

OCTOBER 12, 2011

REPORT No: 11-130

Equal
Benefits
Ordinance

THE CITY OF SAN DIEGO

“to promote a policy of
'equal pay for equal work'
for City contracts”

FISCAL YEAR 2011 ANNUAL (6-MONTH) REPORT



WHAT IS THE EBO?

San Diego Municipal Code § 22.4301 *et al*

Prohibits the City from contracting with anyone who discriminates in provision of benefits between employees with spouses & employees with domestic partners & their respective families

To bring City's contracting practices in line with its nondiscrimination policy and promote "equal pay for equal work"



WHAT THE EBO Is Not

- Contractor is not required to do anything – however, if they wish to contract with the City, then they must comply with EBO
- Contractor is not required to offer benefits – they're required to offer benefits equally
- If contractor doesn't offer a benefit to employee with a spouse, that benefit isn't required to be offered to employee with a domestic partner



APPLICABILITY

All City contracts entered into, awarded, amended, renewed, or extended on or after January 1, 2011

- Does not apply to subcontracts

Requires inclusion of two contract provisions:

- Contractor must certify to maintain equal benefits for duration of contract
- Failure to maintain equal benefits is material breach



EXCEPTIONS

- Sole source contracts
- Cooperative procurement contracts
- Contracts with another agency
- Contracts with collective bargaining agreement in effect prior to Jan 1, 2011
- Gifts or donations to City
- Contracts where EBO compliance would violate federal or state regulations



IMPLEMENTATION

- Ordinance effective January 1, 2011
- EBO Program in Administration Department
- Developed contract clause, *EBO Certification of Compliance* form, Rules, handouts
- All info posted on City's website



REQUIREMENTS

- Offer equal benefits for duration of contract
- Notify employees of equal benefits policy
- Allow City access to records to confirm
- Prior to award, submit *EBO Certification of Compliance*, signed under penalty of perjury

**City's EBO is complaint-driven;
documentation not required in advance, but may be requested**



BENEFITS

Remuneration other than wages, salary, bonuses, etc. offered as part of a total compensation package

- Health, dental, vision, life insurance
- Pension/401(k) plans
- Bereavement, family, parental leave
- Credit union memberships, discounts
- Child care
- Travel or relocation costs
- Employee assistance programs
- ... and any other benefit



COMPLIANCE METHODS

Identical benefits – Provides same benefits to employees with spouses and employees with domestic partners

No benefits – Provides benefits neither to employees' spouses nor to employees' domestic partners.

No employees – Has no employees.

Collective bargaining agreement – Contract is subject to CBA in effect prior to January 1, 2011.

Cash equivalent – Offers a cash amount equal to employer's expense of providing benefits for domestic partner.



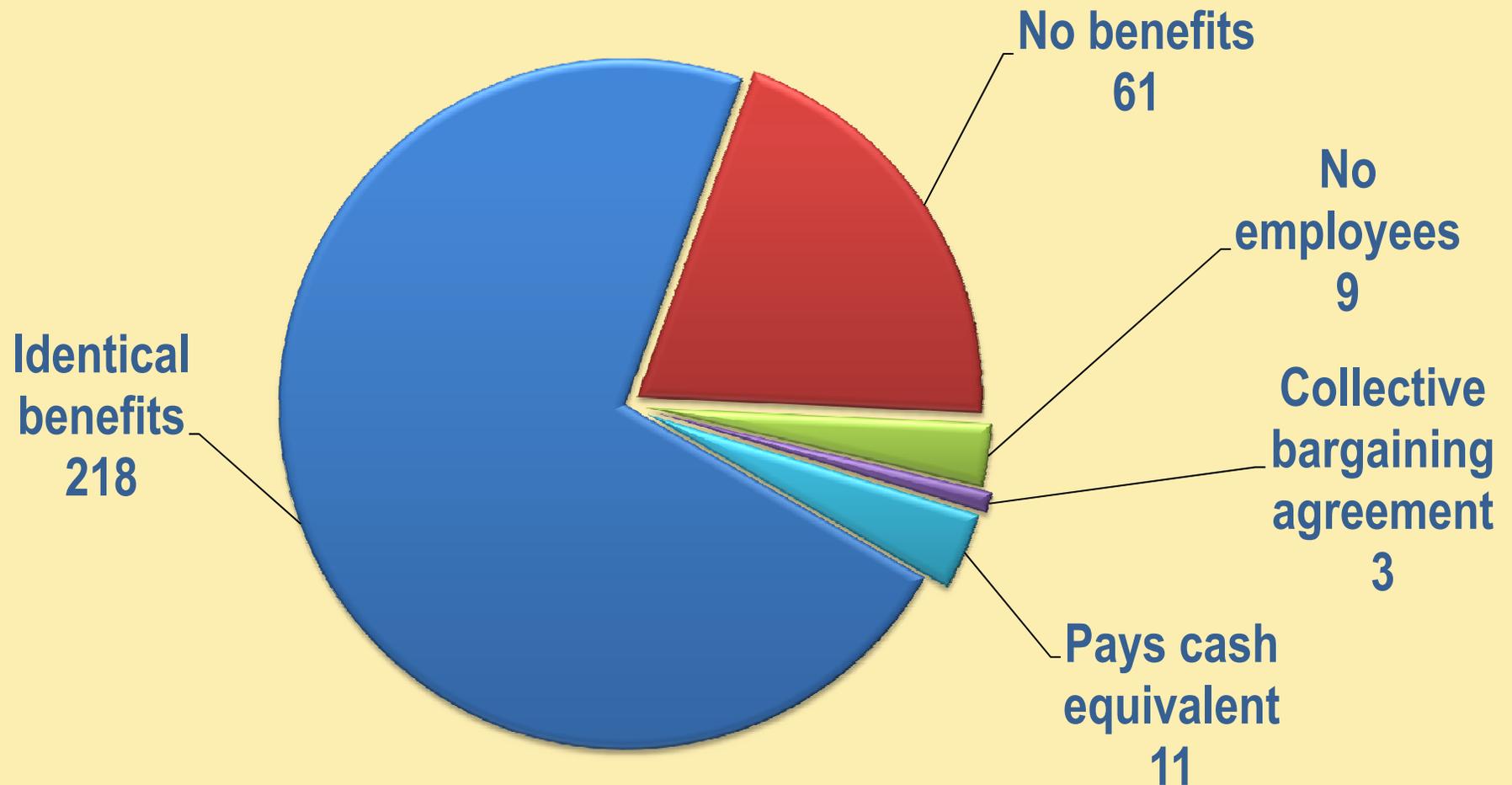
COMPLIANCE STATISTICS

January 1 – June 30, 2011

<u>Compliance Method Indicated</u>	<u>Firms</u>		<u>Certifications</u>	
Identical benefits	218	72%	244	69%
No benefits	61	20%	84	24%
No employees	9	3%	10	3%
Collective bargaining agreement	3	1%	3	1%
Cash equivalent	11	4%	12	3%
TOTALS:	302		353	

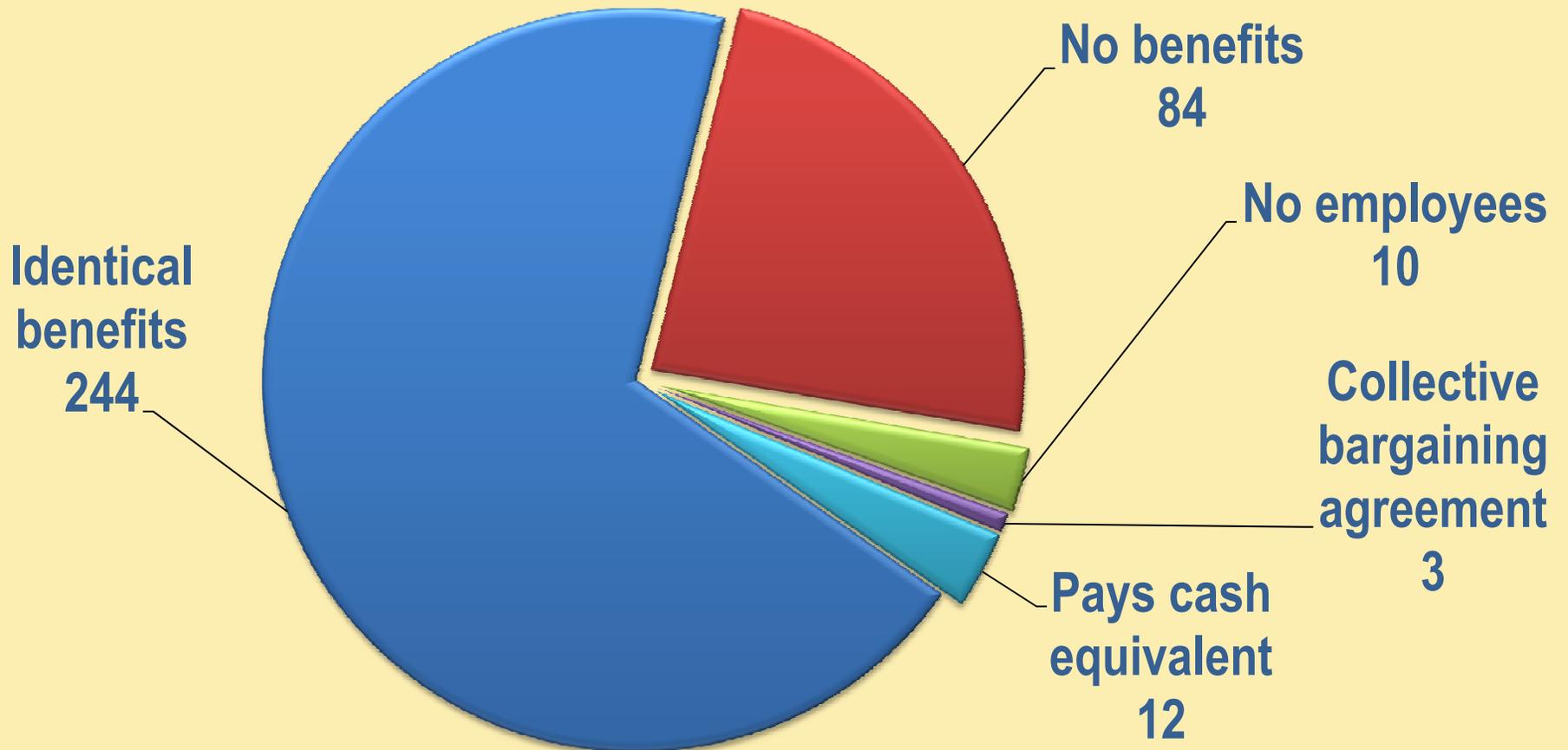


FIRMS = 302





AGREEMENTS = 353





NON-PROFIT CORPORATIONS

- Original intent was for non-profit corporations to comply with the EBO
- However, non-profit corporations are excepted from compliance when awarded sole source contracts
- Proposed solution: Consider recommendations from City Attorney's Office to modify Ordinance for clarity



DOMESTIC PARTNER

- Current definition – 2 adults of the same or different sex, registered as domestic partners with a government entity or an employer’s internal registry . . .
- Proposed definition – 2 adults in a relationship pursuant to the requirements for filing as domestic partners under CA Family Code Section 297 and who are registered with a government entity or an employer’s internal registry . . .



CONTRACTOR'S EBO COSTS

- Any benefit not offered to employee with spouse is not required to be offered to employee with domestic partner
- Employers affected only if they pay for dependent costs
- Dependent coverage is usually paid for by employee

Generally, equal benefits for health coverage means allowing addition of domestic partner /children at employee's expense

Equal Benefits Ordinance



Debra Fischle-Faulk
Nora Nugent

Director of Administration
Equal Benefits Manager

Administration Department • 202 C Street, MS 9A • San Diego, CA 92101
Phone 619/ 533-3948 Fax 619/ 533-3220