

National Service Criminal History Check Alternative Search Procedure & Exemption Guidance- Updated May 22, 2020

Background

The Corporation for National and Community Service (CNCS) requires that grantees and subgrantees (“grantees”) comply with the National Service Criminal History Check (NSCHC) requirements at [45 CFR §§2540.200-207](#). Grantees that follow all of these requirements need not request an alternative search procedure (ASP) or exemption. Grantees may apply to CNCS for approval to use an ASP or apply for an exemption. This document explains ASPs, exemptions, and how grantees may request an ASP or exemption from CNCS.

NOTE: No ASP or exemption requests will be approved for the [National Sex Offender Public Website \(NSOPW\)](#) component of the NSCHC. All grantees must conduct a nationwide NSOPW check for all covered positions, which include both grant-funded staff and participants.

Alternative Search Procedures

If a grantee wishes to vary from any of the specific NSCHC requirements at 45 CFR §2540.203, it must submit a request for approval of its proposed alternative to CNCS in advance of varying from these procedures.

Programs can apply to CNCS for ASPs under the following circumstances:

- **Substantially Equivalent:** A grantee proposes alternative criminal history check procedures that are substantially equivalent to or better than the standard NSCHC requirements.
- **State Law Prohibition:** The grantee is prohibited by state law from complying with all of the standard NSCHC requirements.

Some common ASP requests received and approved by CNCS in the past include use of checks required as part of an earlier employment screening process, use of court system data when it is substantially equivalent to CNCS repositories, or alternative methods of storing the results when state law prohibits maintaining the checks themselves.

If CNCS approves an ASP, the approval will be explicit as to each procedure that is accepted or rejected, and grantees must perform the ASP as approved by CNCS to avoid cost disallowance. Once approved, an ASP remains valid even if the program operates under subsequent grants funding the exact same program, unless the approval letter includes an expiration date. Please note that ASPs apply to checks performed *after* CNCS approval is received. Approved ASPs cannot be applied retroactively or for any checks completed prior to CNCS approval. Relying on retroactive ASP procedures may result in noncompliance and possible cost disallowance.

CNCS also has some pre-approved ASPs that grantees may use without additional approval from CNCS. Prior to January 4, 2016, CNCS referred to these as “blanket” ASPs.

Current pre-approved ASPs are listed in a document titled "Pre-Approved ASPs" on the Criminal History Check page on the CNCS Knowledge Network. CNCS may add or remove pre-approved ASPs at any time. Though further written approval is not necessary, CNCS strongly recommends that grantees discuss pre-approved ASPs with their Program Officers before using them.

Exemptions

CNCS may exempt grantees from the requirement to conduct a check on individuals in covered positions with recurring access to vulnerable populations. CNCS may approve exemptions if the program can demonstrate—and CNCS approves in writing—that:

- The cost to the grantee obtaining an FBI check under 45 CFR §2540.203(b)(2)(iii) is prohibitive.
- There is sufficient justification for CNCS to exempt the grantee from the requirement for good cause.

Exemptions expire at the time specified by CNCS in its decision letter. Exemption recipients should submit a new exemption request no later than 60 days prior to its expiration. This will allow CNCS to review and respond to the request before the exemption expires. Exemption request are applied to checks performed *after* CNCS approval is received. Approved exemptions cannot be applied retroactively or for any checks completed prior to CNCS approval. Relying on retroactive exemptions may result in noncompliance and possible cost disallowance. **If an exemption expires and CNCS has not granted a new exemption, the grantee must comply with the NSCHC requirements for any individual who begins work or starts service after the expiration date to avoid disallowance.**

Submitting Requests for ASPs or Exemptions

An organization that receives its funding directly from CNCS is considered a “prime grantee.” Prime grantees submit requests directly to CNCS and on behalf of their subgrantees.

A “subgrantee” is an organization that receives CNCS funding from a prime grantee, rather than directly from CNCS. Subgrantees must submit requests to their prime grantee organization, who will then decide whether or not to forward it to CNCS for consideration. Subgrantee requests cannot be submitted directly to CNCS.

ASPs and exemptions are program-specific and not portable between different programs. Approvals for a national program are not portable to a similar program funded at the state level. Each request should identify the specific grant numbers of the programs that will be affected. One request may identify multiple grant numbers. CNCS’s response to an ASP or exemption request will explicitly identify which grant numbers are covered in the decision.

Instructions for prime grantees submitting ASP and exemption request are available in forms posted on the Criminal History Check page on the CNCS Knowledge Network under the heads "Alternative Search Procedures and Exemptions." Please complete and submit the materials described in these forms to CHC@cns.gov and copy your Program and Grants Officers.

All requests will receive an email confirming receipt, including a tracking number you can use in follow-up correspondence to help CNCS quickly identify your request.

If you do not receive an email receipt from CNCS within 10 business days, please follow-up with CHC@cns.gov and your Program Officer to verify that CNCS has received your submission.

For More Information

Please direct any questions on submitting ASP and exemption requests to your CNCS or prime grantee Program Officer.