

Behested Payment Reporting

Overview

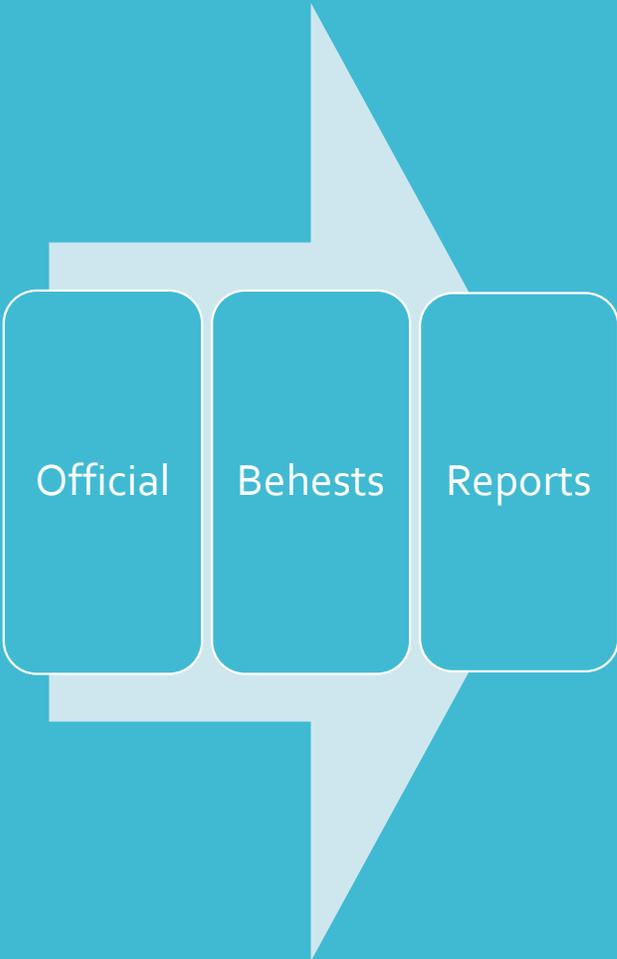
Payments involving Elected Officials under the Act

Contributions

Income

Gifts

Behested
Payments



- A ***reportable behested payment*** occurs when an elected officer or Public Utilities Commission member “makes a behest” for payment and the payment is made “**principally for charitable purposes**” or “**principally for legislative, or governmental purposes.**”
- A payment is “made at the behest” when it is made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of the official.
- The official has a duty to report when a single source makes behested payment(s) that meet or exceed \$5,000 in a calendar year.

Reporting Duties

Within 30 days of a single source reaching the \$5,000 threshold the official's report must contain:

- Name of the payor and address
- Name of payee and address
- Amount of payment or payments
- Dates of payment or payments
- A brief description of the goods or services provided or purchased, if any; and
- A description of the specific purpose or event for which the payment or payments were made.

Note: Once the five-thousand-dollar (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source shall be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later.

Payments from Donor Advised Funds

- Section 84224 requires disclosure of the payor's name in a behested payment report.
- Community Foundations and some Financial Institutions make charitable payments from donor advised funds ("DAFs") that may be subject to a behested payment report.
- **Presentation on DAFs:**
 - Laura Seaman, Chief Executive Officer, and
 - Carol Bradford, Senior Counsel, League of California Community Foundations.
- Prenotice discussion of proposed behested payment reporting regulations to follow.

- Regulation Proposals addressing Reporting Issues
 - Disclosing a relationship between the official and the payee or payor
 - Use of good faith estimates when payment amount(s) are not available within the 30-day deadline
 - Better reporting guidance for officials involved in a charitable organization's fundraising solicitation

PreNotice
Discussion

Further Discussion: DAFs and Behested Payment Reporting

- “Payor” is not currently defined in the Act or Commission regulations.
- Staff has advised the following, consistent with the purpose of behested payment reporting:
 - The elected official should identify the “payor” of the behested payment with as much specificity as the official knows or can determine by inquiring with the sponsoring organization.
 - When the official knows, or can determine, a person who is the source of a behested payment made through a DAF, the official should identify that person as the “payor.”
 - When the official does not know the identity of the person whose DAF is being used to make a behested payment and the sponsoring organization will not identify that person, the official should report that the payment was made by a DAF, provide the name of the DAF, if known, and the name of the sponsoring organization.