An Evaluation of Local Laws Requiring Government Contractors to Adopt Non-Discrimination and Affirmative Action Policies to Protect LGBT Employees

By Christy Mallory and Brad Sears
February 2012

Executive Summary

For several decades, state and local governments have used their contracting power to require private sector employers to adopt LGBT-inclusive policies. A number of local governments have enacted sexual orientation and gender identity non-discrimination ordinances that apply only to contractors. In addition, some have added sexual orientation and gender identity to “affirmative action” requirements for government contractors. Currently, at least 61 local governments have at least one of these types of contractor requirements.

When passing these ordinances, local governments have pointed to several positive effects they would have on the city’s workforce and the government’s operations. For example, council members who proposed a Nashville ordinance that prohibited city contractors from discriminating based on sexual orientation and gender identity said it ensured that employment decisions were based “on performance and talent.”

However, these contractor requirements have also generated some criticism. Arguments have been made that a jurisdiction may lose contractors or not have the best contractors if they are required to comply with these policies that reach beyond federal and many state laws.

Others have argued that the policies will be costly to enforce and will be administratively burdensome for already strained local governments. Some are
concerned that localities will face litigation as a result of passing similar ordinances.\textsuperscript{4}

This study evaluates the implementation and enforcement of contractor non-discrimination and affirmative action ordinances in order to determine both the positive impact they have on LGBT-related workplace policies and the validity of the arguments made against them. Local agencies charged with administering these ordinances were asked to provide information on their experiences with their implementation and enforcement. Their responses provide the basis for this evaluation.

The three principle findings of this study are:

Almost all of the localities surveyed reported almost uniform compliance with the contractor ordinances, with little to no resistance by contractors. Twenty-five of the 29 localities that provided information about their non-discrimination and affirmative action ordinances reported that contractors complied with the sexual orientation and gender identity requirements without resistance. Three of the 29 localities reported just minimal resistance initially but then the contractors agreed to comply when the requirements were explained to them.\textsuperscript{5}

Of all the localities that responded to the survey, none affirmatively reported that there had been individual enforcement investigations or actions for violations of these contractor requirements. Twenty-eight of the 29 localities reported that no complaints of sexual orientation or gender identity discrimination had been filed under their non-discrimination ordinances. The remaining locality was unaware if any complaints had been made because discrimination complaints were handled by a state agency, rather than the local agency implementing the contractor requirements. In addition, none of these localities reported that contractors had been barred from bidding on future contracts because they did not comply with these ordinances.

The contractor requirements have been adopted, implemented, and enforced with little disruption to government operations or work, administrative burden, cost or litigation. No locality reported that these ordinances made it difficult to find qualified contractors to carry out government work or operations. None of the localities that added sexual orientation and gender identity to non-discrimination or affirmative action ordinances reported that doing so was administratively burdensome or resulted in additional administrative or contractor costs.

Local Contractor Ordinances Mandating LGBT-Related Workplace Policies

To date, at least 61 local governments have used their spending powers to require their contractors to adopt non-discrimination or affirmative action policies to protect LGBT employees.\textsuperscript{6}

Non-Discrimination Ordinances

Sixty-one of these localities have ordinances that specifically prohibit discrimination on the basis of sexual orientation in employment by local government contractors, forty-two also prohibit discrimination based on gender identity.\textsuperscript{7} These ordinances include contractor ordinances that are separate from any broader non-discrimination ordinance the locality may have, as well as broad non-discrimination ordinances that specifically state that the ordinance applies to local government contractors.\textsuperscript{8} Cities and counties of various sizes across the
country—from Ypsilanti, Michigan, to Los Angeles, California—have enacted these ordinances.

Twenty-one of these ordinances apply to all local government contracts without exception. Twelve of these ordinances apply to contractors with contracts above a certain dollar amount. The dollar thresholds in these ordinances range from $1,000 to $50,000. Eighteen ordinances exempt certain types of contracts. The most common exemptions are for sole source suppliers (meaning no other contractor can provide a good or service); contracts with government entities; and contracts entered into in order to respond to an emergency. Two contractor non-discrimination ordinances only apply to construction contractors. Seventeen of

Geographic Distribution of Contractor-Specific Non-Discrimination Ordinances

Ordinance includes sexual orientation: San Mateo County, CA, Hayward, CA, San Diego, CA, Eugene, OR, Phoenix, AZ, Tucson, AZ, Des Moines, IA, Oak Park, IL, Fort Wayne, IN, Ypsilanti, MI, Canton, OH, Raleigh, NC, Charlottesville, VA, Arlington County, VA, Prince George’s County, MD, Suffolk County, NY, Hartford, CT, Brookline, MA, Berkeley, CA, San Francisco, CA, Los Angeles, CA, West Hollywood, CA, Long Beach, CA, Burien, WA, King County, WA, Seattle, WA, Tacoma, WA, Boulder, CO, Dallas, TX, Austin, TX, Minneapolis, MN, St. Paul, MN, Council Bluffs, IA, Fort Dodge, IA, Cedar Falls, IA, Iowa City, IA, Dubuque, IA, Johnson County, IA, Dane County, WI, Madison, WI, Springfield, IL, Peoria, IL, Champaign, IL, Evanston, IL, Cook County, IL, Bloomington, IN, Indianapolis, IN, Detroit, MI, East Lansing, MI, Atlanta, GA, Cleveland Heights, OH, Rochester, NY, Ithaca, NY, Tompkins County, NY, Pittsburgh, PA, Harrisburg, PA, Philadelphia, PA, Northampton, MA, Boston, MA, Cambridge, MA, Baltimore, MD.
the contractor non-discrimination ordinances apply to contractors who fit the definition of “employer” in the locality’s broader non-discrimination ordinance. For example, Boston’s ordinance requires that contractors be found in violation of the city’s broader non-discrimination ordinance before contract-specific penalties may be imposed. Boston’s broad non-discrimination ordinance, which applies to all public and private sector employers, exempts employers with 6 or fewer employees, non-profit private membership clubs, and religious organizations.

The compliance requirements, enforcement procedures, and remedies available under these ordinances vary. More than half of these local ordinances (35) require that an equal opportunity statement be included in all government contracts, and allow the locality to terminate the contract and debar the employer from future contracting opportunities with the locality if the contractor has been found in violation.

Some of these localities have more stringent compliance requirements, or provide additional remedies. Five jurisdictions require employers to undergo a preapproval or certification process before they contract with the local government. For example, Atlanta requires that the office of contract compliance review information submitted by the employer to determine whether the employer is in compliance before awarding a contract. A few jurisdictions allow for a monetary penalty against a contractor that has violated the non-discrimination clause. For example, Hayward, California, imposes a per day penalty of the greater of $250.00 or 1% of the contract amount for the time the contractor is deemed in non-compliance with the ordinance. Six of these limited ordinances explicitly state that the general ordinance prohibiting employment discrimination applies to contractors, but do not explicitly provide for contract remedies, such as termination or debarment. Instead, the remedies match those that are available to complainants under the general non-discrimination ordinance.

**Affirmative Action Ordinances**

Of the 61 localities with sexual orientation or gender identity contractor non-discrimination ordinances, 35 do not require contractors to take “affirmative
“affirmative action” or recruitment outreach steps with respect to any characteristic, including race and sex.\textsuperscript{28}

Of the remaining 26 localities, 22 require that contractors take “affirmative action” or recruitment outreach steps with respect to sexual orientation, and 16 of these also include gender identity.\textsuperscript{29} Four of the 61 localities exclude sexual orientation and gender identity from their “affirmative action” or recruitment outreach ordinances, although they do have these requirements for other protected groups such as racial minorities and women.\textsuperscript{30}

With respect to sexual orientation and/or gender identity, these localities generally require contractors to take steps that resemble some of the steps federal government contractors are required to take under Executive Order 11246\textsuperscript{31} with respect to ethnicity and religion.\textsuperscript{32} These steps include conspicuously posting the non-discrimination policy at the job site,\textsuperscript{33} including the policy in all job advertisements,\textsuperscript{34} notifying unions of equal employment obligations,\textsuperscript{35} furnishing employment and personnel information to the city or county if requested,\textsuperscript{36} filing compliance reports or project site reports if needed,\textsuperscript{37} certifying that the contractor has not discriminated in violation of the equal
opportunity requirements, developing affirmative action plans, disseminating equal employment policies internally and externally, appointing an internal equal opportunity director to oversee compliance, providing training on equal opportunity and non-discrimination requirements to staff, reviewing selection procedures to ensure that the contractor is not discriminating, and notifying subcontractors of non-discrimination requirements.

The sexual orientation and gender identity “affirmative action” or outreach requirements in eight of these ordinances apply to all local government contracts. Eleven of these ordinances apply to contracts above a certain dollar amount. The dollar thresholds in these ordinances range from $1,000 to $100,000. Three of these localities have lower thresholds for their non-discrimination requirements than for their “affirmative action” or outreach requirements. Thirteen ordinances exempt certain types of contracts. All thirteen localities exempt the same types of contracts from their non-discrimination requirements and their “affirmative action” or outreach requirements. One contractor non-discrimination ordinance only applies to construction contractors.

Of the 22 localities that include sexual orientation or gender identity in their “affirmative action” or outreach ordinances, none requires statistical analysis of employees’ sexual orientation or gender identity, or any numerical goals and timetables based on sexual orientation or gender identity. Twelve of these 22 ordinances require that contractors perform statistical workforce analyses to determine the employment rates of women and minorities (defined as racial and/or ethnic minorities), or set numerical goals and timetables for hiring women and minorities.

Methodology

This study evaluates contractor-specific non-discrimination and affirmative action ordinances in order to determine both the positive impact they have on LGBT-related workplace policies and the validity of the arguments made against them. The 61 localities with contractor non-discrimination and affirmative action ordinances that include sexual orientation and/or gender identity were contacted for purposes of this study. They were asked to answer a set of questions about their experiences with adopting, implementing, and enforcing their non-discrimination ordinances and ordinances requiring affirmative action or outreach steps.

The positive impact of these ordinances was studied by looking at what the ordinances have accomplished. For example, have more contractors adopted LGBT-inclusive policies as a result of the ordinances? Have they provided redress for specific violations? The arguments against the ordinances were evaluated by asking those enforcing them if the concerns around their enactment have been born out. Have the work and operations of local governments been disrupted because they could not find compliant contractors? Have they been costly to administer or burdened local administrative agencies?

Twenty-nine cities and counties provided responses to our questions. These localities include: Austin (Texas), Baltimore (Maryland), Berkeley (California), Bloomington (Indiana), Cambridge (Massachusetts), Canton (Ohio), Charlottesville (Virginia), Council Bluffs (Iowa), Dane County (Wisconsin), Des Moines (Iowa), Detroit (Michigan), Eugene (Oregon), Hartford (Connecticut), Indianapolis (Indiana), Iowa City (Iowa), Johnson County (Iowa), King County (Washington), the City of Los Angeles.
(California), Madison (Wisconsin), Northampton (Massachusetts), Phoenix (Arizona), Prince George’s County (Delaware), Raleigh (North Carolina), St. Paul (Minnesota), San Diego (California), San Francisco (California), San Mateo County (California), Tucson (Arizona), and West Hollywood (California). Their responses are presented in the next section.

Most of these cities and counties provided detailed responses, but a few localities provided limited information: Cambridge, Berkeley, Eugene, Northampton, Raleigh, and West Hollywood. However, the limited responses from these localities support that they have not invested any significant resources or hired new staff to implement or enforce their contractor non-discrimination or affirmative action ordinances.

The agencies that provided data and information for this study largely reported similar experiences with these ordinances. However, these agencies may be qualitatively different from agencies that did not respond to our requests. Many agencies did not respond despite repeated attempts. This may indicate a lack of staff and resources at these agencies, which, in turn, may mean that these agencies are not able to dedicate the time and effort needed to implement and enforce their ordinances. They may not be equipped or available to answer contractors’ questions, which alleviated resistance in almost every case for the agencies that provided information. And they may not be able to produce educational materials, or train staff on enforcing the ordinances, like some of the agencies that responded. Nevertheless, almost half of the localities contacted provided information that can inform future debates in localities seeking to pass similar protections for LGBT workers.

Compliance with LGBT-Inclusive Contractor Requirements

Many private companies have publicly supported ordinances that prohibit contractors from discriminating on the basis of sexual orientation and gender identity. Local agencies’ experiences with implementing these ordinances reflect that support, finding that, almost without exception, private businesses interested in contracting with the locality are willing to adopt and comply with these policies. In almost all localities that responded, any resistance to these policies was minimal and short-lived. In the few localities that reported some initial resistance, contractors quickly agreed to comply with the policies.

In terms of sexual orientation and gender identity non-discrimination ordinances, almost every locality reported that contractors were complying without resistance, and the localities that had encountered some resistance reported that it was easily overcome by explaining the requirements to the contractor. Twenty-five of twenty-nine localities reported that all contractors doing business with the local government were willing to comply with the sexual orientation and/or gender identity requirements in the local ordinance. Three localities, Bloomington, Iowa City, and Madison, reported that they have encountered a few contractors who were initially resistant to complying with these requirements. All three cities said that they responded to the contractors’ questions, and explained that the law requires the inclusion of these characteristics. Bloomington and Iowa City reported that they were unaware of any contractor who failed to bid after the requirements were explained, and Madison reported that in “most instances”
contractors were willing to comply once they understood the law. One locality, Phoenix, did not provide a response to this question.

Additionally, no locality reported that contractors were unwilling to comply with any particular outreach step, or objected to the use of the phrase “affirmative action” with respect to sexual orientation or gender identity. However, contractor resistance to the sexual orientation and gender identity provisions generally in Bloomington and Madison may have concerned these requirements in addition to the non-discrimination requirements, since their ordinances contained both non-discrimination and affirmative action requirements.

A few localities reported that more companies had adopted LGBT-inclusive policies because of the ordinances. For example, San Diego reported having several conversations with contractors when the ordinance first passed about how to properly add the protections to their handbooks. Bloomington reported that it has instructed several employers to amend their affirmative action plans to include sexual orientation in order to bid on city contracts, and the contractors had done so. These reports are also consistent with several media reports of companies changing their policies in order bid on local government contracts.57

The results of this survey indicate that these ordinances have increased workplace protections for LGBT people. The fact that even resistant contractors were willing to comply when the ordinances were explained suggests that the ordinances have resulted in protections from employers who otherwise did not have internal LGBT-inclusive policies. The minimal resistance to these ordinances reported by the localities also indicates that they have caused little, if any, disruption to the contracting process, for both the agencies and the contractors.

Because agencies do not track whether contractors had the policies in place before they decided to bid on contracts, it is difficult to say how many more contractors have adopted internal LGBT-inclusive policies because of the ordinances. However, even if many of the businesses that were awarded contracts already had protections in place, the local ordinances provide an external enforcement mechanism for the pre-existing internal corporate policies. The ordinances establish an administrative complaint procedure, and provide remedies for violations, which go beyond internal remedies available for breach of corporate policies. In this way, the ordinances provide greater protection for LGBT people, whether or not contractors already have LGBT-inclusive policies in place.

Compliance with these provisions, particularly the affirmative action requirements, demonstrates that the ordinances are valuable in securing protections that go beyond the mandates of current state laws. For example, none of the contractors in these localities were required by state laws applying to all private sector employers to take affirmative action with respect to sexual orientation or gender identity, because no such statewide laws exist.

Most (66%) of the localities in this study were in states with statewide non-discrimination protection for LGBT people, so the instate employers they contract with were most likely already legally required to comply with the non-discrimination provisions. Nonetheless, a third were in states without statewide laws, and these localities reported no more resistance to the requirements than localities in states
with statewide anti-discrimination laws. In addition, the contractors covered by these ordinances that are located outside of the locality and in states without statewide anti-discrimination laws are likely required to comply with the non-discrimination and affirmative action ordinances with respect to at least some of their employees. The localities did not report that any such contractors were less willing to comply with the ordinances.

**Investigation and Enforcement of Individual Violations**

All of the local agencies reported having established complaint procedures as required by the local contractor ordinances. However, the agencies reported that no individual complaints have been made under the ordinances.

The 29 localities included in this study that have ordinances specifically prohibiting sexual orientation and gender identity discrimination by contractors indicated that enforcement was complaint driven. Therefore, aside from including the non-discrimination provision in their contracts, they did not monitor contractors until and unless a complaint was filed.

Twenty-eight localities reported that no sexual orientation or gender identity complaints had been filed against contractors under their ordinances. The one remaining locality, Eugene, Oregon, reported that it refers employees with complaints of discrimination based on any protected characteristic to the Oregon Bureau of Labor Statistics, the state office responsible for enforcing the state non-discrimination statute, and was therefore unaware if complaints had been made on either basis against city contractors. None of these localities reported that contractors had been debarred for discriminating against an employee on the basis of sexual orientation or gender identity in any locality.

None of 11 localities that provided information on affirmative action ordinances that include sexual orientation or gender identity reported proactive monitoring of compliance with the sexual orientation and gender identity requirements. No contractor had been debarred under the sexual orientation or gender identity provisions of the affirmative action requirements in any of these localities.

In this survey, localities were not asked to explain why they had so few individual complaints. However, besides widespread compliance, two other reasons seem likely to contribute to the scarcity of enforcement actions. First, and in particular for anti-discrimination provisions, employees may file complaints under more widely known laws that cover all private employees and provide an individual right of action. Second, the lack of individual complaints may reflect a lack of investment in the enforcement agencies.

It seems likely that in localities or states with laws that prohibit discrimination more generally in the private sector, employees pursue the more widely known enforcement mechanisms under those provisions. Most of the contractor ordinances included in this study are in localities or states that have enacted these more general provisions. Nineteen localities with contractor non-discrimination provisions included in this study are located in states with statutes that prohibit employment discrimination based on sexual orientation and gender identity. Twenty-two are in localities that also have broad non-discrimination ordinances that apply to all private sector
Only four are in localities not also covered by either a broad local ordinance or a statewide law that includes sexual orientation and/or gender identity. However, this explanation for the lack of individual discrimination claims would not equally apply to local affirmative action requirements for contractors. There are not any local or state laws that explicitly require the private sector more broadly to have affirmative action programs that include sexual orientation and/or gender identity.

Second, local agency limitations may also account for the lack of complaints filed under these types of contract ordinances. Studies of complaints filed on the basis of sexual orientation and gender identity under broader local non-discrimination ordinances have concluded that local enforcement agencies often lack the staff and resources needed to fully enforce the ordinances. Similar limitations were documented in academic literature describing the role of agencies enforcing state and local civil rights laws prior to the enactment of the Civil Rights Act of 1964.

This explanation seems especially likely for the enforcement of non-discrimination and affirmative action ordinances. As noted above, none of the localities that responded reported monitoring of the affirmative action requirements for sexual orientation and gender identity. In fact, the City of Los Angeles indicated that if it were not for a strained budget, it would have been more proactive in monitoring compliance with the affirmative action ordinance, but it currently did not have enough resources. In contrast, a number of these localities do monitor compliance with race and sex affirmative action steps by requiring regular submission of workforce statistics.

In addition, none of the localities with non-discrimination and affirmative action requirements affirmatively responded that it had hired additional permanent staff to enforce these contractor ordinances. Twenty-one localities included in this study with contractor non-discrimination ordinances reported that the implementation duties associated with the sexual orientation and gender identity requirements were integrated into the responsibilities of staff that enforced the ordinances as a whole. Six other localities did not specifically state whether their staffing needs were affected by the inclusion of sexual orientation and gender identity in the non-discrimination ordinances, but provided other information indicating that no additional staff were hired to enforce these protections when they went into effect.

Similarly, ten localities with affirmative action ordinances reported that the inclusion of sexual orientation and gender identity into their existing ordinances did not require any staff beyond that needed to enforce the ordinance as a whole. One city, Cambridge, provided limited responses, but did not indicate that any additional staff had been hired to implement the sexual orientation and gender identity provisions of the ordinance.

The fact that few staff were hired as the result of these ordinances can be looked at in two ways. First, the lack of staff may indicate a lack investment in enforcement of the ordinances – contributing to the low number of individual complaints. Alternatively, these localities could have been making reasonable resource allocations by not investing further in enforcement. They may have determined that given the small size of the LGBT population and the existing capacity of their enforcement staff, no additional staff was necessary to enforce the LGBT-specific
contractor provisions. Research by the Williams Institute has shown that only 3.8% of the population identifies as LGBT and that workplace discrimination complaint rates on the basis of sexual orientation are approximately 5 in 10,000.

In fact, two cities, Austin and Phoenix, said that they expected that “enforcing” the sexual orientation non-discrimination ordinance would require more staff, but because no complaints had been filed, they had not needed to hire staff. Thus, it is as plausible that significant additional investment is not necessary to enforce these LGBT-specific contractor provisions.

**Arguments against LGBT-Related Contractor Ordinances**

The survey also asked localities to respond to the concerns raised prior to the passage of the ordinances, including that the localities would be unable to secure contractors to effectively carry out their work, that the ordinances would be administratively burdensome, that they would be costly to implement, and that they would result in litigation.

**Disruption of Work and Operations of Government**

As indicated by the discussion of widespread compliance with these ordinances above, none of the localities that responded to the survey reported that the ordinances in any way hampered their ability to carry out their work. None of the localities reported that because of the ordinances they were unable to hire the contractors that they needed.

**Administrative Burden**

Every locality in this study said that their ordinances did not create an administrative burden. All of the localities included in this study with contractor-specific non-discrimination ordinances reported that there was little or no administrative burden associated with implementing or enforcing the sexual orientation and gender identity requirements. Similarly, all localities included in this study that require affirmative action steps with respect to sexual orientation and/or gender identity said that the burden associated with including these characteristics in the general ordinance is minimal, if any.

**Costs**

The survey asked localities about two types of costs: costs associated with implementing and enforcing the ordinances, and whether the ordinances resulted in an increase in contract prices for the localities. The 29 localities with nondiscrimination and affirmative action contractor ordinances provided no data that these ordinances increased administrative or contractor costs. This is consistent with the reports that none of these localities hired additional staff to enforce these ordinances and there were no reports of investigations or enforcement actions under these ordinances.

**Litigation**

None of the respondents to this survey reported litigation resulting from adding sexual orientation and gender identity to contractor non-discrimination and affirmative action ordinances. Beyond the responses to this survey, we were only able to locate one challenge to the sexual orientation non-discrimination requirement of a local non-discrimination contractor
ordinance, and in that case the ordinance was upheld. 78

Conclusion

Local agency experiences with implementing and enforcing contractor non-discrimination and affirmative action ordinances indicate that these ordinances have value in providing workplace protections for LGBT people. In most cases, contractors are willing to comply with the ordinances in order to contract with the local government. There is evidence that more contractors are adopting LGBT-inclusive policies as a direct result of the contracting ordinances. And, in cases where no other law requires contractors to afford protections to LGBT people, high compliance rates show that contractors are willing accept the possibility of external enforcement in order to contract.

No complaints had been filed under any of the non-discrimination or affirmative action ordinances. This probably reflects widespread compliance with the ordinances resulting from the affirmative requirement that contractors acknowledge and adopt the required policies; the significant threat of losing government contracts; the availability of alternative and more widely known enforcement mechanisms for discrimination complaints; the small size of the LGBT population; and the minimal resources that almost all jurisdictions have invested in enforcing their ordinances.

The actual experiences of local agencies in enforcing and implementing these ordinances contradict several of the arguments that have been made in opposition to the ordinances. No locality reported that the ordinances inhibited its ability to carry out the operations and work of its government. Every locality that provided information reported that these ordinances were not administratively burdensome to enforce. For almost all localities, any demands created by these ordinances were handled by existing staff, and trainings were developed to ensure smooth integration of the new responsibilities.

In sum, the findings of this survey indicate that ordinances that require contractors to adopt non-discrimination and affirmative action policies that include sexual orientation and gender identity result in widespread compliance, with little resistance by contractors or disruption to government operations or activities. For contractor non-discrimination and affirmative action policies, no locality reported additional administrative burden or increased costs.
About the Authors

Christy Mallory is a Legal Research Fellow at the Williams Institute, UCLA School of Law. She received her J.D. from the UCLA School of Law.

Brad Sears is the Executive Director and Roberta A. Conroy Senior Scholar of Law & Policy at the Williams Institute, and Assistant Dean, UCLA School of Law.

For more information
The Williams Institute, UCLA School of Law
Box 951476
Los Angeles, CA 90095-1476
(310)267-4382
williamsinstitute@law.ucla.edu http://williamsinstitute.law.ucla.edu

Endnotes


5 The remaining locality did not respond to the authors’ question about contractor compliance.

6 In addition, 17 localities have adopted equal benefits ordinances (EBOs) that require contractors to offer benefits to the domestic partners of employees on the same terms they are offered to spouses. The authors are conducting a separate study of those ordinances and they are not included in this report.


8 For an example of a separate contractor ordinance, see ATLANTA, GA., CODE § 2-1414 (2010). For an example of a broad non-discrimination ordinance that explicitly applies to local government contractors, see PHOENIX, ARIZ., CODE § 18-1, 18-4 (2010).

9 Ypsilanti, MI (YPSILANTI, MICH., CODE § 2-320 (2010)).

10 City of Los Angeles, CA (LOS ANGELES, CAL., ADMIN. CODE § 10.8-10.8.4 (2010)).

11 Austin, TX (AUSTIN, TEX., CODE § 5-4-2 (2010) (applies to all contractors, but applies to only subcontractors with contracts of $2,000 or more and 15 or more employees)); Baltimore, MD (BALTIMORE, MD., CODE § 5-29-1 (2010)); Berkeley, CA (BERKELEY, CAL., CODE § 13.26.030 (2010)); Cambridge, MA (CAMBRIDGE, MASS., CODE § 2.76.100(A) (2010) (although part of the city’s broader non-discrimination ordinance that does not apply to all private sector employers, the contractor non-discrimination requirements appear to apply to all contractors)); Cedar Falls, IA
similar to those of the city; contracts with contracting entities which employ only owners or the owner's relatives
goods or services which can only be made from a sole source; contracts with contracting entities which the City
collective bargain (exempts contracts for the purchase or sale of real estate or for the development or annexation of real estate; contracts with other governmental entities; collective bargaining and employment contracts; purchases made at auctions or bankruptcy sales; purchase of goods or services which can only be made from a sole source; contracts with contracting entities which the City Manager determines have met affirmative action requirements of other governmental entities with requirements similar to those of the city; contracts with contracting entities which employ only owners or the owner's relatives or which employee less than three employees; contracts for sale of goods, services, or property by the city; contracts for emergency purchases); Hayward, CA (HAYWARD, CAL., CODE § 2-7.06 (2010) (exempts contracts with other governmental jurisdictions; contracts with manufacturers whose principal place of business is outside of the U.S.; contracts with manufacturers whose principal place of business is in the U.S. but outside the State of

12 Atlanta, GA (ATLANTA, GA., CODE § 2-1411 (2010) (applies to contracts over $1,000)); Brookline, MA (BROOKLINE, MASS., BY-LAWS § 4.4.2(e) (2010) (applies to contracts of $10,000 or more)); Champaign, IL (CHAMPAIGN, ILL., CODE § 12.5-12 (2010) (applies to contracts of $17,500 or more, or as adjusted annually by city council)); Charlottesville, VA (CHARLOTTESVILLE, VA., CODE § 22-10 (2010) (applies to contracts over $10,000)); Council Bluffs, IA (COUNCIL BLUFFS, IOWA, CODE § 1.40.060(17) (2010) (applies to contracts over $50,000); Dallas, TX (DALLAS, TEX., CODE § 15B-3 (2010) (applies to construction contracts for over $10,000 and to contracts for goods and services over $50,000); Eugene, OR (EUGENE, OR., CODE § 4.615 (2010) (applies to contracts of $25,000 or more)); Fort Dodge, IA (FORT DODGE, IOWA, CODE § 2.16.050(15) (2010) (applies to contracts over $10,000); Philadelphia, PA (PHILADELPHIA, PA., CHARTER § 8-200 (2010) (applies to contracts over $25,000 indexed for inflation)); San Francisco, CA (SAN FRANCISCO, CAL., CODE § 12B.1(c) (2010) (applies to contracts over $5,000); Tucson, AZ (TUCSON, ARIZ., CODE § 28-138, 28-20 (2010) (applies to contracts over $50,000)); Ypsilanti, MI (YPISLANTI, MICH., CODE § 2-316 (2010) (applies to contracts over $2,000)).

13 Atlanta, GA (ATLANTA, GA., CODE § 2-1413(3), (4) (2010) (exempts emergency or sole source procurement contracts, and contracts with contractors that have 14 or fewer employees)); Bloomington, IN (BLOOMINGTON, IND., CODE § 2.21. 070(8) (2010) (exempts contracts specifically exempted by regulations promulgated by the human rights commission and approved by the common council)); Brookline, MA (BROOKLINE, MASS., BY-LAWS § 4.4.2 (2010) (requirements do not apply to contracts for work outside the state and no recruitment of workers within the state is involved; contracts involving standard commercial supplies or raw materials; when the contractor is a non-profit private membership club; when the contractor has fewer than 6 employees; contracts involving joint purchases with the state; contracts with the state for construction of public works; contracts for financial assistance with a government; notes and bonds of the town; employment by the town of officers and employees of the town; whenever it is deemed necessary or appropriate by the Human Relations Commission or the Board of Selectman to exempt the contract); Champaign, IL (CHAMPAIGN, ILL., CODE § 12.5-67 (2010) (exempts contracts for the purchase or sale of real estate or for the development or annexation of real estate; contracts with other governmental entities; collective bargaining and employment contracts; purchases made at auctions or bankruptcy sales; purchase of goods or services which can only be made from a sole source; contracts with contracting entities which the City Manager determines have met affirmative action requirements of other governmental entities with requirements similar to those of the city; contracts with contracting entities which employ only owners or the owner's relatives or which employee less than three employees; contracts for sale of goods, services, or property by the city; contracts for emergency purchases)); Hayward, CA (HAYWARD, CAL., CODE § 2-7.06 (2010) (exempts contracts with other governmental jurisdictions; contracts with manufacturers whose principal place of business is outside of the U.S.; contracts with manufacturers whose principal place of business is in the U.S. but outside the State of
California; contracts with a sole source supplier; contracts resulting from an emergency where a delay would jeopardize the welfare of citizens or the city's operational effectiveness would be threatened); King County, WA (King County, Wash., Code § 12.16.050 (2010) (real property sale and lease transactions and government agency contracts)); Long Beach, CA (Long Beach, Cal., Code § 2.72.130 (2010) (exempts contracts with other governmental jurisdictions; contracts with manufacturers located outside the U.S.; contracts with sole source suppliers of goods and services; and contracts entered into because of an emergency where the general welfare is at stake)); Madison, WI (Madison, Wis., Code § 39.02(9)(b) (2010) (contracts with the State of Wisconsin, another state government, the federal government)); Minneapolis, MN (Minneapolis, Minn., Code § 139.50(a)(4) (2010) (requirements do not apply to contracts exempted by the director of the Minneapolis Department of Civil Rights or the Minneapolis Commission on Civil Rights)); Peoria, IL (Peoria, Ill., Code § 17-120 (2010) (requirements do not apply when contractor is a sole source for the good or service and the good or service is essential for governmental operations)); Philadelphia, PA (Philadelphia, Pa., Charter § 8-200 (2010) (exempts joint procurement contracts if likely to result in lower cost to the city)); Phoenix, AZ (Phoenix, Ariz., Code § 18-4(A)(5) (2010) (exempts contractors with 35, otherwise applies to all contractors that meet the definition of “employer” in the broader non-discrimination ordinance)); San Diego, CA (San Diego, Cal., Code § 22.35037 (2010) (exempts contracts with other public entities)); San Francisco, CA (San Francisco, Cal., Code § 128.5 (2010) (requirements do not apply when contractor is the sole source; contract is needed to respond to an emergency; contract involves specialized litigation requirements; contract is with another public entity and the goods or services are not available from another source or the contract is necessary to serve a substantial public interest; the requirements of the contract would be inconsistent with terms or conditions of a grant; subvention or agreement with a public agency; no compliant bidder is available; where the city determines that bulk purchasing arrangements through other public entities would reduce purchasing costs; where the city determines that the requirements would result in the city entering into a contract with an entity that is being used to evade the intent of the ordinance)); San Mateo, CA (San Mateo, Cal., Code §§ 2.50.040; 2.50.060 (2010) (The board may waive the requirements if the contractor demonstrates that compliance would cause undue hardship)); Suffolk County, NY (Suffolk County, N.Y., Code § 143-12(c) (2010) (requirements do not apply to activities of the contractor that are unrelated, separate, or distinct from the county contract)); Tucson, AZ (Tucson, Ariz., Code § 28-143(2) (2010) (exempts federally funded contracts, and contracts entered into in the case of an emergency or when special circumstances exist which, in the interest of the city, compel such exemption)); Ypsilanti, MI (Ypsilanti, Mich., Code § 2-316 (2010) (exempts creditor or debtors of the city, and persons who are sole proprietors of their business and who have no employees)).

13 For an example of a separate contractor ordinance, see Atlanta, Ga., Code § 2-1414 (2010). For an example of a broad non-discrimination ordinance that explicitly applies to local government contractors, see Phoenix, Ariz., Code § 18-1, -4 (2010).

14 Cleveland Heights, OH (Cleveland Heights, Ohio, Code § 171.09 (2010)); San Mateo, CA (San Mateo, Cal., Code §§ 2.50.040, 2.50.060 (2010)).


19 Atlanta, GA (Atlanta, Ga., Code § 2-1412(10) (2010)); Brookline, MA (Brookline, Mass., By-Laws § 4.5.2 (2010)); Minneapolis, MN (Minneapolis, Minn., Code § 139.50 (2010)); Prince Georges County, MD (Prince Georges County, Md., Code § 10A-122 (2010)); St. Paul, MN (St. Paul, Minn., Code § 183.04, .02 (2010)); San Diego, CA (San Diego, Cal., Code § 22.3501-22.3517 (2010)); San Francisco, CA (San Francisco, Cal., Code § 128.1-128.6 (2010)); San Mateo, CA (San Mateo, Cal., Code § 2.50-040-2.50.050 (2010)); Springfield, IL (Springfield, Ill., Code § 93.08 (2010)); Suffolk County, NY (Suffolk County, N.Y., Code § 143-12 (2010)); Tacoma, WA (Tacoma, Wash., Code § 1.07.030 (2010)); Tucson, AZ (Tucson, Ariz., Code § 28-137, 28-144 (2010)); Ypsilanti, MI (Ypsilanti, Mich., Code § 2-316-329 (2010)). Additionally, the ordinances of Oak Park, Illinois, grant the city council the right to ask for policy verification from contractors, but it is unclear whether the council has exercised this right; and the ordinances of Canton, Ohio, permit (but do not require) the Executive Secretary to hold a pre-award conference with the successful bidder to ensure compliance with the non-discrimination requirements. Oak Park, Ill., Code § 13-3-2 (2010); Canton, Ohio, Code § 547.05 (2010).

20 Atlanta, GA (Atlanta, Ga., Code § 2-1412(10) (2010)).

21 Hayward, CA (Hayward, Cal., 2-7.02(g) (2010)).

22 Dubuque, IA (Dubuque, Iowa, Code § 8-4-6(A)(2)(b) (2010)); Iowa City, IA (Iowa City, Iowa, Code § 2-4-5(I)(2) (2010)); Johnson County, IA (Johnson County, Iowa, Code § 10(B)(2) (2010)).

23 King County, WA (King County, Wash., Code § 12.16.030-.180 (2010)); Seattle, WA (Seattle, Wash., Code § 14.10.050 (2010)).

24 Austin, TX (Austin, Tex., Code § 5-4-3 (2010) (Equal Employment/Fair Housing Office shall “endeavor to eliminate or correct the practice or violation complained of by informal methods of conference, conciliation, and persuasion”); San Diego, CA (San Diego, Cal., Code § 22.3505-22.3509 (2010) (may award “any remedy provided by law or agreed to by the business firm”)).

25 Cedar Falls, IA (Cedar Falls, Iowa, Code § 15-56, 15-71 (2010)); Charlottesville, VA (Charlottesville, Va., Code § 22-10 (2010)); Cleveland Heights, OH (Cleveland Heights, Ohio, Code § 171.09 (2010) (allows for minor monetary penalties, but not termination or debarment); Council Bluffs, IA (Council Bluffs, Iowa, Code § 1.40.060(17) (2010));


28 “Affirmative action ordinance” here refers to those ordinances that explicitly require “affirmative action,” and those that require contractors to take certain outreach steps but do not use the term “affirmative action.” Both types of ordinances require contractors to take outreach steps that resemble some of the steps federal government contractors are required to take under Executive Order 11246 with respect to ethnicity and religion, such as conspicuously posting the non-discrimination policy at the job site and including the policy in all job advertisements. In addition, “affirmative action” and outreach steps mean only those ordinances that address practices of an employer directed at its individual employees and applicants; it does not include ordinances that require the city to ensure that Minority- and Women-owned businesses are represented among their contractors.

29 Sexual orientation only: Charlottesville, VA (Charlottesville, Va., Code § 22-10 (2010)); Hayward, CA (Hayward, Cal., Code § 2-7.02(a) (2010)); San Mateo, CA (San Mateo, Cal., Code § 2.50.040 (2010)); Suffolk County, NY (Suffolk County, N.Y., Code § 143-12 (2010)); Tucson, AZ (Tucson, Ariz., Code § 28-138 (2010)); Ypsilanti, MI (Ypsilanti, Mich., Code § 2-320 (2010)).


31 Executive Order 11246 prohibits covered federal contractors and subcontractors from discriminating against their employees based on race, color, religion, sex, and national origin. It also requires covered contractors to take affirmative action with respect to these characteristics to ensure equal opportunity in employment. Exec. Order No. 11,246, 3 C.F.R. 339 (1964-1965).

33 See, e.g., YPSILANTI, MICH., CODE § 2-321 (2010).

34 See, e.g., TUCSON, ARIZ., CODE § 28-138(b) (2010).

35 See, e.g., ST. PAUL, MINN., CODE § 183.04(3) (2010).

36 See, e.g., EVANSTON, ILL., CODE § 1-12-5 (2010).

37 See, e.g., ATLANTA, GA., CODE § 2-1418(f) (2010).

38 See, e.g., LOS ANGELES, CAL., ADMIN. CODE § 10.8.3(A) (2010).


40 See, e.g., CHAMPAIGN, ILL., CODE § 12.5-65(b)(3) (2010).

41 See, e.g., CHAMPAIGN, ILL., CODE § 12.5-65(b)(2) (2010).


43 See, e.g., KING COUNTY, WASH., CODE § 12.16.040(C) (2010).


45 Austin, TX (AUSTIN, TEX., CODE § 5-4-2(2) (2010) (applies to all contractors, but applies to subcontractors with contracts of $2,000 or more and 15 or more employees)); Cambridge, MA (CITY OF CAMBRIDGE, CITY OF CAMBRIDGE AFFIRMATIVE ACTION PROGRAM, YEARS 2007-2010 6-8, available at www.cambridgema.gov (last visited Sept. 13, 2011)); Dane County, WI (DANE COUNTY, WIS., CODE §19.54 (2010)); Detroit, MI (DETROIT, MICH., 27-3-2 (2010)); Evanston, IL (EVANSTON, ILL., CODE § 1-12-5 (2010)); Indianapolis, IN (INDIANAPOLIS, IND., CODE § 581-102 (2010)); Madison, WI (MADISON, WIS., CODE § 39.02(9)(b) (2010)); St. Paul, MN (ST. PAUL, MINN., CODE § 183.04, .02 (2010)).

46 Atlanta, GA (ATLANTA, GA., CODE § 2-1411 (2010) (applies to contracts over $1,000)); Brookline, MA (BROOKLINE, MASS., BY-LAWS § 4.4.2(e) (2010) (applies to contracts of $10,000 or more)); Champaign, IL (CHAMPAIGN, ILL., CODE § 12.5-12 (2010) (applies to contracts of $17,500 or more, or as adjusted annually by city council)); Charlottesville, VA (CHARLOTTESVILLE, VA., CODE § 22-10 (2010) (applies to contracts over $10,000)); Council Bluffs, IA (COUNCIL BLUFFS, IOWA, CODE § 1.40.060(17) (2010) (applies to contracts over $50,000)); Dallas, TX (DALLAS, TEX., CODE § 15B-3 (2010) (applies to construction contracts for over $10,000 and to contracts for goods and services over $50,000)); Eugene, OR (EUGENE, OR., CODE § 4.615 (2010) (applies to contracts of $25,000 or more)); Fort Dodge, IA (FORT DODGE, IOWA, CODE § 2.16.050(15) (2010) (applies to contracts over $10,000); City of Los Angeles, CA (LOS ANGELES, CAL., ADMIN. CODE § 10.8.1.1 (2010) (contractors with contracts of $1,000 or more must comply with the outreach steps; construction contractors with contracts of $5,000 or more and non-construction contractors with contracts of $100,000 or more must develop a written affirmative action plan)); Minneapolis, MN (MINNEAPOLIS, MINN., CODE § 139.50(d) (2010) (a written affirmative action plan is required if the contract is over $50,000)); Philadelphia, PA (PHILADELPHIA, PA., CHARTER § 8-200 (2010) (applies to contracts over $25,000 indexed for inflation)); San Francisco, CA (SAN FRANCISCO, CAL., CODE § 128.1(c) (2010) (applies to contracts over $5,000)); San Mateo, CA (SAN MATEO, CAL., CODE §§ 2.50.040 (2010) (applies to contracts of $100,000 or more)); Tucson, AZ (TUCSON, ARIZ., CODE § 28-138, 28-20 (2010) (applies to contracts over $50,000)); Ypsilanti, MI (YPSILANTI, MICH., CODE § 2-316 (2010) (applies to contracts over $2,000)).
City of Los Angeles, CA (Los Angeles, Cal., Admin. Code § 10.8.1.1 (2010) (all contractors must comply with non-discrimination requirements, only contractors with contracts of $1,000 or more must comply with the outreach steps; construction contractors with contracts of $5,000 or more and non-construction contractors with contracts of $100,000 or more must develop a written affirmative action plan)); Minneapolis, MN (Minneapolis, Minn., Code § 139.50(d) (2010) (no threshold for non-discrimination requirements, but a written affirmative action plan is not required unless the contract is over $50,000)); San Mateo, CA (San Mateo, Cal., Code §§ 2.50.040 (2010) (no threshold for non-discrimination requirements, but outreach steps are not required unless the contract is $100,000 or more)).

Atlanta, GA (Atlanta, Ga., Code § 2-1413(3), (4) (2010) (exempts emergency or sole source procurement contracts, and contracts with contractors that have 14 or fewer employees)); Bloomington, IN (Bloomington, Ind., Code § 2.21.070(8) (2010) (exempts contracts specifically exempted by regulations promulgated by the human rights commission and approved by the common council); Champaign, IL (Champaign, Ill., Code § 12.5-67 (2010) (exempts contracts for the purchase or sale of real estate or for the development or annexation of real estate; contracts with other governmental entities; collective bargaining and employment contracts; purchases made at auctions or bankruptcy sales; purchase of goods or services which can only be made from a sole source; contracts with contracting entities which the City Manager determines have met affirmative action requirements of other governmental entities with requirements similar to those of the city; contracts with contracting entities which employ only owners or the owner’s relatives or which employ less than three employees; contracts for sale of goods, services, or property by the city; contracts for emergency purchases)); Hayward, CA (Hayward, Cal., Code § 2-7.06 (2010) (exempts contracts with other governmental jurisdictions; contracts with manufacturers whose principal place of business is outside of the U.S.; contracts with manufacturers whose principal place of business is in the U.S. but outside the State of California; contracts with a sole source supplier; contracts resulting from an emergency where a delay would jeopardize the welfare of citizens or the city’s operational effectiveness would be threatened)); King County, WA (King County, Wash., Code § 12.16.050 (2010) (real property sale and lease transactions and government agency contracts)); Long Beach, CA (Long Beach, Cal., Code § 2.72.130 (2010) (exempts contracts with other governmental jurisdictions; contracts with manufacturers located outside the U.S.; contracts with sole source suppliers of goods and services; and contracts entered into because of an emergency where the general welfare is at stake)); Madison, WI (Madison, Wis., Code § 39.02(9)(b) (2010) (contracts with the State of Wisconsin, another state government, the federal government)); Minneapolis, MN (Minneapolis, Minn., Code § 139.50(a)(4) (2010) (requirements do not apply to contracts exempted by the director of the Minneapolis Department of Civil Rights or the Minneapolis Commission on Civil Rights)); San Francisco, CA (San Francisco, Cal., Code § 12B.5 (2010) (requirements do not apply when contractor is the sole source; contract is needed to respond to an emergency; contract involves specialized litigation requirements; contract is with another public entity and the goods or services are not available from another source or the contract is necessary to serve a substantial public interest; the requirements of the contract would be inconsistent with terms or conditions of a grant; subvention or agreement with a public agency; no compliant bidder is available; where the city determines that bulk purchasing arrangements through other public entities would reduce purchasing costs; where the city determines that the requirements would result in the city entering into a contract with an entity that is being used to evade the intent of the ordinance)); San Mateo, CA (San Mateo, Cal., Code §§ 2.50.040; 2.50.060 (2010) (The board may waive the requirements if the contractor demonstrates that compliance would cause undue hardship)); Suffolk County, NY (Suffolk County, N.Y., Code § 143-12(c) (2010) (requirements do not apply to activities of the contractor that are unrelated, separate, or distinct from the county contract)); Tucson, AZ (Tucson, Ariz., Code § 28-143(2) (2010) (exempts federally funded contracts, and contracts entered into in the case of an emergency or when special circumstances exist which, in the interest of the city, compel such exemption)); Ypsilanti, MI (Ypsilanti, Mich., Code § 2-316 (2010) (exempts creditor or debtors of the city, and persons who are sole proprietors of their business and who have no employees)).

For an example of a separate contractor ordinance, see Atlanta, Ga., Code § 2-1414 (2010). For an example of a broad non-discrimination ordinance that explicitly applies to local government contractors, see Phoenix, Ariz., Code § 18-1, -4 (2010).

The localities were contacted about these provisions by email on June 28, 2011. Those that did not respond were contacted again by email on August 30, 2011 and finally by phone on September 16, 2011. On December 7, 2011, just those jurisdictions who had already responded to early requests were sent a set of further questions to clarify statements about compliance with their ordinances. Follow-up emails with these questions were sent on December 21, 2011.

These questions included: Have contractors been willing to comply with the sexual orientation and/or gender identity requirements of the contractor-specific non-discrimination/affirmative action ordinances? Do you think more contractors adopted workplace policies that include sexual orientation and/or gender identity as a result of the contractor non-discrimination/affirmative action ordinances? If so, do you have any anecdotal evidence of this? Have contractors ever told the city/county that they adopted the policies in order to bid for contracts? Did adding sexual orientation and/or gender identity to the contractor-specific non-discrimination/affirmative action ordinances require hiring additional staff, conducting additional trainings, or require any other specific actions on the part of the city/county beyond what was already required to implement the non-discrimination/affirmative action ordinances? Have any administrative complaints of sexual orientation or gender identity discrimination been filed under the ordinances? Does the inclusion of sexual orientation and/or gender identity to the ordinances present any administrative burden beyond that associated with the other characteristics included in the ordinances?

All information gathered from the local government agencies is on file with the authors.

For example, more than 70 businesses endorsed a Nashville, Tennessee ordinance prohibiting contractors from discriminating on the basis of sexual orientation and gender identity. Tennessee Equality Project, Supporters of the Metro Contract Accountability Non-Discrimination Ordinance, https://docs.google.com/document/d/1QPU20PiClz7tFijnumBw13aMhSvn2bgqwygrpjf18Q/edit?hl=en&pli=1#.

Austin, Baltimore, Berkeley, Cambridge, Canton, Charlottiesville, Council Bluffs, Dane County, Des Moines, Detroit, Eugene, Hartford, Indianapolis, Johnson County, King County, City of Los Angeles, Northampton, Prince George’s County, St. Paul, Raleigh, San Diego, San Francisco, San Mateo County, Tucson, and West Hollywood.

Austin, Bloomington, Cambridge, Charlottiesville, Detroit, King County, City of Los Angeles, Madison, St. Paul, San Francisco, and Tucson.


Berkeley, Cambridge, Council Bluffs, Dane County, Des Moines, Eugene, Hartford, Iowa City, Johnson County, King County, City of Los Angeles, Madison, Minneapolis, Northampton, Prince George’s County, St. Paul, San Diego,

59 When broader local ordinances are also considered, four localities in this study have neither a broad local non-discrimination ordinance that includes sexual orientation and/or gender identity or are in a state with statutory non-discrimination protections for sexual orientation and/or gender identity (Bloomington, Charlottesville, Phoenix, Raleigh).

A federal district court in California has held that equal benefits ordinances may reach contractors’ operations in the locality; contractors’ operations which occur elsewhere in the United States where work related to the contract is being performed, and work performed on real property outside of the locality if the property is owned or occupied by the locality and the contractor’s presence is related to the contract. Air Transport Ass’n v. City and County of San Francisco, 992 F. Supp. 1149, 1161 (N.D. Cal. 1998). While the permissible geographic scope of contractor non-discrimination ordinances has not been litigated, presumably they may reach contractors’ operations in other jurisdictions to the same extent as EBOs.

61 Austin, Baltimore, Berkeley, Bloomington, Cambridge, Canton, Charlottesville, Council Bluffs, Dane County, Des Moines, Detroit, Eugene, Hartford, Indianapolis, Iowa City, Johnson County, King County, City of Los Angeles, Madison, Northampton, Phoenix, Prince George’s County, St. Paul, Raleigh, San Diego, San Francisco, San Mateo County, Tucson, and West Hollywood.

62 Austin, Baltimore, Berkeley, Bloomington, Cambridge, Canton, Charlottesville, Council Bluffs, Dane County, Des Moines, Detroit, Eugene, Hartford, Indianapolis, Iowa City, Johnson County, King County, City of Los Angeles, Madison, Northampton, Phoenix, Prince George’s County, St. Paul, Raleigh, San Diego, San Francisco, San Mateo County, Tucson, and West Hollywood.

63 Austin, Bloomington, Cambridge, Charlottesville, Detroit, King County, City of Los Angeles, Madison, St. Paul, San Francisco, and Tucson.

64 See supra note 58.


71 Baltimore, Bloomington, Canton, Charlottesville, Council Bluffs, Dane County, Des Moines, Detroit, Hartford, Indianapolis, Iowa City, Johnson County, King County, City of Los Angeles, Madison, Prince George’s County, St. Paul, San Diego, San Francisco, San Mateo County, and Tucson.


73 Austin, Bloomington, Charlottesville, Detroit, King County, City of Los Angeles, Madison, St. Paul, San Francisco, and Tucson.


76 Austin, Baltimore, Berkeley, Bloomington, Cambridge, Canton, Charlottesville, Council Bluffs, Dane County, Des Moines, Detroit, Eugene, Hartford, Indianapolis, Iowa City, Johnson County, King County, City of Los Angeles, Madison, Northampton, Phoenix, Prince George’s County, St. Paul, Raleigh, San Diego, San Francisco, San Mateo County, Tucson, and West Hollywood.

77 Austin, Bloomington, Cambridge, Charlottesville, Detroit, King County, City of Los Angeles, Madison, St. Paul, San Francisco, and Tucson.

78 Alito’s Fish Company, 120 Cal. App. 3d 594. The main issues raised in that case were whether the locality had the authority to enact the ordinance under the state constitution, state law, or the municipal charter, and relatedly, whether the ordinance was preempted by any state law. Because the analysis in this case is highly dependent on state law, it is difficult to determine what the outcome may be for a similar challenge to a different localities ordinance.