



ERIC GARCETTI
MAYOR

August 14, 2017

Honorable Members of the Budget and Finance Committee
City Clerk
City Hall, Room 395

COUNCIL FILE 17-0330 - OFFICE OF FINANCE – REPORT BACK ON DIVESTMENT AND BANKING SERVICES REQUEST FOR PROPOSAL

Dear Honorable Members:

On June 28, 2017, Council instructed the Office of Finance (Finance) to report back on a number of items related to City divestment and a request for proposal (RFP) for banking services. The items requested for report back and addressed in this report are as follows:

- A. Report on the City's purchase and broker transactions with Wells Fargo Bank and the impacts of suspending Finance's investment activities with Wells Fargo until it improves its Community Reinvestment Act score to at least "Satisfactory."
- B. Report with a list of financial institutions with an investment in the Dakota Access Pipeline.
- C. Report on a definition of social responsibility and the factors that will be used to determine a financial institution's social responsibility as it relates to the RFP process.
- D. Detail the types of financial services Wells Fargo provides and the costs associated with each service and details on the dollar amount associated with the deposits the City makes and how the City can help smaller institutions determine if they can handle the volume.
- E. Provide information on what other cities have done relative to divestment with Wells Fargo, how fast they were able to do so, and how they worked through those challenges.
- F. Provide recommendations for the City to create its own Community Investment Act, scoring systems, and a board or panel that would review and score companies with which the City does business in banking and other areas so decisions can be made in a systematic and objective manner; with the report to include an analysis of feasibility, benefits, and costs of a separate City evaluation mechanism that would be in addition to, or instead of, the current ranking system.

AN EQUAL OPPORTUNITY-AFFIRMATIVE ACTION EMPLOYER

RESPONSES TO QUESTIONS

A. Report on the City's purchase and broker transactions with Wells Fargo Bank and the impacts of suspending Finance's investment activities with Wells Fargo until it improves its Community Reinvestment Act score to at least "Satisfactory."

Finance is responsible for the active management of the City's \$11 billion dollar investment portfolio, which includes the General Pool and several individually managed special fund portfolios. Responsibilities include cash flow forecasting, revenue projections, strategy development, trade execution, credit review and compliance activities.

The investment process includes the daily purchase and sale of fixed income securities (bonds) which are facilitated through the use of a broker/dealer. A broker/dealer is a generic term to describe brokers and or dealers, which act as a financial intermediary in assisting with the purchase and sale of investment transactions, along with providing research and analytics. Finance utilizes approximately 30 broker/dealers to facilitate said services, which included Wells Fargo prior to September 30th 2016.

Although it would be difficult to predict future performance of any one individual broker/dealer, Wells Fargo's performance has been exceptional in providing best trade execution for the City over the last several years including being in the top five of all broker dealers that transact with the City on annual basis.

One important aspect of Finance's process is being able to garner competitive bids and offers during daily trading activity. By having more approved Primary Dealers, the City has a wider range of choices in the market whenever we buy or sell Fixed Income securities. More competitive choices provide the City with more advantageous pricing in market transactions, which in turn enhances overall Return on Investment (ROI).

Another crucial component of the City's relationships with Primary Dealers relates to the ability to efficiently sell securities either as a normal part of managing the portfolio or when there is need to quickly and prudently divest of certain holdings. This is commonly referred to as 'market liquidity' which is one of three mandated tenets in the California Government Code.

Wells Fargo has been an exemplary source of providing liquidity, including during the financial crisis of 2008-2009, in which most broker/dealers were unwilling to transact with many financial institutions -- including the City.

It should be noted in support of the actions taken by the State of California, Finance suspended all broker/dealer related transactions and purchases of any debt related securities associated with Wells Fargo Bank in September of 2016.

B. Report with a list of financial institutions with an investment in the Dakota Access Pipeline.

Based on research conducted on Bloomberg by Finance staff, a \$2.5 billion funding that closed on August 2, 2016 for borrower Dakota Access LLC was identified. The following seventeen lenders were identified for this loan:

- Bank of Tokyo-Mitsubishi UFJ Ltd
- BayernLB
- BBVA Securities Inc
- BNP Paribas
- Citibank NA
- Credit Agricole Corp and Investment Bank
- DNB Capital LLC
- ICBC London PLC
- ING Bank NV
- Intesa Sanpaolo NY
- Mizuho Bank LTD NY
- Natixis NY
- SMBC Nikko Securities America Inc
- Societe Generale
- Suntrust Robinson Humphrey
- TD Securities USA LLS
- Wells Fargo

Note that the above listing is specific to a single borrowing at a point in time and does not necessarily reflect a current list of debt holders, and does not necessarily reflect all loans involved in the Dakota Access Pipeline nor all loans provided to the companies responsible for the Dakota Access Pipeline.

C. Report on a definition of social responsibility and the factors that will be used to determine a financial institution's social responsibility as it relates to the RFP process.

A measure of “social responsibility” will be factored into the scoring of the City’s upcoming RFP for general banking services. The definition of social responsibility will be largely guided by the City’s Responsible Banking Ordinance (RBO) and the Federal Community Reinvestment Act (CRA). Specifically, Council instructed (Council File No. 17-0330) that the City consider the financial institution’s CRA score, recent regulatory enforcement actions, and compliance with the RBO in the City’s upcoming RFP for general banking services.

Additional factors that are anticipated to be required and reviewed include:

- Local charitable works
- Los Angeles community programs
- Los Angeles banking services footprint and accessibility
- Los Angeles community development loans and investments
- Los Angeles home mortgage issues
- Los Angeles home and small business loans
- Los Angeles minority-owned, women-owned, and disabled-owned business loans
- Los Angeles lending and affordable housing development
- Los Angeles real estate owned property and maintenance

In addition to the above, qualifying requirements for bidders will include an overall CRA rating of at least “Satisfactory”.

D. Detail the types of financial services Wells Fargo provides and the costs associated with each service and details on the dollar amount associated with the deposits the City makes and how the City can help smaller institutions determine if they can handle the volume.

The following breaks down banking services under the City’s Wells Fargo contracts by service provider and amount. A number of services under the Wells Fargo agreements are provided by sub-contractors.

Table of Services and Payments Contracted with Wells Fargo in Fiscal Year (FY) 2016-17

Service	Service Provider	FY 16-17 \$ Paid
Disbursement	Wells Fargo	\$234,337
Cash Vault	Wells Fargo	\$289,743
Armored Car	Brinks & Garda	\$379,446
Payment Card Industry Compliance	Trustwave	\$400,147
Lockbox	Wells Fargo	\$745,890
General Banking	Wells Fargo	\$1,856,804
Merchant Services*	Wells Fargo	\$3,948,583
Merchant Services*	Elavon	\$9,816,155
Grand Total		\$17,671,105

* Note that Merchant Services amounts include interchange and assessment fees to Visa, MasterCard, and Discover passed through Wells Fargo and Elavon.

The average annualized daily collected balance of cash deposits at Wells Fargo was approximately \$94.5 million in FY 2016-17. This cash effectively represents the City’s daily operating cash requirements. The bank is required to provide an earnings allowance to the city as well as collateralize these deposits with eligible securities as dictated by California State Code 53630. This is a requirement for any and all banks maintaining public fund deposits. All cash not required for daily operations is invested by the City Treasurer in the City’s investment pool.

While the overall banking requirements of the City are significant, there are strategies that Finance will pursue in the RFP process to maximize competition and provide potential opportunities for multiple banks of various sizes to compete for City banking services. The strategies to be pursued include:

1. Outreach – Finance will seek to distribute the City’s general banking services RFP to all financial institutions (banks, credit unions, and community development financial institutions) with a presence in the City of Los Angeles.
2. Unbundling – Certain services that can be provided by third parties will be unbundled from the general banking services RFP and will be separately sought by City bid

process and/or competitively bid cooperative agreement, such as possibly merchant services, payment card industry validation services, and armored car services.

3. Multiple Banks – The scope of services will be segmented into sections allowing bidders to bid on the sections they are able to perform rather than requiring a specific bank that can provide all functions that the City requires.

E. *Provide information on what other cities have done relative to divestment with Wells Fargo, how fast they were able to do so, and how they worked through those challenges.*

Attachment A lists the divestment actions of 29 jurisdictions. Note that this list is not comprehensive of all government jurisdictions' divestment actions nor does the information reported purport to be up to the current date: the information reflects what Finance was able to identify using the internet in searching news stories and council files.

In reviewing the divestment actions undertaken by various jurisdictions, there are a number of common actions taken:

- Issuance of a new RFP for banking services
- Suspension of investments
- Suspension of broker/dealer services
- Suspension of underwriter services

Suspension of investment, broker/dealer, and underwriter services generally pertain to future agreements or activities and thus can be suspended more readily than an existing ongoing service such as for general banking. Immediate divestiture or suspension of banking services are not common actions taken among those jurisdictions listed; most jurisdictions are pursuing an RFP process rather than immediate banking services cancellation.

Since September 2016, the City Treasurer has not invested in nor used broker/dealer services with Wells Fargo. The City Treasurer is also preparing an RFP for general banking services to be reported to Council prior to release, in accordance with Council File No. 17-0330.

F. *Provide recommendations for the City to create its own Community Investment Act, scoring systems, and a board or panel that would review and score companies with which the City does business in banking and other areas so decisions can be made in a systematic and objective manner; with the report to include an analysis of feasibility, benefits, and costs of a separate City evaluation mechanism that would be in addition to, or instead of, the current ranking system.*

Finance is currently finalizing a City general banking services RFP to be released as soon as possible. Finance has developed a scoring system and criteria including "social responsibility" as identified under Item C of this report that will be a factor for recommending award of the general banking services contract. It is recommended at this time to proceed with the current

ranking system, which incorporates the Federal CRA and the City's RBO, to be administered by a review panel consisting of City personnel.

Development of a City Community Investment Act (Act) and putting it into place would likely take some time and possibly incur some costs depending on the nature and composition of the system put into place. Such an Act would likely impact City departments beyond Finance, as departments including the City Administrative Officer, Department of Water and Power, Los Angeles World Airports, Port of Los Angeles, Bureau of Sanitation, Housing and Community Investment, Economic Workforce Development, and Personnel all directly engage with banks. Given the potentially broad impact and compact timeline for awarding banking services, it is recommended that a working group of impacted departments continue to develop a proposal for future consideration.

If there are further questions, please contact Todd Bouey, Assistant Director of Finance, at (213) 978-1776 or by e-mail at todd.bouey@lacity.org.

Sincerely,



Claire Bartels
Director of Finance / City Treasurer

Attachment

cc: Miguel Sangalang, Deputy Mayor, Budget and Innovation, Mayor's Office

Divestment Actions by Jurisdiction

Jurisdiction	Divestment Actions Description
Alameda, CA	<p>On February 21, 2017, the Council voted to issue a new RFP for banking services, excluding Wells Fargo from the RFP process, and to refrain from investing in Wells Fargo securities for 3 years.</p> <p>On April 18, 2017, the Council approved a new investment policy to ban investment in all Wells Fargo securities through 2020 and liquidate current securities before the new fiscal year.</p>
Asheville, NC	<p>On March 28, 2017, the Finance Committee requested a report back from staff on changing the city's banking services.</p>
Berkeley, CA	<p>On May 30, 2017, the City passed a resolution extending its banking contract with Wells Fargo to May 2018. The City will seek to unbundle and rebid some ancillary services such as armored courier prior to new bid. A new RFP is to include criteria on social and environmental responsibility requirements for banks. A new RFP is to exclude financial institutions that service, support or construct fossil fuel projects, environmentally extractive projects, or private prisons. The RFP will also exclude institutions that engage in discriminatory lending or fraudulent misconduct.</p>
Chicago, IL	<p>On October 3, 2016, the City Treasurer announced beginning divestment of \$25 million the City had invested with Wells Fargo.</p> <p>Council passed an Order on October 5, 2016, prohibiting all City corporate officers from conducting business with Wells Fargo or using Wells Fargo's financial services for a year and encouraging City pension funds to divest from any holdings in Wells Fargo.</p> <p>On April 19, 2017, an Order was introduced to divest and cease all services (depository, underwriter, trustee, broker, financial advisor) from six current City contracted banks funding the DAPL for the next three years and to encourage the City pension funds to divest all investments with these banks.</p>
Davenport, IA	<p>The city issued an RFP on April 28, 2017 due to Wells Fargo's (current bank) lowered CRA rating and the resulting recommendation was disqualification of Wells Fargo due to CRA rating.</p>
Davis, CA	<p>On February 7, 2017, Council voted to issue a new RFP for banking services that bars Wells Fargo from participating. A new RFP was issued on April 6, 2017.</p> <p>On February 21, 2017, the Finance department updated the City investment policy to include social responsibility investment policies.</p>
East Orange, NJ	<p>On February 15, 2017, the City adopted a resolution suspending all new business with Wells Fargo for five years, moving all funds and assets out of Wells Fargo within six months, beginning proceedings to debar Wells Fargo from future business with the City, and to evaluate other financial institutions used by the City. In April 2017, a press report stated that the City had reported completing closure of all of its accounts; however, it was not specified as to what this entailed.</p>
Los Angeles County	<p>On October 11, 2016, the County Treasurer suspended Wells Fargo's participation in the County's Group Banking Program for the two-year period of the corrective action plan and recorded the suspension in the County's Contractor Alert Reporting Database. The Group Banking Program allows banks currently under contract with the Treasurer to offer County employees customized bank products and service benefits.</p> <p>On March 28, 2017, the County Treasurer announced that the County would begin the process of transferring depository and remittance processing services to other banks with which the County has contracts.</p>

Divestment Actions by Jurisdiction

<p>Minneapolis, MN</p>	<p>On June 30, 2017, the Council adopted a policy that the City will choose larger banking contracts based upon the lowest cost, breadth, and quality of services, and security with the existing Responsible Banking Ordinance lens, and additionally break apart some contracts when feasible with an emphasis on supplier diversity and elements of municipal banking. Directed staff to draft a Socially Responsible Procurement and Contract Policy for all City procured goods and services. Directed staff to report back with requirements for completing a feasibility study on establishing a public bank.</p>
<p>Missoula, MT</p>	<p>On April 3, 2017, the Council passed a resolution calling to divest the City's current monetary accounts from Wells Fargo unless and until Wells Fargo (City held a money market account with Wells Fargo) is able to be identified as a financial institution engaging in fair and responsible business practices.</p>
<p>New York, NY</p>	<p>On May 31, 2017, the New York City (NYC) Banking Commission voted to designate Wells Fargo as a depository bank under the "necessity exception" as complete and immediate divestment would be disruptive. No new contracts will be made or expired contracts renewed until Wells Fargo improves its federal CRA rating and is designated as a NYC depository bank without the necessity exception. It was also announced in the press that the City would ban Wells Fargo from running municipal bond sales for a year, but will make an exception for affordable housing bonds.</p>
<p>Oakland, CA</p>	<p>On February 21, 2017, Council passed a resolution urging CalPERS to divest from any firms involved with the DAPL. On March 7, 2017, Council voted not to extend a contract with JP Morgan Chase over the DAPL, but revoted to extend the contract as ending banking services would be too disruptive. The City will instead rebid the contract for general banking services and is conducting a feasibility study on creation of a public bank.</p>
<p>Palo Alto, CA</p>	<p>In April 2017, the City Manager issued a report recommending that the City continue using existing banking services, including Wells Fargo lockbox service, as ending these contracts would be disruptive. The City has currently suspended use of Wells Fargo as one of its broker/dealers for investments.</p>
<p>Philadelphia, PA</p>	<p>On September 29, 2016, the Council authorized the Finance Committee to hold hearings on the feasibility of removing Wells Fargo as depository bank for the City. Following an RFP process, Citizens Bank was chosen for handling the City's payroll banking services. In May 2017, Council approved the transition of payroll services from Wells Fargo to Citizens Bank. Wells Fargo continues to provide City depository services.</p>
<p>Portland, OR</p>	<p>The City amended its investment policy to eliminate all investment in corporate securities in response to concerns about investments in companies with environmental and social concerns. Divestment will occur over a period of time as existing investments expire.</p>

<p>San Francisco, CA</p>	<p>On September 23, 2016, the Treasurer announced that Wells Fargo was suspended as a recommended bank from the San Francisco Office of Financial Empowerment's program "Bank on San Francisco" that connects low-income San Franciscans to safe, accessible, and low-fee accounts.</p> <p>December 7, 2016, the Controller issued a memo recommending:</p> <ul style="list-style-type: none"> - Two year suspension of Wells Fargo's provision of broker/dealer commercial banking and commercial dealer services - Two year removal of Wells Fargo from consideration for the provision of securities investments and counterparty/repurchase agreements <p>On December 23, 2016, the Board passed a resolution agreeing with the Controller's recommendations and urging city departments to adopt recommendations made by the Controller as well as the following:</p> <ul style="list-style-type: none"> - That Wells Fargo identify the specific "Improper Sales Practices" that took place in San Francisco - Identify all San Francisco Customers affected by Improper Sales Practices - Provide a redress plan for San Francisco Affected Customers - Provide evidence that all San Francisco Affected Customers have been repaid consistent with the Consent Order - Provide the Independent Consultant's Report and Compliance Plan and evidence that it has been implemented in San Francisco - Urge the Retirement Board to terminate all financial dealings with Wells Fargo <p>On March 14, 2017, the Board passed a resolution urging the Treasurer to update the City's Investment Social Responsibility Matrix to exclude Dakota Access Pipeline financiers.</p>
<p>Santa Clara County</p>	<p>On October 18, 2016, the Board directed administration to suspend investments by the Controller-Treasurer's Office in all Wells Fargo securities; suspend the use of Wells Fargo as a broker-dealer for purchasing of investments; and suspend Wells Fargo as a managing underwriter on County debt issuances, all for a period of two years.</p>
<p>Santa Monica, CA</p>	<p>On February 1, 2017, Council directed staff to sell off investments in Wells Fargo valued at \$4.6 million (at \$120,000 loss to City). No new Wells Fargo securities will be purchased for a minimum of five years.</p> <p>On February 28, 2017, Council passed a resolution instructing the Director of Finance to issue a new RFP for banking services, issue a new RFP for investment portfolio custodial services, and immediately end use of Wells Fargo as a broker/dealer.</p>
<p>Seattle, WA</p>	<p>On October 6, 2016, the City discontinued negotiations with Wells Fargo as lender on a \$100 million bond financing for Seattle City Light.</p> <p>On February 7, 2017, the Council passed an ordinance discontinuing the City's existing banking services agreement beyond the term of the current contract through 2018, undertaking a new competitive bidding process for depository banking services including socially responsible banking as a factor, and to refrain from new cash investments in Wells Fargo securities for at least three years.</p>

Divestment Actions by Jurisdiction

<p>State of California</p>	<p>On September 28, 2016, the State Treasurer announced a freeze for at least one year on a series of long-standing business arrangements with Wells Fargo. The measures specifically:</p> <ul style="list-style-type: none"> -Suspend investments by the Treasurer's Office in all Wells Fargo securities. -Suspend use of Wells Fargo as a broker-dealer for purchasing of investments by his office. -Suspend Wells Fargo as a managing underwriter on negotiated sales of California state bonds, where the Treasurer appoints the underwriter. <p>The sanctions remain in place for 12 months and will be lifted if Wells Fargo can show that it is in full compliance with settlement agreements reached with federal and state regulators.</p> <p>An Assembly Bill (AB-20) is being considered requiring the boards of the Public Employee and State Teacher Retirement Systems to consider tribal sovereignty and indigenous tribal rights when making investments and to create a report detailing all investments related to the DAPL by April 2018.</p>
<p>State of Illinois</p>	<p>In October 2016, the State Treasurer announced the suspension of the use of Wells Fargo as a broker/dealer and investment in Wells Fargo debt securities for a period of one year.</p>
<p>State of Massachusetts</p>	<p>In October 2016, the State Treasurer announced the suspension of Wells Fargo as an approved bond underwriter for one year.</p>
<p>University of California</p>	<p>The University of California (UC) retracted a \$300 million line of credit and a \$150 million interest reset contract with Wells Fargo. This follows the termination of a \$25 million commercial paper contract with Wells Fargo by the UC in November of 2016.</p>
<p>Washington, DC</p>	<p>In October 2016, the Treasurer placed a one-year hold on new investment and bond issuance activities with Wells Fargo.</p> <p>In March 2017, a resolution was introduced requesting the Finance department to assess Wells Fargo's relationship and consider full divestment, to consider feasibility of establishing a public banking system, and to reaffirm the City's commitment to socially responsible business practices.</p>
<p>West Hollywood, CA</p>	<p>In February 2017, the Council instructed City staff to develop standards of social consciousness for City contractors.</p>