

May 21, 2019

TO: Los Angeles Ethics Commission  
200 N. Spring Street City Hall – 24<sup>th</sup> Floor  
Los Angeles, CA 90012

CC: Los Angeles City Council  
Rules, Elections, and Intergovernmental Relations Committee

Dear Honorable Members of the Ethics Commission and City Council:

We, California Common Cause, League of Women Voters Los Angeles, Citizens Take Action, Money Out Voters In, Unrig L.A., and the California Clean Money Campaign are writing to address the restrictions on behested payments recommended by the Ethics Commission in February 2019. The recommendations are part of a larger package as a comprehensive approach to dismantle the perception of pay-to-play politics and the influence of developer money at City Hall. While the topics addressed in the package have been considered by the public, City Council, and the Ethics Commission for over a year, the recommendations come at a time when confidence in our local government is at a low due to reports of corruption in our city.

Our organizations' primary mission is to create a local government that is representative of and responsive to Los Angeles residents' needs. As a part of this goal, many of our organizations have long advocated for a more robust public matching funds program as well as other campaign finance reforms. With the recent expansion of the program, candidates are further incentivized to communicate and fundraise from everyday people, over the wealthy special interests that wield significant influence in our city. The changes also demonstrate a renewed commitment by the City to enhance representation and confidence in our local institutions.

An improved matching funds program can go a long way in improving the democratic process in our city. But the vulnerabilities in our current ethics and campaign finance system offer wealthy special interests too many avenues for influence. One of these avenues is the issue of behested payments: payments made to a third party at the request of or in coordination with an elected official. While the solicitation of donations by elected officials to charitable causes can be beneficial, the practice often results in real or perceived quid pro quo interactions.

[The Ethics Commission's recent report](#) demonstrates a connection between behested payments and entities with business before the City. **Of the top 10 entities with reported behested payments in the last five years, eight had business with the City during that period. Of all the behested payments made during this time, 52 percent were made by payors who had business before the City either 12 months before or after making the behested payment.** This is a conservative statistic, considering that under current state law, only behested payments above \$5,000 need to be reported. These payors could also have had business before the City outside of the 12-month window.

[Recent news reports](#) on behested payments are also troubling. At the heels of the news of an FBI investigation at City Hall, an L.A. Times review of documents and interviews alleged that a city councilmember and his staff solicited behested payments to a private school where his wife was employed as a fundraiser. Donations made to this school were found to be overwhelmingly “from real estate developers, billboard companies, engineering firms and others who were seeking or had received favorable votes from [the City Councilmember]”.

A system that allows real estate developers, lobbyists and other entities with business before the City to buy influence with elected officials ahead of a Council or Committee decision is a conflict of interest and furthers the public perception of a pay-to-play culture in Los Angeles. For these reasons, our organizations support the proposed restrictions on behested payments, which would:

- (1) prohibit elected officials from soliciting behested payments from restricted sources;
- (2) establish exceptions to the above prohibition, including solicitations (a) made because of a state emergency; (b) made publicly through mass media, at a public gathering, or in written materials where the elected official’s name is listed with other names; (c) made for services provided to the City; and (d) made as a result of an elected official’s participation in a grant application submitted on behalf of the City; and
- (3) lower the disclosure threshold from \$5,000 to \$1,000.

While increased transparency would bring some much-needed light to the issue of behested payments, transparency will not go far enough in preventing the actual and perceived corruption that often goes along with behested payments.

Some critics of the ban have incorrectly suggested that the Ethics Commission’s proposal is an outright ban on behested payments. Their claim is that the proposal would prevent individuals from contributing to important causes or emergency response efforts. This claim is directly contradicted by the content of the proposal, which only applies to elected officials while also establishing exceptions.

**The Ethics Commission’s proposal is a narrow, tailored restriction to prevent the corruptive ability of behested payments.** The proposed restriction only applies to the activities of elected officials. Under the restriction, an elected official cannot solicit behested payments from restricted sources. Restricted sources are defined as a lobbyist; lobbyist firm; contractor; bidder; a person who attempted to influence an elected official in the past 12 months regarding an action that would have a material financial effect on the person; and a person who is party to a proceeding involving a license, permit, or entitlement that, in the previous 12 months, was pending before the elected official or body of which the official is a member. **In other words, the ban prohibits elected officials from soliciting behested payments from those who often have business before Council. This ban does not prohibit any restricted sources from making contributions to charitable causes on their own accord.**

The proposal also establishes several exceptions to this rule that would allow elected officials to fundraise from restricted sources in certain situations. For example, solicitations made in response to states of emergency or made publicly would not be covered under the ban. Elected officials would still be able to make public appeals to support charitable causes on the radio, on social media, or on their websites. The exceptions also would allow elected officials to solicit pro bono services provided for the City or to secure state, federal, or nonprofit grant money.

The behested payments restriction is tailored to prevent elected officials from asking restricted sources to make a behested payment in exchange for a Council decision, such as granting final approval or removing certain conditions on a development agreement.

**There's a reason that the relationship between City officials and restricted sources is already heavily regulated, and that's because those who have business before the Council should not be offered the same avenues for influence as everyone else.** Measure H, one of the most recent measures to ban campaign contributions from bidders and contractors, was approved by 75 percent of Los Angeles voters. Under current law, lobbyists are already prohibited from making campaign contributions or giving gifts of any amount to elected officials, and restricted sources are also subject to stricter gift rules.

The behested payments recommendations set forth by the Ethics Commission are a targeted approach that tackle the corruptive aspect of behested payments head on. The proposals have also arrived at a time where Los Angeles residents are concerned and looking for solutions.

**We would ask that both elected officials and their agents be banned from soliciting behested payments from restricted sources.**

With that, we lend our voice to support the proposed Ethics Commission recommendations on behested payments and urge Council to swiftly approve the recommendations.

Best,

California Clean Money Campaign

California Common Cause

Citizens Take Action

League of Women Voters Los Angeles

Money Out Voters In

Unrig L.A.