



2023 Calendar Year Not-For-Profit Prompt Contracting Annual Report

Message from the Comptroller

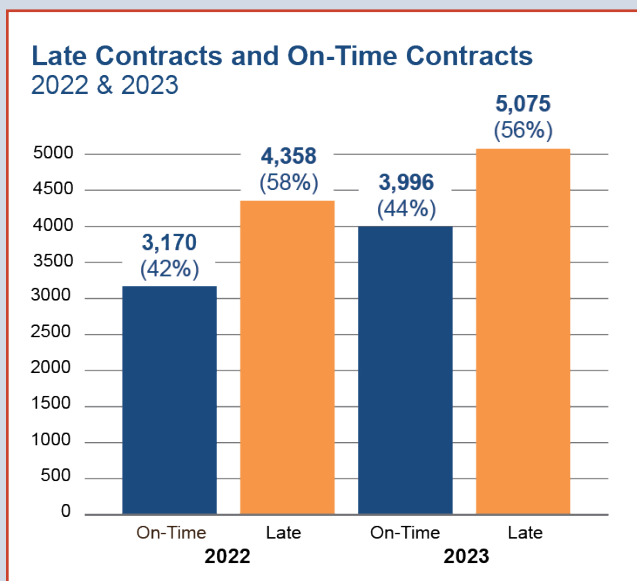
New York State relies on its Not-for-Profit (NFP) partners to provide vital services to residents across a wide range of services such as childcare, mental health, housing, substance abuse and education, as well as being a key contributor to the areas of arts, culture and recreation. NFPs also support 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, serious delays continue in executing and renewing contracts with the State's NFP partners.

Given their crucial role in the State and regional economies and in delivering critical services, supporting NFP organizations must 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 based on the delays that continued to occur. Unfortunately, over three decades later, the State's progress in meeting the law's requirements continues to fall short.

In 2023, minimal progress was made towards improving prompt contracting, with the percentage of late contracts decreasing by two percent from 2022, from 58 percent to 56 percent; higher than 2019's pre-pandemic level of 50 percent. Although State agencies continue to face staffing and other challenges, timely contracting with our NFP partners is critical.

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



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 2023, 56 percent were processed after their start or renewal dates, down from 58 percent in 2022. This 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.
 - Fourteen (45 percent) State agencies reported that 100% of their contracts were late.
- **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 71 percent of reported contracts in 2023, a slight increase from 69 percent in 2022.
- **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 2023, eight State agencies paid interest totaling \$208,369, a decrease from 2022 when eight State agencies paid interest totaling \$220,549.

Late State Agency Grant Contracts

Reports submitted by 31 State agencies showed that 9,071 new and renewal contracts with NFP providers, associated with 200 programs, were subject to the Prompt Contracting Law in 2023. Of the total contracts, 5,075 (56 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 56 percent late contracts figure is a decrease from 2022, when 58 percent were reported late. There were 25 agencies, or more than three-quarters of the total of all reporting agencies, with 67 percent or more of their contracts processed after the start or renewal dates. This includes 20 agencies, or 65 percent of all those reporting, with 90 percent or more of their contracts processed late. This year, the Council on the Arts represented 48 percent of all contracts reported with 33 percent of their contracts being reported as late. If their data is removed from this year's report, the percentage of late contracts for 2023 would be significantly higher, approximately 78 percent late. The Additional Information section at the end of this report includes agency specific data, found in the Contracting Information Provided by State Agencies links.

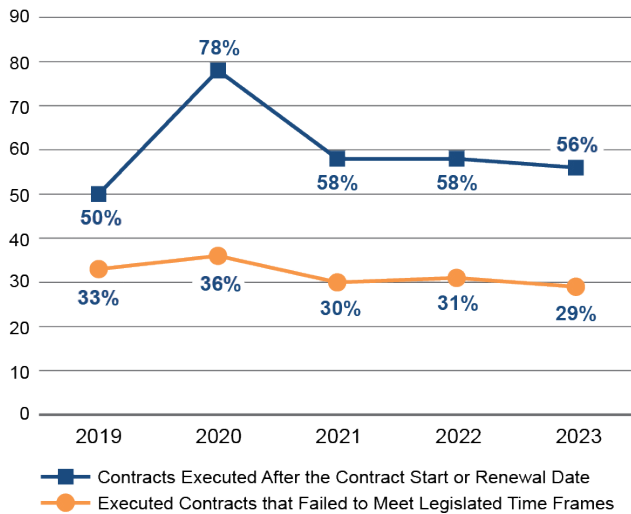
Of the 5,075 State agency contracts not approved before their start or renewal date, 4,688 were new and 387 were renewals. Of the 3,996 contracts approved on time, 3,515 were new contracts and 481 were renewals.

The law outlines other required prompt contracting time frames: State agencies have 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 the OAG and OSC.

In 2023, State agencies reported that they met these statutory time frames for 6,440 contracts (71 percent), including 5,824 new and 616 renewal contracts. The remaining 2,631 contracts (29 percent), including 2,379 new and 252 renewals, failed to meet the legislated time frames. These results represent a slight increase in the percentage of contracts that met the statutory time frames from 2022, when State agencies met the legislated time frames for 69 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 2019–2023



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 50 percent (2,536) of contracts were potentially eligible for interest due to late contracts in 2023, a decrease in the percentage from the prior year, when 56 percent (2,441) were potentially eligible for interest.

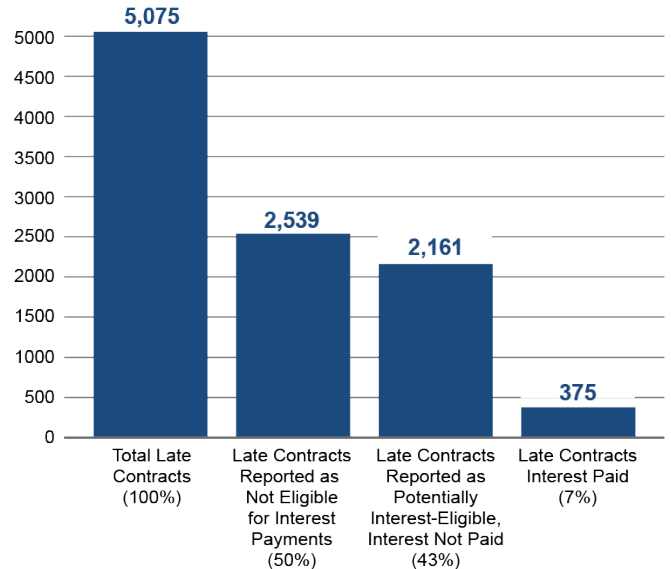
Of late contracts in 2023, 2,161 were reported as potentially interest-eligible but no interest was paid, while 375 were paid prompt contracting interest. The remaining 2,539 were reported as not eligible for interest payment.

In 2023, eight State agencies paid interest totaling \$208,369 on 375 of interest-eligible contracts. This is a decrease from 2022, when eight State agencies paid interest totaling \$220,549.

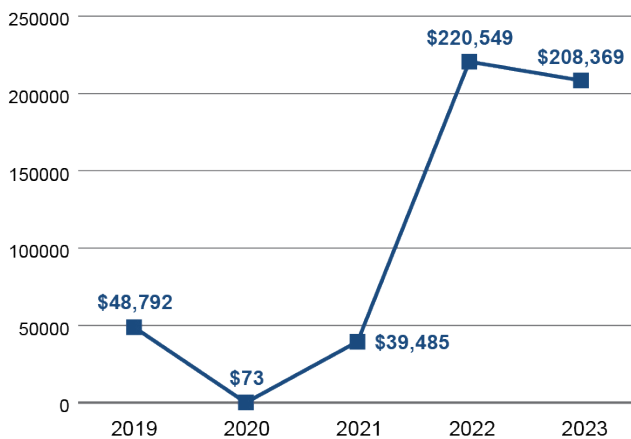
No interest was paid during the reporting period for the remaining 1,786 late contracts reported as potentially eligible for interest. Sixty-eight percent of State agencies reported that the reason interest was not paid on their late contracts was because the late contract did not result in a missed payment.

For contracts with start dates in 2023 that were not executed until 2024, 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 2024.

Interest Eligibility Reported for Late Contracts 2023



Interest Paid on Late NFP Grant Contracts 2019–2023



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 56 percent of contracts that were processed after their start or renewal date in 2023 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 improve the number and percentage of on-time contracts.

Prompt Contracting Trends

The 56 percent of contracts that were processed after their start or renewal dates in 2023 represents a 2 percent decrease from 2022 but 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 2019 to 2023, 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.

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

2024 Prompt Contracting Recommendations

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.
- Grant-making agencies and NFPs should continue efforts to successfully transition activities previously conducted in the Grants Gateway over to the grants management system in the Statewide Financial System.
- State agencies and NFPs should increase their use of the State's grants management system and available data to identify efficiencies 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 2023 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 10-Year Trending Chart](#)
- [Nonprofit Organizations in New York State: Profile of Employment and Wages](#)

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