



2019 Calendar Year Not-For-Profit Prompt Contracting Annual Report

Message from the Comptroller

Not-for-Profit (NFP) organizations provide a multitude of services throughout New York State, including essential services such as health care, care for the disabled, education and homeless services. NFPs also support our State and local economies by providing direct jobs in every community and by enabling others to work while loved ones are safely cared for. This year NFPs are also being challenged by COVID-19.

Unfortunately, late contracts remains an enduring and unresolved problem. This year, 50 percent of the contracts between NFPs and the State were executed after the contract start date. Progress under the 1991 Prompt Contracting Law (State Finance Law, Art. 11-B), which is intended to help expedite contracts and reduce the fiscal stress on NFPs, continues to fall far short of success.

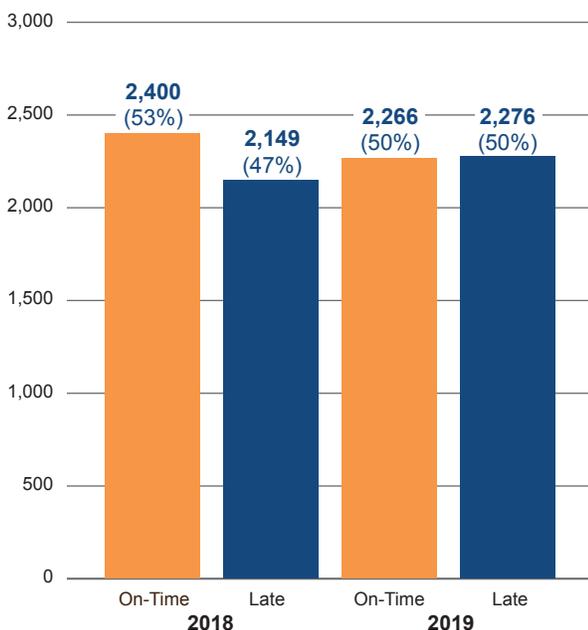
NFPs often continue working even when contracts are late, and my office regularly hears from NFPs struggling with cash flow and other challenges. The failure of State agencies to process contracts on time harms NFP service providers, which in turn erodes service delivery to vulnerable populations.

The results for the 2019 calendar year show that no progress has been made in the past year, with the percentage of late contracts increasing slightly from 47 percent in 2018 to 50 percent in 2019. Not only are half of all contracts still late, but nearly half of all agencies reported at least three-quarters of their contracts were not processed on time. This is simply unacceptable.

In the coming months New York State will need to rely on our NFP partners more than ever to continue fighting the impacts of the coronavirus and help restart our local economies. NFPs provide over 1.4 million jobs in the State and account for nearly 18 percent of private employment (as of 2017, the latest data available from the 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 in collaboration with NFP leaders, including the establishment of training programs for NFP board members and staff. Ultimately, however, the solution to contracting delays lies in better agency oversight and management.

Late Contracts and On-Time Contracts
2018 & 2019



2020 Prompt Contracting Recommendations

In order to improve prompt contracting results, OSC recommends:

- State agencies should take responsibility for their critical roles, and make prompt contracting a priority. This remains the most important action needed to achieve on-time contracts.
- The Not-for-Profit Contracting Advisory Committee should meet regularly to address new and continuing barriers to prompt contracting success.
- State agencies and NFPs should increase their use of the Grants Gateway, and use the contract tracking tools in the Gateway to identify and address processing delays.
- State agencies should use electronic means to pay prompt contracting interest and ensure that the NFPs receive what is required by law.
- State agencies should pay any interest due with the first payment under a contract to help NFPs avoid cash flow problems.

Late State Agency Grant Contracts

Reports submitted by 27 State agencies showed that 4,542 new and renewal contracts with NFP providers associated with 181 programs were subject to the Prompt Contracting Law in 2019.

Of the total contracts, 2,276 (50 percent) were processed after their start or renewal dates. This is an increase from 2018, when 47 percent were reported late. The trend bears watching; the State must avoid further regression toward the ten-year high of 87 percent late in 2013.

Of the 2,266 State agency contracts approved on time, 1,845 were new contracts and 421 were renewals. Of the 2,276 not approved before their start or renewal date, 1,960 were new and 316 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.

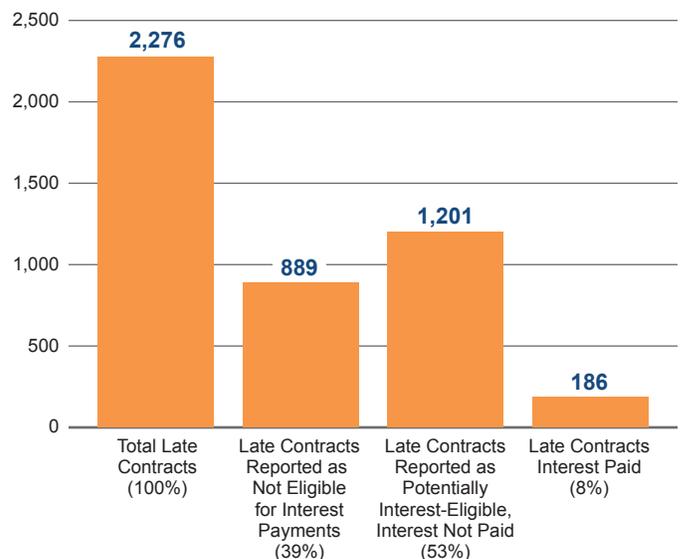
In 2019, State agencies met these legislated time frames for 3,042 contracts (67 percent), including 2,581 new and 461 renewal contracts. The remaining 1,500 contracts (33 percent), including 1,224 new and 276 renewals, failed to meet the legislated time frames. These results are nearly identical to those in 2017 and 2018.

Interest-Eligible Contracts

State agencies reported that 1,387 contracts were potentially eligible for interest for late payments in 2019, an increase from last year, when 1,298 were eligible for interest.

Of late contracts this year, 1,201 were reported as potentially interest-eligible with no interest paid, while 186 were paid late contracting interest. The remaining 889 were reported as not eligible for interest payment.

Interest Eligibility Reported for Late Contracts 2019



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

Interest Paid

Six State agencies paid interest totaling \$48,792 on 186 contracts eligible for interest, a decrease of over \$106,000 from the prior year. In addition, of the total late grant contracts, the percentage of contracts for which interest was paid decreased from 10 percent in 2018 to 8 percent in 2019.

One State agency paid the majority of prompt contracting interest: the Office of Children and Family Services paid \$32,393 (66 percent). Five other State agencies together paid a total of \$16,399.

No interest was paid during the reporting period for the remaining 1,201 of the 1,387 late contracts reported as potentially eligible for interest.

For contracts with start dates in 2019 that were not executed until 2020, State agencies did not calculate or make any interest payments within the reporting period, so any interest paid on these contracts would go unreported until 2020.

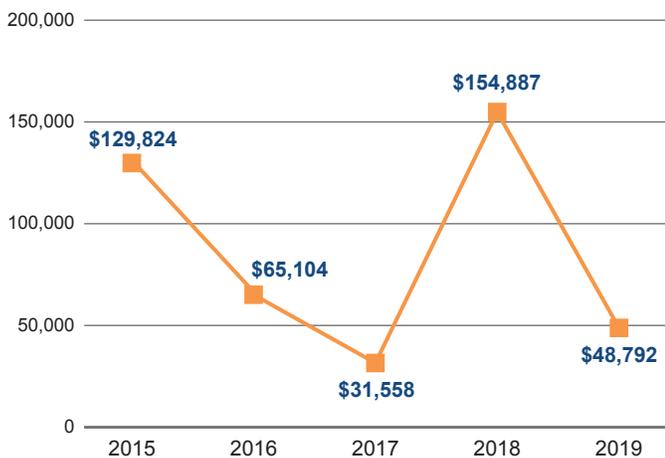
Prompt Contracting Trends

The increase in late NFP contracts is clearly a concerning development. Yet prompt contracting interest trends remain difficult to assess. Over the five-year period from 2015 to 2019, the amount of interest paid on late contracts has ranged from a high of \$154,887 in 2018 to about one-fifth that amount in 2017 (\$31,558). These interest figures, however, are not all-inclusive as they do not include interest paid after the annual report date since agencies generally pay interest at the end of the State's fiscal year.

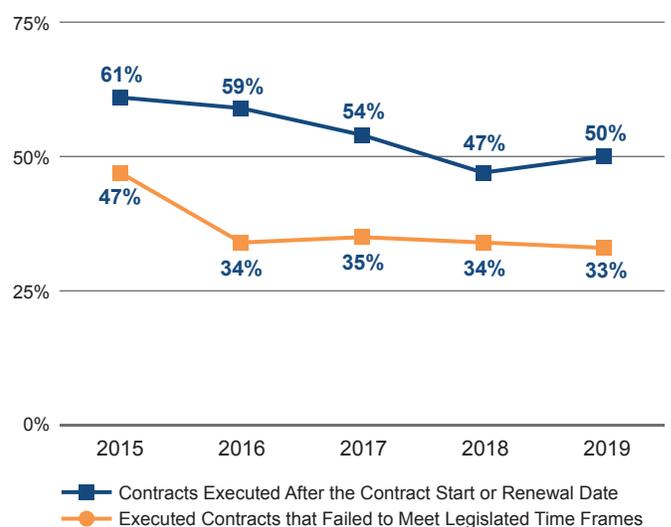
In 2019, State agencies reported that 54 percent of late contracts did not result in a missed contract payment compared to last year's 44 percent. Although progress was made in reducing the number of contracts that missed payments, the attendant stress late payments cause for NFPs remains.

NFPs often need to borrow money while awaiting payments delayed due to late contracting, so any delay in receiving interest can cause financial hardship.

**Interest Paid on Late NFP Grant Contracts
2015–2019**



**Percentage of Late NFP Grant Contracts
2015–2019**



OSC Initiatives

In addition to promoting prompt contracting, OSC supports the NFP sector in a variety of ways. Since 2012, OSC has provided a fraud detection and prevention training program for accountants, directors, board members and staff of NFPs. More than 30 *Don't Get Burned* programs have trained over 6,200 NFP leaders. Designed and taught by OSC auditors, the course gives NFPs the tools needed to better detect and prevent fraud, develop more effective 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

In 2019, the Not-for-Profit Contracting Advisory Committee did not meet, and no progress was made in addressing late contracting. The overall number and percentage of late contracts increased, and nearly a third of all agencies processed 90 percent or more of their NFP contracts after the start or due date.

Some agencies did make progress but it remains to be seen whether this is a trend:

- In 2018, the Office of Addiction Services and Supports (OASAS) reported that 42 percent of its contracts were executed late. In 2019, OASAS reported that just 9 percent of its contracts were executed late, while the number of contracts processed increased by more than five times.
- In 2018, the Department of Labor (Labor) reported that 74 percent of its contracts were executed late. In 2019, Labor reported that 59 percent of its contracts were executed late, a decrease of 15 percent.

While these efforts are significant and positive, a sustained commitment from every contracting State agency is needed to ensure timely contracting.

NFP Community

NFP organizations provide essential services across New York State. Many face financial challenges beyond contracting delays, such as tight cash flow, which are further exacerbated by the impacts of the recent COVID-19 crisis. NFPs seeking relief are looking to the federal, State and local governments for support to help them deliver essential services.

New York Governor Cuomo recently issued Executive Order 202, effective until September 7, 2020, declaring an emergency related to COVID-19. The Division of the Budget subsequently directed certain State agencies to work with NFP human service providers to preserve funding eligibility in the event an NFP cannot meet contractual performance requirements resulting from the emergency (Budget Bulletin H-0502, dated April 6, 2020).

Sustained efforts are needed to improve the cash flow to New York's NFPs. Ensuring on-time contracts is critical to the success of the sector, and to maintaining the vital services NFPs provide to State residents.

Additional Information

For additional information and data supporting the 2019 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](#)

