



**Joint Hearing of the California Senate and Assembly Select
Committees on the Nonprofit Sector
*August 14, 2024***

Barriers and Solutions to Nonprofit Participation in State Government

BACKGROUND PAPER

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The nonprofit sector in California is among the state's largest and most diverse employers - 10 percent of the California workforce is employed by nonprofits, reflecting the status of the sector as a key economic driver. According to the California Employment Development Department, more than 1.7 million employees work for nonprofits in the state. Examples of nonprofits operating in California include, but are not limited to, educational institutions, social welfare organizations, hospitals, churches, animal shelters, and organizations that provide disaster relief, address civil rights, support community development, advocate for environment protection, and the arts sector.

Californians have access to services and programs due to the extensive number of nonprofits delivering effective results across the state, often in partnership with government.

THE IMPACT OF NONPROFITS IN CALIFORNIA

The state relies on hundreds of nonprofits across California to deliver a wide range of programs and services, from sheltering unhoused individuals and feeding homebound seniors, to addressing the impacts of climate change, and providing mental health services. Nonprofits offer community-based, accessible services that are linguistically appropriate, culturally competent, and cost-effective. Nonprofits have a long and successful history of delivering these high-quality critical services to support the furtherance of our state's health, human services, environment, education, and other vital priorities. For example:

- One-third of Medi-Cal services and more than one-fourth of Medicare services in California are delivered by nonprofits.
- Frontline homeless services like street outreach, temporary shelter, and innovative encampment resolution pilots are nearly always conducted by nonprofit service providers contracted by local governments.
- All food bank services in California are provided by nonprofits; the need for these services has increased exponentially since the pandemic and high inflation.

Strengthening the state and nonprofit partnerships ultimately increases positive outcomes for Californians—ensuring they have ongoing access to quality services and programs. These partnerships also support the nonprofit sector as key employers in the state and bolster economic recovery, particularly in historically underserved communities. Nonprofits are especially important in supporting areas with high concentrations of poverty, communities of color, and rural areas.

While government funding makes up a third to half of contributed income to California nonprofits (when hospitals and higher education are included), it is important to note that California nonprofits also attract more than \$40 billion in out-of-state federal and philanthropic funding. Ultimately, resources allocated to government-nonprofit partnerships enhance capacity to meet our policy, services, and program goals, and provide government with a strong, diverse supply chain of providers.

However, there is an ongoing need to improve access to state resources and enhance government contracting practices. Policies, practices, and technology must level the playing field for nonprofits as a way to increase community access to public resources.

TOWARD MODERNIZATION OF THE DEPARTMENT OF JUSTICE’S REGISTRY OF CHARITIES AND FUNDRAISERS

The Department of Justice (DOJ) operates a Registry of Charities and Fundraisers, the general purpose of which is to provide a public database to verify whether a charitable organization or fundraiser has complied with registration and reporting requirements to the Attorney General, thereby deterring donors from potential fraud. The purpose of this oversight is as follows:

- Support donors with a query tool to determine an organization’s tax-exempt and compliance status with all appropriate state and federal agencies. Provides donors with information about a charity to consider before making a decision to give.

- Protect charitable assets for their intended use by ensuring that the charitable donations contributed by Californians are not misapplied and squandered through fraud or other means.
- Download records and public filings that a charitable organization or fundraiser has submitted to the Attorney General’s Registry of Charities and Fundraisers.
- Provide a public platform for nonprofits to demonstrate their good-standing status so they have equitable and fair access to resources.

However, nonprofits have faced challenges with the registry; namely, the registry’s current system is making it difficult for nonprofits to simply comply with the law in order to be eligible for grants and resources, as nonprofits are required to be listed as in “good standing” on the registry. “Good standing” refers to the following set of requirements to be compliant: (1) the organization’s federal tax-exempt status has not been revoked by the Internal Revenue Service (“IRS”); (2) the organization’s tax-exempt status in California has not been revoked by the California Franchise Tax Board; and (3) the organization is not prohibited from soliciting or operating in the State by the California Attorney General.

On June 12th of this year, a new state law went into effect governing charitable fundraising platforms and platform charities, specifically registration and filing requirements overseen by the DOJ. The new law, created by Assembly Bill 488 (Irwin), mandates that platforms and platform charities are only permitted to solicit, permit, or otherwise enable solicitations, or receive, control, or distribute funds from donations for recipient charities with the “good standing” status. Implementation of this law led to a wave of nonprofits realizing they needed to fix their standing on the registry, and therefore revealed the limitations of the DOJ’s systems when there was an accelerated need to fix any compliance issues.

In the end, the purpose of the law and compliance is still to improve equity and access to resources for nonprofits providing much-needed services across the state. Without attempts to enact modernization, equitable access to resources is threatened.

This hearing will focus on understanding current attempts to modernize the DOJ’s system and discuss possible recommendations.

Government and nonprofits are interdependent, and successful partnership is critical for meeting Californians’ needs.

IMPLEMENTATION OF ADVANCE PAYMENTS FOR ALL

Assembly Bill 590 (Hart, Chapter 535, Statutes of 2023) improves and expands the practice of providing nonprofits with start-up funds, also known as advance payments,

to all state grants and contracts with nonprofits. The bill authorizes state agencies to provide nonprofits up to 25% in advance, ensuring that nonprofits do not incur significant expenses waiting to be reimbursed, or be forced to take on high interest loans to launch new programs. AB 590 has the potential to enable more nonprofits – particularly those with less cash on hand, and those led by or serving rural, poor, and people-of-color communities – to partner with state government.

Advance payments are a critical component to maximizing the effectiveness of nonprofits in administering state grants and contracts by providing modest capital to cover related expenses in real time. This cashflow policy ensures access to state funds for nonprofits that otherwise cannot otherwise compete. Too often, NGOs must delay payments to contractors and vendors while awaiting reimbursement from the State (often a multi-months long process) or seek interest-accruing loans and credit card advances. These are especially challenging options for small nonprofits working in our most underserved communities.

The state already has many proven examples of the benefits associated with advance pay; in 2017, AB 1530 (Gonzalez) authorized CAL FIRE to provide advance payments under its Urban and Community Forestry Program. The results have expanded the playing field for NGOs in this program, allowing committed community groups with low or no budget to improve quality of life in their regions by planting trees to absorb carbon, improve public health, combat extreme heat, and provide access to nature.

From 2017 through December 2022, the Forest Health and Wildfire Prevention Grants programs provided advance payments on grant awards as authorized under PRC 705.5, which enabled 214 grantees to access the necessary resources to complete wildfire prevention and/or forest health projects. AB 211, also known as a public resources trailer bill, specified that following the advanced payment pilot period for agencies like CalFIRE, a report had to be produced summarizing the outcome of the department's use of advance payments.

The [report's findings](#) state: "CAL FIRE has received feedback from grantees stating that they would be unable to operate without grant payment advances from the Department. The use of grant advances has also been an integral part of the commitment to the Department's Embedding Equity Plan, where CAL FIRE has worked to provide access to funding to diverse communities who likely wouldn't be able to afford to fund the work without these advances."

Additionally, domestic violence services are primarily performed by nonprofits, and their access to advance pay has been impactful for providing local assistance for comprehensive support services, especially as the need for these services has

increased exponentially in the past two years. The Little Hoover Commission, a state government oversight agency, [released a recommendation](#) in May 2020 that the state provide domestic violence service providers with the entirety of their state grants up front rather than the standard reimbursement model. Numerous service providers had shared testimony about the financial hardships they incurred through the reimbursement model and how those hardships impacted service delivery. The legislature implemented this recommendation in 2021 via Assembly Bill 673 (Salas).

AB 590, if its potential is fully realized with widespread implementation, will help to address long-standing contracting practices that often make partnership too expensive for many nonprofit organizations. Implementation of the law requires concerted efforts, particularly education of state agencies and nonprofit partners about the benefits to both parties of allowing advance payments and ensuring they are offered, asked for, and utilized. Engagement of relevant stakeholders on the question of implementation strategies merits the attention of the committee in order to move the narrative beyond merely a permissible approach to contracting versus widespread adoption of a much-needed change to fully capitalize on the positive impacts of the bill's potential.

STRENGTHENING THE STATE'S PARTNERSHIPS WITH NONPROFITS

Neither nonprofits nor the government can be effective without a strong, thriving relationship with each other. While nonprofits have endured contracting and administrative challenges for decades, we must continually strive to improve government practices, technology systems, and policies in order to strengthen government-nonprofit partnerships. Contracts, policies, and processes must include provisions that maximize the effectiveness of nonprofits and lay out critical details governing mutually shared goals and working relationships that drive results to benefit all Californians.