

**Comments on the
Office of Victims Services and Justice Grants FY22&23 Performance Oversight
For the Committee on Judiciary and Public Safety
February 10, 2023**

On behalf of the Coalition for Nonprofit Equity, a coalition of approximately 1,000 DC nonprofits advocating for full funding and implementation of the Nonprofit Fair Compensation Act of 2020, I submit the following comments as the Consultant to the Coalition.

Contract Adjustments for Nonprofits

The law, effective since March 2021, seeks to ensure consistent application of overhead or indirect cost rates across all grants and contracts made by DC government agencies to nonprofits. It provides five ways for nonprofits to calculate and use their indirect cost rate in negotiations with the District on their grants and contracts. This fiscal year is the second of five years of a phased-in implementation period for the law, and attaches to all nonprofits' grants and contracts valued at up to \$5 million each (with the exception of hospitals, universities, and foundations). This law is an important step in right-sizing and adequately compensating nonprofit partners for their "actual costs" of doing business in and with the District, and elevating nonprofits' financial well-being.

The passage and implementation of this law is an equity issue. Nonprofits diligently serve District residents, often literally at their own expense. At just one of the 1,000 nonprofits advocating with the Coalition for Nonprofit Equity, the gap in indirect costs on District grants and contracts was over \$400,000. This gap in government funding must be raised from other sources just to continue providing the government's services and programs; the time for nonprofits to *stop* subsidizing the government's work is now.

The implementation of this legislation remains problematic across DC's contract and grant-making agencies and offices. We do want to acknowledge the Office for including a reference to the law and for language about calculating an indirect cost rate and negotiating or renegotiating payments with the District. The FY23 Justice Grants Supplemental Reentry Flex Funding and Project Safe Neighborhood solicitation¹ notes the five ways an organization can assess and use their rate, including if they have a federally negotiated indirect cost rate (or NICRA) or choose to take a *de minimis* 10%. However, in practice on awards from the Office, we are hearing from our nonprofit partners that they are getting pushback from the Office and its grant personnel for organizations seeking indirect cost compensation at even the *de minimis* 10% rate, *let alone* the organization's *actual* indirect cost rate.

¹[Final_RFA_FY2023_JG_Supplemental_ARPA_and_PSN.pdf \(dc.gov\)](#)

It is possible that the Office, and other offices and agencies throughout the District government, are reluctant to follow the law due to additional funds to cover the indirect costs having remained unbudgeted. In both the FY22 and FY23 budget cycles, it was clear that the DC government did not specifically identify and program funding into budgets to cover indirect costs in accordance with the law. We continue to hear, unfortunately, from our nonprofit partners that contract and grant administrators have informed them that their organizations may take their rate, but *at the expense* of providing more services and/or programmatic offerings. The law is meant to provide funding for the grant or contract's activities, *as well as* the indirect costs for the nonprofit provider. It should not be either/or.

As the government continues to fully implement the Nonprofit Fair Compensation Act of 2020, the Coalition looks forward to grant and contract personnel training across all agencies and offices, standardized language for all solicitations similar to what the Office of Victims Services and Justice Grants used in the one FY23 solicitation we noted, and a detailed cost analysis of the extent to which indirect costs have been retained from nonprofits on local and federal grants and contracts assisting the government in its FY24 budgeting process.

Overall, we are pleased to see the Office naming the Act and its processes in at least one of its solicitations, but are dismayed that in practice the Office may not be following the law by seeking to limit indirect costs to implementing nonprofits. We look forward to working with the Office and the Committee on ensuring proper budgeting for nonprofit grants in FY24 and beyond.

Thanks for the opportunity to provide these comments.