

OFFICE OF THE NEW YORK STATE COMPTROLLER



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OSC Local Government and School Accountability Common Issues and Responses July 14, 2020 (Updated from May 4, 2020)

We understand that local governments are facing very challenging situations. The information below is intended to provide a quick response to some general questions. However, please note that this document is for general informational purposes only and should not be a substitute for seeking legal guidance from the local government's municipal attorney. Local governments should also not hesitate to reach out to OSC for more assistance. This document may be updated from time to time as necessary.

If I have a question, who should I contact?

We do not want to miss the opportunity to hear from you about any issues your government may be facing. See <https://www.osc.state.ny.us/local-government/contact-division-local-government-and-school-accountability> for our contact information.

Due to COVID-19 and executive orders reducing the workforce, are staff available to provide technical assistance?

Yes, while LGSA Regional Offices are currently closed, most of our staff is working remotely. If you are unable to reach a person by phone, leave a message and we will return your call. We are also available by email at: localgov@osc.ny.gov

What Executive Orders issued by the Governor affect my local government?

For certain Executive Orders that directly correspond to local government financial reporting and governmental budgetary/financial procedures, we have included a brief summary and link to the order within this document. However, please be aware that this is not an exhaustive list. A complete listing of Executive Orders issued by the Governor, including those that may apply to local governments and school districts more generally, may be found here: <https://www.governor.ny.gov/executiveorders>

Will planned training events be rescheduled/delivered remotely?

OSC's in-person training will be rescheduled or otherwise provided through alternative means. Check our website at <https://www.osc.state.ny.us/local-government/academy> for more information.

Audits

Is LGSA engaging new audits?

Yes. LGSA has begun to engage new audits. Our audit teams will work in partnership with each auditee to determine the best course of action. Safety remains a top priority therefore onsite audit work will be limited.

What is happening with LGSA audits that are underway?

To the extent possible, auditors will continue audit work. In some cases, auditors are working with some entities that are able to continue their operations. Auditors are sensitive to the current situation and are working with each auditee to determine the best course of action.

My local government was expecting an audit report and exit conference prior to COVID-19, should I expect a report and exit conference?

Our auditors will work with local officials to determine the best course of action. In some instances it may be advantageous to share a draft report and hold an exit conference. In such instances, exit conferences would be done remotely by conference call or through a video conference.

My Corrective Action Plan (CAP) is due or coming due but I cannot file it within the 90 day requirement, what should I do?

File your CAP as soon as feasibly possible. We will continue to send reminders to those that were not filed timely.

Filing Requirements**Will the deadlines for filing the Annual Financial Report (AFR or AUD) be postponed?**

The deadlines for filing the Annual Financial Reports (AFR, also known as Annual Update Document or AUD) with OSC are set in statute and we therefore do not have the authority to modify them. Some local governments with filing deadlines less than 120 days after the end of the fiscal year may request an extension with our office. Information on filing deadlines can be found here: <https://www.osc.state.ny.us/local-government/required-reporting/annual-update-document-annual-financial-report-filing-deadlines>

Extension requests may be faxed to the Data Management Unit at (518) 486-3146 or scanned and emailed to AFRFILE@osc.ny.gov.

If a local government already has a 120 day deadline (the maximum permitted under law) and they are unable to comply, we recommend that they file the required reports as soon as possible.

Will the deadline for filing Property Tax Cap or Constitutional Tax Limit (CTL) Forms be extended?

Local governments are required to file a CTL form with the State Comptroller 10 or more days before final budget adoption, and to file a copy of the adopted budget within 30 days of its adoption. The Tax Cap Form must be filed prior to budget adoption. The Law does not give us the authority to extend these deadlines. If a local government is unable to comply, we recommend that they file these reports as soon as possible.

CTL and Tax Cap forms can be filed electronically using our website:

<https://onlineservices.osc.state.ny.us/Enrollment/login>

Will the deadline for filing my monthly report of court activities be extended or postponed?

This due date (between the 1st and the 10th of the month) is dictated by statute and we therefore do not have the authority to extend or postpone it; however, please note that OSC is temporarily suspending the dunning process used for delinquent reports. We recommend that courts file their required reports as soon as possible.

Will the deadline for local authorities to file their reports with the New York State Authorities Budget Office be extended or postponed?

The Governor, through Executive Order 202.11, has suspended certain reporting requirements contained in the Public Authorities Law, which allows the director of the New York State Authorities Budget Office (ABO) to disregard certain report filing deadlines for local authorities for the duration of the State Disaster Emergency. However, Executive Order 202.48 continues this suspension only insofar to allow local authorities a 60 day extension from the original statutory due date to file certain reports.

For more information, please see ABO's website: <https://www.abo.ny.gov/>

Debt**What should local governments be aware of with respect to their maturing debt and interest payments that are coming due?**

Local government debt is typically a "general obligation" which means it is secured by a pledge of that municipality to raise revenues (i.e. taxes, fees) to ensure full and timely payment of debt service (principal and interest). Local governments should consult with their bond counsel and financial advisor about the priority of payments and should they need to issue debt at this time, to ensure timely access to funding.

Budget Process**What is the protocol for village compliance with the public hearing requirement for 2020-21 Budget Adoption if a village's April meeting must be canceled? Can the budget be adopted after the May 1 deadline?**

The timing for budget adoption is set by state and local statute. Executive Order 202.1 suspends the requirement for meetings to be held in person. But to date, the public hearing requirement and budget deadline have not been suspended or modified. Under the circumstances, a village might consider a public hearing by webcast that allows the submission of questions or comments from viewers, to satisfy the April meeting requirement. Village officials should consult with the village attorney to evaluate options and formulate a plan to adopt the budget.

Link to the executive order <https://www.governor.ny.gov/news/no-2021-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

If a village cannot adopt a budget on time, our office recommends that the village adopt a budget as soon as possible.

Will there be any changes to the school district budget adoption process?

Executive Order 202.26 adjourns any annual district meeting and election of every common, union free, central and central high school district, and the annual meeting of every city school district in a city with a population of less than 125,000 inhabitants, from the third Tuesday in May, 2020. The rescheduled statewide uniform voting day will be June 9, 2020. The trustees or boards of education of each school district must provide notice of such adjourned meeting to qualified voters, including notice for an adjourned budget hearing.

Link to Executive Order 202.26: <https://www.governor.ny.gov/news/no-20226-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Executive Order 202.39 contains additional changes to voting procedures for the annual school district meeting and election.

Link to Executive Order 202.39: <https://www.governor.ny.gov/news/no-20239-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

How will a school district conduct a second budget adoption vote if voters do not approve the original budget?

Executive Order 202.47 states that a budget adoption revote will occur on July 28, 2020. A school district proposing a revote must operate upon a contingency budget from July 1 to July 28. In lieu of publishing two notices of a budget revote, each school district must send a postcard notice to all residents of the district. If the school district possesses a qualified voter's valid email address, they may send the school district budget notice through email to that voter instead of by mail.

Link to Executive Order 202.47: <https://www.governor.ny.gov/news/no-20247-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

How should school business offices proceed with reviews of bills/claims?

School business managers should consult with their legal counsel to determine the priority of payment and how to process bills for payment, consistent with the district's claims audit process.

Property Taxes and User Fees

Has there been an extension granted for filing tentative and final assessment rolls? Executive Order 202.22 allows local governments with tentative assessment rolls scheduled to be filed on or before June 1, 2020, at local option, to file their tentative and final assessment rolls up to 30 days later. Executive Order 202.44 extended this directive until July 21, 2020.

Has there been an extension of the deadline to file applications and renewals for real property tax abatement or exemption programs for calendar year 2020?

Chapter 92 of the Laws of 2020 allows municipalities to adopt a local law, ordinance or resolution to extend the deadline to file an application, or renewal, for any real property tax abatement or exemption programs extension until July 15, 2020.

What changes have been made to the date and nature of hearings for assessment complaints?

Executive Order 202.22 allows an assessing unit to set a date for hearing assessment complaints that is at least 21 days after the filing of the tentative roll.

- Allows notice of the filing of the tentative roll to be published solely online so long as the date for hearing complaints is prominently displayed.
- In-person inspection of the tentative roll is suspended.
- The local Boards of Assessment Review are allowed to hear complaints remotely by conference call or similar service, provided that complainants can present their complaints through such service and the public has the ability to view or listen to such proceeding.

These directives were extended by Executive Order 202.44 until July 21, 2020

Has there been an extension of time granted to the New York State Department of Taxation and Finance to provide certain information?

Executive Order 202.22 extends, to the extent necessary, the date for the Commissioner of Taxation and Finance to certify final state equalization rates, class ratios and class equalization rates, if required, no later than 10 days prior to the last date set by law for levy of taxes of any municipal corporation which uses such equalization rates, class ratios and class equalization rates. This directive was extended by Executive Order 202.44 until July 21, 2020.

Do local governments have the ability to extend their property tax payment deadline or waive late fees and penalties?

In most cases, local governments and school districts cannot extend their property tax payment deadline or waive late fees and penalties. However, the Governor has issued Executive Orders 202.32, 202.36, 202.43 and 202.45 which extend the period for paying property taxes without interest or penalties for certain local governments. In addition, the Governor has issued an Executive Order relating to certain property tax payment due dates specifically for Nassau and Westchester counties, as well as waiving additional penalties for general city taxes in the City of Buffalo (see below).

Link to Executive Order 202.32: <https://www.governor.ny.gov/news/no-20232-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Link to Executive Order 202.36: <https://www.governor.ny.gov/news/no-20236-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Link to Executive Order 202.43: <https://www.governor.ny.gov/news/no-20243-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Link to Executive Order 202.45: <https://www.governor.ny.gov/news/no-20245-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Are local governments still able to charge user fees for services that they render as well as late fees and penalties for these services?

At this time, local governments can continue to charge user fees for services that they provide that have been established through local law, such as for water or refuse collection. In addition, late payment penalties, which have been established in local law, for these services may continue to be charged.

What changes have been made to tax collection in Westchester County?

Executive Order 202.22 allows the Westchester County Executive to negotiate with any town supervisor or city mayor, to accept a lesser percentage of taxes, special ad valorem levies or special assessments which are otherwise due May 25, 2020. No town or city in Westchester County, however, in any event is required to pay more than 60 percent of those taxes, levies or assessments. The County Executive is empowered to determine whether or not penalties for late payment or interest are able to be waived depending on whether the town or city applies the County Executive's criteria for determining hardship due to COVID-19.

Town supervisors are required to waive late payment penalties of county, and county district taxes, as well as, town, town district taxes and assessments until July 15, 2020. City mayors are allowed to waive late payment penalties for county, county district, city and city district taxes and assessments. However, to permit such a waiver the town or city must apply the County Executive's criteria for the determination of hardship due to COVID-19.

Executive Order 202.32 extends the expiration date of this directive until June 20, 2020.

Are there changes to tax collection exclusively in Nassau County?

Executive Order 202.22 allows the Nassau County Executive to extend the deadline until June 1, 2020 to pay the final one-half of school taxes without interest or penalty. This deadline was further extended until July 1, 2020 through Executive Order 202.43.

The link to Executive Order 202.22: <https://www.governor.ny.gov/news/no-20222-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

The link to Executive Order 202.43: <https://www.governor.ny.gov/news/no-20243-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Are there changes to penalties assessed on the City of Buffalo's general city tax? Executive Order 202.45 allows the Mayor of the City of Buffalo to waive the additional penalties on unpaid 2019-20 city taxes for the months of April, May and June of 2020.

The link to Executive Order 202.45: <https://www.governor.ny.gov/news/no-20245-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Elections

Can local government elections still proceed as planned?

Executive Order 202.26 states that any village election that was previously scheduled to be held in March, April, May or June will be rescheduled for September 15, 2020.

This Executive Order also states that, “any district or special district, including, but not limited to fire, library, sewer or water, that conducts an election and/or budget vote shall be rescheduled to September 15, 2020, provided however that a library district may conduct an election on June 9, 2020 pursuant to this Executive Order if such election is managed by the school district.”

Any town election previously scheduled to be held from March through June will be held on September 15, 2020 according to Executive Order 202.44

Link to Executive Order 202.26: <https://www.governor.ny.gov/news/no-20226-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Link to Executive Order 202.44: <https://www.governor.ny.gov/news/no-20244-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Public Hearings

Can local governments or school district governing bodies still hold hearings?

Executive Order 202.15 states that any local official, local government or school must postpone public hearings scheduled, or otherwise required to take place, in April or May 2020 until June 1, 2020. Executive Order 202.39 extended this directive through July 7, 2020.

However, the Executive Order allows these hearings to continue if the convening public body or official is able to hold the public hearing remotely, through use of telephone conference, video conference and/or other similar service.

Link to Executive Order 202.15: <https://www.governor.ny.gov/news/no-20215-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Public Bids

Have there been any changes to the public bid opening requirements?

Executive Order 202.11, which, among other things, temporarily suspends the public bid opening requirements of General Municipal Law Section 103(2). However, the Executive Order states, that where practical, public entities must record or live stream bid openings so that the public has the opportunity to view such bid openings.

Link to this Executive Order: <https://www.governor.ny.gov/news/no-20211-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

Audit of Claims

Given that many local government offices are closed, do we still need to audit claims prior to payment?

In most cases, the requirement to audit claims is set in statute, and, to date, these requirements have not been suspended or modified. Under the circumstances, local government and school district officials should explore ways to remotely share the necessary claim package documents so that the auditing body or official is supplied with sufficient information to make a determination that the claim is a legal obligation and proper charge against the local government or school district.

Additional Resources for Local Governments and School Districts on COVID-19

These resources may contain useful information during this emergency, including holding public meetings, budget planning, bid openings, updates on Executive Orders, etc. OSC does not endorse the content provided by these outside sources.

New York State Conference of Mayors (NYCOM) has very detailed COVID-19 guidance for cities and villages, and some of the guidance will apply to other municipalities as well: <https://www.nycom.org/2-uncategorised/1404-coronavirus-covid-19-guidance>

The New York State Association of Towns (AOT) has a pdf-based guidance document they are updated regularly, available here: [https://www.nytowns.org/images/Documents/announcement/Coronavirus%20Response%20\(Alphabetical\).pdf](https://www.nytowns.org/images/Documents/announcement/Coronavirus%20Response%20(Alphabetical).pdf)

The New York State Association of Counties (NYSAC) has a website where they are posting documents on various elements related to COVID-19, including county and State resources, as well as posted blogs here: <https://www.nysac.org/health>.

The New York State School Boards Association's (NYSSBA) website answers some frequently asked questions about COVID-19 and public education in New York State, available here: <https://www.nyssba.org/news-media/covid-19-and-public-education-in-new-york/>

The New York State Education Department (SED) has a dedicated COVID-19 website where guidance for school districts is regularly updated:

<http://www.nysed.gov/coronavirus/guidance-p-12-schools>

New York State COVID-19 website: <https://coronavirus.health.ny.gov/home>.



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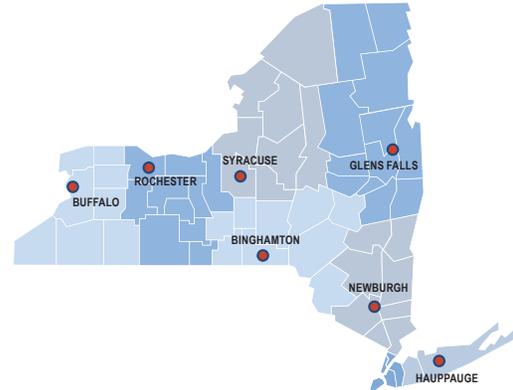
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New York State & Local Retirement System Retirement Information Services

Inquiries on Employee Benefits and Programs
518.474.7736

Technical Assistance is available at any of our Regional Offices

BINGHAMTON REGIONAL OFFICE

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STATEWIDE AUDIT

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