

<b>DEPARTMENT:</b> Materials Management	<b>POLICY DESCRIPTION:</b> Prohibition Against Contracting with Any Ineligible Person
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<b>APPROVED BY:</b> Ethics and Compliance Policy Committee	

**SCOPE:** All Company-affiliated facilities including, but not limited to hospitals, ambulatory surgery centers, home health agencies, hospice agencies, physician practices, all Corporate Departments, Groups and Divisions.

**PURPOSE:** To ensure that the Company does not contract with any Ineligible Person or persons who are excluded from participation in an applicable state healthcare program.

**POLICY:** No Company-affiliated facility, including hospitals, ambulatory surgery centers, home health agencies, hospice and physician practices, as well as Corporate Departments, Groups and Divisions, may contract with an Ineligible Person, individual or entity currently excluded on a state exclusion list.

Additionally, **pending** proposed debarment or exclusion, individuals and companies with whom the Company currently contracts who are proposed for debarment or exclusion, must be removed from direct responsibility for or involvement in any federally-funded health care program. If resolution results in conviction, debarment or exclusion of the individual or entity, the Company must immediately cease contracting with that Ineligible Person.

**PROCEDURE:**

1. **Determining Contractors' Eligibility Status**
  - a. Before entering into or renewing a national agreement, the Company's group purchasing organization, HealthTrust Performance Group ("HealthTrust"), will ensure the proposed contractor is not an Ineligible Person.
  - b. Before entering into a contract, Facility Chief Executive Officers ("CEOs"), Administrators, Division Procurement Managers, Practice Managers and Corporate Department heads must designate an individual responsible for ensuring a proposed contractor is not an Ineligible Person.
  - c. HealthTrust and/or the designated individual at the facility or in the Corporate Department must determine that the potential contractor is not listed as excluded in the General Service Administration's System for Award Management (SAM) system (the "GSA List"), the HHS/OIG List of Excluded Individuals/Entities (the "OIG Sanction Report"), and available state exclusion lists, as applicable.
  - d. If it is necessary to do any follow up directly utilizing the GSA List and the OIG Sanction Report, these can be found on the Internet in searchable formats at, respectively:
    - <https://www.sam.gov/SAM/pages/public/searchRecords/search.jsf>; and
    - <https://exclusions.oig.hhs.gov>.

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<p>A <a href="#">list of states with exclusion lists</a> is available on Atlas Connect.</p> <p>e. The Company and its affiliated facilities may not enter into contract should an individual or entity appear on the GSA List, the OIG Sanction Report, or applicable state exclusion lists as terminated, suspended or excluded.</p> <p>f. Corporate Information Technology Group (ITG) will send the Company's accounts payable data to Verity on the first (1<sup>st</sup>) day of each month to facilitate batch checking of all current contractors. The Verity system will check each contractor record against the GSA List, the OIG Sanction Report, and all available state exclusion lists.</p> <p>g. Results of each month's batch process are available in Verity web portal by the fifteenth (15<sup>th</sup>) day of each month.</p> <p>h. Results are categorized, as one of three flag values:</p> <ul style="list-style-type: none"> <li>i) Red Flag (true match) indicates a positive match to a sanction in at least one of the exclusion lists;</li> <li>ii) Yellow Flag (potential match) indicates that there is a possible match to a sanction in at least one of the exclusion lists; and</li> <li>iii) No Flag (no match) indicates no found sanction for the contractor.</li> </ul> <p>i. Each Red or Yellow Flagged record must be investigated and must be updated within the Verity web portal with information regarding the action to be taken or the action actually taken. If the investigation reveals that the Red or Yellow Flag match is not the same contractor that is in the Company's account payable data, the result will be updated in Verity to indicate a false positive match. When a contractor has been designated as a false positive match, the contractor will not be listed in subsequent Verity reports unless the contractor is named as new entry on a sanction list.</p> <p>j. HealthTrust will review the results using the Verity web portal on a <b>monthly</b> basis and is responsible for ascertaining whether or not each listed Ineligible Person has a national agreement with the Company. If such an agreement exists, HealthTrust is responsible for confirming potential matches. If a match is confirmed and the contractor is an Ineligible Person on the GSA List, the OIG Sanction Report and/or a state exclusion list, HealthTrust must terminate the contract and work with the Corporate Reimbursement Department to address potential cost reporting issues.</p> <p>k. If no national agreement exists and HealthTrust is unable to confirm the potential match is a false positive, HealthTrust must inform the CEO at the facility that contracted with the potentially Ineligible Person. The facility CEO, or designee, is responsible for confirming</p>
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<p>the match. If the contractor is an Ineligible Person on the GSA List or the OIG Sanction Report or excluded by an applicable state, the facility CEO, or designee, must terminate the contract and work with the facility's Division Reimbursement Manager to address potential cost reporting issues.</p> <ul style="list-style-type: none"> <li>l. Each incidence in which the listed contractor is confirmed to be an Ineligible Person or excluded by the applicable state must be reported to the facility Ethics and Compliance Officer (ECO) or, if a national agreement contractor, to the Director, Internal Compliance Reporting.</li> <li>m. The Company's accounts payable history system deletes individuals and companies that have not been paid for two years. If a facility has not done business with or contracted with an individual or company for two or more years, the facility must follow the comparison procedure outlined in Section c above.</li> <li>n. Each facility must have a process in place to conduct ad-hoc (non-batch) monthly checks of facility-based contractors that do not get entered into the corporate accounts payable system. This ad-hoc process must be done using the Verity web portal or in accordance with Section (1)(d) above.</li> </ul> <p>2. <b><u>Documentation</u></b></p> <ul style="list-style-type: none"> <li>a. Search results conducted within Verity will be maintained, with notes regarding the search, by Verity. Search results conducted through any other method must be maintained consistent with this section.</li> <li>b. For searches done outside Verity, the search results must be documented and copies of the search information should be maintained in an electronic file, separate file or in a master exclusion verification file filed by year and alphabetized.</li> <li>c. All documents pertaining to an incidence in which a listed individual or company is confirmed to be an Ineligible Person are to be maintained in the hospital's contractor file or in a master exclusion verification file filed by year and alphabetized. Such documents must be maintained for a minimum of 10 years.</li> <li>d. Electronic storage is an acceptable storage option provided the documents are readily available on demand. A procedure for backing up documents in the event of system malfunction should be established to ensure accessibility.</li> <li>e. All records regarding ineligible persons search results must be maintained according to the Company's Records Management Policy, EC.014, record retention schedules (i.e., 10 years).</li> </ul>
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3. **Request for Information and Agreement Language**

- a. The following language is to be included in all Requests for Information (RFIs) submitted to potential contractors:

“[Facility] seeks to comply with all Federal and state laws and regulations including the requirement not to contract with sanctioned individuals or companies. Has your company or any individual employed by your company been listed by a Federal Agency as debarred, excluded or otherwise ineligible for participation in federally funded health care programs?”

- b. An appropriate response to this question is mandatory before a supplier may be qualified to contract with the Company.

- c. The following language is to be included in all agreements with contractors (the names of the parties listed in brackets should be changed to conform to the names used in the agreement and the brackets eliminated in the final document). Changes to this language may only be made as approved in advance by the Operations Counsel assigned to your facility or department.

“[Contractor] represents and warrants [to Facility] that [Contractor], its officers, directors and employees (i) are not currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in 42 USC § 1320a-7b(f) (the “Federal Healthcare Programs”) or any state healthcare programs; (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs or any state healthcare programs; and (iii) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in [Contractor] being excluded from participation in the Federal Healthcare Programs or any state healthcare programs. This shall be an ongoing representation and warranty during the term of this Agreement and [Contractor] shall immediately notify [Facility] of any change in the status of the representations and warranty set forth in this section. Any breach of this section shall give [Facility] the right to terminate this Agreement immediately for cause.”

- d. The attached addendum may be used for amending existing agreements that do not contain the Warranty of Non-exclusion language stated in Paragraph 15 above. The names of the parties listed in brackets should be changed to conform to the names used in the agreement and the brackets eliminated in the final document.

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**DEFINITIONS:**

**Ineligible Person** – For purposes of this policy, any individual or entity that: (i) is currently excluded, suspended, debarred or otherwise ineligible to participate in Federal health care programs; (ii) has been convicted of a criminal offense related to the provision of health care items or services but has not yet been excluded, debarred or otherwise declared ineligible; or (iii) is currently excluded on a state exclusion list.

**Verity, EchoMonitor (Verity)** – The website portal utilized by Company-affiliated facilities to verify whether an individual or company is considered an ineligible person. The Verity system searches the OIG Sanction Report, the GSA List and available state exclusion lists to identify exclusions.

**REFERENCES:**

1. OIG Model Compliance Plan for Laboratory, 62 FR 9435-9440
2. OIG Model Compliance Program Guidance for Hospitals, 63 FR 8987-8998
3. Records Management Policy, [EC.014](#)
4. Verity Ad Hoc Search site: <https://client.verity.cloud/37010/appweb/asp/userlogin.aspx>
5. Verity Monthly Batch site: <https://client.verity.cloud/37010-2/appweb/asp/userlogin.aspx>
6. [Addendum](#)