

EQUAL BENEFITS ORDINANCE

FACT SHEET

(June 4, 2001)

PURPOSE, DEFINITIONS AND PROVISIONS OF THE EBO

Purpose

The purpose of the EBO is to eliminate discrimination in the provision of benefits between married and unmarried employees by offering domestic partners the same access to benefits that are available to spouses. Contractors and vendors that do not have employees or do not provide employees' spousal benefits are not required to change their benefits policies. Also, businesses that are located in the City but are not doing business with the City are not affected by the EBO.

Definition of Domestic Partner

A concern expressed by contractors or vendors required to conform to an EBO is how to define domestic partner to prevent potential for abuse. The City's EBO addresses this concern by using the following definition of a domestic partner: "any person who has a currently registered domestic partnership with a governmental body pursuant to state or local law authorizing such registration or with his/her employer or his/her domestic partner's employer." The City of Berkeley registers domestic partners through the City Clerk's office.

Provisions of the EBO

Covered Benefits

The ordinance covers all benefits that an employer offers its employees, which include but are not limited to, health benefits, bereavement leave, family medical leaves, membership and membership discounts, moving expenses, retirement benefits, and travel benefits. A cash equivalent payment is permitted if an employer has taken all reasonable efforts to provide their domestic partner with access to benefits but is unable to do so. A situation in which a cash equivalent payment might be used is if the employer has difficulty finding an insurance provider that is willing to provide domestic partner benefits.

Covered Employers

- For-profit employers that have a contract with the City for the purchase of goods, services, public works or improvements, and other construction projects in the amount of \$25,000 or more

- Nonprofit employers that have a contract with the City for the purchase of goods, services, public works or improvements, and other construction projects in the amount of \$100,000 or more
- Lessees of public property, licensees, concessionaires, and franchisees that generate more than \$350,000 or more in annual gross receipts
- Entities which receive a grant of \$100,000 or more

Waivers and Exceptions

The City Manager may waive compliance with the EBO under the following circumstances:

1. Award of a contract or amendment is necessary to respond to an emergency
2. The contractor is a sole source provider
3. No compliant contractors are capable of providing goods or services that respond to the City's requirements
4. The contractor is a public entity
5. The EBO requirements are inconsistent with a grant, subvention, or agreement with a public agency
6. The City is purchasing through a cooperative or joint purchasing agreement
7. Specialized litigation agreements
8. Certain investment agreements
9. The requirements of the EBO would result in the City's entering into a contract with an entity that was set up or is being used for the purpose of evading the intent of the ordinance

Delays and Options for Compliance

The EBO includes provisions that address difficulties associated with implementing procedures to provide domestic partner benefits. Contractors can delay implementation of policies to comply with the EBO in the following situations:

- (1) until the first effective date after the first open enrollment process following the contract execution date, not to exceed two years if the Contractor submits evidence of engaging in reasonable efforts to comply with the EBO;
- (2) until administrative steps can be taken to incorporate nondiscrimination in benefits in the contractor's infrastructure, not to exceed three months, unless extended at the discretion of the City Manager; and
- (3) until the expiration of a Contractor's current collective bargaining agreement(s)

Certification, Filing and Reporting Requirements

Along with the requirements summarized above and those contained in the EBO, the Contractor must also comply with the following reporting requirements.

1. Responding to the bid or RFP: When responding to a bid or RFP, the bidder must sign the EBO disclosure form.
2. Prior to execution of a contract: The contractor is required to submit to the City the EBO Certification Form (EBO-1). A contract will not be approved if the Contractor is not in compliance with the EBO unless it has been granted a waiver.
3. Contract Amendments: Contractors with contracts in force before the July 1, 2001 EBO effective date will be required to comply with the requirements of the EBO at the time a contract is amended if the contract is amended on or after July 1, 2001.