



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

June 14, 2010

Ordinance 16855

Proposed No. 2010-0187.1

Sponsors Lambert and Ferguson

1 AN ORDINANCE prohibiting discrimination in
2 employment by contractors, subcontractors or vendors;
3 amending Ordinance 11992, Section 3, and K.C.C.
4 12.16.010, Ordinance 11992, Section 3, and K.C.C.
5 12.16.020, Ordinance 11992, Section 4, and K.C.C.
6 12.16.025, Ordinance 11992, Section 6, and K.C.C.
7 12.16.040, Ordinance 11992, Section 7, and K.C.C.
8 12.16.050, Ordinance 11992, Section 8, and K.C.C.
9 12.16.060, Ordinance 11992, Section 9, and K.C.C.
10 12.16.070, Ordinance 11992, Section 10, and K.C.C.
11 12.16.080, Ordinance 11992, Section 11, and K.C.C.
12 12.16.090, Ordinance 11992, Section 12, and K.C.C.
13 12.16.100, Ordinance 11992, Section 13, as amended, and
14 K.C.C. 12.16.115, Ordinance 10849, Section 19, and
15 K.C.C. 12.16.125, Ordinance 12787, Section 1, and K.C.C.
16 12.16.150, Ordinance 12787, Section 2, and K.C.C.
17 12.16.155, Ordinance 13313, Section 2, and K.C.C.
18 12.16.156, Ordinance 13313, Section 4, and K.C.C.
19 12.16.157, Ordinance 13313, Section 5, and K.C.C.

20 12.16.160, Ordinance 12787, Section 3, and K.C.C.
21 12.16.165 and Ordinance 12787, Section 5, and K.C.C.
22 12.16.170 and repealing Ordinance 11992, Section 5, and
23 K.C.C. 12.16.030.

24 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

25 SECTION 1. Ordinance 11992, Section 3, and K.C.C. 12.16.010 are each hereby
26 amended to read as follows:

27 ~~((All words shall have their ordinary and usual meanings except those defined in
28 this section, which shall have in addition, the meaning set forth below. In the event of
29 conflict, the specific definition spelled out below shall presumptively, but not
30 conclusively, prevail.)) The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.~~

32 A. "Administrator" means the manager of ~~((the minority and women's business
33 enterprises and contract compliance division))~~ the office of strategic planning and
34 performance management, business relations and economic development section.

35 B. ~~(("Affidavit and Certificate of Compliance" means a notarized statement sworn
36 under oath provided by a contractor pursuant to this chapter.))~~

37 C. ~~"Affirmative action" means policies, procedures and programs designed to
38 increase the representation of and remedy the results of past discrimination against
39 minorities, women, and persons with disabilities in employment, applications for
40 employment, and employment related training programs (of minorities, women and
41 persons with disabilities).))~~

42 ~~D.~~) "Contract ~~((A))~~awarding ~~((A))~~authority" means any person with the power to
43 enter into a contractual arrangement binding the county and means the particular office,
44 agency or division on whose behalf the contract is ~~((entered))~~ executed. In addition,
45 ~~((this term))~~ "contract awarding authority" includes, but is not limited to, the county
46 executive, heads of county departments ~~((divisions))~~ or offices and as delegated,
47 division directors.

48 ~~(E.)~~ C. "Contractor" means any person, firm, business, organization, company,
49 partnership, corporation or other legal entity, excluding real property lessors and
50 lessees~~((;))~~ and government agencies, contracting to do business with the county
51 including, but not limited to, public work contractors, consultant contractors, providers of
52 professional services, service agencies, vendors, and suppliers selling or furnishing
53 materials, equipment~~((;))~~ or goods or services~~((, but not including governmental~~
54 ~~agencies))~~.

55 ~~(F.)~~ D. "Disability" means ~~((any physical or mental impairment which~~
56 ~~substantially limits one or more major life activities.))~~ the presence of a sensory, mental
57 or physical impairment that is medically cognizable or diagnosable; or exists as a record
58 or history; or is perceived to exist whether or not it exists in fact. A disability exists
59 whether it is temporary or permanent, common or uncommon, mitigated or unmitigated,
60 or whether or not it limits the ability to work generally or work at a particular job or
61 whether or not it limits any other activity within the scope of this chapter.

62 E. "Disability access laws" means all laws requiring that county services,
63 programs and activities be accessible by people with disabilities including Title II of the

64 Americans with Disabilities Act, Title II of the Telecommunications Act of 1934, as
65 amended, and Section 504 of the Rehabilitation Act of 1973, as amended.

66 ((G.)) F. "Discrimination" means differential treatment of or pursuit of policies or
67 practices that have a disproportionate impact upon persons due to their ((~~creed, religion,~~
68 ~~race, color, sex, age, marital status, sexual orientation, national origin or the presence of~~
69 ~~any sensory, mental or physical disability, unless such policies or practices are necessary~~
70 ~~for the performance of the job and no less discriminatory alternatives are possible)) sex,~~
71 race, color, marital status, national origin, religious affiliation, disability, sexual
72 orientation, gender identity or expression or age except by minimum age and retirement
73 provisions, unless based upon a bona fide occupational qualification.

74 G. "Discriminate" means an action, other than an action taken in accordance with
75 lawful equal employment opportunity efforts, or failure to act, whether by itself or as part
76 of a practice, the effect of which is to adversely affect or differentiate between or among
77 individuals or groups of individuals, by reasons of sex, race, color, marital status, national
78 origin, religious affiliation, disability, sexual orientation, gender identity or expression or
79 age except by minimum age and retirement provisions, unless based upon a bona fide
80 occupational qualification.

81 H. "Employment" means any and all terms and conditions and policies and
82 practices of employment including, but not limited to, hiring, firing, upgrading,
83 demotion, recruiting, transfer, lay-off, termination, pay rates and advertisement, hours
84 and conditions of work.

85 I. "Equal employment opportunity" means the availability of employment and
86 advancement of all people based on merit, capability, and potential, and without regard to

87 an individual's sex, race, color, marital status, national origin, religious affiliation,
88 disability, sexual orientation, gender identity or expression or age except by minimum
89 age and retirement provisions, unless based upon a bona fide occupational qualification.

90 "Equal employment opportunity" includes the following components: recruitment,
91 application processing, hiring, job placement, compensation, promotion, transfer,
92 termination and work assignment.

93 J. "Equal employment opportunity efforts" means active efforts to ensure equal
94 opportunity in employment that is free from all forms of discrimination.

95 K. "Equal opportunity" means a system of practices under which individuals are
96 not excluded from any opportunity or benefits because of their sex, race, color, marital
97 status, national origin, religious affiliation, disability, sexual orientation, gender identity
98 or expression or age except by minimum age and retirement provisions, unless based
99 upon a bona fide occupational qualification.

100 L. "Minority" or "(M)minorities" means a person who is a citizen of the United
101 States and who is a member of one or more of the following historically disadvantaged
102 racial groups:

103 1. Black or African American: Having origins in any of the Black racial groups
104 of Africa;

105 2. Hispanic: ((Øf)) Mexican, Puerto Rican, Cuban, ((Øf)) Central ((Øf))
106 American, South American or of other Spanish or Portuguese culture or origin, regardless
107 of race;

108 3. Asian American: Having origins in any of the original peoples of the Far
109 East, Southeast Asia, the Indian subcontinent ((,)) or the Pacific Islands; or

110 4. American Indian or Alaskan Native: Having origins in any of the original
111 peoples of North America.

112 ~~((J. "New hire" means a person hired for the first time by a contractor.~~

113 ~~K.))~~ M. "Permanent ~~((employees" or "Permanent))~~ workforce" means those
114 persons employed by a bidder, proposer or contractor for at least six continuous months
115 immediately prior to the bid or proposal opening or the award of a contract by the county,
116 and who are currently employed by the bidder, proposer or contractor.

117 ~~((L. "Qualified disabled person" means a person with a disability who, with
118 reasonable accommodation, can perform the essential functions of the job in question.~~

119 ~~M.))~~ N. "Reasonable accommodation" means steps taken to modify facilities
120 used by employees or to modify a particular job component which enables an otherwise
121 qualified person with a disability to perform the essential functions of the job.

122 ~~((N. "Rehire" means a person who worked for the contractor and was rehired.
123 This person had not worked for the contractor for six continuous months prior to the
124 award of the contract.))~~

125 O. "Sexual orientation" means male or female heterosexuality, bisexuality, or
126 homosexuality, and includes a person's attitudes, preferences, beliefs and practices
127 pertaining to sex.

128 P. "Underrepresentation" means presence in a contractor's work force of
129 minorities, women, and persons with disabilities in a particular job category in
130 proportionate numbers ((lower)) less than ((the goals established for the contractor's
131 business under this chapter)) their representation in the county's labor market area.

132 ~~((Q. "Section 504 shall mean Section 504 of the Rehabilitation Act of 1973 as~~
133 ~~amended which states that, "No otherwise qualified handicapped individual in the United~~
134 ~~States shall, solely by reason of his handicap be excluded from the participation in, be~~
135 ~~denied the benefits of, or be subjected to discrimination under any program or activity~~
136 ~~receiving federal financial assistance."))~~

137 SECTION 2. Ordinance 11992, Section 3, and K.C.C. 12.16.020 are each hereby
138 amended to read as follows:

139 No contractor, subcontractor~~((;))~~ or union doing business with the county or a
140 county contractor, who furnishes workers or services in connection therewith, shall
141 discriminate against any person on the basis of ~~((race, color, creed, religion, sex, age,~~
142 ~~nationality, marital status, sexual orientation, or the presence of any sensory, mental or~~
143 ~~physical disability in an otherwise qualified disabled person in employment,))~~ sex, race,
144 color, marital status, national origin, religious affiliation, disability, sexual orientation,
145 gender identity or expression or age except by minimum age and retirement provisions,
146 unless based upon a bona fide occupational qualification, and no such contractor,
147 subcontractor~~((;))~~ or union shall violate any of the terms of ~~((RCW C))~~chapter 49.60
148 RCW, Title VII of the Civil Rights Act of 1964, or any other applicable federal, state or
149 local law or regulation regarding nondiscrimination in employment. ~~((These provisions~~
150 ~~((shall)) apply to all contractors, subcontractors ((;)) or unions doing business with or~~
151 ~~furnishing workers or services to the county, except other governments.))~~

152 SECTION 3. Ordinance 11992, Section 4, and K.C.C. 12.16.025 are each hereby
153 amended to read as follows:

154 In addition to the general prohibition against discrimination stated in ~~((Section))~~
155 K.C.C. 12.16.020 ~~((of this chapter)), ((the following additional nondiscrimination~~
156 ~~provisions relating to employment of persons with disabilities shall apply to))~~ all
157 contractors, subcontractors ~~((;))~~ or unions doing business with or furnishing workers or
158 services to the county ~~((, except other governments))~~:

159 A. ~~((Reasonable accommodation. Contractors s))~~ Shall make reasonable
160 accommodation to the known physical or mental limitations of an otherwise qualified
161 disabled applicant or employee unless the contractor can demonstrate that the
162 accommodation would impair or cause undue hardship on the operation of the
163 contractor ~~(('s)), subcontractor or unions' business~~ ~~((;))~~; and

164 B. ~~((Pre-employment inquiries. A contractor may))~~ Shall not conduct a ~~((pre-~~
165 ~~employment))~~ preemployment medical examination or make a ~~((pre-employment))~~
166 preemployment inquiry ~~((as to))~~ about whether an applicant ~~((is a disabled person or as to~~
167 ~~the nature or severity of))~~ has a disability. A contractor, subcontractor or union doing
168 business with or furnishing workers or services to the county may ~~((, however,))~~ make a
169 ~~((pre-employment))~~ preemployment inquiry ~~((into))~~ about an applicant's ability to
170 perform job-related functions. Nothing in this section shall prohibit a contractor,
171 subcontractor or union doing business with or furnishing workers or services to the
172 county from conditioning an offer of employment on the results of a medical examination
173 prior to initiation of the employment, if all entering employees are ~~((subjected))~~ subject to
174 such an examination regardless of disability.

175 SECTION 4. Ordinance 11992, Section 5, and K.C.C. 12.16.030 are each hereby
176 repealed.

177 SECTION 5. Ordinance 11992, Section 6, and K.C.C. 12.16.040 are each hereby
178 amended to read as follows:

179 The evaluation of a contractor's compliance with this chapter shall be based upon
180 the contractor's effort to implement ~~((achieve maximum results))~~ equal employment
181 opportunity policies to achieve a diverse workforce ~~((from its affirmative action~~
182 ~~measures))~~. The contractor shall document these efforts and shall implement
183 ~~((affirmative action steps))~~ equal opportunity efforts at least as extensive as the
184 following:

185 A. ~~((POLICY DISSEMINATION.))~~ Disseminate ~~((internally and externally))~~
186 the contractor's equal employment opportunity policy internally and externally; post
187 nondiscrimination policies and requirements of this chapter ~~((on bulletin boards))~~ in
188 locations that are clearly visible to all employees; notify each subcontractor, labor union
189 or representative of workers with which there is a collective bargaining agreement or
190 other contract, subcontract~~((s))~~ or understanding, of the contractor's commitments under
191 this chapter; include the equal opportunity policy in ~~((advertising in the news))~~
192 advertisements and other media ~~((and elsewhere))~~; discuss equal employment
193 opportunities and ~~((affirmative action))~~ policies with new employees during employment
194 orientation; discuss ~~((the))~~ equal employment opportunity policies with managers and
195 ~~((supervisory personnel))~~ supervisors and their roles and responsibilities in ~~((the~~
196 ~~implementation of))~~ implementing the ~~((measures))~~ efforts required under this
197 chapter~~((s))~~;

198 B. ~~((RECRUITING.))~~ Adopt and implement recruitment procedures ~~((designed))~~
199 to ~~((increase the representation of women, minorities and persons with disabilities))~~

200 achieve equal employment opportunity and diversity in the pool of applicants for
201 employment; ((including, but not limited to, establishing and maintaining a current list of
202 minority, female and disabled recruitment sources, providing these sources written
203 notification of employment opportunities and advertising vacant positions in newspapers
204 and periodicals which have minority, female and/or disabled readership.))

205 C. ~~((SELF-ASSESSMENT AND TEST VALIDATION.))~~ Review all
206 employment policies and procedures, including tests, recruitment, hiring and training
207 practices and policies, performance evaluations, seniority policies and practices, job
208 classifications and job assignments, to ~~((assure))~~ ensure that they do not ~~((discriminate~~
209 ~~against or have a discriminatory impact on, minorities, women and persons with~~
210 ~~disabilities))~~ discriminate against any person, and validate all tests and other selection
211 requirements where there is an obligation to do so under state or federal law~~((-))~~;

212 D. ~~((RECORD OF REFERRALS.))~~ Maintain a current file of applications of
213 ~~((minority, women, and))~~ all persons ~~((with disabilities))~~ who are applicants or referrals
214 for employment indicating ~~((what))~~ the actions that were ~~((was))~~ taken with respect to
215 each ~~((such))~~ individual and the reasons ~~((therefore.))~~ for the actions; and ((€))contact
216 these ~~((people))~~ persons when a ~~((n-opening))~~ job vacancy exists for which ~~((they))~~ these
217 individuals may be qualified. Names may be removed from the file after twelve months
218 ~~((have elapsed))~~ from the date of ~~((their))~~ the last application or referral ~~((-))~~;

219 E. ~~((NOTICE TO UNIONS. Provide notice to labor unions of the contractor's~~
220 ~~nondiscrimination and equal employment opportunity obligations pursuant to this~~
221 ~~chapter. Contractors shall also notify the executive if labor unions fail to comply with the~~
222 ~~nondiscrimination or equal employment opportunity efforts provisions.~~

223 ~~F. SUPERVISORS. Ensure that all supervisory personnel understand and are~~
224 ~~directed to adhere to and implement the nondiscrimination and affirmative action~~
225 ~~obligations of the contractor under this chapter. Such direction shall include, but not be~~
226 ~~limited to, adherence to, and achievement of, affirmative action policies in performance~~
227 ~~appraisals of supervisory personnel.~~

228 ~~G. EMPLOYEE TRAINING. When reasonable, develop on the job training~~
229 ~~opportunities which expressly include minorities, women, and persons with disabilities~~
230 ~~and sponsor and/or utilize, training/educational opportunities for the advancement of~~
231 ~~women, minorities and persons with disabilities employed by the contractor, subject to~~
232 ~~acceptance by the county.~~

233 ~~H. RESPONSIBLE PERSON.))~~ Designate an employee who shall have the
234 responsibility for implementation of the contractor's ((affirmative action measures)) equal
235 employment opportunity efforts.

236 ~~((I. PROGRESS REPORTING. Prepare as part of the affirmative action plan an~~
237 ~~analysis and report on the progress made toward eliminating the underrepresentation of~~
238 ~~women, minorities and persons with disabilities in the contractor's workforce on an~~
239 ~~annual basis.~~

240 ~~J. CONTRACTOR TRAINING. In addition, contractors who do not meet~~
241 ~~employment goals for women, minorities and persons with disabilities and who do not~~
242 ~~have approved affirmative action measures may be required to attend county sponsored~~
243 ~~training programs on relevant areas of affirmative action and equal employment~~
244 ~~opportunity.))~~ SECTION 6. Ordinance 11992, Section 7, and K.C.C. 12.16.050 are each
245 hereby amended to read as follows:

246 A. ~~((CONTRACT PROVISIONS.))~~ The county's policy, as stated in this
247 chapter, requiring nondiscrimination in contractor ~~((or))~~ and subcontractor employment
248 and ~~((affirmative action))~~ equal employment opportunity shall be included in all county
249 contracts, except real property sale and lease~~((s,))~~ transactions and government agency
250 contracts. The requirement of compliance with disability access laws shall be included in
251 all applicable county contracts. ~~A((ny violation of the specific provisions of this chapter~~
252 ~~and of any term of the affidavit and certificate of compliance required herein, including~~
253 ~~reporting requirements, shall be deemed a violation of this chapter. Any such))~~ violation
254 of this chapter shall be ~~((further))~~ deemed a breach of a material provision of the contract
255 between the county and the contractor. Such a breach shall be grounds for cancellation,
256 termination~~((,))~~ or suspension, in whole or in part, of the contract by the county, or for
257 invoking the enforcement provisions of this chapter providing for penalties, liquidated
258 damages~~((,))~~ or other remedies, and may result in ineligibility for ~~((further))~~ county
259 contracts~~((; provided, that underrepresentation of minorities, women and persons with~~
260 ~~disabilities and the failure or inability of any contractor to achieve employment goals will~~
261 ~~not be a violation where that contractor has adopted and pursued a reasonable equal~~
262 ~~employment opportunity measures in compliance with this chapter))~~. The burden is on
263 the contractor to demonstrate its compliance with this chapter.

264 B. ~~((Specifications))~~ Invitations to bid and requests for proposals for all county
265 contracts, except real property leases, may require the bidder or proposer to ~~((sign and~~
266 ~~submit an affidavit and certificate of compliance))~~ comply specifically ~~((setting forth a~~
267 ~~plan of affirmative action))~~ with equal employment opportunity efforts to ~~((be followed))~~
268 follow in the event a contract is awarded to the bidder or proposer. Such ~~((plan))~~ efforts

269 shall ensure (~~equal opportunity in employment is afforded by the contractor and its~~
270 ~~subcontractors while performing the contract for the county~~) the contractor and its
271 subcontractors while performing the contract for the county affords equal opportunity in
272 employment.

273 C. (~~The plan of affirmative action contained in such affidavit and certificate of~~
274 ~~compliance shall include, but need not be limited to the following provisions:~~

275 1. ~~Designation of a person who has been charged by the bidder or proposer with~~
276 ~~the responsibility for carrying out and reporting the bidder's or proposer's compliance~~
277 ~~with its plan of affirmative action;~~

278 2. ~~Assurance that the plan of affirmative action will be communicated to~~
279 ~~supervisors and other employees of the bidder or proposer;~~

280 3. ~~Assurance that the bidder's or proposer's new hires and rehires will include~~
281 ~~minorities, women and persons with disabilities;~~

282 4. ~~Assurance that the bidder or proposer will proceed in good faith and make~~
283 ~~every reasonable effort to comply with the employment goals established in this chapter~~
284 ~~and provided in the specifications;~~

285 5. ~~Assurance that the bidder or proposer shall correct deficiencies of under-~~
286 ~~represented persons at all levels of the workforce by considering under-represented~~
287 ~~persons to fill new hire or rehire positions;~~

288 6. ~~Assurance that the bidder or proposer will make continuing efforts to recruit~~
289 ~~minorities, women and persons with disabilities and to advertise employment~~
290 ~~opportunities in a way which will effectively reach minorities, women and persons with~~
291 ~~disabilities; and~~

292 7. Assurance that the bidder or proposer will communicate to subcontractors
293 and labor unions its affirmative action obligations

294 D.) Whenever the administrator determines that a contractor's ~~((affidavit and~~
295 ~~certificate of compliance is in))~~ obligations under this chapter need ~~((of))~~ review or
296 updating, the administrator shall notify the contractor, who shall then take such steps as
297 are necessary to review or update its ~~((affidavit and certificate of compliance to meet the~~
298 ~~requirements of the county))~~ equal employment opportunity policies and practices to
299 meet county requirements.

300 ~~((E.))~~ D. ~~((In addition to submitting an affidavit and certificate of compliance,~~
301 ~~a))~~ A bidder ~~((or proposer))~~ may also be required, ~~((either before or))~~ after award of a
302 contract, to submit permanent workforce information ~~((personnel inventory reports and~~
303 ~~such other documentation))~~ including, but not limited to, the total number of employees
304 for all business locations, a personnel inventory by job category and other such data as
305 may be determined by the administrator.

306 ~~((F.))~~ E. ~~((In addition to all other submittal requirements under this chapter,~~
307 ~~e))~~ Contractors performing under construction contracts shall submit monthly
308 employment reports on such forms and by methods, including electronic submission, as
309 may be established by the administrator~~((, which)).~~ The reports shall include information
310 sufficient to demonstrate the extent to which the contractor has complied with ~~((the~~
311 ~~requirements of))~~ this chapter.

312 ~~((G.))~~ F. Neither the provisions of any collective bargaining agreement ~~((;))~~ nor
313 the failure by a union with whom the contractor has a collective bargaining agreement

314 ~~((to refer minorities, women or persons with disabilities,))~~ shall excuse the contractor's
315 obligation under ~~((the affidavit and certificate of compliance))~~ this chapter.

316 ~~((H.))~~ G. The following provisions shall be included in contracts awarded by the
317 county, except as provided otherwise in this chapter:

318 1. During performance of ~~((this))~~ the contract, the contractor agrees that it will
319 not discriminate against any employee or applicant for employment because of ~~((religion,~~
320 ~~color, race, sex, sexual orientation, age, national origin, or the presence of any sensory,~~
321 ~~mental or physical disability, nor tolerate harassment based on any of these categories))~~
322 the employee or applicant's sex, race, color, marital status, national origin, religious
323 affiliation, disability, sexual orientation, gender identity or expression or age except by
324 minimum age and retirement provisions, unless based upon a bona fide occupational
325 qualification. The contractor will take ~~((affirmative action))~~ equal employment
326 opportunity efforts to ensure that applicants and employees are treated, without regard to
327 their ~~((creed, color, race, religion, sex, sexual orientation, age, national origin, or the~~
328 ~~presence of such disability))~~ sex, race, color, marital status, national origin, religious
329 affiliation, disability, sexual orientation, gender identity or expression or age. ~~((Such~~
330 ~~affirmative action))~~ The equal employment opportunity efforts shall include, but not be
331 limited to, the following: employment, upgrading, demotion or transfer; recruitment or
332 recruitment advertising; layoff or termination; rates of pay or other forms of
333 compensation; and selection for training, including apprenticeships. The contractor
334 agrees to post in conspicuous places available to employees and applicants for
335 employment notices setting forth ~~((the provisions of))~~ this nondiscrimination clause ~~((-))~~;

336 2. ~~((The contractor will, prior to the commencement and during the term of this~~
337 ~~contract, furnish the county, upon request and on such forms as may be provided by the~~
338 ~~county, a report of the affirmative action taken by the contractor in implementing the~~
339 ~~terms of this provision, and will)) The contractor shall permit access by the administrator
340 to the contractor's records of employment, employment advertisements, application
341 forms, other pertinent data and records related to the contract for the purpose of
342 monitoring, audit and investigation to determine compliance with this chapter~~((:)); and~~~~

343 3. The contractor ~~((will))~~ shall implement and carry out the obligations
344 ~~((contained))~~ in ~~((its affidavit and certificate of compliance regarding))~~ this chapter and
345 the contract regarding equal employment opportunity. The county shall consider the
346 ~~((F))~~failure to implement and carry out such obligations in good faith ~~((may be~~
347 ~~considered by the county))~~ as a material breach of ~~((this))~~ the contract and grounds for
348 withholding payment and/or termination of the contract and dismissal of the contractor.

349 I. All contracts and agreements with the county, under which a contractor
350 provides a service, program or activity to the general public or under which a contractor
351 provides a service, program or activity directly to county employees on behalf of the
352 county as the employer shall include the following provisions:

353 1. The contractor agrees to provide to persons with disabilities access to
354 programs, activities and services provided under the contract or agreement, as required by
355 the disability access laws; and

356 2. The contractor shall not discriminate against persons with disabilities in
357 providing the work under the contract. In any subcontracts for the programs, activities
358 and services under their contract or agreement with the county, the contractor shall

359 include the requirement that the subcontractor provide to persons with disabilities access
360 to programs, activities and services provided under the contract or agreement, as required
361 by the disability access laws, that the subcontractor shall not discriminate against persons
362 with disabilities in providing the work under the contract and that the subcontractor shall
363 provide that the county is a third party beneficiary to that required provision.

364 SECTION 7. Ordinance 11992, Section 8, and K.C.C. 12.16.060 are each hereby
365 amended to read as follows:

366 ~~((The administrator may require that prior to being awarded a county contract;~~
367 ~~contractors must first be determined eligible by the administrator as having complied~~
368 ~~with the provisions of this chapter. The county shall not enter into a contract with nor~~
369 ~~receive goods and/or services from a contractor that has not been determined eligible as~~
370 ~~required by this chapter.))~~

371 A. ~~((WORK FORCE DATA.))~~ All public works contractors entering into
372 contracts or agreements with the county ~~((valued at twenty-five thousand dollars or~~
373 ~~more))~~, with an estimated value in excess of the dollar threshold for formal solicitation
374 and advertisement, in accordance with K.C.C. 4.16.090 and 4.16.155, shall submit to the
375 contract awarding authority ((a personnel inventory report providing)) upon the
376 authority's request, and in a format and using such methods, as may be provided by the
377 county, employment data for ((minorities, women and persons with disabilities, except
378 for public works contractors. Public works contractors shall submit to the contract
379 awarding authority a personnel inventory report when entering into contracts or
380 agreements valued at over ten thousand dollars. This requirement shall also apply to
381 contractors who accumulate contracts, which total twenty-five thousand dollars or more

382 in a given calendar year. The administrator may determine the form in which this data
383 shall be provided)) its workforce.

384 B. (~~COMPLIANCE AFFIDAVITS AND UNION STATEMENTS. All~~
385 ~~contractors, except public works contractors, entering into contracts with the county of~~
386 ~~more than twenty five thousand dollars, or which in the aggregate result in yearly sales to~~
387 ~~the county of more than twenty five thousand dollars, shall submit an affidavit of~~
388 ~~compliance, in the form provided by the county, demonstrating their commitment to~~
389 ~~comply with the provisions of this chapter, and shall further submit a signed statement of~~
390 ~~compliance from a union or employee referral agency. Public works contractors entering~~
391 ~~into contracts of ten thousand dollars or more shall submit an affidavit of compliance and~~
392 ~~a statement from a union or employee referral agency. The contractor shall abide by all~~
393 ~~the terms and conditions set forth in the affidavit. The affidavit of compliance shall state~~
394 ~~the reporting requirements for each contractor, the requirements of subcontractors, the~~
395 ~~employment goals for minorities, women and persons with disabilities, minimum~~
396 ~~affirmative action measures, reporting requirements and other such provisions as the~~
397 ~~administrator deems necessary and appropriate for compliance with and enforcement of~~
398 ~~this chapter; provided, that in lieu of the affidavit, the administrator may accept a~~
399 ~~statement pledging adherence to existing contractor affirmative action measures where~~
400 ~~the provisions of these measures are found by the administrator to substantially fulfill the~~
401 ~~requirements of this chapter.)) The reporting requirements for each contractor and its
402 subcontractors and any other such provisions as the administrator deems necessary and
403 appropriate for compliance with and enforcement of this chapter, shall be included in all~~

404 county contracts, except real property sale and lease transactions and government agency
405 contracts.

406 C. ~~((VENDORS, YEARLY RENEWALS. Vendors who became qualified under~~
407 ~~subsections A. and B. of this section shall remain so qualified for two years after the date~~
408 ~~on which they were qualified and shall be entitled to bid and be considered for the sale of~~
409 ~~materials, supplies and equipment at any time during that period without requalification.~~

410 ~~During such time as a vendor remains continuously qualified under this chapter to~~
411 ~~do business with the county, the affidavit of compliance initially submitted to gain~~
412 ~~qualification shall be deemed to be effective and in force without further renewal or~~
413 ~~resubmission. Should qualification lapse or be terminated at any time due to a change of~~
414 ~~ownership in the business or to a failure to submit an updated employment profile or~~
415 ~~upon a finding of violation of this chapter, the county having previously complied with~~
416 ~~notice of hearing provisions, a new affidavit of compliance and employment profile shall~~
417 ~~be required prior to vendor's being requalified.~~

418 D. ~~SELF EVALUATION, CORRECTIVE ACTION PLAN AND ASSURANCE~~
419 ~~OF COMPLIANCE. In order to comply with Section 504 of the federal Rehabilitation~~
420 ~~Act of 1973, as amended, all contractors entering into contracts with the county, except~~
421 ~~those for the direct purchase of goods shall complete and maintain in their office a~~
422 ~~Section 504 self evaluation and corrective action plan. These plans are to be used by the~~
423 ~~contractor to review program, facility, and employment access by persons with~~
424 ~~disabilities and to determine what kind of corrective action may be needed. An assurance~~
425 ~~of compliance contained in the corrective action plan, must be signed, notarized and~~
426 ~~returned to the administrator before the contract will be signed by the county.~~

427 ~~Contractors who believe that taking corrective action will cause an undue~~
428 ~~administrative or financial burden may complete and submit an accessibility waiver~~
429 ~~request form to the administrator. The administrator will approve or disapprove the~~
430 ~~request, and notify the contractor in writing regarding the decision. The administrator~~
431 ~~shall be responsible for devising and promulgating criteria to be used in determining~~
432 ~~whether ((or not)) to grant a request for waiver from the requirement to complete and~~
433 ~~maintain a Section 504 self-evaluation and corrective action plan.)) Invitations to bid and~~
434 ~~requests for proposals for all county contracts and agreements in which a contractor will~~
435 ~~provide a service, program or activity to the general public, or in which a contractor will~~
436 ~~provide a service, program or activity directly to King County employees on behalf of the~~
437 ~~county as the employer shall require the bidder or proposer to provide to persons with~~
438 ~~disabilities access to services, programs and activities provided under the contact or~~
439 ~~agreement as required by the disability access laws.~~

440 SECTION 8. Ordinance 11992, Section 9, and K.C.C. 12.16.070 are each hereby
441 amended to read as follows:

442 ~~((Contractors required to submit affidavits and certificates of compliance shall~~
443 ~~also submit statements from unions or employee referral agencies, as applicable, on~~
444 ~~forms provided by the administrator. The statement shall be in writing, signed by the~~
445 ~~authorized officers or agents of a))All labor unions or agencies ((referring)) that refer~~
446 ~~workers or employees or ((providing)) provide or ((supervising)) supervise~~
447 ~~apprenticeship or other training programs from whom the contractor obtains employees~~
448 ~~((The statement shall affirm that the signer(s)'s organization has no practices and~~
449 ~~policies which discriminate on the basis of race, color, creed, religion, sex, age, sexual~~

450 orientation, marital status, the presence of any physical, mental or sensory disability, or
451 national origin, that the signer(s)'s organization will affirmatively cooperate in the
452 implementation of the policies and provisions of this chapter, and that the organization
453 consents and agrees that recruitment, employment, and the terms and conditions of
454 employment under all contracts with the county shall be in accordance with the purposes
455 and provisions of this chapter)) must comply with this chapter, which requires the
456 organization have no discriminatory practices or policies based on sex, race, color,
457 marital status, national origin, religious affiliation, disability, sexual orientation, gender
458 identity or expression or age except by minimum age and retirement provisions, unless
459 based upon a bona fide occupational qualification.

460 SECTION 9. Ordinance 11992, Section 10, and K.C.C. 12.16.080 are each
461 hereby amended to read as follows:

462 For all public work contracts, ~~((prime))~~ the county shall require contractors ~~((shall~~
463 ~~be required))~~ to submit reports ~~((to the county affidavits and certificates of compliance,~~
464 ~~reports and statements from unions or employee referral agencies))~~ from their
465 subcontractors in the same manner and method as ~~((these are))~~ required of the ~~((prime))~~
466 contractor. For these contracts, the reporting requirements that apply to the ~~((prime))~~
467 contractor during the contract period ~~((will))~~ apply equally to all subcontractors. ~~((As a~~
468 ~~condition of their contract, prime e))~~ Contractors shall be responsible for ensuring that
469 their subcontractors ((make affirmative efforts to meet the same employment goals))
470 adhere to the same equal employment opportunity requirements that apply to the
471 ~~((prime))~~ contractors. The county shall deem ((A)) any violation of this chapter ~~((or the~~
472 ~~requirements of the affidavit and certificate of compliance))~~ by ~~((the))~~ a subcontractor

473 ~~((will be deemed))~~ a violation by the ~~((prime))~~ contractor and will subject the ~~((prime))~~
474 contractor to the sanctions and penalties ~~((set forth out))~~ in the contract and in this
475 chapter.

476 SECTION 10. Ordinance 11992, Section 11, and K.C.C. 12.16.090 are each
477 hereby amended to read as follows:

478 The administrator shall monitor compliance with this chapter and shall conduct
479 such investigations as may be necessary to determine compliance on the part of any
480 contractor, firm or organization with ((the requirements of)) this chapter. ((It shall be the
481 duty of e))Each contract awarding authority ~~((to assure))~~ shall ensure that contractors are
482 notified of their obligations ~~((hereunder))~~ under this chapter. The administrator shall
483 ~~((have the direct responsibility and authority to insure that contractors are properly~~
484 ~~monitored and that each county department is in full compliance with provisions of this~~
485 ~~chapter.))~~ ensure that each contract awarding authority properly monitors contractors in
486 compliance with this chapter.

487 SECTION 11. Ordinance 11992, Section 12, and K.C.C. 12.16.100 are each
488 hereby amended to read as follows:

489 A. The executive, through the administrator, shall have the responsibility for
490 monitoring and auditing implementation of the requirements of this chapter and shall
491 have the power to request from all county departments and offices, responding parties,
492 and/or contractors any relevant records, information and documents. The administrator
493 shall have access to all county records related to compliance with this chapter.
494 ~~((Departments))~~ County contract awarding authorities shall provide full cooperation to

495 the administrator in the implementation of this chapter and shall promptly submit records,
496 information and documents upon request of the administrator.

497 B. County contract awarding authorities shall keep complete and detailed records
498 regarding compliance with this chapter. The administrator shall devise and promulgate to
499 all county departments uniform standards for the keeping of complete and detailed
500 records as required by this chapter.

501 C. The contractor ~~((will))~~ shall, upon request, furnish all information and reports
502 as reasonably required by the administrator to determine compliance with this chapter,
503 ~~((and the affidavit and certificate of compliance,))~~ and ~~((will))~~ shall permit access to its
504 books, records and accounts for purposes of investigation to ascertain compliance with
505 the nondiscrimination and ~~((affirmative action))~~ equal employment opportunity
506 requirements of this chapter. ~~((Unless otherwise required by law, a))~~ All information,
507 data or records obtained pursuant to the monitoring and investigation activities authorized
508 under this chapter shall be kept confidential by the county to the extent allowed by law,
509 except that the county may release such information when requested to do so in
510 cooperation with state and federal agencies administering and enforcing state and federal
511 laws against discrimination.

512 SECTION 12. Ordinance 11992, Section 13, as amended, and K.C.C. 12.16.115
513 are each hereby amended to read as follows:

514 A. Where a complaint alleging a violation of this chapter has been filed by any
515 individual or entity, including a contract awarding authority, within six months of the
516 completion of all work on a contract alleging a violation of this chapter by a contractor or
517 where, within that same time period, evidence of a violation is discovered from

518 information gained through compliance monitoring or auditing, the administrator shall
519 cause to be served or mailed, by certified mail, return receipt requested, a copy of the
520 complaint or notice of investigation on the respondent within twenty days after the filing
521 of said charge and shall promptly make an investigation thereof. If ~~((the investigation is~~
522 ~~conducted by))~~ a party selected by the administrator conducts the investigation, the costs
523 of such an investigation shall be borne by the department or project, as applicable, for
524 which the contract was awarded. The investigation shall be directed to ascertain the facts
525 concerning the violation alleged in the complaint and shall be conducted in an objective
526 and impartial manner. During such an investigation, the administrator shall consider any
527 statement of position or evidence with respect to the allegations of the complaint which
528 the complainant or the respondent wishes to submit.

529 1. The administrator shall have the authority to sign and issue subpoenas
530 requiring the attendance and testimony of witnesses, the production of evidence including
531 but not limited to books, records, correspondence or documents in the possession or
532 under the control of the person or entity subpoenaed, and access to evidence for the
533 purpose of examination and copying as is necessary for the investigation. The
534 administrator shall consult with the prosecuting attorney before issuing any subpoena
535 under this section.

536 If an individual or entity fails to obey a subpoena issued hereunder, or obeys a
537 subpoena but refuses to testify when requested concerning any matter under
538 investigation, the administrator may seek the assistance of the county prosecuting
539 attorney by requesting that the prosecuting attorney petition the superior court for King

540 County for an order or other appropriate action necessary to secure enforcement of the
541 subpoena.

542 2. The results of the investigation shall be reduced to written findings of fact
543 and a finding shall be made that there either is or is not reasonable cause for believing
544 that a violation has been or is being committed. If a finding is made that there is no
545 reasonable cause, said finding shall be served on the complainant and respondent. Within
546 thirty days after service of such negative finding, the complainant shall have the right to
547 file a written request with the administrator asking for reconsideration of the finding.
548 The administrator shall respond to such request in writing within a reasonable time by
549 granting or denying the request and specifying the reasons for either granting or denying
550 the request.

551 B. If the finding is made initially or on request for reconsideration that reasonable
552 cause exists to believe that a violation by a contractor ~~((or))~~ subcontractor has occurred,
553 the administrator shall endeavor to remedy the violation by conference, conciliation and
554 persuasion, which may, by agreement of the parties, include monetary compensation, the
555 creation of additional opportunities for ~~((minorities, women or persons with disabilities to
556 be employed))~~ the employment of persons on other contracts, or such other requirements
557 as may lawfully be agreed upon by the parties and the administrator. Any settlement
558 agreement shall be reduced to writing and signed by both parties. An order shall then be
559 entered by the administrator setting forth the terms of the agreement. Copies of such an
560 order shall be delivered to all affected parties and the original thereof recorded with the
561 records and licensing services division.

562 If no agreement can be reached, a finding to that effect shall be made by the
563 administrator and incorporated in a preliminary order, with a copy thereof furnished to
564 the complainant and respondent. The preliminary order shall also include:

- 565 1. A finding that a violation has occurred; and
- 566 2. The basis for such a finding.

567 C. In the case of failure to reach an agreement for the elimination of such a
568 violation, and upon the entry of a preliminary order, the complaint and any and all
569 findings made and remedies ordered shall be certified by the administrator to the office of
570 the county hearing examiner for hearing.

571 A hearing shall thereafter be conducted by the office of the hearing examiner for
572 the purpose of affirming, denying((;)) or modifying the preliminary order. The hearing
573 shall be conducted on the record and the hearing examiner shall have such rule making
574 and other powers necessary for conduct of the hearing as are specified by K.C.C.
575 20.24.170. Such hearings shall be conducted within a reasonable time after receipt of the
576 certification. Written notice of the time and place of the hearing shall be given at least ten
577 days prior to the date of the hearing to each affected party and to the administrator.

578 Each party shall have the following rights, among others:

- 579 1. To call and examine witnesses on any matter relevant to the issues of the
580 complaint;
- 581 2. To introduce documentary and physical evidence;
- 582 3. To cross-examine opposing witnesses on any matter relevant to the issues of
583 the complaint;

584 4. To impeach any witness regardless of which party first called such witness to
585 testify;

586 5. To rebut evidence presented against a party; and

587 6. To self-representation or to be represented by anyone of a party's choice who
588 is lawfully permitted to do so.

589 D. Following review of the evidence submitted, the hearing examiner presiding at
590 the hearing shall enter written findings and conclusions, shall render a written decision
591 and shall order one or more of the following:

592 1. Dismissal of the complaint when a violation is found not to have occurred;

593 2. ~~((Suspension or e))~~Cancellation of the contract in part or in whole;

594 3. Disqualification ~~((and/or debarment))~~ of the violator from participation in
595 county contracts for a period of up to five years;

596 4. Exclusion of the violator from future county contracts or vending until
597 demonstration of compliance; and

598 5. Enforcement of any provision of the contract providing remedies, such as
599 penalties or liquidated damages for violation of contractual provisions or enforcement of
600 any other remedy available under the laws of the county. Upon a finding by the hearing
601 examiner that a contractor has in fact failed to abide by the provisions of this chapter,
602 liquidated damages ~~((not to exceed the entire contract amount))~~ shall be imposed unless
603 the hearing examiner finds that the imposition of such damages would be clearly
604 inequitable, in which case the hearing examiner may grant such other relief as may be
605 lawful and appropriate.

606 E. In the case where the alleged violator is the contract awarding authority((;))
607 and a finding is made that there is reasonable cause to believe that the contract awarding
608 authority has committed a violation, the finding shall be forwarded to the executive, who
609 shall review the evidence and may order one or more of the following:

- 610 1. Dismissal of the complaint when a violation is found not to have occurred;
- 611 2. Corrective personnel action;
- 612 3. Disqualification and suspension of authority of all members, any board,
613 commission, or other body constituting the violating contract awarding authority; and
614 4. Enforcement of any other remedy available under the laws of the county.

615 F. In addition to any other remedy available under the laws of the county and the
616 ((S))state of Washington, any person, firm, corporation, business, union((;)) or
617 organization ((which)) that prevents or interferes with or retaliates against a contractor
618 ((and/))or subcontractor's efforts to comply with ((the requirements of)) this chapter or
619 ((which)) that submits false or misleading information to any county department or
620 employee concerning compliance with this chapter shall be subject to a civil penalty of
621 up to five thousand dollars for each occurrence, the county having previously complied
622 with the notice and hearing provisions of this chapter. Each submission of false or
623 misleading information shall constitute a separate occurrence.

624 SECTION 13. Ordinance 10849, Section 19, and K.C.C. 12.16.125 are each
625 hereby amended to read as follows:

626 No lessor or lessee doing business with the county shall discriminate on the basis
627 of a person's sex, race, color, ((sex, religion, nationality, creed, marital status, sexual
628 orientation, age, or presence of any sensory, mental or physical disability)) marital status,

629 national origin, religious affiliation, disability, sexual orientation, gender identity or
630 expression or age except by minimum age and retirement provisions, unless based upon a
631 bona fide occupational qualification, in the employment or application for employment or
632 in the administration or delivery of services or any other benefits under this chapter. The
633 lessor or lessee shall comply fully with all applicable federal, state and local laws,
634 ordinances, executive orders and regulations (~~(which)~~) that prohibit such discrimination.
635 These laws include, but are not limited to, (~~(C)~~)chapter 49.60 (~~(of the Revised Code of~~
636 ~~Washington,)~~) RCW and Titles VI and VII of the Civil Rights Act of 1964. (~~(This)~~) The
637 language in this section shall be included in all lease agreements.

638 SECTION 14. Ordinance 12787, Section 1, and K.C.C. 12.16.150 are each
639 hereby amended to read as follows:

640 A. A well-trained diverse work force is critical to the economic and social vitality
641 of the Puget Sound region. Recent studies on the region's workforce highlight population
642 trends that, without a concerted effort to offset them, will lead to an inadequate supply of
643 skilled workers in the construction industry. Furthermore, these demographic trends
644 indicate that a large percentage of new entrants to the labor force will be comprised of
645 minorities, women (~~(s)~~) and persons with disabilities and economically disadvantaged
646 youth who historically have faced barriers to employment resulting in an
647 underrepresentation in the skilled trades.

648 B. The King County council finds as a fact that minorities, women, persons with
649 disabilities and economically disadvantaged youth are underrepresented in the
650 construction trades and industry. Moreover, the council also finds as a fact that a
651 significant reason for the underrepresentation of these populations in the construction

652 trades is the lack of opportunity and training for those persons to serve as apprentices in
653 state-approved apprenticeship programs.

654 C. The county's comprehensive plan provides that the county shall address
655 historic disparity in income and employment opportunities for minorities, women and
656 economically disadvantaged individuals and shall recognize the importance of, and place
657 special emphasis on, job training and retaining(~~(A)~~) and expanding family-wage jobs.

658 D. Other local agencies in King County have successfully implemented
659 apprenticeship programs as part of their projects and contracts and have demonstrated
660 that apprenticeship programs are effective in providing training and experience to
661 individuals seeking to enter or advance in the workforce.

662 E. King County is committed to fostering partnerships with labor, business, and
663 the local community to create a skilled workforce that reflects the diversity of the
664 county's population.

665 F. The county's public works contracts will provide training and job opportunities
666 as a means to increase the skills of the county's work force, and the council is committed
667 to utilizing apprenticeship training so that the resulting journey workers can enter the
668 region's pool of skilled labor, fully qualified for jobs. Therefore, the council finds that
669 the creation of an apprenticeship program that will target the recruitment of minorities,
670 women, persons with disabilities and economically disadvantaged youth will serve to
671 benefit the public by assisting these disadvantaged populations to gain entry to the
672 construction trades.

673 SECTION 15. Ordinance 12787, Section 2, and K.C.C. 12.16.155 are each
674 hereby amended to read as follows:

675 There is hereby established a county apprenticeship training program. An
676 essential component of the program shall be the inclusion of minorities, women, persons
677 with disabilities and economically disadvantaged youth as apprentices.

678 The ~~((minority and women's business enterprises and contract compliance~~
679 ~~division))~~ administrator shall be responsible for implementing the apprenticeship
680 program under this section. The administrator ~~((of the minority and women's business~~
681 ~~enterprises and contract compliance division, as defined in K.C.C. 4.18,))~~ shall:

682 A. ~~((Have responsibility for a))~~ Administer~~((ing))~~, monitor~~((ing))~~ and
683 ~~((enforcing))~~ enforce the goals and requirements of this chapter;

684 B. ~~((Have responsibility for coordinating))~~ Coordinate all elements among all
685 county agencies whose involvement is necessary to implement a successful program;

686 C. ~~((Have responsibility for coordinating))~~ Coordinate the county's efforts with
687 those of other jurisdictions with similar programs to insure a coherent, cohesive and
688 focused response to the future labor needs of the local area construction industry;

689 D. ~~((Have responsibility for m))~~ Monitor~~((ing))~~, track~~((ing))~~ and document~~((ing))~~
690 access to apprentices and state-approved apprentice training programs by open shop
691 contractors who choose to bid on county construction contracts and accept the county's
692 apprenticeship training program requirements; and

693 E. ~~((Have responsibility for developing and implementing in conjunction with~~
694 ~~other local jurisdictions, which have similar programs, a model for predicting the future~~
695 ~~labor needs, within a reasonable timeframe, of the local construction industry. The model~~
696 ~~shall have the ability to predict future labor needs by construction trade in order to allow~~
697 ~~for appropriate recruitment of trade-specific apprentices.))~~ In addition, the administrator

698 shall include in the annual report required in K.C.C. 12.16.175 the extent of apprentice
699 shortages, if any, by construction trade for the given reporting year, and shall gather this
700 information from the apprentice training programs being utilized by the county's
701 construction contractors. The county shall require contractors who claim apprentices are
702 unavailable to document their efforts to obtain apprentices.

703 SECTION 16. Ordinance 13313, Section 2, and K.C.C. 12.16.156 are each
704 hereby amended to read as follows:

705 The following voluntary hiring goals shall be ~~((the apprentice-utilizing goals))~~
706 applied to following target populations for public works projects as a whole ~~((which))~~
707 that are subject to the apprenticeship program requirements until ((such time as)) the
708 council approves new voluntary hiring goals for these target populations ~~((are approved~~
709 ~~by the council))~~:

<u>Target Populations</u>	((Utilization)) <u>Voluntary Hiring Goals</u>
Minorities	21%
Women	25%
Persons with disabilities	2%
Economically disadvantaged youth	7%

710 SECTION 17. Ordinance 13313, Section 4, and K.C.C. 12.16.157 are each
711 hereby amended to read as follows:

712 A. The voluntary hiring goals established in this chapter shall be used as
713 countywide ~~((target))~~ goals for ~~((apprenticeship-utilization))~~ the participation of persons
714 within the targeted populations as apprentices on applicable county public works projects

715 as a whole(~~(, pursuant to the criteria established in K.C.C. 12.16.165, for the participation~~
716 ~~of minorities, women, persons with disabilities and economically disadvantaged youth.))~~
717 Such goals shall apply as a whole until ~~((such time as))~~ all available apprentices are taken
718 or until the established target goals are reached.

719 B. Application of the voluntary hiring goals ~~((established in this chapter to~~
720 ~~particular projects))~~ for persons from the targeted populations established in K.C.C.
721 12.16.156 shall be based on the available labor hours on each project and the level of
722 apprentice availability and underutilization of the target groups in each participating
723 construction craft as well as the other criteria listed in K.C.C. 12.16.160.C.

724 SECTION 18. Ordinance 13313, Section 5, and K.C.C. 12.16.160 are each
725 hereby amended to read as follows:

726 A. The administrator ~~((of the minority and women's business enterprises and~~
727 ~~contract compliance division, as defined in K.C.C. 4.18,))~~ shall:

728 ~~((A-))~~ 1. Develop specific criteria for assessing the feasibility of implementing
729 the apprenticeship program on each public works project. ~~((In addition, t))~~ The
730 administrator is authorized to develop and adopt rules consistent with the requirements
731 and policy directives of K.C.C. 12.16.150 through 12.16.180 and ~~((pursuant to))~~ in
732 accordance with K.C.C. chapter 2.98. Such rules shall include criteria for determining on
733 a project-by-project basis the appropriateness of requiring the use of apprentices in a
734 certain percentage~~((-))~~;

735 ~~((B-))~~ 2. Establish the percent of labor hours required for the use of apprentices
736 on each public works project selected for the apprenticeship program. The labor hour
737 percentage ~~((goal))~~ requirement on the contract for apprentices shall be ~~((at least 15% and~~

738 ~~no more than 20% unless reduced or waived~~) determined by the administrator. When
739 setting (~~such a goal~~) the requirement, the administrator shall consider, in addition to
740 other factors, duration of the project, the scope of work, type of work, and the types of
741 crafts and trades to be utilized on the project. During the term of the contract, the
742 administrator may reduce or waive the required percentage of apprentice labor hours
743 (~~percentage goal~~) upon determination that:

744 ~~(1-)~~ a. The contractor has demonstrated that it has utilized its "best efforts" to
745 meet the established percentage requirement but remains unable to fulfill the requirement
746 (~~goal~~);

747 ~~(2-)~~ b. In order to meet the requirement, the contractor will be forced to
748 displace members of their workforce; (~~or~~)

749 ~~(3-)~~ c. The reasonable and necessary requirements of the contract render
750 apprentice utilization infeasible at the required levels(~~-~~);

751 ~~(C-)~~ 3. One purpose of the apprenticeship program is to enable minorities,
752 women, and persons with disabilities and economically disadvantaged youth to
753 participate in apprenticeship opportunities. Thus, whenever feasible, the administrator
754 shall (~~ensure that a significant number of the apprentice labor hours requirement set for~~
755 ~~the project shall~~) encourage contractors to include minorities, women, persons with
756 disabilities and economically disadvantaged youth in a significant number of the
757 apprentice labor hours requirement set for the project(~~- In determining such inclusion,~~
758 ~~the administrator should consider :~~

759 ~~1. The percentage of the working age minority, women, persons with disabilities~~
760 ~~and economically disadvantaged youth population in the county's labor market area;~~

761 ~~2. The percentage of the minority, women, persons with disabilities and~~
762 ~~economically disadvantaged youth labor force in the county's labor market area;~~

763 ~~3. The percentage of the minority, women, persons with disabilities and~~
764 ~~economically disadvantaged youth participation as apprentices in the particular craft as~~
765 ~~compared with the percentage of minority, women, persons with disabilities and~~
766 ~~economically disadvantaged youth in the labor force of the county's market area; and~~

767 ~~4. The general availability of minority, women, persons with disabilities and~~
768 ~~economically disadvantaged youth with present or potential capacity for apprenticeship in~~
769 ~~the county's labor market area.~~

770 ~~Participation by minorities, women and persons with disabilities on the contract as~~
771 ~~apprentices shall be counted towards meeting the county's affirmative action goals~~
772 ~~established elsewhere in this chapter.));~~

773 ~~((D.))~~ 4. Develop the necessary bid document and contract specification
774 language to implement this apprenticeship requirement((:));

775 ~~((E.))~~ 5. Implement a system for monitoring the actual use of apprentices on
776 selected public works projects. Such monitoring shall include, at a minimum, identifying
777 individual apprentices by name and Washington ~~((S))~~state apprenticeship registration
778 number, reviewing documents provided by the contractor showing total apprentice labor
779 hours, determining the apprentice hours worked by minorities, women, persons with
780 disabilities and economically disadvantaged youth, and assessing whether the contractor
781 has complied with the apprenticeship requirement.

782 ~~((F. The administrator shall formulate and forward to the council for its review~~
783 ~~and approval target percentage apprenticeship goals for minority, women, persons with~~

784 ~~disabilities and economically disadvantaged youth no later than 60 days after the passage~~
785 ~~of Ordinance 12787. The above cited criteria may be used for establishing ad hoc target~~
786 ~~apprenticeship participation goals until such time as the council passes percentage goals.~~

787 G.) B. Unless otherwise determined by the administrator, in accordance with the
788 standards established in K.C.C. 12.16.150 through 12.16.180, failure by a contractor to
789 comply with the established contract apprenticeship requirements shall be deemed a
790 breach of contract for which the county shall be entitled to all remedies allowed by law
791 and under the contract. Failure to comply with the apprenticeship requirements may be
792 considered evidence bearing on a contractor's qualification for award of future contracts.

793 SECTION 19. Ordinance 12787, Section 3, and K.C.C. 12.16.165 are each
794 hereby amended to read as follows:

795 The county shall require apprentice utilization on selected county public works
796 projects that will serve to maximize the growth and development of apprentice
797 opportunities. The administrator of the apprenticeship program, as defined in this
798 chapter, in cooperation with the appropriate contract awarding division or department,
799 shall select which public works projects shall include an apprenticeship program. Such
800 selection should be guided by the following:

801 A. The size of the project and the anticipated hours for apprentices in required
802 trades in order to make the experience beneficial;

803 B. The kinds of skills required on the project so that current apprentices or
804 waiting applicants have opportunities to pursue the training they need; and

805 C. The ratio of labor to material with a preference given to projects that are labor
806 intensive.

807 If the administrator and the contract awarding authority cannot agree on whether a
808 specific public works project shall include an apprenticeship program, the administrator's
809 department director shall make the decision.

810 The administrator is authorized to require of contractors, through bidding and
811 contract documents, that ~~((a percentage of total labor hours on the selected projects be
812 performed by))~~ apprentices enrolled in training programs approved or recognized by the
813 Washington State Apprenticeship and Training Council perform a percentage of total
814 labor hours on the selected projects.

815 ~~((Construction contracts of one million dollars or less meeting the above criteria
816 may be exempted))~~ The administrator may exempt construction contracts that do not
817 meet the criterion described in subsections A. through C. of this section from the required
818 participation in the apprenticeship training program ~~((at the discretion of the
819 administrator, provided that such))~~ but exemptions for such construction contracts of one
820 million dollars or more shall be thoroughly documented and reported to the council in the
821 annual report required by K.C.C. 12.16.175.

822 For the purposes of this section, "((L)) labor hours" ((shall refer)) means to the
823 total number of hours worked by workers receiving an hourly wage who are directly
824 employed on the site of the public works project. "Labor hours" ~~((shall))~~ also include
825 hours worked by workers employed by subcontractors on the project.

826 SECTION 20. Ordinance 12787, Section 5, and K.C.C. 12.16.170 are each
827 hereby amended to read as follows:

828 ~~((A-))~~ The administrator shall work with joint apprenticeship training committees
829 approved by the state of Washington to identify qualified apprentices whom contractors

830 could utilize to meet the apprenticeship requirement established for a public works
831 project. It shall be the policy of King County government that minorities, women,
832 persons with disabilities and economically disadvantaged youth who are recipients of its
833 services and who meet the criteria established in K.C.C. 12.16.150 through 12.16.180
834 shall be actively recruited for participation in apprenticeship training. The administrator
835 shall work with other county agencies providing employment training services to the
836 apprenticeship training target populations cited in K.C.C. 12.16.150 through 12.16.180,
837 which shall include, but not be limited to, those programs in the King County department
838 of community and human services and other employment training programs as may be
839 housed in other county agencies. In addition, the administrator shall ~~((insure))~~ ensure
840 that private agencies providing employment training services to county residents outside
841 of the city of Seattle(~~(, such as, but not limited to, ANEW,))~~) shall be used as a source of
842 apprenticeship training program recruitment.

843 The administrator shall cooperate with agencies that ~~((minorities, women, persons~~
844 ~~with disabilities and economically disadvantaged youth so that such populations will))~~
845 have access to ~~((pre-apprenticeship))~~ preapprenticeship programs ~~((as this may exist))~~ as
846 a step towards preparing members of the target populations cited in K.C.C. 12.16.150
847 through 12.16.180 to successfully participate in apprenticeship training programs. In
848 addition, the administrator shall ~~((disseminate))~~ cooperate with these agencies to
849 encourage their dissemination of information on apprenticeship training opportunities to
850 all school districts within King County outside of the city of Seattle, ~~((which serves))~~ to
851 actively recruit the targeted populations into the county's apprentice training program.

852 The administrator may propose the creation of any (~~pre-apprenticeship~~)
853 preapprenticeship training programs, which may be needed to meet the intent of K.C.C.
854 12.16.150 through 12.16.180.

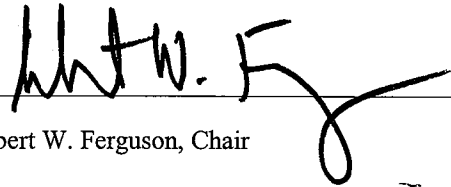
855 (~~B. By no later than December 31, 1999, the county shall review the use by King~~
856 ~~County of joint apprenticeship training committees approved by the state of Washington.~~
857 ~~Such review shall include, but not be limited to, an analysis of the county's actual~~
858 ~~experience in attaining its apprenticeship goals and the results to date of other local~~
859 ~~jurisdictions' experience with similar programs or studies of such programs. The results~~

860 of the review may be used by the county council to consider initiating possible
861 modifications to K.C.C. 12.16.150 through 12.16.180.))
862

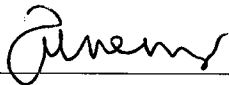
Ordinance 16855 was introduced on 3/22/2010 and passed by the Metropolitan King County Council on 6/14/2010, by the following vote:

Yes: 6 - Ms. Drago, Mr. Phillips, Mr. Gossett, Ms. Patterson, Ms. Lambert and Mr. Ferguson
No: 0
Excused: 3 - Mr. von Reichbauer, Ms. Hague and Mr. Dunn


KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Robert W. Ferguson, Chair

ATTEST:


Anne Noris, Clerk of the Council

APPROVED this 16 day of JUNE, 2010.


Dow Constantine, County Executive

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KING COUNTY COUNCIL

Attachments: None