CERTIFICATION OF NON-INVOLVEMENT IN PROHIBITED ACTIVITIES IN RUSSIA OR BELARUS

Pursuant to N.J.S.A. 52:32-60.1, et seq. and N.J.S.A.40A:11-2.2 (L. 2022, c. 3) any person or entity (hereinafter "Vendor") that seeks to enter into or renew a contract with a local contracting unit subject to the Local Public Contracts Law for the provision of goods or services, or the purchase of bonds or other obligations, must complete the certification below indicating whether or not the Vendor is identified on the Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons list, available here: https://sanctionssearch.ofac.treas.gov/. If the Department of the Treasury finds that a Vendor has made a certification in violation of the law, it shall take any action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I, the undersigned, certify that I have read the definition of "Vendor" below, and have reviewed the Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons list, and having done so certify

(Check the Appropriate Box)

☐ A. That the Vendor is not identified on the OFAC Specially Designated Nationals and Blocked Persons list on account of activity related to Russia and/or Belarus.

OR

☐ B. That I am unable to certify as to "A" above, because the Vendor is identified on the OFAC Specially Designated Nationals and Blocked Persons list on account of activity related to Russia and/or Belarus.

OR

☐ C. That I am unable to certify as to "A" above, because the Vendor is identified on the OFAC Specially Designated Nationals and Blocked Persons list. However, the Vendor is engaged in activity related to Russia and/or Belarus consistent with federal law, regulation, license or exemption. A detailed description of how the Vendor's activity related to Russia and/or Belarus is consistent with federal law is set forth below.

_____

_____

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_____

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(Attach Additional Sheets If Necessary.)

Signature of Vendor's Authorized Representative	Date
Print Name and Title of Vendor's Authorized Representative	Vendor's FEIN
Vendor's Name	Vendor's Phone Number
Vendor's Address (Street Address)	Vendor's Fax Number
Vendor's Address (City/State/Zip Code)	Vendor's Email Address

[i] Vendor means: (1) 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; (2) 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 (3) Any parent, successor, subunit, direct or indirect subsidiary, or any entity under common ownership or control with, any entity described in paragraph (1) or (2).

DIVISION OF
LOCAL GOVERNMENT
SERVICES

Local Finance Notice

LFN 2024-04

February 22, 2024

Philip D. Murphy, Governor
Tahesha L. Way, Lieutenant Governor
Jacquelyn A. Suárez, Acting Commissioner & Director

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New Russia-Belarus Law Developments & Implementation Required by Contracting Units

Note: This Notice updates and supplements guidance in Local Finance Notice 2023-11. Local officials should review both notices.

On August 4, 2023, a company obtained a temporary restraining order (TRO) from the United States District Court for the District of New Jersey, which enjoins the State from enforcing the "Prohibited Activities in Russia or Belarus" law against that company on the ground that the statute is likely inconsistent with federal law. At that time, due to the ongoing litigation, the New Jersey Department of the Treasury (Treasury) removed the Russia-Belarus list from its website, and the State (along with its agencies and instrumentalities) voluntarily suspended further implementation of the Russia-Belarus law until further order of the Court.

On December 22, 2023, the company then obtained a permanent injunction from the United States District Court, which prohibits the State from enforcing N.J.S.A. 52:32-60.1 against the company on the grounds that such enforcement would conflict with the existing federal sanctions regime and thus violate the U.S. Constitution's Supremacy Clause.

New List and Vendor Certification

N.J.S.A. 52:32-60.4 provides that N.J.S.A. 52:32-60.1 "shall not apply in circumstances when their application would violate federal law." Accordingly, to enforce N.J.S.A. 52:32-60.1 in a manner consistent with the District Court's decision and federal law, Treasury deems its list of persons and entities engaging in prohibited activities in Russia or Belarus to consist of all persons and entities appearing on the list of Specially Designated Nationals and Blocked Persons promulgated by the Office of Foreign Assets Control (OFAC list) on account of activity relating to Russia or Belarus. Treasury has also issued a revised Russia-Belarus vendor certification for State contracts.

The Local Public Contracts Law, Public School Contracts Law, and the County College Contracts Law, generally require contracting units under those laws to implement and comply with the provisions of P.L. 2022, c.3 applicable to State agencies. See N.J.S.A. 40A:11-2.2; 18A:18A-49.5; 18A:64A-25.44. Thus, when a contract for goods or services is **awarded, renewed**, **amended**, or **extended**, a contracting unit shall now 1) require a vendor or contractor to certify, using the Treasury vendor certification as a template, that the vendor or contractor is not identified on the OFAC list due to activity related to Russia and/or Belarus, and 2) type the vendor's or contractor's name and address into the OFAC list search to determine whether they appear on the list due to activity related to Russia and/or Belarus. When searching the OFAC list, the vendor or contractor is considered to be engaging in activity related to Russia and/or Belarus if the term Russia or Belarus comes up next to their name under the "Program(s)" column.

If a vendor or contractor discloses their presence on the OFAC list but claims to have a license or other exemption enabling their doing business in Russia and/or Belarus, the vendor or contractor should be required to provide proof of such exemption. Contracting units are advised to consult with their legal counsel concerning the extent of their obligation to verify a claimed exemption. Part of the analysis may involve whether the proposed contract is the same, or similar to, the exemption such that the contracting unit could enter into a contract with the vendor or contractor. If a vendor or contractor has a broad line of business, please note that the license or exemption may only apply to a portion of their line of business.

P.L. 2022, c. 3 will expire upon the revocation of federal sanctions contained in Executive Order 14024.

Threshold for Requiring Vendor/Contractor Russia-Belarus Certification

A vendor or contractor is not required to provide a Russia-Belarus certification prior to the award of a State contract for goods or services that is beneath the State agency quote threshold of $1,000. See Section III Paragraph A of Treasury Circular 23-09-DPP on page 2. Given the threshold for vendor/contractor certification applied to State goods or services contracts, combined with the practical considerations of local purchasing, a contracting unit should rely on the advice of legal counsel in determining whether to apply its own local quote threshold to the Russia-Belarus certification; the Division will defer to contracting units on this point. Be mindful that determinations of aggregation would apply here just as they would when determining whether a contract is subject to public bidding.

Disclosure of Certain Investment Activities in Iran

The prohibition on certain investment activities in Iran and Treasury's Chapter 25 list remains in effect. A new model Iran Investment certification form is available on the Division's website.

Approved: Jacquelyn A. Suárez, Acting Commissioner & Director

Document	Internet Address
LFN 2023-11	https://www.nj.gov/dca/divisions/dlgs/lfns/23/2023-11.pdf
NJ Treasury Notice re: N.J.S.A. 52:32-60.1	https://www.nj.gov/treasury/administration/pdf/NoticeRussia.pdf
NJ Treasury Russia-Belarus Vendor Certification	https://www.nj.gov/treasury/administration/pdf/DisclosureofProhibitedActivitesinRussiaBelarus.pdf
OFAC List Search	https://sanctionssearch.ofac.treas.gov/
P.L. 2022, c. 3	https://pub.njleg.state.nj.us/Bills/2022/PL22/3_.PDF
Executive Order 14024 (Federal)	https://home.treasury.gov/system/files/126/14024.pdf
Iran Investment Activities Certification Form	https://www.nj.gov/dca/dlgs/programs/lpcl_docs/YB%20-%20Disclosure%20of%20Iran%20Investments.docx
Iran Investment List (State Treasury)	https://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf
Treasury Circular 23-09-DPP	https://nj.gov/treasury/purchase/specialnotices/pdf/cir23-09-DPP.pdf