



New York State Comptroller  
**THOMAS P. DiNAPOLI**

# **State Contracts by the Numbers**

## **2021 Calendar Year**

---

OSC Contract Review:  
Protecting Taxpayer Dollars

January 2023



# Contents

---

**Introduction.** . . . . . 1

**The Importance of Independent Review.** . . . . . 2

**Contract Review Time Frames** . . . . . 3

**Benefits of OSC Contract Review.** . . . . . 7

**Conclusion** . . . . . 13



# Introduction

---

For over 100 years, the State Comptroller's pre-audit of contracts, required by Section 112 of the State Finance Law, has worked effectively to deter, and prevent procurement errors and abuses in New York State. In 2021, the Office of the State Comptroller (OSC) reviewed 18,605 contracts and contract amendments valued at \$173 billion. OSC's review period averaged 5.3 days for all contracts. These results clearly demonstrate that the Comptroller's efficient review has minimal impact on the overall time frame of procurements, which can last months and even years. Over 94 percent of contracts, representing a total value of \$49 billion, were reviewed within 15 days or less. All contract reviews were completed within their required time frame.

In 1995, the Procurement Stewardship Act codified statewide procurement procedures modeled on the time-tested policies of OSC.<sup>1</sup> The Act also reaffirmed the importance of independent oversight by OSC to:

- Safeguard public money and ensure the protection of taxpayer interests;
- Promote fairness and deter waste, fraud, and corruption in the procurement process; and
- Ensure the efficient acquisition of high-quality goods and services at the lowest cost.

In 2009, the Public Authorities Reform Act extended OSC's contract review authority to include certain public authority contracts in excess of \$1 million.<sup>2</sup> OSC's contract approval authority has been eroded and limited over the past decade, resulting in billions of State spending being authorized without the standard protections provided by OSC's independent oversight. Beginning in 2011, certain contracts of the State University of New York (SUNY) and the City University of New York (CUNY) and their Construction Funds were statutorily removed from OSC oversight. In 2012, Office of General Services (OGS) centralized contracts were also removed from OSC oversight. Further, enacted State Budgets have routinely included provisions allowing billions of dollars in State spending without standard protections such as State Comptroller review and approval of contracts before they become effective. This trend has continued as the Enacted State Budget for State Fiscal Year (SFY) 2022-23 authorized at least \$11 billion in spending without a competitive process and/or the benefit of OSC contract review.

In 2019, a memorandum of understanding (MOU) among the Executive, the Comptroller, SUNY, CUNY, State University Construction Fund and City University Construction Fund was executed.<sup>3</sup> This MOU administratively restored the Comptroller's contract oversight of certain contracts previously exempted from review. However, this authority (previously enshrined in statute) is only provided in an MOU and may be terminated upon 10 days written notice. While the MOU was a step toward ensuring important taxpayer protections, contract oversight provisions such as these should be again embodied in law. To achieve this goal, legislation passed both houses in the 2022 legislative session, S.6809-A (Reichlin-Melnick) / A.7925-A (Zebrowski), and was signed into law (Chapter 839, Laws of 2022), statutorily restoring OSC's review of certain state contracts.<sup>4</sup> This is an important step to increase oversight, accountability and transparency for state government spending.

---

1 Laws of 1995 (Chapter 83, Section 33, as amended)

2 Laws of 2009 (Chapter 505, Section 14, as amended)

3 This [MOU was signed on August 15, 2019](#), became effective on February 7, 2020 and was implemented within the time frame required through board approvals or procedural updates.

4 [Memorandum of Support](#) for S.6809-A / A.7925-A

# The Importance of Independent Review

---

The New York State Constitution empowers the State Comptroller to conduct pre-audit and post-audit examinations of expenditures. The Comptroller was given additional statutory powers in 1913 to oversee contracts which today distribute billions of dollars annually in State, school, and local government spending.

Independent review is an important deterrent to waste, fraud and abuse. The Comptroller's independent review of contracts protects taxpayers, agencies, and vendors (e.g., local governments, not-for-profit organizations and other entities that contract with the State) by ensuring contract costs are reasonable, terms are favorable to the State, and bidders are treated fairly.

This oversight authority enables the Comptroller to identify and address potential problems with a procurement before a contract has been finalized — and before taxpayer money has been spent, projects have advanced, and important programs and services could be negatively affected.

OSC's review of contracts is preceded by an independent review as to form by the Office of the Attorney General (AG). When OSC's authority to review contracts is removed, the additional oversight by the AG also falls by the wayside. Most critically, the AG provides an important check on potential liability issues and ensures that the contract contains appropriate legal protections for the State and its taxpayers. The AG's review is especially important when it comes to contracts which carry significant liability exposure, such as contracts where medical malpractice claims and the security of personal information are potential factors.

# Contract Review Time Frames

OSC has transformed its contract review process by incorporating data analytic technology and data-driven decision-making processes. These changes have resulted in improvements such as reducing review time and helping to focus limited resources on the riskiest contracts.

In 2021, the average length of time for OSC contract review was 5.3 days — a decrease of over 29 percent over the past five years. By comparison, the procuring agencies' procurement processes (including bid development, solicitation, evaluation, contract negotiation and award) which precedes OSC review, can stretch out for months or longer.

OSC understands the importance of prompt action in contracting, especially for not-for-profits that care for our most vulnerable citizens and for construction projects which must be completed within a short window of time when the weather is favorable. OSC continually prioritizes its contract reviews to accommodate urgent and emergency contracting situations.

## Results for 2021 Demonstrate Cost-Effective Oversight

### Average Review Time

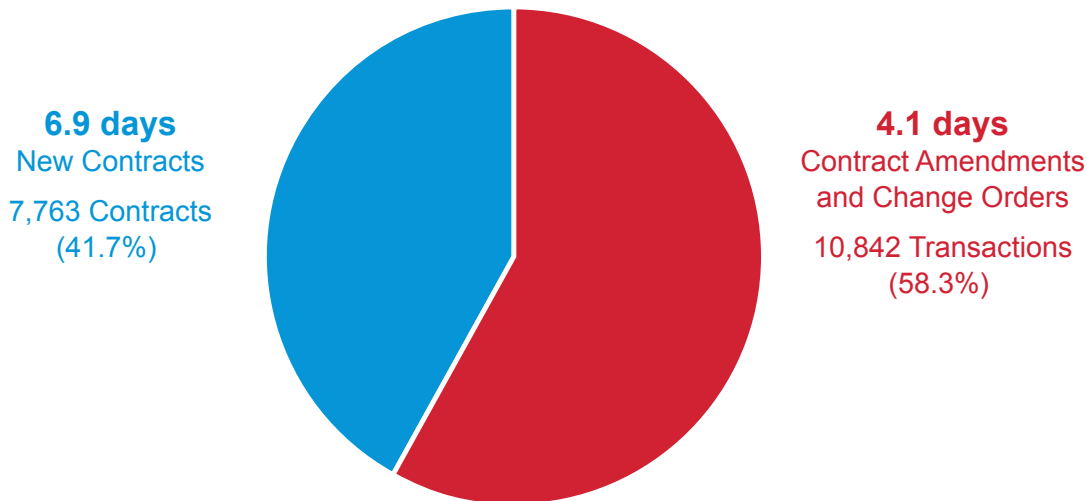
OSC received 18,605 contract transactions for review, including both new contracts and contract amendments, valued at \$173 billion in 2021. The average time from agency contract submission to OSC to final sign-off by OSC was 5.3 days.

Average Number of Days for Transaction Review – Calendar Year 2021			
Type of Transactions	Number	Average Days for Review	Total Value
New Contracts	7,763	6.9	\$56.27 billion
Contract Amendments and Change Orders	10,842	4.1	\$117.10 billion
<b>Total</b>	<b>18,605</b>	<b>5.3</b>	<b>\$173.37 billion</b>

---

## Average Days for Contract Review

### 5.3 – Overall Days to Review all Contracts, Amendments and Change Orders



## Overall Number of Days to Review Contracts

While State law calls for OSC to review contracts within 90 days (with certain exceptions), over 94.4 percent of transactions reviewed in 2021 were reviewed by OSC in 15 days or less.<sup>5</sup> An additional 4.6 percent were completed within the 16 to 30 day time frame — leaving 1 percent of the total being completed within the 31 to 90 day time frame (still well within statutory limits). The pie chart of Contract Review Time Frames, on the next page, helps illustrate how OSC achieved an average review time of 5.3 days in 2021, with the vast majority of all contracts approved quickly.

While no contract reviews exceeded the required time limit in 2021, in certain cases, there are a variety of factors that can impact the review time, ranging from avoidable agency errors and omissions in the submission (such as lack of required signatures or documents) to procurements with multistage evaluations and complex scoring that must be reviewed extensively to ensure all vendors received a fair opportunity to participate.

In addition, bid protests on complex procurements can result in extended review time frames. OSC's independent review of bid protests provides a valuable service for the contracting community and can help avoid the risk of lawsuits, which can be costly for vendors and the agency. In 2021, OSC denied seven protests, and one was deemed moot as the contract in question had been previously non-approved. OSC publishes its bid protest decisions, affording a transparent reference for those involved in current and future procurements (See <http://www1.osc.state.ny.us/Contracts/decisionsearch.cfm>.)

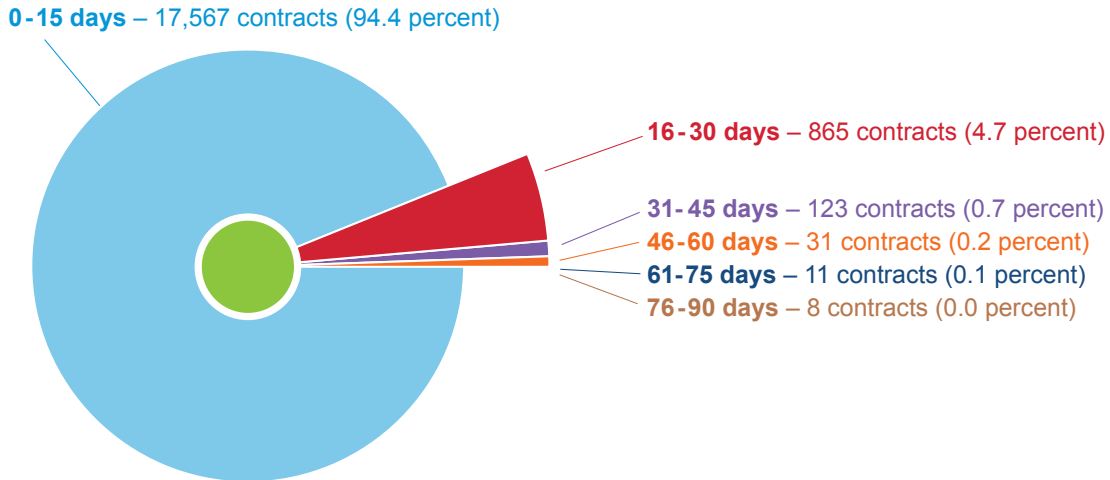
---

<sup>5</sup> Metropolitan Transportation Authority and New York City Transit Authority transactions are statutorily subject to a 30-day review period. The MOU includes a 30-day review period for transactions, except that certain energy-related commodities contracts are subject to a 48-hour review period. In addition, grant contracts are statutorily subject to a 15-day review period.



## Contract Review Time Frames

Time to Complete Review for All Contracts in 2021

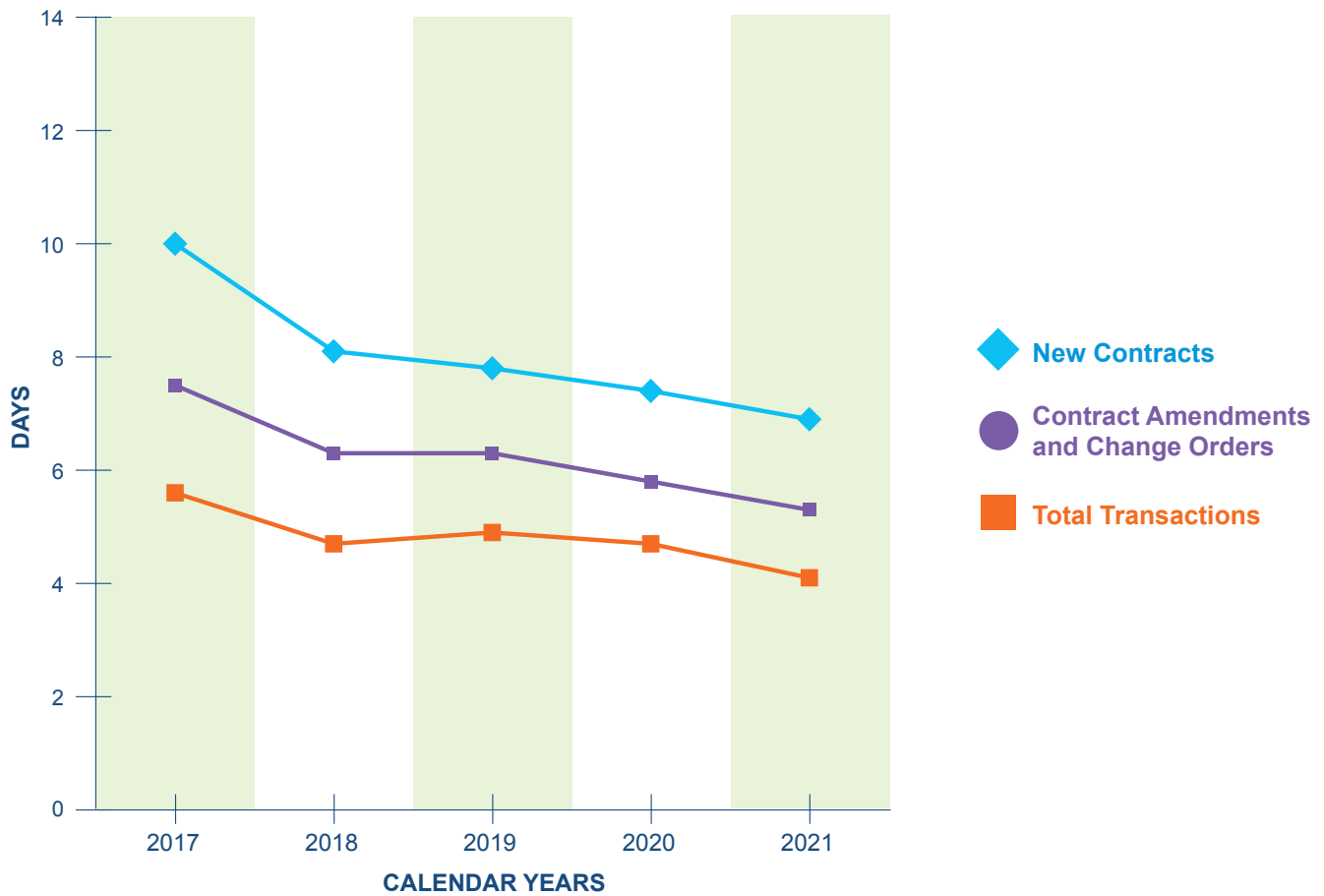


Days	Contract Transactions	Percentage of Total Contracts	Amount (\$ Billions)	Percentage of Total Value
0 – 15	17,567	94.4%	\$49.0	28.3%
16 – 30	865	4.7%	\$8.5	5.1%
31 – 45	123	0.7%	\$113.5	66.5%
46 – 60	31	0.2%	\$0.3	0.2%
61 – 75	11	0.1%	\$0.2	0.1%
76 – 90	8	0.0%	\$1.5	0.9%
<b>Total</b>	<b>18,605</b>	<b>100.0%</b>	<b>\$173.4</b>	<b>100.0%</b>

Note: Amounts are rounded to the nearest tenth of a percent. Completed contract reviews in the 76 – 90 day time frame represent 0.04 percent of the total.

## Contract Review Time Frames: Historical Trends

Average Time for Contract Review 2017–2021



Transaction Type	2017		2018		2019		2020		2021	
	Volume	Average Days for Review	Volume	Average Days for Review	Volume	Average Days for Review	Volume	Average Days for Review	Volume	Average Days for Review
Contracts	9,027	10.0	8,898	8.1	10,344	7.8	7,045	7.4	7,763	6.9
Contract Amendments and Change Orders	11,840	5.6	10,753	4.7	10,938	4.9	9,311	4.7	10,842	4.1
<b>Total</b>	<b>20,867</b>	<b>7.5</b>	<b>19,651</b>	<b>6.3</b>	<b>21,282</b>	<b>6.3</b>	<b>16,356</b>	<b>5.8</b>	<b>18,605</b>	<b>5.3</b>

# Benefits of OSC Contract Review

---

OSC's contract oversight extends to most State agency contracts, generally those where the contract value exceeds \$50,000. The Comptroller may also review State public authority contracts valued at more than \$1 million if they are either awarded noncompetitively or paid in whole or in part from State appropriations. In addition, any State agency seeking to waive competitive bidding and receive an exemption from its statutory requirement to advertise a procurement opportunity in the New York State Contract Reporter must first receive approval from OSC.

The Comptroller's contract review process adheres to rigorous standards to help ensure that:

- Competition is adequate and fair to all qualified vendors, reducing costs and ensuring good value to the State;
- Fraud or waste is detected and prevented before taxpayer money is spent;
- Funding for the contract has been reserved and agencies do not commit to greater spending than is authorized; and
- Vendors are responsible and eligible for government contracting.

Not only does this independent review have a strong deterrent effect on waste, fraud and abuse, as highlighted above, it can also provide an additional benefit to agencies by increasing their leverage in negotiations with vendors who may otherwise attempt to take advantage of the State.

Despite the major advantages of having the Comptroller's oversight of contracts, there are numerous and recurring instances in which this authority has been eliminated or significantly reduced. In cases where Executive and Legislative actions have eroded the Comptroller's oversight authority, events have often brought the value of unbiased review back into focus. This was made evident during the COVID-19 pandemic when Gubernatorial Executive Orders (EO) 202 and 11 suspended the Office of the State Comptroller's contract review and other laws for procurements related to the COVID-19 pandemic.

EO 202 was in effect for nearly 16 months from March 7, 2020, to June 25, 2021, and EO 11 was in effect for nearly 10 months from November 26, 2021, through September 12, 2022. During this period, substantial State resources were used for the purchase of supplies and equipment and other COVID-19 related goods and services, absent the benefit of the Comptroller's independent contract oversight.

For the time period between when the State Comptroller's statutory oversight of OGS centralized contracts was eliminated in 2012 and the implementation of the MOU which administratively restored certain oversight, OGS let at least \$37 billion in centralized contracts not subject to OSC oversight. This includes hundreds of information technology consultant contracts worth billions of dollars. By law, State agencies must use these contracts if they meet the "form, fit and function" requirements, and they are also widely used by local governments and school districts. Without assurance that fair, competitive rates are established in centralized contracts, there is a risk that State and local taxpayers pay more than necessary.

---

## Protecting Taxpayer Dollars

The State Comptroller's contract review function benefits taxpayers, vendors, not-for-profit organizations, and State government agencies and does not delay the procurement cycle. In 2021 alone, OSC rejected 1,559 contracts and related transactions valued at \$6 billion primarily due to errors, improprieties or lack of documentation. For many of these contracts, corrections and improvements were made by the procuring agencies, ultimately resulting in tens of millions in estimated savings for New York's taxpayers.

Not reflected in this estimate are savings and efficiencies that are built into contracts resulting from discussions between OSC and agency staff before the contract is approved. In addition, these savings do not account for the deterrent effect that strong independent oversight provides. Often these reviews identify opportunities to renegotiate costs, resulting in savings for agencies and taxpayers. Examples include:

- During review of a training contract for the Department of Health (DOH), OSC noted that the cost for half-day training sessions exceeded the cost for full day training sessions. When OSC inquired as to why this was reasonable, DOH negotiated lower half-day training rates, saving taxpayers over \$3.3 million.
- The Department of Transportation (DOT) submitted two contracts valued at \$2.3 million each for the same service (road material sampling, inspection, and testing). OSC requested that DOT provide price justification due to limited competition and disparity in the proposed prices. After negotiating, DOT received a revised offer from the tentative awardee which resulted in an estimated savings of \$1.2 million.
- The Office of Mental Health (OMH) submitted a contract for psychiatric services and OSC identified that previous bids from the same vendor had been submitted at lower rates. Following OSC's discovery, OMH negotiated a better rate which resulted in an estimated savings of \$110,864.

OSC also identifies other errors, including overstated costs. For example:

- DOT submitted a transaction to add funds to an existing construction project. The transaction was entered into SFS for \$28.3 million. Upon OSC review of the contract documentation it was determined that the cost of the transaction was entered incorrectly, and the appropriate value should be \$2.5 million. The correction identified by OSC led to a system adjustment of \$25.8 million and maintained the accuracy and transparency of the state's accounting system.
- OMH submitted a renewal to an existing contract for the provision of psychiatric services. Upon review, OSC auditors found that OMH did not account for the existing unspent balance of the original transaction. The renewal transaction was modified to account for the prior balance resulting in a potential savings of \$600,573.

- 
- While reviewing several SUNY campus transactions against a pre-established SUNY Administration contract, OSC noted that the campuses had failed to utilize the correct contract rates. OSC required the campuses to adjust their transactions to utilize the correct contract rates resulted in savings of \$383,381.
  - The Office of Parks and Recreation and Historic Preservation (OPRHP) submitted an amendment to OSC for an existing maintenance and repair contract. An OSC review found the contract had remaining funds that would cover the cost of the amendment. As a result, OPRHP resubmitted the amendment using existing funds, providing a potential savings of \$142,250.
  - The Division of Military and Naval Affairs (DMNA) submitted an amendment to OSC for an increase to the contract value of an existing janitorial services contract. Upon OSC review it was determined that the contract had remaining funds that would cover the cost of the amendment. As a result, the amendment was non-approved which provided an estimated savings of \$105,394.

Pursuant to New York State Economic Development Law, OSC also reviews agency requests to contract with vendors without advertising the procurement opportunity, resulting in contracts that are awarded to a pre-identified vendor without competitive bidding. Under these circumstances, it is often difficult to determine whether the price is reasonable, and the contract is in the best interest of the State.

OSC reviewed 1,203 requests for exemption from bidding and advertising in 2021 and rejected 169. While some exemptions are necessary, contracts awarded without competitive bidding often can be inconsistent with the intent of State procurement laws, or excessive, or otherwise not in the best interest of the State. In such cases, OSC may decline requests, or revise the value or duration of the exemption. For example:

- SUNY submitted a request for exemption from advertising for their Advanced Technology Training and Information Networking (ATTAIN) program. OSC found that the 3 percent price escalation built into the request was unnecessary as SUNY had already accounted for salary increases in the proposed budget. SUNY agreed and removed the annual escalations. This resulted in a savings of \$1.2 million for the State.
- OMH submitted a request for an exemption from competitive advertising for administration of the OnTrackNY and First Episode Psychosis program. Upon OSC request, OMH revised the budget to remove duplicative contract escalation provisions, resulting in a projected savings of approximately \$700,000.
- SUNY submitted a request for exemption from competitive advertising for an online database subscription. Given SUNY's on-going need, OSC recommended SUNY pursue a longer-term contract in effort to achieve better pricing. As a result, the vendor offered revised rates, resulting in a savings of \$56,580.

---

## Ensuring a Level Playing Field

A bidder can secure an unfair competitive advantage by failing to play by the same set of rules or by shortcutting State requirements observed by other bidders. OSC review helps to ensure that competition is adequate and fair to all qualified vendors. For example:

- OPRHP submitted a non-competitive procurement to OSC for review. OSC auditors determined that competition was feasible and recommended the procurement be awarded competitively. OPRHP subsequently competitively advertised the service which led to a proposal that was \$310,619 less than the previous non-competitive submission.
- DOH submitted a request for a waiver from competitive advertising requirements for printing services. The transaction was non-approved due to insufficient justification for a non-competitive procurement. OSC requested DOH obtain three quotes and select the best price option meeting the requirements. The transaction was resubmitted with three required quotes to ensure cost reasonableness. The result was a savings to the State of \$164,200.

## Responsive Customer Service

OSC is sensitive to agency deadlines and the State's business needs. Delays in contracting often cost New York's businesses money, keep workers idle, harm not-for-profits, and cost State taxpayers. Some examples of OSC's responsiveness to State agencies' requests, which ensured prompt approval of time-sensitive transactions, follow:

- OSC approved a contract submitted by the New York State Department of Labor (DOL) in the amount of \$304,000 for advertising space on the Metropolitan Transportation Authority (MTA) subway, commuter rail and bus systems for the agency's Back to Work campaign. DOL requested an expedited review of this agreement as the service was time sensitive, with the campaign set to begin. OSC reviewed and approved this transaction in one day.
- The Unified Court System (UCS) submitted a six-month renewal to their existing contract in the amount of \$4.9 million for continued technical assistance for the Center for Court Innovation with the Fund for the City of New York. UCS requested that OSC expedite the transaction so that past due funding in the amount of \$2.7 million could be paid to the vendor. The amendment was approved in one day.
- UCS requested guidance regarding a contract value increase for their copier rental contract. UCS staff indicated potential issues with lapsing funds that needed to be used for remaining invoices due to the vendor. OSC worked with UCS to review proposed estimates and the subsequent transaction was approved in one business day.
- At DOT's request, OSC provided advance review of a \$516 million design-build procurement to address and resolve procurement issues in advance of contract submission. This advanced review, allowed for an expedited review and approval of a large value, complex agreement.

---

## Identifying Best Practices

OSC helps ensure that agencies follow best practices in contracting so the State can get the best value for taxpayers' dollars. These practices include:

- Conducting a broad outreach to vendors to achieve maximum competition for bids.
- Requesting independent appraisals to support the purchase or sale value of real property.
- Requiring proper vendor responsibility disclosure and review.
- Conducting market analyses to determine the reasonableness of a vendor's pricing and to substantiate bids when limited numbers of vendors compete for business.
- Ensuring contractors are aware of and are in compliance with required worker protections such as prevailing wage, Workers' Compensation and Disability Benefits insurance, and equal employment opportunity/nondiscrimination requirements.
- Reviewing proof of required insurance coverages, certifications, bonds, or other credentials to avoid delaying critical services or interrupting the work, and to ensure that bidders are kept on an even playing field.
- Demonstrating that State funds have been reserved within the State's accounting system to make timely payments to vendors.

## Training and Support for Agencies

OSC is in a unique position to assist agencies because our staff members are trained in a wide variety of procurement methods and often review contracts with distinctive requirements or needs. For example, OSC:

- Shares information about vendor responsibility among agencies so all stakeholders can benefit.
- Shares appropriate information about vendor pricing, sales volumes or the going rates for services across agencies to enhance the State's negotiating position.
- Helps agencies undertaking similar procurements to collaborate on bid documents or share technical expertise, saving the State time and money.
- Provides outreach, training, and technical assistance to help agencies improve the quality of their procurements.
- Reviews complex bid solicitations and bid evaluation tools in advance to help ensure that agencies will get the best value, while avoiding unexpected delays or additional rounds of bidding.

---

OSC also offers agencies a variety of resources through its website. For example, OSC:

- Maintains the Statewide VendRep System, which OSC created to enable vendors to go online to efficiently file information about their financial capacity, legal status, integrity and past performance through secure web access. This system is available 24 hours a day, seven days a week. A single filing through the VendRep System eliminates the need for multiple lengthy paper filings for each bid and contract.
- Offers an extensive knowledge of statute and procurement case law as a resource for agencies to avoid costly litigation in unusual or complex bids.
- Preserves a catalogue of OSC's Office of Operations annual Fall Conferences dating back to 2013. This includes the procurement-related presentations, handouts, and since 2020, video recordings of each presentation.
- Posts published reports for review by the public, agencies and other stakeholders. Examples include various procurement-related reports such as the annual Procurement Stewardship Act report and the Prompt Contracting Annual Report.
- Enhances transparency through OSC's Open Book New York website, which provides information on contracts, spending and more. (See [www.osc.state.ny.us/open-book-new-york](http://www.osc.state.ny.us/open-book-new-york).)



# Conclusion

---

OSC's pre-audit contract oversight is an independent check on the State's procurement process and helps to ensure agency procurements are fair, transparent and cost-effective, while ensuring public funds are protected from fraud, waste and abuse.

However, provisions in the SFY 2011-12 and SFY 2012-13 Enacted Budgets that stripped away OSC's contract review and approval over certain contracts has resulted, over time, in tens of billions of dollars in contracts being awarded without the benefit of this oversight.

Although some review and approval over certain contracts has been restored administratively rather than by statute, OSC's oversight should again be embodied in law. This was accomplished by the Governor signing into law S.6809-A (Reichlin-Melnick)/A.7925-A (Zebrowski), thereby restoring OSC's independent oversight to review certain SUNY, CUNY and OGS contracts. Going forward, the Governor and the Legislature should refrain from authorizing any further exemptions by the State Budget or through other measures, that limit or remove competitive bidding and the Comptroller's ability to pre-audit contracts.

Restoring the Comptroller's independent oversight authority over contracts and preventing any further erosion of it are important steps to advance accountability and efficiency. Enacting the above-referenced bill will help to:

- **Promote fairness in the procurement process.** The lack of an independent review increases the chances for "preferred" vendors to repeatedly receive contract awards unfairly.
- **Ensure taxpayer dollars/public funds are protected by detecting and preventing waste, fraud and abuse.** OSC's review helps to ensure that vendors are responsible and do not have performance issues and that appropriate protections are in place, including but not limited to ensuring required insurance coverage is carried and current.
- **Enhance accountability.** OSC's review ensures that contracts are competitive, where required, the price is reasonable, and the contract is in the best interest of the State.
- **Ensure a level playing field for vendors.** OSC review helps to ensure that competition is adequate and fair to all qualified vendors.
- **Establish transparency over the procurement process.** OSC ensures that procurements adhere to the rigor of a fair and open procurement process. Information on contract awards is published on OSC's transparency website at [www.osc.state.ny.us/open-book-new-york](http://www.osc.state.ny.us/open-book-new-york), and Freedom of Information Law (FOIL) requests for contract documents are responded to in a timely manner.

OSC's professional procurement experts and experienced legal team are responsive to urgent agency deadlines. OSC works with agency staff to ensure the business needs of the State are met while remaining aware of the importance of timely contracts for businesses and not-for-profit contractors.

The State Comptroller's role in the procurement cycle was established more than 100 years ago and has served taxpayers well. As government contracting has grown in size, scope and complexity, this oversight has become more important than ever.

The Comptroller is committed to ensuring that State procurements deliver the highest possible value to the citizens of New York State.

## Contact

Office of the New York State Comptroller  
110 State Street  
Albany, New York 12236

(518) 474-4044

[www.osc.state.ny.us](http://www.osc.state.ny.us)

Prepared by the Office of Operations

