



## 2018 Calendar Year Not-For-Profit Prompt Contracting Annual Report

### Message from the Comptroller

Nearly three decades ago, New York State found that serious delays in contracting with its Not-for-Profit (NFP) service providers put vulnerable citizens at risk. Mission driven NFPs support child care, health care, mental health, education, and other critical services. NFPs often continue working even when contracts are late, and my office regularly hears from NFPs struggling with cash flow and other challenges. The failure to process contracts on time harms NFP service providers and, in extreme cases, can lead to layoffs, which in turn erodes service delivery to vulnerable populations.

The Prompt Contracting Law was enacted in 1991 (State Finance Law, Art. 11-B) to help expedite contracts and reduce the fiscal stress on NFPs. The law was strengthened in 2007 to further address contracting delays, including by requiring this annual report on State agency performance.

The results for the 2018 calendar year show only incremental progress. The percentage of late contracts has been reduced from 54 percent in 2017 to 47 percent in 2018. But not only are nearly half of all contracts still late, more than half of all agencies reported between 75 percent and 100 percent of their contracts were not processed on time.

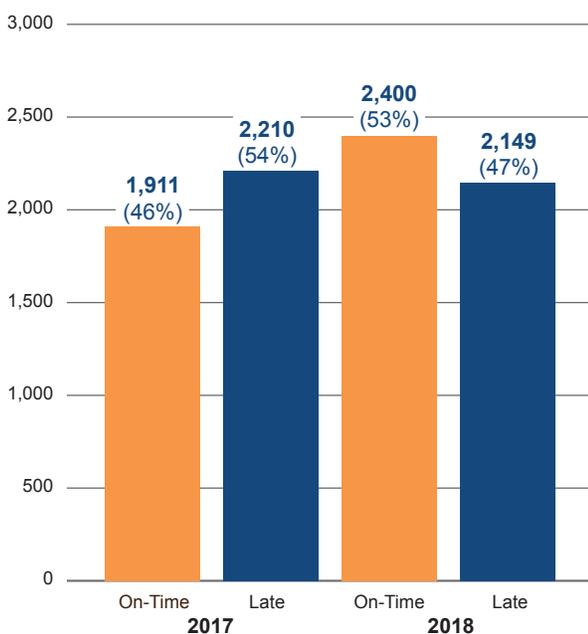
The impacts of such limited progress are too serious to ignore.

NFPs are a significant economic force in New York and nationwide. NFPs in New York provided over 1.4 million jobs and accounted for nearly 18 percent of private employment as of 2017 (U.S Bureau of Labor Statistics). The Office of the State Comptroller (OSC) has long recognized the vital work of the NFP sector in New York. For nearly a decade, OSC has worked to address critical issues affecting the sector often in collaboration with NFP leaders, including the establishment of training programs for NFP managers, directors, board members and staff. Ultimately, however, the solution to contracting delays lies in better Executive oversight and agency management.

While the State's online system for processing NFP contracts—the Grants Gateway—has helped facilitate efficient contract processing, insufficient utilization and lack of efficient integration with OSC payment audit processes is preventing it from realizing its full potential. Only 42 percent of all new grant contracts reviewed by OSC were processed through the Gateway in 2018, and only 19 agencies used the Gateway at all.

When contracts are late, required interest payments are intended to help offset the financial burden on NFPs. But this year, only 10 percent of late contracts received interest due as a result of contract delays. Further analysis of the reasons for not paying interest on late contracts is needed.

Late Contracts and On-Time Contracts  
2017 & 2018



## 2019 Prompt Contracting Recommendations

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

- Make prompt contracting a priority. This remains the single most important action in achieving on-time contracts. The benefits of this are evident when, starting in 2017, seven agencies made deliberate efforts and improved contracting timeframes.
- Ensure that contracting entities utilize the Grants Gateway to reduce redundant systems and facilitate efficient electronic contracting. Gateway contracts are more likely to be on time. Our records show that only 42 percent of new grants contracts reviewed by our office were processed through the Gateway in the 2017 and 2018 calendar years.
- Work with NFPs using the contract tracking tools in the Grants Gateway to identify processing delays and maximize contract processing efficiencies.
- Pay any interest due with the first payment under a contract, which could help NFPs with cash flow needs.
- Use the electronic capabilities in the Statewide Financial System to calculate and pay interest timely to assist agencies and NFPs.

## Late State Agency Grant Contracts

Reports submitted by 29 State agencies showed that 4,549 new and renewal contracts with NFP providers associated with 196 programs were subject to the Prompt Contracting Law in 2018.

Of the total contracts, 2,149 (47 percent) were processed after their start or renewal dates. This is a reduction from 2017, when 54 percent were reported late. This continues a decline in the percentage of late contracts from the five-year high of 77 percent in 2014.

Of the 2,400 State agency contracts approved on time, 2,001 were new contracts and 399 were renewals. Of the 2,149 not approved before their start or renewal date, 2,011 were new and 138 were renewals.

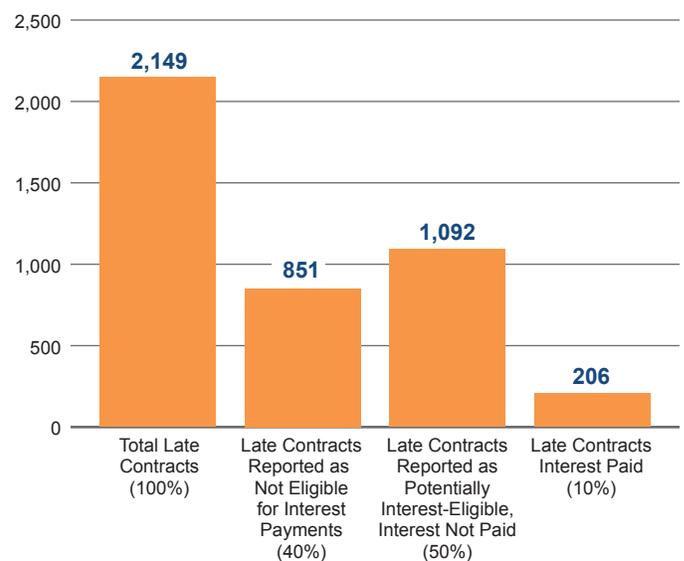
The law outlines other required prompt contracting time frames: 180 days from the State appropriation of funds for fully executed new competitive grant contracts, and 150 days for fully executed new noncompetitive or federally funded grant contracts. These time frames include the approval of the Office of the Attorney General (OAG) and OSC.

In 2018, State agencies met these legislated time frames for 3,011 contracts (66 percent), including 2,611 new and 400 renewals. The remaining 1,538 contracts (34 percent), including 1,401 new and 137 renewals, failed to meet the legislated time frames. These results are nearly identical to those in 2017.

## Interest-Eligible Contracts

State agencies reported that 1,298 contracts were potentially eligible for interest for late payments in 2018, a decrease from last year, when 1,450 were eligible for interest.

### Interest Eligibility Reported for Late Contracts 2018



Of late contracts this year, 1,092 were reported as potentially interest-eligible with no interest paid, while 206 were paid late contracting interest. The remaining 851 were reported as not eligible for interest payments.

*OSC has recommended since the earliest Annual Reports that the single most effective remedy to late contracting is for State agencies to make prompt contracting a priority.*

## Interest Paid

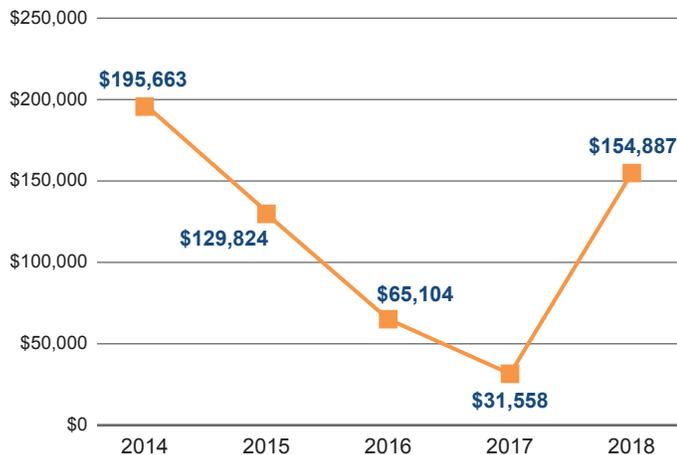
Six State agencies paid interest totaling \$154,887 on 206 contracts eligible for interest, an increase of over \$123,300 from the prior year. In addition, of the total late grant contracts, the percentage of contracts for which interest was paid increased from 5 percent in 2017 to 10 percent in 2018.

Three State agencies paid the majority of prompt contracting interest: the Office of Mental Health paid \$55,162 (36 percent); the Department of Health paid \$43,833 (28 percent); and the State Education Department paid \$32,703 (21 percent). Three other State agencies together paid a total of \$23,189.

No interest was paid during the reporting period for the remaining 1,092 of the 1,298 late contracts reported as potentially eligible for interest.

For contracts with start dates in 2018 that are not executed until 2019, State agencies did not calculate or make interest payments within the reporting period, so any interest paid on these contracts would go unreported until 2019.

### Interest Paid on Late NFP Grant Contracts 2014–2018

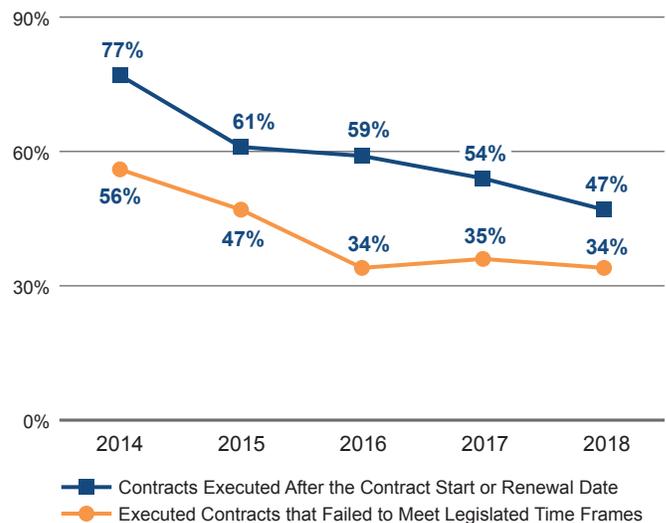


## Prompt Contracting Trends

The continuing decline in late NFP contracts is clearly a positive trend. It is more difficult to assess the interest trends. Over the five-year period (2014 to 2018), the amount of interest paid on late contracts has ranged from a high of \$195,663 in 2014 to about one-sixth that amount in 2017 (\$31,558). Because agencies generally pay interest at the end of the State's fiscal year, any interest paid after the annual report date will not be included in these numbers. However, NFPs often face the need to finance the costs of late contracting, so any delay in receiving interest can cause financial hardship.

On the other hand, in 2018, State agencies reported that 44 percent of late contracts did not result in a missed contract payment compared to last year's 41 percent. Limited progress was made in reducing the number of contracts that missed payments and the attendant stress late payments cause for NFPs.

### Percentage of Late NFP Grant Contracts 2014–2018



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## OSC Initiatives

In addition to promoting prompt contracting, OSC supports the NFP sector in a variety of ways. Beginning in 2012, OSC has provided a fraud detection and prevention training program for accountants, directors, board members and staff of NFPs. Since its inception, more than 30 *Don't Get Burned* programs have trained over 6,000 NFP leaders. Designed and taught by OSC auditors, the course gives NFPs the tools needed to better detect and prevent fraud, and develop better internal controls and analyze risks. Returning unclaimed funds to NFPs is also a high priority, and outreach by OSC's NFP Community Liaison and other OSC staff to reconnect NFPs with accounts that have gone unclaimed lets organizations put this money to use serving their clients.

OSC's NFP Contracts Liaison and the NFP Community Liaison are ready to assist with issues and inquiries, and have helped hundreds of NFPs to date.

## State Agency Efforts

As reported in 2017, seven agencies worked together on a project to streamline the grant-making process and improve contract processing timelines: the Council on the Arts, the Department of Health, the Department of Labor, the Division of Criminal Justice Services, the Office of Children and Family Services, the Office of Mental Health and the Office of Temporary and Disability Assistance.

These agencies accounted for more than two-thirds of total contracts and were late on 43 percent of total contracts versus 47 percent for all agencies in 2018.

On the other hand, progress toward electronic contracting continues to be slow. The Grants Gateway was completely operational in 2015, but for 2018, of the contracts reviewed by OSC, only 19 agencies (66 percent) used the Gateway to process any contracts electronically.

## NFP Community

Nonprofit charitable organizations provide essential services across New York State, and many face financial challenges beyond contracting delays. Several nonprofit leaders have expressed concern regarding declines in charitable contributions that may occur due to the 2017 federal tax code changes. Other concerns include the possibility of federal funding cuts for health care and other services, and difficulty attracting and retaining staff.

A report issued in 2017 by the Human Services Council, "Undervalued & Underpaid: How New York State Shortchanges Nonprofit Human Services Providers and their Workers," highlighted many of the funding and wage challenges facing New York's nonprofit human services sector and their employees. Increases approved with the SFY 2019-20 Enacted State Budget will help address wages in certain provider sectors.

Ongoing efforts by policy makers to implement effective solutions to these and other challenges facing nonprofit organizations are essential to ensuring that these organizations are able to continue their important work.

### Additional Information

For additional information and data supporting the 2018 Prompt Contracting Report, visit OSC's website:

- [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](#)
- [Profile of Nonprofit Organizations in New York State](#)

