



The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

The Honorable Toni Atkins
Senate President pro Tem
State Capitol
Sacramento, CA 95814

The Honorable Monique Limón
Chair, Senate Select Cmte on the
Nonprofit Sector
State Capitol
Sacramento, CA 95814

The Honorable Anthony Rendon
Assembly Speaker
State Capitol
Sacramento, CA 95814

The Honorable Luz Rivas
Chair, Assembly Select Cmte on the
Nonprofit Sector
State Capitol
Sacramento, CA 95814

Dear state leaders:

We, the undersigned organizations representing the California Coalition on Government Contracting, as well as many of our allies across the state, write to you today to convey ideas for strengthening the relationship between California state government and nonprofit partners in our mutual efforts to deliver the highest quality service to the people of California, especially in our most vulnerable communities. Aligned with the state's Californians for All initiative, the ideas presented below acknowledge the impact the pandemic has had on our communities and support strong and varied community-based resources to address increased need.

The California Coalition on Government Contracting is an informal statewide partnership of organizations that have come together to share ideas for improving the ways nonprofits and the state work together to equitably, fairly, and efficiently use taxpayer dollars in furtherance of our state's health, human services, environmental, education, and other vital priorities.

Introduction

Federal, state, and local governments partner with nonprofit organizations to provide services to communities and complete projects that benefit Californians. These government-nonprofit partnerships, when effective, provide nonprofits with the resources they need to meet government's policy, services, and program goals, and provide the government with a strong, diverse supply chain of providers.

For example, one-third of Medi-Cal services and more than one-fourth of Medicare services in California are delivered by nonprofits. All food bank services in California are provided by nonprofits; the need for these services has increased exponentially in the past two years. Domestic violence services providers in California are all nonprofits; in FY 20-21, they answered 213,674 crisis hotline calls and provided 608,658 shelter nights to survivors and their children. Five million acres of open land in California are permanently protected thanks to the work of 136 nonprofit land trusts. In total, government funding comprises about a third of nonprofit revenue in California. The fact is that government and nonprofits are interdependent, and our successful partnership is critical for meeting Californians' needs.

To effectively collaborate, we rely on contracts, policies, and processes that lay out critical details governing our shared goals and working relationships that drive the results. We share the state's interest in ensuring that such agreements result in efficiency, fairness, and most importantly: the best possible services for Californians.

The [Federal Acquisition Regulation \(FAR\) 15.404-4](#) states:

It is in the Government's interest to offer contractors opportunities for financial rewards sufficient to stimulate efficient contract performance, attract the best capabilities of qualified large and small business concerns to Government contracts, and maintain a viable industrial base.

Similarly, it is in the government's interest to offer to qualified large and small nonprofits contractor opportunities that provide sufficient financial rewards to stimulate efficient contract performance, attract the best capabilities of the nonprofit sector, and maintain a viable base of service providers so critical to Californians' health and wellbeing. A "viable industrial base" here means the inclusion of large and small nonprofits, those in metropolitan and rural communities, and those based in and led by people from marginalized communities.

During the height of the pandemic, state agencies provided greater flexibility on contracts with nonprofits and instituted improvements that made it easier for nonprofits and state agencies to work together to meet the changing needs of Californians. These improvements included telehealth options for healthcare services, electronic signatures on contracts and invoices, flexibility regarding delivery options for food access, and cost-reimbursement billing to allow for social distancing in homeless shelters. As the emergency lessens, nonprofits are seeing some of these improvements go away. The pandemic has shown that these changes work, and we hope to partner with you to keep as many of them in place as we can.

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Opportunities

We have identified a number of ways that the contracting relationship between the state and nonprofit service providers can ensure consistent, ongoing delivery of quality services. We are excited to partner with you to build trust and to make more progress together. A theme for these opportunities is that these proposals are commonplace and standard in federal contracts with nonprofits.

1) *Contract startup funds*. To move faster to implement programs, to expand the diversity of eligible partners, and to ensure more equity and fairness in service delivery, the state can and should shift away from requiring nonprofit contractors to front funds – often in the millions of dollars. Currently, nonprofits are often placed in the challenging position of having to consider pursuing loans to cover costs associated with starting up state-contracted projects and services. Many nonprofits are not positioned well to apply for, qualify for, or take such loans. And it is very difficult to find other funding to cover interest rates on loans.

- As federal agencies do, the state can and should incorporate startup funds into contracts, whenever possible.
- Current policies under [CA Govt Code §11019](#) could be strengthened to apply to all state agency contracts with nonprofits, regardless of contract amount, and to allow state

departments to provide pre-start payments if requested by the contracting nonprofit.

- Contracts should include sufficient protection of state resources to account for all upfront expenses and ensure compliance with the state's terms.

2) *Multiyear contracts and prompt renewal.* To avoid interruption of essential services, the state can and should enter into multiyear contracts that are evaluated and renewed promptly. Nonprofit partners are often left scrambling to pay staff salaries and other program expenses with other funds while they wait for their new contracts.

- Timely contract renewal will allow nonprofit contractors to prepare for the upcoming contract term and maintain consistent services.
- More multiyear contracts will allow nonprofits to plan better and will reduce the burden on state agencies, lowering the number of RFPs and contract applications the agency must oversee. Multiyear contracts provide time to assess the effectiveness of the contracted program, so that government agencies can better determine whether to continue investing in that program.
- With more multiyear contracts, the state can expand its focus on oversight and evaluation of existing contracts, while also increasing financial viability for the contracting nonprofit and reducing the risk of interruptions in services. Multiyear contracts also increase the ability of nonprofits to hire and retain staff; staff want job security, which multiyear contracts support.

3) *Prompt payments.* Policies and processes can be strengthened to ensure prompt payments on undisputed invoices for work completed under a state contract. Currently, it can take anywhere from 30 days to eight months for the state to remit payment on contracts after invoices are submitted. In particular, smaller nonprofits and those trying to serve disadvantaged communities are disproportionately harmed by these practices.

Together we could pursue changes to statute and process that would support prompt state payment on contracts:

- The [California Prompt Payment Act \(PPA\) of 2013](#) (PPA) contains language explicitly excluding nonprofits from prompt payment under specified conditions. These exceptions place an undue financial burden on the organizations that can least afford it. Revisions to these exceptions would support a more level playing field.
- Wire transfers of payments and online invoicing would support more timely payments to nonprofit contractors and reduce paperwork log-jams for state agencies. Nonprofits could choose ACH or a similar payment method. The state should provide a secure online portal for contracting nonprofits to use to submit invoices and drawdown requests.

4) *Contract flexibility in emergencies.* As we saw at the beginning of the pandemic, emergencies often require immediate changes to contracted programs, including modifications to the contract budget, in order to respond in the moment to continue with the most needed services for our communities. Contract modifications can take many months, and nonprofits need to be able to act flexibly, within the purpose of the contract, to respond appropriately and quickly in emergencies.

- State contract policies could allow contracted nonprofits the ability to modify programs and program budgets to respond flexibly to immediate needs and must allow for ongoing payment on contract during emergencies so that vital services can continue during dire circumstances. Flexibility on the contract would only be needed until the state agency and the nonprofit have the opportunity to modify the contract to meet changing programmatic needs. [Senate Bill 784](#) (Glazer) exemplifies this proposed policy improvement.

5) *Full reimbursement for contracted program costs.* Nonprofits are often not reimbursed for the full cost of running contracted programs, including for administrative costs and to provide competitive staff wages and benefits. State indirect cost reimbursement rates typically do not cover actual administrative costs for contracted programs, requiring nonprofits to subsidize these programs. Increases in costs of doing business are not included in multiyear contracts. Smaller nonprofits and those serving disadvantaged communities are disproportionately impacted by the lack of sufficient cost recovery, hampering the state's efforts to reduce inequality and reach vulnerable Californians. Just as state government recognizes the need to contract fairly with business, the same standards should apply to nonprofits, including ensuring adequate contingency and overhead funding:

- State conformity with federal policies for reimbursement of contract administrative costs (see [OMB 2 CFR 200](#)) would support the financial viability of the provider community. A reasonable de minimis indirect cost reimbursement rate should be in place for nonprofits that do not have the capacity to negotiate an indirect cost rate with the state. As is often the case with federal contracts, full reimbursement to nonprofits for all administrative costs associated with a state contract would likely require a rate of 35-50 percent.
- Automatic cost-of-doing-business increases in multiyear contracts would also help ensure that costs associated with contracted programs are fully covered. Many nonprofits are unable to have pay-for-performance rates changed for eight or ten years.
- To ensure a vibrant nonprofit workforce providing high-quality services, contracts with the state should allow for compensation and employee benefit packages that support competitive salaries and annual cost-of-living increases. This approach is consistent with the goals of the state's Workforce Development Fund to create and maintain good-paying jobs, particularly in disadvantaged communities, and to support economic wellbeing for workers in these positions. Providing better wages to contractors would also reduce a cost-saving incentive to increase contracting out. Nonprofits should never be sought out as a cheap alternative to fairly compensated state employees.

6) *Equitable access to state contract opportunities.* Bidding and contracting processes often leave out nonprofits in under-served and rural parts of California. For example, 34 percent of Bay Area nonprofits receive government funding, while only 5 percent do in the Inland Empire, and only 1 percent in the Sierras. As a group, nonprofits in communities of color have \$1,668 per capita, while as a group, nonprofits in predominantly white communities have \$3,123 per capita.

And despite state efforts to increase access and equity writ large, many nonprofits struggle to access government contracts because they do not have the information they need to apply or because contracting policies exclude them. Nonprofits spend an inordinate amount of time on grant applications and reports, which can distract them from mission-critical work. Streamlined approaches focused on dialogue and learning can pave the way for deeper relationships and mutual accountability. Certain clauses in state contracts can also be prohibitive because they

compel a nonprofit partner to assume undue risk. These issues are accentuated in smaller nonprofits and those in rural and marginalized communities.

We recommend:

- The current state grants portal (grants.ca.gov) does an excellent job of making state grant opportunities more accessible and equitable for nonprofits. [Cal eProcure](#) should allow for clearer nonprofit access, by, for example, identifying opportunities that are eligible only for nonprofits, or by designating a distinct status for nonprofits as is done for small businesses and Minority Business Enterprise (MBE) firms.
- Contract requirements—including burdensome reporting and insurance requirements—could be simplified for smaller contracts, under \$50,000, for example, so that smaller nonprofits can apply. Insurance requirements should be commensurate with the risk inherent in the contract. RFPs for smaller contracts should be streamlined to facilitate easy application. Language in RFPs and contracts could be simplified to increase accessibility for smaller nonprofits that have limited resources for legal expertise.
- Very small grants, under \$25,000, for example, should be issued with minimal burden for the nonprofit grantee, including providing the grant as one-time funds and not requiring a reimbursement approach. An example of a grant program following these practices is the Small Business COVID-19 Relief Grant program, which vetted applicants but did not require the grantee to expend resources and then seek reimbursement.
- A nonprofit liaison in each state agency that contracts with or provides grants to nonprofits could offer in-house expertise on the nonprofit sector, to help ensure that contracts and grant programs account for the unique ways in which nonprofits do business and to support contract and grant compliance. [Senate Bill 543](#) (Limón) exemplifies this proposed policy.

We value our working relationship with the state and the opportunity to continuously improve our collaboration in service to the people of California. And we are prepared to be held accountable. We want to work with you to implement the policy solutions proposed here, which will better position California nonprofits to provide—in partnership with the state government—services vital to the wellbeing of Californians, especially during emergencies like the current pandemic.

These recommendations will also help address current inequities resulting in uneven distribution of resources and services in our state. Our hope is that these recommendations can be implemented at the state level and can also apply to city and county contract and grant programs using pass-through state funding.

We thank you for your consideration and look forward to further conversations with you.

Sincerely,

Jan Masaoka, Chief Executive Officer
California Association of Nonprofits
San Francisco, CA

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**California Partnership to End Domestic
Violence
California ReLeaf
Center for Nonprofit Management
Community Bridges
Exceptional Parents Unlimited
Housing California
Inland Empire Community Collaborative
Koreatown Youth + Community Center
Leadership Counsel for
Justice & Accountability
Meals on Wheels California
Nonprofit Finance Fund**

**PATH
Public Advocates, Inc.
Rural Community Assistance Corporation
(RCAC)
Santa Cruz Volunteer Center
Scientific Adventures for Girls
Self-Help Enterprises
The Greenlining Institute
TreePeople
Youth Action Project**

cc: Members, Assembly and Senate Select Committees on the Nonprofit Sector
Senator Monique Limón
Assemblymember Luz Rivas
Senator Steve Glazer
Senator Tom Umberg