



## VISTA Fact Sheet National Service Criminal History Checks

This document addresses the need to conduct criminal history checks on certain VISTA grantee staff.

Section 189D of the National and Community Service Act of 1990 (NCSA), as amended by the Serve America Act of 2009, requires that all VISTA grantees conduct a National Service Criminal History Check on employees who receive any portion of their salary from CNCS grant funding. This includes sponsors who receive either a VISTA Support grant or Program grant. All staff positions listed in the budget under CNCS Share or reported as an expenditure on the Federal Financial Report (FFR) are considered covered positions.

Below are VISTA-specific issues and questions. For general questions about National Service Criminal History Checks, please review the Corporation's guidance and Frequently Asked Question about criminal history check requirements at <http://nationalserviceresources.org/criminal-history>.

**To determine if a sponsor's staff member who receives part or all of her/his salary through a VISTA Support or Program grant is a covered individual and must, therefore, undergo a National Service Criminal History Check, ask:**

1. Is the employee's position identified in the VISTA grant budget, under CNCS Share?
  - Yes – National Service Criminal History Check is required (Go to question 3)
  - No – Go to question 2
  
2. Has the employee's salary been reported on the Federal Financial Report as a federal expense?
  - Yes – National Service Criminal History Check (CHC) is required (Go to question 3)
  - No – There is no requirement (Stop here)
  
3. Does the employee have recurring access to vulnerable populations?
  - Yes – If the employee was hired or selected on or after October 1, 2009, but prior to April 21, 2011, a two-part CHC is required. If the employee was hired or selected on or after April 21, 2011, a three-part CHC is required.
  - No – A two-part CHC is required (NSOPR and a state-wide or FBI check)

<b>National Criminal History Check Requirements</b>						
	Hired or Selected October 1, 2009 – April 20, 2011			Hired or Selected On or after April 21, 2011		
	<b>NSOPR</b>	<b>State Registry</b>	<b>FBI Fingerprint</b>	<b>NSOPR</b>	<b>State Registry</b>	<b>FBI Fingerprint</b>
<b>Individuals who have recurring access to vulnerable populations</b>	Yes	One of these		Yes	Yes	Yes
<b>Individuals who do not have recurring access to vulnerable populations</b>	Yes	One of these		Yes	One of these	

**Q: Should the results of the background check be sent to the Corporation State Office (CSO)?**

**A:** No. The results of background checks are confidential, and should not be sent to the CSO. Hardcopy or digital images should be kept in a secure location under the control of an authorized records custodian, with access permitted only to individuals who have an official need to review the information. Records must be accessible for timely routine use by the Corporation for monitoring without undue cost or delay. If there is a prohibition to retention of the records, you must obtain an Alternate Search Protocol (see last page).

**Q: What if the security check indicates a past criminal conviction; should the sponsor organization notify the CSO?**

**A:** No. The results of background checks are confidential, and should not be sent to the CSO. The selection of individuals for employment is the responsibility of each sponsor. Sponsors should give the individual an opportunity to correct any inaccurate information and then determine whether to accept the individual. In determining whether to allow an individual to supervise VISTA members on the VISTA project, sponsors may consider, where applicable, the following:

- 1) the sponsoring organization's internal policies regarding criminal history checks;
- 2) the nature of the individual's criminal history, including the results of the criminal history check;
- 3) how long ago an offense was committed by the individual;
- 4) relevant evidence of rehabilitation or the lack thereof;
- 5) whether the individual is currently on probation or parole;
- 6) the individual's candor in fully and accurately reporting requested criminal history information on the organization's application for employment;
- 7) the individual's response, if any;
- 8) the nature of the VISTA project.

**Q: What criminal history check results constitute a person's ineligibility to supervise on a VISTA project?**

**A:** Anyone who refuses to undergo a National Service Criminal History check; makes false statement in connection with such a check; is registered, or required to be registered, on a sex offender registry; is convicted of any crime against a minor; or has been convicted of murder in the first or second degree, may not supervise on a VISTA project.

**Q: What are the consequences of a sponsor organization's failing to comply with the requirement to conduct criminal history checks on individuals in covered positions?**

**A:** During compliance visits, the CSO staff cites the non-compliance. As appropriate, the grantee may be directed to promptly address the issue; CSO staff provides technical assistance as needed; the grantee may be subject to administrative and civil sanctions, including but not limited to termination of grant funding and cessation of project operations. In cases where the grantee is given the opportunity to address the compliance issue, the grantee is responsible for corrective action and providing documentation of such action.

Sponsor organizations that do not comply with the criminal registry check and NSOPR requirements, in addition to incurring potential liability, risk loss of Corporation/AmeriCorps VISTA funding, or questioned on costs regarding the individuals on whom checks were not performed. Further, if a sponsor organization enrolls or hires an individual who should have been deemed ineligible, the Corporation may disallow costs attributable to the ineligible individual.

A sponsor organization also risks losing the ability to recruit and place VISTA members.

**Q: The cost of conducting criminal history checks may be a financial burden for a program. Can the VISTA program pay for these checks?**

**A:** No. Criminal history checks are not an allowable cost for using VISTA grant funds. While the Corporation's criminal history check regulation's preamble speak to such costs being allowable grant costs, VISTA regulations spelling out limited allowable cost take precedent over the general rules.

**Q: Are there circumstances that would warrant a different protocol?**

**A:** Yes. If after referring to the Corporation's guidance and FAQs you have questions or concerns regarding your approach to complying with these requirements, you should first work with your Corporation State Office. If you and your Corporation State Office believe you are facing a unique situation, or if you need immediate assistance when you can not otherwise reach a Corporation resource, please send your question to [asprequests@cns.gov](mailto:asprequests@cns.gov).

Please review the Corporation's guidance and Frequently Asked Question about criminal history check requirements at <http://nationalserviceresources.org/criminal-history>. The guidance covers all aspects of complying with the law, including how to conduct the checks, what documentation to keep when selecting an individual, and how to apply for an ASP. If you still have questions or concerns regarding your approach to complying with these requirements, you should first work with your Corporation State Office. If you and your Corporation State Office Program Specialist believe you are facing a unique situation, or if you need immediate assistance when you can not otherwise reach a Corporation resource, please send your question to [CriminalHistoryCheckQuestions@cns.gov](mailto:CriminalHistoryCheckQuestions@cns.gov).