

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



ED QUATREVAUX
INSPECTOR GENERAL

March 9, 2012

Mark D. Jernigan
Director
Department of Public Works
1300 Perdido Street
New Orleans, LA 70112

RE: RFP No. 5001-01241, Curbside Management and Enforcement

Dear Mr. Jernigan,

The City of New Orleans recently released a request for proposals (RFP) for “curbside management and enforcement,” which is divided into three service categories: parking ticket processing, parking meter operations, and delinquent parking ticket collections. Presently meter operations and ticket processing are separate contracts, with delinquent collections falling within the scope of the ticket processing contract. The current RFP allows for the possibility of separate contracts or a merged contract, depending on the proposals that are submitted.

The City should incorporate strong performance standards and oversight into this procurement, which are notably lacking in the current contracts. The City should then tie these standards to penalties and bonuses that will provide incentives for contractor performance. In selecting vendor(s) and negotiating contract(s), the City should seek to reduce costs from the current level. Finally, the City should remove the delinquent collections service category from this RFP, and instead bid it independently.

After reviewing the current RFP, previous RFPs, procurement documents, contracts, and current contractor performance, we suggest the following steps the City should take to protect the public interest as it moves forward with the RFP and contract(s). Parking management and enforcement affect citizens on a daily basis and also provide significant revenue streams for the City. Although it is common to outsource these functions, cautionary tales abound in cities including Chicago, Indianapolis, and Washington D.C. New Orleans’ experience has not been without flaws either; the City recently demanded a corrective action plan of the ticket processing contractor to address significant deficiencies, and our analysis suggests the City could have saved millions of dollars on the current meter operations contract by selecting a lower priced proposal or by negotiating a decreased rate.

In light of these concerns, and considering the importance of the contracts for City revenue, we recommend the following.

RECOMMENDATION 1: THE CITY SHOULD INCORPORATE STRONG PERFORMANCE STANDARDS AND FUNCTIONAL OVERSIGHT MECHANISMS INTO THE NEW CONTRACT(S).

City oversight of the expiring ticket processing and meter operations contracts has been hampered by poorly designed and implemented reporting requirements and insufficient performance standards. The meter operations contract calls for a myriad of daily, weekly, and monthly reports, but most of them are poorly conceived and many are not actually generated.¹ The ticket processing contract is even more deficient in this regard; it does not include any standards to monitor or enforce. In both cases, these deficiencies limit the City's ability to evaluate performance and effectively supervise the contractors.

The new procurement cycle for parking ticket processing and meter operations provides an opportunity to learn from the shortcomings of the expiring contracts, and to strengthen oversight and performance management. The new contract(s) should:

- Define appropriately stringent performance standards, and define realistic measurement and evaluation mechanisms;
- Include a “dashboard” measurement display system that would allow City managers to review and query performance information in real time;
- Require clearly defined monthly reports that meaningfully compare results to contractually-defined performance standards; and
- Include a provision for independent performance checks to supplement contractor self-reporting.

Incorporating better standards and monitoring into a well-written contract would allow the City to maximize the impact of limited oversight resources, and to hold the contractors accountable for performance.

RECOMMENDATION 2: THE CITY SHOULD INCLUDE PERFORMANCE INCENTIVES IN THE METER OPERATIONS CONTRACT.

In the ticket processing section of the new RFP, the City wisely tied contractor pay to performance standards, allowing for both penalties and bonuses based on results.² Similar performance incentives should be included in the meter operations contract. For example, penalties and bonuses could be linked to meter uptime (the percent of time meters are functional). To protect the City from paying unmerited bonuses while still motivating the contractor, it is important in both cases to set performance standards that are demanding but attainable.

¹ For example, the contractor's maintenance records were only available in the form of handwritten field logs.

² The incentive structure is based on a comparison to “historical collections” rates; it is important for the City to define these rates so that there is no doubt about when to invoke penalties or bonuses.

RECOMMENDATION 3: THE CITY SHOULD SEEK LOWER COSTS RELATIVE TO THE CURRENT CONTRACTS.

The City currently spends about \$4.5 million per year on its parking meter operations and ticket processing contracts; we believe that the new contract(s) should represent a significant cost savings to the City. After reviewing the previous procurement cycle for meter operations (2003 RFP, 2004 contract) we concluded that the City could have saved millions over the life of the contract by choosing among various lower priced options, or by negotiating a reduction in rates after capital costs had been fully absorbed. Instead, the lowest priced proposal was rejected and the selected contractor was paid at the full initial rate for seven years even though capital investments were to have been completed and depreciated within three years.

The current RFP requested “optional year pricing” proposals, asking respondents to depreciate capital costs within the five year base term and to propose a reduced rate for any extension periods. This is an important step toward avoiding unnecessary costs, but it is a step that was not taken in the current contract. In evaluating price proposals for the RFP, the City should not assume that current costs represent an appropriate baseline.³

RECOMMENDATION 4: THE CITY SHOULD REMOVE THE DELINQUENT PARKING COLLECTIONS COMPONENT FROM THE CURBSIDE MANAGEMENT AND ENFORCEMENT RFP.

The City is currently owed approximately \$90 million in uncollected parking fines, and collection of these delinquent fines was included as a component of the Curbside Management and Enforcement RFP. A stand-alone solicitation process would likely yield better results by garnering responses from companies that specialize in delinquent collections rather than companies specializing in parking-related matters.⁴

The original version of the RFP (dated January 20, 2012) allowed vendors to submit proposals for multiple service categories without limitation. The City subsequently revised the scope of work in RFP Addendum No. 2 (February 17, 2012), and it no longer allows a single vendor to provide parking ticket processing and collect delinquent parking fines. By retaining two separate vendors for these functions, the City creates pressure on the ticket processing vendor to collect fines promptly. If the ticket processing vendor does not collect overdue fines within the allotted time, the tickets would be transferred to the collections vendor.

Because these functions are separate, we do not believe it is necessary to solicit collection services within an RFP designed for parking-related services. We recommend that the City remove the delinquent parking collections component from the RFP. This can be achieved without cancelling the RFP, by simply awarding the other components but not selecting a vendor for delinquent collections.

³ If the City selects one vendor for both ticket processing and meter operations it could expect further savings from the elimination of redundant overhead. However, this potential savings would be small relative to the full contract costs and should not be a consideration in selecting vendors.

⁴ Since 2005, the City has used a vendor that does not specialize in delinquent collections.

RECOMMENDATION 5: DELINQUENT PARKING COLLECTIONS IS NOT A "PROFESSIONAL SERVICE" AND THUS NOT EXEMPT FROM PUBLIC BID LAW.

We do not believe the collection services for which the City requested proposals qualify as "professional services" as defined by and subject to Executive Order MJL-10-05 and under the standards established by the Louisiana Supreme Court. The definition of "professional services" requires specialized education, experience, or training in the practice of an art or attainments in special or professional knowledge that can be distinguished from skill. The Louisiana Supreme Court adopted this analysis in *New Orleans Rosenbush Claims Service, Inc. v. City of New Orleans*,⁵ when the Court determined that the requested "administrative services" for the City's self-funded workers' compensation program were "primarily administrative or clerical" and not professional services; therefore, the contract was not exempt from public bidding laws under the Home Rule Charter.

The services requested in the delinquent parking collections component of the RFP are primarily administrative in nature. Collections agents will be required to make telephone calls, search national databases for updated contact information, and send notices via mail. There are no requirements in the services requested that necessitate a level of professional knowledge or training as described in Executive Order MJL-10-05. Therefore, these services should not be exempt from the Public Bid Law under the Home Rule Charter for the City of New Orleans.⁶ The contract for delinquent parking collections should be bid competitively and awarded to the lowest responsive and responsible bidder.

The current procurement process for curbside management and enforcement presents the City with both opportunities and challenges. We hope that the preceding recommendations will help the City protect the public interest by pursuing a contract that incorporates strong oversight, provides incentives for good performance, maximizes value, and respects public bid law. Please feel free to contact my staff if we can be of assistance in implementing these recommendations.

Sincerely,



E.R. Quatrevaux

cc: Andrew Kopplin
Cedric Grant
Zepporah Edmonds

⁵ 653 So.2d 538 (La. 1995).

⁶ Section 6-308(5).

CHIEF ADMINISTRATIVE OFFICE
CITY OF NEW ORLEANS

MITCHELL J. LANDRIEU
MAYOR
April 16, 2012

ANDREW D. KOPPLIN
FIRST DEPUTY MAYOR & CAO

Ed Quatrevaux Inspector General
525 St. Charles Avenue
1300 Perdido Street
New Orleans, LA 70130

RE: Request for Proposals No. 5001-01241, Curbside Management and Enforcement

Dear Mr. Quatrevaux,

I am in receipt of your letter to Colonel Mark Jernigan dated March 9, 2012, and I appreciate your constructive suggestions.

Since Mayor Landrieu took office, the City of New Orleans has made significant progress in restoring credibility and accountability to its procurement and contract management practices including:

- Creation of a procurement office led by a Chief Procurement Officer in the Department of Finance [Executive Order MJL 10-04].
- Appointment of a Chief Procurement Officer.
- Establishment of guidelines and procedures to govern the procurement of professional services by contract for the Executive Branch of city government [Executive Order MJL 10-05].
- The ReqToCheckStat Performance Management initiative – one of a number of government Performance Stat initiatives produced by the city's Office of Performance and Accountability which measures performance for the entire process of contracting out services—from the requisition of budgeted funds to the procurement and selection of a vendor to the development of a contract and the issuance of check for services rendered. Our Stat initiatives were established to improve performance across city departments and to align performance standards with the department's policy and program goals.

As you may also know, the Office of Information Technology's Service and Innovation Team last year initiated a review of the city's professional services contract management process in an effort to increase efficiency, productivity, vendor performance and return on investment. The business process review concentrated on the entire contract management process starting with procurement planning through contract closeout with particular emphasis placed on vendor performance management. Related to this particular subject of our current curb management and enforcement contract, you will be pleased to know that as a result of a vendor management review of this contract, the Parking Division of the Department of Public Works implemented a corrective action plan in 2011 that has led directly to the city's receipt of \$1.84M in additional parking revenue.

Our objective with Request for Proposals No. 5001-01241, Curbside Management and Enforcement (the "RFP"), the subject of your letter, is to secure for the City the best possible meter operations, ticket processing, and collections services. The RFP was written with the goal of yielding more accountability,

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better performance, improved data collection, and lower prices. It follows industry best practices by requiring comprehensive system integration across multiple service lines while allowing built-in flexibility to incorporate improvements and changes in systems and technology. Three of the five recommendations you have made speak to the significant weaknesses in the current contract we inherited from the previous administration. As this procurement provides us the opportunity to remedy many of those shortcomings, we are thrilled to be at the point in the process to begin selecting a vendor and negotiating a more effective contract for the taxpayers.

The Performance-Based Contracting (PBC) model that you refer to in Recommendations 1 and 2 has been a government procurement practice since the 1960's and is worth considering for the City's new Curb Management and Enforcement contract. That being said, PBC's often come with certain risks to public agencies including being time demanding in the early stages of planning and implementation when the agreement is created, as well as being pro-active oversight and management over the life of the contract. Of course, it also places greater risks and costs on the vendor by tying compensation to performance which can lead to improved outcomes and reduced costs to taxpayers. Lastly, in our research on PBC's, we have found that in some cases the creation of complicated performance targets and the reliance on contractors for accurate data in PBC's has led to public agencies sacrificing the savings and improved performance they sought to achieve through the PBC and actually being left with worse outcomes because of insufficient oversight by contract managers. So while this RFP might lend itself to creating a PBC, we also need to carefully evaluate benefits against the risks we look forward to discussing this with you further when we get to the contract negotiation stage.

In Recommendation 3, your letter again refers to the current parking contract that we inherited. The previous solicitation required replacement of meters throughout the city which added to the overall costs. Our current solicitation does not require total replacement of each parking meter, but instead asks for per unit pricing in the event the City elects to replace some or all of the meters. Also, the previous solicitation was not a bid and the City was not required to select the lowest priced option. As we move forward with this selection, we are again using an RFP and have established as our goal to select the highest value proposal, not necessarily the lowest cost.

Even though the current contract was set to expire and a request for proposals was being drafted, the City was able to negotiate lower rates while also securing additional vendor resources and a commitment to keep those vendor resources available throughout the remainder of the contract. We recognized there was an opportunity to reduce costs and we were able to negotiate a price concession from the vendor. Those new resources and the steps taken over the past several months are still generating strong returns as noted above and we are pleased to have had this improvement as it has yielded important information about the strengths and weaknesses of our current contract that we have incorporated into the currently active RFP.

While we agree in principle with Recommendations 1-3 and will continue to take steps consistent with the responses we've outlined above, we respectfully disagree with Recommendations 4 and 5. To remove the delinquent parking collections component from the RFP as you suggest in Recommendation 4 would be ill-advised as it would leave the city without a contractor assigned to collect the millions in unpaid tickets. The collection of delinquent parking fines and fees is an integral part of curbside management and enforcement and removing this requirement would mean that no one would be actively engaged in collecting the previously delinquent and uncollected parking fines. As you know,

each day these receivables are not being worked their likelihood of being collected diminishes significantly. In addition, your recommendation presupposes that soliciting collection services within an RFP designed for parking-related services would only yield responses from companies specializing in parking-related matters. In fact, we received proposals from companies that specialize in delinquent collections of several receivables types. More specifically, we received proposals from companies with government and municipal collections experience, including experience with high-volume, low balance portfolios similar to the City's delinquent portfolio.

Certainly we believe there is more that can and should be done to improve our collections strategy across the city, so we are also poised to initiate another stand-alone solicitation for collections that would encompass several divisions/departments with outstanding receivables including parking, photo enforcement, sanitation and EMS. If chosen through this solicitation for delinquent collections, the winning vendor will become part of the pool of vendors eligible for further placements of delinquent collectibles. What this means is that if the vendor we select for collections as part of the RFP for curb management is unsuccessful with those delinquent parking receivables within a given time frame, the city will reassign those receivables to the other collections vendor, giving taxpayers another chance to get these obligations collected and providing a necessary incentive for the original vendor to secure the collections timely.

Lastly, in Recommendation 5, we disagree with your assertion that the collection services for which the city requested proposals do not qualify as professional services and are therefore ineligible for a Request for Proposals. Pertinent parts of Section 5, Definitions, of Executive Order MJL 10-05 provide:

"Standards for recognition of status as a professional service include the following:

- a. completion of training or advanced study in a specialized field;*
- b. exercise of skill based on experience and competence in a recognized discipline; and*
- c. adherence to technical standards and practices in a learned discipline that confers status and may espouse and endorse codes of common practice and use of recognized methods.*

Evidence of professional status may include diplomas, certificates of education and training, licenses, or membership in organizations that endorse ethical standards and practices."

Several organizations, namely the National Association of Collections Agents (ACA) and Association of Credit and Collection Professionals, offer formal training and advanced study leading to certificates in collection practices. ACA's program, dubbed the Professional Practices Management System, is a management system for collections agencies based upon developing, implementing and adhering to a set of industry-specific professional practices and policies. This complex certification program includes 17 basic elements. The program covers collections agency practices and serves as a standard for most of the collection industry. Certification is not free and involves not only possessing the collection knowledge necessary to achieve certification, but also the required formal education and direct collections experience. Collection practices are well regulated by federal and state law.

Section 7, Administrative Procedure for Professional Service Contracts, of Executive Order MJL 10-05 specifically places responsibility on the Chief Procurement Officer to make a determination of whether a contract qualifies as a professional service. Section 7 states:

"The Chief Procurement Officer ("CPO") must promulgate written procedures for the awarding of professional services contracts. The procedure must require a preliminary determination by the CPO that the procurement is for an authentic professional service in accordance with the definition of professional services set forth in this Order and is therefore eligible for the professional service contracting process."

The Chief Procurement Officer, Mary Kay Kleinpeter-Zamora, has the Certified Purchasing Manager (CPM) certification from the Institute of Supply Chain Management in Tempe, Arizona. She has held several senior level procurement positions in both private and public sector for more than twenty years, including a 13-year stint as Senior Director of Corporate Purchasing for Del Monte Fresh Produce Company. Perhaps more importantly, Ms. Kleinpeter-Zamora posted a request to her colleagues in the National Association of Governmental Purchasing (NIGP), and every one of the 42 responses she received strongly endorsed the view that collections services qualify as "professional services" which should be subject to an RFP process, rather than a public bid in which the lowest price service, regardless of quality, is selected. As a result of her research, Ms. Kleinpeter-Zamora has determined that the services requested in the delinquent parking collections component of the RFP qualify as "professional services."

I appreciate hearing your suggestions as well as the opportunity to respond to your letter, and I look forward to working with your office as we move forward with this procurement.

Sincerely,



Andrew D. Kopplin
First Deputy Mayor & Chief Administrative Officer
City of New Orleans

COMMENT ON THE CITY OF NEW ORLEANS RESPONSE

The City's response asserted that the collection services outlined in the Curbside Management and Enforcement RFP qualified as professional services, because organizations offer formal training leading to certificates in collection practices. However, the City's RFP did not require any specific training or certificates. If the existence of formal training programs is a justification for qualifying delinquent parking collections as a professional service, then the City should have explicitly stated the type(s) of certification required. Alternatively, the City could incorporate required certifications or training as a minimum qualification in a bid process, thereby ensuring that only highly qualified firms would be certified as responsive bidders.