

Communication from Public

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Comments for Public Posting: See attached letter.

March 5, 2026

Hon. Hydee Feldstein Soto
Los Angeles City Attorney
200 North Main Street
Los Angeles, CA 90012

Re: Due Process and Privacy Concerns in the OWS Workplace Violations Report

Dear City Attorney Feldstein Soto:

I write on behalf of Protect LA Restaurants (“PLR”), a coalition of restaurant operators and employers in the City of Los Angeles, regarding the recommendations found in the Chief Legislative Analyst’s report on Enforcement of Workplace Violations.¹ PLR members support robust enforcement of legitimate workplace violations. However, several recommendations in the report raise significant constitutional and statutory concerns that warrant careful scrutiny before the City considers adopting them.

As drafted, the report recommends substantially expanding enforcement authority by the Office of Wage Standards (“OWS”)—as well as enforcement by outside third parties—in ways that weaken established due process and equal protection safeguards, compromise employee privacy, and depart from well-settled legal standards. Taken together, these proposals raise serious concerns under both the state and federal Constitutions. Due process is the foundation of legitimate enforcement—it protects employees, employers, and the integrity of government action, and determines whether an enforcement framework can withstand judicial scrutiny.

- **Presumption of Wrongdoing Based on Complaints:** The report repeatedly equates investigation volume with violation rates and recommends targeted enforcement against industries labeled “high priority” based on complaint activity. That approach conflates allegations

¹ Jul. 24, 2025. Council File No. 23-0932; Assignment File No. 23-10-0533.

with adjudicated violations. An allegation is not a violation. An investigation is not an adjudication. Using unverified complaints to justify enhanced enforcement is likely to encourage the filing of malicious or otherwise ill-motivated complaints. (*Toler v. Paulson* (E. Dist. Calif. 2008) 551 F.Supp.2d 1039, 1047 [identifying a due process right to be free from charges based on fabricated evidence].) Due process requires accusations to be based on credible evidence, and sanctions to rest on adjudicated violations. Enforcement structures that rely on complaint volume rather than proven violations create an incentive to file complaints as a means of harassment and invite constitutionally-suspect enforcement.

- **Concentration of Subpoena Authority:** The recommendation to extend subpoena authority beyond the Board of Public Works to a single Bureau of Contract Administration (BCA) Director removes critical structural safeguards. Subpoenas compel production of highly sensitive materials—including payroll records, personnel files, scheduling data, and employee contact information. Currently, subpoenas are reviewed by a Council-confirmed multimember body in publicly noticed proceedings that provide transparency and oversight. Extending that authority to a single unelected official eliminates meaningful oversight. Just as important, extending subpoena power to the BCA Director stands to dilute the additional authority granted to the Office of the Los Angeles City Attorney by AB 2766 (2022). Under the Unfair Competition Law (UCL),² public prosecutors may prosecute violations that result in a person losing money or property as a result of unfair competition. For the first time, AB 2766 gave city attorneys in Los Angeles, San Diego, and San Jose pre-litigation subpoena power in UCL actions on par with the Attorney General.³ However, under the new proposal, in the context of workplace violations resulting in unfair competition, the BCA Director would obtain duplicative—and potentially contradictory—subpoena power vis-à-vis the elected City Attorney. Subpoena power currently resides in bodies and officials who are either multimember or democratically accountable. The new proposal has neither of those.

² Bus. & Prof. Code § 17200 et seq.

³ Bus. & Prof. Code § 16759.

- **“Co-Enforcement” and Employee Privacy Risks:** The proposed “co-enforcement” concept is lacking in important details and thus raises several legal and privacy concerns. While the report recognizes that government “cannot share records with external entities,” the report provides no framework governing confidentiality, data protection, or third-party handling of investigative records. If government records are even inadvertently shared with community-based organizations, the privacy of those records and the information contained in them will be at grave risk of disclosure. “Once disclosed to a member of the public, a record becomes available for public inspection.” (*Pasadena Police Officers Assn. v. Superior Court* (2015) 240 Cal. App. 4th 268, 294; *Black Panther Party v. Kehoe* (1974) 42 Cal.App.3d 645, 656–657.) Wage investigations routinely involve sensitive personal information, including payroll data, personnel files, and employee contact information. The startling lack of detail creates a real risk of misuse or disclosure of employees’ personal information and implicates constitutional privacy protections. Workers reasonably expect confidentiality when reporting violations, and any enforcement framework that jeopardizes confidentiality undermines employee protection and the integrity of the enforcement process.
- **Structural Neutrality:** Delegating investigative functions to outside advocacy organizations raises additional due process concerns regarding neutrality. Where enforcement participants have independent financial, organizational, or political interests—including interests tied to unionization campaigns or private litigation—credible arguments of structural bias arise. Due process requires a neutral decision-maker. (*Bayside Timber Co. v. Bd. of Supervisors* (1971) 20 Cal.App.3d 1, 10-12 [unconstitutional delegation occurs when governmental authority is bestowed upon parties with pecuniary interests in the subject matter]; *State Bd. v. Thrift-D-Lux Cleaners* (1953) 40 Cal.2d 436 [an unconstitutional exercise of the police power occurs where a law confers authority on those who have an interest in the operation of the regulatory rule].)

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These concerns raise serious constitutional and statutory questions about whether the proposed enforcement structure would withstand judicial review and should be resolved before the City advances an ordinance.

Respectfully submitted,



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