



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

April 23, 2012

Ordinance 17310

Proposed No. 2011-0493.3

Sponsors Ferguson, Gossett, Phillips,
McDermott, Hague, Patterson and Lambert

1 AN ORDINANCE making changes to King County's
2 procurement process; and amending Ordinance 12138,
3 Section 18, as amended, and K.C.C. 4.16.145.

4 **STATEMENT OF FACTS:**

5 1. King County's vision, as stated in the county's strategic plan, is to be "a
6 diverse and dynamic community with a healthy economy and environment
7 where all people and businesses have the opportunity to thrive." Among
8 the guiding principles contained in the strategic plan are accountability,
9 fairness and justice.

10 2. Employer violation of wage payment requirements runs contrary to
11 King County's vision and guiding principles. Such violations, also known
12 as "wage theft," can take a number of forms, including withholding an
13 employee's last paycheck when the employee leaves a job, not paying for
14 all hours worked, stealing tips, failing to pay overtime as required and
15 paying less than the minimum wage.

16 3. Wage theft is a nationwide problem. According to a 2008 survey
17 funded by the Ford Foundation, of the four thousand three hundred eighty-
18 seven workers interviewed in low-wage industries in the three largest
19 United States cities, which are Chicago, Los Angeles and New York,

20 sixty-eight percent had experienced at least one pay-related violation of
21 the law in the previous work week. The average worker lost fifty-one
22 dollars out of average weekly earnings of three hundred thirty-nine
23 dollars, for a loss of fifteen percent of earnings.

24 4. In Washington state, according to the Washington state Department of
25 Labor and Industries, an average of eleven Wage Payment Act violation
26 claims are filed each day, totaling over four thousand claims in 2010.

27 5. Wage theft commonly occurs in low-wage industries, but is not limited
28 to any particular sector of the economy, and no group of workers is
29 immune.

30 6. Wage theft detrimentally impacts workers and hurts businesses that
31 follow the law. Businesses are placed at a disadvantage when competitors
32 keep costs artificially low by unlawfully withholding payments from their
33 employees. Taxpayers shoulder a disproportionate share of the national
34 tax burden when employers fail to pay payroll taxes. Unpaid workers are
35 deprived of money to buy goods and services that benefit their families
36 and the local economy.

37 7. The elimination of wage theft will foster fair business practices and
38 promote the dignity and economic security of employees.

39 8. Currently, in Washington state, wage theft complaints are handled by
40 the Washington state Department of Labor and Industries. Wage theft is
41 punishable by civil fines and the recovery of lost wages by the employee.

42 According to RCW 49.48.082 through 49.48.087, the Department of

43 Labor and Industries issues a citation for a willful violation when an
44 employer has violated a wage payment requirement and the violation was
45 knowing and intentional and neither accidental nor the result of a bona
46 fide dispute.

47 9. King County contracts with outside vendors, awarding an average of
48 five hundred professional, construction, and goods and services contracts
49 each year. Since 2006, the county has awarded more than three thousand
50 contracts to over four thousand outside vendors for a combined total of
51 over \$3.5 billion.

52 10. King County should not reward employers who are "willful violators"
53 of state wage laws by awarding them a county contract, but should
54 promote fair and ethical business practices that conform to the law and
55 encourage a growing and diverse King County economy and vibrant,
56 thriving and sustainable communities.

57 11. Wage theft and certain criminal offenses such as convictions under
58 state or federal statutes for embezzlement, theft, forgery, bribery,
59 falsification or destruction of records and receiving stolen property and
60 other offenses are grounds for suspension or debarment from doing
61 business with King County.

62 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

63 SECTION 1. Ordinance 12138, Section 18, and K.C.C. 4.16.145 are hereby
64 amended to read as follows:

65 The executive shall comply with the following procedures in contract debarment
66 and suspension actions.

67 A. After reasonable notice to the person involved and reasonable opportunity for
68 that person to be heard, the executive shall have authority to debar a person, firm or other
69 legal entity for cause from consideration for award of contracts with the county. The
70 debarment shall be for a period of not more than two years.

71 B. The executive shall have the authority to suspend a person, firm or other legal
72 entity from consideration for award of contracts if there is probable cause for debarment.
73 The suspension shall be for a period of not more than six months.

74 C. The authority to debar or suspend shall be exercised ~~((in accordance with))~~ by
75 procedures established by the executive in accordance with this chapter.

76 D. The ~~((causes for debarment or suspension include the following))~~ executive
77 shall suspend or debar a person, firm or other legal entity for:

78 1. Conviction within the five years preceding commencement of the debarment
79 or suspension for commission of a criminal offense as an incident to obtaining or
80 attempting to obtain a public or private contract or subcontract, or in the performance of
81 ~~((such))~~ the contract or subcontract ;

82 2. Conviction within the five years preceding commencement of the debarment
83 or suspension under state or federal statutes of embezzlement, theft, forgery, bribery,
84 falsification or destruction of records, receiving stolen property~~((s))~~ or any other offense
85 indicating a lack of business integrity or business honesty ~~((which))~~ that currently,
86 seriously~~((s))~~ and directly affects responsibility as a contractor to the county;

87 3. Conviction within the five years preceding commencement of the debarment
88 or suspension under state or federal antitrust statutes arising out of the submission of bids
89 or proposals; or

90 4. ~~((Violation of contract provisions, such as the following, of a character which~~
91 ~~is regarded by the executive to be so serious as to justify debarment action:~~

92 ~~a. deliberate failure without good cause to perform in accordance with the~~
93 ~~specifications or within the time limit provided in the contract, or~~

94 ~~b. substantial failure to comply with commitments to and contractual~~
95 ~~requirements for participation by minority and women's business enterprises and equal~~
96 ~~employment opportunity, or~~

97 ~~c. a recent record of failure to perform or of unsatisfactory performance in~~
98 ~~accordance with the terms of one or more contracts; provided that failure to perform or~~
99 ~~unsatisfactory performance caused by acts beyond the control of the contractor shall not~~
100 ~~be considered to be a basis for debarment;)) Violation of state wage payment laws,~~

101 including:

102 a. willful violation of a wage payment requirement, as defined in RCW
103 49.48.082, where the citation and notice of assessment for the violation was issued within
104 the five years preceding commencement of the debarment or suspension; or

105 b. civil judgments entered by a court against the person, firm or other legal
106 entity for violations of wage payment requirements under state law within the five years
107 preceding commencement of the debarment or suspension.

108 E. The executive should suspend or debar a person, firm or other legal entity for:

109 ~~((5.))~~ 1. Violation of ethical standards set forth in contracts with the county;

110 ~~((6F))~~

111 2. Violation of contract provisions, such as the following, of a character that is
112 regarded by the executive to be so serious as to justify debarment action:

113 a. deliberate failure without good cause to perform in accordance with the
114 specifications or within the time limit provided in the contract;

115 b. substantial failure to comply with commitments to and contractual
116 requirements for participation by minority and women's business enterprises and equal
117 employment opportunity; or

118 c. a recent record of failure to perform or of unsatisfactory performance in
119 accordance with the terms of one or more contracts, though failure to perform or
120 unsatisfactory performance caused by acts beyond the control of the contractor shall not
121 be considered to be a basis for debarment; or

122 ~~((6.))~~ 3. Any other cause that the executive determines to be so serious and
123 compelling as to affect responsibility as a contractor to the county, including debarment
124 by another governmental entity for any cause similar to those set forth ~~((herein))~~ in this
125 subsection E.

126 ~~((E.))~~ F. The executive shall issue a written decision stating the reasons for the
127 debarment or suspension. Such a decision shall be promptly mailed or otherwise
128 furnished to the debarred or suspended person and any other party intervening.

129 ~~((F.))~~ G. The executive's decision of debarment or suspension, unless based on
130 fraudulent information, shall constitute the final and conclusive decision on behalf of the
131 county. After a final decision has been made, the executive shall submit a report to the

132 council giving the name of the person, firm or other legal entity suspended or debarred
133 and the reason(~~((s))~~) or reasons for such a suspension or debarment.

134 H. Notwithstanding subsection D. or E. of this section, the executive has the
135 authority to not suspend or debar a person, firm or legal entity if the executive determines
136 significant harm would accrue to the county by suspension or debarment of the person,
137 firm or other legal entity or that mitigating circumstances do not warrant debarment or
138 suspension, and notifies the council within thirty days of the executive's determination.

139 SECTION 2. A. The executive shall develop supplemental bidder responsibility
140 criteria, as authorized in RCW 39.04.350, for the purposes of promoting fair competition
141 between bidders and ensuring the award of contracts conforms to the goals of the King
142 County Strategic Plan.

143 B. The executive shall submit a report on the development of supplemental
144 bidder responsibility criteria by July 1, 2012, in the form of a paper original and an
145 electronic copy with the clerk of the council, who shall retain the original and provide an
146 electronic copy to all councilmembers and to the committee coordinator for the

147 government accountability, oversight and financial performance committee or its
148 successor.
149


Ordinance 17310 was introduced on 11/21/2011 and passed by the Metropolitan King County Council on 4/23/2012, by the following vote:

Yes: 8 - Mr. Phillips, Mr. Gossett, Ms. Hague, Ms. Patterson, Ms. Lambert, Mr. Ferguson, Mr. Dunn and Mr. McDermott
No: 0
Excused: 1 - Mr. von Reichbauer

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:


Anne Noris, Clerk of the Council

APPROVED this 4 day of MAY, 2012.


Dow Constantine, County Executive

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CLERK
KING COUNTY COUNCIL

Attachments: None