

RESOLUTION NO. 4401

A RESOLUTION APPROVING A CITY OF MILES CITY RSVP CRIMINAL HISTORY CHECK POLICY

WHEREAS, the City of Miles City sponsors the Retired Senior Volunteer Program, hereinafter referred to as "RSVP;"


AND WHEREAS, RSVP has requested that the City of Miles City approve a City of Miles City RSVP Criminal History Check Policy in order to comply with certain Federal requirements;

AND WHEREAS, the City Council finds that such policy should be adopted;

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:


1. That the City of Miles City RSVP Criminal History Check Policy, attached hereto as Exhibit "A," and made a part hereof, is hereby approved and adopted.
2. Said policy shall become effective May 1, 2021 upon the passage of this resolution.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 27th DAY OF APRIL, 2021.



John Hollowell, Mayor

ATTEST:



Mary Rowe, City Clerk

RSVP CRIMINAL HISTORY CHECK POLICY

Under the Serve America Act (SAA), RSVP grantees are required to conduct and document a National Service Criminal History Check that includes a fingerprint based FBI criminal history on individuals, paid through Corporation for National & Community Service (CNCS) grant funds, who begin work on or after April 21, 2011.

The Corporation for National and Community Service (CNCS) revised National Service Criminal History Check (NSCHC) regulations under the National and Community Service Act of 1990. These revisions clarify and simplify the NSCHS requirements. The rule is effective May 1, 2021.

If a person serves consecutive terms of employment with the same organization in a position in which they receive a salary and does not have a break in service or employment longer than 180 days, then no additional NSCHS is required, as long as the original check complied with the requirements.

National Service Criminal History Check eligibility criteria must be applied to individuals serving in covered positions. A covered position is a position in which the individual receives an education award or a Corporation grant-funded living allowance, stipend, or salary. The definition of a covered individuals, for the purpose of the federal Retired and Senior Volunteer Program (RSVP) grants is "staff, individuals in positions in which they will receive a salary, directly or reflected as match, under a cost reimbursement grant. A NSCHC is not required for individuals whose activity is entirely included in the grant recipient's indirect cost rate. The NSCHC requires a three-part check for all covered individuals.

The three-part check must include:

- 1) A nationwide check of the National Sex Offender Public website through NSOPW.gov;
- 2) A check of the State criminal history record repository or agency-designed alternative for the individual's State of residence and State of service; and
- 3) A fingerprint-based check of the FBI criminal history record database through the State criminal history record repository or agency-approved vendor.

Grant recipients may obtain and document the required components of the National Service History Check is through the use of **agency-approved vendors. Those agencies are Truescreen Vendor for State of Residence/Employment and Fieldprint for FBI checks.**

Documentation Requirements:

The National Service Criminal History Check must be conducted, reviewed and an eligibility determination made by the grant recipient based on the results of the NSCHC **before** a person begins to work in a position in which they receive a salary. The grant recipient must maintain adequate documentation of the NSCHC process and practices as well as documentation of individual NSCHC grant records. The following documentation must be maintained:

- 1) Evidence that all required components (NSOPW, State, and FBI checks) were completed and on file; conducted on time and documentation reflects evidence of when checks were reviewed (adjudicated) and considered when making an eligibility determination;
- 2) All required components (NSOPW, State, and FBI checks) were conducted through sources authorized by CNCS/AmeriCorps and are consistent with the sources described in the grant recipient's adopted NSCHC policies and procedures;
- 3) Evidence that the NSOPW results include services from all States, Territories, and Indian Tribes;
- 4) First and Last Names used on name-based checks should reflect the legal name of the individual, as reflected on documentation used to verify the identity of the individual;

EXHIBIT "A"

- Documents used to verify an individual's identity must be consistent with sources described in the grant recipient's adopted NSCHC policies and procedures (sources may include documents collected with W-9 form, W-2 form, and income eligibility documents from a government source: Note: Individuals with government documents reflecting two last names (family names) should enter both names in the Last Name search field. Individuals with two first names (given names) should enter both names in the First Name search field. Searches should include the hyphen (-_ or apostrophe (') if their names have them.
- 5) Documentation of consent from the candidate to conduct State and FBI checks and share results including:
 - Documentation of the candidate's understanding that the national service position is contingent upon the organization's review of the individual's NSCHC components results, if any; and
 - Documentation that the candidate understands his or her ability to review and challenge the factual accuracy of the result before action is taken to exclude the candidate from the position.
 - 6) Documentation that the candidate is eligible to work if a vendor returns a "do not recommend" result for the candidate.

NOTE: A vendor's adjudication recommendation not to "recommend" the candidate indicates that the selecting organization needs more information before it can make a final determination as to the fitness of the individual to work. It does not mean that an individual is ineligible for work. Grant recipients must maintain adequate documentation of the process implemented to make an eligibility determination and may include a contemporaneously dated memo to the file documenting determination of the individual's eligibility.

- 7) An individual shall be ineligible to work or service if the individual:
 - Refuses to consent to a criminal history check;
 - Makes a false statement in connection with a criminal history check;
 - Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or
 - Has been convicted of murder and defined in 19 U.S.C. 111.

Grant recipients must take reasonable steps to protect the confidentiality of any information relating the criminal history check, consistent with authorization provided by the applicant. An organization's NSCH policies and procedures should describe the practices for protecting information related to NSCHC.

CNCS/AmeriCorps Enforcement

AmeriCorps will apply administrative enforcement related to findings of NSCHC noncompliance identified through oversight and monitoring of grant records, such as Payment Integrity Information Act (PIIA) sampling, formerly the Improper Payments Elimination and Recovery Improvement Act (IPERIA), compliance assessments conducted the Office of Monitoring, and Office of Inspection General audits, reviews, or investigations.

In addition to conducting the NSCHC grant recipients must:

- 1) Obtain a person's consent before conducting the state and FBI components of the National Service Criminal History Check;
- 2) Provide notice that selection for work is contingent upon the organization's review of the NSCHC component results;
- 3) Provide a reasonable opportunity for the person to review and challenge the factual accuracy of a result before action is taken to exclude the person from the position;
- 4) Take reasonable steps to protect the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant;

EXHIBIT "A"

- 5) Maintain documentation of the National Service Criminal History Check as grant records; and
- 6) Pay for the cost of the NSCHC. The person who is working in the covered position may not be charged for the cost of any component of a National Service Criminal History Check. CNCS/AmeriCorps Seniors considers the cost of this required National Service Criminal History Check a reasonable and necessary program grant expense, such cost being presumptively eligible for reimbursement. In any event, a grantee should include the costs associated with its screening process in the grant budget it submits to CNCS for approval.

Right to Review and Challenge:

Applicants have the right to review and challenge the results of the National Service Criminal History Check. A copy of such results shall be provided to the applicant upon request.