



Legislation Text

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AN ORDINANCE setting policies requiring socially responsible banking practices as a minimum requirement for financial institutions to be awarded and maintain banking contracts with King County; amending Ordinance 12076, Section 39, and K.C.C. 4.14.010, Ordinance 12076, Section 40, as amended, and K.C.C. 4.14.020, Ordinance 12076, Section 42, as amended, and K.C.C. 4.14.040 and Ordinance 12076, Section 43, and K.C.C. 4.14.050 and adding new sections to K.C.C. chapter 4.14.

PREAMBLE:

The 2013 report on Equity and Social Justice shows the progress of King County's Strategic Plan and the "fair and just" ordinance, which emphasizes the importance of intentionally considering equity and integrating it into our decisions and policies, our county practices and our methods for engaging communities.

The practices and financial products of banks have a measurable impact on equity and influence the financial stability, quality of life and overall economic health of King County's residents.

The Great Recession has reinforced the need for socially responsible banking. Many low-income families have neither a checking nor savings account. Low-income families must often rely on costly check cashing companies and payday loans to handle basic financial needs. Home foreclosures continue to destroy wealth, especially in low income and racially diverse communities.

Economic viability and competitiveness comes from strengthening and providing economic

opportunities to all citizens and in all areas of King County regardless of income range.

King County wishes to reinforce and strengthen social responsible banking practices in the greater community, including incorporated and unincorporated areas.

In return for the privilege of serving as the county's primary service bank, the bank will have a contract obligation to adhere to a community reinvestment plan that addresses the credit and financial needs of King County's communities, including and especially people of color and low - and moderate-income communities and older adults, consistent with safety and soundness.

King County shall assess the bank's performance in meeting community needs, with emphasis on the needs of under-served and disadvantaged residents, and use this assessment as a factor in determining to which financial institution a banking services contract will be awarded.

King County will ensure that the bank that is awarded the contract will report annually on its progress to further the county's goals of economic development and equity and social justice throughout the county.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12076, Section 39, and K.C.C. 4.14.010 are each hereby amended to read as follows:

A. It is a requirement of Washington ((S))state law and the policy of King County that financial services provided to the county by commercial banking institutions be provided as a result of open competitive procurement processes.

B. Financial services provided to the county by commercial banking institutions may only be provided by banking institutions that have a demonstrated history of and ongoing commitment to socially responsible banking practices.

SECTION 2. Ordinance 12076, Section 40, as amended, and K.C.C. 4.14.020 are each hereby amended to read as follows:

Competitive procurement processes by banking institutions to provide those services shall occur at least once every ~~((five))~~ seven years though there is an exception for banks serving the needs of special districts as set forth in section 8 of this ordinance.

SECTION 3. Ordinance 12076, Section 42, as amended, and K.C.C. 4.14.040 are each hereby amended to read as follows:

A. The manager of the finance and business operations division shall develop specifications stating the financial service needs and the responsible banking requirements of the county. ~~((Said))~~

B. The specifications shall be reviewed and approved by the council by motion ~~((prior to))~~ before formally seeking proposals from banks.

C. The specifications shall include a minimum requirement that the bank has a current Community Reinvestment Act rating of "outstanding" from the U.S. Office of the Comptroller of the Currency, the U.S. Federal Reserve Bank or another applicable federal regulatory agency. The outstanding rating shall apply to a rating assessment area that includes the geographical boundaries of King County.

D. Each bank submitting a proposal is required to submit a community reinvestment plan describing past performance and proposed initiatives within King County related to lending, investing and providing community banking services to traditionally underserved and disadvantaged communities. The community investment plan shall be part of the evaluation process for awarding a contract.

E. A community reinvestment plan should summarize, as well as supplement, information that each bank is required to submit to a designated federal agency as part of its most-recent community reinvestment Act rating process for an assessment area that includes King County. All data and reporting within the plan shall focus on actions the bank is taking, or planning to take, to improve access to bank services and to increase opportunities for building assets and providing credit in low-income and racially diverse areas throughout King County.

F. A community reinvestment plan should highlight performance over the previous three years and

include goals for the duration of the contract period that fall into three categories: lending, investing and services. The plan shall also describe the approach used by the bank to determine the geographic and socioeconomic distribution of its lending, investing, and services. Following are other specific components of the community reinvestment plan required by the county:

1. Lending. The plan shall provide information about:

a. mortgage-lending efforts and products, including innovative loan products with more flexible terms, and how these efforts and products are meeting the credit needs of low and moderate income individuals and geographies;

b. community development lending, by the bank, that helps develop affordable housing and helps nonprofit organizations and private facilities expand job creation and support services for working families, with the goal of increasing economic stability; and

c. small business lending, by the bank, to establish businesses and create jobs, particularly those in low-income and minority census tracts that foster and support minority and women owned businesses; and

d. lending, by the bank, to finance improvements to public infrastructure within the county;

2. Investing. The plan shall provide information about:

a. tax credit investments, grants, corporate giving activities and nonprofit sponsorships, by the bank, that provide and promote affordable housing, encourage self-sufficiency and foster economic development; and

b. grants and corporate giving activities, by the bank, that provide or promote improvements to public infrastructure within the county; and

3. Services. The plan shall provide information about:

a. programs and community partnerships of the bank that provide small-business development, workforce development, capacity building and asset development;

b. community services involving bank employees, including participation in consumer training or seminars, home-buyer seminars, tax-preparation services and financial education for students and serving on

nonprofit boards and committees;

c. branch networks, including a record of opening and closing of branch offices and information about whether these changes have had a positive or negative effect, particularly in low- and moderate-income geographies; and

d. services and efforts of the bank that address the credit needs of low- and moderate-income individuals and geographies, including, but not limited to, affordable check cashing, alternatives to payday loans and prepaid debit cards and other outreach and education opportunities aimed at assisting distressed home mortgages.

G. The plan shall include clear and measurable performance goals or standards to demonstrate that the bank is making good faith efforts to follow through on commitments and elements of the plan referenced in subsection F. of this section.

H. The director of finance and business operations shall reject a bid as nonresponsive for failure to include every component of this section in the plan submitted by a bank.

I. The bank awarded the contract shall provide a plan for reaching individuals with limited English proficiency and provide lending, investing and community banking services to individuals with limited English proficiency.

NEW SECTION. SECTION 4. There is hereby added to K.C.C. chapter 4.14 a new section to read as follows:

The scoring criteria for evaluating proposal for the county commercial banking contracts shall be:

- A. Twenty-five percent for the community reinvestment plan created in accordance with K.C.C. 4.14.040;
- B. Forty percent for pricing;
- C. Twenty-five percent for qualifications and responses to the request for proposals; and
- D. Ten percent for small contractor and supplier certification.

NEW SECTION. SECTION 5. There is hereby added to K.C.C. chapter 4.14 a new section to read as follows:

A. The manager of the finance and business operations division shall annually certify to the county council that the county's commercial bank has:

1. Made good-faith efforts to comply with all goals and commitments contained within the community reinvestment plan. If the bank and the manager agree that an element cannot reasonably be achieved, the county council shall be notified within seven days of the agreement that the element cannot reasonably be achieved;

2. Maintained its outstanding Community Reinvestment Act rating under K.C.C.4.14.040.C; and

3. Complied with all provisions of the banking services contract.

B. The certification, and any notice that an agreement that an element cannot be reasonably achieved as determined under subsection A.1. of this section, shall be made to the council in the form of a paper original and an electronic copy filed with the clerk of the council, who shall retain the paper original and forward electronic copies to all councilmembers.

SECTION 6. Ordinance 12076, Section 43, and K.C.C. 4.14.050 are each hereby amended to read as follows:

The approved specifications shall be forwarded to all banking institutions capable of serving the county's financial service needs and shall be made available to any bank interested in providing ~~((such))~~ the services ~~((which))~~ that also qualifies as a Washington ~~((S))~~ state public depository under RCW 36.48.060. A conference shall be arranged ~~((prior to))~~ before submission of formal proposals to receive input from the banking community. ~~((Changes to the specifications will be by addendum and will be reviewed by the council.))~~

NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 4.14 a new section to read as follows:

Except for banking services contracts authorized by section 8 of this ordinance, the manager of the finance and business operations division may not waive the requirements in this chapter for the county banking contract. In administering the program, the manager shall:

A. Have the option to extend existing banking contracts by up to one calendar year should no banks meet the county's requirements through the request for proposals process. In this instance, the manager shall notify the council immediately, identify any recommended changes to these requirements and seek council approval of the changes, which approval shall be made by ordinance. The notice shall be made to the council in the form of a paper original and an electronic copy filed with the clerk of the council, who shall retain the paper original and forward electronic copies to all councilmembers and the lead staff of the budget and fiscal management committee or its successor;

B. Include a clause in all banking contracts allowing the county to terminate the contract with one hundred eighty days' notice should the bank, at any time during the contract, lose its outstanding Community Reinvestment Act rating under K.C.C. 4.14.040.C;

C. Exercise the county's option to terminate under subsection B. of this section if the bank fails to cure as specified in the contract or subsection D. of this section, and notify the council within seven days of sending the notice should any banking institution under contract with the county lose its outstanding Community Reinvestment Act rating under K.C.C. 4.14.040.C. during the course of the contract;

D. If the bank does not comply with any provision of the banking contract:

1. Upon finding a first breach of the banking contract, immediately inform the bank of the breach and offer the bank ninety days to cure the breach; provided that, if the bank receives a Community Reinvestment Act rating from a federal regulator agency that is below outstanding for the assessment area that includes the geographical boundaries of King County, the manager of the finance and business operations division has the discretion to allow the bank to cure this problem by requesting that the bank immediately update its community reinvestment plan to address specific deficiencies noted in the rating process; and provided further that, the

outstanding Community Reinvestment Act rating must be reinstated by a federal regulator agency within two years from the date of the rating downgrade;

2. After ninety days after a first breach, if the bank has not corrected the breach, issue a one-hundred-eighty-day termination notice;

3. If the bank breaches the contract a second time during the term, immediately inform the bank of a second breach and require of the bank a payment to the county equal to five percent of the previous year's total commercial banking fees incurred by the county. The bank then has ninety days to correct the breach. The county may then use the penalty funds to contract with a nonprofit organization or organizations to provide services increasing access to consumer credit, subject to appropriation;

4. If, after ninety days of a second breach, the bank has not corrected the breach, issue a one-hundred-eighty-day termination notice;

5. If a bank breaches the contract a third time during the term, immediately inform the bank of a second breach and require from the bank a payment equal to ten percent of the previous year's total commercial banking fees incurred by the county. The county may then use the penalty funds to contract with a nonprofit organization or organizations increasing access to consumer credit. The bank then has ninety days to correct the breach;

6. If, after ninety days of a third breach, the bank has not corrected the problem that led to the breach, issue a one-hundred-eighty-day termination notice;

7. If a bank breaches the contract for a fourth time during the term, immediately issue a one-hundred-eighty-day termination notice; and

8. Issue any notices required under this section in the form of a paper original and an electronic copy filed with the clerk of the council, who shall retain the paper original and forward electronic copies to all councilmembers and the lead staff of the budget and fiscal management committee or its successor; and

E. Arrange for the bank to make a presentation to the county's executive finance committee, at least

once a year that includes an update of the community reinvestment plan and a report on the progress of fulfilling commitments in the plan.

NEW SECTION. SECTION 8. There is hereby added to K.C.C. chapter 4.14 a new section to read as follows:

The county may enter into a banking contract with another bank that is not the county's main banking services provider for the convenience of one or more local governments for which the county serves as treasurer. In these circumstances, the contractual banking services shall be paid for by the local government or governments and the manager of the finance and business operations division may waive portions of these requirements contained within this chapter to provide a convenience to the other local government or governments.

NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 4.14 a new section to read as follows:

This chapter is a general statement of county policy that cannot form the basis of a private right of action.