

LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Behested Payments Exceptions]

Ordinance amending the Campaign and Governmental Conduct Code to modify the rules concerning behested payment solicitations, by excepting solicitations made under certain types of programs to solicit, request, and contractually obligate charitable donations through competitively procured contracts; excepting certain types of licensees and permittees from the definition of interested party; providing that attempting to influence an administrative action does not make a person an interested party; and making other clarifying changes.

Existing Law

Under Campaign and Governmental Conduct Code Sections 3.600, *et seq.*, City officers and employees may not solicit behested payments from interested parties. The term “interested party” includes persons involved in proceedings for licenses, permits, or other entitlements for use; contractors and persons seeking to contract with City departments; and persons who have attempted to influence officers or employees in administrative or legislative actions. This prohibition became effective January 23, 2022.

Amendments to Current Law

This ordinance adds several exceptions to the behested payment prohibition:

- It allows officers and employees to solicit charitable donations from persons contracting with or seeking to contract with their departments, under authorized programs. A program is authorized if it existed before the effective date of the behested payment prohibition (or is later authorized by the Board of Supervisors), and if it involves a process for the solicitation of donations through a public, competitive procurement that results in the award of a contract that includes an obligation to make donations, such as the San Francisco Public Utilities Commission Social Impact Partnership program. But this exception would not apply to contracts for the purchase of wholesale energy, or energy products, generated on non-City property.
- It provides that receiving a license or permit or other entitlement for use that was issued on a ministerial basis does not make the recipient an interested party.
- It provides that attempting to influence an administrative action does not make a person an interested party.

The ordinance also makes several clarifying changes, including that communicating with a City department regarding a grant that the person is providing to that department does not constitute an attempt to influence.

Background Information

The original version of this ordinance proposed an exception for contractually obligated solicitations made under authorized programs. The behested payment prohibition halted the San Francisco Public Utilities Commission Social Impact Partnership program and possibly other department programs. The proposed exception would allow officers and employees to proceed with administering certain types of programs as they were before the behested payment prohibition took effect, without further action by the Board.

On #####, a substitute ordinance was introduced. The substitute ordinance adds that the proposed exception for contractual solicitations under authorized programs does not apply to certain types of energy procurement contracts. The substitute ordinance also addresses other aspects of the behested payments prohibition, dealing with licensees, permittees, and attempts to influence.

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