

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 7067 ORDINANCE COUNCIL SERIES NO. _____

COUNCIL SPONSOR: LORINO/COOPER PROVIDED BY: CAO

INTRODUCED BY: _____ SECONDED BY: _____

ON THE 1ST DAY OF SEPTEMBER, 2022

AN ORDINANCE TO AMEND ST. TAMMANY PARISH CODE OF ORDINANCES SEC. 2-125, 2-273, AND 2-274 RELATIVE TO PARISH PURCHASING PROCEDURES AND PROFESSIONAL SERVICES.

WHEREAS, it is necessary to amend the St. Tammany Parish Code of Ordinances Sections 2-125, 2-273, and 2-274 to reflect changes to state law and parish policies; and

WHEREAS, it is further necessary to amend said sections of the Parish Code of ordinances to reflect the current makeup and operations of parish government as it relates to parish procurement.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that the St. Tammany Parish Code of Ordinances shall be amended as follows:

Sec. 2-125. Selection of persons for professional services.

- (a) Each person who is to be retained or employed to perform professional services for the parish or any of its departments, districts, boards or commissions shall be selected ~~by the parish council from the list of those persons submitting statements of qualification and/or proposals according to the purchasing procedures as outlined in Sec. 2-274(b)(1) and parish procurement policies.~~
- (b) ~~Any person submitting a statement of qualification and/or proposal shall submit to the parish council data concerning his experience, previous projects undertaken, present projects now being performed by him, scope and amount of work on hand, the names of key personnel who will be assigned to the project, and any other information that may be appropriate in selecting the person for the particular project under consideration. The parish council by resolution, may develop standard questionnaire forms to be used for submitting such data and may, from time to time, amend such forms by resolution to require additional information. The parish council shall not consider any person who does not submit a completed questionnaire forms.~~
- (e)(b) Any person submitting a statement of qualification and/or proposal shall also execute and submit an affidavit attesting:
 - (1) That affiant has not and will not employ any person, corporation, firm, association or other organization, either directly or indirectly, to secure the public contract under which he is to receive payment, other than persons regularly employed by the affiant whose services in connection with the project or in securing the public contract are in the regular course of their duties for affiant;
 - (2) That no part of the contract price was paid or will be paid to any person, corporation, firm, association or other organization for soliciting the contract, other than the payment of their normal compensation to persons regularly employed by the affiant whose services with the project are in the regular course of their duties for affiant; and
 - (3) That the affiant shall state any and all campaign contributions he has made to elected officials of the parish council during the current term, and that he has not made any contributions to or in support of elected officials of the parish council through or in the name of another person either directly or indirectly.
- (d) The parish council shall not consider any person who does not have the appropriate professional license and/or occupational license as required by law; nor shall the parish council consider any person who does not submit the questionnaire and affidavit required by this section or who submits

an incomplete ~~questionnaire or~~ affidavit. Any false or misleading information on any ~~questionnaire or~~ affidavit shall be a basis for voiding the contract and prohibiting the affiant from being considered on any future project for a period of 24 months.

- (e) The following guides, among other factors that the parish ~~council~~ deems appropriate, shall be used by the parish ~~council~~ in selecting persons for professional services:
- (1) Professional training and experience, both generally and in relation to the type and magnitude of work required for the particular project;
 - (2) Capacity for timely completion of the work, taking into consideration the person's current and projected workload and professional and support manpower;
 - (3) Past and current professional accomplishments, for which opinions of clients or former clients and information gathered by inspection of current or recent projects may be considered;
 - (4) The nature, quantity and value of parish work previously performed and presently being performed by the person, it being generally desirable to allocate such work among persons who are desirous and qualified to perform such work;
 - (5) Past performance by the person on public contracts, including any problems with time delays, cost overruns, and design inadequacies for which said person was held to be at fault, involved in prior projects as evidenced by documentation provided by the administration; and
 - (6) An analysis of whether problems as indicated in subsection (5) of this section resulted in litigation between the public entity and the person performing professional services, particularly if he is currently involved in unsettled litigation with a public entity or has been involved in litigation with a public entity where the public entity prevailed.
- (f) The parish ~~council~~ may, for each individual job or project, establish those qualifications and guidelines which it deems necessary to select the person to be retained or employed for such job or project.
- (g) As used in this section:

Campaign contribution means a gift, conveyance, payment, deposit of money, and/or anything of economic value (including, but not limited to, tickets for fund raiser events) which was, is and shall be paid, loaned, granted, given, donated, transferred, and/or is the forgiveness of a loan or a debt by any person for the purpose of supporting, opposing, or otherwise influencing, directly or indirectly, the nomination or election of an individual elected to or seeking nomination to public office, whether or not such is made before or after the election.

Candidate means a candidate for public office as described in title 18 (Election Code) of the Louisiana Revised Statutes of 1950 as amended.

Elected official means all members of the parish council.

Individual means a human being of the male or female gender.

Person means an individual, partnership, association, labor union, political committee, corporation or other legal entity, including their subsidiaries and shall include the officers, directors and shareholders or any person owning and/or having a controlling interest therein. For the purpose of this section, the term "person" shall also include subcontractors, successors and assigns.

- (h) If the person seeking to be retained or employed to perform professional services for the parish is owed money by an elected official of the parish council, he shall disclose said debts in the questionnaire and affidavit provided for in subsections (b) and (c) of this section.

Sec. 2-273. Purchasing procedures – materials, supplies, or equipment.

The established purchasing procedures for materials, supplies, or equipment for the parish shall be as follows:

- (1) Purchases of materials, supplies, or equipment exceeding \$500.00, but less than \$1,500.00 between \$0 and \$10,000 have no requirement for competition, and cost reasonableness will be determined based on experience with similar or like transactions. This is considered a micro-purchase. ~~shall require no competitive bidding, but three telephone quotes shall be obtained by the purchasing office, if time permits.~~

- (2) Purchases of materials, supplies, or equipment between \$1,500.00 or more, but less than \$5,000.00 \$10,000 and \$59,999 will be solicited through verbal, faxed, email, or written quotes. shall be made by soliciting telephone or facsimile quotations lower than the accepted bidders by the purchasing office. If quotations lower than the accepted quotation are received, the rejection shall be recorded in the purchase file.
- (3) Purchases of \$60,000 or greater will be solicited by a sealed bid and a written contract will be required. \$5,000.00 or more, but less than \$10,000.00 shall be made by sending out written quotations for bids to at least five bona fide qualified bidders by the purchasing office. Additionally, the public entity may advertise at its discretion. If quotations lower than the accepted quotation are received, the reasons for their rejection shall be recorded in the purchase file. (4) Purchases in excess of \$60,000 \$10,000.00 will be forwarded to the purchasing office department of procurement for public advisement.

Sec. 2-274. Purchasing procedures – professional services, real property, or public works.

- (a) The parish shall follow the purchasing procedures in accordance with R.S. 38:2181 et seq. (Public Contracts) and this section.
- (b) The director and assistant director of the department of procurement ~~director of finance, purchasing supervisor and purchasing technician~~ have the authority to issue, amend, administer and/or terminate purchase orders on behalf of the parish upon receipt of a properly authorized requisition or written notice of cancellation from a parish department. The director of procurement ~~finance~~ will ensure that requisitions meeting the following criteria are reviewed and approved as indicated prior to initiating any contract action:
- (1) ~~Materials, supplies and equipment.~~ The parish president shall review and approve requisitions that meet state law requirement for "advertisement for bids," not to exceed \$20,000.00. Those exceeding \$20,000.00 must be approved by the parish council, unless specifically identified in the capital outlay budget adopted by the council. All roads and materials used in the construction of District Capital Road Projects shall be regulated by the parish governing authority, including the parish council and parish administration.
- (2)(1) *Contracts for professional services.*
- a. *Establishment of professional service list.*
1. ~~Each June, the purchasing department will advertise for the submission of request for qualifications from all interested professional service vendors. The department of procurement will advertise for the submission of requests for qualifications from all interested service vendors every four years. Additional vendors may submit their qualifications annually, at which time the department of procurement will revise the professional service list and distribute to all departments. In order for the vendor to be added to the Pre-Qualified Professional Service List, or PPSL, the vendor submitting their qualifications will be evaluated and must score 75 points or higher. Vendors may also submit in writing to the Department of Procurement if they wish to be removed or to update any other information that is on file.~~
 2. Upon receipt of the scored submittals, the ~~purchasing~~ department of procurement will separate the vendors into specific categories, prepare the official "Professional Service List" and shall make the list available to all parish departments.
 3. ~~Additional vendors may submit their qualifications during the year, at which time the purchasing department will revise the professional service list and distribute to all departments.~~
- b. *Selection of vendor for professional service contract.*
1. The director of the awarding department shall identify the project and verify that same is an approved expense under the current year operating and capital budgets, if applicable.
 2. Projects estimated between \$20,001 and \$500,000 shall utilize the Pre-Qualified Professional Services List (PPSL) of the category of service for the work to be performed applicable to the project. The director of the awarding department shall choose three vendors from the PPSL and submit to the CAO for the President's selection. The CAO shall provide the council administrator with a copy of the

recommendation upon which the council administrator shall notify the appropriate councilmembers and advise the CAO of any issues of concern.

3. For projects exceeding \$500,000 the director of the awarding department shall choose five vendors from the PPSL for solicitation of proposals by the department of procurement. RFPs or RFQs, as applicable, shall be reviewed by an evaluation committee made up of the director of the awarding department or designee, the CAO or designee, and the Council Administrator or designee. The ratings will be submitted to the Parish President recommending the top-rated vendor no more than two weeks from receipt by the committee. Should a member of the committee not return their scores within the required timeframe, their scores will be considered forfeited and the remaining two scores will be tallied.
 - ~~2. The director of the awarding department in consultation with a designee appointed by the parish council shall select three vendors from the professional list, based upon the qualifications and guidelines as identified in section 2-125(e) needed for the specific project, who in his opinion would be best suited to perform the tasks required.~~
 - ~~3. The director of the awarding department, through the purchasing department, shall issue a request for proposals to each of the three vendors for the specific project.~~
 - ~~4. Upon receipt and review of the RFPs by an evaluation committee, when applicable, which shall include a designee appointed by the parish council, the director shall present his recommendation for the award of the professional service contract to the CAO.~~
 - ~~5. The CAO shall provide the council administrator with a copy of the recommendation upon which the council administrator shall notify the appropriate councilmembers and advise the CAO of any issues of concern.~~
 - ~~6. The CAO will then issue a contract and purchase order.~~
- (3) *Real property.* Purchase of land and buildings must be approved by the parish council.
- (4) *Public works contracts.* The term "public works contracts" are defined as the erection, construction, alteration, improvement or repair of any public facility or immovable property owned, used or leased by the parish must be approved as indicated:
- a. Public works projects (excluding roads and bridges) up to \$250,000 ~~\$150,000.00~~ shall be approved by the parish president. Projects exceeding this amount must be approved by the parish council, unless specifically identified in the capital outlay budget adopted by the council.
 - b. Public works roads and bridges improvements (excluding minor repair) must be on the current capital improvement list as approved by the parish council.
 - c. If the estimated cost is less than \$20,000 then the project has no requirement for competition and cost reasonableness will be determined based on experience with similar or like transactions. Cost reasonableness can be documented by a price analysis. Any estimated cost over \$5,000 shall be let by standard parish contract through the parish's contracting system.
 - d. If the estimated cost is at least \$20,000 but less than \$250,000, the lowest price is awarded by attempting to obtain a minimum of three written, faxed, or emailed quotes and shall be let by standard parish contract through the parish's contracting system.
 - e. If the estimated costs is \$250,000 or greater, it must be advertised in the official journal and opened by sealed bid by the public entity and let by standard contract through the parish's contracting system. Contracts will be awarded to the lowest responsible and responsive bidder who bid according to the bidding documents.
- (5) *Notice of contract approval.*
- a. Upon approval of any professional services or public works contract as authorized by this section, written notice of the contract and its approval shall be provided to the parish council office.
 - b. Dividing or splitting purchase requirements in order to circumvent the monetary limitations imposed by state law and this section is strictly prohibited. The director of

~~finance~~— procurement shall monitor and challenge such request and report any violations to the parish president for appropriate action.

- c. The act of an employee who orders and/or accepts supplies and services prior to the submission of an approved requisition and in advance of a purchase order being issued is deemed as an unauthorized commitment. Such a commitment is not legal and does not obligate the parish to pay for the supplies or services rendered. A personal liability may be levied against the individual making the unauthorized commitment. The parish president has the authority to ratify unauthorized commitments which do not require council approval, however, they will not be routinely approved. A review shall be implemented prior to determining the appropriate action.
- d. The parish president will appoint department heads and/or individuals having the authority to review, approve, or submit requisitions for supplies, materials and services in writing and assign monetary limitations of approval as appropriate. Those appointees will ensure that there is a valid requirement and that sufficient funding within their budget is available for requisitions that are submitted. Unfunded requirements must be approved in accordance with budgeting procedures within this Code.
- e. The parish president may implement internal controls, purchasing procedures, and amplify this section as deemed necessary to prevent fraud, waste, and abuse of public funds.

REPEAL: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE: This Ordinance shall become effective fifteen (15) days after adoption.

MOVED FOR ADOPTION BY: _____, SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS:

NAYS:

ABSTAIN:

ABSENT:

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 6TH DAY OF OCTOBER, 2022; AND BECOMES ORDINANCE COUNCIL SERIES NO. 22-_____.

JERRY BINDER, COUNCIL CHAIRMAN

ATTEST:

KATRINA L. BUCKLEY, COUNCIL CLERK

MICHAEL B. COOPER, PARISH PRESIDENT

Published Introduction: JULY 27, 2022
Published Adoption: _____, 2022
Delivered to Parish President: _____, 2022 at _____
Returned to Council Clerk: _____, 2022 at _____

Staff Comment

The proposed Procurement Policy Manual is created pursuant to Sec. 2-274(b)(5)(e), and the proposed amendments to the Code of Ordinances are reflected in said manual. The proposed amendments also clean up these sections of the code for ease of use and to reflect changes in organizational structure and operations since the last amendment.

Specifically, Sec. 2-125 includes references to the Council which have not been in practice for ten or more years. This section was established in 1990 during the Police Jury, and references to the Police Jury (rather than Parish Council) remained in this section as late as 2017, almost two decades after the adoption of the Home Rule Charter. During the transition of the code to Municode, the term “Police Jury” was changed to “Parish Council” when, in this case and based on the operations of parish government at the time, it should have been changed to “parish”.

Aside from the change to from Police Jury to Parish Council, this section of the code has not been updated for 32 years. As written, this section is also in conflict with Sect. 4-04(8) of the Home Rule Charter, which assigns procurement to administrative departments, and 2-274(b)(2) which was updated most recently in 2021 and again assigns the administration of the PPSL to administrative departments. This proposed change corrects what was most likely a mistaken change in reference, removes the conflict with the charter and code, and reflects the operations of parish government for at least one, if not two decades.

A copy of the proposed updated Procurement Manual will be provided. Said manual will be implemented upon the Council’s adoption of the proposed ordinance amendments.