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June 10, 2014

**Members of the Jefferson Parish Council**

Joseph S. Yenni Building  
1221 Elmwood Park Blvd.  
Jefferson, LA 70123-2337

Re: Jefferson Parish Council Ordinance Summary No. 24020

Dear Council members,

I am writing with respect to a proposed ordinance that would change Jefferson Parish's process for awarding contracts for nonprofessional services. The proposal is contained in Summary No. 24020 on the agenda for the Parish Council's June 11 meeting.

As you know, the parish procures nonprofessional services through either sealed bids or its request for proposals (RFP) process. The latter is the subject of the proposed ordinance. Under the RFP process, a four-person committee evaluates proposals according to weighted criteria outlined in the solicitation. The criteria include various technical qualifications and the proposed price, which must account for 20% of the cumulative score.

The evaluation committee consists of representatives from the department requesting the service, the council's office of research and budget, the finance department and the purchasing department. A representative from the legal department serves in an administrative, non-voting capacity. The committee makes its evaluations in an open meeting and submits them in writing to the council. The council is free to award the contract to any firm deemed qualified by the evaluation committee, regardless of where it ranks in the scoring process.

The proposed ordinance would make a number of changes to the RFP process. Among other things, it would:

- Limit the council to selecting the highest-scoring proposal, unless the second highest-scoring proposal is within 5% of the top score or there is a 10% or greater difference in price between the two highest-scoring proposals. In such cases, the council could select either of the two highest-scoring proposals.
- Prohibit unclassified employees from serving as scoring members of an RFP evaluation committee.
- Increase the fixed weight for price from 20% to 25% of the total points assigned.

*Limiting Discretion.* As noted above, the council is currently free to ignore the work of evaluation committees and make its own selections. In a [2012 report](#), BGR identified the council's nearly unfettered discretion as the most serious flaw in the parish's contracting practices, which stand far apart from norms and best practices. Giving elected officials such wide latitude invites politics and patronage into the process. It also jeopardizes the efficient and effective use of public funds, as illustrated by the Jefferson Performing Arts Center selection process, in which the council awarded the design contract to the fourth-ranked respondent.

The provision limiting the council to selecting the highest-scoring proposal or, in some cases, one of the two highest-scoring proposals would reduce the council's extraordinary discretion in contract selections. However, it would still fall short of best practices and BGR's recommendation from its 2012 report, both of which call for either selecting the firm that scores highest on the evaluation committee's scoring of relevant criteria or terminating the procurement.

There are a couple of problems with the provision allowing the council to select from the two highest-scoring proposals if there is a 10% or greater difference in their prices. First, a relatively modest difference in price would allow the council to ignore 80% of the scoring – the portion pertaining to technical qualifications. This might open the door to the selection of a firm with poor qualifications. For example, if the parish received two responses to an RFP, it could accept a proposal that received less than a third of the technical points rather than one that had a nearly perfect technical score, as long as the lower-ranked proposal cost 10% less. This risk could be mitigated by allowing a choice only if the second-ranked proposal were both 10% less expensive *and* within 5% of the top-ranked proposal's cumulative score. As discussed above, BGR continues to take the position that the parish should either select the highest-scoring firm or cancel the procurement.

A second problem with this provision is that it is poorly worded. Presumably, it is intended to allow the council to select the second highest-scoring proposal if its price is at least 10% *lower* than the highest-scoring proposal. However, the draft ordinance simply states that there must be a 10% difference in price without specifying that the price for the second highest-ranked proposal must be the lower one. This would enable the council to select the second highest-ranked proposal even if the price in the top-scoring proposal were the lower one.

*Selection Committee.* The proposal would prohibit political appointees from serving as scoring members of the evaluation committee. As a result, nearly all department directors would be barred from serving as evaluators. This could rob the evaluation process of valuable expertise. It would also exclude the person most responsible for the delivery of the service at issue. The purchasing director, presumably the parish's top expert on all things related to procurement, would also be prohibited from scoring proposals. Nowhere in BGR's research of best practices has it come across a recommendation to ban politically appointed department directors from the evaluation process.

*Fixed Weight for Price.* We have no comment on the proposal to increase the fixed weight for price from 20% to 25% of the cumulative score. However, as we have previously informed the council, we think it is a mistake to assign a fixed, one-size-fits-all weight to price. In recent

years, the parish has used its RFP process to award contracts for everything from operating its landfill to catering. For services as varied as these, there is no single appropriate weight for price. Instead, the proper percentage will vary depending on whether the project is straightforward or open-ended, and the relative importance of qualifications to a successful service procurement. Ideally, that determination would be made on a case-by-case basis by a trained chief procurement officer, in consultation with the director of the department requesting the service.

We also note that the draft ordinance fails to change a reference to the current 20% weight given to price in Sec. 2-895(7)(c). We assume that this is an oversight.

We would like to thank you and your colleagues for working to improve the parish's contracting processes. We hope you will consider our analysis as this important work progresses. If you have any questions or concerns, or if there is any other way in which we can help, please contact me at 525-4152, ext. 107, or [janethoward@bgr.org](mailto:janethoward@bgr.org).

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Janet Howard', written over a faint horizontal line.

Janet R. Howard  
President & CEO