

FPPC Updates Reporting Requirements for Behested Payments

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ATTORNEYS

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The Fair Political Practices Commission (FPPC) has adopted new regulations regarding payments made for a legislative, governmental, or charitable purposes “at the behest of” an elected official; which means in response to a request or solicitation from an elected official. FPPC regulations and the Government Code already required an elected official to report behested payments from any single source totaling more than \$5,000 in aggregate per year. The new FPPC regulations—effective December 22, 2021—include the following clarifications and additions:

- ▶ If an elected official does not know the exact amount of a behested payment or the date it was made, they may now file a report based on a good faith estimate. The official must first make a reasonable effort to obtain the information from the recipient, which includes sending a written request to the recipient at least 30 days before the reporting deadline. The report must then clearly state that the payment information is an estimate that reflects the official’s best efforts to obtain accurate information. Finally, the official must file an amended report within 10 days of receiving the required information from the recipient.
- ▶ If the payment is made at the behest of an elected official by someone who is the subject of an official proceeding before that official within the 12 months preceding the payment, the official must now report and describe that proceeding.
- ▶ An elected official must now report any relationship between the recipient of a behested payment and the official or any member of the official’s immediate family, campaign, or staff. This generally includes any position in the recipient organization held by any of these individuals.
- ▶ If the payment is made at the behest of an elected official through a donor advised fund, the elected official must now report additional information regarding donor advised fund and sponsoring organization.

If you have any questions, or would like more information about how the FPPC Regulations may affect your agency, please contact **Steven Flower**, or **Jeremy Kirshner**.