

# STATE OF NEW YORK

7001

2025-2026 Regular Sessions

## IN SENATE

March 28, 2025

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

AN ACT to amend the state finance law, in relation to contracting between state agencies and not-for-profit organizations; and to repeal subdivision 7 of section 179-v of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 9 and 14 of section 179-q of the state finance  
2 law, as added by chapter 166 of the laws of 1991, are amended to read as  
3 follows:

4 9. "Renewal contract" means the documents necessary to continue in  
5 effect an existing contract between a state agency and not-for-profit  
6 organization, including any simplified contract documents in a form  
7 approved by the office of the state comptroller. "Renewal contract"  
8 shall also include any new contract between a state agency and a not-  
9 for-profit organization to provide the same or similar services as were  
10 provided by such not-for-profit organization to the state agency under a  
11 previously approved contract. Similar services are services that are  
12 comparable to those provided in a prior executed contract from the same  
13 agency.

14 14. "Written directive" means a written request by a state agency to a  
15 not-for-profit organization authorizing such organization either to  
16 begin providing services during the negotiation of a contract or to  
17 continue providing services during the negotiation of a renewal  
18 contract. All written directives shall include a schedule for  
19 submission of invoices for work completed by the not-for-profit organ-  
20 ization and the state agency's scheduled payment dates for submitted  
21 invoices. All written directives shall state that payment for the  
22 services provided is subject to the availability of appropriations,  
23 execution of either the contract or renewal contract, and approval of  
24 the contract or renewal contract by the comptroller and the attorney

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD10809-02-5

1 general. All written directives shall also include instructions on how  
2 to access the not-for-profit short-term revolving loan fund pursuant to  
3 section one hundred seventy-nine-z of this article.

4 § 2. Subdivision 1 of section 179-s of the state finance law, as added  
5 by chapter 166 of the laws of 1991, is amended and a new subdivision 4  
6 is added to read as follows:

7 1. A state agency shall have not more than one hundred fifty days  
8 following the latest date on which any of the appropriations covered by  
9 the program plan become law to execute contracts with not-for-profit  
10 organizations pursuant to the program plan. Upon execution of each  
11 contract by the state agency and the not-for-profit organization, the  
12 contract shall immediately be delivered to the attorney general for  
13 approval. The attorney general shall within fifteen days of receipt  
14 either approve such contract or disapprove and return the contract to  
15 the state agency with reasons therefor. Upon approval, the contract  
16 shall be delivered to the comptroller who shall within fifteen days of  
17 receipt either approve and file such contract or disapprove and return  
18 the contract to the state agency with [~~his~~] such comptroller's reasons  
19 therefor.

20 4. When a state agency deems it necessary for a not-for-profit organ-  
21 ization to commence the provision of services prior to full execution of  
22 a new, renewal, or extension contract and issues a written directive to  
23 the not-for-profit organization requesting the commencement of such  
24 services, the written directive shall provide a schedule and procedure  
25 for the not-for-profit organization to receive payment for work  
26 performed, including a commencement date for services that the state  
27 agency is requesting, a schedule and procedure for the not-for-profit  
28 organization to submit invoices to the state agency for work performed,  
29 and a schedule under which the not-for-profit organization can expect  
30 payment from the state agency. All late payments shall be subject to  
31 interest pursuant to section one hundred seventy-nine-v of this article.

32 § 3. Section 179-u of the state finance law, as added by chapter 166  
33 of the laws of 1991, is amended to read as follows:

34 § 179-u. Advance payments. 1. When a state agency administering a  
35 contract enters a new, renewal or extension contract with a not-for-pro-  
36 fit organization, the agency shall provide within thirty days of execut-  
37 ing the contract an automatic advance payment of an amount equal to  
38 twenty-five percent of the total award to cover expenses incurred and  
39 services provided in the first quarter. Recoupment of such advances  
40 shall be recovered in the final quarter of the contract through a recon-  
41 ciliation with the final voucher of the contract. If the total amount  
42 submitted in the voucher for the final quarter of the contract is less  
43 than the advance payment, the not-for-profit organization shall return  
44 the amount of the difference between the advance and the final voucher  
45 to the agency within ninety days of the end of the contract.

46 2. When a state agency administering a contract shall advise the not-  
47 for-profit organization of the agency's intention to renew the contract,  
48 the not-for-profit organization[ ~~may~~] shall, upon receipt of a written  
49 directive, be entitled to an advance payment of an amount equal to twen-  
50 ty-five percent of the total award to cover expenses incurred and  
51 services provided in the first quarter pending execution of the renewal  
52 contract if such contract is not fully executed by the commencement date  
53 of the succeeding contract; the written directive shall specifically set  
54 forth the dollar amount and the period of time covered by the advance  
55 payment. Such advance payment shall offset future payments due to the  
56 organization for services provided during the term of the prospective

1 renewal contract and shall not exceed the maximum contract amount set  
2 forth in said renewal contract. If the contract has not yet been  
3 executed by the end of each subsequent quarter, then additional advances  
4 equal to twenty-five percent of the total award shall be made within  
5 fourteen days of the commencement of each subsequent quarter.

6 [~~2.~~] 3. A state agency providing an advance of an amount equal to  
7 twenty-five percent of the total award payment pursuant to subdivision  
8 one of this section shall submit a written directive, a voucher and such  
9 other documents as may be required to the comptroller for approval.

10 4. When the full execution of a contract is delayed more than thirty  
11 calendar days, the state agency shall provide the not-for-profit organ-  
12 ization with a written directive along with an automatic advance payment  
13 of an amount equal to twenty-five percent of the total award to cover  
14 expenses incurred and services provided in the first quarter. The not-  
15 for-profit organization may request, and the agency shall provide, addi-  
16 tional advance payments when the full execution of a contract is  
17 delayed, at quarterly intervals, until such time the contract is fully  
18 executed. The written directive shall specifically set forth the dollar  
19 amount and the period of time covered by the advance payment of an  
20 amount equal to twenty-five percent of the total award. Such advance  
21 payment shall offset future payments due to the organization for  
22 services provided during the term of the prospective renewal contract  
23 and shall not exceed the maximum contract amount set forth in the  
24 renewal contract.

25 § 4. Subdivision 7 of section 179-v of the state finance law is  
26 REPEALED and subdivisions 1 and 2, as added by chapter 166 of the laws  
27 of 1991, are amended to read as follows:

28 1. A not-for-profit organization shall be entitled to interest  
29 payments pursuant to this section: (a) on those moneys that would be due  
30 under the terms of the contract [~~or~~], extension contract, renewal  
31 contract or written directive from the scheduled commencement date or  
32 the date the organization begins to provide services, whichever is  
33 later, until the date the payment is made under the contract [~~or~~],  
34 extension contract, renewal contract or written directive; or (b) if a  
35 not-for-profit organization borrows funds to provide services pursuant  
36 to a contract, extension contract, renewal contract or written directive  
37 by a state agency, provided however that a not-for-profit organization  
38 may only receive interest payments on such funds when such not-for-pro-  
39 fit organization [~~has received a written directive but has been denied~~  
40 ~~payment pursuant to section one hundred seventy-nine-u of this article~~  
41 ~~or~~] did not obtain a loan from the not-for-profit short-term revolving  
42 loan fund. All interest due and owing shall be paid in full with the  
43 first payment made to a not-for-profit organization under a contract,  
44 extension contract or renewal contract.

45 2. Such organizations shall receive such interest payments at a rate  
46 equal to the [~~rate set by the commissioner of taxation and finance for~~  
47 ~~corporate taxes pursuant to paragraph one of subsection (c) of section~~  
48 ~~one thousand ninety-six of the tax law~~] current prime interest rate.  
49 The commissioner of taxation and finance, on a quarterly basis, shall  
50 communicate the current prime interest rate in effect to the comptroller  
51 and all state agencies and not-for-profit organizations currently under  
52 contract, extension contract, renewal contract, or written directive.  
53 The commissioner of taxation and finance shall also publish the current  
54 applicable prime interest rate prominently on the department of taxation  
55 and finance's website. In order for a state agency to approve  
56 reimbursement of a not-for-profit organization at a rate other than the

1 interest rate stated in this section the not-for-profit organization  
2 shall submit documentation indicating the rate at which such funds were  
3 borrowed, the lender of such funds and any other information requested  
4 by the state agency, attorney general or the comptroller. The comp-  
5 troller may disallow such portions of the interest that the comptroller  
6 deems unreasonable.

7 § 5. Subdivisions 1 and 4 of section 179-z of the state finance law,  
8 as added by chapter 166 of the laws of 1991, are amended and a new  
9 subdivision 5 is added to read as follows:

10 1. The state comptroller is authorized to provide loans from the not-  
11 for-profit short-term revolving loan fund established by section nine-  
12 ty-seven-jj of this chapter to any not-for-profit organization in  
13 receipt of a written directive from a state agency. The state comp-  
14 troller may provide such a loan to a not-for-profit organization upon  
15 receipt of a written agreement providing reasonable assurances of repay-  
16 ment that is satisfactory to the comptroller. Such loan shall not bear  
17 interest and repayment of such loan may be prorated over the term of the  
18 expected or renewal contract, provided the term of the loan does not  
19 exceed one year. The amount of each such loan shall not exceed [~~one-half~~  
20 ~~of the first quarter~~] the full payment of the subject contract.

21 4. Any not-for-profit organization receiving a loan from the not-for-  
22 profit short-term revolving loan fund shall be ineligible [~~to receive~~  
23 ~~interest from a state agency, notwithstanding the provisions of section~~  
24 ~~one hundred seventy-nine-v of this article and shall be ineligible~~] to  
25 receive advance payments for the amount that they received in the loan,  
26 notwithstanding section one hundred seventy-nine-u of this article.

27 5. Instructions on how to access the not-for-profit short-term revolv-  
28 ing loan fund shall be provided to every not-for-profit organization  
29 that receives a written directive, contract, or renewal contract from a  
30 state agency. Such instructions shall also be posted in a conspicuous  
31 manner on the websites of the state comptroller and the New York State  
32 Nonprofit Unit.

33 § 6. Section 179-aa of the state finance law, as amended by chapter  
34 672 of the laws of 2019, is amended to read as follows:

35 § 179-aa. Advisory committee. There is hereby established a not-for-  
36 profit contracting advisory committee. The advisory committee shall  
37 consist of sixteen members which shall include eight appointed members,  
38 four to be appointed by the governor who shall be representatives of  
39 not-for-profit organizations providing services in the state, and two  
40 each to be appointed by the governor upon recommendation of the tempo-  
41 rary president of the senate and speaker of the assembly, and eight ex  
42 officio members of the committee, one each designated from the division  
43 of the budget, the department of law, the office of the state comp-  
44 troller, and the education department. The governor shall also designate  
45 four members from among the following agencies: the department of state,  
46 the office of children and family services, the office of temporary and  
47 disability assistance, the department of health, the office of mental  
48 hygiene, the office for people with developmental disabilities, and the  
49 department of labor. The governor shall designate an appointee to serve  
50 as chair of the committee. The advisory committee shall meet at least  
51 quarterly and [~~upon its own initiative may~~] shall: comment and report  
52 on the implementation and operation of the not-for-profit short-term  
53 revolving loan fund; advise the governor, comptroller, legislature,  
54 attorney general and state agencies on the implementation and operation  
55 of this article; evaluate the benefits of requiring all state agencies  
56 to use standard contract language and the extent to which standard

1 language may be effectively included in contracts with not-for-profit  
2 organizations; evaluate and provide feedback on improvements to the  
3 statewide financial system; review annually the report of the office of  
4 the state comptroller made pursuant to section one hundred seventy-nine-  
5 bb of this article; and propose any legislation they deem necessary to  
6 improve the fund and this article. The committee shall report to the  
7 comptroller's office, the office of the attorney general, the governor  
8 and the legislature with recommendations on improving the contracting  
9 procedures with not-for-profit organizations which receive state funds  
10 through the intermediary of municipalities. Such reports shall be due  
11 annually not later than December first, and shall be made available to  
12 the general public, including a conspicuous posting on the website of  
13 the New York State Nonprofit Unit.

14 § 7. Subdivision 3 of section 179-ee of the state finance law, as  
15 added by section 38 of part L of chapter 55 of the laws of 2012, is  
16 amended and two new subdivisions 4 and 5 are added to read as follows:

17 3. A modification to a contract that would result in a transfer of  
18 funds among program activities or budget cost categories but does not  
19 affect the amount, consideration, scope or other terms of such contract  
20 shall not, by itself, require such contract and modification to be  
21 submitted to the comptroller for review; provided, however, where the  
22 amount of such modification is, as a portion of the total value of the  
23 contract, equal to or greater than ten percent for contracts of less  
24 than five million dollars, or five percent for contracts of more than  
25 five million dollars, the comptroller may require that such modification  
26 be submitted to [~~him or her~~] such comptroller for review. All modifica-  
27 tions that do not require comptroller review shall be approved within  
28 thirty days, and all modifications that require comptroller review shall  
29 be approved within sixty days. A failure by the agency to respond to a  
30 request for modification during the time period shall be deemed an  
31 approval of the proposed modification. When a contractor submits their  
32 final vouchers or invoice, if such voucher or invoice would result in a  
33 modification between budget categories of, as a portion of the total  
34 value of the contract, equal to or lesser than ten percent for contracts  
35 of less than five million dollars, or five percent for contracts of more  
36 than five million dollars, then the agency shall consider the voucher or  
37 invoice a request for contract modification and shall process the  
38 modification as such.

39 4. Notwithstanding any other provisions of this article, a minimum  
40 indirect cost rate of at least fifteen percent or the not-for-profit  
41 organization's federally-approved de minimis indirect cost rate or the  
42 not-for-profit organization's actual indirect costs related to allowable  
43 expenses under the contract, whichever is higher, shall be included in  
44 all not-for-profit organization contracts with state agencies. Indirect  
45 costs may be incurred at a higher rate than fifteen percent in any budg-  
46 eted period so long as the year-to-date indirect cost does not exceed  
47 fifteen percent at that time. Expenses including purchase of furniture,  
48 technology, and equipment, and expenses related to office space neces-  
49 sary for the program staff to perform their duties under the grant, and  
50 training and certification necessary to maintain credentials required to  
51 perform their duties under the grant, shall be considered direct  
52 expenses in all not-for-profit organization contracts.

53 5. Interest accrued due to borrowing funds to provide services pursu-  
54 ant to a written directive, contract, renewal contract or extension  
55 contract is a direct reimbursable cost under all not-for-profit  
56 contracts.

1 § 8. Paragraphs (a) and (e) of subdivision 2 and subdivision 3 of  
2 section 179-f of the state finance law, paragraphs (a) and (e) of subdivi-  
3 sion 2 as amended by chapter 36 of the laws of 2016 and subdivision 3  
4 as amended by chapter 568 of the laws of 2015, are amended to read as  
5 follows:

6 (a) the state comptroller in the course of [~~his or her~~] such comp-  
7 troller's audit determines that there is reasonable cause to believe  
8 that payment may not properly be due, in whole or in part;

9 (e) the goods or property have not been delivered or the services have  
10 not been rendered by the contractor in compliance with the terms or  
11 conditions of the contract, except that where the contractor presents an  
12 invoice of a subcontractor as proof of the cost and may pay subcontrac-  
13 tors upon receipt of payment on the invoice or voucher by the agency,  
14 proof of such payment by the contractor to the subcontractor shall be  
15 provided by the contractor to the state agency within thirty days of the  
16 receipt of the voucher payment;

17 3. Each state agency shall have fifteen calendar days after receipt of  
18 an invoice by the state agency at its designated payment office, or in  
19 the case of an invoice received from a small business, seven calendar  
20 days, to notify the contractor of (a) material defects in the delivered  
21 goods, property, or services, (b) material defects in the invoice, or  
22 (c) suspected improprieties of any kind[~~, and the~~]. The existence of  
23 such material defects or improprieties shall [~~prevent the commencement~~  
24 ~~of~~] pause the calculation of the time period specified in subdivision  
25 two of this section until such material defects or improprieties have  
26 been corrected. [~~When a state agency fails to notify a contractor of~~  
27 ~~such defects or suspected improprieties within fifteen calendar days, or~~  
28 ~~seven calendar days if such contractor is a small business, of receiving~~  
29 ~~the invoice, the number of days allowed for payment of the corrected~~  
30 ~~proper invoice will be reduced by the number of days between the~~  
31 ~~fifteenth day, or seventh day if payment of such proper invoice is for a~~  
32 ~~small business, and the day that notification was transmitted to the~~  
33 ~~contractor.] If the agency notifies the contractor of a material defect  
34 or impropriety that was present in the original invoice after the  
35 initial fifteen calendar days from when the invoice was originally  
36 submitted, then the time period specified in subdivision two of this  
37 section shall continue to run and shall not be affected by such notifi-  
38 cation. If the state agency, in such situations, fails to provide  
39 reasonable grounds for its contention that a material defect or impro-  
40 priety exists, the required payment date shall be calculated from the  
41 date of receipt of an invoice. Scrivener's errors or rounding errors  
42 that result in a variance of less than one hundred dollars shall not be  
43 considered material defects for the purposes of this section.~~

44 § 9. This act shall take effect on the one hundred eightieth day after  
45 it shall have become a law.