



MEMORANDUM

TO: Department Heads
City Financial Officers
Contracting Officers

FROM: Carmen Chu, City Administrator *C Chu*

CC: Sailaja Kurella, Acting Purchaser and Director of Office of Contract Administration
Kimberly Ellis, Director, Department on the Status of Women
Clair Farley, Executive Director, Office of Transgender Initiatives

SUBJECT: Ban on City Contracts and Travel to States with Anti-LGBT and Abortion-Restrictive Laws - Montana Added to List of Covered States

DATE: July 9, 2021

On October 14, 2016, the Board of Supervisors enacted Chapter 12X of the Administrative Code (Ordinance No. 189-16, **file No. 160425**) ("Ordinance") which prohibits city-funded travel and City contracts involving states with certain anti-LGBT laws. Administrative Code Section 12X.3 requires the City Administrator to create and maintain a list of states with laws meeting the definition of a "Covered State."

On August 9, 2019, the Board of Supervisors enacted an ordinance amending Chapter 12X (Ordinance No. 200-19, **file No. 190658**). The ordinance moved the existing provisions concerning states with anti-LGBT laws into Article I and created a new Article II, which prohibits city-funded travel and City contracts involving states with laws that prohibit abortion prior to the viability of the fetus. Administrative Code Section 12X.13 requires the City Administrator to create and maintain the Covered State List, including states that have enacted abortion prohibitions and meet the definition of a Covered State under Article II.

Generally:

Subject to certain exceptions, Chapter 12X prohibits the City from funding travel to states on the Covered State List under Article I or under Article II. Chapter 12X provides that the City shall not enter into any Contract with a Contractor that has its United States headquarters in a state or where any or all of the work on the Contract will be performed in a state on the Covered State list under Article I or Article II. Unless otherwise exempted, this contracting ban applies to all contracts entered into by the City. (See Administrative Code Sec. 12X.5(b) and 12X.15(b) for

specific circumstances where the contracting prohibition is not applicable, exempted, or eligible for a waiver). However, please note that the contracting ban only applies to the prime contractor and does not extend to lower tier subcontractors, suppliers, or vendors.

Update to the Covered State List:

The following state was added to the Covered State List based on recent legislative action meeting the definition above under Article I of Chapter 12X:

- Montana:
 - SB 280 increases barriers for transgender people to amend their birth certificates.
 - SB 215 allows discrimination towards LGBTQ people based on religious beliefs.
 - HB 112 bars transgender interscholastic athletes from participating in sports consistent with their gender identity.
 - The addition of Montana to the Covered State List was effective on April 22, 2021.

The following states were already on the Covered State List due to anti-abortion laws meeting the definition of a Covered State under Article II of Chapter 12X. These states recently passed an anti-LGBT law or laws meeting the definition of a Covered State under Article I of Chapter 12X, and the Covered State List has been updated to reflect the additional basis for including these states:

- West Virginia:
 - HB 3293 bars transgender interscholastic athletes from participating in sports consistent with their gender identity.
 - West Virginia was added to the Covered State List in January 2020 due to anti-abortion laws.
- Arkansas:
 - SB 354 bars transgender interscholastic athletes from participating in school sports consistent with their gender identity.
 - HB 1570 prohibits healthcare professionals from providing or referring transgender young people to medically necessary health care and allows private insurers to refuse coverage for gender-affirming care for people of any age.
 - Arkansas was added to the Covered State List in January 2020 due to anti-abortion laws.
- North Dakota
 - HB 1503 permits student groups at colleges, universities, and high schools to discriminate against LGBTQ students.
 - North Dakota was added to the Covered State List in January 2020 due to anti-abortion laws.

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The list below indicates all the states currently on the Covered State List. States with an asterisk have anti-LGBT laws meeting the definition of a Covered State under Article I of Chapter 12X and also have anti-abortion laws meeting the definition of a Covered State under Article II of Chapter 12X. States with two asterisks have only anti-LGBT laws meeting the definition of a Covered State under Article I of Chapter 12X. States with no asterisk have only anti-abortion laws meeting the definition of a Covered State under Article II of Chapter 12X.

- Alabama (effective 6/30/2017)*
- Arkansas (effective 1/1/2020)*
- Florida (effective 1/1/2020)
- Georgia (effective 1/1/2020)
- Indiana (effective 1/1/2020)
- Iowa (effective 10/4/2019)*
- Idaho (effective 7/1/2020)**
- Kansas (effective 2/11/2017)*
- Kentucky (effective 6/30/2017)*
- Louisiana (effective 1/1/2020)
- Mississippi (effective 2/11/2017)*
- Montana (effective 4/22/2021)**
- Nebraska (effective 1/1/2020)
- Nevada (effective 1/1/2020)
- North Carolina (effective 2/11/2017)**
- North Dakota (effective 1/1/2020)*
- Ohio (effective 1/1/2020)
- Oklahoma (effective 11/1/2018)*
- Pennsylvania (effective 1/1/2020)
- South Carolina (effective 04/15/2019)*
- South Dakota (effective 3/14/2017)*
- Tennessee (effective 2/11/2017)**
- Texas (effective 9/1/2017)*
- West Virginia (effective 1/1/2020)*
- Wisconsin (effective 1/1/2020)

The Covered State List is reviewed on a semiannual basis. When a state is removed or added the Office of the City Administrator will make that information public and post the updated list on its website, available at <https://sfgsa.org/chapter-12x-state-ban-list>.

If you have questions or require further clarification on City-funded travel, please contact your Financial Officer or accountant representative.