



**Equal Benefits Program
Frequently Asked Questions**

CITY OF SEATTLE

SMC Ch.20.45

City Contracts – Non-Discrimination in Benefits

QUICK REFERENCE CHART

<i>If your company is seeking to enter into a *contract with the City of Seattle and</i>	<i>the law requires...</i>
currently does not provide benefits to any employees	NO CHANGE to your benefits policy
currently provides an employee benefits package that covers employees only (not spouses)	NO CHANGE to your benefits policy
currently provides an employee benefits package that covers employees' spouses	that you offer an EQUIVALENT BENEFITS PACKAGE to employees with a domestic partner

The following questions are answered in this document:

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What does the Equal Benefits ordinance require?

The law requires, whenever possible, that the City contract for public works, consultant services, or purchasing goods and services with businesses that do not discriminate in the provision of benefits between employees with spouses and employees with domestic partners. If a business is not contracting with the City of Seattle, the law does not apply to that business.

When does this requirement go into effect?

The law applies to City contracts awarded on or after September 30, 2000. Although the ordinance was passed at the end of November, 1999, the delayed effectiveness allows time for the City to develop the program and to work with City project managers and contractors in order to familiarize them with the requirement and allows contractors to, if necessary, make appropriate benefits adjustments.

Which contracts are covered by this law?

The law applies only to City of Seattle contracts for public works, consulting services, and purchasing goods and services that meet all of the following criteria:

- 1) The contract is awarded on or after September 30, 2000;
- 2) The contract is worth \$44,000 or more (the City's competitive bid threshold, adjusted annually with inflation);
- 3) The contractor offers a benefits plan to their employees; and
- 4) The contractor's benefits plan covers employee spouses.

Does this law apply to subcontractors?

No. Subcontractors on City contracts are not required to comply with this law.

What benefits are covered by this law?

The law applies to all benefits that a contractor provides to employees who have spouses and all benefits offered directly to such spouses. The law requires parity – that an equivalent benefits package be offered to employees with domestic partners. In some circumstances, equivalent but different (i.e. cash) benefits may be substituted.

Employee benefits typically include: 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; and travel benefits. An employer's benefits plan may include all, just a few, or none of the above benefits.

Are there situations where the City can waive the equal benefits requirement?

Yes. A City department may request waivers from the Department of Executive Administration in the following situations:

- There is only one source for a needed good or service;

- Award of a contract or amendment is necessary to respond to an emergency;
- No compliant contractors are capable of providing goods or services that respond to the City's requirements;
- The contractor is a public entity;
- The requirements are inconsistent with a grant or agreement with a public agency;
- The City is purchasing through a cooperative or joint purchasing agreement with other government or non-profit entities.

What if a contractor can't implement benefits changes immediately?

In the event that a Contractor is unable to implement equal benefits before the date the contract with the City is executed, the Contractor may request authorization from the Contracting Services Division to enter into the contract in spite of this delay. A delay may be authorized only under the following circumstances:

- 1) Open Enrollment Delay: the Contractor is unable to make the required changes to its benefits policy until the next open enrollment period for that policy, provided that this delay may not exceed twelve (12) months from the date of the contract with the City.
- 2) Administrative Delay: the Contractor is unable to complete administrative steps necessary to incorporate equal benefits into the Contractor's infrastructure before the date of the contract with the City, provided that such delay may not exceed three (3) months from the date of the contract with the City.
- 3) Collective Bargaining Delay: the benefits at issue are subject to a current Collective Bargaining Agreement ("CBA") and the Contractor cannot negotiate for changes to its benefits policies until the current CBA has expired or is re-opened.

What is a domestic partner?

For the purposes of this law, a domestic partner is someone whose domestic partnership is registered either with the employer's internal registry or with a local government entity, pursuant to state or local law. The City of Seattle has a domestic partner registry that is open to anyone who would like to register his or her domestic partnership (not just Seattle residents).

What criteria define a domestic partnership?

The following criteria for domestic partnerships have gained general acceptance from insurance providers and are commonly used in the administration of employee benefits.

The employer may require employees to affirm that they:

- 1) share the same regular and permanent address;
- 2) have an intimate, committed relationship of mutual caring;
- 3) not be married to anyone;
- 4) be jointly responsible for basic living expenses;
- 5) each be eighteen years of age or older;
- 6) not be related by blood closer than would bar marriage;
- 7) have been mentally competent to contract when their domestic partnership began; and
- 8) be each other's sole domestic partner and responsible for each other's common welfare.

If an employer decides to implement an internal domestic partner registry, they may not be unreasonably restrictive in defining eligibility for domestic partnership recognition.

Parameters for an employer-provided registry are further defined in the Equal Benefits Program Rules.

How does a contractor verify the existence of a domestic partnership?

A contractor may take steps to verify the existence of a domestic partnership to the same extent they require verification of a marriage. For example, if the contractor requires married employees to produce a marriage license, the contractor may also require an employee to produce a certificate of domestic partnership. Many companies, including the City of Seattle, simply require employees to sign an affidavit of marriage/domestic partnership.

Are there insurance companies in Washington State that will cover domestic partners?

Yes. According to the Washington State Insurance Commissioner's office, domestic partner coverage is available to large employers (over 50 employees) or employer pools at the consumer's request. The Commissioner's office knows of no insurance carrier operating in Washington State who, as a rule, would not provide such coverage if their customer requested it.

Several insurance carriers are currently reviewing their policy of limiting domestic partner coverage to large groups only. Some carriers have changed their policy and will now underwrite domestic partner coverage for small groups. As this is a rapidly changing area, we suggest you contact your insurance carrier to determine what their policies are regarding domestic partner coverage.

More Information

For more information about Seattle's Equal Benefits Program, please contact the Contracting Services Division at (206) 684-0430.