

Upfront Grant Money in CA To Start Soon

10.16.23 | Linda J. Rosenthal, JD



Beginning January 1, 2024, California's 501(c)(3) organizations will be able to “secure up to 25%” of state grant and contract funds up front, “with a priority given to nonprofits serving vulnerable communities or those with modest reserves.”

This is a major legislative win of the [California Nonprofit Equity Initiative](#), comprising seven bills introduced into the California Legislature this year. The package has been championed by the California Association of Nonprofits and the California Nonprofit Contracting Coalition with support of some 450 organizations statewide. See [Major Legislative Push in CA To Reform Grantmaking](#) (February 27, 2023) and [Important Update on CA Nonprofit Legislation](#) (October 12, 2023).

Lead sponsor Gregg Hart (D-Santa Barbara) shepherded Assembly Bill [\(AB\) 590](#) through the Legislature to unanimous approval. Governor Gavin Newsom approved the measure on October 8, 2023. In his [signing statement](#), he explains: “Last year, I signed AB 156, which was “a budget trailer bill which authorized a pilot program for advanced payments similar to this bill for a limited number of entities and required the Department of Finance to report on the outcomes of this pilot by January 10, 2025.”

But, adds Newsom: “[w]hile I am signing this bill,” I believe we should revisit this [policy](#) following the release of the report specified in AB 156, to ensure any necessary adjustments or safeguards identified by the report are enacted.”

Critical Legislation

In a final-push [letter](#) dated [September 18, 2023](#), to Governor Newsom, the nonprofit-sector sponsors and supporters of AB 590 ably explained – once again – the critical importance of his signing this legislation into law. “In effect,” the letter-writers emphasize, “nonprofits are collectively acting as a major financial service for the state, taking on risk and interest costs without support....”

That's "...[b]ecause many state grants and contracts are reimbursement-based. So "... 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."

Even for nonprofits with a strong cash position, partnering with the state becomes "an extraordinarily expensive and burdensome proposition...." For many other organizations, though, it is "impossible" to access "public dollars to serve their communities."

Just one case in point (among many cited examples) illustrates this obstacle: A "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."

Another example involves the FY 2021-22 budget allocation of \$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."

Eligibility and Compliance Requirements

In addition to providing proof of its 501(c)(3) status in good standing, the recipient organization must satisfy certain "minimum requirements" and perform record-keeping and reporting duties including:

- "Provide an itemized budget for the eligible costs the advanced payment will fund, indirect or other costs needed to operate, a spending timeline, and a work plan developed in a form and manner specified by the administering state agency.
- Submit documentation, as required by the administering state agency, to support the need for advance payment, which may include, but is not be limited to, invoices, contracts, estimates, payroll records, and financial records.
- Obtain insurance in an amount commensurate with the assessed risk, if required by the administering state agency and stipulated within the grant agreement or contract.
- Deposit funds received into a federally insured account of the recipient entity (and not in the name of any directors or officers) that can track interest earned and withdrawals.
- Establish procedures to minimize the amount of time that elapses between the transfer of funds and the expenditure of those funds by the recipient or subrecipient.
- Provide quarterly progress reports on the expenditure of advanced funds.
- Provide a progress report, after spending down the advance payment, that includes a summary of work completed and proof of expenditure.

Conclusion

Another key piece of the California Nonprofit Equity Initiative – also dealing with the timing of payment of grant and contract funds – did not fare as well as AB 590.

Governor Newsom vetoed [SB 557](#), Limon (D-Santa Barbara), “The California Prompt Payment Act.” The bill would have “extend[ed] the state’s Prompt Payment Act to all state contracts with nonprofits by removing the current \$500,000 cap, [set] a minimum discrepancy amount and remov[ed] the existing eligibility cap on nonprofit contracts....” It would also have “incentivize[d] the state to make timely payments and prevent[ed] very small discrepancies from holding up disbursements.”

The veto is not necessarily the end of the story, though. The Legislature could override the veto, although that happens only rarely. And the Governor’s October 12th [veto statement](#) makes clear which specific points he wants the legislators to tweak. See [California Legislation Tracker](#) (October 16, 2023).

We’ll discuss this in more depth in the next post, as well as the next steps for the remaining five bills in the California Nonprofit Equity Initiative sitting in limbo until after the Legislature reconvenes in a few months.

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