

# CITY OF SACRAMENTO

## AN ORDINANCE

### NON-DISCRIMINATION IN EMPLOYEE BENEFITS BY CITY CONTRACTORS

#### Frequently Asked Questions - For Contractors' Use

This document contains information on the most important questions about Sacramento's Non-Discrimination in Employee Benefits by City Contractors Ordinance. These questions and answers are general; see the text of the Ordinance for a more detail explanation.

Q. What is the purpose of Sacramento's Non-Discrimination in Employee Benefits by City Contractors Ordinance?

A. The purpose of the Ordinance is to prohibit contractors from discriminating between employees with spouses and employees with domestic partners, and from discriminating between the spouses and domestic partners of employees, in the provision of employee benefits.

The Ordinance does not require contractors, who do business with the City, to provide employee benefits. It does, however, require those contractors who do business with the City and who do provide employee benefits, to provide those employee benefits without discrimination.

Q. What is the effective date of the Ordinance?

A. The Ordinance applies to any contract which has a bid submittal due date on or after April 1, 2005.

Q. What is the definition of "Contractor"?

A. For the purpose of this Ordinance, a Contractor is any person who is a party to an applicable City Contract or Agreement who, in the normal course of business, provides for the performance of public works or improvements, the purchase of goods or services, or grants.

Q. What is the definition of "Employee"?

A. Employee means an individual who performs work directly related to an applicable City Contract, whether the individual works full-time or part-time, is a contingent or contract employee, or is made available to work on the City Contract through a temporary-services agency or similar entity.

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"Employee" does not include:

- Individuals who participate in job-training and education programs that have, as their express purpose, the provision of basic job skills and education to participants with the goal of earning a high-school equivalency diploma and permanent employment.
- Student interns.
- Individuals participating in specialized training programs.

Q. What is the definition of "Domestic Partner"?

A. Domestic Partner means any person who has a currently registered Domestic Partnership with a governmental entity pursuant to state or local law authorizing the registration.

Q. What are "Employee Benefits"?

A. Employee Benefits subject to the Ordinance are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership benefits
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefit offered to employees

Q. What are some conditions that can be met to preclude discrimination in providing employee benefits?

A. If it costs more to provide a certain benefit for the domestic partner of an employee than it costs to provide that same benefit for the spouse of an employee, or if it costs more to provide a certain benefit for the spouse of an employee than it costs to provide that same benefit for the domestic partner of an employee, the contractor will not be deemed to discriminate in the providing employee benefits if the contractor conditions providing the benefit if the employee agrees to pay the excess costs.

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In the event a contractor is unable to provide a certain benefit to both the spouse or domestic partner of employees, despite taking reasonable measures to do so, the contractor will not be deemed to discriminate in the providing employee benefits if the contractor provides the employee with a cash equivalent.

A contractor will not be deemed to be discriminating in providing employee benefits if the contractor does not provide employee benefits to employees' spouses or to employee's domestic partners or on a basis that is unrelated to marital or domestic partner status.

- Q. What "applicable contracts or agreements" are subject to the Ordinance?
- A. Contracts or Agreements subject to the Ordinance are those contracts or agreements with the City, executed in an amount exceeding \$100,000.00 (either initial value or total value after any addition or modification), which provide for the performance of public works or improvements, the purchase of goods or services, or grants to be provided, but only to the extent of the contractor's operation that occurs:
- Within the City of Sacramento
  - On real property outside the City of Sacramento:
    - If the property is owned by the City, or
    - If the City has a right to occupy the property
    - Elsewhere in the United States, at any location where a significant portion of work related to the contract is being performed.

The Ordinance also applies to written agreements for the exclusive use or occupancy of real property, for a period of time exceeding 29 days in any calendar year for:

- The operation or use by others of real property owned or controlled by the City (whether by leases, concessions, franchises, or easements), for the operation of a business, social or other establishment or organization.
- The City's use or occupancy of real property owned by others (whether by leases, concessions, franchises, or easements).

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The Ordinance does not apply to:

- Transactions entered into pursuant to cooperative purchasing agreements approved by the City Council.
- Legal contracts of other governmental jurisdictions or public agencies without separate competitive bidding by the City.
- Subcontractors or subcontractors of any contract or contractors.
- Contracts covering excavation, street construction or street use permits, agreements for the use of City right-of-way where a contracting utility has the power of eminent domain
- Agreements governing the use of City property that constitutes a public forum for activities that are primarily for the purpose of espousing or advocating causes or ideas and that are generally recognized as protected by the First Amendment to the U. S. Constitution, or that are primarily recreational in nature.

Q. Is it possible to waive the provisions and requirements of the Ordinance?

A. Yes. The City Manager, or designee, may waive the requirements of the Ordinance under designated circumstances. All requests for waiver need to be detailed, in writing, and routed through the Project Manager for initial review and approval.

Q. Am I required to provide employee notification regarding the Ordinance?

A. Yes. Contractors subject to the Ordinance must give to each current employee **(WORKING DIRECTLY ON THE CONTRACT)** and, within ten (10) days of hire, each new employee **(WHEN WORKING DIRECTLY ON THE CONTRACT)**, written notification of his or her rights under the Ordinance in a form specified by the City. (See Sample Letter; Attachment A). A copy of each such letter must be retained in an appropriate file for possible future review by an authorized City representative.

In addition, a similar notice must be prominently posted in areas where it may be seen by all employees. (See Sample Poster; Attachment B).

# **CITY OF SACRAMENTO**

## **AN ORDINANCE**

### **NON-DISCRIMINATION IN EMPLOYEE BENEFITS BY CITY CONTRACTORS**

#### **Frequently Asked Questions - For Contractors' Use**

Q. If I have questions about the Ordinance or its application, who can I contact for assistance?

A. You can contact the Program Administrator at:

City of Sacramento  
Procurement Services  
915 I Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814-2714  
(916) 808-6240  
(916) 808-5747 (Fax)

## Attachment A



### YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

On ..... (date), your employer (the "Employer") entered into a contract with the City of Sacramento (the "City") for ..... (contract details), and as a condition of that contract, agreed to abide by the requirements of the City's Non-Discrimination In Employee Benefits Code (Sacramento City Code Section 3.54).

The Ordinance does not require the Employer to provide employee benefits. The Ordinance does require that if certain employee benefits are provided by the Employer, that those benefits be provided without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouse or domestic partner of employees.

The Ordinance covers any employee working on the specific contract referenced above, but only for the period of time while those employees are actually working on this specific contract.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

(Employee Benefits does not include benefits that may be preempted by federal or state law.)

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, or in the application of these employee benefits, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of the Ordinance, and after having exhausted all remedies with your employer,

#### You May . . .

- Submit a written complaint to the City of Sacramento, Procurement Services containing the details of the alleged violation. The address is:

City of Sacramento  
Procurement Services Division  
915 I Street, Second Floor  
Sacramento, CA 95814

- Bring an action in the appropriate division of the Superior Court of the State of California against the Employer and obtain the following remedies:
  - Reinstatement, injunctive relief, compensatory damages and punitive damages
  - Reasonable attorney's fees and costs

## Attachment B



### **YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE**

If your employer provides employee benefits, they must be provided to those employees working on a City of Sacramento contract without discriminating between employees with spouses and employees with domestic partners.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

If you feel you have been discriminated against by your employer . . .

#### **You May . . .**

- Submit a written complaint to the City of Sacramento, Contract Services Unit, containing the details of the alleged violation. The address is:  
  
City of Sacramento  
Procurement Services Division  
915 I Street, Second Floor  
Sacramento, CA 95814
- Bring an action in the appropriate division of the Superior Court of the State of California against the employer and obtain reinstatement, injunctive relief, compensatory damages, punitive damages and reasonable attorney's fees and costs.

#### **Discrimination and Retaliation Prohibited.**

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of this Ordinance . . .

#### **You May Also . . .**

Submit a written complaint to the City of Sacramento, Procurement Services, at the same address, containing the details of the alleged violation.