



CITY AND COUNTY OF SAN FRANCISCO CONTRACT MONITORING DIVISION

S.F. ADMINISTRATIVE CODE CHAPTERS 12B & 12C DECLARATION: NONDISCRIMINATION IN CONTRACTS AND BENEFITS

(CMD-12B-101)

The Equal Benefits Ordinance prohibits the City and County of San Francisco from contracting with vendors that discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and between the domestic partners and spouses of such employees.

- *Domestic Partners are same-sex and opposite-sex couples registered with any state or local government agency authorized to perform such registrations.*
- *Domestic partnerships and marriages may only be verified to the same extent and in the same manner. For example, waiting periods to qualify for benefits must be the same for domestic partners and spouses. Domestic partner registry certificates must be recognized as fully equivalent to marriage certificates.*

INSTRUCTIONS

STEP 1 Obtain a Vendor Number

- If you have already been issued a vendor number by the City & County of San Francisco, go to Step 2.
- To obtain a vendor number, contact Vendor File Support: vendor.file.support@sfgov.org or (415) 554-6702.

STEP 2 Complete this 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits form (CMD-12B-101)

STEP 3 Obtain the necessary supporting documentation

- Most recent legal verification of employee count/firm structure, for example, a W-3 Form, DE 1 Form, DE 9 Form or an annual San Francisco Payroll Expense Tax Statement. (Please redact confidential employee information.)
- A copy of a memorandum that has been distributed to your firm's employees detailing the firm's compliant nondiscrimination and domestic partner benefit policies. An example of a memorandum that includes all required confirmations is provided with this form and on the Contract Monitoring Division website. *Note: the memorandum is not a substitute for fully compliant incorporation of domestic partner language in all benefit policies.* Please contact the Contract Monitoring Division prior to distribution of the memorandum if you have questions.

STEP 4 Submit the 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits form (CMD-12B-101) and all supporting documentation to:

- cmd.equalbenefits@sfgov.org or
Contract Monitoring Division, 30 Van Ness Avenue, Suite 200, San Francisco, CA 94102-6020

◆ Section 1. Vendor Information

Name of Firm: _____

Name of Firm Contact Person: _____

Phone: _____ Ext.: _____

E-mail Address: _____

Vendor Number (if known): _____

Federal ID or Social Security Number: _____

Approximate Number of Employees in the U.S. (Do not count yourself): _____

Are any of your employees covered by a collective bargaining agreement or union trust fund?

Yes No

Union name(s): _____

DATE & TIME RECEIVED BY CMD
(FOR CMD USE ONLY)

◆ Section 2. Compliance Questions

Question 1. Nondiscrimination – Protected Classes

- A. Does your firm agree it will not discriminate against its employees, applicants for employment, employees of the City, or members of the public on the basis of the fact or perception of a person’s membership in the following categories? YES NO

Please note: a **YES** answer is required for compliance.

Race, Color, Creed, Religion, National origin, Ancestry, Age, Sex, Sexual orientation, Gender identity (transgender status), Domestic Partner status, Marital status, Disability, AIDS/HIV status, Height, Weight

- B. Does your firm agree to insert a similar nondiscrimination provision in any subcontract you enter into for the performance of a substantial portion of the contract you have with the City? YES NO

Please note: you must answer this question even if you do not intend to enter into any subcontracts, and a **YES** answer is required for compliance.

Question 2. Nondiscrimination – Equal Benefits for Employees with Spouses and Employees with Domestic Partners, and for the Spouse or Domestic Partner of an Employee

Questions 2A and 2B should be answered **YES** even if your employees pay some or all of the cost of spousal or domestic partner benefits.

- A. Does your firm provide or offer access to any employee benefits? YES NO
(If your firm does not have employees, answer **NO**)

- B. If you answered “Yes” to 2.A, are all of the benefits equally available to employees with domestic partners and employees with spouses? YES NO
(If your firm does not have employees, answer **NO**)

If you answered YES to either or both Questions 2A and 2B, please continue to Question 2C.

If you answered NO to both Questions 2A and 2B, please complete Section 3.

- C. Please check all benefits that apply to your answers above and list in the “Other” line any additional benefits not already specified. Note: some benefits are provided to employees because they have a spouse or domestic partner, such as bereavement leave; other benefits are provided directly to the spouse or domestic partner, such as dependent life insurance.

BENEFIT	Available to Employees	Available to/Affects Domestic Partners	Available to/Affects Spouses
• Health Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Dental Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Vision Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Retirement (Pension, 401(k), IRA, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Bereavement Leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Family Leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Parental Leave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Employee Assistance Program	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Relocation and/or Travel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Firm Discount, Facilities & Events	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Credit Union	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Child Care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Dependent Life Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Short-Term/Long-Term Disability Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Accidental Death & Dismemberment Insurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Other (Please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Other (Please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

D. Please **initial** all statements below that apply to your firm. **Please note:** in addition, a **YES** answer is required for compliance.

- Domestic partners are defined as same-sex couples and opposite-sex couples registered with any state or local registry and verify their relationship in the same manner as spouses. YES NO
- A memorandum detailing our firm’s domestic partner policies has been distributed to employees. YES NO
- The employee handbook includes domestic partner language wherever spouses are referenced. YES NO
- The children of domestic partners are explicitly included in all policies that recognize stepchildren. YES NO
- All insurance plans contain language that recognizes spouses and domestic partners equally. YES NO
- All retirement, 401(k) and similar plans explicitly provide the same distribution choices for spousal and domestic partner or nonspousal beneficiaries. YES NO

Note: If you can’t offer a benefit in a nondiscriminatory manner *because of reasons outside your control*, (e.g., there are no insurance providers in your area willing to offer domestic partner coverage) you may be eligible for Reasonable Measures compliance. To comply on this basis, you must agree to pay a cash equivalent, submit a completed Reasonable Measures Application Form (CMD-12B-102) with all necessary attachments, and have your application approved by the Contract Monitoring Division. For more information, see the Rules of Procedure or contact the Contract Monitoring Division.

COMPLIANCE AUDITS AND REQUIRED DOCUMENTATION

The City and County of San Francisco regularly audits firms to verify that the answers on this form are complete and accurate.

Please see the Chapter 12B Equal Benefits Documentation Guide for a detailed description of compliant documentation.

To be certified under Chapters 12B & 12C you must submit proper documentation confirming that your firm has already fully implemented equal benefits for employees with spouses and employees with domestic partners, and between the spouses and domestic partners of such employees. In addition to a compliant CMD-12B-101 Declaration, you must submit legal verification of your firm’s employee count and a copy of your compliant memorandum to employees that explains your firm’s nondiscrimination and domestic partner benefit policies. *Note: the memorandum is not a substitute for fully compliant incorporation of domestic partner language in your firm’s benefit policies.* You may also be required to provide benefit documentation to verify that your firm does not discriminate in the provision of benefits. Such documentation may include your employee handbook and confirmations from your insurance, union and retirement documents. Failure to offer benefits in accordance with the San Francisco Chapter 12B Equal Benefits Ordinance may result in suspension of your firm’s compliance status, financial penalties and/or the inability to contract with the City and County of San Francisco.

◆ **Section 3. Execute this CMD-12B-101 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 _____ in the year _____, at _____, _____
(City) (State)

Signature

Mailing Address

Name of Signatory (please print)

City, State, Zip Code

Title

- ▶ **Submit this form and supporting documentation to:** Contract Monitoring Division, 30 Van Ness Ave., Suite 200, San Francisco, CA 94102-6020, or to CMD.EqualBenefits@sfgov.org or to the City department that sent it to you if the department so requests.
- ✓ **Resource Materials** and additional copies of this form may be found at: www.sfgov.org/CMD.
- ☎ **For assistance**, please contact the Contract Monitoring Division at 415-581-2310.

EXAMPLE OF 12B COMPLIANT MEMORANDUM TO EMPLOYEES

[FIRM LETTERHEAD]

To: All [Firm Name] Employees
From: [Firm Representative Name, Title]
Re: Domestic Partner Benefit Policy
Date: [Date]

[Firm Name] does not discriminate based on the following protected categories:

Race, Color, Creed, Religion, National origin, Ancestry, Age, Sex, Sexual Orientation, Gender identity (transgender status), Domestic Partner status, Marital status, Disability, AIDS/HIV status, Height, Weight

[Firm Name] offers the following employee benefits equally to employees with spouses and employees with domestic partners, and to the spouses and domestic partners of such employees [List all benefits provided by firm]:

- Health Insurance - [List each carrier]
- Dental Insurance - [List each carrier]
- Vision Insurance - [List each carrier]
- Retirement - [List each type of plan, for example, Pension, 401(k), 403(b), Simple IRA]
- Bereavement Leave
- Family Leave
- Parental Leave
- Employee Assistance Program
- Relocation and/or Travel
- Firm Discount, Facilities & Events
- Credit Union
- Child Care
- Dependent Life Insurance - [List each carrier]
- Short Term and/or Long-Term Disability Insurance - [List each carrier]
- Accidental Death & Dismemberment Insurance – [List each carrier]

Domestic partners are defined as same-sex and opposite-sex couples who are registered with any state or local government domestic partner registry. Any requirements for proof of relationship or waiting periods for domestic partnerships are also applied to marriages. Domestic partner registry certificates are accepted as fully equivalent to marriage certificates.



CHAPTER 12B EQUAL BENEFITS DOCUMENTATION GUIDE

Each benefit policy must include domestic partners and their children where spouses and stepchildren are referenced.

Blanket statements regarding your firm's general domestic partner policy in a separate part of the employee handbook are insufficient.

Benefit Type	Guidelines	Standard Documentation
Health Dental Vision Dependent Life Long-term Disability Long-term Care Accidental Death & Dismemberment Business Travel Accident Personal Travel Accident	<p>Insurance confirmations must explicitly define Domestic Partners as "same-sex and opposite-sex couples who have registered with any state or local government domestic partnership registry."</p> <p>In addition, it must be confirmed that any requirements for proof of relationship for domestic partnerships are also applied to marriages. For example, domestic partner registry certificates must be recognized as fully equivalent to marriage certificates.</p> <p>Insurance policies that provide continuation coverage to spouses and stepchildren must specify that COBRA-like continuation coverage is available to domestic partners and their children.</p> <p>Pre-tax benefits may not comply.</p>	<p>Acceptable: the cover page, eligibility section, and other relevant sections (such as the COBRA section) of the Basic Plan Document, or you may submit a letter or email message from the insurance carrier (contact us for an example).</p> <p>Unacceptable: letters from brokers, enrollment forms, invoices, Summary Plan Descriptions.</p>
Retirement (Pension, 401(k), etc.)	<p>Plan documents must confirm that the distribution options are the same for spouse and non-spouse or domestic partner beneficiaries (not who can be a beneficiary, but how the money is distributed upon the employee's death).</p>	<p>A copy of the cover page and the distribution section of the Summary Plan Description or Basic Plan Document of your 401(k) or pension or savings plan(s). If you have a prototype plan, please include the Adoption Agreement.</p>
Bereavement Leave Family Leave Family Medical Leave Military Caregiver Leave Military Exigency Leave Parental Leave Relocation and Travel Discounts, Facilities & Events	<p>Where the term "spouse" is used, the term "domestic partner" must be included.</p> <p>The definition of "immediate family" must be defined in the bereavement policy and if it includes in-laws, the equivalent members of a domestic partner's family must be explicitly included. <i>An example of a compliant definition is: the employee's spouse or domestic partner; a parent, child, or sibling of the employee, spouse or domestic partner; and the spouse or domestic partner of the employee's parents, children, or siblings.</i></p> <p>Federal law does not prevent recognition of domestic partners or their children in the FMLA and Military policies.</p>	<p>A copy of your employee handbook policies.</p> <p>When the term "Domestic Partners" is defined in an employee handbook, the following definition must be used: "same-sex and opposite-sex couples who have registered with any state or local government domestic partnership registry." Domestic partners may not be required to prove their relationship (for example, with an affidavit) or subject to waiting periods unless a firm provides proof that spouses are subject to the same requirements. Domestic partner registry certificates must be recognized as fully equivalent to marriage certificates.</p>
Employee Assistance Program Credit Union	<p>References to spouses must include references to domestic partners or household members.</p>	<p>A brochure or letter from the provider or policy from the employee handbook.</p>
Child Care	<p>References to spouses must include references to domestic partners.</p> <p>Pre-tax benefits may not comply.</p>	<p>A brochure or letter from the provider.</p>
Union	<p>Separate documentation must be submitted for benefits administered through collective bargaining agreements.</p>	<p>Unions that recognize domestic partners have usually prepared a 1-page statement that is available upon request. If a union doesn't recognize domestic partners, call the Equal Benefits Unit at 415-581-2310 for assistance.</p>
Other	<p>If your firm offers other benefits, please specify what they are on the 12B Declaration and provide documentation.</p>	<p>Varies; call the Equal Benefits Unit at 415-581-2310 for assistance.</p>