

July 10, 2019

The Honorable Rules, Elections and
Intergovernmental Relations Committee
c/o Holly Wolcott, City Clerk
200 North Spring Street
City Hall – 3rd Floor
Los Angeles, CA 90012

Re: Council File No. 19-0046
Town Hall Meetings and Implementation Costs

Dear Committee Members:

On February 27, 2019, the Ethics Commission transmitted recommendations regarding behested payments and campaign contributions from developers. The Rules, Elections and Intergovernmental Relations Committee considered the recommendations on April 10 and recommended that the City Council ask the Ethics Commission to do two things: 1) Conduct two town hall meetings for the purpose of receiving public comment regarding the recommendations; and 2) report on the costs associated with creating and maintaining a developer database. The City Council approved the Committee's recommendations on May 22.

A. Town Hall Meetings

In response to the requests, the Ethics Commission conducted two town hall meetings on May 14, 2019. One town hall meeting addressed the recommendations regarding campaign contributions from developers, and the other addressed the recommendations regarding behested payments. The town hall meetings were widely advertised through a variety of means, including announcement in the Ethics Commission's April meeting materials, publication on the Ethics Commission's website, telephone contacts, in-person meetings (including a meeting with the Valley Industry & Commerce Association's nonprofit committee), and two separate notices emailed to nearly 5,800 individuals, including individuals identified by City Council offices as having an interest in the issues.

Sixteen individuals attended the town hall meeting regarding behested payments, and 11 individuals attended the town hall meeting regarding campaign contributions. Verbal comments provided at each meeting were summarized, and each speaker was asked to confirm that the summary of their comments accurately reflected their input. The summarized verbal comments are provided in Attachment A. Seven written comments were also submitted, and copies are provided in Attachment B.

B. Implementation Costs

Both infrastructure and salary play a role in the cost of implementing the proposals. The infrastructure needs include computer workstations and monitors, cloud storage space, and development software and services.

On the salary front, we will need two regular authority Programmer/Analyst III positions to timely develop the coding for an online filing system for developers and provide ongoing technical support to all of our online systems. We will also need one regular authority Senior Management Analyst I position and one regular authority Management Analyst position to manage the substance of the program, including educating and advising developers, subcontractors, nonprofit organizations, and elected officials who may be required to file behested disclosure reports.

As of today, we estimate that total salary and infrastructure costs will be approximately \$320,000 per year. A more precise look at our estimated costs for the first two years is provided below.

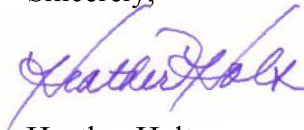
Estimated Costs

	<u>First Year</u>	<u>Second Year</u>
<i>Salary Costs:</i>		
Programmer/Analyst III (2 positions)	\$151,631	\$155,807
Senior Management Analyst I (1 position)	\$82,873	\$85,149
Management Analyst (1 position)	<u>\$70,157</u>	<u>\$72,078</u>
Subtotal:	\$304,661	\$313,034
<i>Infrastructure Costs:</i>		
Cloud Storage Resources	\$5,595	\$613
Workstation Hardware	\$3,600	\$0
Development Software / Services	<u>\$5,630</u>	<u>\$6,025</u>
Subtotal:	<u>\$14,825</u>	<u>\$6,638</u>
Grand Totals:	\$319,486	\$319,672

Finally, we note that our work spaces are currently at full capacity. Additional staff will likely require a work space assessment.

If you have questions, please contact Policy Director Tyler Joseph at (213) 978-1969 or tyler.joseph@lacity.org.

Sincerely,



Heather Holt
Executive Director

Attachments:

- A Verbal Comments (summarized) May 14, 2019
- B Written Comments

Behested Payments Town Hall - May 14, 2019

Comment	Name	Organization
1 Oppose the ban. Concerned that banning behested payments will have unintended consequences that would diminish services and benefits made possible through public-private partnerships. Disclosure of behested payments is appropriate. Exceptions to the ban need to be adequately clarified.	Nona Randois	Alliance for Justice
2 Oppose a complete ban on payments from developers. Concerned that programs funded by behested payments will stop. Increased transparency and reporting are appropriate.	Quyen Tu	Alliance for Justice
3 Behested payments are a constituent service and are expected by the public. Concerned there may be unintended consequences.	Kevin Murray	The Weingart Center
4 Support the ban. We do not need to rely on fundraising from those who may have conflicts of interests.	Rob Quan	Unrig LA Coalition
5 Support the ban. We need more transparency and disclosure. It will encourage public awareness and participation. Put an end to the loophole of corruption and strengthen democracy.	Raji Rab	City Council Candidate 2019, CD 12
6 Oppose the ban. It affects the livelihood of how we fundraise.	Jane Sands	American Diabetes Association
7 Oppose the ban. Elected officials should be allowed to help non-profits fundraise.	Donna Lieberman	American Diabetes Association
8 Support the ban. We need to stop pay-to-play politics.	Carolina Goodman	League of Women Voters
9 The CCMC is a non-profit that often puts on events that have elected officials attend and speak. We don't think a ban on such events is valuable, but we feel having an elected showing up saying such a group's efforts are worthwhile is ok. But we feel it crosses a line if an elected asks people to fund specific charities and especially calling them to do so by phone. Currently the minimum for reporting behested payments is \$5K. We feel this is too high, as elected officials could get around such behested payments without declaring contributions. The City of LA contribution limits are \$1,500 for Citywide candidates and \$800 for City Council, as such, we feel a \$1,000 for reporting is more appropriate a threshold for this matter. We would request that developers be included in the definition of restricted sources for the behested payment issue to avoid these payments being used as a loophole to the developer contribution ban.	Wayne Williams	California Clean Money Campaign
10 Support the ban. Behested payments are an avenue for buying influence. The exceptions are reasonable and would allow non-profits to continue fundraising.	Kiyana Asemanfar	California Common Cause
11 Support the ban. Keep people honest.	Denise Francis Woods	City Council Candidate 2020, CD 8

Campaign Contributions Town Hall - May 14, 2019

	Comment	Name	Organization
1	Level the playing field for proponents and opponents.	Kevin Murray	The Weingart Center
2	We have to stop loopholes and show the public we're doing something. Integrity, clarity, and disclosure will strengthen democracy. Support the amendments. It's a brave and bold step by the City to stand up for the people's interests and not by those of special interest groups.	Raji Rab	City Council Candidate 2019, CD 12
3	As CCMC represents thousands of LA Citizens, and they are concerned with the appearance of undue influence of corporations and other non-individual making contribution to elected officials and candidates, especially where entities are looking to do business with the City... And as people are especially concerned about contributions from developers, be they the corporations, or the individual developers and their principals, i.e., architects, etc. We feel placing a ban on non-individuals along with developers and their principals as defined by the Ethics Commission is critical to give more confidence in the objectivity of our city's decision-making process. As such, we fully support the Ethics Commission's recommendations.	Wayne Williams	California Clean Money Campaign
4	Fund the Ethics Commission's development of a developer database to increase transparency.	Rob Quan	Unrig LA Coalition
5	Is there additional oversight when this matter goes to council? Is there anything the Ethics Commission can do to help it along at this point?	Denise Francis Woods	City Council Candidate 2020, CD 8
6	Is it constitutional?	Carolina Goodman	League of Women Voters



SAJE
152 W. 32nd Street
Los Angeles CA 90007

VIA E-MAIL (ethics.policy@lacity.org)

Date: May 10, 2019

To: Los Angeles City Council
From: SAJE

Re: Ban on Behested Payments, Council File No. 19-0046

Thank you for the opportunity to provide input on the proposed ban of certain behested payments as approved by the City Ethics Commission and described in their February 27, 2019 transmittal to City Council. I am writing on behalf of SAJE to say **we oppose the proposed ban on behested payments and ask that the Council remove it from the overall Campaign Contributions and Behested Payments proposal.**

This ban could have unintended detrimental effects on SAJE's ability to advocate for housing and job equity in low income communities.

A ban on behested payments would result in a severe and chilling impact on the ability of nonprofit organizations to fundraise for legitimate and worthy causes. We understand the good intentions behind this proposal, but banning behested payments goes too far and will have unintended consequences.

The proposed ban would diminish services and benefits available to all city residents. There is a long and important tradition of our elected officials making public appeals for contributions to charities from the Red Cross to the Food Bank to the Library. In the case of our equitable development work, developers have been asked to contribute funds for the public good to support multiple non profits in their work in South LA. Public-private partnerships are a preferred way of providing services and benefits and encouraging private investment in the city[, such as the LA Justice Fund which helps undocumented residents facing deportation]. The proposed ban means elected officials can no longer ask many civically engaged individuals and institutions to support bettering our City. And this may lead to them not asking anyone to support these worthy causes.

Disclosure of behested payments is the appropriate solution to concerns about corruption, not a ban. Existing state law already requires disclosure of behested payments in excess of \$5000, and Los Angeles elected officials are subject to these requirements. A list of behested payments is readily available to the public. We collectively support this approach to assure transparency and democratic process, including the enhanced disclosure requirements in the draft ordinance.

The proposed ban on behested payments is untested and goes further than state law or any other jurisdiction. We are not aware of any jurisdiction that bans behested payments.

Exceptions to the ban are unclear, insufficient, and cannot be adequately clarified to avoid a negative impact on city services. The City Ethics Commission acknowledges the importance of behested payments to nonprofit organizations by recommending certain exceptions for asks made by public officials to certain groups in specific ways. These exceptions leave a lot of ambiguity where all parties involved will be chilled from raising needed funds for worthy causes by the threat of criminal penalties. Concepts such as what counts as a “public gathering” cannot be adequately clarified to avoid this negative impact.

We urge the City Council to remove the ban on behested payments from the proposed ordinance in its entirety. Thank you for the opportunity to provide input.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cynthia Strathmann', followed by a horizontal line.

Cynthia Strathmann
Executive Director, SAJE



PRESIDENT
NAN ARON
CHAIR
KEN GROSSINGER

May 13, 2019

Melinda Murray, Chair and Commissioners
Los Angeles City Ethics Commission
on behalf of the Los Angeles City Council
200 North Spring Street
City Hall, 24th Floor
Los Angeles, CA 90012

Via email to ethics.policy@lacity.org

Re: Ban on Behested Payments, Council File No. 19-0046

Dear City Ethics Commissioners and Councilmembers,

Thank you for the opportunity to provide input on the proposed ban of certain behested payments as approved by the City Ethics Commission and described in their February 27, 2019 transmittal to City Council. I am writing on behalf of Alliance for Justice (AFJ) to say **we oppose the proposed ban on behested payments and ask that the Council remove it from the overall Campaign Contributions and Behested Payments proposal.**

AFJ is a national association of 130 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society. AFJ is the leading expert on the legal framework for nonprofit advocacy efforts, providing definitive information, resources, and technical assistance that encourages nonprofit organizations to fully exercise their right to be active participants in the democratic process. A nonprofit ourselves – we are not a law firm – we provide legal and capacity-building support to nonprofit organizations to empower them to advocate in line with their missions and in compliance with the law. Since 2004, we have worked with over 1,800 small, medium, and large nonprofit organizations in California. Having experienced a strong demand for our services in Southern California for years, we opened an office in Los Angeles in 2014.

A ban on behested payments would result in a severe and chilling impact on the ability of nonprofit organizations to fundraise for legitimate and worthy causes. We understand the good intentions behind this proposal, but banning behested payments goes too far and will have unintended consequences.

The proposed ban would diminish services and benefits available to all city residents. There is a long and important tradition of our elected officials making public appeals for contributions to charities from the Red Cross to the Food Bank to the Library. Public-private partnerships are a preferred way of

providing services and benefits and encouraging private investment in the city. Efforts like the LA Justice Fund where philanthropy has joined the city to help undocumented residents facing deportation, or community benefits agreements, where residents and city officials ask a developer to add affordable housing or other community benefits to their projects involve city officials asking private citizens, who are sometimes lobbyists, city contractors, or developers, to donate to nonprofits for the public good. The proposed ban means elected officials can no longer ask many civically engaged individuals and institutions to support bettering our City. And this may lead to them not asking anyone to support these worthy causes.

Disclosure of behested payments is the appropriate solution to concerns about corruption, not a ban. Existing state law already requires disclosure of behested payments in excess of \$5000, and Los Angeles elected officials are subject to these requirements. A list of behested payments is readily available to the public. We collectively support this approach to assure transparency and democratic process, including the enhanced disclosure requirements in the draft ordinance.

The proposed ban on behested payments is untested and goes further than state law or any other jurisdiction. We are not aware of any jurisdiction that bans behested payments.

Exceptions to the ban are unclear, insufficient, and cannot be adequately clarified to avoid a negative impact on city services. The City Ethics Commission acknowledges the importance of behested payments to nonprofit organizations by recommending certain exceptions for asks made by public officials to certain groups in specific ways. These exceptions leave a lot of ambiguity where all parties involved will be chilled from raising needed funds for worthy causes by the threat of criminal penalties. Concepts such as what counts as a “public gathering” cannot be adequately clarified to avoid this negative impact.

We urge the City Council to remove the ban on behested payments from the proposed ordinance in its entirety as follows:

~~SEC. 49.5.5.C. An elected City officer shall not solicit a behested payment from a restricted source.~~

~~1. The prohibition on soliciting a behested payment does not apply in the following scenarios:~~

~~a. The solicitation is made because of a state of emergency declared by the City Council.~~

~~b. The solicitation is communicated solely through mass media, a suggestion made to the entire audience at a public gathering, or written materials in which the name of the elected City officer is listed with other names. Attachment B Ethics Commission 1 of 2 February 27, 2019~~

~~c. The solicitation is for services provided to the City.~~

~~d. The solicitation is made as a result of an elected official's participation in a grant application submitted on behalf of the City.~~

12. An elected City officer shall disclose behested payments in accordance with the Political Reform Act when one or more payments equal or exceed \$1,000 in the aggregate from the same source in the same calendar year.

23. When disclosing behested payments, an elected City officer shall identify in the comment section of the state's behested payment report whether the payor was one or more of the following when one or more payments were made: a lobbying entity under Section 48.02; a bidder, contractor, subcontractor, or principal under Section 49.7.35 or 49.7.36; or an applicant or principal under Section 49.7.38.

34. A member of an elected City officer's staff is an agent of the elected City officer when the staff member solicits a behested payment.

D. A person shall not induce or coerce or attempt to induce or coerce another person to engage in activity prohibited by Subsections A or B, ~~or C.~~

Thank you for your consideration. Please feel free to contact me at (213) 346-3288 if you have any questions.

Sincerely,

Nona Randois
California Director

Statement of Ron Bitzer
May 14, 2019 Townhall Meeting / 9 AM
Proposed Regulations for Behested Payments

Recommendation #5 of the City Council Rules Committee's Recommendations (dated April 10, 2019) addresses enforcement of any enacted ordinances promising to regulate financial contributions to campaigns for elected City office and to beneficiaries of "behested payments" (Council File No. 19-0046).

Key Behested Payment Recommendations

City governmental agencies and independent nonprofit organizations now receive "behested payments" or financial donations from individuals and businesses. During the January 1, 2018 - March 31, 2019 reporting period for donations of \$5,000 or more, about two-thirds of this dollar value accrued to City agencies and one-third to independent nonprofit organizations (see attached chart based on total donations of \$14.7 million).

In view of the independent status of nonprofit organizations and the recent history of individuals and businesses donating to nonprofits via the behested payment program, enforcement of enacted reform measures is key, as Council President Wesson has said. Additionally, your skeptics say that the targets of fundraising reform will find ways to circumvent both the letter and the spirit of reform measures. Will "behested payments" serve as one way?

Issue (Partial List)

Recommendation

Elected officials solicit behested payments (donations) from restricted sources (developers and their principals seeking discretionary land use entitlements from City government as well as non-individuals).

Ban Recommended
with 4 Exceptions to
a Ban

Nonprofit organizations solicit behested payments (donations) in honor of elected officials.

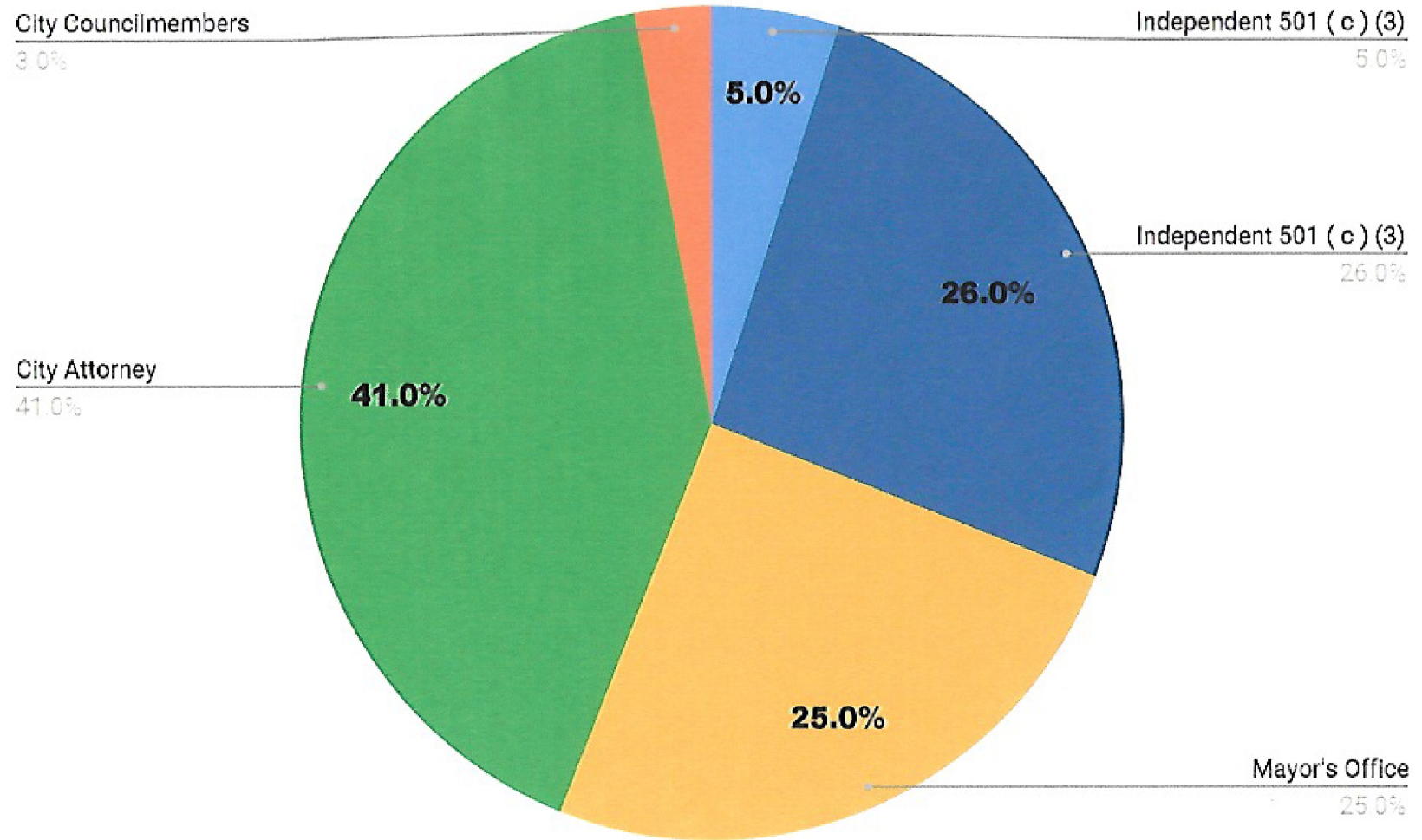
No Recommendation

Receipt of donations by a City government agency or nonprofit organization from a restricted source

No Ban Recommendation*

*The ban would not prevent any person, including a restricted sources, from making a donation to governmental or charitable organization," 2/27/19 Ethics Commission letter to City Council, p. 12

Two Independent Nonprofits ---- Mayor's Fund for Los Angeles &
American Diabetes Association --- Received 31% of the Value of Behested
Payments (242 Total Payments of \$5,000 or More as Reported
For the Period 1/1/2018 - 3/31/2019 -----Totalling \$14,744,701)



May 20, 2019

Los Angeles Ethics Commission

200 N. Spring Street City Hall – 24th Floor Los Angeles, CA 90012

CC: Los Angeles City Council

Rules, Elections, and Intergovernmental Relations Committee

Dear Ethics Commission and Honorable Councilmembers:

We are writing to address the ethics and campaign finance recommendations proposed by the Ethics Commission on February 19, 2019. The reform package is a comprehensive approach to dismantle the pay-to-play culture at City Hall. We would like to join California Clean Money Campaign, California Common Cause, the League of Women Voters Los Angeles, and Sierra Club Angeles Chapter to support the proposed recommendations addressing behested payments, the adoption of which would be a considerable step toward improving democracy in Los Angeles.

Creating a local government that is of the people, by the people, and for the people is a shared value among our organizations. Recently, Los Angeles took a major step in improving our local democracy by expanding the matching funds program, giving viable grassroots candidates a financial boost in their campaign and increasing candidates' incentives to communicate and fundraise from everyday people. These changes demonstrate a renewed commitment by the City to create a government that is reflective of Los Angeles residents and responsive to our needs.

But the vulnerabilities in our ethics and campaign finance system undermine these recent improvements to this program as well as the values that drove them. A behested payments system that allows elected officials to solicit behested payments from lobbyists, lobbyist firms, contractors, and bidders is a perceived conflict of interest in the eyes of the public. While gifts and campaign contributions from restricted sources are heavily regulated, the land of behested payments remains largely unknown and unregulated. This lack of regulation gives entities an overly convenient avenue for influence, with minimal public transparency.

We support the Ethics Commission's proposals to:

- prohibit elected officials from soliciting behested payments from restricted sources;
- establish exceptions to the above prohibition, including solicitations (1) made because of a state emergency (2) made through mass media, (3) made for services provided to the City, and (4) made as a result of an elected official's participation in a grant application submitted on behalf of the City; and
- lower the disclosure threshold from \$5,000 to \$1,000.

The proposed recommendations not only bring increased transparency to behested payments, but also restrict the ability of lobbyists, contractors, and bidders from attempting to build favorability with elected officials ahead of a Council or Committee vote through behested payments.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Green", with a stylized flourish at the end.

Michael Green
Center for Environmental Health (CEH)

MAIN OFFICE
870 Market Street, Suite 985
San Francisco, CA 94102
(800) 776 4226

SACRAMENTO
1100 11th Street, Suite 10
Sacramento, CA 95814

LOS ANGELES
1000 North Alameda, Suite 240
Los Angeles, CA 90012
(213) 500 2274

CALNONPROFITS INSURANCE
1500 41st Avenue, Suite 280
Capitola, CA 95010
(888) 427 5222

May 20, 2019

To: Los Angeles City Ethics Commission
and Los Angeles City Council

From: California Association of Nonprofits

Via email to ethics.policy@lacity.org

Re: Ban on Behested Payments, Council File No. 19-0046

Thank you for the opportunity to provide input on the proposed ban of certain behested payments as approved by the City Ethics Commission and described in their February 27, 2019 transmittal to City Council. I am writing on behalf of California Association of Nonprofits to express our opposition to the proposed ban on behested payments, and ask that the Council remove it from the overall Campaign Contributions and Behested Payments proposal.

California Association of Nonprofits (CalNonprofits) is a statewide policy alliance of more than 10,000 organizations representing and promoting California's nonprofit sector. We support policies that promote principled and productive partnerships between charities, city government, and the private sector, and that ensure transparency and good governance.

However, we are concerned that the proposed ban on behested donations is too extreme, and will harm nonprofits and limit their abilities to serve our communities. And while the proposal offers exceptions to the ban, they are vague and confusing, and would likely result in public officials steering clear of any efforts to appeal for funds on behalf of nonprofits. Further, we are not aware of other municipalities enacting such severe measures.

We believe that strong disclosure and transparency is the better path to exposing real corruption, while mitigating potential harm to the City's ability to create public-private partnerships and to charitable organizations' ability to identify funding sources for vital community services. Therefore, we urge the City Council to remove the ban on behested payments from the proposed ordinance in its entirety.

Thank you for the opportunity to provide input.

Sincerely,



Nancy Berlin
Policy Director

May 20, 2019

To: Ethics.policy@lacity.org

From: **Nancy Dolan, Campaign Finance Director for 20 years in LA City elections**

Re: **Comments on recommendations to ban campaign contributions from all non-individuals and individuals who are developers**

I am very concerned about these restrictions for a number of reasons- as to how it will ultimately affect campaigns and campaign finance. **These concerns fall into four main areas:**

- **Over-reach**: The far reaching ban includes contributions from interest groups including labor unions, action groups such as Planned Parenthood, environmental, State and Federal candidate committees with a legitimate public interest in the City functions, certain non-profit groups, and corporations, who according to The Supreme Court decision in “Citizens United” are people, and other groups with a legitimate interest in Los Angeles.
- **Discriminatory**: The definition of “developer” allows other parties with a financial interest to contribute, which in some neighborhoods could generate thousands of dollars in donations from adjacent property owners interested in blocking development such as affordable housing projects. This also includes both business owners and private property homeowners.
- **Practicality**: The practical real life implications in campaigns and elections and burden to comply requires the City to take responsibility for updating a list of excluded contributors. Without a real time City list to refer to, the implementation would be uneven and the potential for innocent violations would be likely.
- **Unintended Negative Consequence**: These donation restrictions will likely push more money into unregulated and undisclosed independent expenditures. This will only serve to shield finance information from the public and create a higher incentive for “pay to play” as candidates will become more reliant on those interests as their actual impact on election outcomes will be much greater.

Specifically:

1. It appears to reinforce public perception that “pay to play” is the ordinary course of business and has been tolerated, rather than to recognize and educate the public that this is not the case and only the rare exception that has been in the media.
2. It seems to infer that we have allowed too much development, at the same time that the public is clamoring for more attainable housing. The spate of bills being proffered in Sacramento that remove local control indicate the opposite – that there is a popular belief that local government does not allow enough development.

3. It seems to imply that “developers” are the only financially interested parties. What about homeowners’ associations and neighbors that “lobby” Council on projects based on whether their property values will increase or decrease because of a proposed development. Clearly, that is a financial interest guiding their decision on a proposed development.
4. It seems overly broad in that “developers” would include homeowners who had to apply for discretionary permits. For example, it would include a homeowner who had to apply for a discretionary permit to build a fence in their yard, or install a water reclamation process, instead of standard irrigation system. Perhaps there could be an exception that if a discretionary permit is required for your own home, where you live, and is not income producing property, it would be exempt from this definition.
5. Additionally, it seems overbroad with respect to the time the ban is in place. From the date an application is filed until twelve months after a determination or certificate of occupancy is issued could be a decade in our city – at the very least it spans an entire election cycle.
6. It seems to ignore the fact that, especially in light of our new election schedule, so many offices will be on the ballot at the same time that everyone will be sharing a limited contributor pool. Campaigns will cost more money because the universe of probable voters will at least triple. The amount of money that candidates will be able to raise will decrease. If these restrictions are enacted, consulting fees for fundraising and treasurers would also increase due to the amount of extra compliance work required for each contribution. Consequently, these new rules will make it much more difficult for candidates who are not incumbents to get their message out to voters. Democracy is weakened when voters lack information.
7. If these restrictions are enacted, the only way it would be possible to comply would be if the City maintained an online filing system, updated daily, that we and the public would have access to. We would have to print out the page that told us the individual was cleared to give on the date we received the contribution, and attach it to each contribution. That is the only way that I can see that a campaign committee would be indemnified from any violation. This would also require constant updates; for example, if subcontractors were replaced or added to the project. Without this database many “innocent” mistakes would become violations and unfairly tarnish a candidate’s or contributor’s reputation.
8. It also bans advocacy groups, like Planned Parenthood and Environmental groups, for example, as well as labor unions, law firms, small businesses and partnerships. There is

no evidence that these groups are corrupting our system, nor that the Council wishes to send the message that their voice is not welcome.

9. Finally, by blocking these sources from contributing to candidates we will increase independent expenditures, which will serve to shield finance information from the public by making it difficult and complicated to find. A voter looking at a candidate's or committee's finance report and seeing no developer contributions can be misled to believe no such contributions were received. Contributions that go directly to a candidate committee and are reported are easily discoverable. But a voter may not know about independent expenditures and if they do will find it difficult to track contributions to and expenditures made by independent expenditure committees.

Ethics rules and regulations should be put in place with the intention of giving complete transparency to voters. These recommendations head us in the opposite direction here.

May 21, 2019

TO: Los Angeles Ethics Commission
200 N. Spring Street City Hall – 24th 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.



Angeles Chapter
3250 Wilshire Blvd.

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Los Angeles, CA 90010-1513

May 21, 2019

Los Angeles Ethics Commission
200 N. Spring Street City Hall – 24th Floor
Los Angeles, CA 90012

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

Dear Ethics Commission and Honorable Councilmembers:

We are writing to address the ethics and campaign finance recommendations proposed by the Ethics Commission on February 19, 2019. The reform package is a comprehensive approach to dismantle the pay-to-play culture at City Hall. We would like to join California Clean Money Campaign, California Common Cause, and the League of Women Voters Los Angeles to support the proposed recommendations addressing behested payments, the adoption of which would be a considerable step toward improving democracy in Los Angeles.

Creating a local government that is of the people, by the people, and for the people is a shared value among our organizations. Recently, Los Angeles took a major step in improving our local democracy by expanding the matching funds program, giving viable grassroots candidates a financial boost in their campaign and increasing candidates' incentives to communicate and fundraise from everyday people. These changes demonstrate a renewed commitment by the City to create a government that is reflective of Los Angeles residents and responsive to our needs.

But the vulnerabilities in our ethics and campaign finance system undermine these recent improvements to this program as well as the values that drove them. A behested payments system that allows elected officials to solicit behested payments from lobbyists, lobbyist firms, contractors, and bidders is a perceived conflict of interest in the eyes of the public. While gifts and campaign contributions from restricted sources are heavily regulated, the land of behested payments remains largely unknown and unregulated. This lack of regulation gives entities an overly convenient avenue for influence, with minimal public transparency.

We support the Ethics Commission's proposals to:

- prohibit elected officials from soliciting behested payments from restricted sources;
- establish exceptions to the above prohibition, including solicitations (1) made because of a state emergency (2) made through mass media, (3) made for services provided to the City, and (4) made as a result of an elected official's participation in a grant application submitted on behalf of the City; and
- lower the disclosure threshold from \$5,000 to \$1,000.

The proposed recommendations not only bring increased transparency to behested payments, but also restrict the ability of lobbyists, contractors, and bidders from attempting to build favorability with elected officials ahead of a Council or Committee vote through behested payments.

Best,



Chair, Sierra Club Angeles Chapter