

# Executive Order on Strengthening the Nonprofit Sector and its Partnership with the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

## **Section 1. Purpose**

It is the policy of my Administration that the nonprofit sector is an indispensable, trusted partner in building and repairing American communities, strengthening civil society, and ensuring that all people living in the United States have the opportunity to thrive. The sector also provides an unmatched window into community, helping federal agencies better assess and address needs, more clearly understand where and how critical social change is unfolding, and scale promising models of innovation and service delivery.

Consisting of over 1 million grant-making and grant-seeking organizations, 12 million employees, 20 million board members, 63 million volunteers, and 170 million donors, the nonprofit sector has an essential role in healing divides, energizing the economy and creating jobs, advancing racial justice, promoting public health, protecting our environment, and addressing climate change. At the local level, nonprofits are a time-tested mechanism for delivering critical community services such as housing, childcare, senior services, mental health services, youth development programs, and worker retraining, to name a few. The nonprofit sector, because it is *of* the community, also has an unequaled ability to leverage and accelerate the impact of federal government investments designed to create positive change at the community level.

Progress in American society has always relied on, and will continue to rely on, the nonprofit sector and the spirit of generosity, service and volunteerism it unleashes in American life. As our government relies on nonprofits to deliver critical public services to the American people, and federal policies are an essential determinant in the sustained health and reach of this sector, my Administration will take unprecedented and historic measures to deepen the partnership between the federal government and nonprofits so that this sector, and more importantly, the communities it serves across this nation, are stronger, more equitable, and are continuously improving America's future.

## **Section 2. White House Office on the Nonprofit Sector**

There is established a White House Office on the Nonprofit Sector (White House ONS) within the Executive Office of the President.

### **(a) Functions**

The principal functions of the White House ONS are, to the extent permitted by law:

- (i) to develop, lead, and coordinate the Administration's policy agenda and actions affecting the nonprofit sector, and to increase the sector's capacity and health through executive action, legislation, federal and private funding, availability of government data, and regulatory matters;
- (ii) to ensure the expertise, national and community-based networks, skilled workforce and volunteer force, trusted status, and "front-line" positioning of the nonprofit sector can be rapidly deployed, leveraged, and aligned with the efforts of this administration to meet the challenges before the nation;

- (iii) to identify and explore the ways in which the relationship between the nonprofit and the private sectors can be strengthened, ensuring the ready flow of innovation, talent, and resources across sectors;
- (iv) to identify and encourage policies that increase and sustain charitable giving, volunteerism, and national service to support the nonprofit sector;
- (v) to bring, based upon regular consultation with the nonprofit sector, ideas and policy options to the President for leveraging the unique partnership between the federal government and the nonprofit sector to accelerate repair and rebuilding in communities across America, particularly with respect to Black, Native, Latinx, and other communities of color and rural communities, as well as other under-represented populations;
- (vi) to ensure that Administration policy decisions and the actions of the federal government are consistent with its goals with respect to the nonprofit sector, volunteerism, charitable giving, nonprofit employment, and national service, and to monitor, review, and consider how these policies and actions will affect each;
- (vii) to identify and encourage policies to accelerate the digital transformation of the nonprofit sector and its access to the digital tools and infrastructure necessary to operate effectively in the 21st century;
- (viii) to identify and encourage policies that increase and sustain the sector's opportunities to operate internationally both on their own and in partnership with United States government institutions;
- (ix) to receive regular updates from federal offices with a role in oversight of the nonprofit sector, including but not limited to inspectors general and the Government Accountability Office, on matters related to the nonprofit sector to identify opportunities to strengthen and improve existing mechanisms of sector oversight;
- (x) to coordinate, across relevant federal agencies, the task of compiling, producing and making publicly available key existing federal data sources of relevance to the nonprofit sector. This could include data on the economic health and impact of the nonprofit sector (including employment and wage data), data on federal funding of the nonprofit sector (including grants and contracts), Census data, and data on charitable giving, volunteering and civic engagement. This information would be released as open data, and made available both through relevant agencies and through a central web page, similar to pages on small business data that are part of the Small Business Administration;
- (xi) in partnership with the sector and within one year of its establishment, to develop strategies, structures and resources required for the codification and permanency of these efforts; and
- (xii) to promote the streamlining and improvement of the operational relationship between government and the nonprofit sector, as well as the sector's access to, participation in and performance in government contracting and funding by:
  1. Working with the Office of Management and Budget (OMB) to continue its commitment to the nonprofit sector through continued enforcement of the OMB Uniform Guidance, as well as consideration of additional efforts to strengthen the role of nonprofits in federally-funded programs at the local, state, Tribal, and federal level;
  2. Working to simplify, expedite, and streamline the federal government's contracting and granting processes with the sector, including by simplification of the grant making process for nonprofits, especially those in Black, Native, Latinx, and other communities of color and rural communities, and other under-represented populations;
  3. Assessing how grant and contract agreements and reimbursements can be modified to enable and incentivize nonprofits to utilize government grant and contract funds to provide living wages and relevant professional development to employees working on those grants or contracts, and to ensure that interns and those in apprenticeships working on government grants or contracts are paid rather than unpaid; and

4. Assessing how grant and contract agreements and reimbursements can be modified to enable nonprofit recipients to respond to issues of national significance, including climate change.

(b) Administration

(i) The White House ONS shall have a staff headed by the Assistant to the President for the Nonprofit Sector (the “Nonprofit Advisor”), as designated by the President, and shall have such staff and other assistance to the extent permitted by law, as may be necessary to carry out the provisions of this order. The White House ONS operations shall begin no later than 30 days from the date of this order.

(ii) The White House ONS shall coordinate with the liaison and point of contact designated by executive departments as appropriate with respect to its mission, as well as the Interagency Council, and Technical Working Groups on the Nonprofit Sector created by this order.

(iii) All executive departments and agencies shall cooperate with the White House ONS and provide such information, support, and assistance to the White House ONS as it may request and to the extent permitted by law.

(iv) The White House ONS may accept detailees from other parts of the Executive Branch, and from the nonprofit sector, as permitted by law, to carry out its functions.

(c) Mission

The White House ONS will have the lead responsibility in the executive branch to establish priorities, objectives, and policies for the federal government's comprehensive effort to encourage, enable, and empower the work of the nonprofit sector. It will have the responsibility of continuously consulting the nonprofit sector to solicit feedback that can better inform the development of those priorities and policies and will also work to strengthen the critical partnership between government and the nonprofit sector to ensure successful execution of the COVID-recovery, economic revitalization, climate change, and racial justice pillars of the “Build Back Better” initiative.

### **Section 3. Interagency Council on the Nonprofit Sector**

(a) Establishment

There is hereby established an Interagency Council on the Nonprofit Sector (Interagency Council), chaired by the Nonprofit Advisor and with two vice-chairs, drawn from council membership. The terms of the vice-chairs will be one year.

(b) Membership

The membership of the Interagency Council includes the Secretary of each cabinet agency and other members of the President’s cabinet, or their designee, along with the head of the following agencies, or their designee:

- (i) Internal Revenue Service;
- (ii) Federal Emergency Management Agency;
- (iii) Corporation for National and Community Service;
- (iv) National Endowment for the Humanities;
- (v) National Endowment for the Arts;
- (vi) National Science Foundation;

- (vii) Institute of Museum and Library Services; and
- (viii) other agencies as determined by the chair of the Interagency Council.

(c) Mission

Consistent with applicable law and as soon as practicable, the Interagency Council, based upon consultation with the nonprofit sector, shall provide specific recommendations to the President on how the nonprofit sector can best leverage and accelerate federal investments to rebuild American communities and to offer to the President specific recommendations for strengthening, promoting, and improving the overall health of the nonprofit sector. These recommendations may include:

- (i) how agencies with responsibilities related to the sector can improve federal research and data access and transparency, including by collecting and disseminating disaggregated data and research relevant to addressing systemic inequities;
- (ii) how federal agencies might consult and partner with nonprofits as an engine of employment, preparing Americans for their first jobs or new jobs, deploying national service members to rebuild communities while acquiring valuable professional and civic skills and career guidance, and employing millions of people of all backgrounds in good jobs to do the work of change;
- (iii) necessary legislation, regulation, and other action toward these goals, including legislation that would codify the Interagency Council and these efforts;
- (iv) federal efforts that could have an impact on charitable giving, volunteerism, and national service;
- (v) critical federal investments in the civic infrastructure of the United States, such as building workforce, the capacity and representation of nonprofit institutions, strengthening the capacity of the volunteer force to respond to national crises, and other policies that encourage volunteering, service, giving, and democratic participation; and
- (vi) how federal technology policies and funding might be more effectively aligned with the nonprofit sector and the communities it serves.

(d) Administration

- (i) The President will designate the Nonprofit Advisor as the Chair of the Interagency Council, who shall coordinate the Council's activities. The White House shall provide funding and administrative support for the Interagency Council to the extent permitted by law and within existing appropriations as may be necessary for the performance of its administration.
- (ii) To the extent permitted by law, and within existing appropriations, participating agencies may detail staff to the White House ONS to support the Interagency Council's coordination and implementation efforts.
- (iii) The chair and vice-chairs shall convene regular meetings of the Interagency Council, determine its agenda, and direct its work. At the direction of the chair and vice-chairs, the Interagency Council may establish subgroups consisting exclusively of Interagency Council members or their designees.
- (iv) A governmental member of the Interagency Council may designate a senior-level official who is part of the member's department, agency, or office to perform the Interagency Council functions of the member.
- (v) The Interagency Council will issue biennial reports on government activities and recommendations affecting the nonprofit sector, volunteerism, charitable giving, and national service.

#### **Section 4. Technical Working Groups on the Nonprofit Sector Technical Working Group**

(a) Establishment

There are hereby established Technical Working Groups on the Nonprofit Sector (Technical Working Groups), at each Cabinet-level Department, and each sub-Cabinet agency as the Secretary of that Department shall deem appropriate.

(b) Membership

The Technical Working Groups shall be composed of members appointed by the Secretary or head of a sub-Cabinet agency when appropriate. Membership of the Technical Working Group should be drawn from the nonprofit sector to include designees with substantial and diverse experience and points of view in the issues facing the nonprofit sector, and in compliance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.). This should include leading national organizations that represent the interests of the broad sector, as well as representatives of large, medium and small nonprofit and philanthropic organizations. Representatives of the sector will reflect the wide range of issue focuses, as well as the racial, gender, ethnic and geographic diversity of the sector. Members should have expertise in areas including managing Federal contracts with nonprofits, nonprofits as employers, access to capital, operating charities and philanthropies, public policy related to nonprofits, matters related to governance, accountability, and trust building, demographic, racial, and geographic diversity, and organizational diversity within the sector.

(c) Functions

The Technical Working Groups shall advise the Secretary or agency head on matters involving policy affecting nonprofit sector, volunteerism, service, and other related topics. The Technical Working Groups shall meet regularly, in compliance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and shall:

- (i) respond to requests from the President, Secretary, agency head, or the Nonprofit Advisor for information, analysis, evaluation, or advice;
- (ii) solicit information and ideas from a broad range of stakeholders;
- (iii) meet on an annual basis with both the Nonprofit Advisor and Interagency Council on issues affecting the nonprofit sector;
- (iv) within one year of formation and biennially thereafter, provide a report to the Secretary or agency head and the Interagency Council, including information regarding:
  - (A) the state of the nonprofit sector as it relates to that agency, including information on volunteerism, charitable giving, and national service as appropriate; and
  - (B) the effect of federal policies on the nonprofit sector as it relates to that agency and legislative, regulatory, and executive actions to improve and support the health of the sector;

(d) Administration

- (i) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Technical Working Group with information concerning appropriate matters when requested by the Technical Working Group and as required for the purpose of carrying out the Technical Working Group's functions.
- (ii) In consultation with the Nonprofit Advisor, the Technical Working Groups are authorized to create standing subcommittees and ad hoc groups to assist the Technical Working Group and provide information directly to the Technical Working Group.

- (iii) Technical Working Group members shall be compensated as special government employees, as provided under the Federal Advisory Committee Act and subject to the availability of funds, and may receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service unless specifically waived by those members (5 U.S.C. 5701-5707).
- (iv) The appropriate Departments shall provide such funding and administrative and technical support as the Technical Working Groups may require, to the extent permitted by law and within existing appropriations.

## **Section 5. General Provisions**

(a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof;
- (ii) the functions of the Director of the OMB relating to budgetary, administrative, or legislative proposals; or
- (iii) the functions of the Secretary of the Treasury relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

# Proposed Executive Orders or Actions on Strengthening the Nonprofit Sector and its Partnership with the Federal Government

The following sections suggest several steps that may be taken by the President, either by Executive Order or other Executive Action, to further strengthen the nonprofit sector.

## Section 1. Volunteerism and Charitable Giving

Charitable giving and non-stipended volunteerism are the means by which Americans show their generosity – through gifts of time and effort, as well as financial resources. When Americans are encouraged to do what they can, with what they have, from where they are, they can make massive change happen. As the nonprofit sector depends greatly on both forms of generosity, my Administration will take the following steps to encourage, support, and promote both volunteerism and charitable giving:

(a) To the extent permitted by law, the Treasury Department and other relevant departments (as determined by the White House ONS) shall consider and publicly release the impact of policy proposals, regulations, and other actions on charitable giving specifically and the nonprofit sector generally, including analysis disaggregated by demographic factors such as income, geography, race, ethnicity, and gender;

(b) To the extent permitted by law, the Bureau of Labor Statistics, within two years of this executive order and each year after, shall issue a report on shifting trends on the non-stipended volunteerism force in the United States so that the impact of those trends on communities and nonprofits might be better understood;

(c) Direct the Corporation for National and Community Service (CNCS) to conduct a comprehensive assessment of how it can best be structured and resourced to support the unique needs and potential of both the non-stipended volunteer force and the national service community and to share that assessment with the White House ONS within 6 months of this measure;

(d) Direct CNCS to review existing programs such as the Volunteer Generation Fund and the Nonprofit Capacity Building Program to determine how these programs might be strengthened and/or expanded to ensure, among other critical functions, they will support a wide diversity of nonprofits to build capacity to engage, sustain, and support the volunteer force and to share such recommendations with the White House ONS within 6 months of this measure;

(e) Direct CNCS to convene stakeholders to discuss revisions to the plan to collect data on volunteering, giving, and civic engagement through supplements to the Current Population Survey and further direct CNCS to consider strategies for using the Current Population Survey to collect data on volunteering, giving, and civic engagement;

(f) To the extent permitted by law, the Office of Management and Budget is directed to commence a study to measure non-stipended volunteer management capacity in the nonprofit sector;

(g) Direct the White House ONS to consider the recommendations, and make implementation plans when appropriate, from the Interagency Council's report on critical federal investments in the civic infrastructure of the United States, such as building the capacity and representation of nonprofit institutions, strengthening the capacity of the volunteer force to respond to national crises, and other policies that encourage volunteering, service, giving, and democratic participation;



(h) The White House ONS, the Interagency Council, and the Technical Working Groups shall have lead responsibility for an annual convening on the nonprofit sector, examining issues critical to the health of the charitable sector and expanding a culture of American generosity through volunteerism and charitable giving; and

(i) The White House ONS, the Interagency Council, and the Technical Working Groups shall have lead responsibility in the design and execution of a White House, Cross-Sector (public, private and nonprofit sectors) Convening to assess requirements and approaches to help communities better mobilize in-person and virtual volunteers by scaling the public-interest digital infrastructure necessary to support volunteer engagement at a local, state, and federal level.

## **Section 2. National Service**

National service programs provide an essential vehicle for Americans of all ages anxious to serve their communities and transform their own lives in the process. Service programs also provide a critical pipeline of emerging leaders into the workforce, including the nonprofit workforce. To that end:

(a) To ensure that Black, Native, Latinx and other communities of color, rural communities, and other under-represented communities have full access to service programs, the CNCS shall work to make it easier for programs that represent/serve underserved communities to access funding;

(b) The eGrants system for entering information is a significant barrier to entry for organizations without past experience with the system. The eGrants system should be redesigned to make the entry of information easier and ensure the data requested via the system are necessary to make a decision on a grant from the CNCS. The system should include user testing that engages organizations that are not current grantees and that represent/serve underserved communities to test barriers to submitting for a grant;

(c) Much of the language for AmeriCorps and national service along with the eGrants system has specifications that are not known to many smaller organizations or communities trying to utilize service for the first time. There should be standardized and detailed training and technical assistance that can help organizations submit quality grants and help those who may not have the resources to hire a consultant in order to submit for an AmeriCorps grant; and

(d) Service Year Fellowships, such as those originally authorized in the Edward M. Kennedy Serve America Act, should be updated and implemented as a means to broadening access to national service to underserved communities and providing increased capacity for nonprofits of all types in moments of increased need. The CNCS is tasked to determine the best means and models for scaling such fellowships on a nationwide scale.

## **Section 3. Government Research and Data**

Data on the nonprofit sector is an essential source of information for society's understanding of the work of the nonprofit sector, its activities, performance, size, level of non-stipended volunteering, charitable giving, finances, and contributions to civic life. To enhance the availability of nonprofit data, and as consistent with applicable law, federal agencies should increase data transparency related to the nonprofit sector by streamlining the collection and timely dissemination of data and research, disaggregated where possible, relevant to strengthening the nonprofit sector. To this end, to the extent permitted by law, and as soon as practicable:

(a) The Bureau of Labor Statistics shall consider generating, at a minimum, annual issuances of its reports on nonprofit employment and wages, drawing on data from its Quarterly Census of Employment

and Wages (QCEW), as a first step towards regularly including nonprofit organizations as a distinct category of employer in the QCEW and other BLS data series;

(b) The IRS shall consider improvements to the way it collects data on nonprofit government revenue on its Form 990, Return of Organization Exempt from Income Tax, in order to increase the utility and clarity of Form 990 information. The IRS will also consider improving public access to 990 e-filed data;

(c) The Department of Commerce's Bureau of Economic Analysis will consider the creation of a yearly or biennial Satellite Account on Nonprofit and Related Institutions and Volunteer Work within its national accounts program;

(d) The Office of Management and Budget should solicit information from all relevant federal agencies that collect data on the charitable and nonprofit sectors and direct these agencies to include disaggregated statistics, where they are already collected, about the sector in all published reports and publicly available tables and datasets;

(e) Given the benefits of increased accuracy and fairness of government data to the sector more broadly, and due to the wide range of government data and algorithms that affect how nonprofits are able to serve their communities, the Office of Management and Budget and relevant federal agencies shall conduct an impact assessment of how government data collection and algorithm use and accuracy may have a discriminatory or disparate impact on nonprofit issues or communities they serve, particularly marginalized populations; and

(f) No provision of this Executive Order shall be construed to require measures that would increase data collection burdens on nonprofits regarding their finances, operations, donors, or the populations they serve.

#### **Section 4. Streamlining and Improving the Operational Relationship Between Government and the Nonprofit Sector**

As employers and providers of services to countless Americans, the economic wellbeing of the nonprofit sector is of great national importance. The nonprofit sector can be affected by a broad range of regulations and often the unique status of characteristics of the nonprofit sector is overlooked. To remedy this shortfall and assist the nonprofit sector in its critical work, the Administration will undertake the following activities:

(a) The White House ONS and relevant agencies will work to simplify, expedite, and streamline the federal government's contracting and granting processes with the nonprofit sector, including nonprofits of all sizes and in disadvantaged communities;

(b) To the extent permitted by law, the Office of Management and Budget's Office of Information and Regulatory Affairs shall consult with the White House ONS and the Interagency Council on regulatory matters impacting the nonprofit sector; and

(c) To the extent permitted by law, the White House ONS is directed to establish a commission on Federal grant reform, composed of individuals representing Federal grant-making agencies, pass-through entities, and nonprofit grantees and subgrantees with diversity of size and racial, gender, and geographic diversity. Within 12 months of establishment, the Commission shall issue recommendations to streamline and improve the operational relationship between all levels of government and the nonprofit sector. These recommendations shall include: promoting federal agency compliance with and consistent interpretation of the OMB Uniform Guidance (2 C.F.R. 200); promoting racial, ethnic and gender inclusion in grant-making; supporting the payment of indirect costs, professional development and paid internships for the nonprofit workforce; structuring grant agreements to allow recipients to respond to issues of national significance, and; other issues as determined by the commission.

## **Section 5. Oversight and Governance of the Nonprofit Sector**

Public trust in the nonprofit sector is critical to its health. To promote the effectiveness of the nonprofit sector and protect against potential abuse and bad actors that can erode trust, the Federal government shall take the following actions to harmonize, enhance, and improving existing oversight of the nonprofit sector

and promote good governance:

- (a) The IRS shall seek input from the nonprofit sector, consider, and publicly release recommendations and funding needs to improve appropriate oversight, protecting the nonprofit sector from abuse without subjecting these vital organizations to undue burden;
  
- (b) To the extent permitted by law, the Internal Revenue Service (IRS) shall examine the reconstitution of the Advisory Committee on Tax Exempt and Government Entities;
  
- (c) To the extent permitted by law, the IRS shall review and make appropriate updates to reporting forms related to tax exempt status like 1023-EZ, based upon recommendations from the sector, advocacy groups, or government examinations; and
  
- (d) The White House ONS and the Interagency Council shall seek input and participation from the National Association of State Charity Officials (NASCO) as a regular part of their work.

### **Section 6. Nonpartisan Civic Engagement and Advocacy**

Strong civic participation is a hallmark of our democracy, and the nonprofit sector is a key partner registering voters, protecting the right to vote, educating policymakers and advocating for policy changes that strengthen the sector and the communities and causes nonprofits serve. The prohibition on political campaign intervention by 501(c)(3) organizations – often known as the Johnson Amendment – is a bedrock protection for these organizations and their communities, as well as the American political system. The nonprofit sector, from churches to food banks, and particularly 501(c)(3) organizations, require bright lines defining permissible activities in order to best serve their communities, advance their missions, and strengthen the policy process. Clearer rules also can help Treasury Department staff protect nonprofits from abuse, because enforcement can rely on clear, objective and transparent guidelines. This clarity will also benefit nonprofits that are active in the political process and reduce the threat of partisanship or perceived partisanship in enforcement efforts. To the extent permitted by law, and as soon as practicable:

- (a) The White House should direct the Treasury Department to clarify the rules for nonpartisan civic participation, and solicit feedback from the nonprofit sector before promulgation, with the goal of ensuring that there are objective standards governing what does and does not qualify as prohibited political campaign intervention for organizations organized under 26 U.S.C. § 501(c)(3); and
  
- (b) The Treasury Department shall study the role of the current “facts and circumstances” standard for tax-exempt entities classified under other provisions of the Internal Revenue Code and present a report detailing those findings to the President, the Interagency Council, and the Technical Working Groups.