

EXECUTIVE ORDERS

Executive Order No. 168.20: Continuing the Declaration of a Disaster Emergency in the Five Boroughs of New York City and the Counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester that Incorporate the MTA Region in the State of New York.

WHEREAS, pursuant to Executive Order No. 168, a disaster has heretofore been declared in the five boroughs of New York City and the Counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester that incorporate the Metropolitan Transportation Authority (MTA) Region in the State of New York due to increasingly constant and continuing failures of the tracks, signals, switches and other transportation infrastructure throughout the system including at Pennsylvania Station located in the County of New York (Penn Station), that have resulted in various subway derailments, extensive track outages, and substantial service disruptions impacting the health and safety of hundreds of thousands of riders;

WHEREAS, the ongoing failures of the tracks, signals, switches and other transportation infrastructure throughout the MTA's rail and subway system continue to pose an imminent threat and have a vast and deleterious impact on the health, safety, and livelihood of commuters, tourists, resident New Yorkers, as well as business and commerce in the Metropolitan Commuter Transportation District (MCTD), which is the recognized economic engine of the State of New York, and thereby have adversely affected the New York State economy;

WHEREAS, the track outages and service disruption necessary to implement the Amtrak Repair Program, and other repairs necessary to fix tracks, signals, switches and other transportation infrastructure throughout the MTA's rail and subway system continue to be necessary to protect the public, health and safety of commuters, tourists, resident New Yorkers, and will continue to worsen the transportation disaster emergency that currently exists due to the condition of Penn Station and the MTA's rail and subway system as a whole; and,

WHEREAS, it continues to be necessary for the MTA and its subsidiaries and affiliates to take significant and immediate action to assist in the repair of the tracks, signals, switches and other transportation infrastructure and in the mediation of such track outages and service disruptions due to this disaster emergency;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby extend the state disaster emergency declared pursuant to Executive Order No. 168 and extend all of the terms, conditions, and directives of Executive Order No. 168 and the terms, conditions, and directives for any extensions of the same for the period from the date that the disaster emergency was declared pursuant to Executive Order No. 168 until February 11, 2019; provided that the temporary suspension of any laws, rules, regulations or guidelines pursuant to this and any future extensions of Executive Order 168 shall apply to the extent the Chairman of the MTA or his designee, which shall only include the MTA's President or Managing Director, determines it necessary for the purposes of awarding any contracts, leases, licenses, permits or any other written agreement that may be entered into to mitigate such disaster emergency.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twelfth day of January in the year two thousand nineteen.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

Executive Order No. 188.5: Extending the Protection of School Children From Speeding Vehicles in School Zones Within the City of New York.

WHEREAS, in 2013 I signed into law Chapter 189 of the Laws of 2013, codified at N.Y. Vehicle and Traffic Law § 1180-b, to develop a system to advance school zone highway safety by use of camera technology to record and enforce speeding violations;

WHEREAS, in 2014, I signed into law an amendment to the above-referenced law authorizing the deployment of speed cameras in 140 school zones throughout the City of New York;

WHEREAS, the New York State Senate adjourned the 2018 legislative session without having acted to extend the aforementioned laws, and has yet to return to act on the same, which, without necessary emergency action taken by the NYC Council, NYC Mayor and the Executive, would have ended a program that has demonstratively and successfully protected school children, families and educators through the use of camera technology to record and enforce speeding violations in school zones;

WHEREAS, it is unacceptable to place school children at risk of serious physical harm and death in the very same places where they are to be educated, cared for, and protected, and that such school children have the right to safely access schools for the purposes of education and enrichment;

WHEREAS, based upon the foregoing, the New York State Police and the New York State Department of Transportation believe that the termination of New York City's speed camera program would result in an eminent disaster emergency that places at risk the health and safety of school children, parents, educators, school employees and volunteers within the City of New York, as well as other pedestrians, and will result in a needless increase in pedestrian fatalities and serious injuries;

WHEREAS, New York City schools are now open and have thus experienced a dramatic increase in the number of children and pedestrians in their zones; and

WHEREAS, the Mayor of New York and City Council have taken actions evidencing the local government's belief that children are in imminent danger and that a public safety emergency exist without this respective program.

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, do hereby extend the state of disaster emergency declared pursuant to Executive Order No. 188 and extend all of the terms, conditions, and directives of Executive Order No. 188 for the period from the date that the disaster emergency was declared pursuant to Executive Order No. 188 until February 18, 2019.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this nineteenth day of January in the year two thousand nineteen.

BY THE GOVERNOR
/S/ Andrew M. Cuomo
/s/ Melissa DeRosa
Secretary to the Governor

Executive Order No. 192: Executive Order Imposing Continuing Vendor Integrity Requirements in State Contracts.

WHEREAS, New York State, through its agencies and authorities, contracts with a wide variety of vendors, suppliers, service firms, and other contractors to construct public works and obtain goods, services, and technology in various capacities;

WHEREAS, it is imperative that the State conduct business only with responsible entities to ensure that taxpayer dollars are not paid to entities or individuals that lack integrity, are incapable of providing satisfactory performance, or fail to comply with existing laws;

WHEREAS, New York law and public policy have long required that entities wishing to bid for State contracts be found to be responsible at the time of contract award by demonstrating that they have the requisite financial and organizational capacity, legal authority, and integrity (of both the entity and its principals), and, where appropriate, have shown satisfactory performance on prior government contracts;

WHEREAS, State agencies and authorities currently have the ability to debar or deem ineligible for future bidding any contractors, vendors, or grantees that have violated certain statutory provisions, which include, but are not limited to, violations of Labor Law Article 8 and 9 for the willful and intentional failure to pay the prevailing rate of wages; violations of Labor Law Article 25-B (Construction Industry Fair Play Act) and Labor Law Article 25-C (Commercial Goods Transportation Industry Fair Play Act); being listed by the federal government as excluded from receiving federal contracts and certain subcontracts, assistance or benefits, pursuant to 48 C.F.R. Subpart 9-4; being convicted of a crime defined in Penal Law Article 200 (Bribery Involving Public Servants and Related Offenses), Article 496 (Corrupting the Government), or § 195.20 (Defrauding the Government); being subject to a final assessment of civil fines or penalties or a stop-work order, or being convicted of a misdemeanor for violation of Workers Compensation Law §§ 26, 52, or 131; being the subject of a finding of fraudulent or intentional misrepresentation or willful and intentional disregard of the minority- and women-owned participation requirements on a project; and more; and

WHEREAS, the State's attention to vendor responsibility should not end with the contract award process, and State agencies and authorities should ensure that contractors, vendors, and grantees remain responsible throughout the term of the contracts and that such contractors, vendors, and grantees who are the subject of debarment or are found to be non-responsible are not able to bid on public procurements.

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order and direct as follows:

1. "State Entities" shall mean (i) all agencies and departments over which the Governor has executive authority and as defined in subdivision 3, section 2-a of the State Finance Law; and (ii) all public benefit corporations, public authorities, boards, and commissions for which the Governor appoints the Chair, the Chief Executive, or at least 50% of the Board Members.

2. "Contract" shall mean any contract, lease, grant or equivalent legal instrument.

3. State Entities are directed to evaluate - utilizing the existing vendor responsibility determination process - whether bidders are responsible, based in pertinent part upon the following factors: (i) financial and organization capacity; (ii) legal authority; (iii) integrity; and (iv) past performance. Moreover, State Entities are required to determine whether a contractor, vendor, or grantee has failed to comply with any statutory provisions relating to debarment.

4. If a State Entity discovers information that indicates a contractor, vendor, or grantee may not be responsible, may no longer be respon-

sible during the term of the contract, or be subject to debarment for violation of a statutory provision or provisions, the State Entity is directed, as applicable (i) to conduct an analysis, review, hearing, or investigation, which may include, but is not limited to, conducting a document review supplemented by interviews involving the questioning of the contractor, vendor, or grantee and their representatives; and (ii) to make a determination following such review, hearing or investigation.

5. All State Entities are required to maintain information on contractors, vendors, or grantees that have been deemed non-responsible or ineligible to bid on future contracts or grants and are directed to submit a list of such contractors, vendors, or grantees to the Office of General Services ("OGS") for posting on the OGS website within 5 days. This list should include the name of such contractor, vendor, or grantee, the date, and the basis of the determination, and shall be provided in a manner to be determined by OGS.

6. OGS is directed to post a list of the non-responsibility and debarment determinations on the OGS public website. Such names of debarred contractors, vendors, or grantees shall remain posted on the OGS website for the period designated in the relevant statutory provision allowing for such debarment. In all other cases, determinations shall remain on the list until OGS receives notice of a finding by a court of competent jurisdiction that the non-responsibility or debarment determination was in error or until such time as a waiver has been approved by the Counsel to the Governor, in a manner to be determined by OGS.

7. All State Entities and their state-approved directors must rely on the determination made by other State Entities in ascertaining the responsibility, ineligibility, or debarment of a contractor, vendor, or grantee in current and future procurements.

8. Any commissioner, agency or department head, or member of a board of directors of a State Entity who selects, absent an approved waiver, a contractor, vendor, or grantee, who has been deemed non-responsible, debarred, or otherwise ineligible shall be breaching their duty as a public officer and/or fiduciary duty as a board member.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this fifteenth day of January in the year two thousand nineteen.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

Executive Order No. 193: Declaring a Disaster in the Counties of Albany, Allegany, Bronx, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Kings, Lewis, Livingston, Madison, Monroe, Montgomery, Nassau, New York, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saint Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, and Yates.

WHEREAS, on January 19, 2019, and continuing thereafter, a severe winter storm is anticipated to impact New York State and poses an imminent danger to vital public transportation, utility service, public health, and public safety systems within the counties of Albany, Allegany, Bronx, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Kings, Lewis, Livingston, Madison, Monroe, Montgomery, Nassau, New York, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saint Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, and Yates.

WHEREAS, this winter storm is forecasted to produce snowfall amounts of up to 25 inches, at a rate of one to two inches per hour, wind gusts of up to 35 miles per hour, ice and freezing rain, and arctic temperatures with the potential to cause widespread power outages and road closures, travel disruptions, and damage to public and private property throughout the impacted areas, and therefore poses an immediate threat to the public health and safety.

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, do hereby find that a disaster is imminent for which the affected local governments are unable to respond adequately. Therefore, I hereby declare a State Disaster Emergency effective January 19, 2019 within the territorial boundaries of the counties of Albany, Allegany, Bronx, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Kings, Lewis, Livingston, Madison, Monroe, Montgomery, Nassau, New York, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saint Lawrence, Saratoga, Schenectady, Schoharie, Schuylar, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, and Yates. This Executive Order shall be in effect until February 2, 2019; and

FURTHER, pursuant to Section 29 of Article 2-B of the Executive Law, I direct the implementation of the State Comprehensive Emergency Management Plan and authorize, effective January 19, 2019, the State Office of Emergency Management, the Department of Health, the Department of Transportation, the Division of State Police, the Division of Military and Naval Affairs, the Department of Environmental Conservation, the Department of Corrections and Community Supervision, the Public Service Commission, the Office of Fire Prevention and Control, the Department of Labor, the Office of Parks, Recreation and Historic Preservation, the Office of General Services, the Thruway Authority, the Division of Homeland Security and Emergency Services, other State agencies as necessary, and the American Red Cross to take appropriate action to protect State property and to assist affected local governments and individuals in responding to and recovering from this disaster, and to provide such other assistance as necessary to protect the public health and safety.

FURTHER, I have designated Roger Parrino, Commissioner of the Division of Homeland Security and Emergency Services, as the State Coordinating Officer for this event.

IN ADDITION, this declaration satisfies the requirements of 49 C.F.R. 390.23(a)(1)(A), which provides relief from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations (FMCSR). Such relief from the FMCSR is necessary to ensure that snow removal crews can clear vital roadways and hasten the movement of utility power restoration crews into New York State.

FURTHER, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend specific provisions of any statute, local law, ordinance, orders, rules or regulations, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, hereby temporarily suspend, for the period from the date of this Executive Order through February 2, 2019, the following laws:

Section 38(1), (2) and (3) of the Highway Law and Article 4-C of the Economic Development Law, to the extent that the Commissioner of Transportation determines it necessary to authorize the award of emergency contracts and/or to combine design and construction services in contracts and to use such services when needed;

Section 97-G of the State Finance Law, to the extent that the Commissioner of General Services or the Commissioner of the Division of Homeland Security and Emergency Services determines it necessary to purchase food, supplies, services, and equipment or furnish or provide various centralized services, including but not limited to, building design and construction services to assist affected local governments, individuals, and other non-State entities in responding to and recovering from the disaster emergency;

Section 112 of the State Finance Law, to the extent consistent with Article V, Section 1 of the State Constitution, and to the extent that the Commissioner of Transportation, the Commissioner of General Services, or the Commissioner of the Division of Homeland Security and Emergency Services determines it necessary to add additional work, sites and time to State contracts, to award emergency contracts or award leases for relocation and support of State operations under Public Buildings Law Section 3, to award emergency contracts under Public Buildings Law Section 9, to award emergency contracts for professional services under Section 136-a of the State Finance Law, and to award emergency contracts for commodities, services, technology and materials pursuant to Section 163 of the State Finance Law;

Section 136-a of the State Finance Law, to the extent that the Commissioner of Transportation or the Commissioner of General Services determines it necessary to combine design and construction services in one contract and/or to obtain design and construction inspection services;

Section 163 of the State Finance Law and Article 4-C of the Economic Development Law, to the extent of allowing the Commissioner of Transportation, the Commissioner of General Services, or the Commissioner of the Division of Homeland Security and Emergency Services to purchase necessary commodities, services, technology and materials without following the standard notice and procurement processes;

Section 359-a and Section 2879 of the Public Authorities Law to the extent of allowing the New York State Thruway Authority to purchase necessary goods and services without following the standard procurement processes;

Sections 375, 385 and 401 of the Vehicle and Traffic Law, to the extent that exemption for vehicles validly registered in other jurisdictions from the vehicle registration, equipment, and dimension requirements is necessary to assist in disaster preparedness and recovery efforts; and

Part F of Chapter 60 of the Laws of 2015, and Chapter 59 of 2017 to the extent of allowing the Commissioner of Transportation or the Commissioner of General Services to award design-build and best value contracts without following the proscribed procurement process.

FURTHER, actions pursuant to this emergency necessary for the replacement, rehabilitation, or reconstruction of structures are Type II actions not subject to further review under Article 8 of the Environmental Conservation Law pursuant to 6 NYCRR Part 617.5(c)(33).

FURTHER, I hereby temporarily modify, for the period from the date of this Executive Order through February 2, 2019, the following laws:

Section 24 of the Executive Law; Sections 104 and 346 of the Highway Law; Sections 1602, 1630, 1640, 1650, and 1660 of the Vehicle and Traffic Law; Section 14(16) of the Transportation Law; Sections 6-602 and 17-1706 of the Village Law; Section 20(32) of the General City Law; Section 91 of Second Class Cities Law; Section 19-107(ii) of the New York City Administrative Code; and Section 107.1 of Title 21 of the New York Codes, Rules and Regulations, to the extent necessary to provide the Governor with the authority to regulate traffic and the movement of vehicles on roads, highways, and streets.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany this nineteenth day of January in the year two thousand nineteen.

BY THE GOVERNOR

/S/ Andrew M. Cuomo

/s/ Melissa DeRosa

Secretary to the Governor

