

Divest LA submits the following changes to the City of L.A.'s (City) 2008 Request for Proposal Banking Services (RFP). With the RFP, we intend to ensure that the City places our tax dollars in financial institutions that value environmental sustainability, use ethical business practices, and demonstrate a commitment to community development. Divest LA has also included information to contextualize and offer potential solutions that would bolster the RFP.

**1. Divide and detail banking services needed by the City so that smaller Community Based Banks or Credit Unions can more readily participate in the bidding. Use a tiered banking preference system when evaluating potential financial institutions.**

A time may come when big banks will suffer the consequences of over speculation, especially in light of the current federal administration's trend toward deregulation. The diversification of banks used by the City to include smaller community-oriented institutions would provide more financial stability and security for our City. In addition, studies show that smaller community-oriented banks effectively reinvest in communities, rather than drain profits from the community into the coffers of distant investors and shareholders. Below are some suggestions on how to diversify our banking.

The current Introduction to the RFP states the following:

The City seeks to obtain one or more financial institutions to administer the City's extensive banking and deposit operation to further the objectives of the City to streamline cash handling, enhance funds availability, increase the use of technology to reduce costs and become more efficient, and partner with our financial institutions to enhance financial services to the community. The scope of services will include, but is not limited to, general account services, information reporting, reconciliation, electronic fund transfers, positive pay, controlled disbursement, returned items processing, image capture, lockbox, merchant card processing, custody services, investment services, electronic receipt and payment platforms, purchasing cards, payroll cards, and business continuity planning.

Divest LA proposes that the City provide details and delineate the actual dollar amount of deposits, where applicable, in the above or other banking services. This breakdown would allow smaller community based financial institutions to bid for services. For example, the City of Seattle specifies some of its services in the following way in its RFP:

The City deposited over \$3 billion through its operating account during the year 2011. The City's average bi-weekly payroll is approximately \$30 million, of which over 90% is direct deposits to the employees' bank accounts. Employees not enrolled in direct deposit receive paper checks.

Payroll is processed bi-weekly for just under 12,000 employees. Retirement is processed on the 1<sup>st</sup> and 15<sup>th</sup> for approximately 7,000 retirees. In 2011, the City issued over 150,000 Accounts Payable checks and 2,000 wires for \$850 million and \$2 billion respectively.

This type of breakdown of services would allow smaller socially responsible community based financial institutions to bid on sections of services required by the City.

The City could also include socially responsible community based financial institutions by stating preferences in an RFP for financial institutions in a tiered system such as:

### **Three Categories of Banks in Order of Priority:**

*When considering placement of City funds, the City may decide to prioritize prospective banks in this order:*

**Tier 1:** Explicitly socially responsible institutions. B-Corps, Community Development Financial Institutions (CDFIs), and other financial institutions centered around ethics and community development. Here are some examples:

- Amalgamated Bank
- Urban Partnership Bank
- Beneficial Bank
- Sunrise Bank

If a Tier One financial institution is capable of receiving deposits for a city account, it is to get first priority for the contract. If no banks in Tier One are capable of handling the account, then Tier Two banks are considered.

**Tier 2:** Financial institutions with a good record on both internal and external ethics. Not explicitly social in nature but with a benign record. *No investment in DAPL, private prisons, arms, no record of fraud, risky speculation, predatory lending, predatory sales goals or laundering.* Examples of Tier 2 financial institutions are:

- City National Bank
- First Republic Bank
- Pacific Western Bank
- Prosperity Bank
- Western Alliance Bank
- Old National Bank

If no banks in Tiers One or Two are capable of handling the account, then Tier Three banks are considered.

**Tier 3:** Financial institutions with few infractions that have made a contractual obligation to improve their ethics standards and are rated as outstanding in their community reinvestment.

The City will not engage in business or investment with any banks that are not in Tiers One, Two or Three. Below is more information on CDFIs.

### **Community Development Financial Institutions**

A Community Development Financial Institution (CDFI) is a mission-driven financial institution that is committed to economic (and often environmental) justice. To earn the designation of “CDFI,” an institution must submit to a rigorous certification process by the federal government, which affirms that the CDFI is investing the majority of their lending and services in a socially responsible manner.

There are four types of CDFIs—banks, credit unions, loan funds and venture capital funds are all eligible to become certified as CDFIs via the U.S. Treasury’s certification program. Once certified as a CDFI, CDFIs are eligible for investments from several financial awards, bond programs, and tax credits that are only available via the CDFI Fund within the office of the U.S. Treasury.

The CDFI industry has experienced exponential growth since its early days as an industry 30 years ago. The industry has grown over 500% in the last 20 years, from 196 CDFIs in 1996 to over 1,000 CDFIs in 2016. Total assets under management by CDFIs is currently \$108 billion and growing. There are currently 21 CDFIs in the United States with an asset size of \$1-5 billion, and 1 with an asset size in excess of \$5 billion, according to the U.S. Department of Treasury.

#### **Three large CDFIs with a presence in Los Angeles and California:**

**Beneficial State Bank:** Certified CDFI bank with \$653 million in net assets as of YE 2016 across 3 states of operation. Beneficial State Bank operates 10 branches in California, including 2 in Los Angeles.

**LISC-** Certified CDFI loan fund with \$531 million in net assets as of YE 2015. LISC operates three offices in California, including one in Los Angeles.

**Self-Help Federal Credit Union-** Certified CDFI credit union with \$717 million in assets individually, and over \$2 billion in net assets including all Self-Help entities (two Credit Unions and Self-Help Venture Capital Fund), which shares common leadership across five states of operation. Self-Help FCU operates 19 branches in California, including three in Los Angeles.

## **2. Add Environmental Protections**

The City Council passed a Resolution (CF15-0002-S220) in September 2016, proclaiming the City's support for the Standing Rock Sioux Tribe's opposition to the construction of the Dakota Access Pipeline (DAPL). Wells Fargo and other financial institutions' investments in DAPL are contrary to the City's support of indigenous rights and environmental concerns as proclaimed in said resolution. Banks that invest in renewable energy are aligned with the City's goals of a 100% renewable energy portfolio and a fossil-free future (CF 16-0243) signed 9/20/2016.

While specific goals vary, the City of Portland has the following clause in its RFP for banking services:

City's sustainability objectives tend to focus on: reducing energy use; reducing air, water, and land pollution; building and maintaining high performance green buildings; reducing the use of materials toxic to the environment and human health; utilizing resources efficiently, including the use of renewable, reusable and recycled materials; utilizing minority-owned, small, and/or local businesses; preserving or enhancing biodiversity; and maintaining fiscal health in the short and long term. As such, the City seeks to do business with firms that will actively contribute to the City's sustainability objectives.

Los Angeles could incorporate some of Portland's sustainability objectives and must also specifically exclude financial institutions from its bidding practice that have investments in the Dakota Access Pipeline and the Keystone XL Pipeline in order to align our business with our principles. The City would exclude from the RFP any financial institutions that invest, lend or otherwise do business with the fossil fuel industry. The RFP tier system would make fossil-free banking possible.

### **3. Add Whistleblower Protections**

*Whistleblower protection - Sample modified from San Francisco and New York*

The City directs the Office of the Controller to administer a whistleblower program and investigate complaints concerning the following:

- Deficiencies in the quality and delivery of City government services.
- Wasteful and inefficient City government practices.
- Misuse of City government funds.
- Improper activities by City government officers and employees.
- Improper activities for contractors with the City

The Whistleblower Program responds to specific allegations of administrative wrongdoing by City employees and those who do business with the City.

Upon receiving a complaint, the Whistleblower Program may conduct an investigation into the facts alleged in the complaint to determine whether an improper governmental activity has occurred. Allegations that, even if true, appear immaterial or insignificant from a monetary or operational standpoint, may be referred to the City department involved in the allegation for investigation and response.

Any investigation resulting from a complaint is confidential, so Whistleblower Program staff cannot provide any updates about what is being done to investigate the complaint or what information has been uncovered. Neither complaints nor investigative work products will be released.

All City officers and employees are protected for filing a complaint with, or providing information to, the Whistleblower Program about improper governmental activities. Whistleblowers are strongly advised to withhold identifying information if they fear retaliation for filing a complaint.

All employees of City contractors are protected from adverse personnel action based on whistleblowing activity related to a City contract and all City contractors are required to post a notice informing employees of their rights.

#### *Specific clauses for bank workers and whistleblower protection*

In order to protect bank workers that are speaking out against predatory banking practices the City should consider the following:

- Enhance the current federal whistleblower protection by establishing a local complaint and enforcement process that is tied to both the RBO and the Banking Service RFP.
- Define the “protected actions” of bank workers.
- Pledge that banks will comply with whistleblower protection for banks workers.

#### **4. Add Fraudulent Practices Disqualifications**

In Motion CF09-0234-SB, the City Council authorized the following:

*Office of Finance with the assistance of the City Attorney to require a suitable / appropriate certification or affirmation from each responding bidder that they are not engaged in consumer-averse practices such as predatory sales goals imposed on banking employees, with the understanding that any failure to comply with this requirement would result in the bidder being disqualified.*

For example, on May 4, 2015 the Los Angeles City Attorney filed suit against Wells Fargo claiming violations of California's Unfair Competition Law (B&P Code, §17200). Wells Fargo

settled with the City. The settlement calls for restitution for consumers and a \$50 million fine, the largest such payment in the history of the City attorney's office.

The RFP would incorporate certification as directed by City Council in the above motion, along with disqualifying bidders who do not comply. Specifically, the City would thereby exclude Wells Fargo from the RFP bidding process due to its fraudulent practices as determined by the May 2015 lawsuit and settlement with the City.

#### **5. Add to the Investment Policy Attachment 16 of the current RFP for Banking Services**

The City would add to the Investment Attachment language similar to San Francisco (below) in order to ensure that we invest in Socially and Environmentally responsible institutions. San Francisco's Investment Policy includes:

13.0 Social Responsibility In addition to and subordinate to the objectives set forth in Section 4.0 herein, investment of funds should be guided by the following socially responsible investment goals when investing in corporate securities and depository institutions. Investments shall be made in compliance with the foregoing socially responsible investment goals to the extent that such investments achieve substantially equivalent safety, liquidity and yield compared to investments permitted by state law.

13.1 Social and Environmental Concerns Investments are encouraged in entities that support community well-being through safe and environmentally sound practices and fair labor practices. Investments are encouraged in entities that support equality of rights regardless of sex, race, age, disability or sexual orientation. Investments are discouraged in entities that manufacture tobacco products, firearms, or nuclear weapons. In addition, investments are encouraged in entities that offer banking products to serve all members of the local community, and investments are discouraged in entities that finance high-cost check-cashing and deferred deposit (payday-lending) businesses. Prior to making investments, the Treasurer's Office will verify an entity's support of the socially responsible goals listed above through direct contact or through the use of a third party such as the Investors Responsibility Research Center, or a similar ratings service. The entity will be evaluated at the time of purchase of the securities.

In addition to the language in the San Francisco policy, the City can add additional language including exclusion from investments in fossil fuels and coal. Furthermore, the City would conclusively not invest in the industries that contradict our

environmental and social responsibility commitments. Below are some standards and suggestions to help the City achieve these goals.

### **Socially Responsible Investing (SRI) Funds**

Nearly every type of investment vehicle is available as an investment with a pre-screened socially and environmentally responsible lens. And the field is growing: SRI strategies totaled nearly \$7 trillion in 2014, a 76% jump in just two years, according to the Forum for Sustainable and Responsible Investment. One out of every six dollars managed professionally in the U.S. is invested using an SRI strategy (Source: [Kiplinger's](#)). Here are six examples:

**Parnassus Endeavor (PARWX)** note: California headquartered, great market returns.

**TIAA-CREF Social Choice Bond Fund (TXBRX)**

**Vanguard FTSE Social Index (VFTSX)**

**iShares MSCI USA ESG Select ETF (KLD)**

**iShares MSCI KLD 400 Social ETC (DSI)**

**Eventide Gilead (ETGLX)**

It should be fairly easy for the City to adopt a socially responsible investment index.