



PROMPT CONTRACTING ANNUAL REPORT CALENDAR YEAR 2008

**State of New York
Office of the State Comptroller**

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State Comptroller**

**Prepared by the Bureau of Contracts
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Executive Summary

Chapter 166 of the Laws of 1991 added Article XI-B (the Prompt Contracting Law) to the State Finance Law to promote prompt contracting with not-for-profit (NFP) organizations. A key objective of the Prompt Contracting Law is to expedite the contract process and corresponding payments to NFPs in order to avoid service interruptions and financial hardships faced by these organizations. Chapter 292 of the Laws of 2007 added amendments to Article XI-B that gave the Office of the State Comptroller (OSC) an increased role in the oversight of the Prompt Contracting Law, and required OSC to submit the Prompt Contracting Annual Report to the Governor, Senate, Assembly and Division of the Budget by May 31st of each year.

State agencies are required to report on programs affected by the provisions of the Prompt Contracting Law to OSC for the preceding twelve-month period. Comptroller Thomas P. DiNapoli prepares a report summarizing State agency information, and prepares an analysis examining the effectiveness and implementation of prompt contracting and payments. He also includes recommendations to improve existing contracting and payment methods between State agencies and the NFPs.

The State agencies self-reported data is as follows:

- State agencies reported that a total of **11,765** new and renewal contracts with NFPs, associated with **286** programs, were affected by Article XI-B of the State Finance Law.
- State agencies met the prompt contracting time frames for **3,366** contracts, including **2,652** new and **714** renewal contracts.
- State agencies did not meet the time frames for **8,399** contracts, including **6,459** new and **1,940** renewal contracts.
- There were **4,317** State agency grant contracts with NFPs approved by the start or renewal date.
- There were **7,448** State agency grant contracts with NFPs that were not approved by the start or renewal date.
- Interest totaling **\$144,906** was paid by two State agencies to NFPs on **465** contracts.

Even though the Prompt Contracting Law has been in place since 1991, State agencies continue to have great difficulty meeting the time frames set forth in the law. For the 2008 reporting period, **71** percent of State agency contracts with NFP organizations did not meet the statutory time frames and **63** percent of State agency contracts were not approved by the start or renewal date. As compared to last year, the amount of interest paid on late contracts has decreased by **29** percent. Similar to the prior year, the amount in interest is not consistent with the magnitude of late contracting.

When Comptroller DiNapoli issued the first annual Prompt Contracting Report in May 2008, he committed to undertaking a review of State agency compliance with the Prompt Contracting Law. Based on the review of findings, OSC has developed and will implement through regulations a new procedure for calculating the amount of interest due to NFPs. The results of that review are summarized in Section I of this report.

In addition, this report contains a review of the recommendations made by OSC in its first annual report, and presents a series of nine new recommendations to help reduce late contracting.

I. OSC Implementation Efforts and Initiatives

➤ *Comparison of OSC Data to State Agency Reported Data*

From January 2, 2008 to January 1, 2009, OSC has collected data on the number of grant contracts pre-audited by the OSC Bureau of Contracts. This data includes the number of grant contracts with NFPs, the number of late grant contracts with NFPs, and the number of waivers of interest received with determinations of whether waivers were warranted or unwarranted. (*Refer to Tables 1 and 2 for this data.*)

OSC data on the total number of new and renewal grant contracts subject to Prompt Contracting Law is significantly less than the number self-reported by State agencies: 6,033 received by OSC as compared to 11,765 reported by the State agencies. State agencies are required to report on all contracts and renewals with start dates in 2008 regardless of the dollar amount. Consequently, the agency-reported number of contracts and renewals includes contracts valued at less than \$50,000 which are not subject to OSC pre-audit. Central Accounting System (CAS) data indicates that 6,223 contracts valued at less than \$50,000 were executed in 2008.

Table 1 Number of Contracts Approved by OSC Bureau of Contracts Subject to the Prompt Contracting Law January 2, 2008 – January 1, 2009	
6,033	Grant contracts with NFP organizations approved by the Bureau of Contracts <ul style="list-style-type: none"> • 3,103 new contracts • 2,930 renewal
5,260	Grant contracts with NFP organizations approved by the Bureau of Contracts after the contract start date <ul style="list-style-type: none"> • 2,977 new contracts • 2,283 renewal

This data shows that of the 6,033 NFP grant contracts submitted to OSC for approval, 5,260 or 87 percent were approved after their start date and were consequently late. State agency self-reported data showed 63 percent of the 11,765 contracts reported were approved late. This is a significant difference, which may be partially explained by the fact that contracts valued at less than \$50,000 are not incorporated in the OSC totals.

➤ ***OSC Review of State Agency Compliance with the Prompt Contracting Law***

After issuance of the first Prompt Contracting Annual Report, OSC performed a review of State agency compliance with the Prompt Contracting Law via the direction of Comptroller DiNapoli. OSC's Bureau of State Expenditures conducted an examination of approved grant contracts with NFP organizations to determine:

- The extent of late contracting;
- The reasons for late contracting; and
- Whether State agencies are paying NFPs interest when due.

The examination was based on a random sample of 95 grant contracts approved by OSC after the contract start date. The sample was drawn from those grant contracts received by OSC during the period from January 2, 2008 through April 30, 2008. The sample included 67 new grant contracts, six of which were legislative initiatives, and 28 renewal grant contracts. The examination found:

- New Contracts – On average, the new contracts in the sample were approved 265 days, or almost nine months, after the contract start date.
- Renewal Contracts – On average, the renewal contracts in the sample were approved 143 days, or almost five months after the 90-day time frame required by the Prompt Contracting Law had elapsed.
- Both NFPs and State agencies play a part in untimely contract execution.
- Ambiguities in the law allow for different interpretations as to:
 - Whether prompt contracting interest is due;
 - When prompt contracting interest is due; and
 - How much interest is due.

Auditors found no interest paid on any of the contracts included in the sample. This appears to be due to State agency interpretations of what the law requires under State Finance Law, Article 11-B, Section 179-v. This section provides that a not-for-profit shall be entitled to interest payments on those moneys that would be due under the terms of the new or renewal contract from the scheduled commencement date or the date that the NFP begins to provide services, whichever is later, until the date payment is made under the contract.

State agencies generally interpret the Prompt Contracting Law to require interest payments based on the dates on which the State agencies actually receive vouchers from the NFPs for services performed. In a majority of cases, NFPs do not submit claims for reimbursement prior to the approval of a contract. As a result, State agencies appear to have taken the position that no interest is payable under Section 179-v.

OSC believes the proper interpretation of Section 179-v is that it requires payment of interest once a contract is fully executed (approved by OSC), from the date when, consistent with the terms of the contract, the NFP could reasonably have expected payment, if, consistent with the requirements of the Law, the contract had been fully executed before the date when the NFP began providing services under such contract. Since under the Prompt Payment Law, State agencies must generally make payment within 30 days of the date of the submission of an invoice or voucher, OSC believes it follows that interest runs on each payment covered by Section 179-v from the 30th day after each date on which the NFP could have submitted an invoice or voucher.

Using these standards, significant interest should have been paid to NFPs. For the sample of 28 renewal contracts, the NFPs in question would have been entitled to prompt contracting interest totaling \$46,411. Similarly, for the sample of 67 new contracts, the NFPs in question would have been entitled to receive prompt contracting interest totaling \$55,816.

Pursuant to OSC's authority under State Finance Law, Section 179-y, OSC has developed and will implement through regulations a procedure for calculating the amount of interest due to a NFP consistent with the above standards. OSC acknowledges that the implementation of these regulations could potentially have a significant fiscal impact on New York State. However, the intent of the statute with respect to the payment of interest is clear. It is imperative the problems experienced by State agencies in the timely processing of NFP contracts be addressed immediately by agency heads, to minimize the fiscal impact of the revised regulations.

➤ ***OSC Implementation Efforts***

The 2007 amendments to the Prompt Contracting Law gave OSC an increased role in the oversight of the Prompt Contracting Law. Consistent with this responsibility, OSC implemented procedures to:

- Collect and file State agency notification and suspension letters;
- Review State agency requests for exemptions from timely notification requirements due to unusual circumstances; and

- Review waivers of interest, and subsequently assess interest payments for unwarranted waivers, including those waivers submitted for contracts below OSC’s contract approval threshold of \$50,000.

Table 2	
Waivers of Interest and Interest Paid	
January 2, 2008 – January 1, 2009	
523	Grant contracts with NFPs received with waivers
293	Unwarranted waivers, potential interest due
22	Unwarranted waivers, no interest due
208	Warranted waivers
\$5,966	Amount of interest paid on unwarranted waivers, potential interest due*

* This amount is included in the total interest reported by State agencies, and is a direct result of waivers determined to be unwarranted by OSC.

In an effort to reinforce the objectives of the Law, and specifically of the 2007 amendments, OSC’s Bureau of Contracts has issued two guidance bulletins on prompt contracting, including an update to Accounting Bulletin A-316 entitled “Not-for-Profit (NFP) Prompt Contracting” and a new Guidance Bulletin G-229 entitled “Operational Impact of the Prompt Contracting Law.” In addition, in an effort to reduce paperwork and processing time, OSC issued Bulletin G-231 entitled “Standard Contract Language for Grant Contracts: Multiyear Contracts and Simplified Renewals.” The Bureau of Contracts has provided outreach and technical assistance throughout 2008 to State agency staff through formal and informal training sessions, conference calls, correspondence and the issuance of the grants newsletter – *The Procurement Record* (a quarterly newsletter issued by OSC to grant-making agencies containing current topical information regarding the contract process for NFP contracts).

II. Prompt Contracting Law Time Frame Requirements

The Prompt Contracting Law requires State agencies to execute grant contracts with NFPs within specific time frames. A contract is regarded as executed when it has been signed by the NFP and the State agency. The Prompt Contracting Law also requires State agencies to fully execute grant contracts with NFPs within specific time frames for both new and renewal contracts. A contract is regarded as fully executed when it has been signed by the State agency, and the NFP, and approved by OSC and the Office of the Attorney General (OAG), if required.

- The time frame for execution of new competitive grant contracts is 150 days from the latest State appropriation of funds date (usually the date the State budget is enacted), with 30 additional days for approval by the OAG and OSC. The State agency has a total of **180** days to fully execute the NFP grant contracts.
- The time frame for execution of new noncompetitive grant contracts (such as legislative initiatives) and federally funded grant contracts is 120 days from the date the NFP is identified to the State agency or the receipt date of the federal grant

notification award, with an additional 30 days for approval by OAG and OSC. The State agency has a total of **150** days to fully execute the NFP grant contracts.

- Renewal grant contracts must be fully executed by the beginning of the new contract period.

III. Reporting Requirements

In accordance with the Official Compilation of Codes, Rules and Regulations of the State of New York, Title 2 - Audit and Control, Chapter 1, Section 22.9(d), and in accordance with Article XI-B of the State Finance Law as amended by Chapter 292 of the Laws of 2007, State agencies are required to report on programs affected by the provisions of the Prompt Contracting Law for the preceding twelve-month period. State agencies are required to submit their reports on the following information to OSC by March 31st of each year:

- The number of grant programs affected by State Finance Law, Article XI-B;
- The ability of State agencies to meet State Finance Law, Article XI-B time frames for the execution of NFP grant contracts (180 or 150 days);
- The number of new and renewal NFP grant contracts both complying and failing to comply with said time frames;
- The number of NFP grant contracts failing to be approved by the start or renewal dates;
- The number of NFP grant contracts on which interest was paid;
- The amount of interest paid by each State agency; and
- Any other relevant information regarding the implementation of prompt contracting and payments affecting NFPs.

The Prompt Contracting Law as amended in 2007 requires that OSC make available to the public, as of May 31st of each year, a report aggregating the State agency information, and prepare an analysis examining the effectiveness and implementation of prompt contracting and payments, including recommendations deemed necessary to improve existing contracting and payment methods between State agencies and the NFPs. In addition, this report is submitted to the Governor, the Temporary President and Minority Leader of the Senate, the Speaker and Minority Leader of the Assembly, the Director of the Division of the Budget, the Chairman of the Senate Finance Committee, and the Chairman of the Assembly Ways and Means Committee.

IV. Reporting Methodology

Using information gathered from New York State's Central Accounting System (CAS), OSC's Bureau of Contracts was able to identify 30 State agencies as having grant contracts with not-for-profit organizations (*refer to Appendix B*). An electronic reminder requesting that the State agency's prompt contracting information be submitted to OSC by March 31, 2009, was sent to each of these agencies, along with the reporting format and reporting instructions (*refer to Appendix A*). To ensure consistency in reporting, central agencies with multiple regional offices reported the required information for all their regional offices.

Reports were submitted to OSC from all 30 of the State agencies contracting with NFPs, thus making the response rate **100 percent**. The response rate for information relating to calendar year 2008 is **12.5 percent** higher than the response rate for the 2007 calendar year report.

V. Summary of Data Reported by State Agencies

The data submitted by State agencies has been aggregated and summarized as follows:

- State agencies reported that a total of **11,765** new and renewal contracts with not-for-profit providers, associated with **286** programs, were affected by Article XI-B of the State Finance Law.
- State agencies were able to meet the prompt contracting time frames for execution for **3,366** contracts (**29** percent), including **2,652** new and **714** renewal contracts.
- State agencies did not meet the prompt contracting time frames for **8,399** contracts (**71** percent), including **6,459** new and **1,940** renewal contracts.
- There were **4,317** State agency grant contracts (**37** percent) approved by the contract start or renewal date.
- There were **7,448** State agency grant contracts (**63** percent) that were not approved by the contract start or renewal date.
- Interest totaling **\$144,906** was paid by two State agencies on **465** contracts (**\$142,236** paid by the Department of Health and **\$2,670** by the Office of Children and Family Services). No other State agencies reported paying prompt contracting interest.

Figure 1 shows that 3,366 contracts (29 percent), consisting of both new and renewal contracts, met the statutory time frame requirements, while 8,399 contracts (71 percent) did not.

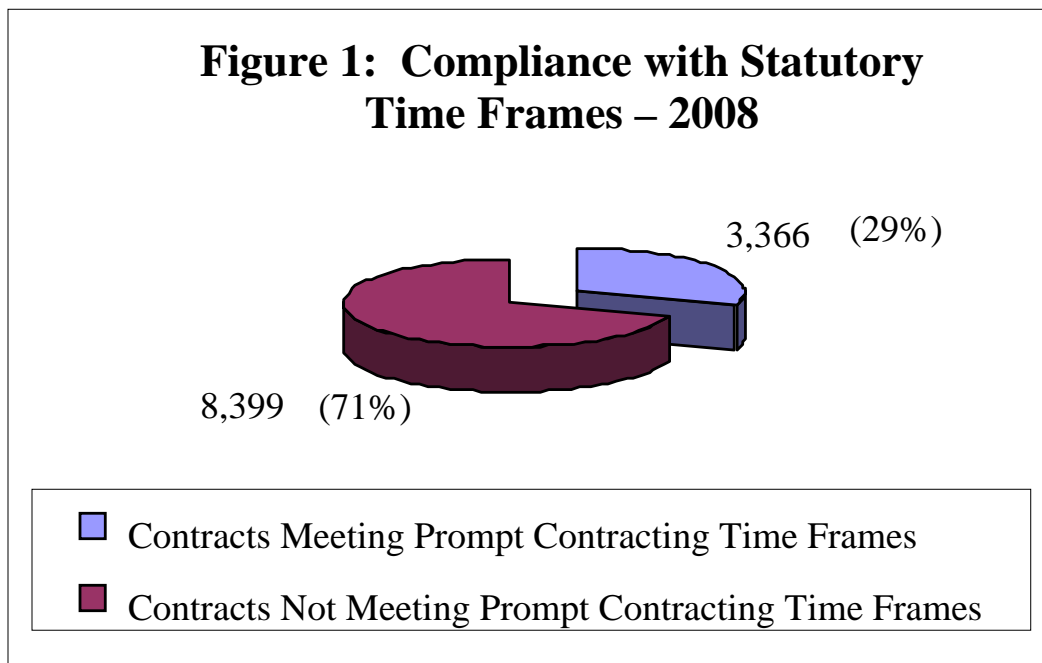
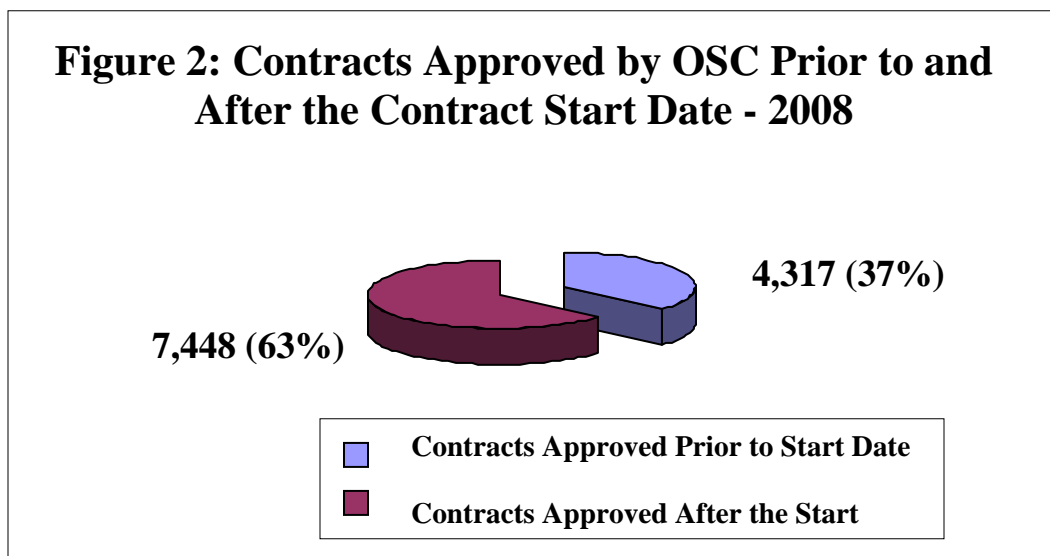


Figure 2 shows that 4,317 contracts (37 percent), consisting of both new and renewal contracts, were approved prior to the start date, while 7,448 contracts (63 percent) were not.



Out of the **8,399** contracts not meeting the prompt contracting time frames for execution, **7,448** contracts were not approved by OSC by the start or renewal dates (late contracts*). **Figure 3** shows that out of the total late contracts reported by State agencies, **4,810 (65 percent)** were reported as not eligible for interest payments, **2,173 (29 percent)** were reported as potentially eligible for interest payments, but interest payments were not made, and **465 (6 percent)** were reported as interest eligible and interest was paid.

* *Late contracts are defined as contracts not approved by OSC prior to the start or renewal date.*

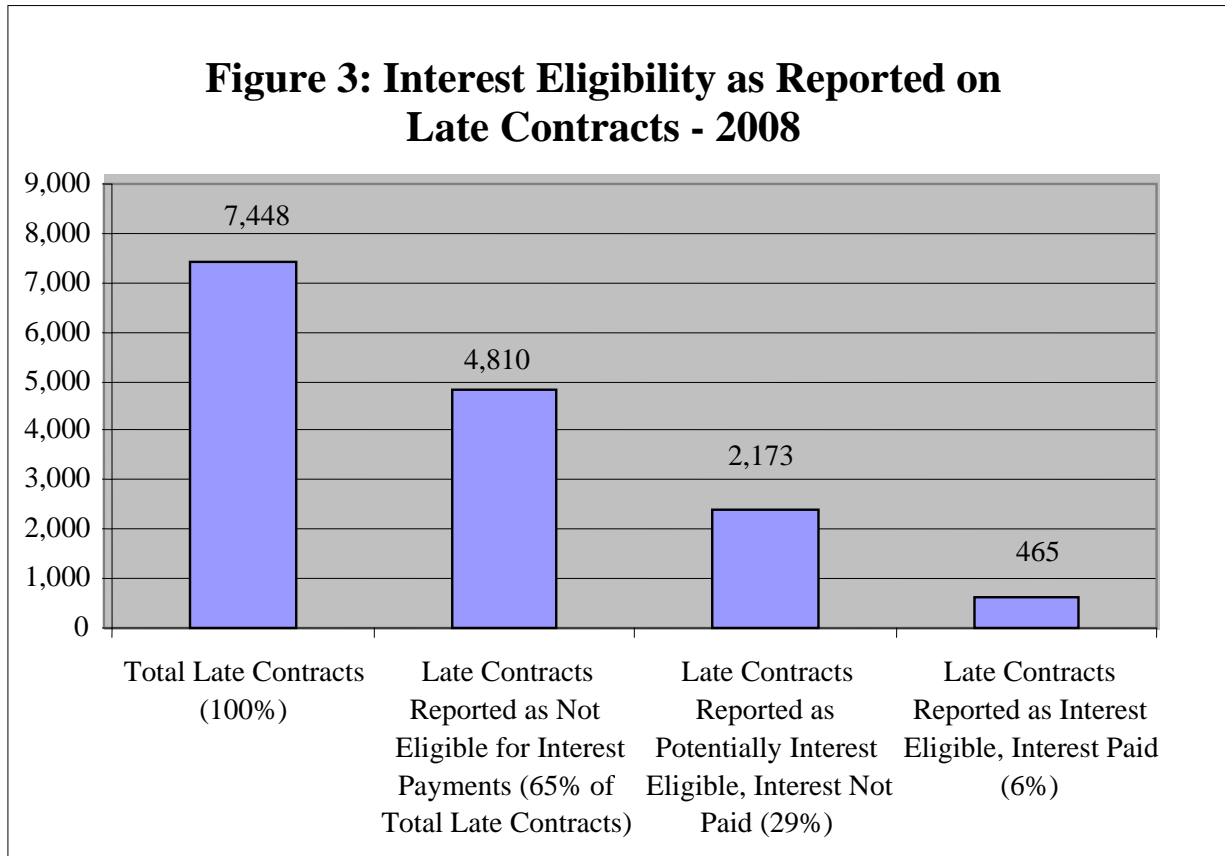


Table 3 lists the explanations that were reported by State agencies as to why program contracts were not approved by the start or renewal dates. They represent the reason in percentages why contracts were executed late for the **286** programs reported. Consistent with the 2006 and 2007 reporting, the most common explanation that agencies identified as having an impact on their ability to meet the statutory time frames was that the NFPs did not return documentation in a timely manner. For the 2008 Report, unlike previous years, in order to normalize data, State agencies were provided a list of specific explanations. The list was a consolidation of explanations that State agencies provided in previous years.

Table 3 Explanations for Late Contracting Reported by State Agencies - 2008	
56%	Contract documents not returned by NFPs in a timely manner
16%	Agency processing delays due to internal circumstances, such as resource shortages
11%	Agency processing delays due to external State circumstances, such as budget cuts
9%	Other (various reasons specified)
5%	No explanation provided
3%	Prompt Contracting Law time frame requirements do not provide adequate time for agency procurement process

Table 4 below provides a three-year comparison of prompt contracting data as reported by State agencies:

Table 4 Three-Year Comparison on Prompt Contracting Data January 2, 2006 – January 1, 2009							
Reporting Period	1 Number of NFP Contracts	2 Contracts Meeting Statutory Time Frames	3 Contracts Not Approved by the Start or Renewal Date	4 Percentage of Contracts Not Approved by the Start or Renewal Date	5 Number of Column 3 Interest Eligible Contracts	6 Number of Contracts Where Interest was Paid	7 Total Interest Dollars Paid
1/2/06 – 1/1/07	9,775	3,737	6,164	63%	1,222	327	\$ 88,987
1/2/07 – 1/1/08	10,970	3,310	7,438	68%	3,732	612	\$203,637
1/2/08 – 1/1/09	11,765	3,366	7,448	63%	2,638	465	\$144,906

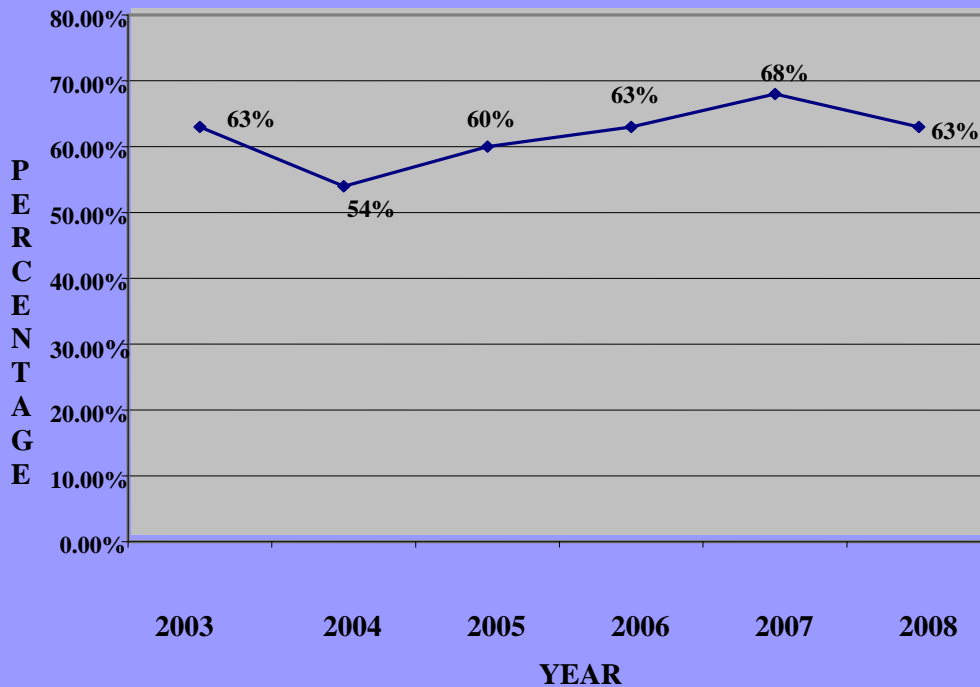
VI. Effectiveness and Implementation of the Prompt Contracting Law

The following analysis is based on the data provided by the State agencies for calendar year 2008. The 2008 Report is the first report that records data that has been collected since the implementation of the 2007 amendments to the Prompt Contracting Law.

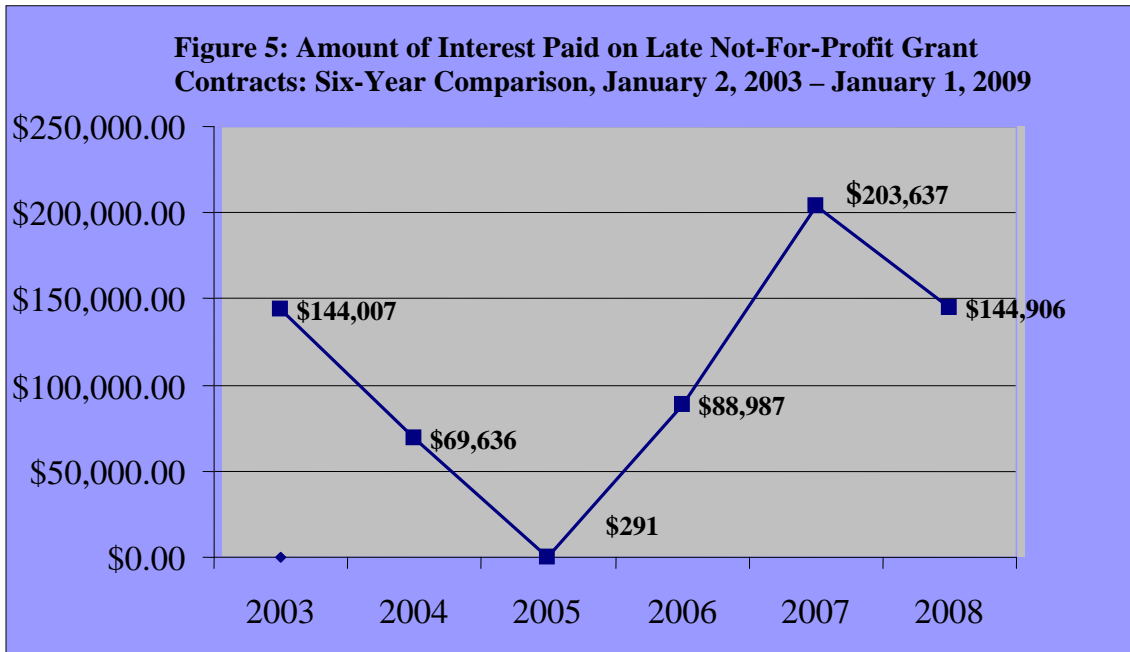
➤ *Late Contracting*

Although the Prompt Contracting Law has been in place since 1991, State agencies continue to have difficulty meeting the time frames set forth in the law. As *Table 4* shows, in 2008, State agencies reported that **63 percent** of grant contracts with NFPs were not approved by the start or renewal date. OSC's analysis of grant contracts with NFPs valued at \$50,000 or more and submitted to OSC for prior approval indicates that **87 percent** were approved after their start date. State agencies continued to have difficulties in obtaining contract approval before the start or renewal date of the agreement. *Figure 4* provides a six-year historical perspective on late contracting as reported by the State agencies.

Figure 4: Percentage of Not-For-Profit Grant Contracts Not Approved by the Start or Renewal Date: Six-Year Comparison, January 2, 2003 – January 1, 2009



Over the period of the six-year comparison (2003-2009), interest payments on late contracts have been inconsistent. (refer to Figure 5.) It should be noted that in 2005, neither the Office of Children and Family Services nor the Department of Health reported data on their interest payments. Both of these agencies award a large number of grant contracts and have historically paid the largest portion of interest each year.



The top three reasons that State agencies give to explain late contracting, as shown in Table 3, are:

- Contract documents are not returned by NFPs in a timely manner;
- Agency processing delays due to internal circumstances, such as resource shortages; and
- Agency processing delays due to external State circumstances, such as budget cuts.

It appears that the Prompt Contracting Law has not addressed the root causes of late contracting. Until these causes are accurately identified and the problems are solved, State agencies will continue to have high percentages of late contracts. The Not-for-Profit Contracting Advisory Committee established by the 2007 amendments to the Prompt Contracting Law and comprised of sixteen appointed members representing NFPs and State agencies needs to continue to assess strategies for addressing this issue.

➤ *Interest Payments*

The amount of interest paid by State agencies on late contracts in 2008 decreased by **29 percent** as compared to the total interest paid in 2007. This decrease appears to be a result of how State agencies interpret the statute for determining when prompt contracting interest is due and the manner in which the payment of interest is calculated. OSC has written regulations that will clarify how interest should be calculated.

➤ *Waivers of Interest*

Up until the enactment of the 2007 Prompt Contracting amendments, many NFPs had, as a matter of course, signed waivers of interest as a prerequisite to the execution of a contract. Waivers of interest are only deemed warranted if the time frames for the execution of a contract, as set forth in the Prompt Contracting Law, have been met. Before January 1, 2008, waivers of interest were not subject to OSC oversight. The lack of oversight left the assumption that the waivers of interest were warranted, despite lack of adherence to the time frames, and thus State agencies did not pay interest on late contracts where waivers of interest were signed.

During the 2008 Report period, OSC audited waivers of interest to determine whether each waiver of interest submitted was warranted. *Table 2* shows that of the **523** waivers of interest submitted to OSC for review, (**60 percent**) were determined to be unwarranted.

VII. Review of Recommendations Made in the Prompt Contracting Annual Report – Calendar Year 2007, Issued in May 2008

In 2008, Comptroller DiNapoli made a number of recommendations in order to reduce late contracting and interest payments, including:

1. *State agencies should use the standard boilerplate grant contract to improve standardization among contracts.*

Currently 80 percent of the reporting State agencies are utilizing the standard grant boilerplate contract.

2. *State agencies should place a greater emphasis on training contract management staff in the contracting process and encouraging their staff to attend OSC's outreach and training events dedicated to topics in financial management.*

OSC continues to provide outreach and training to contract management staff through workshops and the quarterly grants newsletter – *The Procurement Record*.

3. *State agencies should make use of fifth quarter and advance payments, where appropriate, in order to avoid late payments to the NFP providers.*

OSC's review of procurement records and contract boilerplates showed the majority of State agencies include contract language to provide for fifth quarter and advance

payments, when appropriate. Based on the small number of written directives that provide for advances prior to full execution of the renewal contract received by OSC, advances appear to be paid only upon full execution of the renewal contract. NFPs are therefore continuing to provide services without the benefit of an advance payment or the ability to submit vouchers for reimbursement.

4. *State agencies should make use of multiyear contracts, when possible.*

In April 2008, OSC issued Guidance Bulletin G-231, which provides guidance on the utilization of multiyear contracts. This has resulted in 19 State agencies adopting the multiyear contracting approach for approximately 82 programs.

5. *State agencies should adhere to the Prompt Contracting Law requirements for issuing written directives for renewal contracts.*

According to OSC records, 94 written directives were received by OSC for new contracts and 190 were received for renewal contracts.

6. *In order to avoid missing the prompt contracting time frames, State agencies should: start their grant procurement planning process early; look at contract term cycles; not use April 1st as a start date; and establish reasonable payment schedules.*

According to OSC records of grant contracts with NFPs received during the report period, 27 percent of them have an April 1st start date. Eighty-three percent of these contracts were approved after the April 1st start date. It should also be noted that in the review of contract language, OSC found that many State agencies do not state clear payment terms. Efforts have been made to assist State agencies in improving payment term language.

7. *The reconstituted Not-for-Profit Contracting Advisory Committee should begin meeting immediately to review these recommendations, along with any additional recommendations of the grant-making agencies.*

The Not-for-Profit Contracting Advisory Committee met twice in 2008. Presentations were made by: the Division of the Budget (DOB) on the Financial Management System design and its potential impact on contracting practices of the State agencies; the Senate Fiscal Committee on bottlenecks affecting timely processing of legislative initiative grants; State agencies on their contract automation initiatives and use of multiyear contracts and fifth quarter payments; and OSC on the preapproval process for grant procurements and suggestions for speeding the process. Discussions included: the purpose of the Advisory Committee; the 2007 amendments to the Prompt Contracting Law; and the identification of key issues for future action.

VIII. Prompt Contracting Report Recommendations for 2009

In a continuing effort to promote compliance with Article XI-B and to reduce late contracting, OSC has written regulations that will help to clarify the intent of the Prompt Contracting Law. The proposed regulations will implement a procedure for calculating the amount of interest due to a NFP pursuant to Article XI-B. In addition, Comptroller DiNapoli makes the following recommendations:

1. Agency heads must make timely NFP contracting a high priority, and ensure sufficient resources are available to allow for contracts to be approved prior to their start dates.
2. The Not-for-Profit Contracting Advisory Committee should continue to meet regularly to review these recommendations, along with any additional recommendations of the grant-making agencies.
3. The Office of Technology and the Division of the Budget should ensure that future State agency Financial Management Systems (FMS) are designed to assist State agencies in the timely execution and reporting of grant contracts, as required by the Prompt Contracting Law.
4. State agencies should work to clarify and simplify contract submission instructions for NFPs through increased outreach and guidance. OSC is available to assist in this effort.
5. State agencies should document common mistakes made by providers during the contracting process. These mistakes should be studied so that solutions can be implemented.
6. State agencies should make greater use of the provision of the statute allowing for the suspension of the time frames when appropriate.
7. State agencies should choose start dates for grant contracts that are later than April 1st, so that the processing of contracts is not affected by the timeliness of the State budget.
8. State agencies should ensure NFP grant contract language includes clear payment terms.
9. State agencies should provide OSC with notification letters indicating their intent to renew or terminate contracts, as required by the statute.

Appendix A

Prompt Contracting Report Instructions Covering Not-For-Profit (NFP) Grant Contracts with Start Dates of January 2, 2008 through January 1, 2009

Instructions for Completion

For compliance and reporting purposes, this report should contain the following information by column:

- Column 1** Enter name of the Grant Program and if your agency has Legislative Initiatives, create an entry entitled Legislative Initiatives. If you have more than one reportable Grant program (i.e., Child Care, Youth Center Services, Meals on Wheels), report each program separately.
- Column 2** Enter by Grant Program the total number of new and renewal NFP contracts (renewals for Grant Programs only, **Legislative Initiatives do not get renewed**) that had start dates of January 2, 2008 through January 1, 2009 and are subject to the Prompt Contracting Law.
- Column 3** Enter by Grant Program/Legislative Initiative, the total number of new and renewal NFP contracts (renewals are for Grant Programs only, not Legislative Initiatives) meeting legislated timeframes.
- Column 4** Enter by Grant Program/Legislative Initiative, the total number of new and renewal NFP contracts (renewals are for Grant Program contracts only) that were not approved by contract start or renewal dates.
- Column 5** By program, divide the results of column 4 for both new and renewal NFP contracts by the number of new and renewal NFP contracts in Column 2 and enter the result here.
- Column 6** Of the number of NFP contracts in Column 4, enter by program how many of the new and renewal NFP contracts did not receive an advance or initial payment by the first scheduled payment date within the contract. If the number in Column 6 is 0 (which indicates that all late NFP contracts received payment on time), there is no potential interest liability.
- Column 7** Enter by Grant Program/Legislative Initiative only the number of new and renewal NFP contracts (renewals are for Grant Program contracts only, not Legislative Initiatives) which were included in column 6 and were paid interest.
- Column 8** Enter by Grant Program/Legislative Initiative the total amount of paid interest for both the new and renewal NFP contracts (renewals are for Grant Program contracts only) noted in column 7.
- Column 9** Please enter by program appropriate explanations for Column 4 NFP contracts that were not approved by the start or renewal dates. You should choose the most prevalent reason for why most of the contracts were late.

AGENCY REPORTED DATA

1	2	3	4	5	6	7	8	9
Grant Program/Legislative Initiative	Total NFP Grant Contracts	Total NFP Grant Contracts Meeting Time Frames	Total NFP Grant Contracts Not Approved by the Start or Renewal Dates	% of NFP Grant Contracts Not Approved by the Start or Renewal Dates	Number of Column 4 NFP Grant Contracts Potentially Interest Eligible	Number of NFP Grant Contracts Where Interest was Paid	Total Interest Reported	Explain Why NFP Contracts Were Not Approved by the Start or Renewal Dates (select the primary reason)
NEW								
RENEWAL								

Appendix B

State Agencies Providing Reporting Information for the Prompt Contracting Annual Report – Calendar Year 2008

Agency Name	Number of Not-For-Profit Contracts (Total)	Number of Not-for-Profit Contracts (New)	Number of Not-for-Profit Contracts (Renewals)
Children & Family Services, Office of	3,285	2,912	373
Health, Department of	1,270	475	795
Education, Department of	1,875	1,679	196
Mental Retardation & Developmental Disabilities, Office of	723	117	606
State, Department of	1,061	1,061	0
Mental Health, Office of	494	104	390
Parks, Recreation and Historic Preservation, Office of	98	98	0
Housing and Community Renewal, Division of	93	93	0
Arts, Council on the	318	318	0
Agriculture and Markets, Department of	273	199	74
Labor, Department of	123	118	5
Criminal Justice, Division of	283	283	0
Crime Victims Board	149	29	120
Temporary and Disability Assistance, Office of	226	220	6
Economic Development, Department of	101	101	0
Alcoholism & Substance Abuse Services, Office of	183	183	0
State University of New York Administration	50	38	12
New York State Foundation for Science, Technology and Innovation	52	52	0
Aging, Office for the	633	581	52
Motor Vehicles, Department of	51	51	0
Homeland Security, Office of	62	62	0
Probation and Correctional Alternatives, Division of	31	14	17
Corrections, Department of	3	3	0
Parole, Division of	6	0	6
Commission on Quality of Care and Advocacy for Persons with Disabilities	16	16	0
Prevention of Domestic Violence, Office for the	9	8	1
Interest on Lawyer Accounts	144	144	0
Transportation, Department of	9	9	0
State Emergency Management Office	2	1	1
Environmental Conservation, Department of	142	142	0
TOTALS:	11,765	9,111	2,654

Appendix C

Background of the Prompt Contracting Law

Chapter 166 of the Laws of 1991 added Article XI-B (the Prompt Contracting Law) to the State Finance Law to promote prompt contracting with NFPs. A key objective of the Prompt Contracting Law is to expedite the contract process and corresponding payments to NFPs so that service interruptions and financial hardships for these organizations are avoided. More specifically, the Prompt Contracting Law sets specific time frames for the execution of grant contracts and related documents; provides for written directives to authorize contractors to begin or to continue to provide services; allows State agencies to waive interest payments under certain conditions and provides for advance and loan payments to NFPs when those time frames cannot be met; and requires interest payments to NFPs when contract payments are late due to untimely processing of contracts when no advance or loan payment was provided.

Chapter 648 of the Laws of 1992 made several changes to Article XI-B. The 1992 revisions provided more reasonable time frames for processing legislative initiative contracts and other contracts with NFPs which have been identified for a State agency without the use of a request for proposals; eliminated interest penalties for contracts executed and funded in whole or in part for services rendered in a prior fiscal year; and limited the total amount of time a State agency may suspend time frames to no more than four and one-half months in any fiscal year.

Chapter 292 of the Laws of 2007 added further amendments to Article XI-B. The 2007 amendments: prohibit State agencies from requiring NFPs, as a prerequisite for the execution of a contract, to waive claims for interest that would otherwise be due; provide that a contract is automatically deemed to continue and remain in effect when a State agency does not timely notify an NFP of its intent to terminate the contract; require that any waiver of interest be subject to OSC approval, and provide for the calculation and payment of interest to NFPs when OSC deems a waiver of interest to be unwarranted; require State agencies to report prompt contracting information to OSC for inclusion in annual reports; and expand the Not-for-Profit Contracting Advisory Committee to 16 members, require meetings at least quarterly, and expand the scope of the Committee's responsibility.