

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Sanction, Exclusion, and Debarment Screening

NUMBER: 1.7.4

A. PURPOSE

To support efforts to ensure satisfaction of federal and state requirements that the BOR and the institutions it governs do not employ or contract with individuals and entities who are under state or federal exclusion, debarment, or suspension, or with entities owned or controlled by prohibited foreign nationals, entities, or governments.

B. DEFINITIONS

1. **Affiliated Research Personnel:** any individual employed by a non-BOR entity involved in research for a Regental institution.
2. **Vendor:** any organization or individual providing goods or services to the BOR or an institution, excluding refunds and reimbursements.
3. **Contractor:** any individual or other legal entity that enters into a contract or agreement for goods and services with the BOR or an institution equal to or exceeding \$25,000.
4. **Sanction Check:** the process of verifying that an individual or entity is not under state or federal exclusion, debarment, or suspension, or is not an entity owned or controlled by prohibited foreign nationals, entities, or governments.
5. **Background Check:** As defined in BOR Policy 4.1.9.

C. POLICY

1. The BOR and its Institutions exercise due diligence in hiring and screening employees, Vendors, Contractors, and affiliates. Employees, Vendors, Contractors, and appropriate affiliated individuals must be checked against appropriate governmental exclusion, debarment, and suspension lists to ensure eligibility for hire and to participate in BOR and Institutional programs.
 - 1.1. Employees, Vendors, Contractors, and covered affiliates subject to this policy have an affirmative duty to notify the Institution or BOR designated official if they are under federal exclusion, debarment, or otherwise on a federal or state sanctions list. If an individual has been excluded from participation in a federally or state funded, or if a finalist is unwilling to submit required documents or to submit to a background or sanctions check, they may not be considered for employment, placement, or perform any services for or on behalf of the BOR or its governed institutions.

- 1.2. Inquiries into sanctions status associated with the BOR and Institutions will be handled in compliance with all applicable federal and state laws.
- 1.3. All individuals who have matching names to those found through the sanctions checks process shall have the right to review, deny, or provide clarification regarding any such finding. The individual may provide information to clarify their identity as other than that of the listed individual and shall otherwise cooperate with the designated officials responsible for the checks, including executing any and all required consents and certifications. Upon determination that a name appears on a sanctions list, the designated officials will:
 - 1.3.1. Ensure that the sanction report is accurate by verifying the identity of the individual on the report;
 - 1.3.2. Present the individual with the findings;
 - 1.3.3. Consider the individual's response to the sanction finding;
 - 1.3.4. Confirm admission, denial, or clarification through the utilization of a third-party sanction check application or with the responsible government entity named in the report;
 - 1.3.5. File for the record denial if the sanction is accurate;
 - 1.3.6. Discuss with the designated BOR or institutional representative the confirmed sanction for decision making;
 - 1.3.7. Inform of action and determination.
- 1.4. Nothing in this policy abrogates or serves as a substitute for any requirement for an individual background check required by federal or state law, or by other applicable BOR policies.
2. Ongoing screening of applicable databases for Employees, Vendors, Contractors, and affiliated individuals will be managed as set forth herein.
3. As applicable to the institution, nature of duties, and engagement with programs, BOR and Institutional employees, Vendors, Contractors, and appropriate affiliated individuals are checked against, but not limited to, the following federal and state exclusion, debarment, and suspension lists or successor lists as applicable:
 - 3.1. Office of Inspector General's (OIG) List of Excluded Individuals/Entities (LEIE);
 - 3.2. General Services Administration's (GSA) System for Award Management (SAM) Excluded Parties List System (EPLS);
 - 3.3. U.S. Food and Drug Administration's (FDA) Debarment List and Disqualified/Totally Restricted List for Clinical Investigators;
 - 3.4. U.S. Department of the Treasury, Office of Foreign Asset Control's (OFAC) Specially Designated Nationals (SDN) & Blocked Persons List, Consolidated Sanctions List (Non-SDN sanctions, including Foreign Sanctions Evaders);
 - 3.5. U.S. Department of Commerce (DOC), Bureau of Industry and Security's (BIS) Denied Persons List, Entity List, and Unverified List;

- 3.6. U.S. Department of State's (DOS), Directorate of Defense Trade Control's List of Statutorily Debarred Parties and List of Administratively Debarred Parties; and
- 3.7. South Dakota Bureau of Administration debar and suspension list and any other state-level sanctions or restrictions applicable to Employees, Vendors, Contractors, and covered affiliates subject to this policy.
4. Vendors and Contractors who are personally providing services may be subject to criminal background checks prior to providing services if the duties would require a criminal record check under BOR Policy 4.1.9. Vendors and Contractors may be required to certify their compliance with employee screening where their employees provide similar personal services.
5. The sanction check screening process includes identification and verification of an individual/entity name of a prospective employee, employee, prospective Vendor, Vendor, prospective Contractor, Contractor, or affiliated individual that potentially matches a sanctioned individual/entity name identified on an applicable governmental exclusion, debarment, or suspension list. The sanction check screening process also includes determining if the identified name is a positive match and if the individual/entity is eligible for hire and/or participation in programs. The sanction check screening process includes initial screenings for prospective employees, Vendors, Contractors, or affiliated individuals, as well as subsequent checks for maintenance of continued employment, contracts, grants, or other applicable agreements to ensure continued eligibility. Verification of an employee, Vendor, Contractor, or other affiliated entity as appearing on an applicable governmental exclusion, debarment, or suspension list during any sanction check screening, initial or subsequent, will result in that individual/entity being ineligible for employment, placement, or performance of any services for or on behalf of the BOR or its governed institutions. The verification procedures, system user instructions, and associated certification forms will be managed by an institutional designated official.
6. Sanction check screening will be facilitated through systems managed by the BOR Accounts Payable Shared Service Center for procurements, Vendors, Contractors, and affiliated individuals; through Human Resources offices for employees; and through designated Research and/or Grants and Contracts offices for affiliated research personnel project reviews.

These offices are responsible for administering and overseeing the BOR and Institutional sanction check protocols, including but not limited to the following:

- 6.1. BOR Accounts Payable Shared Service Center:
 - 6.1.1. Review and renew the BOR contract or agreement with the third-party vendor for sanction check services provided, including an online searchable database system.
 - 6.1.2. Serve as the system administrator for the sanction check online searchable database system and train any designated users how to use the system.
 - 6.1.3. Maintain the sanction check procedures and serve as the subject matter expert, in conjunction with the BOR' General Counsel and other Institutional

compliance officials, on federal and state agency exclusion and debarment requirements.

6.1.4. Receive regular sanction check screening logs from BOR and Institution designated officials of current and incoming Vendors and Contractors to ensure compliance with BOR Policy 5.4.

6.1.5. Maintain ongoing sanction check screening of all active Vendors and Contractors and notify BOR or Institutional designated representatives of flagged individuals or entities.

6.2. Designated Human Resources offices:

Ensure a sanction check screening is completed for all new BOR and institutional employees for verification of employment eligibility prior to hire date in accordance with BOR Policy 4.1.9 as part of the candidate's criminal history check, if a sanctions check is determined to be necessary based on the employee duties and responsibilities. The applicable Human Resources office is responsible for maintaining supporting documentation of sanction check screenings, reverification of individuals, and for reporting confirmed positive matches to responsible officials.

6.3. Designated Research and/or Grants and Contracts Offices:

Conduct sanction check screening of affiliated research personnel, participating students, entities, and subcontractors and subrecipients for projects in accordance with BOR Policy 4.9.6 to ensure eligibility to participate in BOR or institutional research programs. Checks will occur, at a minimum, at proposal and subaward phases, during the life of projects, and if there are changes in responsible individuals. Research or Grants and Contracts may collaborate with Shared Services of Human Resources for sanction check processing. The designated research office is responsible for maintaining supporting documentation and reporting confirmed positive matches to Shared Services or Human Resources or other designated officials.

FORMS / APPENDICES:

None

SOURCE:

BOR August 2023; October 2023 (Clerical).