
Governor Newsom's Executive Order Regarding Economic Sanctions on Russia Creates Confusion for Local Agencies

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On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 in response to Russia's invasion of Ukraine. The Order instructs all agencies and departments that are subject to the Governor's authority to review their investments and contracts to ensure compliance with economic sanctions imposed on Russia by the US government or the State of California. This includes refraining from completing new investments and financial transactions with Russian institutions or companies that are headquartered in Russia. Ambiguity regarding the Order's application has led to an influx of questions from school districts. School Districts and other local public entities should be aware that the Order does not directly apply to them, rather, the Order is directed at State departments and agencies. Local public entities may, however, be required to comply with reporting requirements when they are receiving grant monies or otherwise contracting with those State departments and agencies.

Executive Order N-6-22

All agencies and departments directly subject to the Order were instructed to: review all contracts for commodities, technology, and services to determine compliance with existing economic sanctions; terminate any contracts with any individuals or entities that are determined to be a target of economic sanctions; and refrain from entering into any contracts with these individuals or entities while sanctions are in place. Agencies and departments subject to the Order were also directed to notify all contractors and grantees of their obligations to comply with the economic sanctions within 45 days of the Order's issuance. Finally, grantees and contractors with agreements valued at \$5 million or more were ordered to report their compliance with the sanctions to their obligating agency or department and report the steps they have taken in response to Russia's actions in Ukraine.

Though the Order does not expressly define “agencies and departments subject to the Governor’s authority,” a press release from the Governor’s Office dated March 4, 2022, refers to mandatory compliance with the Order by State agencies and departments. The press release also clarifies that the Governor is only “urging” “businesses, non-governmental organizations, and public entities in the state” to similarly review their investments and contracts to ensure compliance with the economic sanctions on Russia. In this context, school districts and other local agencies likely fall under the category of “public entities,” which, except for State-funded contracts, are only urged to comply. In contrast, “agencies and departments” under the Governor’s jurisdiction are required to comply with the primary requirements of the Order.

Pursuant to the Order, the Office of Public School Construction (OPSC) has notified all District Superintendents and County Superintendents that have participated in the School Facility Program or other State Allocation Board-administered programs for whom compliance with the Order is required. Based on this notice from OPSC, compliance with the Order appears mandatory for State-funded contracts. For contracts that are paid with other sources of funding, compliance with the Order appears only to be encouraged.

For any agreements or grants valued at \$5 million or more, a separate notification outlining additional reporting requirements under the Order is expected.

Takeaways

For those school district that are recipients of State grant funding and have received notice from OPSC that they are required to comply with the Order, Lozano Smith has prepared a form letter to be sent to contractors and grantees signaling the district’s intent to comply. Regardless of whether they are a recipient of State funding or have been notified that compliance is required, school districts may choose to comply with the Order with respect to their contracts.

If you have any questions about Executive Order N-6-22, or if you are interested in sending compliance letters to contractors and grantees, please contact the author of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.