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To: ALL DEPARTMENT AND AGENCY HEADS

From: Patricia A. Woodworth

Subject: Prompt Contracting for Not-For-Profit Organizations

This bulletin is intended to reiterate certain aspects of Article XI-B of the State Finance Law, "Prompt Contracting and Interest Payments for Not-For-Profit Organizations." These requirements apply only to Not-For-Profit organizations as defined in Section 179-q (7) of Article XI-B.

Article XI-B, enacted in 1991 and subsequently amended in 1992, establishes procedures and time frames regarding contract execution with Not-For-Profit organizations. The purpose of this Article is both to reduce the likelihood of interruption in health, education and welfare services provided by these organizations and to protect their financial viability by executing contracts in a timely manner and rendering payment for services promptly.

State agencies must review this Article, in its entirety, to ensure full compliance with the law. Outlined below are certain key provisions of the Prompt Contracting Law that are of particular importance to timely processing of contracts.

Program Plans

State agencies are required to submit Not-For-Profit program plans, as defined in Section 179-q (6) of Article XI-B, to the Division of the Budget, the Senate Finance Committee and the Assembly Ways and Means Committee not more than 45 days following the latest date on which any of the appropriations covered by the program plans becomes law.

State agency program plans should be concise but must meet all the specifications of Section 179-q (6) of the Article.

Certificates of Approval

The Division of the Budget is required to issue a certificate of approval for each item of appropriation for a Not-For Profit organization in a State agency's program plan not more than 90 days following the latest date on which any of the appropriations covered by the program plan becomes law.

Execution of New Contracts

Non-Federal Funds:

- State agencies are required to execute new contracts with Not-For-Profit organizations pursuant to their program plans not more than 120 days following the latest date on which any of the appropriations covered by the program plans becomes law, if a request for proposal (RFP) is not the contracting method used. State agencies have 150 days if an RFP is the contracting method used for a Not-For-Profit contract.

Federal Funds:

- The time frames for a State agency's execution of a contract with a Not-For-Profit organization financed through federal funds commence with the date of notification to a State agency of receipt of federal funds, **or** the completion of any required federal or court review or approval process, whichever is applicable.

Attorney General and State Comptroller Contract Approval:

- State agencies are required to forward Not-For-Profit contracts first to the Attorney General, who has 15 days from their receipt to either approve or disapprove the Not-For-Profit contracts.
- Not-For-Profit contracts, approved by the Attorney General, are then sent to the State Comptroller, who has 15 days from their receipt to either approve or disapprove the Not-For-Profit contracts.

Time Frames for Certain Not-For-Profit Contracts

The time frames for completing contracts with Not-For-Profit organizations which are to receive funding as the result of legislative initiatives being included in the enacted Budget start on the date on which such Not-For-Profit organization is identified.

Except for contracts funded through lump sum appropriations (in which case the Division of the Budget provides necessary identification), State agencies should contact the respective legislative fiscal committees to obtain forms which identify the intended organization. This identification should include, at a minimum, the organization's legal name, address, telephone number and contact person.

Once the Not-For-Profit organization has been identified, State agencies have not more than 120 days to complete the Not-For-Profit contract and submit it for approval to the Attorney General and, in turn, the State Comptroller. The Attorney General and State Comptroller complete the approval process within one month, for a total time frame of five months from identification.

Interest Payments

State agencies should note that Not-For-Profit organizations may be entitled to interest payments under certain circumstances (e.g., a missed contract payment date) as specified in Section 179-v of Article XI-B. However, this Section also provides that State agencies and Not-For-Profit organizations, under certain conditions, may mutually agree to waive any interest owed to the Not-For-Profit organization.

Further Guidance

In addition to the above mentioned items, Article XI-B contains sections dealing with areas such as renewal contracts, reporting requirements and short-term revolving loans regarding Not-For-Profit organizations. State agencies must be aware of and adhere to all sections of the law.

State agencies also should refer to the applicable OSC Accounting Bulletins for guidance regarding procedural requirements and interest payments as they apply to Not-For-Profit contracts.

This bulletin supersedes Budget Bulletin B-1126, issued May 5, 1992 and Budget Bulletin B-1131, issued December 8, 1992.

Questions regarding this bulletin may be directed to your budget examiner.