



# 2022 Calendar Year Not-For-Profit Prompt Contracting Annual Report

## Message from the Comptroller

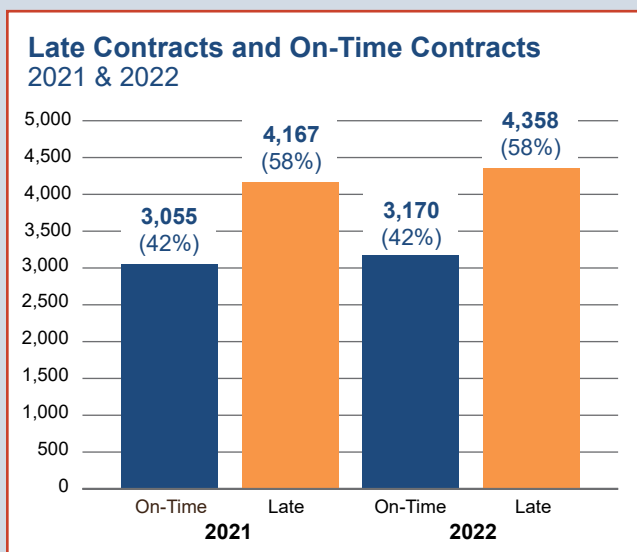
New York State relies on its Not-for-Profit (NFP) partners to provide vital services to our residents across a wide range of services such as child care, mental health, housing, substance abuse and education, as well as being a key contributor to the areas of arts, culture and recreation. Our NFPs also support the State's economy by providing jobs and enabling others to work through the services they provide. A July 2019 report on nonprofit employment by my office found that NFPs designated as 501(c)(3) organizations provided over 1.4 million jobs and accounted for nearly 18 percent of private employment in New York as of 2017 (the latest data available). Despite the importance of their work, there continues to be serious delays in executing and renewing contracts with our NFP partners.

Given their crucial role in the State and regional economies and in delivering critical services, NFP organizations should be a priority. New York State's Prompt Contracting Law was enacted in 1991 to expedite the contracting process and payments

to NFPs and reduce fiscal stress on these organizations. Unfortunately, over three decades later, the State's progress in meeting the law's requirements continues to fall short.

COVID-19 significantly disrupted the headway the State had been making in the years leading up to the pandemic, and the State has not yet fully rebounded in this area, as State agencies continue to face staffing and other challenges. In 2022, no progress was made towards improving prompt contracting, with the percentage of late contracts unchanged from 2021, at 58 percent; higher than 2019's pre-pandemic level of 50 percent.

Challenges facing NFPs are amplified when their contracts are late. New York must do everything it can to continue to support its NFP partners, with a renewed focus on improving compliance with the Prompt Contracting Law.



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## Background and Summary of Findings

The Prompt Contracting Law was enacted in 1991 (State Finance Law, Article 11-B) to help expedite contracts and reduce the fiscal stress on NFPs. The law was strengthened in 2007 to further address contracting delays and added the requirement for this annual report on State agency performance. Agency-specific data and other information supporting this annual report can be found at the links contained in the Additional Information box at the end of this report. Findings in this report include:

- **Late Contracts:** Of the total contracts reported by State agencies in 2022, 58 percent were processed after their start or renewal dates. This represents no change from 2021 and the percentage of late contracts is still higher than the pre-pandemic levels in 2019, when 50 percent of contracts reported by State agencies were processed after their start or renewal dates, but down from 78 percent in 2020.
  - In 2022, more than three-quarters of all reporting agencies had 58 percent or more of their contracts processed after their start or renewal dates.
- **Statutory Time Frames:** State agencies are required by law to execute grant contracts with NFPs and to obtain the approval of the Office of the Attorney General (OAG) and the Office of the State Comptroller (OSC), if required, within specific time frames.
  - State agencies met legislated time frames for 69 percent of reported contracts in 2022, a slight decrease from 70 percent in 2021.
- **Interest Paid:** Interest payments are required to be made to NFPs in certain instances when contract payments are missed due to a late contract. For a variety of factors, trends in reported interest are difficult to assess.
  - In 2022, eight State agencies paid interest totaling \$220,549, an increase from 2021 when four State agencies paid interest totaling \$39,485.

## Late State Agency Grant Contracts

Reports submitted by 27 State agencies showed that 7,528 new and renewal contracts with NFP providers, associated with 170 programs, were subject to the Prompt Contracting Law in 2022. Of the total contracts, 4,358 (58 percent) were processed after their start or renewal dates. Late contracting puts NFPs in the untenable position of having to decide whether to continue providing essential services at-risk—with no assurances that they will be paid—or to disrupt the provision of services to those in need. This figure represents no change from 2021, when 58 percent were reported late. There were 21 agencies, or more than three-quarters of the total of all reporting agencies, with 58 percent or more of their contracts processed after the start or renewal dates. This includes 16 agencies, or 59 percent of all those reporting, with 90 percent or more of their contracts processed late.

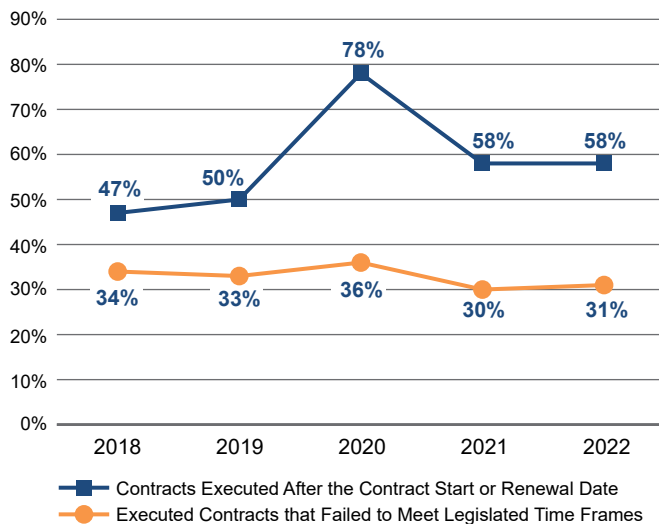
Of the 4,358 State agency contracts not approved before their start or renewal date, 4,160 were new and 198 were renewals. Of the 3,170 contracts approved on time, 3,033 were new contracts and 137 were renewals.

The law outlines other required prompt contracting time frames: 180 days from the State appropriation of funds to fully execute new competitive grant contracts, and 150 days to fully execute new noncompetitive or federally funded grant contracts. These time frames include approval by OAG and OSC.

In 2022, State agencies reported that they met these statutory time frames for 5,183 contracts (69 percent), including 4,952 new and 231 renewal contracts. The remaining 2,345 contracts (31 percent), including 2,241 new and 104 renewals, failed to meet the legislated time frames. These results represent a slight decrease in the percentage of contracts that met the statutory time frames from 2021, when State agencies met the legislated time frames for 70 percent of the contracts reported.

# New York must do everything it can to continue to support its NFP partners.

## Percentage of Late NFP Grant Contracts 2018–2022



## Interest-Eligible Contracts and Interest Paid

The Prompt Contracting Law requires interest payments to NFPs in certain instances when contract payments are late due to untimely processing of contracts. These payments are designed to offset additional costs incurred by NFPs in such cases.

State agencies reported that 2,441 contracts (56 percent) were potentially eligible for interest due to late contracts in 2022, an increase from the prior year, when 1,747 (42 percent) were potentially eligible for interest.

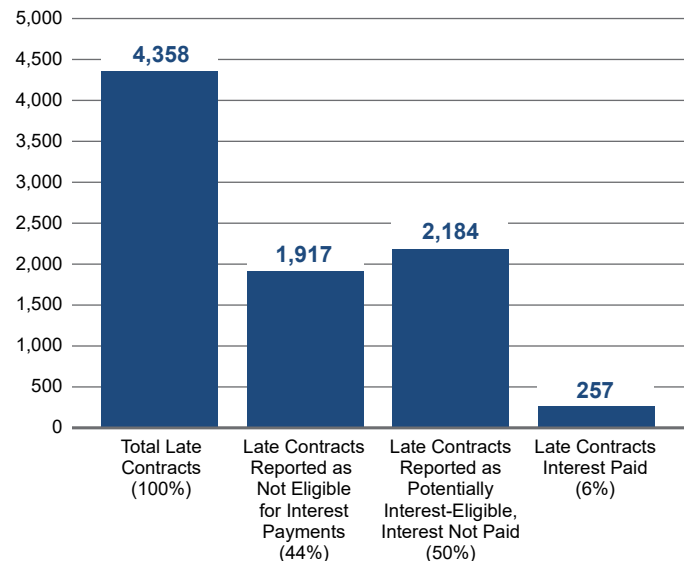
Of late contracts in 2022, 2,184 were reported as potentially interest-eligible but no interest was paid, while 257 were paid prompt contracting interest. The remaining 1,917 were reported as not eligible for interest payment.

In 2022, 56 percent of late contracts were potentially eligible for interest and eight State agencies paid interest totaling \$220,549 on 257 of those contracts. This is an increase from 2021, when 42 percent of late contracts were potentially interest-eligible, and four State agencies paid interest totaling \$39,485.

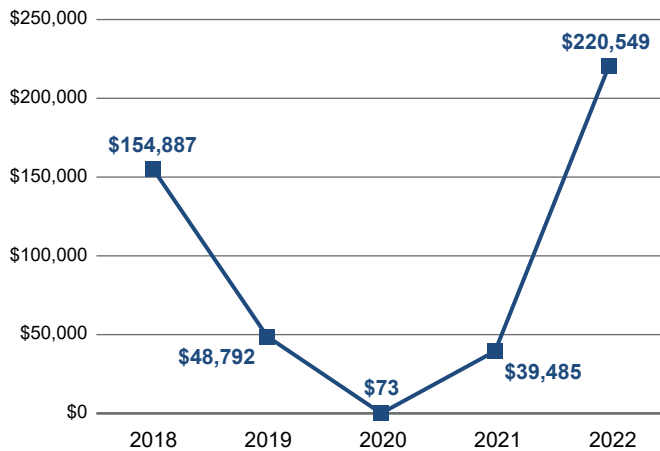
No interest was paid during the reporting period for the remaining 2,184 late contracts reported as potentially eligible for interest. State agencies reported that the late contracts that did not result in a missed payment accounted for 63 percent of the contracts where interest was not paid in 2022, compared to 54 percent in 2021.

For contracts with start dates in 2022 that were not executed until 2023, State agencies did not calculate or make any interest payments within the reporting period, so any interest paid on these contracts would be reported in 2023.

## Interest Eligibility Reported for Late Contracts 2022



### Interest Paid on Late NFP Grant Contracts 2018–2022



### Prompt Contracting Trends

The 58 percent of contracts that were processed after their start or renewal dates in 2022 represents no change from 2021 and this percentage continues to be high (see the Prompt Contracting 10-Year Trending Chart contained in the links at the end of the report). Prompt contracting interest trends remain difficult to assess. Over the five-year period from 2018 to 2022, the amount of interest paid on late contracts has ranged from a high of \$220,549 in 2022 to a low of \$73 in 2020. These interest figures, however, do not include interest paid after the annual report date, since agencies generally pay interest at the end of the State’s fiscal year. In addition, certain provisions of Executive Order (EO) 202 enabled agencies to suspend paying Prompt Contracting interest during a portion of this time period. EO 202 was in effect for nearly 16 months from March 7, 2020 to June 25, 2021.

NFPs may need to borrow money while awaiting payments delayed due to late contracting, so any delay in receiving payments can cause financial hardship, especially in a rising interest rate environment. The cost of having to borrow to maintain services or to keep the doors open is a direct hit to NFP finances.

### State Agency Efforts

The percentage of contracts that were processed after their start or renewal date in 2022 remains unchanged from 2021. The percentage remains higher than 2019’s pre-pandemic percentage of 50 percent and the fact remains that over half of all NFP contracts are executed after the contract start or renewal date. State agencies must continue to make prompt contracting a priority and achieve progress towards improving the number and percentage of on-time contracts.

### 2023 Prompt Contracting Recommendations

In order to improve prompt contracting results, OSC recommends that:

- State agencies take responsibility for their critical role and make prompt contracting a priority. This remains one of the most important actions in achieving on-time contracts. We have previously seen the benefits of this approach when certain State agencies made deliberate efforts to improve contracting time frames.
- Efforts to establish a single statewide grants management system in the Statewide Financial System should be supported by grant-making State agencies and NFPs.

*Given their crucial role in the State and regional economies and in delivering critical services, NFP organizations should be a priority.*

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- State agencies and NFPs should increase their use of the State’s grant management system and use tracking tools available to identify and address processing delays.
  - The Not-for-Profit Contracting Advisory Committee should engage and hear from all stakeholders on a regular basis and work to identify potential solutions to address barriers to prompt contracting success.
  - State agencies should pay any interest due with the first payment under a contract to help NFPs alleviate cash flow problems.

## Additional Information

Additional information and data supporting the 2022 Prompt Contracting Report is available at the following links:

- [Contracting Information Provided by State Agencies \(Alphabetical by Agency\)](#)
- [Contracting Information Provided by State Agencies \(Percentage of Late Contracts\)](#)
- Reporting Methodology ([Worksheet](#)) ([Instructions](#))
- [Background of the Prompt Contracting Law](#)
- [Prompt Contracting Ten-Year Trending Chart](#)
- [Nonprofit Organizations in New York State: Profile of Employment and Wages](#)

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