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Compliance Responsibilities: National Service Criminal History Checks

**Corporation for National and Community Service
Office of Grants Management, Washington, DC**

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Agenda

1. National Service Criminal History Checks “10,000 foot” view
2. Responsibilities for Oversight by State Commissions and National Direct prime grantees
3. Upcoming Actions / Requirements
4. Questions / Open Discussion

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National Service Criminal History
Checks – **the 10,000 foot view**

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Two-part Checks are Required Every Time

- **National Sex Offender Public Registry**

- Also called the National Sex Offender Public Website or “NSOPR” or “NSOPRW”

and

- **Statewide Criminal History**

- For the state where the individual resides at the time of application, *and*
- The state where he or she will serve or be employed

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- No charge to search on web
- Name based
- Must use nationwide search, not “advanced”
- Must retain original results (printout)
- Must resolve “hits” before enrollment
- May perform search multiple times if one or more states not functional (risk mitigation)

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Statewide Criminal History

- Cost will vary significantly between states
- Check state of residence + where serving
- Name- or fingerprint-based (varies by state)
- Must use the Corporation's designated sources
- Must retain original results
- Disqualifying offenses: Murder or any that should result in registration on state sex offender list

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2 When are the checks performed?

- **NSOPR**

- No earlier than application
- No later than enrollment

- **Statewide criminal history**

- Initiate no later than enrollment
- Must accompany candidate while pending if they are to be in contact with vulnerable population

- **Grandfathered**

- Individuals holding covered positions as of 09/30/09 (with no exposure to vulnerable populations)

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Must Follow 10 Prescribed Procedures

1. Verify identity
2. Obtain prior written authorization
3. Document understanding of contingent selection
4. Provide opportunity for review
5. Safeguard information
6. Accompany individuals with pending statewide checks
7. Document identity was verified/checks performed
8. Maintain results of the checks
9. Document that selection was based on results
10. Program pays for the costs of the check

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End 10,000 Foot View

Questions?

Discussion?

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Prime Grantees are Responsible
for
Sub-awardees' Compliance
with National Service
Criminal History Check Requirements

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Who is a prime grantee?

- A state commission
- A national direct

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Core Principle: Prime Grantees are Accountable ...

- ... to monitor their sub-awardees regarding compliance with criminal history check law and rule;
- ... to ensure that criminal history checks are properly documented;
- ... to review alternate protocol requests and ensure ASPs receive Corporation approval before use; and,
- ... for the impact of missing or improperly performed national service criminal history checks

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Why is Compliance Important from a Business Perspective?

- Non-compliance = ineligible members & employees
- Ineligible individuals = questioned costs
- Questioned costs = potential debt / payback of grant and Trust awards

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2 What Compliance Areas Carry the Greatest Risk of Non-Compliance?

Effective dates – Did the program start performing national service criminal history checks when they should have?

- November 23, 2007 if program had recurring access to a vulnerable population; or
- October 1, 2009, all others.

2010 Compliance risks ...

- **Statewide Criminal History Repositories** – Is the program using the designated statewide criminal history repository to obtain the information?
- **Commercial Vendors** – Is the program using a commercial vendor that performs compliant checks? (Highly unlikely)

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Compliance risks ...

- **NSOPR Before Enrollment** – Is the program only enrolling and only employing individuals who have cleared a national sex offender public registry check?
- **Statewide Criminal History Before Independent Contact with Vulnerable Populations** – Is the program accompanying individuals with pending checks?

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Compliance risks...

Records Retention – Is the program obtaining, establishing and retaining all required records, including the criminal history report from the state repository?

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Compliance risks...

Alternate Search Protocol (Procedural) – If the program is doing something different with respect to the 10 required procedures, have they obtained an ASP from the Corporation?

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2 0 1 0 **Compliance risks...**

- **Alternate Search Protocol (Sources of Records)**– If the program is using any source other than the statewide criminal history repositories designated by the Corporation, have they obtained an ASP from the Corporation, including your endorsement?
- Applies to the use of:
 - School systems
 - Commercial vendors
 - Screening authorities [other than National Center for Missing and Exploited Children (no approval needed)]

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2010 What is a prime grantee's role regarding Alternate Search Protocols?

- Any ASP for your sub-awardee must first receive your review and endorsement as a prime grantee
- Programs operating under both state commissions and national directs will be processed under their national direct relationship first
- Decisions are sent to the prime grantee, designated as applicable to only the specific program making the request

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What should a prime grantee be doing now?

- Keeping up with Corporation FAQs and regulations
- Educating sub-awardees
- Enhancing oversight / monitoring protocols including developing checklists
- Reviewing member and employee files
- Looking for ASP situations where no ASP has been approved
- Conferencing with the Corporation to address any unique challenges you face
- Using tools provided on the Resource Center

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End Prime Grantee Compliance Responsibilities

Questions?

Discussion?

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The Future

Upcoming Actions / Requirements

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Upcoming Action Items

- **FBI / Corporation report** on national service criminal history checks
- **Regulations.** The Corporation will be issuing new rules to support the new law, including addressing burdensome and costly parameters
- **April 21, 2011:** Programs in contact with vulnerable population must obtain **both** the **statewide criminal history repository** check and an **FBI national criminal history** check

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2010 Support Efforts Underway

- Corporation working with the FBI to see if there is a way for programs to go directly to the FBI for criminal history information
- Regular updates to the FAQs
- Corporation joining the FBI's compact association of state criminal history repositories to educate the states, and negotiate solutions

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Training Opportunity Financial Grant Management

2010 AmeriCorps State and National Financial
and Grants Management Institute

Monday, November 15th – Wednesday, November 17th
2010, Dearborn, Michigan. To learn more about the
event and register, visit:

[http://www.regonline.com/2010 financial and grants
management institute](http://www.regonline.com/2010_financial_and_grants_management_institute)

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Open Discussion

- Questions
- Concerns
- Suggestions

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