



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

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Memorandum # 2016-10

TO: All Local Governments, Public Authorities and Their Independent Auditors
FROM: Sharon Edmundson, Director, Fiscal Management Section
SUBJECT: Iran Divestment Act Notice for Local Governments in North Carolina
DATE: February 17, 2016, Revised April 19, 2016

The North Carolina Department of State Treasurer is providing this memorandum to Local Government Units to explain new contracting and procurement compliance obligations created by the [Iran Divestment Act of 2015](#) (N.C.G.S. Chapter 147, Article 6E).^{*} Local Government Units should be aware that effective February 26, 2016, this law imposes new obligations on each new bid process, each new contract, and each renewal or assignment of an existing contract. The specific requirements are as follows:

- 1. Local Government Units must obtain a one-page mandatory certification under the Act.** *(See sample "Contract Certification" form below for details.)*
- 2. Local Government Units may not enter into contracts with any entity or individual found on the State Treasurer's Iran Final Divestment List.** This list will be posted on the Department of State Treasurer's website on February 26, 2016 and will be updated every 180 days. *(See "Contract Restrictions" below for details.)*

Background

The Iran Divestment Act's requirements applicable to Local Government Units^{**} will become effective on February 26, 2016, at the time the State Treasurer publishes the first list of prohibited companies and individuals (a "[Final Divestment List](#)") under the Act.

^{*} The Iran Divestment Act of 2015 can be found online at:

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_147/Article_6E.pdf

^{**} The Act's requirements use the term "State agency." [G.S. 147-86.57\(7\)](#) provides that in the Act, the term "State agency" includes not only State departments, boards, commissions, executive departments, officers and institutions, but also "any political subdivision of the State" such as a Local Government Unit.

Final Divestment List

The Department of State Treasurer develops the Final Divestment List using data from a research vendor, U.S. federal sanctions lists, and other credible information available to the public. It consists of any individual or company, including parent entities and majority owned subsidiaries who engages in investment activities in Iran, defined as follows:

- Provided goods or services of \$20,000,000 or more within any 12-month period in the energy sector of Iran during the preceding five years;
- Extended \$20,000,000 or more in credit, under certain circumstances, to another individual or company that will use the credit to provide goods or services in the energy sector in Iran. (G.S. 147-86.57(4).)

The Department of State Treasurer will update the Final Divestment List at least every 180 days. The list will be published on the State Treasurer's website at www.nctreasurer.com/Iran and periodically circulated to Local Government Units.

Requirement 1: Contract Certification

For new procurements and new, renewed, or assigned contracts on or after February 26, 2016, each Local Government Unit must obtain a simple certification from each bidder or vendor. The bidder or vendor must affirm that it is not listed on the State Treasurer's Final Divestment List found at www.nctreasurer.com/Iran as of the date of signature. The certification is due at the time a bid is submitted or the time a contract is entered into, renewed, or assigned. (G.S. 147-86.59(a).)

We have attached on the next page a short form that can be used for this certification, but Local Government Units are free to instead use their own form or put the required certification in the text of a contract or purchase order. Each Local Government Unit shall maintain its own records demonstrating these certifications.

Requirement 2: Restriction on Contracting

Individuals or companies on the Final Divestment List are ineligible to contract or subcontract with Local Government Units. (G.S. 147-86.60(a).) Any contract entered into with an individual or company on the Final Divestment List is void ab initio. (G.S. 147-86.60(b).) Existing contracts with these Iran-linked persons or companies will be allowed to expire in accordance with the contract's terms. (G.S. 147-86.60(c).)

The Act further provides that vendors to Local Government Units may not utilize any subcontractor found on the State Treasurer's Final Divestment List. (N.C.G.S. 147-86.59(b).) It is each vendor's responsibility to monitor its compliance with this restriction.

There are some exceptions, however. Contracts valued at less than \$1,000.00 are exempt from this restriction. (G.S. 147-86.61(a).) In addition, a Local Government Unit may contract with a listed individual or company if it makes a good-faith determination that: (1) the commodities or services are necessary to perform its functions and (2) absent such an exemption, it would be unable to obtain those commodities or services. (G.S. 147-86.61(c).) Local Government Units

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shall enter such exemptions into the procurement record.

Next Steps

The Department of State Treasurer anticipates distributing the first Final Divestment List on February 26, 2016. Once the List has been distributed, all Local Government Units should meet the contract certification requirements.

If you have questions about the Department of State Treasurer's Iran Divestment Policy, please contact Sharon Edmundson at Sharon.Edmundson@nctreasurer.com or 919-814-4289.

RFP Number (if applicable): _____

Name of Vendor or Bidder: _____

**IRAN DIVESTMENT ACT CERTIFICATION
REQUIRED BY N.C.G.S. 147-86.59**

As of the date listed below, the vendor or bidder listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.58.

The undersigned hereby certifies that he or she is authorized by the vendor or bidder listed above to make the foregoing statement.

Signature _____ Date _____

Printed Name _____ Title _____

Notes to persons signing this form:

N.C.G.S. 147-86.59(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- When a bid is submitted
- When a contract is entered into (if the certification was not already made when the vendor made its bid)
- When a contract is renewed or assigned

N.C.G.S. 147-86.59(b) requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/iran and will be updated every 180 days.