Office of Operations
2013 Fall Conference
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Back to Basics

State Authority Contract Reporting, Filing and Approval Requirements

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TODAY WE WILL REVIEW...

How to determine if a contract:

- Requires approval or filing
- Included on Annual Report

RESOURCES WE WILL USE...

- Public Authorities Law Section 2879a
- NYCRR Part 206
- Contract Submission Manual
- Annual Report Instructions

Available on OSC Website

http://www.osc.state.ny.us/pubauth/contracts.htm

PAL §2879-A

Authorizes the Comptroller to:

- Subject to Prior Written Notice
- Review and approve certain contracts
  - Exceed $1 million, <u>and</u>
  - Awarded non-competitively, <u>or</u>
  - Paid in whole or in part from monies appropriated by State

PAL §2879-A

Requires the Comptroller to:

- "File" certain Exempt Contracts

NYCRR PART 206

- Define Key Terms
- Annual Reporting Requirement
- Written Notice of Prior Approval Requirement
- Submission of Contracts for Approval
- Criteria for Comptroller's Approval
- Filing Requirements

KEY TERMS

- Contract

- Competitive Procurement

- Eligible Contract

- Eligible Contract Amendment

- Exempt Contract

- Exempt Contract Amendment

- Monies Appropriated by the State

DESIGNATED CONTACTS

- Every Authority must designate a Primary and Secondary Contact to receive Written Notices and other correspondence

- Authorities are encouraged to review Designated Contact information at least annually

- Notify OSC of changes:
  - On Annual Report Form, or
  - By Email

For All Authorities:

- New Eligible Contracts
  - Non-Competitively awarded Goods or Services
  - Amendments <u>thereto</u> valued at 10% or more of the original

For All Authorities:

- New Eligible Contracts
  - Member Items supported by the Community Projects Fund
  - Amendments <u>thereto</u> valued at 10% or more of the original
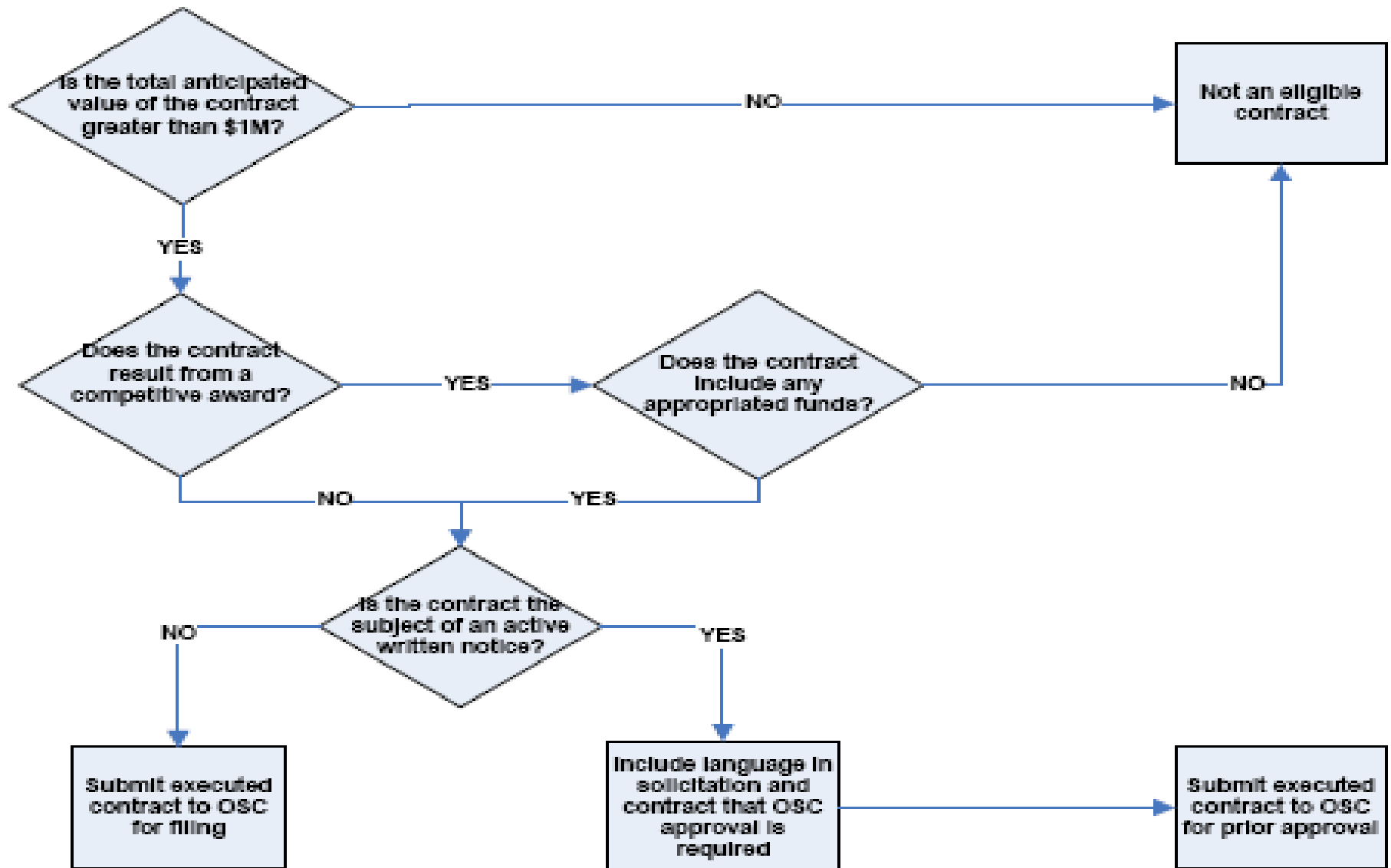
- Certain specific contracts
  - MTA
  - UDC
  - DASNY

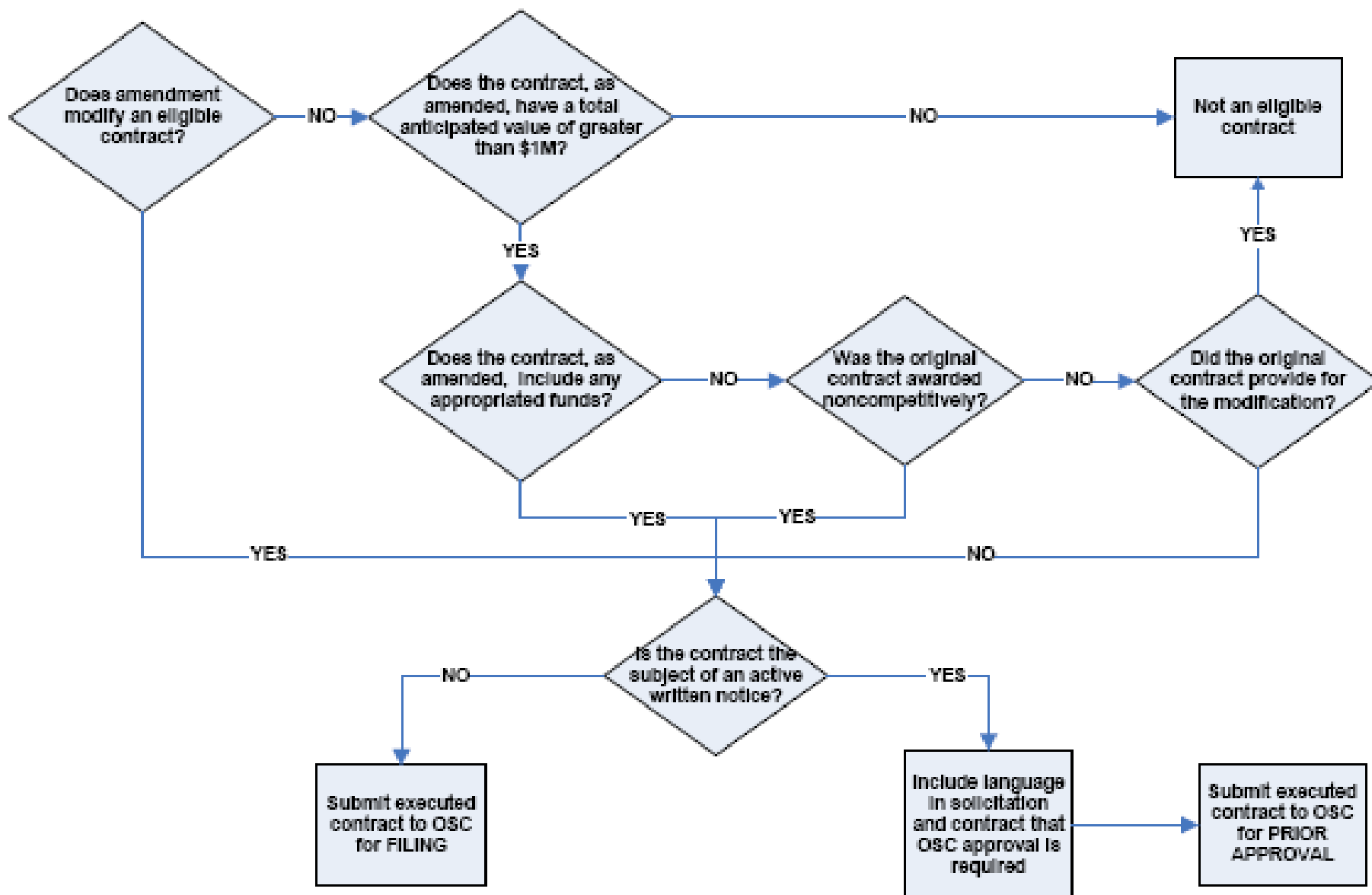Any Eligible Contract or Contract Amendment that is:

- NOT subject to a written notice, and
- NOT Exempt

Determining If a New State Authority Contract is Subject to OSC Filing or Prior Approval
For Contracts Executed after 3/1/2010
(Other Than Exempt Contracts)

```
┌─────────────────────────┐
│ Is the total anticipated│                    NO                    ┌──────────────────┐
│ value of the contract   │──────────────────────────────────────▶  │ Not an eligible  │
│ greater than $1M?       │                                          │ contract         │
└─────────────────────────┘                                          └──────────────────┘
            │ YES                                                              ▲
            ▼                                                                  │ NO
┌─────────────────────────┐        ┌─────────────────────────┐               │
│ Does the contract       │  YES   │ Does the contract        │     NO         │
│ result from a           │──────▶ │ include any              │────────────────┘
│ competitive award?      │        │ appropriated funds?      │
└─────────────────────────┘        └─────────────────────────┘
            │ NO                              │ YES
            └──────────────┬─────────────────┘
                           ▼
              ┌─────────────────────────┐
         NO   │ Is the contract the     │   YES
    ┌─────────│ subject of an active    │─────────┐
    │         │ written notice?         │         │
    │         └─────────────────────────┘         │
    ▼                                             ▼
┌──────────────────┐              ┌──────────────────┐         ┌──────────────────┐
│ Submit executed  │              │ Include language │         │ Submit executed  │
│ contract to OSC  │              │ in solicitation  │────────▶│ contract to OSC  │
│ for filing       │              │ and contract that│         │ for prior approval│
│                  │              │ OSC approval is  │         │                  │
│                  │              │ required         │         │                  │
└──────────────────┘              └──────────────────┘         └──────────────────┘
```

Determining If a New State Authority Contract Amendment is Subject to OSC Filing or Prior Approval For Amendments Executed after 3/1/2010 (Other Than Exempt Contract Amendments)

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Does amendment modify an eligible contract? --NO--> Does the contract, as amended, have a total anticipated value of greater than $1M? --NO--> Not an eligible contract
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Does amendment modify an eligible contract? —YES→ (down)

Does the contract, as amended, have a total anticipated value of greater than $1M? —YES→ (down)

Does the contract, as amended, include any appropriated funds? —NO→ Was the original contract awarded noncompetitively? —NO→ Did the original contract provide for the modification? —YES→ Not an eligible contract

Does the contract, as amended, include any appropriated funds? —YES→ (down to "Is the contract the subject of an active written notice?")

Was the original contract awarded noncompetitively? —YES→ (down to "Is the contract the subject of an active written notice?")

Did the original contract provide for the modification? —NO→ (down to "Is the contract the subject of an active written notice?")

Is the contract the subject of an active written notice? —NO→ Submit executed contract to OSC for FILING

Is the contract the subject of an active written notice? —YES→ Include language in solicitation and contract that OSC approval is required → Submit executed contract to OSC for PRIOR APPROVAL

ANNUAL REPORTS

- Used to identify contracts for Written Notices

- Timely reporting allows maximum lead time for OSC & Authorities

- Method to change Designated Contacts

ANNUAL REPORTING REQUIREMENT

- Due 30 days prior to Authority's Fiscal Year End

- Required even if no Eligible Contracts are anticipated

ANNUAL REPORT MUST INCLUDE

- Every Eligible Contract and Eligible Contract Amendment reasonably anticipated for the upcoming fiscal year

DO NOT REPORT

- Exempt Contracts & Exempt Amendments

- Construction Change Orders - less than $100,000

- Time Extensions - No Change In Contract Amount

- Contracts where OSC approval is otherwise required by law or by resolution

ANNUAL REPORT UPDATES

- Add items not previously reported

- Delete items previously reported

- Changes to Method of Award

- Increases anticipated value by 25% or more

Updates are due to OSC:

- 30 days after the change is identified by Authority

- Not less that 10 days prior to:
  - Competitive Solicitation Release, or
  - Non Competitive Contract Execution

ANNUAL REPORT SUBMISSION

- Completed Reports are submitted by email

sac@osc.state.ny.us

WORKSHOP EXERCISES

- Eligible ?
- Exempt ?
- Not Covered ?

- Report It ?
- File It ?
- Obtain Approval ?
- No Action ?

OSC HELP DESK – FOR YOUR USE

518-408-4672

866-370-4672

ciohelpdesk@osc.state.ny.us

STATE OF NEW YORK OFFICE OF THE STATE COMPTROLLER

Thank
You