractor selection. Therefore, BGR did not see a definitive indicator of non-competitive practices.

The Orleans Parish School Board has adopted a written policy for professional service contracting for capital projects. This policy is broadly based on BGR’s 1990 recommendations in *Private contracts for public business*. No formal policy has been adopted by the board for professional services other than those for capital projects, though the contract documentation packages suggest that these same procedures are being observed informally. A few contracts for negligible dollar amounts were awarded under less competitive procedures.

Orleans Parish School Board generally had the most complete contract documentation packages, with single contracts often taking up multiple folders. Though thoroughly documented, the packages generally lacked internal organization. Because of this disorganization, review of the documents was more time-consuming than otherwise would have been necessary. Portions of the contracting packages were sometimes lost or mixed with other files.
### Table 5
Summary of BGR Findings

<table>
<thead>
<tr>
<th>Written Procedures</th>
<th>Jefferson</th>
<th>Orleans</th>
<th>Plaquemines</th>
<th>St. Bernard</th>
<th>St. Tammany</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the school board have written procedures governing the selection process?</td>
<td>C¹</td>
<td>C</td>
<td>No</td>
<td>No</td>
<td>C</td>
</tr>
</tbody>
</table>

### Maximazed Competition

<table>
<thead>
<tr>
<th>Maximazed Competition</th>
<th>Jefferson</th>
<th>Orleans</th>
<th>Plaquemines</th>
<th>St. Bernard</th>
<th>St. Tammany</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the school board create a list of potential contractors for each contract to be awarded?</td>
<td>Yes²</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>2. Does the school board use the provider list available from the Office of Contractual Review in Baton Rouge?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>3. Does the school board do outreach work or conduct seminars to solicit potential contractors?</td>
<td>No</td>
<td>C</td>
<td>P³</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>4. Does the school board advertise its needs for services?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>5 a. Are there a minimum number of proposals that must be received?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>5 b. Does the school board re-advertise for any reason?</td>
<td>Yes⁴</td>
<td>Yes⁴</td>
<td>Yes⁴</td>
<td>Yes</td>
<td>Yes⁵</td>
</tr>
<tr>
<td>6. Is a written proposal required as part of every potential contractor’s submission?</td>
<td>Yes</td>
<td>Yes</td>
<td>P</td>
<td>P</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### Request for Qualifications (RFQ)/Request for Proposals (RFP) or similar standardized contract procedure with written criteria

<table>
<thead>
<tr>
<th>Request for Qualifications (RFQ)/Request for Proposals (RFP) or similar standardized contract procedure with written criteria</th>
<th>Jefferson</th>
<th>Orleans</th>
<th>Plaquemines</th>
<th>St. Bernard</th>
<th>St. Tammany</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 a. Do the proposal requests include explicit statements of specifications?</td>
<td>Yes⁶</td>
<td>Yes</td>
<td>No⁶</td>
<td>P</td>
<td>Yes</td>
</tr>
<tr>
<td>1 b. Are there written evaluation criteria for choosing a contractor?</td>
<td>Yes⁶</td>
<td>Yes</td>
<td>No⁶</td>
<td>P</td>
<td>Yes</td>
</tr>
<tr>
<td>1 c. Are these criteria part of the Request for Proposals?</td>
<td>Yes⁶</td>
<td>Yes</td>
<td>No⁶</td>
<td>P</td>
<td>Yes</td>
</tr>
</tbody>
</table>

C = Yes, for services related to capital projects; P = In practice, yes, but no written procedures

1  Written policy does not include controls for objective evaluation of service contracts.
2  The superintendent is required to evaluate the need to continue existing professional service contracts. The existing contract holder is given a preference for up to three years.
3  For special education services contracts only.
4  Agency re-advertises only if no proposals are received or if quotes are over budget.
5  In practice: If a majority of the proposals are missing correct paperwork.

Written procedure: After the staff’s third selection is rejected by the Bond Issues Affairs Committee/Board

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Bureau of Governmental Research
<table>
<thead>
<tr>
<th></th>
<th>Jefferson</th>
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<th>St. Bernard</th>
<th>St. Tammany</th>
</tr>
</thead>
<tbody>
<tr>
<td>d. Are these criteria available to the contractors?</td>
<td>Yes⁶</td>
<td>Yes</td>
<td>No⁶</td>
<td>P</td>
<td>Yes</td>
</tr>
<tr>
<td>2. Does the school board require reference documents to qualify a contractor (Ex: audited financial statements, personal résumés and a list of experience with similar projects)?</td>
<td>Yes⁶</td>
<td>Yes</td>
<td>No⁷</td>
<td>No⁷</td>
<td>Yes</td>
</tr>
<tr>
<td>3. Does the school board check references to determine the quality of the previous work by all potential contractors?</td>
<td>C</td>
<td>Yes</td>
<td>No⁷</td>
<td>P⁷</td>
<td>P⁷</td>
</tr>
</tbody>
</table>

**Removal of Elected Officials from Proposal Evaluations**

1. a. Does professional, non-political staff control the contract evaluation phase? | No⁸      | Yes     | P           | P           | Yes         |

1. b. Do the written procedures preclude interference from the school board in the evaluation phase? | No⁹      | Yes     | No          | No          | Yes         |

2. a. Are written staff recommendations required? | No        | No      | No          | No          | No          |

2. b. If the board rejects the staff recommendations, is the board required to make its reasons public and accountable? | No⁴       | C¹⁰     | No          | P           | C¹⁰         |

**Written Appeals Process**

1. Is there a written appeals process? | No        | Yes     | No          | No          | Yes         |

**Administration and Organization of Contracts and Documentation**

1. Once a contract has been awarded, does this school system send the contractor a letter specifying any of the following:
   a. the form for progress reports? | C         | C       | No          | C           | No          |
   b. accounting procedures or forms? | C         | C       | No          | C           | No          |
   c. explicit requirements for deliverables? | C         | C       | No          | C           | No          |
   d. the form for the final product or report? | C         | C       | No          | C           | No          |

6  Inconsistent evidence found; some, but not all contract packages contained these items.
7  No written rules exist to this effect. Evidence of reference requests was found inconsistently.
8  Staff provides tabulations in some cases, but all design contracting is board selected.
9  Written procedures for construction-related contracting appear to preclude board interference, but in practice, board chooses all design contractors.
10 Recommendations may be returned to evaluation process or the contract may be re-advertised.
<table>
<thead>
<tr>
<th>Jefferson</th>
<th>Orleans</th>
<th>Plaquemines</th>
<th>St. Bernard</th>
<th>St. Tammany</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Is the following management information regarding professional contracts available:</td>
<td>C</td>
<td>C</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>a. list of all contracts awarded in a budget year?</td>
<td>No^11</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>b. breakdown of contracts according to their function?</td>
<td>C</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>c. dollar values of all contracts?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

**Monitoring of Contract Work and Evaluation of Completed Contract**

1. Once a contract is awarded, is there a formal monitoring process of the contractor’s performance?  
   - Yes  
   - No

2. Do service contracts require a retention of a portion of progress payments until final acceptance of the deliverables?  
   - Yes  
   - No

3. When a service has been completed and accepted, does the school board have a written evaluation of overall contractor performance?  
   - Yes  
   - No

---

11 List is organized by school.
12 In Phases I, II, and III of the 1900 Bond Issue, the Board assigned a staff person to conduct written performance evaluations; that practice was discontinued after a lawsuit called attention to the question of staff liability.

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Orleans Parish School Board contracting packages frequently included tally sheets reflecting staff recommendations. The records indicate that the School Board is observing its procedures by not overriding staff recommendations. The Orleans Parish School Board written policy specifically addresses challenges to staff recommendations, requiring board acceptance of either the first, second, or third choices of its professional committee (made up of staff and non-project-related professionals with technical expertise) before re-advertising the contract. This requirement ensures that contract selection is in the hands of qualified, non-politically-appointed staff. BGR considers this policy to be a model for all the school boards. It was, in fact, the model for Jefferson Parish School Board changes in 1997 and St. Tammany Parish School Board changes in 1993.

**Plaquemines Parish**

Professional service contracts awarded to corporate donors by the Plaquemines Parish School Board represented 3.7% of total professional services contracts viewed and 8.5% of total dollar amount for professional services contracting. In terms of contract awards to donors, the ratio of 3.7% does not suggest donor influence in the awarding of contracts.

BGR found some questionable practices in the contracting of construction-related services. Of the construction-related contracts BGR reviewed, seven of the eight contracts were awarded to a single contractor (not a donor). These seven contracts, at over $630,000, represent 90% of the total dollar amount for construction-related services contracting.
The disproportional awarding of contracts to a single firm is not in itself evidence of political influence. But since these contracts represent a rather large amount of money for a rather small parish and documentation of the reasons for contract selection was not found, BGR is concerned that these contracts appear to show favoritism in construction-related contracting.

The appearance of questionable contracting is compounded by the Plaquemines Parish School Board's lack of formal, written procedures for professional service contracting. Though informal procedures reflected some of the elements BGR was looking for in school board contracting, these procedures were often inconsistent; and the lines of responsibility for evaluation and decision-making were blurred. Ensuing confusion at school board meetings between the board and staff then caused unnecessary delays in contract signing. Evidence of board attempts to control contract awards extended over a number of years. Board control was especially notable for construction-related contracts that had been initiated but then abandoned, as different school boards reversed earlier decisions on the need for the work.

Cancellation fees and lost work time added to the costs of such projects. Several years later, some of these cancelled contracts had been reassigned to the prior holder without a new competition for those contracts.

Construction-related services contracts also were usually executed with a “rolling total” rather than a set or “not to exceed” contract fee. “Rolling totals” were sometimes written into a contract to allow for potential and legitimate changes in construction costs. Although BGR saw no specific problems with actual totals rising (many in fact went down), there is an opportunity for abuse in contracts with no specific upper limit.

Plaquemines Parish School Board contract documentation packages were neither organized nor consistent. Since the number of contracts was relatively low, this lack of organization alone was not as troubling as for the larger parishes. However, combined with the lack of documentation of reasons for contractor selection, it is cause for concern.

Plaquemines Parish’s location represents a few challenges for contracting specialized services. The Plaquemines Parish school system has some basis for claiming itself unique among the five parishes studied, since it has a small population and its schools are spread out to serve rather remote locations. Size and location mean that extra travel and time, translating to higher fees, may be a factor in contracting. In order to attract companies or individuals to work in the parish, the Plaquemines Parish School Board often has to be willing to make up these higher costs. Fees for services by certain types of professionals, such as therapists and special education teachers, were said to be increased for these reasons.

**St. Bernard Parish**

No contracts were awarded to donors by the St. Bernard Parish School Board.

St. Bernard Parish School Board appears to have solid, informal procedures for professional services contracting. Although BGR found no obvious discrepancies in this school board's existing contracts, there was an absence of any formal, written policies.

The contract documentation packages themselves were inconsistent in organization and often incomplete. As with the other small parishes, St. Bernard Parish School Board had a small number of service contracts; organization of these contracts should therefore be feasible.

St. Bernard Parish School Board is in the midst of rebuilding and renovating all of its schools. This construction program represents the most extensive one the school board has undertaken in many years. The St. Bernard Parish School Board has taken an unusual approach to construction-related contracting. St. Bernard required potential architects to design under strict per-square-foot construction cost limits. It was made clear to all potential
construction-related contractors that the school board would be firm in holding to these construction-budget limits and would not entertain proposals that exceeded them. Consequently, proposals were received from only those construction-related contractors willing to accept these limits on construction budgets, thereby eliminating the school board's paying for designs that turned out to be too expensive to build. This approach is one BGR did not see in other area school boards.

The St. Bernard Parish School Board staff interviewed by BGR were uniformly knowledgeable about the selection process. Wide staff involvement and staff initiative were important components of St. Bernard's professional service contracting. The St. Bernard Parish School Board appears determined to minimize bureaucracy and to give staff the largest amount of discretion in its contracting, a practice that could still be established in written policy. Putting present practices in written form might help insure that these practices endure through changes in staff and elected officials.

The St. Bernard Parish School Board, like several of the parish school boards, routinely renews professional services contracts. As mentioned before, contract renewals in and of themselves are not objectionable, but without written documentation of the progress or final results of a contract and a formal recommendation for renewal, justification for these renewals is absent.

St. Tammany Parish

Contracts awarded to corporate donors represented 9.5 percent of total contracts viewed and six percent of the dollar value of St. Tammany's professional services contracts. Given that St. Tammany has adequate written procedures governing construction-related contracts, the low donor-to-contract ratios suggest that strong controls are in place for professional services contracting in the St. Tammany Parish School District.

The St. Tammany Parish School Board has undergone a significant restructuring of its contracting process in the last four to five years. St. Tammany began many of its construction contracts under a dramatically different system during the first two phases of a 1990 Bond Issue. Abuse of the contracting system, resulting in jail terms for two school board members, forced St. Tammany officials to take a serious look at its contracting practices. What resulted from this examination was a new set of standards and procedures based on the procurement policies developed by the Orleans Parish School Board.

The St. Tammany Parish School Board's new, written procedures are the most complete of any school board BGR examined. Their system emphasizes compartmentalized decision-making. Responsibilities for different phases of contracting are clearly delineated and documented. Written procedures control the contracting processes, and the board must select from the top three recommended providers or re-advertise the contract.

St. Tammany Parish School Board's written procedures, being closely modeled on those used in Orleans, are directed only to those services that fall under capital projects; no written rules are set for other professional services contracting. From what BGR could discover, St. Tammany seems to follow these same procedures informally for other services.

St. Tammany Parish has experienced a period of rapid population growth. The school system reports that it has accommodated approximately 1,000 new students every year for the past five years. This rapid growth has placed an extra burden on a small staff. It has also created additional needs for professional services contracting and an open, competitive process.

Contract documentation packages were relatively complete. In the case of construction-related contracts, tally sheets were usually
included; but tally sheets were not generally a part of other professional services contract packages.

The St. Tammany Parish School Board and the Orleans Parish School Board contract directly for construction materials testing. At other school boards, it was typical for the design or construction company to select a materials testing subcontractor and include billing for required tests and inspections with the invoices sent to the school board. Under this system there is very little incentive for controlling costs. In fact, because the design contract had a final value based on the final construction cost, there is a disincentive to control testing costs. By contracting directly for tests and inspection, a school district can better control total construction costs, provided there is adequate staff to monitor the contract.

**Recommendations: All school boards**

What changes, if any, should be made to existing procurement systems in order to eliminate real or perceived improprieties in the awarding of contracts?

Follow a set of comprehensive, written procedures for contracting of all professional services

Comprehensive written procedures are critical to a competitive and publicly-accountable contracting system. Written procedures provide a guide for each stage of the contracting process, from preparing advertisements, to selecting a contractor, and to evaluating performance at contract completion. The existence of written procedures helps to protect a school system from individuals who may regard the absence of standards as authority to pursue their own, rather than the public's, interest. Written procedures suggest that a board takes its contracting responsibility seriously, guarding against even the appearance of impropriety. This helps to increase public trust in local government. For those school boards that have written procedures in effect for capital projects, BGR recommends that they extend their written procedures to all professional services and to all stages of contracting, whether contracted out (as in the case of pre-qualification by an outside company) or done in-house.

In addition, BGR recommends that all school boards develop a list of definitions for "professional services" and include the definitions as part of their policy document.
Maximize competition

Competition and public accountability make up the basis of BGR’s recommended model for contracting. Competition is maximized when a school board both advertises its needs on a contract-by-contract basis and conducts public outreach between contracts to solicit potential proposers for future work.

A school board can encourage new businesses to join in the competition through seminars, pre-proposal meetings, and the like. By maintaining a list of potential contractors and supplementing advertisements with routine list mailings, a school board helps to ensure the receipt of multiple proposals.

When a school board receives fewer than a minimum number of qualified proposals for a contract (e.g., three proposals for larger contracts such as construction-related services), re-advertisement is called for. The purpose of re-advertising is to avoid the appearance of proposal requests that are designed to disqualify all but one provider. Alternately, allowing the school board to “shop the list” of pre-qualified contractors without staff recommendations can render the competitive process invalid. BGR acknowledges the difficulties in soliciting potential contractors in some school board parishes. However, sufficient public outreach can alleviate some of these difficulties; and where sole-source contracts exist, evidence of adequate public outreach will support this contracting decision. Therefore, BGR recommends that contracts be re-advertised (where practical) when fewer than a minimum number of qualified proposals are received.

Consistently use RFQ/RFP or similar standardized contract procedures

Standardized contracting procedures, including the use of Requests for Qualifications (RFQs) and Requests for Proposals (RFPs), lay the groundwork for the solicitation and evaluation of proposals. By including written criteria and any weighting of criteria in the RFQ/RFP and limiting the staff evaluation to specified criteria, a school board encourages fair and consistent evaluation. All potential contractors are made aware of the award criteria beforehand and know what to expect from the evaluation; staff/committee know what to judge a proposal by and can offer a systemized evaluation of proposals. BGR also recommends that school boards require every proposer to submit a proposal for the designated contract, regardless of contract history.

Remove elected officials from the evaluation and selection of proposals

An open, competitive contracting system for professional services requires contracts to be evaluated on the merits of technical/professional expertise, past work, project vision, and cost — not political considerations. This distinction is especially important considering the subjective nature of professional services contracting and the perception of abuse.

Although elected members have final responsibility for contracting decisions, it is within the power of these officials to delegate the evaluation and selection of contractors to the staff level. BGR recommends that school boards incorporate this delegation to the staff level in their written procedures.

Proposals should be formally evaluated by professional staff and non-project-related professionals with contract expertise, and written recommendations should be offered as a basis for contract awards. When a school board chooses to reject a staff recommendation, then at a minimum, a legitimate, written explanation should accompany the rejection. Preferably, a school board should review second and third staff recommendations, re-bidding the contract altogether after rejection of the third staff recommendation.

Establish a written appeals process

Absent an administrative alternative, challengers may be forced to file for judicial relief. The development of an administrative appeals process could provide the school board with a
less costly method to negotiate disagreements without incurring the added cost or time of a lawsuit. BGR recommends those school boards lacking a written appeals process add one to their written procedures.

Organize contract documentation packages and administer contracts in an efficient, consistent manner

Organization of contract documentation increases efficiency in both the contracting process and public review. Such organization is a minimum condition of a school board’s effectively monitoring current contracts. With consistent organization, documents can be found readily and referred to by staff. By noting any dissatisfaction with a contract’s progress or completion, time to correct the problem is gained. Organization of contracts also helps to create an ongoing contract history for school board reference and for public inspection.

In addition to its immediate benefits in contract maintenance, consistent organization makes a school board’s contracting process more accessible and understandable to the public, an essential element in public accountability.

Contract documentation packages should include, at minimum, the following items: • written authority to let the contract; advertisement and evidence of outreach; RFQ/RFP; all submitted statements of qualifications or proposals; tally sheets or other written staff recommendations; list of committee members (if any); record of action by the school board; a signed contract and any subsequent amendments; and evaluations of the contractor’s work during the contract period.

School boards should also ensure that an adequate number of staff positions are created and filled with trained professionals in the evaluation and administration of contracts. In response to an expected increase in administrative effort, BGR recommends that each school board review its staffing priorities.

In school boards where contract documentation may be housed in several offices, it is especially important to ensure accessibility to the written record by maintenance of a list of professional service contracts with descriptions of service, contractor names, and dollar amounts.

Monitor contract work and formally evaluate completed contract

The absence of formal in-progress or final evaluation procedures exposes the school boards to potential problems. Without formalized evaluation of on-going contracts, such as progress reports, the justification for contract renewal is missing. There is merit in the position that a school board should be slow to change some service providers, but formal evaluations create a public record that documents the reasonableness of re-awarding a contract to the same provider.

Formal evaluations also establish a contracting history for use by current and future staff. It is especially important to note unsatisfactory work by contractors, since most selection criteria should include prior work performance.
RECOMMENDATIONS:  
BY PARISH

Jefferson Parish

BGR considers Jefferson Parish School Board’s process for the selection of construction-related contractors to be a major weakness of their contracting procedures. The board may select a contractor without staff/professional recommendation and without any evidence of systematic selection. The present method does not ensure fair and open competition or public accountability. This leaves the board open to the charge of political patronage. The first line of defense would be a public record that documents the basis for all selections. A better solution would be for the school board to delegate the responsibility for evaluation and selection of contracts to staff and to include this delegation in their written procedures.

Though the pre-qualification procedure may provide sufficient safeguards against incompetent service providers, there may still be a chilling effect on competition when elected officials make the final selection. An otherwise qualified provider may not apply for inclusion on the provider list if that provider believes that it lacks influence on the board and for that reason will not receive a contract. Therefore, BGR recommends that the Jefferson Parish School Board re-examine its contracting of construction-related services and update its written policy to reflect a more open, documented process with an emphasis on staff/committee or the construction management company’s recommendations.

BGR also recommends that Jefferson Parish School Board ensure extension of these objective, written procedures to its pre-qualification process, whether pre-qualification is handled in-house by a staff/professional committee or contracted out to a private company, as is the case currently.

BGR recommends that Jefferson Parish School Board standardize the organization of its contract documentation. Such organization would facilitate data retrieval for the school board auditors and the public, thus increasing internal efficiency and ensuring public accountability.

Finally, BGR recommends that the Jefferson Parish School Board extend its written procedures to cover all professional service contracts, not just those for capital projects.

Orleans Parish

Voluminous, unorganized files at the Orleans Parish School Board make it difficult to locate specific information for professional services contracting. Though BGR was pleased to see such thorough documentation, BGR recommends that the Orleans Parish School Board organize its contract documentation in a consistent manner to facilitate public access and promote confidence.

In addition, BGR recommends that Orleans Parish School Board’s written procedures be extended to include all professional service contracts, not just those for capital projects.

Plaquemines Parish

To assure an open, competitive contracting procedure, BGR highly recommends that the Plaquemines Parish School Board adopt a set of comprehensive, written procedures addressing professional services contracting. Written procedures will help reduce the current confusion between elected officials and staff as to contracting responsibilities and procedures. These written procedures should pay special attention to the development of a satisfactory outreach plan, since the number of current service contractors, particularly for construction-related services, is questionably low.

Especially with regard to construction-related service contracts, BGR recommends that Plaquemines Parish School Board re-examine its practices, paying special attention to the possibility for and appearance of subjective
decisions. BGR also recommends that Plaquemines Parish School Board include a specific upper limit for all professional service contracts.

Finally, BGR recommends that Plaquemines Parish School Board enhance and organize its contract documentation packages to offer increased accessibility to these files.

St. Bernard Parish

BGR notes the integrity in the existing informal procedures at St. Bernard Parish School Board but reiterates that the opportunity for political patronage is heightened when there are no written procedures in place, particularly once the current practitioners are no longer there. BGR highly recommends that St. Bernard Parish School Board formalize its existing, informal procedures and establish a set of comprehensive, written procedures for future professional services contracting. These procedures should pay special attention to contract evaluation as a basis for contract renewal.

BGR also recommends that St. Bernard Parish School Board enhance and organize its contract documentation packages to offer increased accessibility to these files.

St. Tammany Parish

The existing written policies in St. Tammany appear to be adequate as they apply to capital projects contracting. BGR recommends that the school board extend these written policies to include all professional service contracts.

BGR also recommends that St. Tammany Parish School Board organize its contract documentation packages in a more consistent manner. Staff/committee recommendations should be included as a portion of contract documentation packages.

Conclusion

BGR examined campaign contributions to elected school board members in five parishes to determine whether there was a correlation between campaign contributions and professional service contract awards. Generally, the data were inconclusive. In Jefferson Parish, however, there was both a high percentage of professional service contracts to campaign contributors (47 percent of all professional services contracts and 84.6 percent of construction-related professional services contracts) and a selection procedure that left ranking of potential contractors, as well as final selection, solely in the hands of school board members.

Professional service contracting procedures in the region have improved over the last several years, particularly by the school boards of Orleans and St. Tammany Parishes. Even in those school districts, however, the formal contracting policies and procedures for professional service apply only to those services that are construction-related. Across the five-parish area, an absence of written policies and procedures to guide the professional service contractor selection process prevails.

Documentation of selection of contractors is also a serious deficiency in all school districts. The Orleans Parish School Board has the most complete documentation, but contractor selection documents are often located in multiple folders, with no consistency from one contract to the next. The Jefferson Parish School Board's contractor selection documentation was also inconsistent, depending on where the documents were located. The three smaller school districts of Plaquemines, St. Bernard, and St. Tammany Parishes all had problems with adequate and consistent documentation of their contract selection processes.

Improved evaluation of work by professional service contractors is needed. Before a contract is extended or renewed, the work performance of the contractor should be carefully evaluated.
This practice is not being followed on a consistent basis in any of the five school districts reviewed by BGR. Monitoring and evaluation evidence should be included (or have the location given) in contract documentation packages.

Prompt implementation of the recommendations outlined in this report will provide greater public accountability on how and on what basis professional service contractors are selected. Greater accountability, in turn, can lead to increased public trust and confidence in the respective school systems.
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Plaquemines Parish School Board

St. Bernard Parish School Board

St. Tammany Parish School Board

State and National