
New Bid Requirements Under the Iran Economic Sanctions Act of 2012

By Dana L. Abrahams, Jeremy S. Motz / Feb 25, 2013

On December 28, 2012, Governor Snyder signed Public Act 517 of 2012, commonly known as the "Iran Economic Sanctions Act" (the "Act"). The Act provides that beginning April 1, 2013, an "Iran Linked Business" is not eligible to submit a bid on a request for proposal with a "public entity." Under the Act, a "public entity" includes school districts and intermediate school districts. The Act also requires that a person that submits a bid in response to a public entity's request for proposal must certify to the public entity that it is not an Iran Linked Business. This requirement applies to **all** requests for proposals issued by a public entity, and not just to construction projects.

The Act defines an Iran Linked Business as: 1) a person engaging in investment activities in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or 2) a financial institution that extends credit to another person, if that person will use the credit to engage in investment activities in the energy sector of Iran.

If the public entity determines, using credible information available to the public, that a person or entity has submitted a false certification, the public entity must provide written notice to the person or entity of its determination and of its intent not to enter into or renew the contract. The notice must include information on how to contest the determination. The notice must also specify that the individual or entity may become eligible for future contracts with the public entity if the activities that caused it to be an Iran Linked Business are ceased.

The Attorney General may bring a civil action against any individual or entity reported to have submitted a false certification. If the civil action results in a finding that certification was false, the person or entity will be responsible for a civil penalty of not more than \$250,000.00 or two times the amount of the contract for which the false certification was made, whichever is greater. In addition to the fine, the individual or entity will be responsible for the cost and reasonable attorney fees incurred by the public entity. An individual or entity who has submitted a false certification will be ineligible to bid on a request for proposal for 3 years from the date the certification was determined to be false.

If you have any questions regarding the Iran Economic Sanctions Act or require assistance with the required certification, contact Dana L. Abrahams at (248) 988-5840, dabrahams@clarkhill.com, or Jeremy S. Motz at (248) 988-5895, jmotz@clarkhill.com.