State of Iowa HCBS Mandated Background Checks

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Iowa

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Objectives of the Training

- To better understand and fully comply with state law and lowa Administrative Rules rules regarding dependent adult, child abuse, and criminal background checks.
- To better understand the process in which to request state background checks.
- To better understand and fully comply with federal laws on exclusion list checks.



Iowa Law Requires Background Checks

 Pursuant to Iowa Code 249A.29 and Iowa Code 135C. 33(5)(a)(1) & (5)(a)(3), all providers of Habilitation and Home and Community Based Services (HCBS) waiver services must complete child abuse, dependent adult abuse and criminal background screenings before employment of a prospective staff member who will provide care for a member or consumer.



Record Check Procedures for Prospective Employees

Applications for employment must include the following statement:

Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?

 Inform applicant prior to employment of the need for a records check and obtain a signed acknowledgement of the receipt of such information.



Where Does the Process Start?

- Prior to employment the Provider must request that the Iowa Department of Human Services (DHS) perform a child and dependent adult abuse record check.
- Prior to employment the Provider must request that the Department of Public Safety perform a criminal history check.



The Role of DHS

- The DHS Record Check Evaluation Team is responsible for the evaluation of any "hits" to an applicant's record.
- This also includes any deferred judgments.
- The Records Evaluation Team is not responsible for the records check themselves, only the evaluation of those checks.



The Role of DHS

- DHS does not evaluate "Juvenile" records.
- DHS evaluates convictions. If it is an "arrest" only, they will not evaluate.



- Providers use the State's SING system to perform background checks.
- The SING system gathers all of the background check information needed in one point of contact:
 - Sex Offender Registry
 - Child Abuse
 - Dependent Adult Abuse
 - Criminal History





Single Contact License & Background Check

User ID (Facility ID) Pin #		Reset
P	Please Logon	
Re	solution	
Lo	W (640×480)	С
Me	edium (800,600)	•
Hig	gh (1024×768)	0

Done



Single Contact License & Background Check

Enter Information Last Name Smith Maiden Name Wilson First Name | Martha Middle Name SSN 123456789 ▼ 30 ▼ 1966 ▼ DOR April Male C Female © Professional License Type Nurse Aide Professional License # 123456 Abuse Registries Check Criminal History Check (\$) Volunteer C Reports Log Off Session Will Time Out At 5:06:07 PM

	Nurse Aide License						
Aide #	Status	Description					
123456	Record Not Found	This individual is currently ineligible to work in Iowa. This individual is not found on the Iowa Nurse-Aide Registry. Please contact the Iowa Nurse-Aide Registry at 515-281-6964 and hold for staff to assist you.					

		Abuse Registri	es Background C	heck	
	Last Name	Maiden Name	First Name	DOB	SSN
Selection Criteria	Smith	Wilson	Martha	1966-April-30	123456789
Registr	,		Resu	lts	
Sex Offender	N	ot found in Registry		WC-	
Child Abuse	N	ot found in Registry			
Dependent Adult A	hiica	ossible Hit: Initiate Reques AX to: 515-242-6884. If que		lt Abuse Registry Informat 582.	ion, Form 470-0612.

	V 4	Criminal Histor	ry Background C	heck	
	Last Name	Maiden Name	First Name	DOB	SSN
Selection Criteria	Smith	Wilson	Martha	1966-April-30	123456789
11			Results		
Please				ponse for criminal history. criteria, requiring more re	

Background Check Complete As Of 6/12/2009 4:46:08 PM



Single Contact License & Background Check

Previous Month's	Transactions		This Month's Transaction	ins	Return To Search	Screen	Log Off
LAST NAME		DOB	• • • (M	onth/Day/Yea	r) Find Tr	ansactions Mat	ching
EVENT TIMESTAMP	LAST NAME	DOB	VIEW FOR LAST NAME D	ОВ			
6/12/2009 3:33:30 PM	Loghry	09-30-1981	VIEW				
EVENT TIMESTAMP	LAST NAME	DOB	VIEW FOR LAST NAME D	ОВ			
6/12/2009 4:41:56 PM	smith	06-23-1974	VIEW				
EVENT TIMESTAMP	LAST NAME	DOB	VIEW FOR LAST NAME D	ОВ			
6/12/2009 4:43:52 PM	Smith	06-22-1974	VIEW				
EVENT TIMESTAMP	LAST NAME	DOB	VIEW FOR LAST NAME D	ОВ			
6/12/2009 4:45:04 PM	Smith	04-30-1966	VIEW				



Single Contact License & Background Check

Previous Month's	Transactions		his Month's	Transactions	Retur	n To Search S	Screen Lo	og Off
LAST NAME Wash	nington	DOB 02	22 🕶 19	06 ▼ (Mont	h/Day/Year)	Find Tra	nsactions Matchin	g
Data base codes are:	CRM Criminal	History						
		ent Adult Abuse	Registry					
	SEX Sex Offe	nder						
	CHI Child Abi	use Registry						
	AID Nurse Ai	d Registry						
	NUR Nurses							
Records Matching Last	Name Washi	ngton And DOE	3 '02-22-19	06'				
EVENT TIMESTAMP	LAST NAME	MAIDEN NAME	FIRST NAME	ESSN	LICENSE NUMBER	DOB	DATABASE CODE	RESULTS
2/19/2010 3:07:53 PM	1 Washington		George	*****6789		02-22-1906	CHI	Record Not Found
2/19/2010 3:07:53 PM	1 Washington		George	*****6789		02-22-1906	DAR	Record Not Found
2/19/2010 3:07:53 PN	1 Washington		George	*****6789		02-22-1906	SEX	Record Not Found
2/19/2010 3:07:53 PM	1 Washington		George	*****6789		02-22-1906	CRM	Fax Sent
2/19/2010 3:07:53 PM	1 Washington		George	*****6789		02-22-1906	CRM	Possible
2/19/2010 3:07:53 PN	1							CHARGE \$12.00

Record Check Procedures for Prospective Employees

- The provider requests a background check, if it is clear, the provider may move ahead with employment of the applicant. Keep the findings as evidence and file in a confidential location.
- Employees who have terminated employment for any reason or any length of time and wish to return to the same health care program must go through a record check again.



No Hit



	A	buse Registrie	s Background C	heck		
	Last Name	Other Last Name	First Name	DOB	SSN	
Selection Criteria					4	
Registr	у		Result	S		
Sex Offer	nder		Not found in F	Registry		
Child Abu	use	Not found in Registry				
Dependent Abuse			Not found in F	Registry		

	С	riminal History	y Background (Check	
	Last Name	Other Last Name	First Name	DOB	SSN
Selection Criteria					
		R	lesults		
		Not foun	d in Database		

Background Check Complete As Of 9/12/2013 9:57:04 AM
NOTE: The first and last names, date of birth, and SSN displayed in the abuse registry and criminal history results are just as they were entered on the screen.

Further Research is Required



	A	buse Registrie	s Background C	Check		
	Last Name	Other Last Name	First Name	DOB	SSN	
Selection Criteria		¥		1		
Registr	у		Result	S		
Sex Offer	ider		Not found in F	Registry		
Child Abu	ıse	Not found in Registry				
Dependent Abuse			Not found in F	Registry		

	C	riminal History	/ Background Che	eck	
	Last Name	Other Last Name	First Name	DOB	SSN
Selection Criteria		5*			

Further research is required. Please await DCI's final response for criminal history.

Please note: There may be multiple individuals with similar search criteria, requiring

more research.

Background Check Complete As Of 8/12/2013 12:05:20 PM

NOTE: The first and last names, date of birth, and SSN displayed in the abuse registry and criminal history results are just as they were entered on the screen.

A Hit...Now What?



Results

	A	buse Registrie	s Background Ch	eck			
	Last Name	Other Last Name	First Name	DOB	SSN		
Selection Criteria							
Registr	У		Results				
Sex Offer	nder		Not found in Re	gistry			
Child Abu	use Initia	Initiate record check evaluation process by completing f submitting to DHS. If questions, call (515)362-7					
Dependent Abuse			Not found in Re	gistry			

	C	riminal History	y Background Ch	eck	
	Last Name	Other Last Name	First Name	DOB	SSN
Selection Criteria					
		R	esults		
		Not foun	d in Database		

Background Check Complete As Of 10/7/2013 3:34:12 PM

NOTE: The first and last names, date of birth, and SSN displayed in the abuse registry and criminal history results are just as they were entered on the screen.

Employer Has a Choice...

• If there is a hit on the background check, the provider either decides not to employ the applicant or requests that DHS perform a record check evaluation.



Provider Decides to Pursue...Then...

- The employer will send a completed request for a Record Check Evaluation Form 470-2310 via:
 - Fax
 - E-mail
 - Regular Mail



Form 470-2310



	Record Che	ck Evaluation	1		
A. Agency/Provider/Person Requestin	g Evaluation				
Entity Requesting Evaluation	Requestor's	Name	Phone	Fax	
Street	City			State	Zip Code
Street	City			State	Zip Code
The agency/provider/person listed about background check revealed a criminal of					
combination thereof. <i>In order to con</i> SING, and Rap Sheet. Please ensure th	nplete the evaluation	, we need to	have all information	n, including the	Form 2310,
B. Person being Evaluated	sent in t	together.			
Last Name, First Name Middle Initial	Maiden/Previo	Maiden/Previous Names Role/Position Applying for:			
The individual listed above requests an				tted to perforr	n duties under
I realize that the information I provide	section "Role/Pos		•	ment agencie	s. the district
court, Iowa Department of Human Ser	-				o, the district
Signature of person being evaluated:	Telephone:	Email:		Date:	
Street Address:	City:	1		State:	Zip Code:

Form 470-2310

- This form is still in draft version.
- Using the revised version instead of the form on the DHS website will reduce the evaluation turnaround time.
- The version on the website does not have a spot for applicant "position," which needs to be clearly written on the front page as required by Iowa Code.

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Record Check Procedures for Prospective Employees



HOW TO EXPLAIN YOUR CRIMINAL OR ABUSE HISTORY (on the 470-2310)

DHS has to look at your history to decide if it is ok for you to work in health care or child care.

We have to look at these things:

- How many crimes or abuses you have committed
- How bad they were
- What happened during those crimes or abuses
- Who were the victims of your crimes or abuses
- How long it has been since they were committed

- Have you taken responsibility for what you did
- What kinds of rehabilitation have you done
- How likely is it that you will do this kind of thing again
- What is your work history telling us

Here are a few examples of things you will want to give us if you have serious crimes or abuses:

- Proof of training, counseling, or therapy you have completed
- Reference letters from current or former employers
- Reference letters from others who can tell us about you

Provider Checklist



 Employer Checklist for Completion of Request for Evaluation (470-2310)

□ P	age 1
	Facility information—Prefer typed info but if written it must be legible
	Applicant signature, position, and date
☐ P	age 2
	Thorough explanation of ALL crimes/abuse
	Thorough description of rehab—what has been done since crimes/abuse
	Detailed work history
□ B	ackground checks (We do not evaluate matters handled in juvenile court.
V	Ve do evaluate all convictions/deferred judgments)
	SING dated within 30 days
	Child and/or dependent adult abuse checks within 30 days
	Criminal check, always include rap sheet when there is criminal history
	upporting documentation

What Constitutes a Complete Packet?

- ✓ Form 470-2310 is completed and signed by the applicant.
- ✓ SING is dated within 30 days of the time that the completed request for evaluation is submitted to DHS.
- ✓ DCI/Rap Sheet is dated within 30 days of the time that the completed request for evaluation is submitted to DHS.
- ✓ Any supporting documents.
- ✓ Read the applicant's explanations.
- ✓ Use the checklist!



If DHS Says No Go...

 If the DHS record check evaluation determines the applicant should be prohibited from employment, the provider <u>cannot</u> hire the applicant.



Other Types of DHS Check Findings...

- If the DHS record check evaluation determines the applicant should not be prohibited from employment with no restrictions, the provider may move ahead with employment of the applicant. Keep the findings as evidence and file in a confidential location.
- If the DHS record check evaluation includes restrictions on employment, the provider must determine whether they can comply with the restrictions or not, and may or may not employ the applicant.



Restrictions

- If the provider employs the applicant with restrictions, the provider must ensure the employee and provider comply with any restrictions. This should be documented in the employee personnel record.
- Restrictions can only be removed by DHS.
- DHS shall issue all notices of decision in writing to the employer and prospective employee.



Appeal Process

 There are appeal rights to DHS within 30 days of the date of the notice of the results of the record check evaluation in 441-Chapter 7.

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- An employer is not an aggrieved party or aggrieved person, therefore, they cannot appeal a record check evaluation.
- Only the applicant can appeal the final decision.

30 Day Period

- Providers, mark your calendar:
 - The IAC 441-119.3(1) states that a SING/DCI check is only valid for 30 days.



Another 30 Day Period

- Providers, mark your calendar:
 - The IAC 441-119.3(2) states that a DHS decision on initial employment is only valid for 30 days.



The Role of DCI

- The Division of Criminal Investigation (DCI) is a division within the Iowa Department of Public Safety.
- DCI completes the criminal history checks.
- DCI provides the requesting agency with a copy of the Iowa Criminal History (Rap Sheet).



Criminal History Record Check Request Form



l am requesting an Iowa Criminal Hi	istory Record Check on.	
Last Name (mandatory)	First Name (mandatory)	Middle Name (recommended)
Date of Birth (mandatory)	Gender (mandatory)	Social Security Number (recommended)
	☐Male ☐Female	
be releasable, per Code of Iowa, Cha obtain a waiver signature from the st	upter 692.2. For <u>complete</u> criminal history re ubject of the request.	t, a complete criminal history record may not ecord information, as allowed by law, always
Investigation (DCI). Any criminal history data e	n for the above requesting official to conduct an fowa crit concerning me that is maintained by the DCI may be releat	ninal history record check with the Division of Criminal sed as allowed by law.
Investigation (DCI). Any criminal history data of Waiver Signature:	n for the above requesting official to conduct an lowa cri-	ninal history record check with the Division of Criminal sed as allowed by law.
Investigation (DCI). Any criminal history data of Waiver Signature;	History Record Check Res	sed as allowed by law.

The Role of DIA

- The Department of Inspection & Appeals is responsible for assuring agencies are in compliance with state laws and regulations.
- DIA licensed facilities can be audited by this department to determine if the required background checks have been conducted by the provider.



Record Check Procedures for Current Employees

- An employer should request a current criminal or dependent adult or child abuse record check when the employer learns from any source that a current employee has a criminal or dependent adult or child abuse record that has not been previously evaluated at the health care program.
- Employers should request a record check evaluation on current employees when a current employee's background check indicates a criminal or dependent adult or child abuse record.

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Record Check Procedures for Current Employees

- If a person owns or operates more than one facility, and an employee of one of the facilities is transferred to another facility without a lapse in employment, the facility is not required to request additional criminal or abuse record checks of the employee or obtain a new record check evaluation.
- If the record check for the current employee comes back clear or with a hit, follow appropriate procedures as we already covered. Keep the findings as evidence and file in a confidential location.



Penalties for Not Completing Criminal, Child and Dependent Adult Abuse Record Checks

- Department of Inspections and Appeals (DIA) Class II violation, \$100 to \$500.
- DIA class 1 violation, \$2,000 to \$10,000.
- DHS could withhold payments, audit 100% of services documentation, recoup service funds for services provided by the employee who did not have required background checks.



Group Activity I

You get a call from a current employee that she moved back with her husband into his home, and the next day his home was raided and she is now being charged with possession of illegal drugs and child endangerment. She says she did not know he had drugs in his home. She has always been trustworthy and is a good employee. How do you process and handle this scenario?



Group Activity II

 You read in the local newspaper that a current employee has 5th degree theft charges that are pending. He has said nothing to you. He has been a marginal employee. How do you process and handle this scenario?



Group Activity III

 You have a current employee who brings in the local newspaper that another current employee was charged with drunken driving two weeks ago. That employee has used agency vehicles to provide transportation to persons served for medical appointments and activities in the community. The employee has said nothing to you about this. How do you process and handle this scenario?



Sample Policy on Employee Notification of Criminal Charges/Abuse Allegations, and Convictions

Employees are required to notify the Human Resources Manager of any criminal charges, other than non-moving traffic violations, and dependent adult abuse or child abuse allegations that are lodged against an employee. Based on an evaluation of the situation, an independent determination will be made as to whether the employee's employment will be continued or modified in any way. Failure to do so within 48 hours may result in disciplinary actions up to and including termination from employment.

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- The Office of Inspector General (OIG) exclusion list must be checked prior to offering employment at: http:// www.oig.hhs.gov/exclusions/index.asp.
- Be sure to check all married names, maiden names, alias, and former names. Be sure you use the correct spelling and any hyphens in a name.
- If no results were found on the exclusion check, the provider may move ahead with employment of the prospective applicant. Make a copy of the findings as evidence and file in a confidential location.

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(Continued...)

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- If the search results note the need to check the Social Security Number (SSN) or Employer Identification Number (EIN), do this check before hiring.
- If no results were found on the exclusion check, the provider may move ahead with employment of the prospective applicant. Make a copy of the findings as evidence and file in a confidential location.
- Any time a prospective employee is excluded, please do not employ them. You will regret it. This would be a violation of federal law and illegal. Make a copy of the findings as evidence and file in a confidential location.

(Continued...)

- Providers should search the HHS-OIG website monthly for exclusions or reinstatements that have occurred since the last search for current employees.
- If no results were found on the exclusion rechecks, the provider should make copies of the findings as evidence and file in a confidential location.
- If the recheck search has results, note the need to check the Social Security Number (SSN) or Employer Identification Number (EIN), do this check.



(Continued...)

- If no results were found on the exclusion recheck of the SSN/EIN, make a copy of the findings as evidence and file in a confidential location.
- Any time a current employee is excluded, they can no longer work. This would be a violation of federal law and illegal. Make a copy of the findings as evidence and file in a confidential location.



(Continued...)

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- If you discover a current employee is excluded on the recheck, you need to either suspend this employee until he/ she can be reinstated by OIG or immediately terminate the employee.
- Make a self-report to IME within five days of knowledge of the exclusion and make a self-report on the OIG website.
- There are severe penalties for employing someone who is excluded. Civil and possible criminal actions may or will be taken by the federal government or state. Other sanctions could also be imposed.

OIG Exclusion List Website

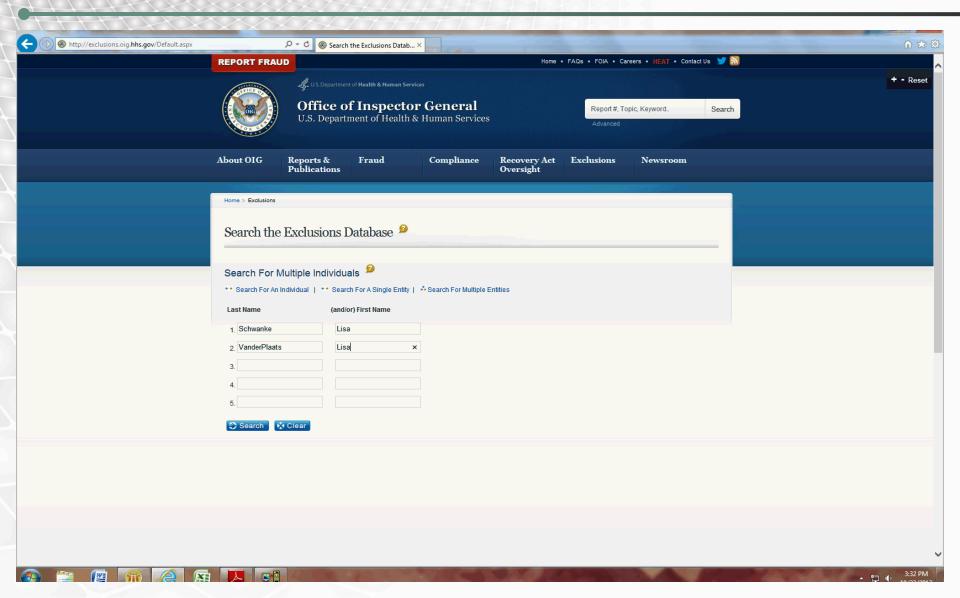
http://www.oig.hhs.gov/exclusions/index.asp





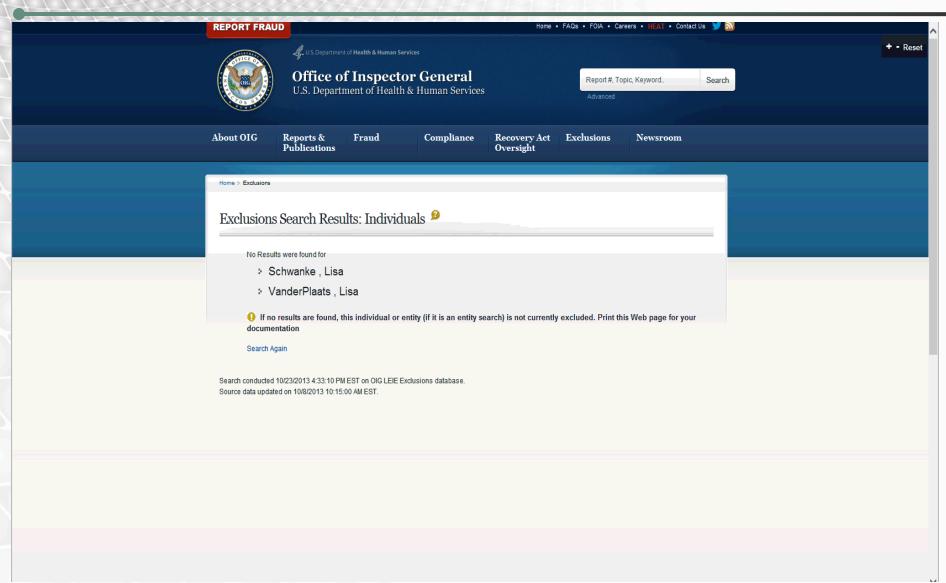
OIG Website





OIG Website





Penalties for Employing Excluded Individuals

- After it self-disclosed conduct to the OIG, Conestoga View Nursing, L.P. d/b/a Conestoga View, Pennsylvania, agreed to pay \$264,879.84 for allegedly violating the Civil Monetary Penalties Law. The OIG alleged that Conestoga View employed an individual that it knew or should have known was excluded from participation in Federal health care programs.
- After it self-disclosed conduct to the OIG, Calvin Community, Iowa, agreed to pay \$56,663 for allegedly violating the Civil Monetary Penalties Law. The OIG alleged that Calvin Community employed an individual that it knew or should have known was excluded from participation in Federal health care programs.

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Group Activity I

 An employee comes to you and shares that another employee told her she was excluded; and she is telling others she is excluded. Even though she has worked for only three months, you feel she has done a good job. How do you process and handle this scenario?



Group Activity II

• An employee is suspected of cheating on his time cards. You do an investigation and discover he has cheated the agency and Medicaid to the sum of \$1,500. You are so surprised that this person would do such a thing. How do you process and handle this? Do you report this to the DIA fraud unit or IME? Do you report this to the police?



SAM Exclusion List Search

- SAM maintains a list of parties excluded from doing business with the Federal government, including healthcare programs receiving Federal funding or reimbursement.
- Most SAM excluded parties are vendors or corporations, but some may be individuals with their own businesses.
- https://www.sam.gov/portal/public/SAM/





SAM

- IME recommends that providers check this list system prior to an offer of employment.
- Providers must gather and check all current and former names of their employees when searching SAM.
- If no results were found on the excluded parties check, the provider may move ahead with employment of that prospective applicant. Make a copy of the findings as evidence and file in a confidential location.

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- Any time a prospective employee is excluded, please do not employ them. This would be a violation of federal law and illegal. Make a copy of the findings as evidence and file in a confidential location.
- Providers should search the SAM website monthly for exclusions that have occurred since the last search for current employees.



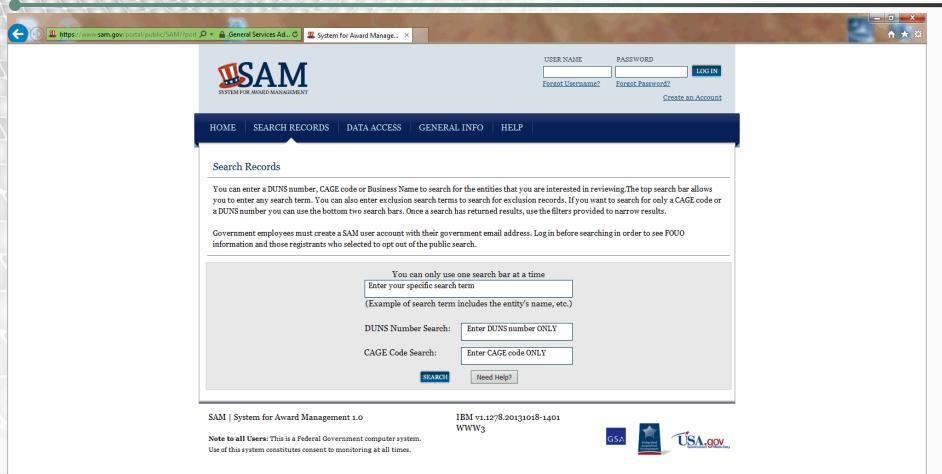
SAM

- Any time a current employee is excluded, please do not continue to employ him or her. This would be a violation of federal law and illegal. Make a copy of the findings as evidence and file in a confidential location.
- If a current employee is excluded make a self-report to IME within five days of knowledge of the SAM exclusion.



SAM Website



















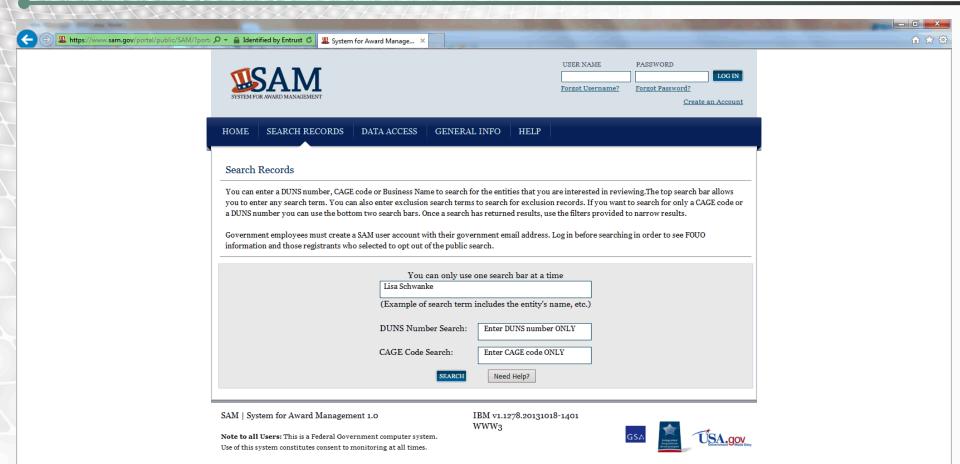






SAM Website

















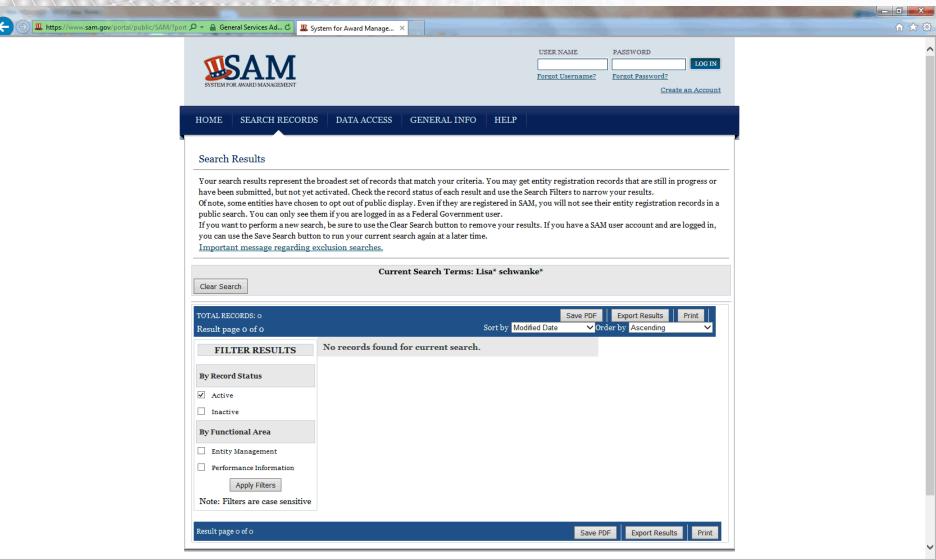






SAM Website



















Know Your Policies

- Consistency of application of internal policies is very important.
- Example: If your agency has a policy it never employs applicants with any type of criminal record, then it is best practice to be consistent with your policy to avoid any potential discriminatory "failure to hire" allegations.
- Do you fully understand your liability and vehicle policy limits? Even though DHS approves the individual through its evaluation check, your own insurance carriers make have stricter limits.

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Last Random Thoughts

- Approximately 7,600 Record Check Evaluations are completed per year.
- The average turn around time is approximately 3-4 days.
- DHS returns approximately 35% of requests due to an incomplete packet – this causes a delay in the hiring process. Review before sending it in!

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Questions?



Contact the IACP
Technical Assistance Team
at:

515-270-9495

Techassistance@iowaproviders.org

