



COLLABORATING FOR EQUITABLE CONTRACTING



**Many Missions. One Voice.**

## **COLLABORATING FOR EQUITABLE CONTRACTING**

*Responsible. Efficient. Fair.*

Nonprofit and Government Partners Working Together  
for a Better Contracting System.



**Many Missions. One Voice.**

Nonprofit Westchester is the county's only membership organization solely dedicated to advancing the needs and interests of Westchester's nonprofit sector, the people and communities served, and the nonprofit workforce.

We recognize that individuals and families often walk through our doors as a result of, or reasons compounded by, systems that have perpetuated deep-rooted intergenerational disadvantage. This is why our work embeds a racial, social and economic justice lens.

**Mission:** To strengthen Westchester's nonprofit organizations as they transform lives, empower communities and drive positive change.

**Vision:** We envision a thriving Westchester County with vibrant nonprofits and resilient, inclusive communities.

**Pillars:** The mission and vision of Nonprofit Westchester are strengthened through pillars and actions that increase the visibility, capacity and impact of the nonprofit sector in Westchester:

- Advocacy and Research
- Professional Development and Education
- Collaboration and Connection.
- Information and Resources

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### Special thanks to:

Catholic Charities Archdiocese of New York – Daniel Carinci, Senior Government Policy Analyst

Child Care Council of Westchester - Michael Goldman, Chief Financial Officer

Neighbor’s Link - Alyssa Besio, Grants Manager

New Rochelle YMCA - Jennifer Ryan Safsel, Chief Executive Officer

Family Ties of Westchester - Kerry Whelan-Megley, Executive Director

Lifting Up Westchester - Lauren Candela Katz, Chief Development Officer

Westchester Jewish Community Services - Shannon Van Loon, Chief Program Officer

### We acknowledge, with gratitude:

The Human Services Council and the related resources provided.

## Purpose, Background, Summary

### PURPOSE

**NONPROFIT WESTCHESTER'S COLLABORATING FOR EQUITABLE CONTRACTING INITIATIVE** seeks to create a taskforce of government and nonprofit partners committed to advancing changes in the contracting system that:

- Establish greater efficiencies in the contracting process between government and nonprofit partners,
- Support the most effective nonprofit operations that result in long-term benefits for society's vulnerable community members, and, as a result, all residents,
- Institute compensation for nonprofit workers that values their service and allows them to live with the dignity and financial security they deserve.

### BACKGROUND

NPW's Policy Committee is comprised of nonprofit organizations of diverse missions, sizes and locations throughout Westchester County who join together to discuss and develop recommended actions impacting the nonprofit sector. On the recommendation of the committee and approval by the Board of Directors, in 2022, NPW distributed a survey to Westchester's 501c3 nonprofits to gain a better understanding of the challenges and opportunities experienced with government contracting. Survey results, meetings of the committee, research and intensive subcommittee work helped to frame and prioritize challenges and identify policy solutions presented in this report.

### SUMMARY

The most prevalent challenges that Westchester nonprofits experience fall into three categories:

- Contracts that do not fully cover verifiable core operating costs and the true cost of service,
- Compensation for frontline, direct-care and other essential staff that is unacceptably low, and an inconsistent, inequitable and outdated Cost of Living Adjustment (COLA) process,
- Complex contracting processes, including late procurement and payment, and reimbursable contracting, that result in inefficiencies and increased costs to nonprofits.

All of these challenges impact the majority of nonprofits who contract with the government. Research and member input shows that the impact is significantly greater for small and Black, Indigenous, People of Color led (BIPOC-led) nonprofits who experience the greatest disproportionate impact from contracts that do not cover administrative costs, late payments, reimbursement-based contracting, and growing and burdensome insurance requirements.

**How governments can make the nonprofit sector more equitable**

Westchester nonprofits are grateful for government partnerships that meet common goals. Nonprofits understand that the issues highlighted are part of a two-sided equation. From our perspective, the partnership can be improved in the following ways:

- Nonprofits should be compensated appropriately for their work. Government funders should cover the full cost of government-mandated service delivery, pay for necessary and verifiable operational/core costs, increase contract rates to cover rising costs and rates of inflation, include cost escalator clauses and wage increases in multi-year grants, and address COLA issues on the State level.
- Government funders should remove or mitigate barriers to efficient contracting. These include reimbursement-based contracting, delayed procurement and payments, and antiquated, uncoordinated systems both within and across government departments.
- Government at the County, State and Federal levels should examine and work out inter-related root causes that contribute to contracting challenges.
- Nonprofit organizations should work together to dismantle systems in the sector that continue to advantage white-run organizations and perpetuate racial inequity.

At the County and State level, Westchester nonprofits expressed appreciation for the accessibility, knowledge and support of elected officials, members of their teams. At the County level additional appreciation was expressed for contracting staff, Westchester County's contracting assessment project, and discretionary funding that helps to meet the needs of specific communities.

Westchester nonprofits value their partnerships with government. If barriers and complexities can be eliminated, more funding, time, and energy can go toward maximizing quality services to Westchester residents.

The next step is twofold:

- For the nonprofit sector to better understand the concerns of government partners,
- To establish intentional dialogue between nonprofits and government funders to discuss challenges and work toward feasible solutions.

## THE NONPROFIT SECTOR – SOCIAL AND ECONOMIC IMPACT

Nonprofit organizations provide the highest quality government mandated and other critical services to millions of New Yorkers annually, from all backgrounds, at all income levels and across the age span. Every day, our workforce is called upon to actualize budget and other priorities set by elected officials. This includes, but is not limited to, community safety and violence prevention; mental health and disabilities services; housing, community and economic development; child care and elder care; and climate and environmental matters. Our experts collaborate to develop long-term solutions to address serious social issues and the life-limiting impacts of systemic racism and the [social determinants of health](#).

The nonprofit sector plays a critical role in New York State's and the Hudson Valley's economy, providing one out of every five non-governmental jobs in the region along with \$7.4 billion in annual wages and an estimated \$1.1 billion in state and federal payroll tax contributions. Home to 44% of the nonprofit organizations in the Hudson Valley, Westchester accounts for nearly half of the sector's wages and tax revenue in the region. Overall, the sector's economic impact is further amplified by the fact that nonprofits directly support other local employers through child and elder care, job training, health care, and the care economy in general.

## ADMINISTRATION AND OVERHEAD/FUNDING FOR THE TRUE COST OF SERVICE

### Background

Nonprofit investments in administration and overhead (A&O) form the organizational backbone necessary to deliver high quality and sustainable services that meet critical needs and allow government partners to fulfill their mandates. Core services are essential to delivering a nonprofit's programs and services. They include, but are not limited to, rent, employee salaries and benefits, software licensing, and utilities.

A&O is often compared to the amount of funding dedicated to direct mission-specific funding or direct services, forming an Overhead and Administration ratio.

A low A&O ratio has historically been valued by government and private funders as a sign of organizational effectiveness, resulting in contract clauses that contain capped or allowable A&O costs that are far below the actual, verifiable expense of delivering services. Without the vital, foundational and behind-the-scenes work, and the ability to keep the lights on, technology functioning, and ensure legal and government compliance, no other aspect of a nonprofit would be possible. Programs and services cannot be delivered without an organization driving the effort.

Relatedly, government contracts for mandated and other essential services dominate nonprofit budgets but generally pay only about 80 cents or less of each dollar of true program delivery costs, and cumbersome administrative requirements that are not fully funded or funded at all, essentially result in unfunded mandates to nonprofit organizations. This leaves serious budget holes that private funders cannot, or should not, fill.

Core costs are vital to obtain and successfully execute services on behalf of government partners. They include but are not limited to:

- Finance – Expense and voucher tracking, budget and fund monitoring and control, audit compliance.
- Human Resources – Attract, vet, train, and maintain staff, including support staff, while ensuring compliance, the administration payroll and benefits, and effective and safe operations.
- Outcome and Data Measurement/Management – Conduct program oversight, collect and analyze data trends, and fulfil contract requirements.
- Professional Development and Supervision – Provide necessary staff oversight and support for often difficult work, and learning opportunities to ensure quality and the state of the art services that all people deserve.
- Risk Management/Insurance - Anticipate and respond to risks/obstacles and adopt government-mandated policies and procedures.

- Technology – Infrastructure, equipment, software, computers, Wi-Fi and support – essential tools for conducting business.
- Volunteer and In-Kind Management – Engage and manage volunteers and in-kind resources to meet program gaps.
- Community Outreach and Engagement – Inform people in need of services and establish community partnerships.
- Fundraising – While current efforts in this area focus on filling funding gaps, the goal would be to promote innovation, pilot projects and research.

### **Impact**

Inadequate levels of Core Operating Support result in explicitly negative impacts in the following areas:

#### *Compensation*

- Inequitable compensation results in nonprofit workers living in or on the edge of poverty, making little more than the clients they are responsible for helping. This deprives them of the dignity and opportunity they deserve as people that fortify and enrich our communities. This disproportionately impacts people of color and women.
- Underfunding leads to salaries so low that many nonprofit employees depend on safety net programs, such as food stamps and Medicaid.
- Nonprofits are forced to cut costs, resulting in institutionalized suppression of salaries and wages that restricts the ability of nonprofit organizations to attract and retain workers that provide service continuity.

#### *Efficiencies, Safety, Risk*

- The underfunding of core services perpetuates the necessity for staff to spend non-reimbursable time on activities that seek to address this funding gap. This in turn takes time away from direct services, often results in expensive on-boarding costs, and harms both programmatic and organizational health.
- Funding gaps and inadequate investments often preclude organizations from using preventative risk management and capital repair and safety strategies, necessitating a crisis approach— i.e. the roof doesn't get repaired until it caves in.

#### *Outcomes*

- Resource limitations inhibit the sector's ability to maximize short and long-term client outcomes.
- The historical failure to properly invest taxpayer dollars in nonprofits has contributed to keeping societal challenges at a status quo level, limiting lasting change and human potential.



### **Solutions/ Policy Recommendations**

We strive for changes in funding systems that value the costs of nonprofit operations and compensate nonprofits fairly for work that fortifies the social, emotional and economic fabric of Westchester County.

- ***Eliminate arbitrary caps on administration and overhead costs***
- ***Accept justifiable A&O rates provided by organizations:*** Allow nonprofits to calculate and justify an organizational/program-specific core expense rate that can meet business objectives and sustain services or accept already-established NICRA or accountant-certified indirect rates.
- ***Relatedly, pay nonprofits the full cost of providing government mandated services***

Nonprofits should not be expected to compete against each other to “fundraise” the resources necessary to fill gaps in funding for government mandated and other essential services.

## NONPROFIT WAGES

### Background

Government is the predominant funder of human services nonprofits and is consequently the primary driver of human services compensation (salaries and benefits.) Current contracts perpetuate a pattern of funding that causes the human services workforce to be one of the lowest paid in New York's economy, and one that fails to deliver levels of pay, benefits, opportunities and respect commensurate with essential and mission-driven work.

This contracting system rests on a foundational understanding, often expressed publicly by elected and other government officials of all levels, that nonprofit organizations have the specific expertise to deliver the highest quality services to the most vulnerable community members in a way that government is not prepared to do.

Despite this acknowledgement, the current contracting system too often relies on cost alone as the metric for contract acquisition, generating cycles of unhealthy competition that undermine organizational and sector health, service integrity and capacity for innovation. This system has developed into one that suppresses nonprofit wages, benefits large and historically White-run organizations while continuing to disadvantage BIPOC led organizations and direct-care staff. and. The system continues to contribute to the workforce hiring crisis.

[How governments can make the nonprofit sector more equitable](#)

Though chronic workforce shortages and staffing issues plagued nonprofits prior to COVID-19, current inflationary pressures (to levels not seen since 1982) and declining unemployment rates have severely exacerbated these conditions. While these difficulties have been felt across the economy, *the nonprofit sector, particularly agencies providing crucial health and human services under government contract rates, cannot compete with rising wages and competitive fringe and healthcare benefits provided by government agencies and for-profit businesses.*

Despite significant advocacy on the part of the provider community, as well as the passage of bills in both houses of the NY State legislature calling for an 8.5% COLA increase, the 2023-2024 budget recently signed by the Governor Hochul only provided for a 4% increase. While this followed a 5.4% COLA in FY23, these increases fall far short of their corresponding rates of inflation (7% in 2021, 6.5% in 2022), essentially constituting a net pay cut.

## Impact

Inadequate compensation results in explicitly negative impacts in the following areas:

### *Poverty Wages, Health and Well-being, Advancement*

- Frontline nonprofit staff, who are primarily women and people of color, are too often members of the **ALICE (Asset Limited, Income Constrained, Employed)** population - households that earn more than the Federal Poverty Level, but still struggle to afford basic needs.
- Despite performing crucial work on behalf of government that strengthens the societal fabric, these individuals and families often live paycheck to paycheck or in poverty.
- Struggling, often working more than one job, frontline nonprofit staff are severely impacted by social determinants that result in life-limiting economic, health, education, housing, career and other outcomes, and limited opportunities for advancement.

Those who care for society's vulnerable residents also deserve to live, learn, work and recreate in supportive communities.

### *Unprecedented Staffing Shortages*

- Nonprofit positions doing hands-on work are going unfilled, not only in Westchester but across the country. Surveying more than 1,000 nonprofits, the National Council of Nonprofits found that 33.5% of respondents reported job vacancy rates between 10% and 19 %, with 26.2% having rates from 20 % to 29% and 16.1% reporting rates over 30%.
- Without adequate personnel, organizations simply cannot deliver familiar volumes of service, much less respond to growing demand. The disparity between service capacity and demand is felt most acutely with high-demand services. Crain's NY reported that over 1,000 New Yorkers living with a serious mental illness in 2022 were on waiting lists for government-funded community programs designed to help people who need comprehensive and frequent mental health and social services.

## Solutions/Policy Recommendations

We strive for racial, gender and financial equity for nonprofit direct care and essential workers.

- ***Create a system for government contracted nonprofit workers to receive compensation comparable to the compensation of government employees.***
- ***Set a living wage floor for all nonprofit workers to a minimum of \$21 per hour.***
- ***Institute annual funding increases based on the rate of inflation on all contracts, rather than allowing funding to fall behind the cost of living over the course of several years and through multi-year contracts with stagnant contract rates.***
- ***Develop a fair COLA system. The Division of Budget should take a comprehensive look at missing programs and include those programs in the next COLA budget language, and***

*examine COLA rate disparities among different government offices/departments. Alternatively, along with nonprofit partners, we are exploring the possibility of a legislative approach to including these missing programs. For both avenues, budget or legislative, there is the option of listing out all individual programs – in a way that includes a failsafe measure in case new programs are added or programs are renamed – or simply giving discretion to State agencies to distribute the COLA in a fair manner that includes all contracted workers.*

## PROCUREMENT AND PAYMENT

### Background

Government depends on nonprofits to supply public services while nonprofit providers rely on government funding to provide such services. This arrangement manifests itself through contracting and grants processes which have become laden with problems that affect both nonprofits and government, and ultimately impact the people being served.

Every level of government has a vital role in protecting taxpayers' dollars from misuse or fraud, eliminating waste and ensuring funds are properly spent to deliver quality programs and services. To accomplish these goals, necessary layers of processes and filing of contracts have been put into place. Yet, these systems have become, in many cases, disjointed and overly complicated.

Here is feedback we have received from nonprofits engaged in the contracting process:

- Lack of clear communication about the contracting timeline
- Lack of timely communication about renewals for services delivered over a multi-year period
- Lack of guidance on how long the approval/contract execution process will take
- Lack of clear guidance related to documentation/reimbursement
- Inconsistencies between government agencies/lack of standardization
- Late procurement
- Chronic delays in contract payments
- Lack of capacity to meet the requirements of reimbursement-based contracts
- Reliance on paper contracts and requirement of multiple copies
- Late notification coupled with short turn-around times
- Unfunded mandates
- Onerous oversight mechanisms

### Impact

The current contracting process can:

- Severely impact an organization's cash flow and financial stability; over a multi-year period this can have severe negative impacts including credit score issues and credibility with vendors.
- Force providers to undertake costly borrowing to make payroll and rents, often accruing interest not covered by government contracts.
- Result in unnecessary staff terminations, costly and unnecessary personnel/onboarding costs.

- Increase inequities for nonprofits that do not have the cash flow to withstand the costs incurred to essentially float loans to government partners - run programs while waiting to be reimbursed. This process can again be more prohibitive to small and BIPOC-led organizations.
- Serve as a barrier to the efficient and timely delivery of essential services to residents in need of support.
- All add up to staggering, and unnecessary administrative costs.

### **Solutions/Policy Recommendations:**

We seek solutions to increase the positive impact of the government-nonprofit partnership.

- ***Start the budget process earlier*** so contracts can be signed before the start of the new year when programs and services are supposed to be delivered.
- ***Move to a fully digitized process:*** (1) to cut back on the time and cost overall and of submitting paper contracts through the mail, (2) for easier monitoring of pending and in-process grants, contracts and open/unpaid vouchers, and (3) to use a system to draw down of funds so nonprofits would not have to pay program and service costs upfront for contracted services.
- ***Establish a clear contracting calendar,*** including detailed information about the timeline of the contracting and vouchering process, and outlines of what forms and exact backup documentation is needed.
- ***Reimburse nonprofit organizations for late payments and procurement.*** Nonprofit organizations cannot continue to absorb the considerable expenses that results from late payments and procurement on government contracted services. This is an added expense beyond the control of nonprofit organizations that needs to be fully reimbursed.

## DOCUMENTATION AND RESOURCES

- [A Better Contract for New York: A Joint Task Force to Get Nonprofits Paid on Time Report](#)
- [Mayor Adams Announces City has Unlocked More Than \\$4.2 Billion in Contractual Dollars for Nonprofits Through "Clear the Backlog Initiative"](#)
- [A Graphic Re-visioning of Nonprofit Overhead](#)
- [About Nonprofit Waste, Overhead, and Financial Subsistence](#)
- [ALICE – United Way Westchester and Putnam](#)
- [Costly Delays: - The Abell Foundation, Diagnosing and addressing operational delays in Baltimore’s nonprofit contracting process](#)
- [DiNapoli: State Agencies Persistently Late Not-Profits Contracts](#)
- [DiNapoli: OFFICE OF THE NEW YORK STATE COMPTROLLER THOMAS P. DiNAPOLI, STATE COMPTROLLER 2019, 2020, 2021, 2022 Calendar Year Not-For-Profit Prompt Contracting Annual Report](#)
- [Don’t Let Overhead Costs Go Over Your Head, Forbes, 2023](#)
- [Essential or Expendable? How Human Services Supported Communities Through COVID-19 and Recommendations to Support an Equitable Recovery](#)
- [Funders Confront Reality & Myth of Nonprofit Overhead – with Rodney Christopher, BDO; <https://fundthepeople.org/overheadmyth/>](#)
- [How governments can make the nonprofit sector more equitable](#)
- [Human Services Council Contract Survey Results](#)
- [Human Services Council -Procurement-Briefing-Book](#)
- [Johns Hopkins Center for Civil Society Studies via Nonprofit Works, \[ccss.jhu.edu/nonprofit-works\]\(https://ccss.jhu.edu/nonprofit-works\)](#)
- [\(Mis\)Understanding Overhead | National Council of Nonprofits New York Council of Nonprofits – State of the Sector 2023](#)
- [New York Council of Nonprofits State of the Sector 2023](#)
- [New York Nonprofits in the Aftermath of FEES: A CALL TO ACTION](#)
- [NPW Compensation Study - upon request by government partners](#)
- [NPW Contracting Survey Results](#)
- [Nonprofit Overhead Costs: Breaking the Vicious Cycle of Misleading Reporting, Unrealistic Expectations, and Pressure to Conform The Bridgespan Group, April 2008](#)
- [Nonprofit Workforce Shortages: A Crisis That Affects Everyone](#)
- [Salary Increase Budgets Jump for Nonprofits](#)
- [Social Determinants of Health- Health.Gov](#)
- [The Nonprofit Starvation Cycle Stanford Social Innovation Review, Fall 2009](#)
- [The Overhead Myth Is Still Hurting Nonprofits – GlobalGiving](#)
- [To the Donors of America – BBB, Guidestar, Charity Navigator OverheadMyth Ltr ONLINE.pdf](#)

- Washington Nonprofits - The Nonprofit Experience with Government Contracting: Challenges & Recommendations
- 4877(Mayer)/A.2740(Paulin) Relates to the time frame for the implementation of contracts with not-for-profit corporations
- Int 0510-2022 (Stevens), that would establish prevailing wage requirements for city-contracted human service workers.
- Int 0511-2-022 (Stevens), that would set time limits for the procurement process, reporting on agency compliance and developing an online platform for managing procurement.
- Int 0514-2022 (Won), that would establish a searchable public online database to contain information from all stages of the contracting process for every mayoral agency procurement that exceeds the small purchase limits.
- A01400 (Blackenbush), relates to prompt payments to counties by the state; provides if prompt payment is not provided an interest payment shall be made to the contractor or county government.
- S1978A/A2204AAN (Ramos), ACT to amend the labor law, in relation to raising the minimum wage annually by a percentage which is based on inflation and providing for the enforcement of such minimum wage; and to repeal subdivision 6 of section 652 of the labor law relating thereto
- S7793/A8437 (Persaud) Adds certain human services programs to the designated human services programs eligible for a cost of living adjustment.
- S1291/A4046 (Brouk) Relates to a cost of living adjustment for human services programs
- S4675/A3329 (Ramos) Relates to the convening of a human services employee wage board
- A7531 (Zinerman) Restructures the not-for-profit contracting advisory committee; provides for the issuance of additional reports.