



**City of Long Beach**  
*Working Together to Serve*

**Memorandum**

**Office of the City Attorney**

**DATE:** January 11, 2010  
**To:** Distribution  
**FROM:** Amy R. Burton, Deputy City Attorney, Ext. 82227 *ARB*  
**SUBJECT:** Equal Benefits Ordinance

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The City Council recently adopted an Equal Benefits Ordinance ("EBO"), which will take effect January 12, 2010 (see Ordinance No. ORD-09-0036, Attachment 1). The purpose of this memo is to explain the requirements of the ordinance and to introduce the new contract and procurement language required.

The EBO's Provisions

The EBO requires City contractors who provide benefits to employees with spouses to provide the same benefits to employees with domestic partners. This includes all benefits offered by an employer to its employees, such as health benefits, bereavement leave, family medical leave, retirement benefits, membership and discounts, moving expenses and travel benefits. Employers who do not offer spousal benefits will not be required to change their benefits policies.

The ordinance applies to City contracts with for-profit companies for public works or improvements to be performed, or goods and services to be purchased, over \$100,000. It also applies to leases of City property with for-profit entities with annual gross receipts in excess of \$350,000. The ordinance does not apply to non-profits. It does not apply to Long Beach companies who do not do business with the City. Finally, the EBO does not at this time apply to contracts made by the Water Board, the Redevelopment Agency or the Harbor, although those groups may decide to adopt a similar ordinance in the future.

Waivers and Exemptions

The EBO exempts certain kinds of contracts from its provisions, such as contracts with another public entity, contracts for certain investment services or legal representation. And even if the EBO applies to a contract, there are some circumstances in which the City Manager may decide that application of the EBO may not be in the City's best interest. Examples of such circumstances include emergencies, cooperative purchases, and purchases from the sole source of a commodity. In addition, delay of

implementation of the EBO may be allowed where the contractor is in the process of negotiating a new collective bargaining agreement with employees, or is verifiably in the process of change in company policy to become consistent with the EBO. The City Manager is required to report annually on the number of waivers and the reasons for them.

#### Bid and RFP Procedures

After January 12, 2010, all invitations to bid and requests for proposals for new contracts and leases meeting the applicable dollar threshold should advise potential bidders and proposers of the new requirements. Only invitations to bid and RFPs in the preparation stage will be affected. As the department responsible for administering the ordinance, Purchasing will incorporate the following forms into their standard template. The following attachments should be incorporated:

- Attachment 2 (Notice of EBO Requirement) – include in invitations to bid and RFPs
- Attachment 3 (Description of bidder/proposer employee benefits policies) – attach to invitation to bid or RFP
- Attachment 4 (Certification of Intent to Comply) – attach to invitation to bid or RFP
- Attachment 5 (Contract Language) – include in contract after award.

The standard City Attorney consultant contract and construction contract have already been updated to include this language.

#### Enforcement

Random auditing of contracts for compliance will be performed by Purchasing staff. In addition, employees of non-compliant companies may make complaints to Purchasing staff. Failure to comply with the terms of the EBO may result in termination of the contract and debarment of the contractor for up to three years.

Please feel free to contact me if you have questions.

#### Attachments

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cc: City Attorney's Office  
Suzanne Frick, Assistant City Manager  
Reginald Harrison, Deputy City Manager  
Michael Conway, Director of Public Works  
Lori Ann Farrell, Director of Financial Management  
Dennis Thys, Director of Community Development  
Mark Christoffels, City Engineer  
Erik Sund, Business Relations Manager  
Victor Grgas, Manager, Property Services Bureau  
Rich Suit, Administrative Analyst, Public Works