



SAN MATEO COUNTY FREQUENTLY ASKED QUESTIONS EQUAL BENEFITS ORDINANCE

WHO is affected by this law?

Contractors: Any contractor entering into or amending an existing Agreement with San Mateo County after July 1, 2001 for public works, consulting, or other services, or for the purchase of supplies, material, or equipment in excess of \$5,000 must offer equal benefits to their employees.

Subcontractors: Subcontractors are not required to comply with this Ordinance. (Note: Per 2.93.020 (b) 6. A contract may be terminated if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

WHO is the "Contracting Awarding Authority"?

The Contract Awarding Authority is the San Mateo County Board of Supervisors or the individual authorized by the Board of Supervisors to enter into contracts on behalf of the County.

WHAT benefits are included?

The law applies to all benefits, other than pension benefits, that a contractor provides to employees because they have a spouse (e.g., sick leave to care for a spouse) and all benefits offered directly to such spouses (e.g. medical insurance). The law requires that an equivalent benefits package be offered to employees with domestic partners. In some circumstances, equivalent but different (e.g. cash) benefits may be substituted.

Benefits include but are not limited to: bereavement leave; disability; life and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees.

WHAT is a domestic partner?

A domestic partner means any person who is registered as a domestic partner with the Secretary of State, State of California registry, or the registry of the state in which the employee is a resident.

A domestic partner shares a common residence, is jointly responsible for each other's basic living expenses, is not married or a member of another domestic partnership, is not related by blood in a way that would prevent us from being married to each other in this state, is over 18 years of age, and is capable of consenting to a domestic partnership.

WHAT if a contractor is unable to offer benefits equally?

A contractor can comply if it pays a cash equivalent equal to the contractor's cost of providing the benefit to an employee's spouse.

If the contractor's actual cost of providing a benefit for a domestic partner exceeds the cost of providing the benefit for a spouse, under the ordinance, the employee with the domestic partner may pay the excess cost.

WHAT if a contractor does not comply with the Equal Benefits Ordinance?

If the contractor does not comply the San Mateo County Board of Supervisors can impose sanctions, including but not limited to:

Disqualification of the contractor from bidding on or being awarded a County contract for a period of up to 5 years; and

Contractual remedies, including, but not limited to termination of contract;

Liquidated damages in the amount of \$2,500.

WHAT is the jurisdiction of the Ordinance in terms of the location of a contractor's operations?

The Ordinance applies to those portions of a Contractor's operations that occur within the County; on real property outside the County if the property is owned by the County or the County has the right to occupy the property, and if the contractor's presence at that location is connected to a contract with the County; and elsewhere in the United States where work related to a County Contract is being performed.

WHEN does compliance begin if the contractor has a collective bargaining agreement?

If the contract is awarded or amended after July 1, 2001, and the contractor is under a collective bargaining agreement, the Equal Benefits Ordinance will apply to any contract awarded or amended after the effective date of the next collective bargaining agreement.

WHEN may the requirements of the Equal Benefits Ordinance be waived?

The Board of Supervisors may waive the requirements of this Ordinance when it determines that it is in the best interests of the County. The County Manager may waive the requirements for contracts not needing the approval of the Board of Supervisors where the waiver would be in the best interest of the County for such reasons as, but not limited to:

The award of a Contract or amendment is necessary to respond to an emergency.

The contractor is the sole source.

No compliant contractors are capable of providing goods or services that respond to the County's requirements

The requirements are inconsistent with a grant, subvention or agreement with a public Agency.

The County is purchasing through a cooperative or joint purchasing agreement.

WHERE do I file a complaint if my employer does not comply with the Equal Benefits Ordinance?

If you wish to file a complaint against your employer, contact: County Counsel, 400 County Center 3rd. Floor, Redwood City, CA . 650-363-4250.



SAN MATEO COUNTY EQUAL BENEFITS PROGRAM FREQUENTLY ASKED QUESTIONS

On February 13, 2001, the Board of Supervisors of San Mateo County passed Ordinance NO. 04026, an Ordinance adding Chapter 2.93 to the San Mateo Ordinance Code to provide for non-discrimination by County contractors in the provision of employee benefits. Employee benefits routinely comprise a significant proportion of total employee compensation, and discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay. This Ordinance mandates that contractors provide to employees with domestic partners benefits equal to those provided to employees with spouses.

Chapter 2.93 COUNTY CONTRACTS--NON-DISCRIMINATION IN BENEFITS

[2.93.010 Definitions.](#)

[2.93.020 Discrimination in the provision of benefits prohibited.](#)

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2.93.010 Definitions.

For the purposes of this chapter:

(a) "Contract" means a legal agreement between the County and a contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.

(b) "Contractor" means a party who enters into a contract with the County.

(c) "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into contracts on behalf of the County.

(d) "Domestic partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.

(e) "Employee benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law. (Ord. 4026, 02/13/01)

2.93.020 Discrimination in the provision of benefits prohibited.

(a) No contractor on a County contract shall discriminate in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

(1) In the event that the contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of employee benefits if the contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.

(2) The contractor shall not be deemed to discriminate in the provision of employee benefits if, despite taking reasonable measures to do so, the

contractor is unable to extend a particular employee benefit to domestic partners, so long as the contractor provides the employee with a cash payment equal to the contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

- (1) Award of a contract or amendment is necessary to respond to an emergency;
- (2) The contractor is a sole source;
- (3) No complaint contractors are capable of providing goods or services that respond to the County's requirements;
- (4) The requirements are inconsistent with a grant, subvention or agreement with a public agency;
- (5) The County is purchasing through a cooperative or joint purchasing agreement.

(c) Contractors should submit requests for waivers of the terms of this chapter to the Contract Awarding Authority for that contract, or in the case of contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this chapter.

(e) No Contract Awarding Authority shall execute a contract with a contractor unless such contractor has agreed that the contractor will not discriminate in the provision of employee benefits as provided for in this chapter. (Ord. 4026, 02/13/01)

2.93.030 Application of chapter.

The requirements of this chapter shall only apply to those portions of a contractor's operations that occur (a) within the County; (B) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the County; and (c) elsewhere in the United States where work related to a County contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor. (Ord. 4026, 02/13/01)

2.93.040 Powers and duties of the County Manager.

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this chapter;
- (b) Receive notification from employees of contractors regarding violations of this chapter;

(c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this chapter by contractors including, but not limited to:

(1) Disqualification of the contractor from bidding on or being awarded a County contract for a period of up to 5 years, and

(2) Contractual remedies, including, but not limited to termination of contract,

(3) Liquidated damages in the amount of \$2,500;

(d) Examine contractors' benefit programs covered by this chapter;

(e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;

(f) Allow for remedial action after a finding of noncompliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this chapter. (Ord. 4026, 02/13/01)

2.93.050 Date of application.

The provisions of this chapter shall apply to any contract awarded or amended on or after July 01, 2001, provided that if the contractor is then signatory to a collective bargaining agreement, this chapter shall only apply to any contract with that contractor which is awarded or amended after the effective date of the next collective bargaining agreement. (Ord. 4026, 02/13/01)

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form

I Vendor Identification

Name of Contractor: _____

Contact Person: _____

Address: _____

Phone Number: _____ Fax Number: _____

II Employees

Does the Contractor have any employees? ___ Yes ___ No

Does the Contractor provide benefits to spouses of employees? ___ Yes ___ No

If the answer to one or both of the above is no, please skip to Section IV.

III Equal Benefits Compliance (Check one)

- Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
 - Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
 - No, the Contractor does not comply.
 - The Contractor is under a collective bargaining agreement which began on _____ (date) and expires on _____ (date).
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IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this _____ day of _____, 2005 at _____, _____
(City) (State)

Signature

Name (Please Print)

Title