

Legislation Text

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Amending Title 17 of The Philadelphia Code, entitled “Contracts and Procurement,” to provide that certain City contractors must offer the same benefits to the life partners of their employees as are offered to the spouses of married employees, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 17 of The Philadelphia Code is hereby amended to read as follows:

TITLE 17. CONTRACTS AND PROCUREMENT.

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*CHAPTER 17-1900. EQUAL BENEFITS.*

*§ 17-1901. Definitions. For purposes of this Chapter, the following terms shall have the following meanings:*

(1) *“Employment benefits.” Any employee benefit, including, but not limited to, health insurance benefits, including health, vision and dental benefits; bereavement leave; family medical leave; moving expenses; memberships and membership discounts; and travel benefits.*

(2) *“Life Partnership.” A life partnership as defined under Section 9-1102(1)(r), or as otherwise established under Section 17-1902(3).*

(3) *“Life Partner.” Each member of a life partnership.*

(4) *“Service Contract.” A contract for the furnishing of services to or for the City, except where services are incidental to the delivery of goods. The term does not include any contract with a governmental agency.*

*§ 17-1902. Equal Benefits.*

(1) *To be eligible to enter into a Service Contract with the City for an amount payable to the contractor of \$250,000 or more, a contractor must, for the following classes of employees, extend the same employment benefits the contractor extends to spouses of its employees to life partners of its employees:*

(a) *Employees who reside in the City;*

(b) *Employees who are non-residents subject to City wage tax under Section 19-1502(b) (pertaining to tax on salaries, wages, commissions and other compensation of non-residents).*

(2) *Notwithstanding Section 17-1902(1), if a contractor's existing agreement with its employment benefits provider does not permit the extension of employment benefits to the life partners of the contractor's employees at the time the contractor enters into a Service Contract with the City, the contractor shall arrange for the extension of employment benefits to the life partners of its employees to be effective as soon as practicable, but in no case more than one year after the date of execution of the Service Contract. Provided, this subsection (2) shall not apply to a contractor that has had another City contract subject to the provisions of this Chapter within the five years immediately prior to the date of execution of the Service Contract.*

(3) *A contractor shall accept any of the the following as proof of a Life Partnership:*

(a) *Verification of the Life Partnership issued pursuant to Section 9-1123.*

(b) *Where neither the employee nor the employee's life partner is a City resident, employed by the City, owns real property in the City, owns and operates a business in the City, or is a recipient of or has a vested interest in employee benefits from the City of Philadelphia, proof that the claimed Life Partnership meets items (.2) through (.7) of the definition of "Life Partnership" under Section 9-1102(1)(r) and the standard for verification under Section 9-1123(1).*

(c) *An official document evidencing a marriage, civil union, domestic partnership, or the equivalent, under the laws of any state or country, and undertaken between two people who share the same gender identity as defined under Section 9-1102(1)(k).*

§ 17-1903. *Mandatory Provisions; Certifications.*

(1) *In any bid or proposal, a bidder or proposer subject to this Chapter shall include a certification that the business will comply with the provisions of this Chapter if awarded the contract.*

(2) *Following the award of a contract subject to this Chapter and prior to execution by the City, the contractor shall certify that its employees have been notified of the employment benefits available to life partners pursuant to this Chapter, and that such employment benefits will actually be available; or that the contractor does not provide employment benefits to the spouses of married employees. A contractor that, under Section 17-1902(2), is not required to make benefits immediately available to the life partners of employees, shall provide the notice required by this subsection (2) at the time employment benefits become available to life partners of employees.*

(3) *Every City contract subject to this Chapter shall require the contractor to comply with the requirements of this Chapter. Such contracts shall contain the following terms:*

(a) *The contractor shall notify its employees of the employment benefits available to life partners pursuant to this Chapter;*

(b) *Non-compliance by the contractor shall be a material breach. The contract may further specify liquidated damages.*

(c) *Discrimination or retaliation by the contractor against any employee on account of having claimed a violation of this Chapter shall be a material breach. The contract may further specify liquidated damages.*

§ 17-1904. *Waivers.* The City may waive the requirements of this Chapter in any of the following circumstances:

(1) *Where application of the provisions of this Chapter would result in the loss of federal, state or similar funds or grants, or is otherwise prohibited by federal or state law.*

(2) *Where the contractor certifies, and the City finds, that compliance with the provisions of this Chapter would interfere with a collective bargaining agreement between the contractor and any of its employees.*

(3) *Where the contractor certifies, and the City finds, that (a) the contractor is operated, supervised, or controlled by a bona fide religious institution or organization for charitable purposes, and (b) compliance with the provisions of this Chapter would conflict with the beliefs of the religion with which the contracting organization is identified.*

(4) *Where waiving the provisions of this Chapter would be in the best interests of the City.*

§ 17-1905. *Enforcement.*

(1) *Contractors shall provide the City with any information necessary to verify compliance with the provisions of this Chapter. A contractor subject to this Chapter who fails to comply with its provisions is in material breach of its contract with the City, and may be suspended or debarred from bidding on or participating in City contracts for up to three years.*

SECTION 2. *Effective date.* This Ordinance shall become effective on July 1, 2012, and shall be applicable only to awards for bids and RFPs issued after such date.