

NYU MEDICAL CENTER
NYU HOSPITALS CENTER
NYU SCHOOL OF MEDICINE

DATE: December 23, 2005

SUBJECT: PROHIBITION AGAINST EMPLOYING OR CONTRACTING WITH INELIGIBLE PERSONS

SUMMARY: An Ineligible Person is an individual or entity that has been excluded from participating in a federal healthcare program. Neither NYU Hospitals Center nor NYU School Of Medicine will employ, appoint to the Hospital's Medical Staff or contract or do business with an Ineligible Person. This policy describes the departments responsible for verifying whether an individual or entity is an Ineligible Person and the steps to take upon learning that an individual or entity is an Ineligible Person.

I. POLICY

In order to qualify for federal contracts and payment from federally funded healthcare programs, and to avoid the imposition of civil monetary penalties, NYU Medical Center must ensure compliance with the regulations applicable to the federal programs and contracts. Therefore, it is the policy of NYU Hospitals Center (NYUHC) and NYU School of Medicine (SOM):

- not to employ any individual who is an Ineligible Person;
- not to contract or do business with any individual or entity who is an Ineligible Person;
- not to appoint or reappoint to the Medical Staff any physician or allied health professional who is an Ineligible Person; and
- to comply with all reporting requirements governing Ineligible Persons.

For purposes of this policy:

- An **Ineligible Person** means an individual or entity who/which has been excluded, suspended, debarred or otherwise deemed ineligible to participate in a federally-funded healthcare program or federal contract and has not been reinstated after the period of exclusion, suspension, debarment or ineligibility.
- A federal healthcare program is defined as any plan or program that provides health benefits, whether directly, through insurance or otherwise, which is funded directly, in whole or in part, by the United States Government or a State healthcare program (with the exception of the Federal Employees Health Benefits Program). The most significant federal health care programs are Medicare, Medicaid, Tricare and the Veterans programs. The most significant federal contracts are those with the National Institute of Health for research grants.
- Ineligible Persons can be found on the General Service Administration's List of Parties Excluded from Federal Programs (<https://www.sam.gov/portal/SAM/#1>) and the HHS/OIG List of Excluded Individuals/Entities (<http://exclusions.oig.hhs.gov>).

This policy covers NYUHC with respect to:

- Employees and candidates for employment;
- Residents and fellows;
- Physicians and allied health professionals appointed to NYUHC's Medical Staff; and
- Current vendors and consultants and entities/individuals seeking to become vendors or consultants.

and SOM with respect to:

- Faculty and staff and candidates for employment;
- Employed physicians; and
- Vendors and consultants (subject to the policies of New York University's Purchasing Department which handles purchasing matters for SOM).

II. PROCEDURES

For Employees and Candidates for Employment

1. Candidates for Employment. All candidates for employment are required to disclose on the employment application or Post-Offer Questionnaire (for faculty and post-doctoral candidates) whether he or she is an Ineligible Person. Applications or Questionnaires which are not fully completed will not be processed.
2. Pre-and Post-Employment Exclusion Checks. Prior to hiring or re-hiring an employee, the individual must be checked against the GSA and the OIG lists. If the individual's name appears on either list, any offer of employment must be withdrawn and the individual may not be hired or re-hired unless satisfactory evidence is presented that he or she:
 - Is not the individual who appears on the list(s), or
 - The charges are resolved and it is clear that the individual has been reinstated to the federally funded healthcare program or is otherwise eligible to enter into federal contracts.
3. Medical Staff Members. No physician or allied health professional may be appointed or reappointed to NYUHC's Medical Staff unless it has been confirmed that the individual is not an Ineligible Person.
4. Employee's Responsibility to Disclose. Any employee who becomes an Ineligible Person during his/her employment is required to disclose such fact to his/her employer (NYUHC or SOM). An employee who becomes an Ineligible Person is subject to dismissal regardless of whether the employee discloses such fact.

With respect to Vendors and Consultants

1. Preliminary Exclusion Check. A department may either perform its own exclusion check against the GSA and OIG lists or request the Compliance Office to do so. (Requests to the Compliance Office should include the proposed vendor's complete name, address, social security or tax identification number and the requesting department's contact person and phone number.) If the proposed vendor appears on either list, no department

or division may enter into a contract or consulting agreement with the vendor unless the vendor provides satisfactory evidence that:

- It is not the individual/entity that appears on the lists; or
- The charges are resolved and it is clear that the vendor has been reinstated to the federally funded health care program.

2. Current Vendors. If, following execution of a contract, a department learns that a vendor is an Ineligible Person, the department should refer the matter to the Compliance Office, which will work with the department and the Office of Legal Counsel to terminate the contract and with the Finance Department to address any potential cost reporting issues.
3. Requests for Proposals. It is recommended that Requests for Proposals explicitly ask the vendor to disclose whether it is an Ineligible Person. An appropriate response is mandatory before a vendor may qualify to do business. If there are any questions regarding a vendor's response, please consult with the Compliance Office or the Office of Legal Counsel.
4. Recommended Contract Provision: Although NYUHC's standard Purchase Order Terms and Conditions include a warranty that the vendor is not an Ineligible Person, it is recommended that any agreement/contract which NYUHC is expected to sign include provisions which
 - require the vendor to promptly disclose to NYUHC any debarment, exclusion or suspension that makes the vendor ineligible for participation in a federally-funded healthcare program; and
 - give NYUHC the right to terminate the agreement in the event the vendor becomes an Ineligible Person.

III. RESPONSIBILITIES

1. Human Resources is responsible for performing the initial exclusion checks prior to hiring and/or rehiring all faculty and staff of NYUHC and SOM. HR may perform the checks itself or through an outside firm.
2. The Medical Staff Office is responsible for:
 - performing the exclusion check for all physicians and allied health professionals applying for appointment and reappointment to the Medical Staff as part of the credentialing process;
 - at its discretion, performing exclusion checks of physicians and allied health professionals on a monthly basis; and
 - notifying the Chief Medical Officer and the Compliance Office upon learning of any Medical Staff member who is found to be an Ineligible Person.
3. Nurse Recruitment is responsible for performing the exclusion check for nurses.
4. The Compliance Office is responsible for:
 - performing annual exclusion checks for all Medical Center employees;

- notifying the Vice President of Human Resources or his/her designee upon learning of an employee who is an Ineligible Person;
 - performing exclusion checks for prospective vendors;
 - performing annual exclusion checks for all current NYUHC vendors;
 - notifying the CFO of NYUHC and Supply Chain Management upon learning of a vendor that has become an Ineligible Person;
 - to the extent the Compliance Office performs exclusion checks for SOM vendors, notifying the CFO of SMO upon learning of a vendor that has become an Ineligible Person;
 - working with the relevant department and the Office of Legal Counsel to terminate the contract of a NYUHC vendor that has become an Ineligible Person; and
 - reporting to the appropriate government agency in accordance with applicable regulations.
5. The Vice President of Human Resources or his/her designee is responsible for working with the relevant department to terminate any employee who is found to be an Ineligible Person.
 6. The CFOs of NYUHC and SOM are responsible for ensuring that any reports submitted to federal healthcare programs for reimbursement are appropriately adjusted to eliminate amounts claimed for the services performed by an individual/vendor who is an Ineligible Person.

IV. DOCUMENTATION

1. The Search Results page of the GSA and OIG lists should be printed out and maintained:
 - by Human Resources for employees (including faculty employed by SOM) and candidates for employment;
 - by the Compliance Office for NYUHC vendors (and SOM vendors to the extent the purchasing is handled at the Medical Center campus);
 - by Nurse Recruitment for nurses; and
 - by the Medical Staff Office for physicians and allied health professionals on the Medical Staff.
2. The Compliance Office will maintain exclusion verification files for each calendar year.

References:

OIG Model Compliance Program Guidance for Hospitals, 63 FR 8987-8998 (2/23/98); Special Advisory Bulletin "The Effect of Exclusion from Participation in Federal Health Care Programs" (9/99), 42 USC§1320a-7a(a)(7); OIG Supplemental Compliance Program Guidance for Hospitals, 70 FR 4858-4875 (1/31/05); Executive Order 12549, 51 F.R. 6370, February 18, 1986;