



OFFICE OF THE CONTROLLER

CITY AND COUNTY OF SAN FRANCISCO

Greg Wagner
Controller
ChiaYu Ma
Deputy Controller

Citywide Nonprofit Corrective Action Policy

Version: December 9, 2024

Introduction

The City and County of San Francisco's (City) Nonprofit Corrective Action Policy is intended to ensure compliance with government funding requirements, accountability, and reliable service delivery for San Francisco residents.

Most nonprofits deliver high-quality services in alignment with contracted expectations. This policy outlines the steps the City will take in cases where nonprofits are not meeting expectations for service delivery or financial management. It defines the City's process for identifying and collaboratively responding to nonprofit performance concerns, which includes providing appropriate support, technical assistance, and oversight to address these issues. The Controller's Office and City departments apply this policy when nonprofit contractors consistently fail to meet the City's financial management or programmatic performance standards. The most frequent use of this policy will most likely be for financial and administrative concerns.

Background

Since 2006, the Controller's Office has coordinated departments to regularly monitor fiscal and compliance standards that are indicators of an organization's financial health. City departments and nonprofits collaboratively drafted and adopted a corrective action policy in November 2010 in response to a 2009 Community-Based Organization Task Force report. In 2013 and again in 2014, the Controller's Office and City department staff engaged in the Citywide Nonprofit Monitoring and Capacity Building Program (Monitoring Program) made updates to the policy to include more specific criteria for corrective action and ensure consistent policy implementation. In response to 2024 legislation by the Board of Supervisors, the Controller's Office engaged City departments and nonprofits to revise the policy to clarify the procedures for identifying areas of concern or poor performance by nonprofit contractors related to both financial management and programmatic performance.

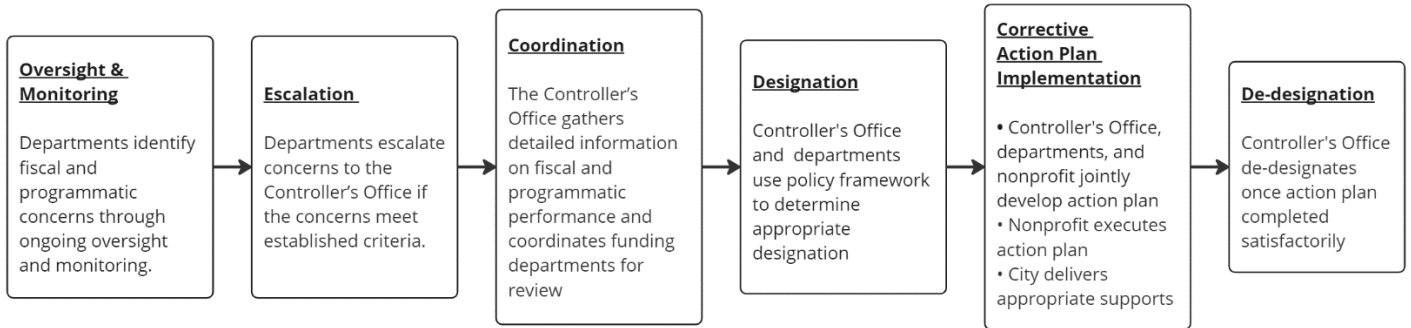
Process Overview

The sections below outline the steps City departments, the Controller's Office and nonprofit contractors will take throughout the corrective action process, categorized into six stages:

- 1. Oversight and Monitoring:** departments identify and work to address fiscal and programmatic concerns through ongoing oversight and monitoring of nonprofit contractors.
- 2. Escalation:** departments escalate fiscal and programmatic concerns to the Controller's Office for Citywide review and response if the concerns meet established criteria.

3. **Coordination:** the Controller’s Office gathers detailed information on fiscal and programmatic performance from all departments that fund the nonprofit contractor and convenes all funding departments in discussion about the contractor.
4. **Designation:** the Controller’s Office uses an established framework and criteria to determine whether to designate the nonprofit contractor to a corrective action tier.
5. **Corrective Action Plan Implementation:** the Controller’s Office, departments, and the nonprofit contractor jointly develop a plan to correct the identified performance concerns. The plan includes milestones, a timeline for the nonprofit contractor to carry out required actions, and the technical assistance or capacity building supports the City will provide.
6. **De-Designation and Additional Measures:** the Controller’s Office reconvenes City departments and the nonprofit contractor to assess progress made on the corrective action plan and determine whether the nonprofit contractor has addressed performance concerns and meets criteria for de-designation.

Figure 1: Corrective Action Process Overview



1. Ongoing Oversight and Monitoring

City departments contracting with nonprofits are responsible for monitoring the delivery and quality of services under the terms of the contract. While most nonprofits deliver high-quality services in alignment with contracted expectations, departments are stewards of public funds and are expected to conduct regular oversight and monitoring in order to ensure contracted services meet expectations and nonprofit contractors use City funding according to the City’s financial management standards.

The Controller’s Office issues policy and guidance on oversight and monitoring requirements for services provided by nonprofit contractors, and these resources should guide departments in those foundational activities. For more information, see the Resources section below.

Fiscal and Compliance Oversight

The Controller’s Office expects all City departments to apply a consistent set of financial management standards and oversight practices when contracting with nonprofits. To support departments to perform financial oversight, the Controller’s Office administers the Fiscal Monitoring

Program to coordinate monitoring across departments with the largest number of nonprofit contracts, and has created shared standards, tools, guidance and protocols for conducting fiscal monitoring.

Within the fiscal monitoring process, departments may issue findings when a nonprofit does not meet one or more standards assessed during the review and may require a response from the nonprofit contractor about how they will address these findings. The process provides time for response and time for the nonprofit contractor to come into conformance with the standards. Departments may offer technical assistance and other resources during or after the monitoring process to support the nonprofit contractor to come into conformance.

In cases when a nonprofit demonstrates a pattern of poor financial management practices as demonstrated through one or more years of monitoring findings, departments should follow internal protocols for corrective action as well as the Citywide Nonprofit Corrective Action Policy to address these concerns.

Departments may also identify fiscal concerns outside of a point-in-time financial monitoring process, such as via a performance or financial audit, validated whistleblower reports, a City investigation into fraud or financial mismanagement, contract violations, or other sources. Similarly, departments should follow internal protocols for corrective action as well as the Citywide Nonprofit Corrective Action Policy to address these concerns.

Programmatic Oversight

Departments that contract with nonprofits to provide services to the public are required to perform performance oversight, monitoring and engagement activities, and to follow internal corrective action protocols and the Citywide Nonprofit Corrective Action Policy to identify and manage poor performance within nonprofit contracts.

Departments should first address most programmatic issues internally by identifying issues through ongoing monitoring and collaborating with nonprofits to address findings. As with fiscal monitoring, most contract monitoring processes should provide time for response and time for the nonprofit contractor to come into conformance with the standards the department has set, and departments may offer technical assistance and other resources during or after the monitoring process to support the nonprofit contractor to come into conformance.

In cases when a nonprofit demonstrates a pattern of poor programmatic performance, departments should follow internal protocols for corrective action as well as the Citywide Nonprofit Corrective Action Policy to address these concerns.

2. Escalation

Departments should escalate serious issues to the Controller's Office for Citywide coordination if those issues cannot be adequately addressed through internal corrective action and if they meet escalation criteria established below.

- Certain fiscal concerns as established in Appendix A
- Serious or severe programmatic concerns as described in this section

- Other general concerns, such as:
 - Failure to comply with legal requirements
 - State/federal investigations or serious audit results
 - Proven cases of fraud or discrimination
 - Other egregious misconduct or contract violations¹

Escalation of Fiscal Concerns

Fiscal concerns may be surfaced through the annual fiscal monitoring process where City departments monitor nonprofits on fiscal and compliance standards and specific indicators of organizational and financial health. The annual fiscal monitoring review uses a standard monitoring form with criteria to assess whether nonprofits are meeting the City's financial and administrative standards. Findings (i.e., not meeting the standard) resulting from the fiscal review indicate incomplete financial or management procedures, insufficient internal controls, risk of noncompliance with legal requirements, potential financial distress, or other fiscal concerns. Findings in the following categories of the standard monitoring form may require escalation to the Controller's Office for Citywide coordination:

- Agency-wide budget
- Audited financial statements
- Cost allocation procedures
- Invoices
- Payroll
- Subcontractors
- Tax form

See Appendix A for a full list of fiscal concerns based on the standard monitoring form that meet criteria for Tier 1, 2, or 3 designation. For nonprofits that are monitored as part of the joint fiscal monitoring program administered by the Controller's Office, the Controller's Office will review the annual monitoring results to identify where nonprofits may have findings that meet criteria for designation. For nonprofits monitored independently by City departments, this policy specifies the fiscal concerns which should be escalated to the Controller's Office for Citywide coordination.

The standard monitoring form may be updated periodically based on continuous improvement and stakeholder input, and as such, the exact language or details for a particular standard may evolve. While the key components to identify these fiscal concerns will likely remain the same, this policy will be updated to reflect any substantive changes to the fiscal concerns meeting criteria for designation.

Escalation of Programmatic Concerns

Because programmatic concerns vary across departments and service areas, this policy establishes a framework for escalation that provides a set of prompts departments should consider when determining whether performance issues require Citywide coordination.

¹ This policy does not restrict departments from choosing to terminate a contract for cause or convenience without proceeding through the Citywide Corrective Action process. However, if the department chooses to terminate the contract and has identified criteria as outlined in this policy, the department is strongly encouraged to notify the Controller's Office about the issues and choice to terminate to help the Controller's Office conduct Citywide coordination among any other department funders.

Departments should escalate programmatic issues when all of the following are true:

- The programmatic issue is serious.
- The department has notified the nonprofit of the issue, provided appropriate support and guidance to help the nonprofit resolve the issue, and allowed reasonable time for the nonprofit to resolve the issue.
- The nonprofit has not made adequate progress on resolving the issue.

Serious programmatic issues generally meet one or more of the following criteria:

- Any issue that affects client safety.
- Inability or failure to provide core services outlined in the contract.
- Consistent underperformance on contracted performance measures by a significant margin without making meaningful progress toward targets.
- Consistently late, inaccurate, or incomplete data entry or reports which affect the department's ability to meaningfully evaluate performance.
- Failure to comply with a legal requirement or departmental policies and procedures.

Most programmatic concerns are best addressed through ongoing collaboration between departments and nonprofits. In general, departments should only escalate serious programmatic issues if they cannot resolve the issues through internal corrective action processes. Departments should first implement internal corrective action plans with underperforming contractors to outline necessary actions, milestones, timelines, and results. Such plans help clarify whether the contractor is making adequate progress toward addressing the department's concerns or needs escalation.

In rare cases, departments should escalate the following severe programmatic issues immediately for Citywide coordination:

- Issues that are severe enough that a department is considering terminating a contract.
- Serious risk of program closure or failure to provide a significant portion of contracted services.
- Critical client safety concerns.

3. Coordination

Once a department escalates a nonprofit for fiscal or programmatic concerns, the Controller's Office convenes all departments who fund that nonprofit in a comprehensive review. At the coordination stage, the Controller's Office reviews information about all funding departments' monitoring and oversight of the nonprofit, including program monitoring results, financial monitoring results, and other engagement with that nonprofit. This includes detailed information on any actions taken or supports provided by the department, including actions which may have contributed to the issues (e.g., significant delays in contracting or payment of invoices).

The Controller's Office gathers this information from all funding departments and may convene one or more meetings with departments to discuss the information. Because departments might not monitor the nonprofit on the same schedule, the Controller's Office may compare results from different cycles of review, or the review process may prompt additional monitoring activities (e.g., moving up a site visit based on information surfaced in the coordination meetings).

The goal of the coordination process is to determine what level of support or intervention is needed, including potential designation to a corrective action tier. Not every nonprofit that is escalated to the Controller's Office will receive a designation to a corrective action tier.

4. Designation to a Corrective Action Tier

After reviewing detailed performance information in the coordination stage, the Controller's Office will determine whether to designate the nonprofit contractor to a corrective action tier. Designation initiates a Citywide corrective action plan with a nonprofit contractor. Designation to a corrective action tier creates additional clarity for the nonprofit and departments about the scope and severity of issues, and the Citywide corrective action plan outlines the necessary steps, milestones, timelines, and results to address these issues.

The Controller's Office uses the information gathered during the coordination stage to determine whether the concerns align to the criteria established for designation to a Citywide corrective action tier and makes an initial recommendation about designation. If the nonprofit does not meet the criteria for designation, the Controller's Office may decline to designate the nonprofit to a corrective action tier.

The Controller's Office convenes departments to discuss the recommended designation, and they may offer any additional feedback and considerations. With complete information, the Controller's Office makes the final designation and notifies the nonprofit and all funding departments.

Corrective Action Tiers

This policy establishes three Citywide corrective action tiers. In general, higher tiers indicate more severe issues and require more rigorous corrective actions.

Tier 1

- **Purpose:** Tier 1 identifies lower-severity financial issues that may be indicators of future risk, as well as more serious financial and programmatic issues if the nonprofit meets specific Tier 1 eligibility criteria. Tier 1 eligibility criteria are meant to support new and emerging nonprofit contractors who may require more time and assistance to comply with City funding and contracting requirements. Tier 1 also supports established nonprofits whose performance has been negatively impacted by extenuating circumstances.
- **Eligibility:** The Controller's Office may designate a nonprofit contractor demonstrating serious fiscal and programmatic concerns which may otherwise indicate Tier 2 status to a lower Tier 1 status if any of the following eligibility criteria apply:
 - i. The nonprofit is newly established, i.e., received 501(c)(3) status within the last 7 years.
 - ii. The nonprofit is a new recipient of City funding, i.e., received its first contract or grant from any City department as a direct grantee (not a subcontractor or sponsored project) within the last two fiscal years.
 - iii. The nonprofit has received a rapid increase in City funding within the last three fiscal years, e.g., total funding amount has more than doubled annually in that time.
 - iv. The nonprofit has been negatively and unduly impacted by documented circumstances beyond their control (e.g., fire, flood, or natural disaster; staff

shortages or excessive staff turnover within the last year; contracting delays of longer than six months past the start of services).

Even if a nonprofit contractor meets one or more of the above criteria, the Controller's Office may elect to designate the contractor to a higher tier if there is not a reasonable connection between the criteria met and the specific fiscal or programmatic issues under consideration. Nonprofit contractors with findings or programmatic issues related to client safety are not eligible for Tier 1 status.

- Resources: Tier 1 designation results in voluntary technical assistance to support the nonprofit in strengthening financial and administrative management, compliance practices, service delivery, and other activities as deemed necessary. The Controller's Office engages the nonprofit contractor in collaborative action planning, offers technical assistance, and establishes milestones for engagement, but the nonprofit contractor is not obligated to participate.
- Funding Impact: Departments may not use a nonprofit's Tier 1 designation as a consideration in scoring of solicitations for new funding. Departments may not consider a nonprofit's Tier 1 designation in and of itself as a factor in funding or defunding decisions.
- Reporting: The Controller's Office will not issue public notification of a nonprofit's Tier 1 status.

Tier 2

- Purpose: Tier 2 supports coordination and provides notice of increased risk to public funds and client services when a nonprofit contractor demonstrates a pattern of serious fiscal or programmatic concerns.
- Criteria: Serious fiscal and/or programmatic concerns that haven't be adequately addressed despite department intervention, as established in Designation Criteria section below and Appendix A, as relevant.
- Resources: Tier 2 results in mandatory technical assistance to support the nonprofit in establishing sound fiscal and management practices in compliance with City standards. The Controller's Office engages the nonprofit contractor in collaborative action planning, offers technical assistance, and establishes milestones for engagement, and the nonprofit contractor must participate or risk escalation to Tier 3.
- Funding Impact: Departments may not use a nonprofit's Tier 2 designation as a consideration in scoring of solicitations for new funding. Departments may not consider a nonprofit's Tier 2 designation in and of itself as a factor in funding or defunding decisions, though a department's own considerations of the nonprofits past performance can be a factor in such decisions.
- Reporting: The Controller's Office will issue public notification of a nonprofit's Tier 2 status.

Tier 3

- Purpose: Tier 3 supports coordination and provides notice of high risk to public funds and client services when a nonprofit contractor demonstrates a pattern of severe fiscal or programmatic concerns.
- Criteria: Severe fiscal and/or programmatic concerns that haven't be adequately addressed despite department intervention, as established in Designation Criteria section below and Appendix A, as relevant.

- **Resources:** Tier 3 results in mandatory technical assistance to support the nonprofit in establishing sound fiscal, programmatic and management practices in compliance with City standards. In certain cases of high severity financial or administrative issues, Tier 3 may result in the City requiring fiscal sponsorship. The Controller’s Office engages the nonprofit contractor in collaborative action planning, offers technical assistance, and establishes milestones for engagement, and the nonprofit contractor must participate or risk additional corrective action measures (see Section 6 below).
- **Funding Impact:** Departments may use a nonprofit’s Tier 3 designation as a consideration in scoring solicitations for new funding. Departments may also consider a nonprofit’s Tier 3 designation as a factor in funding or defunding decisions. De-funding is a potential ultimate sanction for nonprofits that are out of compliance with the City’s grant and contract conditions. Note that those City departments that provide contracts, not grants, to nonprofits must take disciplinary action per the default provisions in the contract, and defunding may require termination of the contract. Termination for default requires that the nonprofit be given appropriate notice and an opportunity to fix the contract breach.
- **Reporting:** The Controller’s Office will issue public notification of a nonprofit’s Tier 3 status.

Figure 2. Overview of Corrective Action Tiers

Corrective Action Tier	Description of Findings or Concerns	Action Planning and Technical Assistance	Implications
Tier 1	<ul style="list-style-type: none"> • Lower-severity financial issues that may be indicators of future risk • Serious financial or programmatic issues may be downgraded from Tier 2 if nonprofit meets Tier 1 eligibility criteria 	Participation in action planning and technical assistance is encouraged but voluntary	<p>No public reporting</p> <p>No impact on funding</p>
Tier 2	<ul style="list-style-type: none"> • Serious financial or programmatic issues, which have generally persisted over time (e.g., multiple years) despite department intervention 	Participation in action planning and technical assistance is required	<p>Status publicly reported</p> <p>No impact on funding</p>
Tier 3	<ul style="list-style-type: none"> • Severe financial or programmatic issues such as non-payment of taxes or inability to perform core contracted services • May result from a worsening of Tier 2 issues over time • Expected to be rare 	Participation in action planning and technical assistance is required	<p>Status publicly reported</p> <p>Status may impact funding</p>

Designation Criteria

In making a designation to a corrective action tier, the Controller’s Office will conduct a comprehensive review of the nonprofit contractor’s fiscal and programmatic performance against the

established criteria. In cases where the severity of fiscal and programmatic findings differ from one another, the Controller's Office will apply a designation based on the more severe concerns (e.g., a nonprofit contractor with serious Tier 2 fiscal concerns and no programmatic concerns will receive a Tier 2 designation).

Serious issues that have persisted over time despite department intervention will receive a Tier 2 designation unless the nonprofit contractor meets Tier 1 eligibility criteria. If the issues that led to a Tier 2 designation worsen after the initial designation, the Controller's Office may return to the coordination and designation stages of the process, and may raise the designation to Tier 3.

Certain **severe** concerns will warrant an immediate Tier 3 designation. These include:

- Issues that are severe enough that a department is considering terminating a contract
- State/federal investigations or serious audit results
- Proven cases of fraud or discrimination
- Critical client safety concerns
- Failure to comply with critical legal requirements
- Failure or serious risk of failure to provide core services outlined in the contract
- Other egregious misconduct

See **Appendix A** for fiscal designation criteria associated with standards applied through the Fiscal Monitoring Program. This appendix outlines the level of severity of a finding in each standard based on the duration of the issue.

See **Appendix B** for examples of programmatic concerns. This appendix categorizes types of concerns, and provides examples for both serious and severe issues within each category. In evaluating the severity of a programmatic concern, the Controller's Office and funding departments will consider the following factors:

- **The nature of services provided:** the City may determine that programmatic concerns are more serious or severe among nonprofit contractors providing essential services related to the health and livelihood of their clients (i.e., services that impact a clients' stability in housing, employment, food security, etc.).
- **The client population served:** the City may determine that programmatic concerns are more serious or severe among nonprofit contractors providing direct services to vulnerable populations.
- **The duration of time the issues have been occurring:** the City may determine that programmatic concerns are more serious or severe if they persist over multiple years without improvement.
- **The responsiveness of the contractor in resolving the issue:** the City may determine that programmatic concerns are more serious or severe if the nonprofit contractor has not responded to or engaged with a department's attempts to correct the issues prior to escalation.
- Any other relevant contextual factors.

Certain programmatic concerns may be isolated to a single program area that is funded by one department. Isolated concerns that otherwise meet criteria for severity should still be escalated for Citywide coordination, and pending review, may still receive a Citywide designation via the policy. In

these cases, the resulting action plan will focus on the specific concerns associated with a single department's contract(s).

5. Corrective Action Plan Implementation

Once the Controller's Office designates a nonprofit to a corrective action tier, the Controller's Office initiates a collaborative action planning process between the nonprofit contractor and funding departments. The resulting plan includes:

- A list of findings and areas of concerns
- Strategies, activities and/or tasks to address each finding
- Milestone or result sought for each finding
- Timeline for achieving the milestones or results
- Supports associated with each strategy or task, including consultant technical assistance, departmental engagement, or nonprofit-led supports
- Timeline for check-ins and monitoring throughout implementation of the action plan

While the nonprofit implements the corrective action plan, the organization will remain on its designated status unless conditions change that prompt a reevaluation that leads to a new designation. In most cases, re-evaluation will occur after departments finalize results of an annual monitoring process, though severe emergent concerns may prompt a reevaluation outside of point-in-time monitoring activities.

The Controller's Office maintains a pool of contractors qualified to provide individualized coaching and technical assistance related to financial management, nonprofit administration, data and performance management, strategic and business planning, board governance, and other matters. When feasible, the Controller's Office provides nonprofit contractors a choice in selection among contracted consultants.

Corrective action plans may also assign the responsibility for providing technical assistance to funding departments, particularly in cases of programmatic performance concerns. Departments may deliver technical assistance via City staff or contractors.

6. De-Designation or Additional Measures

Designation to a corrective action tier is meant to be temporary, and only last until the nonprofit has resolved the issues which led to its designation. The duration of each action plan will be contingent upon the issues the action plan will address. Certain issues require a longer time period to resolve while others may be addressed quickly. The corrective action plan documents the period of time necessary to achieve the milestones and results, as well as periodic check-ins to monitor progress.

At the end of the established corrective action timeframe, or annually at minimum, the Controller's Office evaluates the nonprofit's performance. If the nonprofit has satisfactorily completed the steps outlined in the corrective action plan and resolved all findings, the Controller's Office **de-designates** the nonprofit. When this occurs, the Controller's Office issues a letter to the nonprofit contractor and all funding departments. If the nonprofit's designation has been publicly reported, the Controller's Office updates the public notice to remove the designation.

Though de-designation is the goal, the evaluation of a nonprofit contractor's performance may not result in de-designation immediately or at all. The Controller's Office may take other actions that may result in:

- **Lowered Designation:** If a nonprofit has made significant progress toward completing the steps outlined in the corrective action plan, but hasn't adequately resolved all findings, the Controller's Office may designate the nonprofit to a lower tier. Upon lowering the tier, the Controller's Office will convene departments and the nonprofit to establish a new corrective action plan and establish the next date for reevaluation.
- **Extended Timeline:** If a nonprofit has not completed the corrective action plan but has consistently engaged in the process and made significant progress towards completing the steps in the plan, the Controller's Office may extend the timeline allotted to implement the corrective action plan while maintaining the nonprofit contractor on the same tier.
- **Heightened Designation:** If issues become more severe during action plan implementation, or if the nonprofit contractor does not adequately participate in action planning or corrective action implementation and serious fiscal or programmatic concerns persist, the Controller's Office may designate the nonprofit to a higher tier. Upon raising the tier, the Controller's Office will convene departments and the nonprofit to establish a new corrective action plan and establish the next date for reevaluation.

Additional Measures

Nonprofit contractors must not remain on a corrective action tier indefinitely. If a nonprofit fails to consistently and actively participate in corrective action processes, this will result in the City taking additional measures to address performance concerns. Should issues persist or worsen, additional measures may include the following:

- **Identification of Alternative Service Providers:** City departments may choose to identify appropriate alternative service providers immediately upon designation of a nonprofit to Tier 3. City departments must follow all applicable procurement policies.
- **De-funding:** City departments may choose to de-fund a nonprofit that is continuously unresponsive and/or does not take appropriate steps to address a corrective action plan.
- **Funding Limitations:** City departments may consider Tier 3 status during solicitations and in making funding determinations, and this status may impact a nonprofit's ability to receive new awards from the City. City departments that consider corrective action status during solicitations should review the list published by the Controller's Office and perform appropriate due diligence in the scoring process and before awarding a grant or contract.
- **Whistleblower Referral:** In cases of suspected or alleged fraud (as opposed to fiscal mismanagement) City departments should contact the Controller's Office Whistleblower Program at <https://www.sf.gov/whistleblower-program>.
- **Human Rights Commission (HRC) Referral:** In cases of suspected or alleged discrimination, City departments should contact the Human Rights Commission at hrc.info@sfgov.org or (415) 252-2500.
- **Vendor Debarment:** In cases of egregious misconduct, City department heads should pursue debarment against any City-funded nonprofit that engages in any willful misconduct with respect to any City bid, request for qualifications, request for proposals, purchase order and/or contract. This includes failure to comply with grant or contract terms, unexcused

delays, poor performance and providing false information. Debarment requires a hearing at which the vendor can be represented by an attorney and present facts and evidence refuting the department's allegations of misconduct. The Controller's Office posts debarred nonprofits at <https://www.sf.gov/resource/2022/suspended-and-debarred-contractors>. See Chapter 28 of the San Francisco Administrative Code for more information.

Implementation

This policy takes effect as of December 9, 2024. The Controller's Office may adopt certain procedures from this policy in implementing corrective action designations that exist due to findings or issues identified prior to issuance of this updated policy. The Controller's Office may also use the guidelines in this policy as criteria to *lower* the tier of a nonprofit contractor that may be escalated for Citywide coordination based on findings or concerns identified in the prior fiscal year. However, *new* criteria or a *heightened standard* for criteria in this policy may not be used retroactively to designate a nonprofit contractor to a corrective action tier.

Questions and Current Guidance

1. How is Citywide corrective action different from other types of corrective action?

City departments may use the term "corrective action" in a variety of ways that are distinct from Citywide corrective action. For example, a department may issue findings during a monitoring visit and document "corrective actions" the nonprofit should take to address the issues. These issues may be minor or quite serious, but if resolved as part of the annual monitoring process, such issues will not require escalation to the Controller's Office. Departments may also have internal policies and protocols to issue "corrective action letters" or develop department-specific "corrective action plans" when staff identify major areas of concern. Based on department policies and the severity of the issues requiring the plan, a department's corrective action plan with a nonprofit may or may not require escalation to the Controller's Office.

"Citywide corrective action" refers to the process outlined in this policy for escalating serious or severe issues to the Controller's Office, coordinating across departments to create an action plan, providing technical assistance, and overseeing improvement efforts. Citywide corrective action is typically reserved for serious issues which could not be resolved through internal departmental corrective actions.

2. Could a nonprofit be placed on corrective action for issues that are outside of their control?

The purpose of Citywide corrective action is to identify serious or severe financial or programmatic issues and collaboratively develop plans to address those issues. The Controller's Office has separately established a Contract Monitoring Policy that requires departments to establish regular review of nonprofit performance and engagement on areas of concern. When a department escalates a serious or severe issue, the Controller's Office conducts a coordinated review of all issues and activities, including whether a department adequately notified a nonprofit of concerns and provided time and support to the organization to comply with department-level corrective actions. Should the Controller's Office determine the department did not provide adequate notice, support

and/or time to comply, the Controller's Office may decline to designate a nonprofit to a Citywide corrective action tier. As part of this process, the Controller's Office will consider whether issues may be outside of the nonprofit's control to resolve, and may make recommendations to the department on how to adjust corrective actions and requirements based on these factors, such as adjusting performance measures or contract terms to account for a major disaster at the organization that impacted its ability to perform services within the contract.

3. What's the purpose of Tier 1 and why is there "eligibility" criteria for it that differs from other corrective action tiers?

The 2014 Citywide Nonprofit Corrective Action Policy only had two levels of Citywide corrective action ("Elevated Concern" and "Red Flag"). Based on feedback from numerous City departments and nonprofit service providers, the Controller's Office designed Tier 1 to serve several purposes. In this 2024 policy, the Controller's Office established an initial tier to serve as "proactive intervention" for specific organizations.

First, Tier 1 offers this proactive intervention for nonprofits experiencing low-level financial risk factors. The financial criteria for Tier 1 (see Appendix A) are designed to flag these risk factors before they persist or grow so that the City can proactively offer support to address the emerging challenges the nonprofit is facing.

Second, Tier 1 acknowledges that nonprofits that are new organizations, new to City funding, or rapidly growing may require more time and support to align to and comply with City standards. Not all new or growing nonprofits will be placed on Tier 1; only those that exhibit serious or severe programmatic or financial concerns will be reviewed for eligibility and potentially designated to Tier 1 *instead of* being placed on Tier 2 for those serious or severe concerns.

The implication of Tier 1 is that these organizations will receive the option to participate in action planning and receive technical assistance to address the concerns without being publicly referenced in the Controller's Office reports as being on this Tier. However, if the issues persist or worsen over time, the Controller's Office may designate the nonprofit to Tier 2 or Tier 3 in subsequent years.

4. How will the City collaborate with nonprofits who are designated to a corrective action tier to develop action plans and provide technical assistance?

The goal of corrective action planning is to develop a clear strategy for addressing financial and/or programmatic performance issues. In particular, the Citywide corrective action process is used when City departments highly value the services the nonprofit delivers and wants to sustain these services while also addressing any programmatic or financial performance issues. As such, the process is designed to support both the department and the nonprofit to achieve the goal of sustaining services.

During the Action Planning stage, the Controller's Office will convene meetings between the nonprofit and the City departments that fund the organization to talk through the challenges. This is an opportunity for departments to share their expectations and goals, and for the nonprofit to identify what types of supports may be needed to align to those expectations. These conversations will include discussing whether technical assistance is necessary, the type of assistance, and any related issues the nonprofit may need support with that is impacting its ability to achieve

performance goals. The Controller's Office will facilitate an action planning process to identify the necessary steps, milestones, timelines for achieving the goals, and will engage both the departments and nonprofit on setting those timelines to ensure they are appropriate. The Controller's Office will plan and host regular review meetings between the departments and nonprofit to assess the status of the plan. If the nonprofit requires extra support or time to achieve goals, the Controller's Office uses these review meetings to assess the requests and collaboratively determine a course of action.

5. What is the public reporting process? If a nonprofit is placed on a tier, when will this information be made public and how will de-designation be made public?

The Controller's Office will publicly report on all nonprofits who are designated to Tier 2 or Tier 3, which indicates serious or severe issues. Currently, the Controller's Office uses the Fiscal Monitoring Program's annual report to publish information about nonprofits designated to Citywide corrective action for financial concerns. With the development of the Contract Monitoring Policy, the Controller's Office has not yet designed the public reporting process that will be used for designations for programmatic concerns.

The Controller's Office will publish a Fiscal Year 2023-2024 annual report for the Fiscal Monitoring Program that will include financial designations in December 2024. In subsequent months, the Controller's Office will design an updated public reporting process that accounts for both financial and programmatic designations. The Controller's Office will update this policy with information about the process for public reporting, locations of reports, how frequently reporting will occur, and when and how nonprofits will be removed from public reports once de-designated from a corrective action tier. The Controller's Office received feedback regarding a need to ensure reporting is timely in cases of de-designation, and will use that guidance in designing reporting protocols.

APPENDIX A: FISCAL CRITERIA FOR DESIGNATION

The table below provides fiscal designation criteria directly associated with standards applied through the Fiscal Monitoring Program. This appendix outlines the level of severity of a finding in each standard based on the duration of the issue.

Per the policy above, City departments may identify other severe fiscal and administrative issues outside of the annual fiscal monitoring process which may also be criteria for a nonprofit to be designated to a corrective action tier.

In many cases, the City uses Tier 1 designation in the first year of a finding as an early indicator of financial distress. The Controller’s Office will take into account additional eligibility criteria for Tier 1 status (e.g., new, emerging organizations) when determining whether to apply Tier 2 status based on the criteria outlined below. Nonprofits with one or more findings in the standards with an asterisk (*) in the table below are not eligible for Tier 1 status.

Fiscal Monitoring Standard with Finding		Tier 1	Tier 2	Tier 3
Agency-wide Budget				
a.	Current (fiscal or calendar year)	1 year	2 years	3+ years
b.	Shows income and expense by program	1 year	2 years	3+ years
c.	Shows allocation of shared and indirect costs by program	1 year	2 years	3+ years
e.	Clearly identifies all revenue sources (City, state, federal)	1 year	2 years	3+ years
Audited Financial Statements				
a.	Completed and complete: all sections and statements are included; opinion and other audit letters are signed		1 year	2+ years
b.	Unmodified opinion		1 year	2+ years
c.	No material weaknesses mentioned or going concern stated in the notes to the financial statements		1 year	2+ years
h.	<i>For Single Audit (when applicable):</i> No material weaknesses mentioned or going concern stated in the notes to the financial statements	1 year	2 years	3+ years
i.	<i>For Single Audit (when applicable):</i> No current audit findings and/or questioned costs	1 year	2 years	3+ years
k.	Total unrestricted net income (change in net assets) is positive over the sum of 2 consecutive years	1 year	2+ years	
l.	Total change in cash positive over the sum of 2 consecutive years	1 year	2+ years	
Cost Allocation Procedures				
a.	Cost allocation procedures and plan for <u>shared</u> costs are documented in a written narrative or in the footnotes of the current approved agency-wide budget	1 year	2 years	3+ years
c.	Cost allocation procedures and plan for <u>indirect</u> costs are documented in a written narrative or in the footnotes of the current approved agency-wide budget	1 year	2 years	3+ years

Fiscal Monitoring Standard with Finding		Tier 1	Tier 2	Tier 3
Financial Reports				
b.	Working capital ratio is greater than 1	1 year	2+ years	
f.	Year-to-date net income is a positive number	1 year	2+ years	
Invoices				
a.	Expenses tested on invoices have supporting documentation: credit card charges and/or petty cash expenditures are all documented with an original receipt and reasonably tie to the cost allocation plan	1 year	2 years	3+ years
b.	Contractor follows its policies for writing checks, credit card use, petty cash use, and/or reimbursement for expenses tested on invoices	1 year	2 years	3+ years
c.	Tested expenses on invoices appear to be reasonably associated with the program budget	1 year	2 years	3+ years
h.	Contractors have submitted timely invoices to departments	1 year	2+ years	
Nonprofit Registry Status				
a.	Nonprofit is in good standing with the California State Attorney General Registry of Charitable Trusts	1 year	2 years	3+ years
Payroll				
c.	Documentation that payroll taxes due were actually paid*		1 year	2+ years
d.	If employee time is paid by more than one source, it is recorded by funding source or program on timesheets, or tracked separately via time study	1 year	2 years	3+ years
Subcontracts				
b.	Legally binding agreements between contractor and subcontractors are valid and current, and include scope of work/deliverables*		1 year	2+ years
c.	Documentation that contractor regularly monitors fiscal and programmatic performance of subcontractors providing direct services to clients, including monitoring of invoices (e.g. validating receipts)		1 year	2+ years
Tax Form				
a.	Federal 990 return filed for most recent tax year or request for extension submitted on time*		1 year	2 years

APPENDIX B: PROGRAMMATIC CRITERIA FOR DESIGNATION

Because programmatic concerns are so varied, the Controller’s Office and City departments will evaluate each issue on a case-by-case basis to determine the appropriate designation. Issues will be evaluated in context, and factors such as the nature of services provided, the population served, the duration of time the issue has been occurring, the responsiveness of the nonprofit contractor in resolving the issue, and other relevant factors may impact the severity.

The list below is intended to provide examples of serious programmatic issues which warrant a Tier 2 designation and severe programmatic issues which warrant a Tier 3 designation. Contractors demonstrating serious programmatic issues (Tier 2) may receive a Tier 1 designation if meeting Tier 1 eligibility criteria. Generally, contractors demonstrating severe programmatic issues (Tier 3) are not eligible to receive a Tier 1 designation.

Type	Serious Programmatic Issues (Tier 2)	Severe Programmatic Issues (Tier 3)
Client Safety	<ul style="list-style-type: none"> Isolated safety incident(s) that were swiftly and satisfactorily corrected 	<ul style="list-style-type: none"> Widespread and/or ongoing critical safety incidents
Provision of Services	<ul style="list-style-type: none"> Inability to scale programs to meet growing demand Chronic staff shortages which affect program goals Brief, unexpected closures or disruptions in basic services 	<ul style="list-style-type: none"> Failure to deliver basic contracted services over a sustained period Serious risk of program collapse
Performance Measures	<ul style="list-style-type: none"> Consistent underperformance of contracted service objectives or performance measures; far below reasonable targets 	<ul style="list-style-type: none"> Severe underperformance of contracted service objectives or performance measures; not meeting basic expectations for service delivery
Data and Reporting	<ul style="list-style-type: none"> Chronic late reporting or inconsistent data entry Failure to submit some required reports in the last fiscal year, despite department engagement 	<ul style="list-style-type: none"> Fraudulent data or reports Multiple years of failure to submit timely and accurate reports, leading to issues with invoicing or auditing
Misalignment of Invoicing and Programs	<ul style="list-style-type: none"> Misalignment of program data/reports with invoices Billing for ineligible expenses 	<ul style="list-style-type: none"> Fraudulent invoicing Multiple years of misalignment or billing for ineligible expenses Invoicing issues that impact state or federal funding to programs
Policies and Procedures	<ul style="list-style-type: none"> Failure to adhere to departmental policies, despite department engagement to clarify policy 	<ul style="list-style-type: none"> Failure to comply with critical legal requirements, especially if noncompliance

	<p>requirements and how to come into compliance</p> <ul style="list-style-type: none"> • Brief licensing or legal concerns which are swiftly reported and corrected. 	<ul style="list-style-type: none"> ○ occurs over a sustained period. ○ is not immediately reported to the department. ○ threatens client safety. ○ threatens program funding/eligibility.
<p>Other Contract Violations or Program Concerns</p>	<ul style="list-style-type: none"> • Shifting program goals, activities, populations served, or other critical components without department engagement and approval. • Significant unresolved client complaints • Inappropriate staff conduct 	<ul style="list-style-type: none"> • State/ federal investigations or serious audit findings