

KENT PULLEN
GREG NICKELS
AUDREY GRUBER
RON SIMS

September 25, 1992
BOND2.MTN

Introduced by: CYNTHIA SULLIVAN
Proposed No.: 92-731

MOTION NO. 8796

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A MOTION relating to implementation of the Management Audit of the Administration and Forfeiture of Financial Guarantees by the Building and Land Development Division (BALD).

WHEREAS, K.C.C. 2.20.035 states that the auditor's office shall perform program results audits to determine whether the desired results or benefits of a county program are being achieved, whether the objectives established by the council are being met, and whether the agency has considered alternatives which might yield desired results at a lower cost, and

WHEREAS, the management audit of the process for administration and forfeiture of financial guarantees operated by the building and land development division (BALD) was presented to and accepted by the council committee-of-the-whole on September 25, 1992, and

WHEREAS, the audit of the Administration and Forfeiture of Financial Guarantees by BALD contained recommendations to improve the effectiveness of the BALD process, described in full in the Summary of Audit Findings and Recommendations attached hereto as Exhibit A, and

WHEREAS, K.C.C. 2.20.050 states that agency actions will be taken to correct deficiencies cited by the auditor, and audited agencies will establish completion dates by which such actions and changes will be implemented, and

WHEREAS, the executive's response to the audit generally concurred with the audit findings and recommendations, and

WHEREAS, the executive's response identified steps taken or planned to implement audit recommendations, and specified completion dates for the majority of implementation actions, summarized in an implementation timetable attached hereto as Exhibit B;

1 NOW THEREFORE BE IT MOVED by the Council of King County:

2 A. The executive branch, specifically, the building and
3 land development division in conjunction with the department of
4 public works (DPW), shall provide a report to the council, no
5 later than March 31, 1993, outlining actions which demonstrate
6 BALD has complied with audit recommendations.

7 B. The report should also detail which recommendations
8 have not been implemented and the reasons therefore; activities
9 necessary to complete the unimplemented recommendations; and
10 dates by which implementation will occur.

11 C. In addition, the report should address those
12 recommendations which require coordination with other agencies
13 such as the department of public works, budget office and
14 prosecuting attorney's office; and those recommendations for
15 which no implementation date was identified in Exhibit B.

16 D. The Council intends that the executive branch evaluate
17 the following recommendations in implementing the audit report:

18 1. Following prioritization of the backlog of financial
19 guarantees beyond their performance or maintenance
20 periods, based on criteria such as the age, dollar
21 value, and/or type of guarantee, BALD should
22 consider submitting an ordinance for Council action
23 which would write-off those guarantees determined
24 not be cost-effective to enforce. A write-off
25 proposal should also address the County's acceptance
26 of maintenance responsibilities for affected public
27 improvements.

28 2. BALD and DPW should develop a proposal which
29 consolidates responsibility for the inspection of
30 roads maintenance and drainage defect guarantees
31 within a single agency to achieve operational
32 efficiencies, and which extends the maintenance
33 period for road improvements from one to two years,
34 consistent with the inspection of drainage defect

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guarantees and the practices of other local jurisdictions.

3. In implementing the 1990 transfer of drainage defect guarantees from BALD to surface water management division (SWM), SWM should maintain the availability of on-line status information on guarantees for the public and County agencies through the PERMITS automation system.

4. BALD should reprioritize the work activities for the code development unit to complete drafting and transmittal to the Council of a new section in the King County Code in 1993. The new section should consolidate existing authority and clarify and standardize the regulatory process for financial guarantees.

E. The auditor's office shall evaluate the accuracy and completeness of the report prepared by the building and land development division.

PASSED this 5th day of October, 1992

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Audrey Singer
Chair

ATTEST:

Gerald A. Oster
Clerk of the Council

SUMMARY OF FINDINGS AND RECOMMENDATIONS

FINDING II-A. BALD'S METHODS FOR SETTING AND REDUCING GUARANTEE AMOUNTS WERE NOT LIKELY TO CAPTURE THE FULL COSTS OF PROJECT CONSTRUCTION, WERE INCONSISTENT FOR SIMILAR MATERIALS, AND DID NOT ENSURE THAT REDUCTIONS REFLECTED THE ACTUAL AMOUNT OF WORK COMPLETED. AS A RESULT, GUARANTEE AMOUNTS WERE LIKELY TO BE INSUFFICIENT TO PERFORM CORRECTIVE WORK IN THE EVENT OF DEFAULT.

RECOMMENDATIONS

BALD management should implement the following recommendations to secure authority for guarantee reductions and standardize the method of setting and reducing financial guarantee amounts:

II-A-1. Draft a provision in the financial guarantee section of the King County Code (to be established pursuant to Recommendation IV-A-2) to authorize the practice of allowing performance guarantee reductions in accordance with the percentage of work completed, or discontinue the practice.

II-A-2. Develop a single bond quantity worksheet for use in both the Subdivision and Commercial/Multi-Family Sections. Include a greater level of detail, such as that used by DIU staff in their analysis of the adequacy of current financial guarantee amounts, to accommodate the needs of both sections. Combine the project percentage completion/bond reduction request form with the bond quantity worksheet by including a column for identifying the percentage of completion for each line item, subject to revision of the King County Code in accordance with Recommendation II-A-1. Use the revised worksheet to estimate the percentage of work completed when performing inspections for financial guarantee reductions.

II-A-3. Adopt an objective cost model, such as R. S. Means, for determining costs on the bond quantity worksheets and calculating the amount of performance financial guarantees (e.g., landscaping, site development, and subdivision performance). Update the model annually to reflect current costs. Continue to add a margin to the final amount to cover contingencies and inflation.

II-A-4. Develop a quantifiable basis (e.g., the historical costs of corrective work on defaulted projects) for calculating the amount of maintenance and defect financial guarantees.

FINDING II-B. THERE WERE NO WRITTEN PROCEDURES OR VERIFICATIONS REQUIRED TO CONTROL THE FINANCIAL GUARANTEE INTAKE PROCESS. AS A RESULT, DIFFERENT FORMS OF FINANCIAL SECURITIES WERE ALLOWED BY VARIOUS SECTIONS AND INCOMPLETE GUARANTEES WERE ACCEPTED, UNNECESSARILY LIMITING APPLICANTS' OPTIONS AND THE POTENTIAL ENFORCEABILITY OF GUARANTEES.

RECOMMENDATIONS

BALD management should implement the following recommendations to establish control over the financial guarantee acceptance process:

II-B-1. Draft a provision in the financial guarantee section of the King County Code (to be established pursuant to Recommendation IV-A-2) which describes the specific types of guarantees that are acceptable.

II-B-2. Develop and distribute written procedures for the financial guarantee intake process to staff responsible for accepting guarantees (see related Recommendation II-C-5). Include a list of the acceptable types of guarantees, including their definitions and the applicable conditions for acceptance.

II-B-3. Develop a checklist, to be signed by the intake technician after completion, to ensure that all steps in the intake process are performed in accordance with the procedures established in Recommendation II-B-2 (e.g., verification that sureties are listed in Department of the Treasury Circular 570, all required forms are submitted, and forms contain all required signatures).

II-B-4. Provide training to staff involved in the financial guarantee intake process. Use the written procedures developed in Recommendation II-B-2 as a basis for the training.

FINDING II-C. RESPONSIBILITY FOR THE FINANCIAL GUARANTEE ADMINISTRATION PROCESS WAS FRAGMENTED AMONG SEVERAL SECTIONS IN BALD, AND DUAL TRACKING SYSTEMS WERE USED TO TRACK THE GUARANTEES POSTED. AS A RESULT, THE DATA TRACKED CONTAINED ERRORS, INCONSISTENCIES, AND OMISSIONS; REPORTING WAS MINIMAL; AND THE STATUS OF GUARANTEES COULD NOT BE READILY DETERMINED, THEREBY HAMPERING EFFECTIVE ADMINISTRATION AND ENFORCEMENT OF GUARANTEES.

RECOMMENDATIONS

BALD management should implement the following recommendations to strengthen the administration of the financial guarantee process:

II-C-1. Centralize the financial guarantee administration process (custodianship, monitoring, and release). Assign responsibility to specific staff for tasks related to financial guarantee administration. Cross-train staff to ensure adequate support for the process when the person with primary responsibility is absent. The responsible staff should be readily accessible to the inspectors who initiate financial guarantee forfeiture to facilitate required coordination.

II-C-2. Determine the data required to be tracked to ensure an adequate monitoring system is developed and maintained. Discontinue use of R:base and incorporate the financial guarantee data from that system into PERMITS. Consider the use of temporary staff to expedite the process of transferring the R:base data to PERMITS.

II-C-3. Review all guarantees currently tracked in R:base to verify their validity. Remove those which have been released, belong to cancelled projects, have expired letters of credit, or have been transferred to Washington State under the Abandoned Property Act (assignments of funds) prior to transferring the R:base data to PERMITS. Establish procedures to ensure new financial guarantees are posted for those projects that are still active, but for which the current financial guarantee is no longer valid.

II-C-4. Identify, develop, and distribute reports (e.g., tickler, aging) needed to effectively administer the financial guarantee process. Obtain input from staff involved in the process to determine the types of reports needed (see related Recommendation II-D-5).

II-C-5. Develop and distribute written procedures for the financial guarantee administration process (see related Recommendation II-B-2). Include definitions of financial guarantee terminology and criteria for data entry in the PERMITS system.

II-C-6. Provide training to staff involved in the financial guarantee administration process (see related Recommendation II-B-4). Use the written procedures developed in Recommendation II-C-5 as a basis for the training.

II-C-7. Establish validation tables (e.g., through use of the Contractor/Architect/Engineer/Developer module in PERMITS for banks and acceptable sureties, and standard abbreviations for types of financial guarantees) to promote consistency and accuracy of data entered into the tracking system.

FINDING II-D. THE FINAL INSPECTION AND FOLLOW-UP PROCESS WAS NEITHER TIMELY NOR EFFECTIVE. AS A RESULT, FINANCIAL GUARANTEES WERE HELD BY BALD INDEFINITELY AND ADDITIONAL INSPECTIONS WERE REQUIRED.

RECOMMENDATIONS

BALD management should implement the following recommendations to improve the financial guarantee inspection and release process:

II-D-1. Incorporate language into the financial guarantee forms which notifies applicants that the guarantee will not be released until the required inspections have been performed and other relevant requirements have been satisfied (e.g., inspection fees have been paid, maintenance and defect guarantees have been posted). Delete language which states that the obligations will be null and void if the improvements remain free of defects throughout the maintenance period.

II-D-2. Propose a revision to the King County Code and other relevant documents (e.g., the Roads Standards and Surface Water Design Manual) to formalize the practice of requiring inspections at the end of the maintenance and defect periods and to change the maintenance period for road improvements to two years to coincide with the two-year defect period for drainage facilities.

II-D-3. In coordination with DPW, develop and transmit to the Council a proposal to consolidate guarantee administration and inspection responsibility for roads maintenance and drainage facilities defect guarantees within a single agency to achieve operational efficiency. Until the responsibilities are consolidated, improve coordination for final performance and maintenance inspections with DPW staff responsible for maintenance.

II-D-4. Propose a revision to the King County Code and other relevant documents to transfer the responsibility for scheduling final performance, maintenance, and defect inspections from applicants to the applicable King County agency.

II-D-5. Develop status and tickler reports on a regular basis to assist inspectors in automatically scheduling inspections when projects are nearing the end of their performance or maintenance periods, but applicants have not called for an inspection (see related Recommendation II-C-4). On-line status information for all guarantees should be available to the public and affected County agencies through the PERMITS system.

FINDING III-A. LACK OF REPORTS, ASSIGNED STAFFING, CRITERIA, AND PROCEDURES FOR THE FORFEITURE PROCESS LED TO A BACKLOG OF GUARANTEES PAST THEIR PERFORMANCE OR MAINTENANCE PERIODS WHICH WERE NEITHER RELEASED NOR REFERRED TO THE PROSECUTING ATTORNEY'S OFFICE FOR FORFEITURE. AS A RESULT, CAPITAL IMPROVEMENTS WERE NOT COMPLETED OR MAINTAINED, LEADING TO ADDITIONAL OPERATIONAL AND FINANCIAL COSTS TO KING COUNTY.

RECOMMENDATIONS

BALD management should implement the following recommendations to develop an aggressive forfeiture program and reduce the backlog of guarantees past their performance or maintenance dates:

III-A-1. Develop procedures (see related Recommendations II-B-2 and II-C-5) and criteria for the forfeiture process, including priorities for reviewing and releasing the backlog of old guarantees. These criteria should consider the amount of work to be corrected or remaining to be performed, the age of the guarantee, the amount of the guarantee in relation to the cost involved in collecting it, etc.

III-A-2. After implementation of Recommendation III-A-1, review projects with unreleased guarantees to determine whether they should be referred to the PAO. Evaluate the feasibility of hiring temporary help to review the large backlog of cases in both DIU and Site Development Review.

III-A-3. In conjunction with the Department of Public Works, establish protocols to handle cases which are determined (after implementation of Recommendation III-A-2) to be uncollectible to ensure that these projects are added to DPW's maintenance records.

III-A-4. Develop status reports to identify guarantees past their performance and maintenance periods (see related Recommendations II-C-4 and II-D-5).

III-A-5. Designate staff, in each unit with inspection and guarantee release responsibilities, as liaisons between the PAO and the BALD unit. All liaisons should receive training on the forfeiture process (e.g., criteria on when to initiate forfeiture proceedings, materials needed for the PAO to litigate or settle a case) (see related Recommendations II-B-4 and II-C-6).

FINDING III-B. INADEQUATE COMMUNICATION BETWEEN BALD AND THE PROSECUTING ATTORNEY'S OFFICE (PAO), AND LIMITED CASE MANAGEMENT PROCEDURES AND STATUS REPORTS DELAYED RESOLUTION OF FORFEITURE CASES.

RECOMMENDATIONS

BALD management and the Prosecuting Attorney's Office should implement the following recommendations to effectively manage cases referred to the PAO for action:

III-B-1. The PAO should review forfeiture case management guidelines, specifically setting time frames for follow-up on any cases placed on hold. At the end of a hold period, the forfeiture process should continue or the case should be returned to BALD or closed.

III-B-2. The PAO should provide monthly reports to each of the pertinent units at BALD on the status of the cases referred and the activities undertaken. BALD should review and verify PAO reports.

III-B-3. BALD should establish procedures to track cases after they have been sent to the PAO. BALD should also develop monthly reports which indicate when BALD sent the case to the PAO and the status of the case.

III-B-4. BALD should establish a forfeiture activity in the PERMITS system to indicate different forfeiture statuses (e.g., "in litigation," "waiting for information," "on hold per BALD," etc.) to enable BALD to continue to monitor cases once they have been referred to the PAO.

III-B-5. Evaluate how BALD and the PAO could set up a team approach to pursue settlement of bond cases referred to the PAO. Assign a trained BALD staff person to meet with the PAO, the surety companies, and other applicant representatives, to facilitate communication and cooperation among the various parties.

III-B-6. Evaluate the feasibility of placing a Sierra terminal in the Prosecutor's Office to facilitate the monitoring of case status by both agencies.

Recommendations in this section pertain to all guarantee forfeiture cases regardless of the agency responsible.

FINDING III-C. BALD AND THE PROSECUTING ATTORNEY'S OFFICE (PAO) NEVER DETERMINED THE LEVEL OF SERVICE NEEDED TO SUPPORT THE GUARANTEE FORFEITURE PROCESS. CONSEQUENTLY, NEITHER AGENCY ACCURATELY BUDGETED FOR EXPENDITURES AND REVENUES PERTAINING TO LEGAL SERVICES.

RECOMMENDATIONS

The Budget Office, BALD management, and the PAO should implement the following recommendations to effectively budget for prosecutorial services:

III-C-1. Determine the level of PAO services needed for the guarantee forfeiture process and develop a statement of the services to be provided by PAO staff for reimbursement by BALD.

III-C-2. The PAO should track the number of hours spent on work for BALD and the Environmental Division separately, produce separate billings, and reconcile expenditures and PAO revenues.

FINDING III-D. KING COUNTY DOES NOT HAVE A POLICY WHICH OUTLINES WHO IS RESPONSIBLE FOR GUARANTEEING WORKMANSHIP AND MATERIALS WHEN A SURETY CHOOSES TO COMPLETE CORRECTIVE WORK. AS A RESULT, NEGOTIATIONS WITH ONE SURETY WERE UNDULY PROLONGED.

RECOMMENDATIONS

BALD management and the PAO should implement the following recommendations to improve the settlement process with surety companies:

III-D-1. In coordination with the Department of Public Works, develop policies and procedures which specify:

- the conditions under which it is in the County's interest to encourage sureties to perform the work in lieu of paying the guarantee amount, and
- whether the posting of maintenance and defect bonds (if required) are performance items and, therefore, requirements which must be fulfilled prior to release of performance guarantees. The policy should address application to sureties in the event of a guarantee forfeiture.

FINDING III-E. AN EFFECTIVE PROCESS FOR TRACKING FORFEITURE FUNDS WHICH HAD BEEN COLLECTED, AND ENSURING THAT THEY WERE USED TO PAY FOR THE CORRECTIVE WORK, DID NOT EXIST. AS A RESULT, FORFEITURE FUNDS MAY NOT HAVE BEEN USED TO COMPLETE THE CORRECTIVE WORK.

RECOMMENDATIONS

BALD management should implement the following recommendations to expedite the completion of work once forfeiture funds have been collected:

III-E-1. Develop procedures to ensure that forfeiture funds collected are tracked against the appropriate project as they are spent, with excess costs being promptly returned to the surety or applicant.

III-E-2. In coordination with the Department of Public Works (DPW), develop procedures to ensure that corrective work on defaulted projects is completed in a timely manner and that appropriate maintenance is performed. The procedures should include criteria for determining whether the work should be managed by BALD or DPW, whether the work should be performed by County or contract personnel, and address acceptance and responsibility for ongoing maintenance.

III-E-3. Work with the King County Purchasing Agency to implement a small works roster.

FINDING IV-A. NEITHER THE KING COUNTY CODE NOR THE FINANCIAL GUARANTEE FORMS CLEARLY SPECIFIED WHAT CONSTITUTED DEFAULT, THE CONSEQUENCES TO THE APPLICANT FOR DEFAULT, OR THE COUNTY'S RIGHTS IN THE EVENT OF THE APPLICANT'S DEFAULT. AS A RESULT, APPLICANTS ARE NOT LIKELY TO RESPOND IN A TIMELY MANNER TO NOTIFICATION OF DEFICIENCIES, LEADING TO DELAYS IN INITIATING THE FORFEITURE PROCESS.

RECOMMENDATIONS

BALD management, in coordination with DPW and the Prosecuting Attorney's Office, should implement the following recommendations to clarify the obligations of the applicant and the rights of King County:

IV-A-1. Review the statutory requirements for financial guarantees distributed throughout the Code to identify conflicting or inconsistent definitions and process requirements.

IV-A-2. Propose a revision to the King County Code which incorporates a new section pertaining to the financial guarantee process. This section should establish standard definitions, set up the general regulatory framework for financial guarantees, define what constitutes default on the part of the applicant, and set out the consequences to applicants for default. It should also stipulate the County's rights in the event of default, including the rights to use the financial guarantee for all necessary costs/expenses and to revoke plat approval (during which time the developer may not sell, transfer, or convey lots until the improvements are completed and accepted). This new section of the King County Code should be cross referenced with Title 19, Chapters 9.04, 21.50, 21.51, and other relevant chapters.

IV-A-3. Revise the financial guarantee agreement forms to specify the conditions that constitute default, consequences to the applicant for default, and King County's rights in the event of default, and to incorporate the applicable authoritative references from the King County Code.

IV-A-4. Revise the language on the guarantee forms and propose a revision of the King County Code so that "financial guarantee" is used in place of "bond" unless a specific reference to a surety bond is being made.

FINDING IV-B. THE LANGUAGE IN THE KING COUNTY CODE AND ON THE FINANCIAL GUARANTEE FORMS WAS INCONSISTENT AND AMBIGUOUS, AND THERE WERE NO WRITTEN INSTRUCTIONS FOR COMPLETING THE FORMS. THESE DEFICIENCIES COMPLICATED DETERMINATION OF PERFORMANCE AND MAINTENANCE PERIODS, AND WERE LIKELY TO HINDER COMMUNICATION BETWEEN BALD STAFF AND APPLICANTS, AS WELL AS CAUSE DELAYS IN PROCESSING, RELEASING, OR INITIATING FORFEITURE OF GUARANTEES.

RECOMMENDATIONS

BALD management should implement the following recommendations to ensure consistency between the King County Code and the financial guarantee forms, and to provide guidance to applicants on the financial guarantee process:

IV-B-1. Review and revise, as necessary, all financial guarantee and agreement forms for consistency with Code requirements.

IV-B-2. Revise the landscaping guarantee forms and propose a revision to Chapter 21.51 of the King County Code so that the performance periods specified in each are clear and consistent.

IV-B-3. Propose a revision to Chapter 21.50 of the King County Code to provide the authority for requiring a guarantee for roads, drainage, grading, etc., in addition to the off-street parking improvements; rename the "off-street parking" agreement and guarantee forms to "site development"; and clarify the performance period for site development guarantees.

IV-B-4. Publish a development assistance bulletin for the financial guarantee process. At a minimum, include the definition of a financial guarantee, descriptions of the various acceptable forms of security (e.g., assignment of funds, cash, standby letter of credit, surety bond), conditions under which financial guarantees may be or are required to be posted, instructions for completing the guarantee and agreement forms, and conditions under which the financial guarantees will be released. Provide a copy of the financial guarantee development assistance bulletin to applicants at the time they are provided the financial guarantee and agreement forms.

FINDING IV-C. THE STATUTES WHICH AUTHORIZE FINAL PLAT RECORDINGS WITH PERFORMANCE GUARANTEES DO NOT SPECIFY MINIMUM PERCENTAGES OF WORK TO BE COMPLETED PRIOR TO RECORDING, POTENTIALLY LEADING TO ACCEPTANCE OF GUARANTEES THAT DO NOT ADEQUATELY PROVIDE THAT THE REMAINING WORK CAN BE COMPLETED WITHIN MANDATED TIME FRAMES.

RECOMMENDATIONS

BALD management should implement the following recommendations to ensure minimum requirements are established regarding the amount of work that must be completed prior to recording final plats with performance guarantees:

IV-C-1. In coordination with the PAO, draft a provision in the financial guarantee section of the King County Code (to be established pursuant to Recommendation IV-A-2) which establishes County policy as to which conditions may be guaranteed (i.e., "bondable" and "nonbondable" conditions), and which generally identifies minimum levels of improvements that must be completed for "bondable" conditions prior to recording with a performance guarantee (e.g., access to all lots must be provided).

IV-C-2. Establish procedures to implement the policy adopted regarding the conditions which may be guaranteed. The procedures should include:

- criteria which define the specific amounts of work required to be completed prior to posting a guarantee (e.g., roads must be less than one foot in depth from final road surface elevation, all grading within the lots must comply with approved grading plans);
- operational procedures to verify that the minimum improvements have been completed prior to allowing subdivision performance guarantees to be posted. Revise the "Request to Record" form to provide for verification that the required minimum improvements have been completed.

FINANCIAL GUARANTEE AUDIT - IMPLEMENTATION

Audit Recommendation Number	Audit Recommendation Title	Disagree/ Response Unclear (?)
II-A-1	Draft a provision in the financial guarantee section of the King County Code (to be established pursuant to Recommendation IV-A-2) to authorize the practice of allowing performance guarantee reductions in accordance with the percentage of work completed, or discontinue the practice.	
II-A-2	Develop a single bond quantity worksheet for use in both the Subdivision and Commercial/Multi-Family Sections. Include a greater level of detail, such as that used by DIU staff in their analysis of the adequacy of current financial guarantee amounts, to accommodate the needs of both sections. Combine the project percentage completion/bond reduction request form with the bond quantity worksheet by including a column for identifying the percentage of completion for each line item, subject to revision of the King County Code in accordance with Recommendation II-A-1. Use the revised worksheet to estimate the percentage of work completed when performing inspections for financial guarantee reductions.	
II-A-3	Adopt an objective cost model, such as R. S. Means, for determining costs on the bond quantity worksheets and calculating the amount of performance financial guarantees (e.g., landscaping, site development, and subdivision performance). Update the model annually to reflect current costs. Continue to add a margin to the final amount to cover contingencies and inflation.	
II-A-4	Develop a quantifiable basis (e.g., the historical costs of corrective work on defaulted projects) for calculating the amount of maintenance and defect financial guarantees.	
II-B-1	Draft a provision in the financial guarantee section of the King County Code (to be established pursuant to Recommendation IV-A-2) which describes the specific types of guarantees that are acceptable.	
II-B-2	Develop and distribute written procedures for the financial guarantee intake process to staff responsible for accepting guarantees (see related Recommendation II-C-5). Include a list of acceptable types of guarantees, including their definitions and the applicable conditions for acceptance.	
II-B-3	Develop a checklist, to be signed by the intake technician after completion, to ensure that all steps in the intake process are performed in accordance with the procedures established in Recommendation II-B-2 (e.g., verification that sureties are listed in Department of the Treasury Circular 570, all required forms are submitted, and forms contain all required signatures).	
II-B-4	Provide training to staff involved in the financial guarantee intake process. Use the written procedures developed in Recommendation II-B-2 as a basis for the training.	
II-C-1	Centralize the financial guarantee administration process (custodianship, monitoring, and release). Assign responsibility to specific staff for tasks related to financial guarantee administration. Cross-train staff to ensure adequate support for the process when the person with primary responsibility is absent. The responsible staff should be readily accessible to the inspectors who initiate financial guarantee forfeiture to facilitate required coordination.	

* dependent upon staffing
BI/BONDTBL 9/15/92

Audit Recommendation Number	Audit Recommendation Title	Disagree/ Response Unclear (?)
II-C-2	Determine the data required to be tracked to ensure an adequate monitoring system is developed and maintained. Discontinue use of R:base and incorporate the financial guarantee data from that system into PERMITS. Consider the use of temporary staff to expedite the process of transferring the R:base data to PERMITS.	
II-C-3	Review all guarantees currently tracked in R:base to verify their validity. Remove those which have been released, belong to canceled projects, have expired letters of credit, or have been transferred to Washington State under the Abandoned Property Act (assignments of funds) prior to transferring the R:base data to PERMITS. Establish procedures to ensure new financial guarantees are posted for those projects that are still active, but for which the current financial guarantee is no longer valid.	
II-C-4	Identify, develop, and distribute reports (e.g., tickler, aging) needed to effectively administer the financial guarantee process. Obtain input from staff involved in the process to determine the types of reports needed (see related Recommendation II-D-5).	
II-C-5	Develop and distribute written procedures for the financial guarantee administration process (see related Recommendation II-B-2). Include definitions of financial guarantee terminology and criteria for data entry in the PERMITS system.	
II-C-6	Provide training to staff involved in the financial guarantee administration process (see related Recommendation II-B-4). Use the written procedures developed in Recommendation II-C-5 as a basis for the training.	
II-C-7	Establish validation tables (e.g., through use of the Contractor/Architect/Engineer/Developer module in PERMITS for banks and acceptable sureties, and standard abbreviations for types of financial guarantees) to promote consistency and accuracy for data entered into the tracking system.	
II-D-1	Incorporate language into the financial guarantee forms which notifies applicants that the guarantee will not be released until the required inspections have been performed and other relevant requirements have been satisfied (e.g., inspection fees have been paid, maintenance and defect guarantees have been posted). Delete language which states that the obligations will be null and void if the improvements remain free of defects throughout the maintenance period.	
II-D-2	Propose a revision to the King County Code and other relevant documents (e.g., the Roads Standards and Surface Water Design Manual) to formalize the practice of requiring inspections at the end of the maintenance and defect periods and to change the maintenance period for road improvements to two years to coincide with the two-year defect period for drainage facilities.	
II-D-3	In coordination with DPW, develop and transmit to the Council a proposal to consolidate guarantee administration and inspection responsibility for roads maintenance and drainage facilities defect guarantees within a single agency to achieve operational efficiency. Until the responsibilities are consolidated, improve coordination for final performance and maintenance inspections with DPW staff responsible for maintenance.	

* dependent upon staffing
B1/BONDTBL. 9/15/92

Audit Recommendation Number	Audit Recommendation Title	Disagree/ Response Unclear (?)
II-D-4	Propose a revision to the King County Code and other relevant documents to transfer the responsibility for scheduling final performance, maintenance, and defect inspections from applicants to the applicable King County agency.	
II-D-5	Develop status and tickler reports on a regular basis to assist inspectors in automatically scheduling inspections when projects are nearing the end of their performance or maintenance periods, but applicants have not called for an inspection (see related Recommendation II-C-4). On-line status information for all guarantees should be available to the public and affected County agencies through the PERMITS system.	
III-A-1	Develop procedures (see related Recommendations II-B-2 and II-C-5) and criteria for the forfeiture process, including priorities for reviewing and releasing the backlog of old guarantees. These criteria should consider the amount of work to be corrected or remaining to be performed, the age of the guarantee, the amount of the guarantee in relation to the cost involved in collecting it, etc.	
III-A-2	After implementation of III-A-1, review projects with unreleased guarantees to determine whether they should be referred to the PAO. Evaluate the feasibility of hiring temporary help to review the large backlog of cases in both DJU and Site Development Review.	
III-A-3	In conjunction with the Department of Public Works, establish protocols to handle cases which are determined (after implementation of recommendation III-A-2) to be uncollectible to ensure that these projects are added to DPW's maintenance records.	
III-A-4	Develop status reports to identify guarantees past their performance and maintenance periods (see related Recommendations II-C-4 and II-D-5).	
III-A-5	Designate staff, in each unit with inspection and guarantee release responsibilities, as liaisons between the PAO and the BALD unit. All liaisons should receive training on the forfeiture process (e.g., criteria on when to initiate forfeiture proceedings, materials needed for the PAO to litigate or settle a case) (see related Recommendations II-B-4 and II-C-6).	
III-B-1	The PAO should review forfeiture management guidelines, specifically setting time frames for follow-up on any cases placed on hold. At the end of a hold period, the forfeiture process should continue or the case should be returned to BALD or closed.	
III-B-2	The PAO should provide monthly reports to each of the pertinent units at BALD on the status of the cases referred and the activities undertaken. BALD should review and verify PAO reports.	
III-B-3	BALD should establish procedures to track cases after they have been sent to the PAO. BALD should also develop monthly reports which indicate when BALD sent the case to the PAO and the status of the case.	
III-B-4	BALD should establish a forfeiture activity in the PERMITS system to indicate different forfeiture statuses (e.g., "in litigation," "waiting for information," "on hold per BALD," etc.) to enable BALD to continue to monitor cases once they have been referred to the PAO.	

* dependent upon staffing
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Audit Recommendation Number	Audit Recommendation Title	Disagree/ Response Unclear (?)
III-B-5	Evaluate how BALD and the PAO could set up a team approach to pursue settlement of bond cases referred to the PAO. Assign a trained BALD staff person to meet with the PAO, the surety companies, and other applicant representatives, to facilitate communication and cooperation among the various parties.	
III-B-6	Evaluate the feasibility of placing a Sierra terminal in the Prosecutor's Office to facilitate the monitoring of case status by both agencies.	
III-C-1	Determine the level of PAO services needed for the guarantee forfeiture process and develop a statement of the services to be provided by PAO staff for reimbursement by BALD.	
III-C-2	The PAO should track the number of hours spent on work for BALD and the Environmental Division separately, produce separate billings, and reconcile expenditures and PAO revenues.	
III-D-1	<p>In coordination with the Department of Public Works, develop policies and procedures which specify:</p> <ul style="list-style-type: none"> • the conditions under which it is in the County's interest to encourage sureties to perform the work in lieu of paying the guarantee amount, and • whether the posting of maintenance and defect bonds (if required) are performance items and, therefore, requirements which must be fulfilled prior to release of performance guarantees. <p>The policy should address application to sureties in the event of a guarantee forfeiture.</p>	
III-E-1	Develop procedures to ensure that forfeiture funds collected are tracked against the appropriate project as they are spent, with excess costs being promptly returned to the surety or applicant.	
III-E-2	In coordination with the Department of Public Works (DPW), develop procedures to ensure that corrective work on defaulted projects is completed in a timely manner and that appropriate maintenance is performed. The procedures should include criteria for determining whether the work should be managed by BALD or DPW, whether the work should be performed by County or contract personnel, and address acceptance and responsibility for ongoing maintenance.	
III-E-3	Work with the King County Purchasing Agency to implement a small works roster.	
IV-A-1	Review the statutory requirements for financial guarantees distributed throughout the Code to identify conflicting or inconsistent definitions and process requirements.	
IV-A-2	Propose a revision to the King County Code which incorporates a new section pertaining to the financial guarantee process. This section should establish standard definitions, set up the general regulatory framework for financial guarantees, define what constitutes default on the part of the applicant, and set out the consequences to applicants for default. It should also stipulate the County's rights in the event of default, including the rights to use the financial guarantee for all necessary costs/expenses and to revoke plat approval (during which time the developer may not sell, transfer, or convey lots until the improvements are completed and accepted). This new section of the King County Code should be cross referenced with Title 19, Chapters 9.04, 21.50, 21.51, and other relevant chapters.	

Audit Recommendation Number	Audit Recommendation Title	Disagree/ Response Unclear (?)
IV-A-3	Revise the financial guarantee agreement forms to specify the conditions that constitute default, consequences to the applicant for default, and King County's rights in the event of default, and to incorporate the applicable authoritative references from the King County Code.	
IV-A-4	Revise the language on the guarantee forms and propose a revision of the King County Code so that "financial guarantee" is used in place of "bond" unless a specific reference to a surety bond is being made.	
IV-B-1	Review and revise, as necessary, all financial guarantee and agreement forms for consistency with Code requirements.	
IV-B-2	Revise the landscaping guarantee forms and propose a revision to Chapter 21.51 of the King County Code so that the performance periods specified in each are clear and consistent.	
IV-B-3	Propose a revision to Chapter 21.50 of the King County Code to provide the authority for requiring a guarantee for roads, drainage, grading, etc., in addition to the off-street parking improvements, rename the "off-street parking" agreement and guarantee forms to "site development"; and clarify the performance period for site development guarantees.	
IV-B-4	Publish a development assistance bulletin for the financial guarantee process. At a minimum, include the definition of a financial guarantee, descriptions of the various acceptable forms of security (e.g., assignment of funds, cash, standby letter of credit, surety bond), conditions under which financial guarantees may be or are required to be posted, instructions for completing the guarantee and agreement forms, and conditions under which the financial guarantees will be released. Provide a copy of the financial guarantee development assistance bulletin to applicants at the time they are provided the financial guarantee and agreement forms.	
IV-C-1	In coordination with the PAO, draft a provision in the financial guarantee section of the King County Code (to be established pursuant to Recommendation IV-A-2) which establishes County policy as to which conditions may be guaranteed (i.e., "bondable" and "nonbondable" conditions), and which generally identifies minimum levels of improvements that must be completed for "bondable" conditions prior to recording with a performance guarantee (e.g., access to all lots must be provided).	
IV-C-2	<p>Establish procedures to implement the policy adopted regarding the conditions which may be guaranteed. The procedures should include:</p> <ul style="list-style-type: none"> • criteria which define the specific amounts of work required to be completed prior to posting a guarantee (e.g., roads must be less than one foot in depth from final road surface elevation, all grading within the lots must comply with approved grading plans); • operational procedures to verify that the minimum improvements have been completed prior to allowing subdivision performance guarantees to be posted. Revise the "Request to Record" form to provide for verification that the required minimum improvements have been completed. 	