



# 2015 Legislative Update

## *Purchasing and Contracting*

Norma Houston  
2016 CAGP Spring Conference



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# This Morning We'll Discuss . . .

1. Purchasing and Contracting
2. Construction Contracting
3. Property Disposal







# PURCHASING AND CONTRACTING



# Iran Divestment Act

- Prohibits investing state funds in or contracting with entities engaged in “significant investment activities” in Iranian energy sector
- Treasurer identifies entities on “Final Divestment List”
- Local governments must require contractors to certify they are not on the list and that they will not use subcontractors who are on the list.



*S.L. 2015-118 (S455)*

# Scope of Iran Divestment Act

## WHO?

- State agencies
- **ALL** political subdivisions of the State

## WHEN?

- Bidding **or**
- Entering into contract **or**
- Renewing a contract

## WHAT?

- **ALL** contracts
- Exceptions:
  - Contracts less than \$1000
  - Entities identified as withdrawing from Iran investment activities
  - Goods or services only available from that entity (**not** necessarily all sole source contracts)

# Final Divestment List

Published by State Treasurer      Updated every 180 days  
(6 months)

[www.nctreasurer.com](http://www.nctreasurer.com)





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## Iran Divestment Act Resources

The Iran Divestment Act of 2015 (N.C.G.S. 143C-6A-1 to 6A-9) was signed by the Governor of North Carolina on June 29, 2015. Effective February 26, 2016, the Act prohibits:

- The North Carolina Retirement Systems or the Department of State Treasurer from investing funds with individuals or companies engaging in certain defined investment activities in Iran.
- State agencies, local government units, and other political subdivisions of the State from contracting with individuals or companies on the Department of State Treasurer's Final Divestment List.

This page provides resources concerning the Act.

### Final Divestment List

The Iran Divestment Act requires the Department of State Treasurer to publish its first Final Divestment List for Iran on Friday, February 26, 2016. The list can be found below.

- [Final Divestment List](#)

The Act indicates that "persons" subject to the Act include not only companies listed as a result of their own apparent investment activities in Iran, as listed above in the Final Divestment List, but also any "parent entity owning more than 20%" or any "majority-owned subunit or subsidiary" of that company. N.C.G.S. 143C-6A-3(6) and 6A-4. Subsidiaries and parents of the companies listed above are found in the separate Iran Parent and Subsidiary Guidance list, which can be found below. This list can be searched using the "Find" command in Adobe Acrobat Reader, which can be accessed using the keyboard shortcut Control-F on Windows computers.

- [Iran Parent and Subsidiary Guidance](#)



# Entities on NC Final Divestment List

## Companies listed as a result of their own apparent investment activities in Iran

Listed Company	Country	Ticker
Chennai Petroleum Corporation Ltd	India	BSE:500110
China CSSC Holdings Limited	China	SHSE:600150
China Oilfield Services Ltd.	China	SEHK:2883
China Petroleum & Chemical Corp.	China	SEHK:386
China Shipbuilding Industry Company Limited	China	SHSE:601989
Daelim Industrial Co., Ltd.	South Korea	KOSE:A000210
Indian Oil Corporation Limited	India	BSE:530965
ITOCHU Corporation	Japan	TSE:8001
JNK Heaters Co., Ltd.	South Korea	KOSDAQ:A126880
Odfjell SE	Norway	OB:ODF
Oil and Natural Gas Corp. Ltd.	India	NSEI:ONGC
PetroChina Co. Ltd.	China	SEHK:857
PTT Global Chemical Public Company Limited	Thailand	SET:PTTGC
Sinopec Kantons Holdings Limited	Hong Kong	SEHK:934
The Siam Cement Public Company Limited	Thailand	SET:SCC
Welcron Kangwon Co., Ltd.	South Korea	KOSDAQ:A114190

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# FAQ's

- ? What kind of certification is required?
- ? Does the new law apply to contracts with other units of government?
- ? Does the new law apply to grant agreements?
- ? What about P-cards and other “card purchases?”
- ? What about regular, frequent purchases from the same vendor – can the certification be good for a period of time?

*Answers in FAQs available at [www.ncpurchasing.unc.edu](http://www.ncpurchasing.unc.edu)*

# E-Verify Reminder

State agencies and local governments prohibited from entering into certain contracts if the contractor or subcontractors are not compliant with NC's E-Verify hiring requirement (Art. 2, Chapter 64)



E-Verify hiring requirement applies to **non-governmental** employers who employ **25 or more workers in this state**



# E-Verify (again . . .)

- Repeals 2014 E-Verify “roll-back”
- Applies to ALL local government contracts except those exempted under the new statute
- Contract deemed compliant if contains provision requiring contractor to comply with E-Verify



## Exempt:

- Travel expenses
- “Sole” purchase contracts
- Purchases from other governments, State, or GSA contracts
- Piggyback contracts

*S.L. 2015-294 (H318), Sec.'s 1-10*



# E-Verify – 2014

	City	County	Other Local Gov't	State Agency
<b>Construction - Formal</b>	✓	✓	✓	✓
<b>Construction - Informal</b>				✓
<b>Purchase - Formal</b>	✓	✓	✓	✓
<b>Purchase - Informal</b>				✓
<b>Purchase – Below Informal Bid Threshold</b>				✓
<b>Design Services (Mini-Brooks)</b>				✓
<b>All Other (services, construction below bid threshold, grants, etc.)</b>				✓

# E-Verify – 2015

	City	County	Other Local Gov't	State Agency
Construction - Formal	✓	✓	✓	✓
Construction - Informal	✓	✓	✓	✓
Purchase - Formal				
Purchase - Informal				
Purchase – Below Informal Bid Threshold				
Design Services (Mini-Brooks)	✓	✓	✓	✓
All Other (services, construction below bid threshold, grants, etc.)	✓	✓	✓	✓

# Protection

1. Contract deemed compliant if contains provision requiring contractor to comply with E-Verify hiring requirements (*G.S. 143-133.3(b)*)
2. Finance officer not liable for funds expended under contract with non-compliant contractor if contract contains compliance provision (*G.S. 159-28(e)*)

E-VERIFY. CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if CONTRACTOR utilizes a subcontractor, CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

# Enforcement

1. Commissioner of Labor required to investigate allegations of noncompliant state and local government contracts (complaints may be anonymous)
2. Must hold a hearing if determines complaint is not false or frivolous
3. If violation found, must notify governing board and list unit of government on DOL website



# FAQ's

- ? Do we still need to get an affidavit? - **No**
- ? Does the new law apply to contracts with other units of government? - **No**
- ? Does the new law apply to grant agreements? - **Yes**
- ? How do we decide if a purchase contract is “solely” for a purchase? What about hybrid contracts? – **Assume E-Verify requirement applies**
- ? Did the number of employees which triggers the E-Verify hiring requirement change? - **No**

# Preaudit Cert. “Fix”

Clarifies that preaudit cert. requirement doesn't mean all contracts have to be in writing (unless other laws require writing – ex: cities, formal bidding, UCC)

- Authorizes LGC to adopt rules for performing preaudit process
- Exempts from preaudit cert. requirement:
  - Obligation approved by the LGC
  - Payroll & benefits
  - Electronic payments (credit card, P-card, etc.) *if made under LGC rules*
- Clarifies that only governing board can determine if violation will be paid from the official bond

*S.L. 2015-246 (H44), Sec. 6*

# Jail Food

Food and food services supplies for county jails not subject to competitive bidding ONLY in these counties:

Alamance	Craven	Guilford	Madison	Rockingham
Anson	Cumberland	Haywood	Onslow	Stanly
Beaufort	Currituck	Henderson	Orange	Transylvania
Caswell	Dare	Iredell	Pamlico	Yancey
Cherokee	Davidson	Jones	Pasquotank	Wake
Chowan	Granville	Lincoln	Randolph	Washington

*S.L. 2015-156 (H58); 2015-157 (H236); 2015-158 (H312)*

# New State IT Department

ITS becomes Department of Information Technology (cabinet level agency); State CIO is department head

- All IT functions of Cabinet agencies consolidated in new department; controls all IT procurement
- Relationship with local governments:
  - Provide IT support and allow access to Department's services (fee-based)
  - Create procedures for state and local government IT procurement through GSA (Schedule 70)
  - Buy IT goods and services off state IT contracts, including refurbished computers program
  - Give access to state telecommunications and broadband services (fee-based)
- Personal use of state IT contracts is Class 1 misd.

*S.L. 2015-241, Part VII-A (H97)*



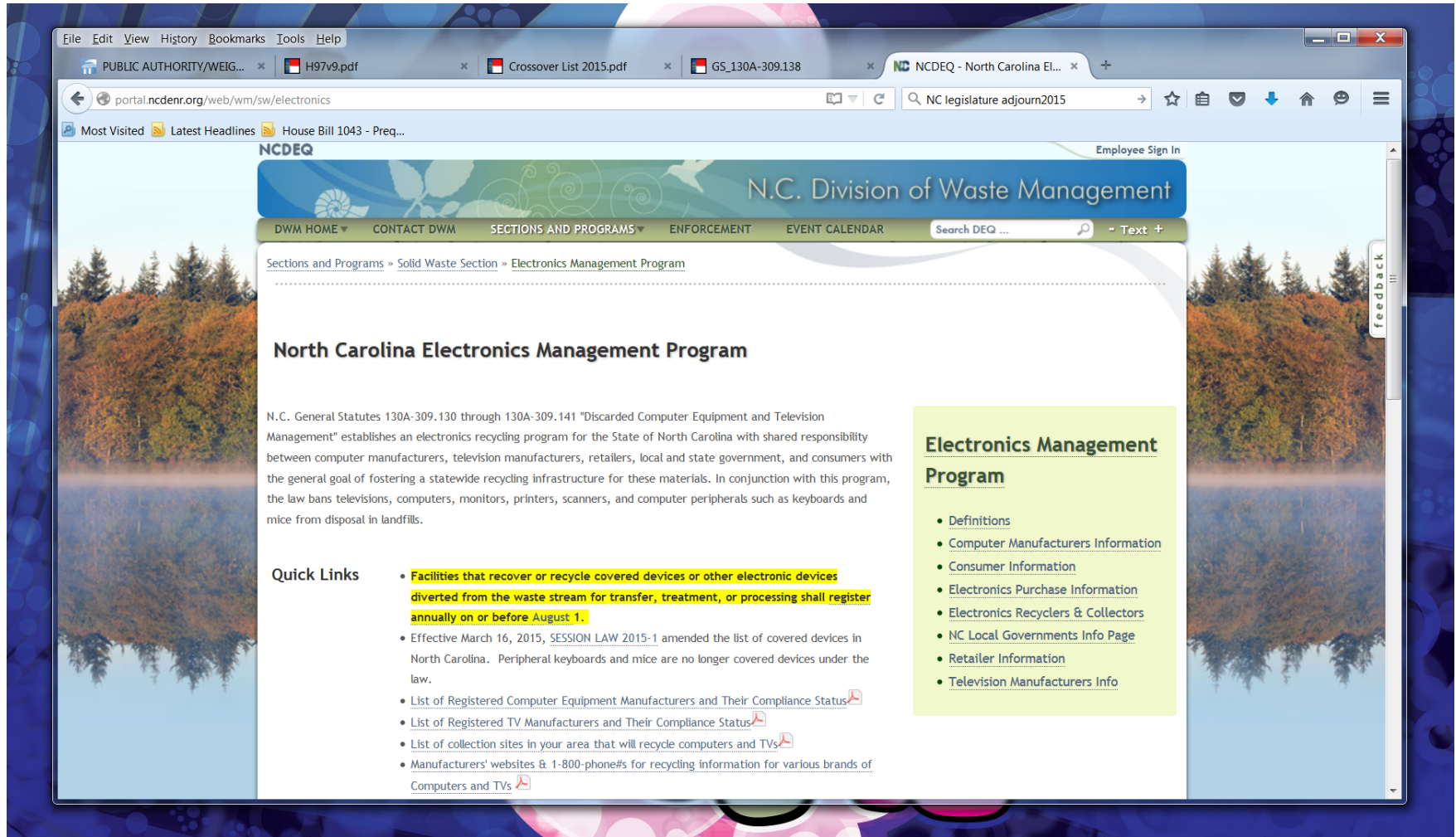
# Computer/TV Purchases

- State agencies and local governments prohibited from purchasing computer equipment or TV's from manufacturers not compliant with NC Electronics Management Program (labeling and recycling requirements)
- DEQ posts list of manufacturers' compliance status



*S.L. 2015-241, Part VII-A (H97)*

# [www.ncdenr.org](http://www.ncdenr.org) > Sections and Programs > Solid Waste > Electronics Management Program



The screenshot shows a web browser window with the URL [portal.ncdenr.org/web/sw/electronics](http://portal.ncdenr.org/web/sw/electronics). The page is titled "N.C. Division of Waste Management" and features a navigation menu with options like "DWM HOME", "CONTACT DWM", "SECTIONS AND PROGRAMS", "ENFORCEMENT", and "EVENT CALENDAR". The main content area is titled "North Carolina Electronics Management Program" and includes a paragraph explaining the program's purpose and a "Quick Links" section with several links. A sidebar on the right titled "Electronics Management Program" lists various resources.

**North Carolina Electronics Management Program**

N.C. General Statutes 130A-309.130 through 130A-309.141 "Discarded Computer Equipment and Television Management" establishes an electronics recycling program for the State of North Carolina with shared responsibility between computer manufacturers, television manufacturers, retailers, local and state government, and consumers with the general goal of fostering a statewide recycling infrastructure for these materials. In conjunction with this program, the law bans televisions, computers, monitors, printers, scanners, and computer peripherals such as keyboards and mice from disposal in landfills.

**Quick Links**

- [Facilities that recover or recycle covered devices or other electronic devices diverted from the waste stream for transfer, treatment, or processing shall register annually on or before August 1.](#)
- Effective March 16, 2015, [SESSION LAW 2015-1](#) amended the list of covered devices in North Carolina. Peripheral keyboards and mice are no longer covered devices under the law.
- [List of Registered Computer Equipment Manufacturers and Their Compliance Status](#)
- [List of Registered TV Manufacturers and Their Compliance Status](#)
- [List of collection sites in your area that will recycle computers and TVs](#)
- [Manufacturers' websites & 1-800-phone#s for recycling information for various brands of Computers and TVs](#)

**Electronics Management Program**

- [Definitions](#)
- [Computer Manufacturers Information](#)
- [Consumer Information](#)
- [Electronics Purchase Information](#)
- [Electronics Recyclers & Collectors](#)
- [NC Local Governments Info Page](#)
- [Retailer Information](#)
- [Television Manufacturers Info](#)



# CONSTRUCTION CONTRACTING

# Construction Notice

- Cities and counties must notify property owners and adjacent property owners of construction projects
- Only applies to NEW construction; does not include routine maintenance and repair
- Notice must be in writing at least 15 days before project starts

## Exceptions:

- Emergency
- Owner requests construction
- Owner consents to less than 15 days' notice
- Notice is given at open meeting of the board

*S.L. 2015-246, Sec. 12 (H44);  
amended by S.L. 2015-286 (H765)*

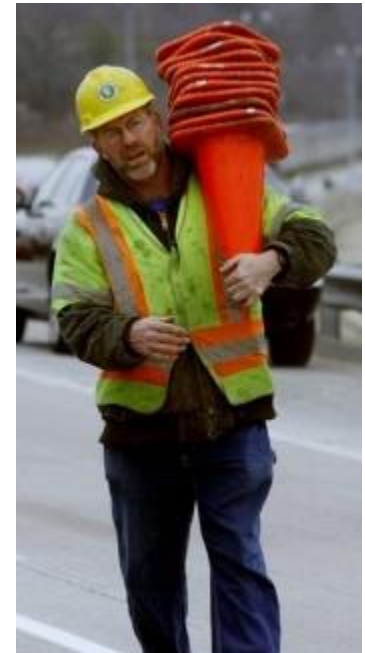


# Force Account Threshold Increase

Increases thresholds for local government force account exception to:

- Total project cost under \$500,000 *or*
- Total labor cost under \$200,000

Thresholds for state agencies and UNC campuses remain the same



*S.L. 2015-276, Sec. 6 (H924)*

# Water and Sewer Construction

- Authorizes water and sewer authorities to enter into reimbursement agreements with developers for infrastructure construction (similar to cities and counties)
- Infrastructure projects must be on Authority's CIP
- Eligible projects include water mains, sanitary sewer lines, lift stations, water pump stations, stormwater lines, and other associated facilities
- Developer must use competitive bidding



*S.L. 2015-207, Sec. 2 (H538)*

# Bonds for Public Projects

\$2 billion allocated for:

UNC Campuses	\$980 million
Community Colleges	\$350 million
Children and Veterans with disabilities local parks	\$3 million
<b>Water and Sewer grants and loans</b>	<b>\$309.5 million</b>
National Guard readiness centers	\$70 million
Agriculture centers/labs	\$179 million
State Parks	\$100 million
Samarcand Training Academy (DPS)	\$8.5 million

Subject to voter approval on March 15, 2016 primary ballot

*S.L. 2015-280 (H943)*



# PROPERTY DISPOSAL



# Lease Notice

Lease Term	Approval Requirements
One year or less	No public notice required; board may delegate approval authority to manager
More than one year – 10 years	Approval by board after <del>40</del> <u>30</u> days published notice
More than 10 years	Must be treated as sale of property

## *Remember:*

- \* Renewal and extension periods count toward the length of the term
- \* Notice must be published in newspaper of general circulation in the jurisdiction

*S.L. 2015-246, Sec. 9 (H44)*

# Tower Leases

- Leases for siting and operation of a communications tower
- Terms up to 25 years
- Do not have to be treated as sale of property

“Tower” includes structures that support TV, radio, and wireless communications



*S.L. 2015-246, Sec. 9 (H44)*



# Donating Service Animals

Law enforcement service animals may be donated to the animal's handler ONLY in the following cities:

- Raleigh
- Municipalities in Mecklenburg County  
*(not the county)*



S.L. 2015-174 (H199)



# LEFT HANGING



# Automatic Renewals

## H631 Notice Before Automatic Contract Renewal

*Status: Pending in Senate; eligible in Short Session*

Product and service vendors must:

- Clearly disclose automatic renewal clauses
- Clearly disclose how to cancel the contract
- Provide written notice of automatic renewal at least 30 days before renewal date

# Legal Notices

## H156 Legal Notices/Require Internet Publication

*Status: Pending in Senate; eligible in Short Session*

- Newspapers cannot charge more than 85% of initial price for legal notices that must be run more than once
- Newspapers must put print legal notices on the newspaper's website at no additional cost
- Notice requirement deemed timely if newspaper is late but local government posted notice on its own website

# IT Procurement

## H779 IT Procurement/Promote Competition

*Status: Pending in Senate; eligible in Short Session*

- Requires State ITS to award multiple award schedule contracts for computers, computer-related devices, and networking equipment
- 2 year contracts w/ 1 year renewal

“Multiple award schedule contract” = multiple vendors awarded contracts for IT goods and services

# Roofing Contracts

## H643 Roofing Contractors/Consumer Protection

*Status: Pending in Senate; eligible in Short Session*

- All roof repair contracts must be in writing and include specific information such as itemized estimate of repair costs
- Roofer must hold early payments in trust until majority of work is complete
- Clear notice of cancellation if repair is not covered by insurance and refund of early payments
- Roofer cannot offer incentive in exchange for sale of materials or adjust insurance claims

# School Change Orders

## S330 Change Orders on School Construction Projects

*Status: Pending in House; eligible in Short Session*

- Change orders must be approved by the local school board
- Superintendent may approve if health or safety concern, delay of project, or risk of cost increase
- Board may adopt policy delegating approval to superintendent within dollar thresholds

# Pipe Preference

H765 Regulatory Reform 2015, Sec. 3.9

*Status: Converted to study Sec. 3.8 (awaiting Governor)*

- Local governments MUST consider all acceptable piping materials (plastic pipes) for water, wastewater, and storm drainage projects
- Unless a licensed engineer determines otherwise
- To be studied by [Environmental Review Commission](#) with report to 2016 Short Session



# Public Authority Permanent Plates

## S509 Public Authority/Weight and Perm. Plates

*Status: Pending in Senate; not eligible in Short Session*

- Specifically authorizes permanent registration plates for vehicles owned by water and sewer authorities
- Permanent plates rescinded administratively in 2012 because water and sewer authorities are not cities, counties, or public schools

# Define “Local”

## H783 Define Locally Sourced/Public Contracts

*Status: Pending in House; not eligible in short session*

- Defined “local” as:
  - City – within 50 mile radius
  - County – within radius equal to distance between center of county and farthest point in county
- Applied to contracts for goods and services where bidder claims goods or services are “local”

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FIND A BILL: 2015-2016 Session

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#### HOUSE:

Convenes Mon, Apr 25, 2016 7:00PM

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#### SENATE:

Convenes Mon, Apr 25, 2016 7:00PM

Senate Chamber Audio

Senate Calendar RSS

Chamber Dashboard

[Bills with Senate Action by Day](#)

[Senate Bills Filed by Day](#)

# Local Bills in 2016 Short Session

## Rules:

1. Approved by all delegation members
2. Noncontroversial
3. Cannot require a public hearing

## Deadlines:

- Request to Bill Drafting: May 3, 2016
- Filed: May 19, 2016

May 2016 Calendarpedia  
Your source for calendars

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4

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# Stay Tuned . . .



Norma Houston  
UNC School of Government  
[nhouston@sog.unc.edu](mailto:nhouston@sog.unc.edu)