



July 24, 2023

VIA EMAIL

Tom P. DiNapoli
Comptroller, State of New York

Re: We request OSC publish, and update monthly, a list of executive orders and laws exempting state spending from Comptroller pre-audit review

Dear Comptroller DiNapoli,

We ask you to publish on your website a list of executive orders and laws currently in effect that exempt certain contracts and state spending from review by the Office of the State Comptroller (OSC).

To be truly useful to the public and public officials, we ask OSC to update this list monthly and include information on:

- the mechanism for suspending or removing oversight (executive order, budget appropriation, etc.);
- the specific law being exempted; and
- the duration of the exemption.

Our organizations advocated for years to restore the Office of the State Comptroller's power to review state contracts before they are signed, and we championed [legislation signed by the Governor in December 2022](#) and the [restoration of OSC review over specific appropriations in the state budget](#). Despite these improvements, the Governor retains broad authority to issue executive orders suspending OSC oversight. Additionally, the Governor and Legislature approve individual state budget appropriations that exempt certain state spending from review.

Multiple executive orders may be in effect at any given time and may be extended and/or amended, making it difficult for the public to track which exemptions are still in place. The Governor's Office provides the text of all executive orders [on its website](#), but it is laborious to determine whether orders have been extended, are in effect now, or when they expire. The [June 28, 2023 edition of the New York State Register](#) shows some of the information the executive branch currently provides, and reveals it is common for orders to be extended, but is also difficult to review. (See below our signatures for an excerpt from the State Register.)

We appreciate [your support](#) for legislation related to this, passed this session by the Senate and Assembly. This transparency bill ([A7404 \(Solages\)](#) / [S6941 \(Cooney\)](#)) requires state agencies to publish all contracts that are exempt from the Comptroller's oversight online. Much of this exempt spending occurs during emergencies, when government spending and procurement is based in a crisis atmosphere with little oversight or review. The bill also requires agencies to explain why a contract is exempt and, for noncompetitive contracts, explain why competitive bidding was not used.

We believe this bill will be vastly more effective if the Comptroller's Office publishes a list of current executive orders and laws that suspend your pre-audit review. This will allow local governments, legislators, journalists, watchdog groups and the general public to better understand what pre-audit and competitive procurement exemptions agencies should be reporting.

Should you wish to discuss this request and ways to implement it, we would welcome the opportunity to have a meeting with your staff.

Sincerely,

John Kaehny
Executive Director
Reinvent Albany

Laura Ladd Bierman
Executive Director
League of Women Voters of NYS

Betsy Gotbaum
Executive Director
Citizens Union

Blair Horner
Executive Director
New York Public Interest Research
Group

Susan Lerner
Executive Director
Common Cause/NY

Executive Orders

- 113 / Executive Order No. 3.17: Continuing the Declaration of Disaster Emergency
- 113 / Executive Order No. 3.18: Continuing the Declaration of Disaster Emergency
- 113 / Executive Order No. 3.19: Continuing the Declaration of Disaster Emergency
- 113 / Executive Order No. 3.20: Continuing the Declaration of Disaster Emergency
- 113 / Executive Order No. 4.18: Continuing the Declaration of a Statewide Disaster Emergency Due to Healthcare Staffing Shortages in the State of New York
- 114 / Executive Order No. 4.19: Continuing the Declaration of a Statewide Disaster Emergency Due to Healthcare Staffing Shortages in the State of New York
- 114 / Executive Order No. 4.20: Continuing the Declaration of a Statewide Disaster Emergency Due to Healthcare Staffing Shortages in the State of New York
- 114 / Executive Order No. 4.21: Continuing the Declaration of a Statewide Disaster Emergency Due to Healthcare Staffing Shortages in the State of New York
- 114 / Executive Order No. 5.18: Continuing the Temporary Suspension and Modification of Laws Related to the Disaster Emergency in the Counties of the Bronx, Kings, New York, Richmond and Queens Due to Conditions at Rikers Island Correctional Center
- 115 / Executive Order No. 5.19: Continuing the Temporary Suspension and Modification of Laws Related to the Disaster Emergency in the Counties of the Bronx, Kings, New York, Richmond and Queens Due to Conditions at Rikers Island Correctional Center
- 115 / Executive Order No. 5.20: Continuing the Temporary Suspension and Modification of Laws Related to the Disaster Emergency in the Counties of the Bronx, Kings, New York, Richmond and Queens Due to Conditions at Rikers Island Correctional Center
- 115 / Executive Order No. 5.21: Continuing the Temporary Suspension and Modification of Laws Related to the Disaster Emergency in the Counties of the Bronx, Kings, New York, Richmond and Queens Due to Conditions at Rikers Island Correctional Center
- 115 / Executive Order No. 27: Declaring a Disaster Emergency in the Counties of Albany, Broome, Cayuga, Chenango, Columbia, Cortland, Delaware, Dutchess, Essex, Fulton, Greene, Hamilton, Herkimer, Lewis, Madison, Montgomery, Oneida, Onondaga, Ontario, Orange, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Yates, and Contiguous Counties
- 116 / Executive Order No. 28: Declaring a Disaster Emergency in the State of New York
- 117 / Executive Order No. 28.1: Declaring a Disaster Emergency in the State of New York