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# Local Finance Notice

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## Implementing P.L. 2022, c. 3 – Prohibition on Dealings with Russia or Belarus-associated Businesses; Update to Iran Investment Certification

P.L. 2022, c. 3, signed into law on March 9, 2022, required the State Department of the Treasury (Treasury) to develop, based on credible information available to the public, [a list of persons and entities](#) engaging in prohibited activities in Russia or Belarus (Russia-Belarus list). The list is now available on [Treasury's website](#) and will be updated at least once every six months. P.L. 2022, c. 3 will expire upon the revocation of federal sanctions contained in [Executive Order 14024](#).

This Notice explains the law's impact on procurement by local units, boards of education, and county colleges, along with eligibility to participate in a redevelopment or PILOT agreement. Also explained is the recent update to the law requiring vendor and contractor disclosure of investment activities in Iran. For procurement purposes, the Division offers a [model certification](#) combining the Russia-Belarus and Iran disclosures onto a single form.

### Key Terms

The phrase “engaging in prohibited activities in Russia or Belarus” is defined as companies:

- in which the Governments of Russia or Belarus have any direct equity share;
- having any business operations commencing after the effective date of P.L. 2022, c. 3 that involve contracts with or the provision of goods or services to the Governments of Russia or Belarus;
- headquartered in Russia or having their principal places of business in Russia or Belarus, or
- supporting, assisting or facilitating the Governments of Russia or Belarus in their campaigns to invade the sovereign country of Ukraine, either through in-kind support or for profit.

A “person or entity” is:

- A natural person, corporation, company, limited partnership, limited liability partnership, limited liability company, business association, sole proprietorship, joint venture, partnership, society, trust, or any other nongovernmental entity, organization, or group;
- Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act, 22 U.S.C. 262r(c)(3); or
- Any parent, successor, subunit, direct or indirect subsidiary, or any entity under common ownership or control with, any entity described above.

### **Impact on Procurement; Investment Prohibitions**

Persons or entities included on Treasury's [Russia-Belarus list](#) cannot enter into or renew a contract for the provision of goods and services with a State agency, State college or university, a contracting unit as defined in the Local Public Contracts Law, a board of education as defined in the Public School Contracts Law (including charter schools), or a county college as defined in the County College Contracts Law. When discussed together, government entities subject to the Local Public Contracts Law, Public School Contracts Law, or County College Contracts Law are herein referenced collectively as “contracting units”.

As the Russia-Belarus list is now live, before any contract greater than \$1,000 for goods or services is awarded, renewed, amended, or extended, a contracting unit shall 1) require a vendor or contractor to certify that the vendor or contractor is not identified on Treasury's Russia-Belarus list, and 2) review the Russia-Belarus list to determine whether the vendor or contractor appears on the list. Non-State agencies are required to apply the law in a manner similar to State agencies, and State contracts do not require the certification for contracts \$1,000 or less (see Section III Paragraph A of Treasury Circular [22-09-DPP](#) on page 2). If an Ownership Disclosure Statement has been submitted with a bid or proposal pursuant to N.J.S.A. 52:25-24.2, a contracting unit is not required to review the stockholders, partners, or LLC members named on the statement against the Russia-Belarus list or the certification.

With respect to construction contracts, while persons or entities on the Russia-Belarus list cannot file or renew a Public Works Contractor Registration (PWCR) with the State Department of Labor and Workforce Development, the law does not require a contracting unit to review the Russia-Belarus list and require a certification prior to awarding a construction contract. This means that a contracting unit is not required to reference the Russia-Belarus list or request a certification from a contractor prior to awarding a construction contract. If Treasury places a construction contractor with a PWCR on the Russia-Belarus list, that contractor may continue to be awarded construction contracts until the expiration of their PWCR. Public works contracts that are considered “provision of goods and services,” for example repair, maintenance, and painting contracts or any other “public works” contracts featured on the list of State contracts maintained

by Treasury's Division of Purchase and Property, are subject to the requirements of P.L. 2022, c. 3 pertaining to referencing the Russia-Belarus list and requiring the certification.

The certification required shall be executed on behalf of the applicable person by an authorized officer or representative of the vendor or contractor. If a person is unable to make the certification required because the person, parent entity, subsidiary, or affiliate has engaged in prohibited activity in Russia or Belarus, the person shall, prior to the contracting unit's deadline for delivery of such certification, provide to the contracting unit a detailed and precise description of such activities, with such description to be provided under penalty of perjury. The person or entity must cease engaging in any prohibited activities and provide an updated certification before the contract can be entered into. The required certification or disclosures shall be made available to the public (e.g., by OPRA request). A vendor or contractor is not required to provide the certification with its bid or proposal.

Because the law states that a contracting unit shall rely on the Russia-Belarus list, a contracting unit need not independently confirm the veracity of a vendor's or contractor's certification. However, if the contracting unit becomes aware of credible, publicly available information indicating a certification may be false and, based on that information, determines that a certification is false, the contracting unit must terminate the contract and shall report the false certification to the New Jersey Attorney General, who may initiate a civil action against the vendor or contractor in an amount equal to the greater of \$1,000,000 or twice the amount of the contract. The contracting unit may authorize its attorney to collect the above-referenced penalty if the Attorney General's Office is not already undertaking a civil action against the vendor or contractor. Prior to taking action, the contracting unit shall provide notice to the vendor or contractor and afford them an opportunity to submit written comment demonstrating they either 1) are not engaging in prohibited activities in Russia or Belarus, or 2) have ceased engaging in the prohibited activities in Russia or Belarus within 90 days after the contracting unit's determination of a false certification. Contracting units learning that a vendor's or contractor's Russia-Belarus certification may be false should seek advice from legal counsel before taking further action.

P.L. 2022, c. 3 also prohibits a local contracting unit, board of education, or county college to bank with, have or hold stock, debt, or other equity investments of, or maintain insurance coverage through a policy issued by a financial institution that appears on the Russia-Belarus list. Therefore, contracts for insurance coverage and the designation of a bank as an official depository must also abide by the requirements of the law with respect to referencing the Russia-Belarus list and requiring the certification. This is the case even if a bank is a GUDPA-approved depository.

### **Redevelopment and PILOT Agreements**

A person or entity appearing on the Russia-Belarus list cannot be designated as a redeveloper under the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.), enter into an

agreement for a payment in-lieu of taxes (PILOT) or otherwise be awarded a municipal property tax abatement. Before beginning the application process, the applicant must provide a similar certification and the local unit must confirm that the applicant does not appear on the Russia-Belarus list. The application process must be terminated if the applicant is on the prohibited list or is determined to have submitted a false certification. As with a procurement, upon providing notice to the person or entity and giving them the opportunity to be heard, any executed redevelopment or PILOT agreement may be terminated for a false certification and a civil penalty may be pursued.

### **Disclosure of Investment Activities in Iran**

If a person or entity is [listed by State Treasury](#) as engaging in investment activities in Iran (Chapter 25 list), a State agency, a contracting unit as defined in the Local Public Contracts Law, a board of education as defined in the Public School Contracts Law, or a county college as defined in the County College Contracts Law cannot award or renew a contract for goods or services with that person or entity. This list is updated by Treasury every 180 days.

As with the Russia-Belarus list, prior to awarding or renewing a contract greater than \$1,000 for goods and services, the contracting unit must 1) review the [Chapter 25 list](#) to determine whether the vendor or contractor appears on the list, and 2) receive a certification from the vendor or contractor that they are not identified on the Chapter 25 list. Section 1 of [P.L. 2021, c. 4](#) amended the Iran Disclosure law to require the certification to be provided prior to contract award or a contract renewal, rather than with a bid or proposal. A contracting unit need not independently confirm the veracity of a vendor's or contractor's certification, but if the contracting unit becomes aware of credible publicly available information indicating a certification may be false and, based on that information, determines that a certification is false, the process is similar to that in P.L. 2022, c. 3 for Russia-Belarus. Please note that, unlike the Russia-Belarus law, the Iran Disclosure Law does not address redevelopment or PILOT agreements.

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Approved: Jacquelyn A. Suárez, Director

<b>Document</b>	<b>Internet Address</b>
P.L. 2022, c. 3	<a href="https://pub.njleg.state.nj.us/Bills/2022/PL22/3.PDF">https://pub.njleg.state.nj.us/Bills/2022/PL22/3.PDF</a>
NJ Dept. of Treasury (Administration)	<a href="https://www.nj.gov/treasury/administration/">https://www.nj.gov/treasury/administration/</a>
Russia-Belarus List (State Treasury)	<a href="https://www.nj.gov/treasury/administration/pdf/RussiaBelarusEntityList.pdf">https://www.nj.gov/treasury/administration/pdf/RussiaBelarusEntityList.pdf</a>
Russia-Belarus & Iran Investment Model Certification Form (procurement)	<a href="https://www.nj.gov/dca/divisions/dlgs/programs/lpcl_docs/Russia-Belarus%20and%20Iran%20Combined%20Certification.docx">https://www.nj.gov/dca/divisions/dlgs/programs/lpcl_docs/Russia-Belarus%20and%20Iran%20Combined%20Certification.docx</a>
Executive Order 14024 (Federal)	<a href="https://home.treasury.gov/system/files/126/14024.pdf">https://home.treasury.gov/system/files/126/14024.pdf</a>
Circular 22-09-DPP (State Treasury)	<a href="https://www.nj.gov/infobank/circular/cir22-09-DPP.pdf">https://www.nj.gov/infobank/circular/cir22-09-DPP.pdf</a>
Iran Investment List (State Treasury)	<a href="https://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf">https://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf</a>
P.L. 2021, c. 4	<a href="https://pub.njleg.state.nj.us/Bills/2020/PL21/4.PDF">https://pub.njleg.state.nj.us/Bills/2020/PL21/4.PDF</a>