

## **A resolution in support of legislation that requires prompt payment of grants and contracts to Alaska nonprofit organizations**

**Approved December 14, 2023**

**Whereas** Alaska nonprofits are solid partners with state government and numerous state agencies – for instance, the Department of Health, Department of Family and Community Services, Department of Education and Early Development, and Department of Public Safety – and provide a wide array of essential services on behalf of the State of Alaska through grants and contracts;

**Whereas** the state disburses money in multiple ways to many entities, including to healthcare organizations and nonprofits receiving Medicaid reimbursement, grants to human and community services, education and health providers, and to local governments through programs like Community Assistance;

**Whereas** The Foraker Group has been aware of delayed payments to Alaska’s nonprofits by the State of Alaska for grant advances, grant reimbursements, and contract payments since at least 2019, even before the cyber-attack on the state’s then Department of Health and Social Services in spring 2021;

**Whereas** problems of delayed payment are not new nor entirely related to state staffing shortages and the state has not implemented the systems and technology solutions that would effectively remedy the problem;

**Whereas** payment delays from state departments for nonprofits with grants agreements and contracts have extended for months, sometimes up to a year or more, often following delays in initial/advance payments for programs and services with significant start-up costs;

**Whereas** most nonprofits don’t have the financial reserves to float a major state grant or contract to support a program or project with their own funds while waiting for allocated state dollars to come through, and even if they do it is not the responsibility of nonprofits to subsidize state government shortfalls in payment;

**Whereas** many of these entities operate with less than 90 days in cash reserves and some with little or none, “reimbursable” grant agreements require nonprofits to fund all the costs of services for 30 to 90 days before they can even invoice for payment;

**Whereas** the impacts on nonprofits and tribal organizations that are not paid on time are far-reaching, including furlough of staff, temporary closure of programs, loss of interest income from utilizing reserves, and the untold stress and strain that lack of prompt payment provokes;

**Whereas** nonprofit professionals and board members are often met with recommendations from state departments or divisions focused on unfeasible solutions, such as accessing small and often non-existent reserves, taking out lines of credit, or quickly ramping up donations, all of which enable the state to continue the practice of late payments;

**Whereas** in multiple meetings with state commissioners and nonprofit leaders during the pandemic, assurances were given that “the problem was being addressed” through one-by-one fixes and not through necessary and critical comprehensive systems change;

**Whereas** Alaska does have prompt payment laws that apply to the private sector in Alaska statutes (36.90.200), which require the State of Alaska to pay private-sector contractors performing construction or public works activities in a timely manner, including penalties for non-compliance and interest on non-payment, which reimburses the contractor for opportunity costs or additional burdens experienced;

**Whereas** when paying the state for a wide range of its services, including corporate filings and business and professional licensing, nonprofits are required to timely pay and are afforded no grace for making late payments;

**Whereas** due to the lack of parity with the nonprofit sector in state statutes ensuring prompt payment, state law does not apply to reimbursable grant agreements that are used with most state grants for the provision of health, education, or social services by nonprofits, nor to contracts between nonprofits and the state;

**Whereas** the need for prompt payment extends far beyond private sector construction contracts and public services and should be broadly applicable to all grantees and contractors of the state – businesses, municipal governments, nonprofits, and tribal organizations;

**Whereas** delayed payments not only create hardships for organizations’ ability to operate effectively but jeopardize the health and well-being of those they serve on behalf of state agencies;

**Whereas** nonprofits, municipalities, tribal organizations, and other entities suffer due to delays in disbursements that may make them unable to fulfill their own obligations and provide their own services;

**Whereas** nonprofits have reported delayed payments that have affected services to children, adults, seniors, individuals with intellectual and developmental disabilities, those experiencing homelessness, hunger, substance abuse, and domestic violence, among so many others receiving services;

**Whereas** it is in the state’s interest to ensure the solvency and sustainability of public, private, nonprofit, and tribal organizations, the state can facilitate this in large part by ensuring prompt payment on grants and contracts; and

**Whereas** eight other states have incorporated prompt payment laws that provide the same kinds of protections afforded the private sector to the nonprofit sector, most notably New York, California, and Maryland; these state efforts provide solid models that Alaska could emulate in developing legislation in Alaska;

**Now, therefore be it resolved** that The Foraker Group joins the Alaska Municipal League, which has passed its own resolution, in requesting that the Alaska State Legislature pass legislation requiring the State of Alaska to provide prompt payments in all its contracted and formula obligations, grants, or transfers;

**Be it further resolved** that the State of Alaska provide parity of the standards that already apply to state agencies in their private sector procurement and contracting to Alaska nonprofits, tribal organizations, and municipalities;

**Be it finally resolved** that the state agencies immediately enhance efforts to increase their ability to meet this duty of prompt payment and ensure appropriate levels of capacity to do so for the long-term.

**Approved by The Foraker Group Governance Board on December 14, 2023**

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**Resolution distributed to:**

- The Honorable Michael Dunleavy, Governor, State of Alaska
- The Honorable Gary Stevens, President, Alaska State Senate
- The Honorable Cathy Tilton, Majority Leader, Alaska House of Representatives
- Commissioner Heidi Hedberg, Department of Health, State of Alaska
- Commissioner Paula Vrana, Department of Administration, State of Alaska