



May 16, 2022

To: All Department Heads and Chief Financial Officers,

I hereby direct all departments to pause any solicitations or requests for philanthropic funding of any department programs or projects, until such programs and projects have been vetted to ensure compliance with City Ordinance 232-21, effective January 23, 2022, which enacts significant changes to the law regarding behested payments. The legislation and an explanatory memo from the City Attorney's Office are attached. Any program or project that relies in whole, or in part, on private funding support or donated goods or services, whether provided directly to the City or to a non-City organization, must be analyzed in light of the new legislation.

Departments are directed to identify all impacted programs and provide a list of such programs to the Office of the Mayor. If members of the Board of Supervisors or other officials request that departments seek philanthropic funding for a City project or program, those requests should be denied until further notice.

City initiatives that rely on behested payments from philanthropists or other non-governmental funding sources are now subject to broad restrictions under the new legislation. A behested payment is a payment made at the behest of a City officer for a charitable, governmental or legislative purpose. A payment can be monetary or consist of goods or services. A common form of a behested payment would be an official soliciting a philanthropic organization to fund a charitable non-profit or to donate to the City for a particular government initiative.

Previously, under state and local law, behested payments were only subject to reporting requirements and were not restricted. The new ordinance effects major changes to behested payments law, in the following ways:

- 1) Instead of merely reporting behested payments, the ordinance bans behested payments from certain parties that are considered "interested parties" to the officer soliciting the payment. "Interested party" could be any individual or entity falling into one of 5 broad categories:
  - a. Contractors or prospective contractors, or an affiliate of such, to the officer's department, for a period of the entire term of an awarded contract, plus 12 months;
  - b. Parties to proceedings before the officer's department that involve administrative enforcement, permitting, licensing or other entitlement for use, for a period of the duration of the proceeding, plus 12 months;
  - c. Persons who attempted to influence the officer in any legislative or administrative action in the prior 12 months;
  - d. Lobbyists who are registered to lobby the officer's department; and



- e. Permit consultants who have reported contacts with the officer's department in the prior 12 months.
- 2) Behested payments include payments solicited by any City employee that is a Form 700 filer, and not just those by elected officials and commissioners;
- 3) Behested payments from interested parties of any amount are prohibited;
- 4) Indirect behested payments, solicited through a third person, from an interested party, are prohibited.

As a result of these changes, it is critical that City departments identify current programs and projects that involve behested payments immediately and determine whether they comply with the legislation. Officers in violation of the legislation are subject to ethics penalties, including fines of up to \$5,000 per violation.

Departments are directed to seek guidance from the City Attorney's Office and the Ethics Commission regarding compliance with the legislation to avoid any violations of this law.

Sincerely,

A handwritten signature in blue ink that reads "London N. Breed".

London N. Breed  
Mayor  
City and County of San Francisco