§ 2540.202 What eligibility criteria must I apply to a covered position in connection with the National Service Criminal History Check?

In addition to the eligibility criteria you establish, an individual shall be ineligible to serve in a covered position if the individual—

(a) Refuses to consent to a criminal history check described in § 2540.203 of this chapter;
(b) Makes a false statement in connection with a criminal history check described in § 2540.203 of this chapter;
(c) Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or
(d) Has been convicted of murder, as defined in 18 U.S.C. 1111.

[77 FR 60932, Oct. 5, 2012]

§ 2540.203 What search components of the National Service Criminal History Check must I satisfy to determine an individual's eligibility to serve in a covered position?

(a) Search procedure for individuals in covered positions who do not have recurring access to vulnerable populations. Unless the Corporation approves an alternative search procedure under § 2540.207 of this chapter, to determine an individual's eligibility to serve in a covered position, you must conduct and document a National Service Criminal History Check that consists of the following components:

(1) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW); and
(2) Either:
(i) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will involve recurring access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities.
(2) Unless the Corporation approves an alternative search procedure or an exception under § 2540.207 of this chapter, to determine the eligibility of an individual described in paragraph (b)(1) of this section you must conduct and document a National Service Criminal History Check that consists of the following components:

(i) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW);
(ii) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will involve recurring access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities.

(2) Unless the Corporation approves an alternative search procedure or an exception under § 2540.207 of this chapter, to determine the eligibility of an individual described in paragraph (b)(1) of this section you must conduct and document a National Service Criminal History Check that consists of the following components:

(i) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW); and
(ii) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will involve recurring access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities.

§ 2540.204 When must I conduct a National Service Criminal History Check on an individual in a covered position?

(a) Timing of the National Service Criminal History Check Components. (1) You must conduct and review the results of the nationwide NSOPW check required under § 2540.203 before an individual in a covered position begins work or starts service.
(2) You must initiate state registry or FBI criminal history checks required under § 2540.203 before an individual in a covered position begins work or starts service. You may permit an individual in a covered position to begin work or start service pending the
§ 2540.205 What procedures must I follow in conducting a National Service Criminal History Check for a covered position?

You are responsible for following these procedures:

(a) Verify the individual’s identity by examining the individual’s government-issued photo identification card, such as a driver’s license;

(b) Obtain prior, written authorization from the individual for the State registry check, for the FBI criminal history check, and for the appropriate sharing of the results of the checks within the program. Prior written authorization from the individual is not required to conduct the nationwide NSOPW check;

(c) Document the individual’s understanding that selection into the program is contingent upon the organization’s review of the individual’s National Service Criminal History Check component results, if any;

(d) Ensure that screening practices comply with federal civil rights laws, including Titles VI and VII of the Civil Rights Act of 1964 (and the Corporation’s implementing regulations under Title VI);

(e) Provide a reasonable opportunity for the individual to review and challenge the factual accuracy of a result before action is taken to exclude the individual from the position;

(f) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant; and

(g) Ensure that an individual, for whom the results of a required state or FBI criminal history registry check are pending, is not permitted to have access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities without being in the physical presence of:

(1) Your authorized representative who has previously been cleared for such access;

(2) A family member or legal guardian of the vulnerable individual; or

(3) An individual authorized, because of his or her profession, to have recurring access to the vulnerable individual, such as an education or medical professional.

(h) Unless specifically approved by the Corporation, you may not charge an individual for the cost of any component of a National Service Criminal History Check.

(77 FR 60932, Oct. 5, 2012)

§ 2540.206 What documentation must I maintain regarding a National Service Criminal History Check for a covered position?

You must:

(a) Document in writing that you verified the identity of the individual in a covered position by examining the individual’s government-issued photo identification card, and that you conducted the required checks for the covered position; and

(b) Maintain the results, or a results summary issued by a State or Federal government body, of the NSOPW check and the other components of each National Service Criminal History Check,