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# City Contracting Overview

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# SUMMARY

**QUESTION:** *How can NYC improve contracting for nonprofit organizations to improve service delivery and outcomes?*

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## WHY IMPORTANT:

1. *New York City's nonprofit sector consists of over 40,000 registered nonprofits, that contribute \$7.7 billion annually to the City's economy which is roughly 9.4% of the City's GDP. However, recent data showed that 80% of City contracts were registered late. Out of 1,025 nonprofits, registration delays represented a \$675 million cash flow burden. The delay also impacts nonprofits, who rely heavily on City contracts, to pay their staff.*
2. *Nonprofit organizations that have contracts with multiple agencies bear a significant administrative burden because the City contracting process is not streamlined across agencies.*
3. *Average wages across positions in the nonprofit arts, culture, and humanities field are often significantly less than average wages for similar positions in other fields.*
4. *The practice of underpayment of indirect costs leaves nonprofits without financial support for the organizational infrastructure that enables programming to occur.*
5. *More than twenty-five years of nonprofit finance research has found that organizations reliant on government funding have little to no cash reserves. This has left the nonprofit sector in a weak position to weather fiscal shocks like the unexpected economic downturn from COVID-19 and without the working capital to navigate more common cash flow problems such as those posed by late contract payments.*
6. *In New York City, Black, Latinx, Asian, and other people of color-led small community-based organizations are heavily reliant on discretionary funding and this typically represents less than 1% of the City budget. However, reliance on discretionary funding creates unique burdens on small BIPOC organizations.*



## RECOMMENDATIONS:

1. *Nonprofit salaries funded by City contracts should be above the City's own poverty threshold. Contracted salaries and benefits should be comparable with those of directly hired workers doing similar jobs.*
2. *The City must close the racial gap in access to City funds, particularly to baselined funds. Less burdensome application processes, greater diversity in award sizes, and increased investment in language access will begin to make City funding more accessible to smaller, people of color-led organizations. The City must expand baselined funding supporting people of color and culturally-specific nonprofit organizations.*
3. *The City should also reform the subcontracting model and build capacity for BIPOC-led and serving nonprofits to directly contract with the City.*

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## CONSTRAINTS:

1. *Organizations must make budget assumptions based on projected delayed contract payments and develop cash flow plans accordingly. Even with scenario planning, the unpredictable nature of contract delays can cause serious cash flow challenges for nonprofit organizations.*
2. *The Communities of Color Nonprofit Stabilization Fund (CCNSF) is often restricted to external capacity building, such as consultants and workshops, and not funding that can go to directly building the financial capacity of people of color-led organizations.*
3. *Given the nonprofit racial leadership gap and the significant percentage of the nonprofit workforce who are women and people of color, low wages within City contracts likely disproportionately maintain low wages among New Yorkers who are people of color and women.*



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## INTRODUCTION

This paper serves as an overview of City contracting with human service nonprofit organizations. New York City's nonprofit sector consists of over 40,000 registered nonprofits,<sup>1</sup> which contribute \$7.7 billion annually to the City's economy. That's roughly 9.4% of the City's GDP.<sup>2</sup> Nonprofit providers are contracted to carry out the government's statutory work,<sup>3</sup> providing homeless services, child abuse prevention services, and domestic violence response, and are relied upon to promote arts and culture.<sup>4</sup> These nonprofit organizations employ significant numbers of New Yorkers and provide services that improve the quality of living in the City for all residents. In addition, these services contribute to the willingness of businesses, visitors, and residents to be active in the City's economy. This overview is intended to set the tone for the subsequent three papers that address specific City contracting concerns and potential solutions. Improving this process will improve not just the effectiveness of these City-funded programs but make the City a better place for businesses and residents to operate.

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## METHODOLOGY

Researchers and authors Chai Jindasurat and Anna Quinn conducted a literature review and held stakeholder interviews with subject matter experts to inform the content of this paper. A list of interviewees is included in the next section.

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<sup>1</sup> Baruch College Marx School of Public and International Affairs and Nonprofit New York "New York City Nonprofit Data," 2021, [https://marxe.baruch.cuny.edu/wp-content/uploads/sites/7/2021/03/CNSM\\_Data\\_NYC-Nonprofit-Data-UpdateMarch2021PDF.pdf](https://marxe.baruch.cuny.edu/wp-content/uploads/sites/7/2021/03/CNSM_Data_NYC-Nonprofit-Data-UpdateMarch2021PDF.pdf).

<sup>2</sup> "The economic impact of NYC nonprofit organizations," *New York City Comptroller*, 2020, <https://comptroller.nyc.gov/reports/the-economic-impact-of-nyc-nonprofit-organizations/#:~:text=NYC%20Nonprofits%20pay%20%2442%20billion,private%20sector%20workers%20in%20NYC>.

<sup>3</sup> New York State Social Services Law articles 1 through 11.

<sup>4</sup> New York State Arts and Cultural Affairs Law.



# BACKGROUND ON NONPROFIT SECTOR AND CITY CONTRACTING

New York City contracts with nonprofit organizations to carry out a range of city services in the areas of health and human services, arts and culture, education, parks, and culturally-and linguistically-appropriate services. In Fiscal Year 2016 (FY16), the City's six primary human service agencies registered a total of 7,665 contracts (over 93% of the total human services contracts) with nonprofit service providers. Those contracts supported close to 53,000 nonprofit jobs, nearly double the 27,000 city employees at these human service agencies.<sup>5</sup> Human service contracts alone totaled over \$4.7 billion in FY16, about 6% of the total city operating budget.<sup>6</sup> The City's procurement processes are governed by a complex scheme of the City Charter, Procurement Policy Board, state statutes, and federal regulations. The City has made meaningful reforms to improve nonprofit contracting over the past eight years. Yet, a range of policy problems exist with the ways the City contracts with nonprofit organizations. This paper examines three areas of policy reform for New York City to improve how it contracts with nonprofit organizations: 1) the contracting process; 2) City contract structures; and 3) race and wage equity related to City contracting; and provides policy recommendations in these three areas.

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## POLICY ISSUE #1 - THE CITY CONTRACTING PROCESS

When the City determines it will contract with nonprofits, the City typically issues a request for proposals (RFP), after which nonprofit organizations review and decide if they will submit a proposal. The City then reviews submitted proposals, initiates negotiations and offers, and confirms awards. After a contract is awarded, it must be approved by the Mayor's Office of Contract Services, the Mayor's Office of Management and Budget, the Law Department, the City Agency administering the contract, registered with the Comptroller's Office, and officially executed before an organization can begin submitting invoices for reimbursement.

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<sup>5</sup> "Strengthening the Frontline: An Analysis of Human Services Contracts in NYC", *New York City Comptroller*, 2017, <https://comptroller.nyc.gov/reports/strengthening-the-frontline-an-analysis-of-human-services-contracts-in-nyc/>.

<sup>6</sup> Ibid.



## 1. City contracting processes have been incredibly slow.

The City's most recent data found 80% of contracts were registered late.<sup>7</sup> The average number of days of retroactivity for human services contracts was 224.7 days in FY18.<sup>8</sup> Out of 1,025 nonprofits, registration delays represented a \$675 million cash flow burden.<sup>9</sup> Some city agencies operate at 100% contract retroactivity. However, some stakeholders shared that the average processing time has significantly improved in FY20 and FY21 following processing reforms.

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## 2. The contracting process has been opaque, and the City has very few deadlines within their internal processes.

The bureaucratic process of contract registration has historically been opaque. Several stakeholders discussed significant operational challenges for their organizations and members, because nonprofits may not know where their contract is in the registration process. Under the City Charter, the only office required to respond to a contract within a specified timeframe is the Office of the City Comptroller. The Comptroller has 30 days to respond to a contract. The Mayor's Office of Contract Services is digitizing the contract registration process through PASSPort, which allows for providers to digitally track their contracts in the registration process.<sup>10</sup>

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## 3. Contracting processes are not streamlined.

Nonprofit organizations that have contracts with multiple agencies bear a significant administrative burden, because the City contracting process is not streamlined across agencies. Agencies maintain different timelines, reporting requirements, negotiation

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<sup>7</sup> Jessica Silver et. al, "Still Running Late: An Analysis of NYC Agency Contracts in Fiscal Year 2018," *Office of New York city Comptroller*, January 2019, <https://comptroller.nyc.gov/wp-content/uploads/documents/Still-Running-Late.pdf>.

<sup>8</sup> Ibid.

<sup>9</sup> John MacIntosh, "New York City Contract Delays: The Facts," *SeaChange Capital Partners*, August 2018, <http://seachangecap.org/wp-content/uploads/2020/01/NYC-Contract-Delays-The-Facts.pdf>.

<sup>10</sup> "ABOUT PASSPort," *City of New York*, <https://www1.nyc.gov/site/mocs/systems/about-go-to-passport.page>.



protocols, and notarization requirements. Stakeholders mentioned both PASSPort and HHS Accelerator were intended to streamline contracting processes among agencies and promote transparency. However, stakeholders have described these systems as duplicative and inconsistent. Seasoned administrative and operations professionals reported regularly making mistakes due to the confusing nature of the portals. Invoicing processes place the onus on the vendor to communicate with multiple departments. Passport includes a “steps from award” checklist that includes 21 steps. Recent reforms to standardize include the Standard Health and Human Service Invoice Review Policy, Indirect Cost Rate Manual, and PASSPort, however stakeholders have shared that implementation has been inconsistent across agencies.

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## PROCESS IMPACTS ON NONPROFIT ORGANIZATIONS

### A. The financial impact of late registration and payments is significant.

The City expects nonprofits to begin services shortly after award, but nonprofits cannot be paid for their services until their contracts are fully registered. Additionally, nonprofits have fixed costs that would not be covered if they were to wait to provide services until registration. In some cases, this results in nonprofits going more than a full year without being paid for work they have done on behalf of the City. This creates significant cash flow problems for organizations. Common strategies to manage these issues are complex scenario planning, expensive bridge funding, and delaying hiring or reducing staff salaries — all of which have negative consequences on nonprofits. One stakeholder noted their average wait period is 18 months. Nonprofits must usually take out bridge loans in order to cover their operating expenses for their City contracts until they are repaid, and seek other sources of support for the costs of financing. For organizations heavily reliant on city contracts, delayed payments place organizations in a position where they do not have consistent cash to pay their staff salaries. Through the Nonprofit Resiliency Committee, the City began providing 25% cash advances in FY21, which stakeholders mentioned was a great improvement over previous practice.<sup>11</sup> Organizations must make budget assumptions based on projected delayed contract payments and

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<sup>11</sup> “Partnering with Nonprofits,” *City of New York*, <https://www1.nyc.gov/site/mocs/partners/partnering-with-nonprofits.page>.



develop cash flow plans accordingly. Even with scenario planning, the unpredictable nature of contract delays can cause serious cash flow challenges for nonprofit organizations. One organization shared that they had to reduce their staffing and participate in the shared work unemployment program due to city contracting cash flow challenges.

## **B. The administrative burden placed on nonprofits from poor processes is costly.**

Organizations with significant city contracts dedicate a great deal of organizational capacity to managing the City's complex compliance requirements. One respondent described the process of stewarding a contract from award to registration as "cradling the contract," reflecting the vigilance that many stakeholders bring to the process. Technical assistance providers report that a major focus of their work with contracted organizations is planning for and managing the cash flow complications of city contracts and supporting smaller organizations to navigate city processes. Process challenges also pose a significant barrier for smaller, often people of color-led, organizations who cannot dedicate the staff resources required to partner with the City.

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## **POLICY ISSUE #2 - CONTRACT STRUCTURES**

The public policy choice to contract with private entities is rooted in neoclassical economic theory, where the government should create public-private partnerships to reduce expenses and theoretically create a more efficient public sector. Applied to nonprofit providers, this perspective holds that nonprofit organizations are better able to deliver specialized services, foster innovation, and create efficiency than the government, and that the contract structure allows for more accountability for service delivery.<sup>12</sup> As a result, governments often began issuing requests for proposals and implementing policies where they would choose a provider that could provide a service at the lowest cost. For nonprofit contracts, this also included tightly restricted and audited allowable budget line items.

The City typically structures nonprofit contracts based on the program type. Contracts often include specified line-times separated by personal services (PS), and other than personal services (OTPS). PS expenses cover salaries and fringe benefits

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<sup>12</sup> Richard Feiock and Hee Soun Jang, "Nonprofits as local government service contractors," *Public Administration Review* 69, no. 4 (2009): 668-680, <https://www.jstor.org/stable/27697913>.





for staff running contracted programming, and OTPS include other expenses such as supplies, rent, utilities, facilities, and indirect expenses required to run the program. Contract structures vary by agency and portfolio, but often include designated restrictions on how much a certain PS or OTPS line item can cost.

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## 1. Indirect costs

Indirect costs are necessary costs for a nonprofit that are not directly allocated to one particular department or program. Indirect costs include administration, finance, fundraising, operations, technology, management, evaluation, shared occupancy, and other costs that are shared among departments. Bridgespan’s research and advocacy on the underfunding of nonprofit indirect costs over the past ten years has described a phenomenon known as the Nonprofit Starvation Cycle.<sup>13</sup> This “cycle” occurs when an organization’s indirect costs are not truly funded, leading to under-investment in information technology systems, financial systems, skills training, fundraising and other essential non-program investments. Historically, New York City agencies placed caps on indirect rates within contracts, based on a pervasive ideology that the lower an indirect rate is within a contract, the more program dollars go toward direct service. This led nonprofits to spend too little on indirect costs, underreport their actual indirect expenses, and subsidize city contracts with other funding. Some state agencies enforce indirect cost rate caps as low as 5%.<sup>14</sup> The federal Office of Management and Budget implemented a 10% floor for indirect rates on contracts using federal funds, and organizations can negotiate a higher rate with their contracting agency.<sup>15</sup> Forty-four percent of respondents of a recent Human Services Council survey reported that New York State contracts never covered the full costs of contracts, and 16% of respondents said the state rarely covered the full costs of contracts.<sup>16</sup> Most nonprofit leaders and researchers understand this to be the

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<sup>13</sup> “The Nonprofit Starvation Cycle,” *The Bridgespan Group*, August 2009, <https://www.bridgespan.org/insights/initiatives/pay-what-it-takes-philanthropy/the-nonprofit-starvation-cycle>.

<sup>14</sup> “How Do We Rate Charities’ Financial Health?”, *Charity Navigator*, June 2016, <https://www.charitynavigator.org/index.cfm?bay=content.view&cpid=35#PerformanceMetricOne>.

<sup>15</sup> “2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” *Government Publishing Office*, January 2014, <https://www.govinfo.gov/app/details/CFR-2014-title2-vol1/CFR-2014-title2-vol1-part200>.

<sup>16</sup> James Parrott of the Fiscal Policy Institute, “Undervalued and Underpaid: How New York State Shortchanges Nonprofit Human Services Providers and their Worker,” *Human Services Council*, March 2017, <https://humanservicescouncil.org/wp-content/uploads/Initiatives/RestoreOpportunityNow/ROnreport.pdf>.



government's unwillingness to fund accurate indirect cost rates within contracts.<sup>17</sup> In recent years, health and human service nonprofits in New York City have advocated for a consistent indirect cost rate policy across agencies, and for full funding to cover the indirect expenses of operating a city contract. However, stakeholders have expressed significant concern and frustration over the City's policy and retroactive cuts to the indirect cost rates within City contracts.

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## 2. General Operating Support

Arts and culture nonprofits advocate for contract reforms to provide more general operating support within their Department of Cultural Affairs-funded programs. In order to seek public funding for community-facing arts activities, organizations must request project support grants. Award amounts are regularly smaller than requested amounts, leaving organizations on the hook to deliver an only partially-funded program. As in the case of under-payment of indirect costs, this practice leaves nonprofits without financial support for the organizational infrastructure that enables programming to occur, like occupancy or non-program staff.

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## 3. No Surplus Budgeting

Most New York City contracts with nonprofit organizations require zero-line budgeting, where an organization must spend all allocated funding or reimburse for costs incurred. More than 25 years of nonprofit finance research has found that organizations reliant on government funding have little-to-no cash reserves.<sup>18,19</sup> This is consistent with the results of recent research on New York City nonprofits.<sup>20</sup> The most recent State of the Nonprofit Sector Survey from the Nonprofit Finance Fund found

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<sup>17</sup> "Seeking the End of Nonprofit Starvation Cycle," *The Bridgespan Group*, <https://www.bridgespan.org/insights/library/pay-what-it-takes/seeking-the-end-of-nonprofit-starvation-cycle>.

<sup>18</sup> Thad Calabrese, "Running on Empty: The Operating Reserves of U.S. Nonprofit Organizations," *Nonprofit Leadership & Management* 23, no. 3 (Spring 2013).

<sup>19</sup> Steven Rathgeb Smith and Michael Lipsky, *Nonprofits for Hire: The Welfare State in the Age of Contracting* (Cambridge, MA: Harvard University Press, 1993).

<sup>20</sup> John MacIntosh, Daniel Millenson, George Morris, and Dylan Roberts, "Risk Management for Nonprofits," *SeaChange Capital Partners and Oliver Wyman*, March 2016. <https://seachangeap.org/wp-content/uploads/2016/03/SeaChange-Oliver-Wyman-Risk-Report.pdf>.



that 61% of nonprofits in the New York City area maintained fewer than the recommended benchmark of six months of expenses in reserves, and 55% had three or fewer months of cash on hand.<sup>21</sup> As Thad Calabrese in his research on reserves explains, nonprofits are under pressure to spend rather than save since grant funds not spent cannot be carried over, or from pressure to have an “acceptable” program expense ratio generated by charitable rating groups or even the media.<sup>22</sup> This has left the nonprofit sector in a weak position to weather fiscal shocks like the unexpected economic downturn from COVID-19 and without the working capital to navigate more common cash flow problems, such as those posed by late contract payments.

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## **POLICY ISSUE #3 - NONPROFIT CONTRACTING AND EQUITY**

### **1. Livable wages for nonprofit workers funded through city contracts**

Stakeholders expressed concern that city contracts restrict funding for front-line nonprofit workers so that they are unable to pay their staff a livable wage. The average annual pay for New York City human services workers, who tend to be largely government funded, was \$29,600 in 2017.<sup>23</sup> Even after New York City implemented a \$15 per hour minimum wage in 2019, wages grew more slowly in the human services sector than other sectors heavily affected by the wage hike.<sup>24</sup> Underfunded government payment rates are the primary driver of financial distress for human service nonprofits, leading to salaries so low that many nonprofit employees depend on safety net programs, such as food stamps and Medicaid.<sup>25</sup>

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<sup>21</sup> “2017 State of the Nonprofit Sector Survey,” *Nonprofit Finance Fund*, <https://nff.org/surveydata>.

<sup>22</sup> Calabrese.

<sup>23</sup> Parrott, “Undervalued and Underpaid: How New York State Shortchanges Nonprofit Human Services Providers and their Worker.”

<sup>24</sup> James Parrott, “The Road to and from Salary Parity in New York City: Nonprofits and Collective Bargaining in Early Childhood Education,” *The New School – Center for New York Affairs*, 2020, <https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5e222c2ab457e7527ddc6450/1579297836>.

<sup>25</sup> Margaret Stix, “New York in the Aftermath of FEES: A Call to Action,” *Human Services Council*, 2016, <https://humanservicescouncil.org/wp-content/uploads/Initiatives/HSCCommission/HSCCommissionReport.pdf>.



Average wages across positions in the nonprofit arts, culture, and humanities field are often significantly less than average wages for similar positions in other fields.<sup>26</sup>

For livable wage context, New York City uses an alternative poverty measure than the federal government that accounts for the higher cost of housing.<sup>27</sup> The NYCgov poverty threshold in 2018 was \$35,044, and the NYCgov near-poverty threshold in 2017 was \$52,566.<sup>28</sup> Based on Nonprofit New York's salary survey data, and average human services worker salaries from HSC, the City is likely funding positions with salaries below New York City's near poverty threshold, and some below the New York City poverty line.

Disparities in pay and benefits exist between nonprofit workers who provide City-contracted services and direct-hire City employees in similar jobs. The recent campaign for pay parity in early childhood education highlighted a pay gap of more than 40% between City employees and nonprofit employees paid through city contracts.<sup>29</sup> The campaign ultimately resulted in raises for early childhood education teachers of up to \$20,800, a unionized workforce that is more than 90% women.<sup>30</sup> However, wage gaps and benefit discrepancies persist in the sector, particularly for non-certified teachers and support staff and in jobs that have less obvious counterparts among city employees.<sup>31</sup>

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<sup>26</sup> "2019 Nonprofit Salary Survey Report." *Nonprofit New York*, 2020, <https://thecommunity.nonprofitnewyork.org/s/article/2019-Salary-Survey-Report>.

<sup>27</sup> New York City Mayor's Office of Economic Opportunity, "New York City Government Poverty Measure 2018," *City of New York*, 2020, [https://www1.nyc.gov/assets/opportunity/pdf/20\\_poverty\\_measure\\_report](https://www1.nyc.gov/assets/opportunity/pdf/20_poverty_measure_report).

<sup>28</sup> New York City Mayor's Office of Economic Opportunity, "New York City Government Poverty Measure 2017," *City of New York*, April 2019, [https://www1.nyc.gov/assets/opportunity/pdf/19\\_poverty\\_measure\\_report.pdf](https://www1.nyc.gov/assets/opportunity/pdf/19_poverty_measure_report.pdf).

<sup>29</sup> Parrott, "The Road to and from Salary Parity in New York City: Nonprofits and Collective Bargaining in Early Childhood Education."

<sup>30</sup> Parrott, "Undervalued and Underpaid: How New York State Shortchanges Its Nonprofit Human Service Providers and Their Workers."

<sup>31</sup> Linda Jacobson, "Analysis: NYC Underfunding Community-based Early-childhood Programs," *K-12 Dive*, March 21, 2019, <https://www.educationdive.com/news/analysis-nyc-underfunding-community-based-early-childhood-programs/550849>.



## 2. Racial equity and the nonprofit sector

People of color are less likely to be in nonprofit senior leadership positions,<sup>32</sup> and there are stark disparities between the revenues and unrestricted net assets of Black- and white-led organizations.<sup>33</sup> Within a sample of nonprofits focused on supporting Black men and boys, white-led groups had almost twice as many unrestricted net assets as Black-led groups: working capital that allows nonprofits to grow, take mission-advancing risks, and adapt to changing contexts.<sup>34</sup>

Worker wages are inequitably distributed by race. According to a recent analysis from the Economic Policy Institute, more than half of Black and Latinx workers earn less than median wages, Black and Latinx women are more likely to be low earners, and Black women work more hours at lower wages with less flexibility to reduce work hours to care for family.<sup>35</sup> A 2020 report found marked racial pay disparities among workers with bachelor's degree in similar occupations in the New York City social services sector.<sup>36</sup>

Given the nonprofit racial leadership gap and the significant percentage of the nonprofit workforce who are women and people of color, low wages within city contracts likely disproportionately maintain low wages among New Yorkers who are people of color and women.

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<sup>32</sup> Sean Thomas-Breitfeld and Frances Kunreuther, "Race To Lead; Confronting the National Racial Leadership Gap," *Building Movement Project*, 2017, <https://buildingmovement.org/our-work/leadership/race-to-lead/>.

<sup>33</sup> Cheryl Dorsey, Jeff Bradach, and Peter Kim, "Racial Equity and Philanthropy: Disparities in Funding for Leaders of Color Leave Impact on the Table," *The Bridgespan Group*, May 2020, <https://www.bridgespan.org/bridgespan/Images/articles/racial-equity-and-philanthropy/racial-equity-and-philanthropy.pdf>.

<sup>34</sup> Ibid.

<sup>35</sup> Valerie Wilson and Janelle Jones, "Working harder or finding it harder to work: Demographic trends in annual work hours show an increasingly fractured workforce," *Economic Policy Institute*, February 22, 2018, <https://www.epi.org/publication/trends-in-work-hours-and-labor-market-disconnection/>.

<sup>36</sup> Sierra Lewandowski, Lina Moe, and James Parrott, "Building a social services ladder to career advancement," *The New School – Center for New York Affairs*, November 2020, <https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5fb35d88fcd32e302c7a570e/1605590409654/CNYCA+Soc+Serv+Career+Ladder+FINAL11-10-2020X.pdf>.



# STRUCTURAL CHALLENGES FOR PEOPLE OF COLOR AND CULTURALLY SPECIFIC ORGANIZATIONS

## A. Reliance on discretionary funding

In New York City, Black, Latinx, Asian, and other people-of-color-led small community-based organizations are heavily reliant on discretionary funding,<sup>37</sup> which is funded through City Council member items and not the Mayoral Agency base-lined funding. While this typically represents less than 1% of the New York City budget, it may be the only reliable city funding for people-of-color-led and culturally specific organizations. Grassroots organizations led by, and serving, communities of color often do not have the organizational capacity to engage in the onerous city agency RFP process. Discretionary funding is how small organizations closest to New Yorkers and organizations led by people of color get access to public funding.

Reliance on discretionary funding creates unique burdens on small BIPOC (Black, Indigenous, People of Color) organizations. Organizations must have a relationship with their local City Councilmember or Borough President, which takes resources to build and maintain. Discretionary funding operates on one-year funding cycles, so small BIPOC-led nonprofits reliant on discretionary funding must advocate each year for funding for future years. In comparison, many larger organizations that receive grants through the Mayor's Executive Budget receive baselined, multi-year contracts.

People-of-color-specific initiatives, including the Communities of Color Nonprofit Stabilization Fund and the Coalition for Theatres of Color Collective, are regularly funded through the discretionary budget. However, because discretionary funding is not multi-year, people-of-color-led nonprofits relying on discretionary funding must advocate each year for their items to be included in the discretionary budget. This is a significant organizational burden for people-of-color-led organizations (who tend to have fewer resources and leaner staffing levels as a result of the under-investment described in the previous section) that larger, white-led nonprofits, who are baselined through multi-year contracts, do not face. Some of the oldest Black-led nonprofits and cultural institutions are not baselined in the City's budget.

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## B. Communities of Color Nonprofit Stabilization Fund

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<sup>37</sup> "Schedule C," *New York City Council*, <https://www.ccnsfund.org/>.





The Communities of Color Nonprofit Stabilization Fund (CCNSF)<sup>38</sup> was designed to build capacity among nonprofits led by and serving communities of color. Between Fiscal Years 2020 and 2021, the City reduced the CCNSF by 32%, while overall discretionary funding was reduced by close to 20%. Stakeholders shared that some nonprofits choose not to apply for CCNSF funding because they do not have the capacity to undertake the cumbersome application process. CCNSF requires organizations to spend their awarded funding within four to five months due to the yearly timeline of award to registration. Funding is often restricted to external capacity building, such as consultants and workshops, and not funding that can go to directly building the financial capacity of people of color led organizations.

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## C. Language Access

Stakeholders reported that language access posed an additional equity challenge. English-language materials about RFPs and other city programs are often available significantly earlier than translated materials, if high-quality translations were ever made available. Organizations were unclear on whether their multilingual service capacity was considered in evaluating RFPs, and awards did not always cover translation or interpretation costs.

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## D. Subcontracting

People-of-color-led, smaller, and grassroots organizations often subcontract with a larger organization to provide culturally and linguistically specific services. Sometimes these organizations have only one or two staff members but are the only organization that can provide hyper-local language access services. Stakeholders described subcontracting as exacerbating the process problems related to late contract registration, execution, and payments and vulnerability to budget cuts. Subcontractors have fewer opportunities to participate in indirect cost negotiations. Subcontractors may also not receive the same proportionate contract amendments that the main contractor. This dynamic also leads to the under-recognition of the capacity and track records of subcontracted BIPOC-led organizations to deliver high quality and culturally appropriate services to their communities. The City's practice of subcontracting with BIPOC-led organizations through a "mainstream" can leave

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<sup>38</sup> "About - Communities of Color Nonprofit Stabilization Fund," CCSNF, <https://www.ccnsfund.org/>.



BIPOC-led nonprofits out of program design and planning. For example, the City allocated \$6 million in emergency pandemic food relief, but no BIPOC-led and specific organizations were consulted in the needs or distribution of the funding because, as subcontractors, they did not have a direct communication channel to the City. Subcontractors who provide language-specific meal services also described not receiving any funding to be able to follow public health guidance for meal distribution, while their main contractors did receive funding for equipment to adjust their meal preparation.

Subcontracting can also minimize the contributions of subcontracted BIPOC-led nonprofits to program success. Stakeholders also described how the City's contract evaluation process does not allow for BIPOC-led subcontractors to meaningfully participate in the evaluation and program reforms process.

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## E. MWBE

Multiple stakeholders who are BIPOC-led organizations mentioned the Minority and Women-owned Business Enterprise (MWBE) program. Nonprofits are currently ineligible to be certified as MWBEs because there is no ownership within the nonprofit corporate structure. However, stakeholders expressed interest in creating comparable programs for BIPOC-led organizations.

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# RECOMMENDATIONS

Authors asked stakeholders for recommendations to improve contracting process, structure, and equity. The synthesized recommendations are included below.

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## 1. Process reforms

Respondents acknowledged the importance of the City's due diligence process, but they suggested that expanding the use of timelines such as the 30-day timeline required of the Comptroller would balance due diligence with the needs of nonprofit service providers.





While the implementation of PassPort was acknowledged as a starting point, further streamlining and standardizing application processes, documentation systems, contract management, and invoicing systems across and within agencies would enable nonprofit organizations to dedicate less of their limited staff resources to compliance processes. As changes are made, the City must continue to invest in training for its staff to ensure uptake and implementation.

The City recently implemented a practice of paying 25% contract advances. This has the potential to reduce cash flow problems faced by nonprofits when coupled with greater investments in on-time registration.

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## 2. Contract structure

Despite significant research into the deleterious effects of underfunding indirect costs, harmful myths about indirect costs persist in New York City. The City can address this by building capacity within city agencies and nonprofit organizations to understand and calculate full cost funding frameworks.

Respondents strongly recommended that the City fully fund its Indirect Cost Program in future fiscal years. This investment would mean that nonprofits were no longer subsidizing City services and would promote organizational health and sustainability.

It is not uncommon for contracts between business and the City to include profit in their contract structure. For example, NYCHA allows for a “profit” budget line in their contracts. Given the reality of extremely low cash reserves in New York City’s nonprofits and the importance of such reserves for organizational health, the City should consider where surplus or reserve lines are appropriate within nonprofit contracts.

Wherever possible and practical, the City should provide flexible, multi-year funding, especially within the arts sector.

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## 3. Equity

Nonprofit salaries funded by city contracts should be above the City’s own poverty threshold. Failure to do so is exacerbating racial disparities and the gender wage gap given the overrepresentation of women of color in the sector overall and in entry-level positions specifically. Contracted salaries and benefits should be comparable with those of directly-hired workers doing similar jobs.



The City must close the racial gap in access to city funds, particularly to baselined funds. Less burdensome application processes, greater diversity in award sizes, and increased investment in language access will begin to make City funding more accessible to smaller, people of color-led organizations. To make meaningful progress, though, baselined funding supporting people of color and culturally-specific nonprofit organizations must be expanded. If the City values the contributions of historical, hyper-local, BIPOC-led and serving nonprofits, the City should baseline BIPOC specific contracts and remove reliance on discretionary funding.

The City should also fundamentally reform the subcontracting model and build capacity for BIPOC-led and serving nonprofits to directly contract with the City.

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## 4. Data collection

Current data sets do not disaggregate city contracting into for-profit and nonprofit vendors. The City should increase the data it collects on nonprofit contractors, beginning with what contracts are nonprofit versus for-profit, and including demographic data collection on leadership and communities served. The city should also release data on average front-line nonprofit worker salaries funded within contracts.

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