



FACT SHEET

Understanding “Behested Payments” Reporting Requirements

12/11/20

Overview

A behested payment is a payment (donation) that a private individual or entity makes at the behest of a government official (officer) for legislative, governmental, or charitable purposes. These payments are not for the behesting official’s personal or campaign purposes. Generally, a payment is made at the behest of an official if it is requested, solicited, or suggested by the official, or otherwise made to a third party in cooperation, consultation, coordination with, or with the consent of, the government official. This also includes payments behested by the official’s agent or employee on the official’s behalf.

Under state and local law, behested payments are not considered gifts, but may be subject to reporting on one or more disclosures if payments meet or exceed certain thresholds. In general, public officials need to be mindful that any time they solicit a donation (monetary or non-monetary), they may need to disclose the payment that results from that request.

Who must report Behested Payments?

- **Elected Officials:** City elected officials are subject to both state and local behested payment disclosure laws.^{1,2}
- **Commissioners and Board Members:** Member of a boards and commissions listed in Section [3.1-103\(a\)\(1\)](#) of the San Francisco Campaign and Governmental Conduct Code are subject to local behested payment disclosure laws.²
- **Department Heads:** Effective September 24, 2020, per Mayoral Executive Directive 20-02, department heads must comply with local behested payment reporting requirements.³

¹ Cal Gov. Code § 84224 https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=84224&lawCode=GOV

² S.F. Campaign & Gov. Conduct Code § 3.610 https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_campaign/0-0-0-47672

³ Mayoral Executive Directive 20-02

https://sfmayor.org/sites/default/files/Executive%20Directive%2002_Gifts%20to%20Departments%20Through%20Non-City%20Organizations.pdf

San Francisco Behested Payment Reporting

➤ [SFEC-3610b – Behested Payments by City Officers](#)

If an **elected official**, an **appointed member of a board or commission**, or a **department head*** directly or indirectly requests or solicits a behested payment from an “interested party” (i.e., a person who is a party, participant or agent of a party or participant in an administrative enforcement proceeding or proceeding regarding permits, licenses, or other entitlements for use before the officer), the officer must e-file Form SFEC-3610b with the Ethics Commission as follows:

- if the interested party makes behested payment(s) totaling \$1,000 or more during the pendency of the matter involving the interested party, the officer shall file a behested payment report within 30 days of the date on which the behested payment(s) total \$1,000 or more;
- if the interested party makes any behested payment(s) totaling \$1,000 or more during the 6 months following the date on which a final decision is rendered in the matter involving the interested party, the officer shall file a behested payment report within 30 days of the date on which the behested payment(s) total \$1,000 or more;
- if the interested party made any behested payment(s) totaling \$1,000 or more in the twelve (12) months prior to the commencement of a matter involving the interested party, the officer shall file a behested payment report within 30 days of the date the officer knew or should have known that the source of the behested payment(s) became an interested party; and
- within 30 days if any subsequent payments (in any amount) after the \$1,000 threshold has been reached by an interested party in the same calendar year.

Exception: For the purpose of Section 3.610, a payment is not made *at the behest of* an official if the official requested the payment via television, radio, billboard, a public message on an online platform, the distribution of 200 or more identical pieces of printed material, the distribution of a single email to 200 or more recipients, or a speech to a group of 20 or more individuals.

Effective September 24, 2020, **Mayoral Executive Directive 20-02 directed Department Heads to comply with the City’s behested payment requirements that apply to City elected officials and members of boards and commissions that are contained in Article III, Chapter 6 of the Campaign and Governmental Conduct Code. This includes the filing of behested payment Form SFEC-3610(b).*

Please note: Pursuant to SF C&GCC Section 3.610(e), if an official behests a payment (donation), in any manner other than a public appeal, the official or his agent must inform that person (donor) that if the person makes any payment in response to the solicitation or request, the person may be subject to the disclosure and notice requirements in [Section 3.620](#). **Department Heads are not subject to this “Notice” requirement.**

State of California Behested Payment Reporting

➤ [FPPC Form 803 – Behested Payments Report](#)

Separate and apart from behested payment disclosures required under San Francisco law, California law requires **elected officials** to report behested payments of \$5,000 or more from a single source (donor) in a calendar year.

File Form 803 within 30 days following the date on which the payment(s) meets or exceeds \$5,000 in the aggregate from a single source in a calendar year. (Section 84224.) Once a single source has made a behested payment of \$5,000 or more during the calendar year, subsequent payments of any amount from that source must be reported.

The original Form 803 should be filed with the elected official's agency. Within 30 days of receipt of the Form 803, the elected official's agency must forward a copy of the report to the Ethics Commission by e-mail. Elected officials should not file the form directly with the Ethics Commission.

Exception: If the behested payment is made by a state, local, or federal government agency and is principally for legislative or governmental purposes, the elected official need not file a Form 803.

How to view filed behested payment reports

Open data promotes transparency, accountability, and demonstrates a commitment to openness. The Ethics Commission publishes datasets on its website, which are updated daily. Datasets include the contents of each behested payment filing and can be exported to a variety of data formats. The dataset also includes a link to a PDF copy of the filing.

- [View Filings by Elected Officials \(FPPC Form 803\)](#)
- [View Filings by Elected Officials, Board and Commission Members, and Department Heads \(Form SFEC-3610\(b\)\)](#)
- [View Filings by Donors of Behested Payments \(Form SFEC-3620\)](#)
- [View Filings by Recipients of Behested Payments \(Form SFEC-3630\)](#)

For more information

Please visit sfethics.org, or contact Ethics Commission staff at ethics.commission@sfgov.org or (415) 252-3100.