



Legislation Text

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**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

AN ORDINANCE relating to strengthening The City of Seattle's policies for conducting City business with socially responsible banks, amending Sections 20.65.010, 20.65.030, and 20.70.040 of the Seattle Municipal Code; amending the revised City of Seattle Investment Policies adopted by Resolution 31525; requesting the Mayor and Director of Finance and Administrative Services to take certain actions, including not renewing the Contract for Bank Depository Services with Wells Fargo Bank beyond the initial term, endeavoring to enter into a voluntary debarment agreement with Wells Fargo Bank for a period of at least one year, and refraining from conducting banking, investment, or other business with Wells Fargo Bank for a period of at least one year when it is in the City's discretion. WHEREAS, the financial security and stability of The City of Seattle's deposits and investments is a priority of

the Seattle City Council; and

WHEREAS, the Seattle City Council passed Resolution 31337 in 2011, committing the City to take steps to minimize economic insecurity and destructive disparities including reviewing its banking and investment practices to ensure that public funds are invested in responsible financial institutions that support our community; and

WHEREAS, the Seattle City Council passed Ordinance 124250 in 2013, adding Chapter 20.65 to the Seattle Municipal Code, requiring the Director of Finance and Administrative Services to consider certain socially responsible banking practices as bid criteria, utilizing socially responsible banking performance as an evaluation factor worth at least 15 percent, and requiring data and reporting about socially responsible banking practices in The City of Seattle's banking contracts; and

WHEREAS, the Seattle City Council passed Resolution 31525 in 2014, adopting revised City of Seattle Investment Policies, including Policy 4, Social Policies, which guides the Director of Finance and

Administrative Services to seek opportunities to conduct business with institutions that by their charter, seek to benefit the common good and do not solely pursue maximum profit when managing the City's investments; and

WHEREAS, the Seattle City Council is aware of recent reports that senior management of Wells Fargo Bank ("Wells Fargo") directed employees to fraudulently create more than 2,000,000 unauthorized bank and credit card accounts during the past five years, negatively affecting the credit ratings of millions of customers across the United States; and

WHEREAS, those reports indicate Wells Fargo financially benefited from these illegally created accounts and encouraged the continuation of these fraudulent practices by rewarding managers and senior executives with multimillion-dollar bonuses; and

WHEREAS, it is also reported that senior management of Wells Fargo was aware of these fraudulent practices, with Chief Executive Officer John Stumpf admitting in Congressional testimony that he first learned about the unauthorized accounts in 2013; and

WHEREAS, Wells Fargo has agreed to pay restitution and a total of \$185 million in penalties to the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, and the City and County of Los Angeles - the largest penalties ever imposed by the Consumer Financial Protection Bureau and the City and County of Los Angeles - to settle claims related to these reports that it defrauded its customers; and

WHEREAS, in addition to the settlement, it is reported that Wells Fargo has terminated the employment of more than 5,300 of the corporation's lowest-paid workers, but has not fired a single senior executive; and

WHEREAS, investigations into whether Wells Fargo's misconduct also included additional criminal or discriminatory acts are ongoing; and

WHEREAS, the Mayor of Seattle, joined by the City Council President and the Council Budget Chair, recently

authored a letter to Wells Fargo, directing the City to discontinue negotiations with Wells Fargo as lender on the \$100 million bond financing for Seattle City Light because of a loss of confidence that Wells Fargo is a trusted business partner after the reports of these recent settlements and Wells Fargo's dishonest business practices; and

WHEREAS, Wells Fargo, pursuant to a competitive procurement in 2013, currently provides services to The City of Seattle under the Contract for Bank Depository Services between The City of Seattle and Wells Fargo with an initial contract term through December 31, 2018, including managing more than \$3 billion of Seattle's operating account, including a biweekly payroll of \$30 million for approximately 12,000 employees; and

WHEREAS, the Seattle City Council passed Resolution 31709 in 2016, proclaiming the City of Seattle's Support for the Standing Rock Sioux Tribe's Opposition to the Construction of the Dakota Access Pipeline; and

WHEREAS, Food and Water Watch reported on September 6, 2016, that Wells Fargo is one of the largest contributors to the Dakota Access Pipeline, having invested \$467,000,000 in project-level loans and revolving credit, which has enabled the repression and intimidation against the nearly 200 Indian Nations, environmental organizations, journalists and other non-violent demonstrators; and

WHEREAS, the Seattle City Council finds that Wells Fargo's investment in the Dakota Access Pipeline and recent misconduct and dishonest business practices are contrary to The City of Seattle's strong commitment to conducting its business with socially responsible banks, and sets forth a framework to ensure that The City of Seattle does not engage in business with a banking institution that has a demonstrated pattern of dishonest or unfair business practices including deceiving, defrauding, and duping its customers; NOW THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Subsection 20.65.010.A of the Seattle Municipal Code, which section was enacted by

Ordinance 124250, is amended as follows:

**20.65.010 Socially (~~(Responsible Banking)~~) responsible banking**

A. The Director of Finance and Administrative Services, in selecting qualified (~~(depositories)~~) financial institutions for City moneys per (~~(SMC)~~) Section 3.39.020, shall have the power and duty to:

1. Require that prospective bidders provide the City with data on their socially responsible banking practices, including, for public depository bidders, the practices described in Section 20.65.020, and for all bidders, whether they have engaged in dishonest or unethical business practices within the last five years, including but not limited to any orders, findings, or settlements with any public or private regulatory or disciplinary body with jurisdiction involving discriminatory, unfair, deceptive, or abusive acts or practices or applicable consumer protection laws or regulations;

2. Utilize socially responsible banking performance as a factor worth at least 15 (~~(%)~~) percent of the total point value in determining the winning bid;

3. Accept bids for depository services only from financial institutions that have received a rating of “Outstanding” in their most recent Community Reinvestment Act review by the Office of the U.S. Comptroller of the Currency or the U.S. Federal Reserve Bank; (~~(The)~~) the Director may waive this requirement, with written notice to the City Council, in the event that no qualified bidders apply, the federal program is no longer applicable, or to satisfy a compelling City need;

4. Include in contracts for depository services a statement of work that provides a framework for (~~(Socially Responsible Banking)~~) socially responsible banking;

5. Establish relevant reporting criteria and timeframes to validate the statement of work.

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Section 2. Section 20.65.030 of the Seattle Municipal Code, which section was enacted by Ordinance 124250, is amended as follows:

**20.65.030 Reporting**

A. Any (~~Banking~~) depository banking contract must include a requirement that the bank provide the following reporting:

1. Residential lending information - The bank will provide the total number and the total dollar amount of residential loans for one- to four-family dwellings applied for and originated during the previous calendar year in each of the following categories listed in this subsection 20.65.030.A.1. The data shall be provided for the entire City by zip code. For home loans, fixed-rate loans shall be reported separately from adjustable-rate loans.

- a. Home purchase loans, both federally insured and conventional loans;
- b. Refinancings of home loans;
- c. Home improvement loans;
- d. Home equity loans;
- e. Multi-family loans;
- f. Loans to non-occupant owners of single-family housing;
- g. Modifications of distressed loans and the type of modification, including interest

rate reductions, forbearance, principal reduction, or repayment plans in which the outstanding loan amount increases, and an indication of whether the modification was executed under the federal Home Affordable Modification Program (HAMP), another federal program, or the institution's own modification program.

h. Short sales, deeds in lieu, and other mechanisms besides loan modifications that avoid foreclosure.

- i. Defaults and delinquencies on home loans.

2. Small business lending information - The bank will provide the total number and the total dollar amount of small business loans originated during the previous calendar year for the entire City by zip code, and for minority- and women-owned business enterprises in the entire City. Loans to small businesses with annual revenues above \$1 million (~~dollars~~) shall be reported separately from loans to small businesses

with annual revenues under \$1 million. The bank may use data reporting procedures mandated by the federal Community Reinvestment Act for reporting small business loans.

3. Community development loans and investments - The bank will provide the number and dollar amount of community development loans and investments including loans and investments for affordable housing, small business development, economic development, and community facilities for the entire City by zip code or neighborhood. The bank may use definitions of community development found in federal Community Reinvestment Act regulations. For each loan and investment, the bank will indicate if the loan or investment was for affordable housing, small business development, economic development, community facilities, and other such categories requested by the Director.

4. Consumer loan data - The number and dollar amount of consumer loans for the entire City by zip code. Price information shall be reported in a manner similar to Home Mortgage Disclosure Act (HMDA) data.

5. Checking, savings, and loan products - Information on selected checking, savings, prepaid card, small dollar loan, and other products marketed to Seattle residents, including information on fees, interest, and features.

6. Other - Narrative descriptions will be required to describe efforts to meet all other items set forth in the statement of work.

B. All banking contracts must include a requirement that the bank provide the following reporting:

1. Unfair business practices and consumer protection - The bank will provide prompt notice of any claims, settlements, pending investigations or reasonable likelihood of claims that it has engaged in any dishonest or unethical business practices or practices that may violate any rule or regulation of a public or private regulatory or disciplinary body with jurisdiction involving discriminatory, unfair, deceptive, or abusive acts or practices or applicable consumer protection laws or regulations, and including a description of corrective action efforts, if any.

~~(B-)~~ C. The FAS Director may propose exceptions to these reporting elements, subject to Council approval by resolution, in future contract cycles.

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Section 3. Section 20.70.040 of the Seattle Municipal Code, enacted by Ordinance 121723, is amended as follows:

**20.70.040 Grounds for Debarment.**

Pursuant to Section 20.70.030, the Director may issue an Order of Debarment that prevents a Contractor from entering into any Contract with the City or from acting as a subcontractor on any Contract with the City after determining that any of the following reasons exist:

- A. The Contractor has received overall performance evaluations of deficient, inadequate, or substandard performance on three (3) or more City Contracts.
- B. The Contractor has failed to comply with City ordinances or Contract terms, including but not limited to, ordinance or Contract terms relating to small business utilization, discrimination, prevailing wage requirements, equal benefits, socially responsible banking, or apprentice utilization.
- C. The Contractor has abandoned, surrendered, or failed to complete or to perform work on or in connection with a City Contract.
- D. The Contractor has failed to comply with Contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards.
- E. The Contractor has submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a Contract.
- F. The Contractor has colluded with another contractor to restrain competition.
- G. The Contractor has committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Contract for the City or any other government entity.
- H. The Contractor has been the subject of a final enforcement action, order, finding, or settlement

with any public or private regulatory or disciplinary body with jurisdiction involving discriminatory, unfair, deceptive, or abusive acts or practices or applicable consumer protection laws or regulations within the last two years and has not taken corrective action.

~~((H.))~~ I. The Contractor has failed to cooperate in a City debarment investigation.

~~((F.))~~ J. The Contractor has failed to comply with ~~((SMC Ch.))~~ Chapter 14.04, ~~((SMC Ch.))~~ 14.10, ~~((SMC Ch.))~~ 20.42, or ~~((SMC Ch.))~~ 20.45, or other local, state, or federal non-discrimination laws.

Section 4. Exhibit A to Resolution 31525 is amended as follows:

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**Policy 4. Social Policies.** A City social policy will take precedence over furthering the City's financial objectives when expressly authorized by City Council ordinance or resolution, except where otherwise provided by law or trust principles. In managing its investments, the City shall seek opportunities to conduct business with institutions ~~((;))~~ that, by their charter and ongoing business practices, seek to benefit the common good, engage in fair business practices, and do not solely pursue maximum profit.

When two or more investment institutions offer essentially the same maturity, yield, quality, and liquidity, it will be the intent of the City to give priority to:

- a. The institution based in Seattle, then
- b. Other financial institutions in the State of Washington, and then
- c. Other financial institutions.

Section 5. The City Council strongly encourages and requests the Mayor and Director of Finance and Administrative Services, pursuant to their authority under Section 3.39.020 and Chapter 20.70 of the Seattle Municipal Code:

A. To provide Wells Fargo with advance notice of the City's intention not to renew the Contract for Bank Depository Services for any of the allowable five one-year extensions beyond its initial term.



B. To undertake a new competitive bidding process in order to select, contract with, and establish a new, qualified financial institution to provide depository banking services to The City of Seattle by no later than December 31, 2018, and include socially responsible banking performance as a factor worth at least 20 percent in that bidding process.

C. To work with Wells Fargo Bank to enter into a voluntary debarment agreement for a period of at least one year.

D. To refrain from conducting any new investment or other banking business with Wells Fargo Bank and its subsidiaries when it is in the City's discretion for a period of at least one year beginning on the effective date of this ordinance.

Section 6. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2016, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Edward B. Murray, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Monica Martinez Simmons, City Clerk

(Seal)