The purpose of this bulletin is to alert state agencies to the newly enacted Iran Divestment Act of 2012. The new law imposes limitations on vendors that do business with the Iranian energy sector and seek contracts with the State and local government. The effective date of this law is April 12, 2012.

Chapter 1 of the Laws of 2012 amends State Finance Law by adding a new section 165-A, known as the Iran Divestment Act of 2012. The Act prohibits, with certain exemptions, state contracts and subcontracts with "persons" engaged in investment activities in the energy sector of Iran.

For commodities, services, construction and printing, the Act requires that bids or offers for and renewals or assignments of, contracts include certification with respect to investment activities in Iran.

According to the Act, a person engages in investment activities in Iran if the person provides goods or services of twenty million dollars ($20,000,000) or more in the energy sector of Iran or is a financial institution that extends twenty million dollars ($20,000,000) or more in credit for a minimum of 45 days to a person for purposes of providing goods or services in the energy sector of Iran.

The Act defines a “person” as: a natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity or instrumentality of a government, including a multilateral development institution (as defined in the International Financial Institutions Act). The definition of person extends to entities with a legal relationship to the person such as subsidiary, subunit or parent.

Office of General Services’ List
The Act requires that within 120 days after the effective date of the law, the Office of General Services (OGS) develop a list of persons who engage in investment activities in Iran. Any person on the list is deemed non-responsive as defined in SFL 163. The list will be posted to the OGS website and updated every 180 days.
**State Agency Responsibility**

To comply with the Act, agencies must require that each person who proposes to enter into, renew or assume responsibility for a procurement contract for commodities, services, construction, or printing certify at the time the bid is submitted or the contract is renewed or assigned that it is not on the list maintained by OGS.

No person on the list developed by OGS shall be utilized as a subcontractor on any such contract.

**Exemptions:**
A person on the list may be deemed responsive on a case by case basis where either:

- The investment activities in Iran were made before the effective date of this section
- The investment activities have not been expanded or renewed after the effective date of this section; and
- the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any investment activities in Iran;

or

The state agency makes a determination that the goods or services are necessary and cannot be obtained without an exemption.

**OSC Requirements:** Effective with publication of the initial list by OGS, OSC’s Bureau of Contracts’ audit of transactions submitted for the State Comptroller’s approval will include review to ensure that contractors and identified subcontractors are not included on the list.

Certification and exemption determinations, as applicable, must be included in the procurement record and submitted to OSC for review with contract transactions requiring OSC approval.

**Questions:** If you have any questions about the content of these guidelines, please call (518) 474-4622.