

Department of Behavioral Health
TRANSMITTAL LETTER

SUBJECT Screening for Eligibility to Participate in Federal Healthcare Programs and to Contract with DC		
POLICY NUMBER DBH Policy 716.6	DATE DEC 17 2013	TL# 208

Purpose. The purpose of this policy is to set forth the requirements for DBH and its contractors to screen all contractors, subcontractors, employees and covered persons for eligibility to participate in federal health care programs and to contract with the District of Columbia government.

This revision adopts the policy from the former Department of Mental Health, now merged into the new Department of Behavioral Health, in accordance with the DBH Establishment Act of 2013.

Applicability. DBH, including the Behavioral Health Authority (BHA) and Saint Elizabeths Hospital (SEH), and any DBH Contractors/vendors including the Mental Health Rehabilitation Services (MHRS) providers.

Policy Clearance. Reviewed by affected responsible staff and cleared through appropriate Behavioral Health Authority offices.

Implementation Plans. Specific staff whose roles are relevant to the implementation of this policy should be trained, as needed. Program managers are responsible for following through to ensure compliance.

Policy Dissemination and Filing Instructions. Managers/supervisors of DBH must ensure that staff is informed of this policy. Each staff person who maintains policy manuals must promptly file this policy in the DBH Policy and Procedures Manual.

ACTION

REMOVE AND DESTROY

DMH Policy 716. 6


INSERT

DBH Policy 716.6



Stephen T. Baron
Director, DBH

12/17/13

GOVERNMENT OF THE DISTRICT OF COLUMBIA  DEPARTMENT OF BEHAVIORAL HEALTH	Policy No. 716.6	Date DEC 17 2013	Page 1
	Supersedes: DMH Policy 716.6A, same subject, dated November 23, 2011.		

Subject: Screening for Eligibility to Participate in Federal Health Care Programs and to Contract with the District of Columbia Government

1. **Purpose.** Federal law prohibits entities that participate in federal health care programs (including Medicare, Medicaid, and other governmental programs), from entering into or maintaining certain relationships with individuals or entities that have been excluded from participation in federal health care programs. The Medicare/Medicaid statute prohibits payment for any item or service that has been ordered, supervised, or furnished by an individual or entity during the time when the individual or entity has been excluded from the federal program and allows monetary penalties for violations of this prohibition (see 4j). The District of Columbia also has a list of individuals and legal entities that are excluded from contracting with the District.

The Department of Behavioral Health (DBH) will not contract with or employ individuals or entities that are ineligible to participate in federal health care programs or are ineligible to contract with the government of the District of Columbia. The purpose of this policy is to set forth the requirements for DBH and its contractors to screen all contractors, subcontractors, employees and covered persons for eligibility to participate in federal health care programs and to contract with the District of Columbia government.

2. **Applicability.** DBH, including the Behavioral Health Authority (BHA) and Saint Elizabeths Hospital (SEH), and any DBH Contractors/vendors including the Mental Health Rehabilitation Services (MHRS) providers.

3. **Authority.** Federal False Claims Act (31 U.S.C. §§ 3729-3733); 42 U.S.C. § 1320a-7(a) which mandates exclusion for conviction of healthcare program-related crimes, conviction relating to patient abuse or neglect, felony conviction relating to healthcare fraud or felony conviction relating to controlled substances. Deficit Reduction Act of 2005 (42 U.S.C. § 1396a (a)); Authority to debar or suspend (D.C. Official Code § 2-308.04); Debarment, Suspension and Ineligibility, 27 DCMR §§ 2210 – 2217.

4. **Definitions.**

4a. **Contractor.** Any individual or legal entity that:

(1) Directly or indirectly submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a government contract, including a contract for carriage under government or commercial bills of lading, or a subcontract under a government contract; or

(2) Conducts business, or reasonably may be expected to conduct business, with the government as an agent or representative of another contractor.

4b. **Covered Persons.** All owners, officers, members of the board of directors, employees and applicants for employment or contracts of DBH and DBH contractors.

4c. Debarment and Suspension Panel. The District of Columbia Panel that determines whether or not a person or business shall be debarred or suspended from consideration for awards of contracts or subcontracts with the District of Columbia.

4d. Exclusion Lists. Three lists that provide information on any individual or entity excluded from participation in any federal health care program or from contracting with the District of Columbia. They are as follows:

(1) The List of Excluded of Individuals/Entities (LEIE) database maintained by the Department of Health and Human Services (DHHS), Office of Inspector General, (OIG) (<http://oig.hhs.gov/fraud/exclusions.asp>) of individuals or entities excluded by the OIG.

(2) The General Services Administration (GSA) Excluded Parties List System (EPLS) (<http://epls.arnet.gov>) which contains debarment actions taken by various Federal agencies, including exclusion actions taken by the OIG.

(3) The District of Columbia Excluded Party List (<http://ocp.dc.gov/DC/Excluded+Parties+List>) maintained by the District's Debarment and Suspension Panel.

4e. Federal health care program. Programs such as Medicare, Medicaid, and all other plans and programs that provide health benefits that are funded directly or indirectly by the United States Government (other than the Federal Employees Health Benefits Plan).

4f. Ineligible person. Any individual or entity who is currently excluded, debarred, suspended, or otherwise ineligible to participate in the Federal healthcare programs, or Federal procurement or non-procurement programs; or has been convicted of a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7a but has not yet been excluded, debarred, suspended or otherwise declared ineligible; and any individual or entity debarred from consideration for award or contracts or subcontracts with the District of Columbia pursuant to D.C. Official Code § 2-308.4.

4g. Mental Health Rehabilitation Services (MHRS). Mental health rehabilitative or palliative services provided by a DBH-certified community mental health provider to consumers in accordance with the District of Columbia State Medicaid Plan and 22-A 34 DCMR.

4h. Medicare. A federal program that pays for certain health care expenses for eligible individuals.

4i. Medicaid. A federal-state health insurance program for low-income and needy people.

4j. Prohibited payments. The prohibition against federally funded health care program payment for items or services furnished by excluded individuals or entities which also extends to payment for administrative and management services not directly related to consumer care, but that is a necessary component of providing items and services to federal program beneficiaries (e.g., payment of the salary for a billing employee who had been excluded). No payment can be made from a federally funded health care program to cover an excluded individual's salary, expenses or fringe benefits, whether or not the individual provides direct patient care.

4k. Screening Affidavit (see Exhibit 1) A proof of screening of all covered persons

confirming that the contracting agent with DBH has conducted a search of all excluded persons or entities.

5. Policy.

5a. Any person/entity found in any of the Exclusion Lists or an individual that has been convicted of a criminal offense that has not been excluded, debarred, suspended, or otherwise declared ineligible to participate in federal health care programs or District contracts, will not be eligible for employment, contracts or subcontracts with DBH, or paid directly or indirectly using federal health care programs funds.

5b. No program payment will be made for anything that an ineligible person or entity furnishes, orders, or prescribes. This payment prohibition applies to the excluded person, anyone who employs or contracts with the excluded person, or any hospital or other provider where the excluded person provides services.

5c. No program payment will be made to any program which has an owner, officer, or member of the board of directors who is an excluded individual or entity.

6. DBH Responsibilities and Procedures.

6a. The Contract and Procurement Services, Office of Administrative Operations, shall:

(1) Maintain the required signed Affidavit from Contractors as evidence and verification of compliance with exclusion screenings for all covered persons and subcontractors prior to entering into any contract as part of their response to any solicitation; and on an annual basis thereafter.

(2) Require contractors submit a new completed Affidavit for any new covered person or subcontractor who was not included on a prior Affidavit.

(3) Provide a copy of the completed Affidavits to the DBH Office of Accountability.

(4) Check Exclusion Lists for all contractors by vendor name and principal upon submission of the contractors' response to any solicitation and upon the exercise of any options. Ensure that such a check occurs on at least an annual basis for all current contractors.

(5) Decline to enter into any contract with an excluded or debarred individual or entity;

(6) If the contractor is determined to be excluded following an annual exclusion screening, take immediate steps to terminate the contract, as necessary, and recoup any monies that should not have been paid due to the exclusion; and

(7) If the contractor is determined to be debarred or suspended following an annual exclusion screening or through other notification, ensure that no option is executed and determine if immediate termination of the contract is appropriate in accordance with 27 DCMR § 2212.

6b. The DBH Human Resources Division shall:

- (1) Ensure that all Position Descriptions (PDs) include a statement to the effect that as a condition of employment, the person may not be excluded from participation in federal health care programs; have a conviction that would mandate their exclusion; or be debarred or suspended by the District of Columbia.
- (2) Check Exclusion Lists for:
 - all DBH applicants prior to extending any offer of employment; and
 - all DBH employees at least annually.
- (3) Decline to extend an offer of employment to any individual who is excluded from participation in federal health care programs or debarred by the District.
- (4) Take appropriate personnel action for any employee who appears on exclusion list, up to and including termination.
- (5) Maintain record of exclusion screenings for all applicants and DBH employees.

7. Contractor Responsibilities and Procedures.

7a. Ensure that no covered persons or subcontractors who provide services to DBH pursuant to a contract with DBH have been excluded from federal health care programs or debarred by the District.

7b. Perform exclusion screenings for all covered persons and subcontractors prior to submitting any proposal to DBH; document such screenings on the required Affidavit attached as Exhibit 1 to this policy and included in the Request for Proposals issued by the DBH Contracting Officer; and submit the original completed Affidavit to the Contract and Procurement Services, under the Office of Administrative Operations.

7c. Perform exclusion screenings for all covered persons and subcontractors on at least an annual basis, and more often when required due to a change in personnel or subcontractors; document such screenings on the required Affidavit provided by the DBH Contracting Officer; and submit the original completed Affidavit to the DBH Contracting Officer.

7d. Inform DBH immediately if any screening reveals that a covered person, employee or subcontractor is excluded or debarred; or if the contractor itself is excluded or debarred.

8. Exclusion Screening Procedures for DBH and Contractors.

Step 1. Check Exclusion Lists. In order to determine if the entity is excluded, place full name, including any aliases previously used, into each of the following databases or by calling the following contact numbers:

<http://exclusions.oig.hhs.gov> (1 (202) 619 – 1343)

<http://www.epls.gov> (1 (866) GSA – EPLS)

<http://ocp.dc.gov/DC/Excluded+Parties+List>

Step 2. Confirm any matches on the exclusion lists.

Step 3. Alert the following entities for matches per Step 2

- DBH Compliance Officer for Saint Elizabeths Hospital, for a hospital contractor
- DBH Contracting Officer
- Compliance Officer. for Saint Elizabeths Hospital, if a hospital contractor

Step 4. **Immediate Corrective Action.**

- The person or entity that has been determined to be excluded from participation in federal health care programs must be immediately removed from participating in any program which involves participation in a federal health care program, and may require termination of the contract. Appropriate repayment to federal authorities for that person/entity's involvement must also be determined.
- A contract with a person or entity that has been determined to be debarred from contracting with the District shall be immediately suspended or terminated.

Step 5. **Documentation.** Maintain a historical database/file on all persons/entities screened. The database/files will include, at a minimum:

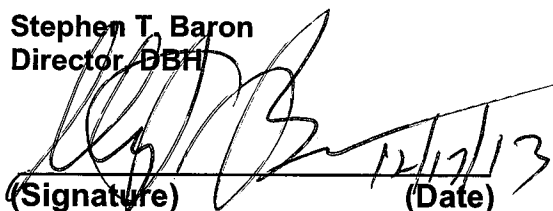
- The name of the screened individual/entity;
- Each date the screened individual/entity was checked initially and at least annually thereafter; and
- The results of each check

9. **Implementation.** A plan of action to implement or adhere to this policy must be developed by DBH and its contractors. Implementation of all this policy shall begin as soon as possible. Full implementation of this policy shall be completed within sixty (60) days after the signing of this policy by the DBH Director.

10. **Sanction for Non-Compliance.** Non-compliance with the requirements of this policy shall result in appropriate action in accordance with DBH policies and rules and federal and District laws.

Approved By:

Stephen T. Baron
Director, DBH


(Signature) 12/17/13 (Date)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF BEHAVIORAL HEALTH
Contract and Procurement Services, Office of Administrative Operations

SCREENING AFFIDAVIT

Date: _____

Authorized Agent Name

Solicitation/Contract Number

Name of Organization/Entity

Principal Officer Name and Title

Federal ID Number

Business Address (include zip code)

Business Phone Number

I hereby certify in reference to proposed Contract number above with the District of Columbia government, Department of Behavioral Health (DBH) that:

1. The Company identified above is in full compliance with Federal law that prohibits entity from participation in federal health care programs if entity has been excluded.
2. The Company identified above has not received any Medicare/Medicaid payment or other federal payment for any item or services ordered, supervised, or furnished during a time when individual or entity was excluded from the Federal Program.
3. The Company identified above is not debarred or suspended from contracting with the government of the District of Columbia.
4. The Company identified above has successfully conducted and completed exclusion and debarment screenings for their employees, covered persons including all owners, board members, officers and directors, and subcontractors prior to entering into any Contract in response to any solicitation and/or after being awarded a Contract as part of mandatory compliance with DBH Policy # 716.6, Screening for Eligibility to Participate in Federal Health Care Programs and to Contract with the District of Columbia Government.
5. The Company identified above will conduct exclusion screenings for all new employees, other covered persons or subcontractors who were not employees, covered persons or subcontractors at the time this affidavit was completed, and will ensure that no known excluded or debarred person participates in this contract.

6. No employee, covered person or subcontractor is currently excluded from participation in federal health care programs or debarred or suspended from doing business with the District of Columbia.
7. If an individual or entity is discovered to be excluded or debarred/suspended either following an annual exclusion screening or at any other time, I and the Company shall immediately inform DBH of such exclusion or debarment.
8. I acknowledge that immediate steps may be taken by DBH to terminate the Contract, as necessary and recoup any monies that should not have been paid due to exclusion shall follow.

Under penalty provided by law for making false statements, that the above statements are complete correct, and true.

NOTARY PUBLIC

On this, the _____ day of _____, year _____, before me a notary public, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

(Notary Public Signature)

(Commission Expiration Date)