



SOUTH DAKOTA LEGISLATURE

State Capitol, 500 East Capitol Ave., Pierre, South Dakota 57501-5070

September 30, 2014

Mr. Joop Bollen, President
SDRC, Inc.
416 Production Street North
Aberdeen, SD 57401

Dear Mr. Bollen:

The Government Operations and Audit Committee has tentatively scheduled a meeting for November 13, 2014 in room 413 in the State Capitol Building to review various issues involving state government.

As the Chair of the Committee, I would like to request that you respond to the following questions. I ask that you provide the Committee a written response to these questions. The Committee plans to review your answers to the questions at the tentatively scheduled November 13, 2014 Government Operations and Audit Committee meeting.

The letter references numerous exhibits that follow these questions.

1. Did the initial contract and any renewals of the state's contract with SDRC comply with the state's third-party contracting requirements (bid, supervisor sign-off)?
2. How many times, if any, has SDRC or its affiliates been a party to a civil lawsuit?
3. Briefly describe the parties, the court of jurisdiction and the alleged subject matter in the civil litigation?
4. Describe the nature of the commercial relationship between SDRC and its investors? I.E. Investor invests \$500,000 and is charged a one-time fee of xxx and an annual fee of yyy? What was the range of potential financial return marketed to the investors? What, if anything, did they receive as collateral?
5. Describe the nature of the commercial relationship between SDRC and the projects in which it invested? I.E. Project receives XXX and is charged a one-time fee of yyyy and an annual fee of zzz?
6. List the projects SDRC raised EB-5 money for, year raised, amount of money raised, jobs created and current status of the project?
7. How many investors obtained immigrant visas through SDRC EB-5 program? How many invested and did not receive visas through EB-5 program?
8. How much, when and in what capacity did SDRC compensate Mr. Benda either as an employee or as a contractor or consultant?
9. What amounts, if any, did SDRC provide as compensation to any state employee at any time?

10. Provide a chronology of the EB-5 program from the start of the program to the present time, including your role in this timeline.
11. When did the contract, signed in January 2008, become fully functional?
12. Who participated in the EB-5 program and has now become a South Dakota resident?
13. Initially the EB-5 program focused on expanding the dairy numbers in South Dakota, when did the focus change and why?
14. How did these new ventures of EB-5 fit into the regulations of the Federal program?
15. How did Richard Benda come to be employed by SDRC, Inc.?
16. What were the terms of his employment, including salary and start and end dates?
17. What was the nature of the services provided to Northern Beef Packers by Benda? What were his duties? Did he perform those duties? Did he provide any written or verbal reports as he carried out those duties?
18. Who paid Benda's salary? Where did those funds come from?
19. Why did Northern Beef Packers have to have a loan monitor and pay loan monitoring fees?
20. How and why was Benda involved in collecting the loan monitoring fee?
21. What did you know about the \$1 million Future Fund grant and the \$1.2 million South Dakota Development Corporation loan to Northern Beef? How did you learn that information?
22. Was there a loan monitor on any other EB-5 projects? If so, which loans were subject to monitoring? Who were the monitors on each, their salaries, and how were they paid?
23. See **Exhibit 2**, who else besides you has an ownership interest in SDRC, Inc. before the articles of incorporation were amended on June 1, 2009?
24. See **Exhibit 3**, who drafted the memorandum of understanding between South Dakota International Business Institute and South Dakota Regional Center, Inc.?
25. See **Exhibit 3**, provide the names of any attorneys who reviewed this contract?
26. See **Exhibit 3**, why does the signature line on page 5 of 5 list "South Dakota Regional Center, Inc." instead of "SDRC, Inc."?
27. See **Exhibit 3**, the agreement makes numerous references to "SDRC, Inc.". Do you own SDRC, Inc.?
28. See **Exhibit 3**, is there an entity named "South Dakota Regional Center, Inc."?
29. See **Exhibit 3**, was this an agreement between the State/SDIBI and your company, SDRC, Inc.?
30. See **Exhibit 3**, did you sign this MOU on behalf of the State/SDIBI with your own company – SDRC, Inc.?
31. See **Exhibit 3**, was any State official aware of your ownership interest in SDRC, Inc. at the time of signing?
32. See **Exhibit 3**, did you ever inform any State official of your ownership interest in SDRC, Inc.?
33. See **Exhibit 3**, why did James J. Park sign on behalf of South Dakota Regional Center, Inc.?
34. See **Exhibit 3**, did James Park have an ownership interest in SDRC, Inc.?
35. See **Exhibit 3**, was any State official aware of James Park signing this MOU at the time of execution?
36. See **Exhibit 3**, did you ever inform any State official of James Park having an ownership interest in SDRC, Inc.?
37. See **Exhibit 3**, was James J. Park a partner at the Hanul Law Corporation for both the Los Angeles and South Korean offices at the time he signed this agreement?
38. Will you provide the transcript for the deposition you gave under oath in the Darley International LLC via Hanul Law Corporation/SDIBI arbitration?

39. Have you reviewed your deposition transcript in the Darley International LLC via Hanul Law Corporation/SDIBI arbitration and signed same?
40. See **Exhibit 3**, did you sign this agreement on behalf of the State with SDRC, Inc. – your own company – five days after you formed SDRC, Inc.?
41. See **Exhibit 4** paragraph 2, you stated in your declaration that SDIBI is part of Northern State University and the South Dakota Board of Regents system and has no independent status. Is that true?
42. See **Exhibit 5**, did you sign and file a brief on behalf of the State in federal court case 2:08-cv-05034-DDP-PLA on August 22, 2008?
43. See **Exhibit 5**, did any attorney from Siegel Barnett & Shutz LLP help you write this brief?
44. See **Exhibit 5**, did any attorney review this brief?
45. See **Exhibits 7**, did you have the permission of SD Attorney General Lawrence Long to file the brief on August 22, 2008?
46. See **Exhibit 5**, did you have permission from any State official to file the brief on August 22, 2008?
47. See **Exhibit 9** paragraph 5, is it true that you did not tell any State officials or State attorneys about the pending federal lawsuit until after the federal court compelled the SDIBI to participate in the Darley arbitration?
48. See **Exhibit 9**, why did you wait so long to inform a State official about the Darley International LLC arbitration naming the State as a party?
49. See **Exhibit 10**, were you an employee of the State getting state paychecks until December 21, 2009?
50. See **Exhibit 10**, why did you take “virtually all records in [your] office relating to [your] EB-5 activities” without permission from NSU?
51. See **Exhibit 10**, provide an index of all EB5 records you removed from NSU.
52. See **Exhibit 10**, did any state official give you permission to remove records from NSU?
53. See **Exhibit 10**, has any state official asked you to return or provide copies of these records?
54. See **Exhibit 11**, is it true that your company - SDRC, Inc. - created its own website which asserted that it was the overarching management company that operated and managed South Dakota’s EB-5 program while you were a state employee?
55. See **Exhibit 11**, what was Austin Kim’s involvement in the negotiations between Darley International, LLC and Hanul Professional Law Corporation?
56. During the time that you were both the Director for SDIBI and owner of SDRC Inc between 1/15/2008 and 12/21/2009, what other third parties did SDRC, Inc. have recruitment contracts with?
57. See **Exhibit 12**, what State official authorized you to submit the MOU with your own company – SDRC, Inc. – to USCIS?
58. See **Exhibit 12**, did you inform any State official or USICS that you owned SDRC, Inc. at the time of submission?
59. See **Exhibit 12**, did you inform any State official that your company – SDRC, Inc. – would receive a 1% ownership interest in each project for acting as general partner at the time of submission?
60. See **Exhibit 13**, how many corporations did you establish to administer EB-5 funds before December 21, 2009 when you were a State employee? Identify each of these corporations.
61. See **Exhibit 13**, how many corporations did you establish to administer EB-5 funds after December 21, 2009? Identify each of these corporations.

62. See **Exhibit 13**, provide an accounting of fees collected by each corporation where you have an ownership interest that managed EB-5 funds from 2008-present.
63. See **Exhibit 13**, provide a listing of any other owners for each corporation where you have an ownership interest that managed EB-5 funds from 2008-present.
64. Who performed SDRC, Inc. bookkeeping from 2008-present?
65. Who performed SDRC, Inc. audits from 2008-present?
66. Who filed SDRC, Inc. tax returns from 2008-present?
67. See **Exhibit 15**, what other law firms earned legal fees from SDIF Limited Partnership 6? Please provide a full accounting of all fees paid with the amount, date, and name of law firm.
68. See **Exhibit 13, 17**, what consultants earned fees from all of your loan pools & SDRC, Inc.? What attorneys earned fees? Please provide a full accounting of all fees paid with the amount, date, and name of law firm.
69. See **Exhibit 3**, did the South Dakota Board of Regents grant you the authority to sign this contract?
70. See **Exhibit 3**, did the Governor's Office of Economic Development grant you the authority to sign this contract?
71. See **Exhibit 3**, did any state official(s) grant you the authority to sign this contract? Please name the state official(s)
72. See **Exhibit 3**, did Governor Mike Rounds grant you the authority to sign this contract?
73. See **Exhibit 3**, what attorney wrote this contract? Please name the attorney(s).
74. See **Exhibit 10**, will you return the records you removed without permission from NSU?
75. See **Exhibit 5**, what attorney wrote this brief?

Please submit your original response to me, 251 Indian Hills Rd, Brookings, SD, 57006-3650 and a copy of the response to Tim Flannery, Department of Legislative Audit, 427 South Chapelle, Pierre, SD, 57501, by November 5, 2014 so the information can be sent to all Committee members in advance of the actual meeting date.

If you have any questions, please contact Tim Flannery with the Department of Legislative Audit at 773-3595.

Sincerely,



Senator Larry Tidemann, Chair
Government Operations and Audit Committee