



September 18, 2023

The Honorable Gavin Newsom
 Governor, State of California
 1020 O Street, Suite 9000
 Sacramento, CA 95814

Submitted via email to leg.unit@gov.ca.gov

RE: Assembly Bill 590 (Hart) - Equity in Advance Payments for Nonprofits - SIGNATURE REQUEST

Dear Governor Newsom,

On behalf of the undersigned organizations, we write to express our strong support for Assembly Bill 590 by Assemblymember Gregg Hart, which addresses a critical equity and access issue by ensuring all nonprofits have an opportunity to receive up to 25 percent of contract or grant funding in advance, and prioritizes payments for nonprofits serving disadvantaged, low-income, and under-resourced communities. We are thrilled that AB 590 passed the legislature unanimously and urge you to sign it.

All nonprofit partners of the state deserve advance payments.

Advance payments play a critical role in expanding opportunities to a more diverse base of nonprofits and supporting financial stability for many more. Because many state grants and contracts are reimbursement-based, nonprofit partners resort to taking out lines of credit or loans to start-up services. For nonprofits that take on the financial risk of a contract for which payments can take multiple months to receive from the state or third-party administrator, they have to "float" the funds, often times putting at risk other programs, or when securing a line of credit, never being able to cover the costs of the interest associated with these financial options.

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."

In effect, nonprofits are collectively acting as a major financial service for the state, taking on risk and interest costs without support. When this is the case, even a nonprofit that begins with a strong cash position will find their cash balance eroded over time as they use cash on hand to fund the contract-imposed structural deficits for their service delivery. This makes partnering an extraordinarily expensive and burdensome proposition for those organizations with the ability to access this capital -- and impossible for many others who are prevented from accessing public dollars to serve their communities.

Some examples:

- One nonprofit paid over \$28,000 in interest last year to carry a \$350,000 balance on a commercial credit line while waiting for payments on state grants. That's money raised from local donors to provide services to seniors, low-income families and people in the mental health and justice systems. And because of interest rate hikes, this nonprofit had to budget \$40,000 for 2023 for this purpose.
- The FY 2021-22 budget included \$40 million for infrastructure capacity grants to allow senior nutrition programs to acquire new equipment and vehicles critical to serving a growing vulnerable population. Unfortunately, due to very restrictive advance payment access, many small programs struggled to access those funds because they could not afford to front the funding and await state reimbursement.
- A nonprofit that contracts with DHCS was asked by the state to take on a new program but could not begin until 90 days after the program started. This meant incurring \$2.4 million in expenses prior to billing.
- A group of nonprofits discussed applying for CalEITC+ Outreach, Education, and Free Tax Preparation Assistance grants under the Department of Community Services & Development; especially interested were those with trusted relationships within "hard to reach" populations. However, with burdensome reimbursement-based grant structure and no start-up costs allowed, many of the qualified nonprofits that wanted to do this work, could not apply individually or even as a subcontractor. The reimbursement basis of CalEITC+ funding requires a sizable cash reserve, which prevents all but the largest nonprofits from being able to apply and puts financial burdens on all nonprofits that do end up participating.
- A small community-based nonprofit in the Central Valley turned down state contracts offered to them because they were administered with a reimbursement-only process that they could not afford to manage.

Consequently, nonprofits that may be best equipped to deliver timely and effective projects (but short on up-front capital) are forced to pass on numerous grants and contracts. Many of the undersigned have had to make this very hard decision themselves; others have sought to sub-contract with community-based organizations only to hear that without advance payments, the work is simply not possible. The lack of equitable access to advance payments is an unnecessary barrier to effective partnership.

Advance payments are a long-standing practice that are inconsistently - but inequitably - available.

AB 590 would improve and expand the long-standing but inconsistent practice of providing nonprofits with advance payments when they partner with the state through grants and contracts. *The bill is permissive and authorizes, but does not require, state agencies to offer advanced payments to nonprofits.*

[Existing law](#) as of January 2023 includes a patchwork of approximately 26 permanent advance payment programs authorized since the late 1970s for grants and contracts through the state to nonprofits with proven success that continues to warrant adding more statutory authority for advance payments. For example, Covered California pays 50% of contracts in advance if the contract is \$100,000 or more.

Notably, this year's budget bill (AB 101) authorizes [a dozen new advance payment provisions](#) without defined sunsets or reporting requirements, including authorizing all projects funded as legislative priorities be advanced in full (See Sec 19.56 (a)(5)). Last year a budget trailer bill (AB 156) included a small pilot program at the Strategic Growth Council for a limited number of grants and contracts with a sunset of 2025. This limited advance payment authority to a small number of specified agencies, such as the Wildlife Conservation Board and the Department of Housing and Community Development for a narrow set of specified contacts or grants. **As the Assembly Accountability and Administrative Review committee analysis notes, "What new information or lessons could be learned from a new pilot program that the state has not already learned over the past few decades?"**

Advance payments are not new, nor do they result in additional expenses. They are cash flow-easing funds. Most state contracts for grants or services are based on reimbursement. This puts nonprofit partners in the challenging position of having to come up with startup funds to float for executing projects with the state – which can mean for some the need to pursue commercial loans and lines of credit to cover costs associated with initiating work pursuant to state grants and contracts. The Volunteer Center of Santa Cruz County, for example, spent \$35,000 in private donations last year paying bank interest waiting for state payments instead of providing needed services.

AB 590 will save the state money because:

- Advancing payments does not increase the amount of the contract, nor the amount of paperwork or processing.
- With dozens of advance payment provisions in state, having a standard advance payment provision will eliminate the need for continuing to enact new statutes that create winners and losers related to advance payments.
- Advances get projects off the ground faster and give nonprofit contractors a greater chance of being successful at meeting all outcomes, delivering better value for the money spent.
- The ability to use funding from the start of the grant saves state administrative costs associated with managing budget amendments and contract extensions that result from late starts.

- Earlier payment means earlier settlement, simplifying state budgeting and fiscal analysis and reduces confusion and risk of long-term liabilities.
- Nonprofits spend less money paying interest on commercial credit lines and credit cards carrying cash flow for state projects, freeing those funds to improve services.
- Grant advances will attract a larger and better pool of qualified applicants, as the lack of advance payments prevents many nonprofits from applying who cannot front the cash needed to get started.

Overall, AB 590 is needed because the patchwork approach to advanced payments creates inequity, particularly around nonprofits with limited cash-flows serving communities of color and other vulnerable communities.

Background

Last October, more than 550 nonprofit, philanthropic, and community leaders representing organizations headquartered in 41 counties [wrote to you and other state leaders](#) to request state contracting improvements to bolster the nonprofit sector and outcomes for communities. Members of the driving force behind this letter - the California Coalition on Government Contracting - came together to share ideas for improving the ways nonprofits and the state work together to use taxpayer dollars equitably, fairly, and efficiently in furtherance of our state's health, human services, environmental, education, and other vital priorities.

Following delivery of this letter, our coalition members met with state leaders, including senior members of your Administration, to request engagement and partnership. We deeply appreciated the mention in the "A" pages of your proposed FY 2023-24 budget to: "consider changes to address issues within the nonprofit sector to support the sector's ability to deliver on meeting goals in state programs." (p. 110)

Championed by six legislators, the ideas formed a package of bills we have advanced as the California Nonprofit Equity Initiative. Our organizations, along with more than 500 other nonprofit and community leaders, are supporting to level the playing field for nonprofits. Improving how state government contracts with nonprofits is a question of equity for our most vulnerable communities and for the nonprofits that serve them. Nonprofits are a powerful force for equity.

The state relies on nonprofits to help put critical policies into action, partnering with community organizations to help the homeless, build affordable housing, respond to the impacts of climate change, support domestic violence victims, and in countless ways improve the lives of vulnerable members of our communities. To succeed, nonprofits need contracting terms that set us up to partner effectively.

Aligned with your "California for All" vision, the bill package responds to the impact the pandemic has had on our communities, the need to address equity and inequality in access to state resources, and the imperative to support strong and varied community-based organizations to address increased need.

AB 590 is a no-nonsense, no regrets measure that simply gives all nonprofits an opportunity to partner with the state successfully.

Consistent with the way you described your September 2022 Executive Order directing state agencies and departments to take additional actions to embed equity analysis and consideration in their missions, policies, and practices, AB 590 will help the "improve outcomes and deliver better services by making its procurement policies simpler, faster, and more human-centered for buyers and vendor partners."¹

What's needed now is consistency and equitable access to advance payment terms.

Enacting AB 590 will strengthen the essential partnership between the state and nonprofits and our mutual efforts to deliver the highest quality services to the people of California.

We respectfully request that you sign AB 590.

Sincerely,



Jan Masaoka
CEO
California Association of Nonprofits



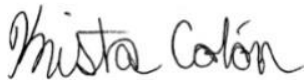
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¹ <https://www.gov.ca.gov/2022/09/13/governor-newsom-strengthens-states-commitment-to-a-california-for-all>

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