

Alternate Search Procedure

Requirements: National Service program grantees that believe they cannot comply with the requirements in the Corporation's Criminal History Check regulations (45 CFR Parts 2510, 2522, 2540, 2551 and 2552) may apply to the Corporation for National and Community Service (Corporation) for approval to use an alternative search protocol. The Corporation requires some specific steps and sources to be followed in being compliant with the National Service Criminal History Check (Check) requirements. These steps are as follows:

- verify identity against government photo identification;
- obtain written authorization from the individual to perform the check;
- document understanding that selection is subject to the checks;
- determine the types of checks needed for the covered individual and from which designated source they are to be obtained, e.g nationwide NSOPR, Corporation designated State repository, FBI fingerprint;
- pay for the checks;
- perform the NSOPR check before service/work begins;
- initiate criminal history information check(s) no later than the start of service/work;
- provide opportunity for review of findings;
- keep the information confidential;
- accompany those with pending checks when in contact with vulnerable populations;
- maintain the results of the checks;
- document that you verified identity and conducted the required checks; and
- document that you considered the results of the checks.

Grantees with procedures that they believe follow all of the Corporation's requirements either meeting or exceeding all requirements do not need an ASP.

Alternate Search Procedures (ASP) Guidance

If for some reason a program cannot follow one of the steps listed as described above or can offer a substantially equivalent procedure in place of the requirement, the program may submit an ASP request for consideration. When the Corporation approves an ASP, the approval is explicit with respect to the procedures that are accepted or rejected.

Substantially Equivalent

Those who believe their procedures differ from but are substantially equivalent to or better than the Corporation's required procedures similarly may apply to the Corporation for approval to use alternative search protocols.

State Law Prohibition

You will need an ASP approval from CNCS if you believe State law prohibits you from complying with the regulations.

Expiration

An approved ASP is applicable to the specific program using the specific alternative procedures described in its ASP request. Once approved, as long as the program design and procedures remain unchanged, the ASP is valid even if the program operates under subsequent grants funding the same program.

NOT Transferrable to Other Programs

ASPs are program specific and not portable between different programs. ASPs approved for a national program are not portable to a similar program funded at the State level. If a circumstance develops where an ASP can apply to more than one program, our approval will be explicit in identifying where the ASP can be used.

Pre-April 2011 ASP Approvals

If you already have an ASP, the approval you received was based on a test of “substantially equivalent” information using regulations in effect prior to April 21, 2011. Once the FBI check became a requirement in April 2011, the measure of substantially equivalent for programs with recurring access to vulnerable populations changed. If the program has such access and the approved ASP does not include obtaining FBI information, then you must request a revised ASP.

Instructions

Prime Grantee

An organization that receives its funding grant directly from the Corporation is considered a “prime grantee.” Prime grantees submit requests for alternate search protocols directly to the Corporation for their subgrantees.

Sub-Grantee

A subgrantee to a prime that believes it can not comply with the regulations or that its current procedures are equivalent or better, must submit a request to the prime grantee organization. Subgrantee requests should not be submitted directly to the Corporation. Prime grantees determine if they will or will not endorse the request and forward such requests to the Corporation.

NSOPR

The Corporation does not approve ASPs to use anything other than the National Sex Offender Public Registry (NSOPR) operated by the Department of Justice. There is no exemption from conducting the NSOPR check. All grantees must conduct a nationwide check of the NSOPR.

Review and Approval Timeframes for Post-Publication of New Rule

The Corporation will generally review and make a decision on your request within six weeks of receiving the request unless we need additional information before making our decision. While an ASP is pending, accompaniment is required.

Submission Instructions

Send your ASP request to ASPRequests@cns.gov and copy your Program and Grants Officers. Subgrantees submit your request to your sponsoring prime grantee.

Please use the following request form:

National Service Criminal History Check - Alternate Search Procedure Request Form

Legal Applicant Name:

Name of Program(s) to which this ASP would apply:

Grant Number(s) that would be impacted:

Individual to contact for further information (name, address, eMail & telephone):

Please check each box to affirm that you are conducting the following steps:

- verify identity against government photo identification;
- obtain written authorization from the individual to perform the check;
- document understanding that selection is subject to the checks;
- perform and document the NSOPR check before service/work begins;
- initiate criminal history information check(s) no later than the start of service/work;
- pay for the checks and all associated costs;
- accompany those with pending checks when in contact with vulnerable populations;
- provide opportunity for review of findings;
- keep the information confidential;
- document that you verified identity and conducted the required checks; and
- document that you considered the results of the checks.

Nature of Request: (check all that apply)

Why are you applying for an ASP?

- To maintain alternative results of the check To use a substantially equivalent process/data/source
- Other _____

Please identify the part(s) of the Check for which you are requesting an ASP:

- State of Residence Check State of Service Check FBI Check

If applicable, please identify what type of exemption you are requesting:

(Note: Exemption requests will only be accepted and reviewed after the final rule is published.)

- Cost Prohibitive
- Prohibited by State Law
- State of Service State of Residence FBI check Maintaining results of the check

Good Cause Exemption

What to Include in Your Request:

Explain why you are requesting approval to use an alternative criminal history search procedure and describe the specific element(s) of the requirements that you would vary from.

Describe the alternative process/system you plan to use to conduct a criminal history check.

Provide a detailed description (if applicable) of the substantially equivalent source you propose using instead of the designated sources/alternates.

If you are **receiving clearance letters instead of the actual results from a partner or non-designated source/alternate**, please include a copy of the written agreement you have in place to ensure that murder and sexual offenses deem an individual ineligible to serve and that no appeals can overturn this eligibility determination for the purposes of serving/working under a National Service program.

If you are **using a vendor**, secure from them an analysis of its product/services as they relate to our requirements on a state-by-state basis. For vendors going to CNCS designated sources, please ensure they are not limiting their search to 7 years but go as far back as the designated source has records. Also, ensure that if they are retaining the results on behalf of the program, that they are accessible for monitoring and oversight purposes for the required length of time for your program. Please see CNCS Vendor guidance for more information.

If **prohibited by state law**, attach a copy of the statute or prohibition along with a legal analysis from either the Attorney General or legal counsel. Please submit where applicable a rejection letter from the CNCS designated repository.

If applying under **cost prohibitive**, please provide a detailed analysis of costs and burden as they compare to an increase in fees from a 2-part to a 3-part check.

Please be advised that approval of the use of alternative procedures does not include an exemption from conducting a check of the **National Sex Offender Public Registry (NSOPR)**, operated by the Department of Justice. All grantees must conduct a check of the NSOPR. There is no substantially equivalent source for this check.

If you have questions regarding these instructions or the requirements, contact your Program Officer.