



## **National Service Criminal History Check Enforcement Guide**

Effective April 1, 2017

Office of the Chief Risk Officer  
Portfolio Risk and Compliance  
Date: February 10, 2017

# National Service Criminal History Check Enforcement Guide

Effective April 1, 2017



## Table of Contents

<b>Section I</b>	<b>PURPOSE.....</b>	<b>2</b>
<b>Section II</b>	<b>INELIGIBILITY VS. NONCOMPLIANCE.....</b>	<b>2</b>
<b>Section III</b>	<b>MONITORING OFFICIALS' RESPONSIBILITIES TO ASSESS AND REMEDY NONCOMPLIANCE.....</b>	<b>3</b>
	1. EXPAND THE SCOPE OF REVIEW .....	3
	2. ESTABLISH ELIGIBILITY .....	4
	3. IMPLEMENT A MANUAL HOLD, IF NECESSARY .....	4
	4. CALCULATE THE DISALLOWANCE .....	4
<b>Section IV</b>	<b>CALCULATING DISALLOWANCE .....</b>	<b>4</b>
	1. REVIEW GRANT RECIPIENT PARTICIPATION IN THE ASSESSMENT PERIOD.....	4
	2. ASSESSING THE MITIGATION LEVEL OF EACH FILE .....	4
	A. National Sex Offender Public Website (NSOPW) Checks .....	4
	B. Vendor Checks .....	5
	C. Accompaniment.....	6
	D. Murder Self-Certification .....	6
	E. Alternate Search Procedure (ASP)/Exemptions .....	6
	3. DETERMINE THE DISALLOWANCE AMOUNT FOR EACH INDIVIDUAL .....	7
	4. CALCULATE THE TOTAL DISALLOWANCE.....	8
<b>Section V</b>	<b>SELF-REPORTING .....</b>	<b>9</b>
<b>Section VI</b>	<b>DISALLOWANCE AND PAYMENT PROCEDURES AND DOCUMENTATION</b>	<b>9</b>
	1. DISALLOWANCE DOCUMENTATION .....	9
	2. PAYMENT REQUEST PROCESS .....	10
<b>Appendices</b>		
Appendix A	PARTICIPATION IN THE 2014 ASSESSMENT PERIOD .....	11
Appendix B	TAKING CORRECTIVE ACTION .....	12
Appendix C	IPERIA RECOVERY FOR NSCHC FINDINGS .....	15

## I. PURPOSE

This Enforcement Guide (Guide) explains how to resolve findings of noncompliance related to the National Service Criminal History Check (NSCHC) requirements and how to calculate disallowance in cases of noncompliance. It applies to all NSCHC noncompliance findings identified through oversight and monitoring, such as: Improper Payment Elimination and Recovery Improvement Act (IPERIA) sampling, Office of Inspector General audits or investigations, site visits, and desk reviews. The Guide does *not* change the legal requirements for the NSCHC. All cost disallowances can be avoided if checks are performed in compliance with the regulations.

The Guide must be used by monitoring officials including Program Officers and Grants Officers of the Corporation for National and Community Service (CNCS), State Commission staff, Social Innovation Fund intermediary staff, other recipient staff members responsible for monitoring and enforcing compliance, and any other individuals who monitor and enforce compliance with the NSCHC requirements. The Guide uses the term “monitoring officials” to collectively refer to this group of individuals going forward and the term “recipients” to refer to CNCS prime grant recipients and subrecipients.

## II. INELIGIBILITY VS. NONCOMPLIANCE

First, it’s important to distinguish between **ineligible** individuals and instances of **noncompliance**.

### **Ineligible Individual**

An **ineligible** individual (42 USC 12645g(c)) is anyone who (1) is registered or required to be registered on a sex offender registry; (2) has been convicted of murder; (3) refuses to consent to the NSCHCs; or (4) makes a false statement in connection with his or her NSCHC. Ineligible individuals are barred from working or serving on a grant-funded program. Recipients are strongly encouraged to promote the safety of those involved in their national service program through various means. The NSCHC establishes a baseline screening procedure. Recipients may establish a screening procedure with components and criteria that go beyond the NSCHC baseline requirements and that are tailored to the needs of their program, organization, and beneficiary population. Recipients should also be aware that regardless of documented accompaniment, all associated costs with an ineligible individual will be disallowed.

If you determine that an ineligible individual served or worked on a CNCS grant (including matching funds), you must:

- Immediately remove any currently serving ineligible individuals from the CNCS grant, and retain documentation of their service history and NSCHC documentation.
- Disallow all costs associated with the individual. Costs include any stipend, salary, fringe benefits, or education award. Calculate these costs from the individual’s start date in a covered position.
- Establish proper documentation and report the confirmed ineligibility to CNCS (see Monitoring Documentation in Section VI for details).

### **Eligible Individual – Noncompliant File**

**Noncompliance** refers to a situation in which an individual in a covered position is eligible to serve, but a recipient did not fully comply with all of these items:

- Properly conduct all required NSCHC components for the individual.
- Conduct the required NSCHC components on time.
- Ensure that an individual with access to vulnerable populations was in the physical presence of a qualified individual while checks were pending (also known as “accompaniment”). See Section IV for more information on who can perform accompaniment.
- Retain proper documentation (see Monitoring Documentation in Section VI for details).

If **noncompliance** is discovered:

- A recipient must take corrective action to correctly determine eligibility. See Section III and Appendix B.
- CNCS will disallow costs associated with NSCHC noncompliance per Section IV of this Guide.

### III. MONITORING OFFICIALS' RESPONSIBILITIES TO ASSESS AND REMEDY NONCOMPLIANCE

As a Monitoring Official, you must determine the extent of a recipient's compliance with NSCHC requirements. Screening is a critical first step in prevention and some level of screening, even if not completely compliant, is usually better than no screening at all. It is important to know when recipients are partially compliant because the costs that CNCS disallows depend in part on whether the recipient took some actions. To assess this accurately, you'll need the individual's start date on the grant and a detailed understanding of the NSCHC requirements (<http://www.nationalservice.gov/resources/criminal-history-check>). If you identify noncompliance:

#### 1. EXPAND THE SCOPE OF REVIEW

"Scope of review" means the number of individuals reviewed to determine if the recipient is conducting and documenting the NSCHCs requirements correctly.

If, during a single monitoring activity, you discover that two or more individuals' NSCHC checks are noncompliant, you must expand the scope of review so that you can more completely assess the scope of the recipient's noncompliance. An *expanded* scope of review includes all of the currently-serving individuals in covered positions, as of the date of the monitoring activity. This expansion does not necessarily need to occur on the date of the initial monitoring activity. In cases where there are large numbers of files to review, Monitoring Officials may opt to conduct the review at a later date.

If there is evidence that the noncompliance is limited to a subset of files (for example, limited to a particular site, or to staff only), with documented rationale, the Monitoring Official may limit the scope of review to that subset.

You may direct a recipient to conduct the review and calculate the disallowance according to the Mitigation Matrix (Matrix) in Section IV. However, if the recipient conducts the review, the Monitoring Official must verify their findings in one of two ways:

- Review all supporting documentation for each file (see Section VI); or
- Review a sample of the files. If you choose this method, you must apply your sampling methodology consistently. Refer to your monitoring tool or procedures for guidance specific to your situation.

If you only find noncompliance in **one file**, direct the recipient to take corrective action on that single file, per Appendix B, and disallow costs for that one occurrence of noncompliance. If you suspect a root cause of noncompliance that may affect other files, such as use of a noncompliant vendor, strongly encourage the recipient to identify other files that may be affected and to take prompt corrective action and self-report all additional noncompliance that they identify. See Part IV of this document for more information on self-reporting.

Note: If, at the time of the monitoring visit, there are no individuals currently serving in covered positions (e.g. a recipient with members serving only during the summer), then include all files from the most recent cohort of members who completed service in the scope of the review.

## 2. ESTABLISH ELIGIBILITY

For every currently serving individual in a covered position for which you discover an instance of NSCHC noncompliance, as soon as you discover it, you must instruct the recipient to establish eligibility. Do not wait to include this step in a monitoring feedback letter.

If an individual's NSCHC was incomplete, improper, or not done at all, the recipient must:

- immediately conduct all applicable, regulation-compliant NSCHC checks on the individual; and
- put in place training and systems to avoid any further noncompliance in the future.

Appendix B of this Guide describes the corrective actions a recipient must take in specific situations.

## 3. IMPLEMENT A MANUAL HOLD, IF NECESSARY

In cases where recipients are not responsive to requests for information or fail to perform corrective actions, Program Officers should contact their Grants Officer to determine courses of action. One course of action could be placing the recipient on manual hold for the reimbursement of program expenses. Refer to Appendix B and your monitoring tool for corrective action procedures.

## 4. CALCULATE THE DISALLOWANCE

Use the guidance in Section IV, below, to calculate the disallowance.

# IV. CALCULATING DISALLOWANCE

If you determine that an **eligible** individual's criminal history check was noncompliant, the next steps are:

## 1. REVIEW GRANT RECIPIENT PARTICIPATION IN THE ASSESSMENT PERIOD

See Appendix A to assess participation in the assessment period and its impact on disallowance.

## 2. ASSESSING THE MITIGATION LEVEL OF EACH FILE

Mitigation is an assessment of the level of screening conducted by the recipient when the individual file is only partially compliant. Monitoring Officials will base the mitigation rating and assign the disallowance amounts as specified in the Guide on the state of the recipient's files as of one of the following, whichever is earlier: 1) the date of the official notification for monitoring, or 2) the date that the Monitoring Official identifies the noncompliance in connection with that particular monitoring event. Prompt corrective action is expected, and a failure to take prompt corrective action may result in increased disallowance amounts and other remedies as available by law.

Apply the mitigation ratings as specified in the Guide for all covered positions, regardless of the regulations effective at the time of their start of work or service. As of January 1, 2013, all individuals in covered positions are required to have at least a search of the NSOPW. If a file does not include a compliant or mitigating sex offender check or any other mitigating factors as defined below, this file has, by definition, low mitigation.

This Section lists the conditions for full compliance for each component of the criminal history check, followed by the conditions that mitigate noncompliance. Use this information to determine which of the mitigating conditions described in the Matrix below are present in an individual's NSCHC file.

### A. National Sex Offender Public Website (NSOPW) Checks

A compliant NSOPW check is a *nationwide* check of the NSOPW that has been examined and documented as finding or not finding that the individual exists on the name-based results list, *before* an individual starts work or service.

### Conditions that Mitigate Noncompliant NSOPW Checks

In the Matrix, “sex offender check” refers to a check that is noncompliant but has conditions that mitigate the noncompliance. The conditions listed below mitigate a missing or incomplete nationwide NSOPW check. *Bear in mind that none of these is a fully compliant check, and a fully compliant NSOPW check must still be performed and documented to establish eligibility.*

- The check is an incomplete search of NSOPW.gov, including a check in which one or more states was not reporting when the check was performed, and the result shows the non-reporting state(s).
- The check is an adjudicated FBI fingerprint check.
- The check is a national sex offender registry check, other than a check of the NSOPW, provided by a vendor.
- The check is a statewide sex offender check from the state of residence or the state of service.

### **B. Vendor Checks**

If a recipient uses a vendor check, the recipient must demonstrate that the vendor’s criminal history record search meets CNCS’s requirements.

#### Assessing vendor compliance

A compliant vendor check must provide evidence that the data is not time limited in any way – that is, the data goes back as far as the data held by the designated state repository.

If the vendor gives only a pass/fail adjudication, it must be based on information that is not time-limited and that is based on:

- A nationwide check of the NSOPW that is completed before the start of work or service (before any hours are accrued).
- A compliant State Check that is initiated no later than the first day of work or service through the CNCS-designated repositories in the States of Service and Residence.
- A compliant fingerprint-based FBI Check that is initiated no later than the first day of work or service through the CNCS-designated repositories, CNCS-designated channeler, or the departmental orders (DO) method submitted directly to the FBI.

### Conditions that Mitigate Noncompliant Vendor Checks

If a vendor check does not meet the criteria above, it is not compliant. The conditions listed below mitigate noncompliant vendor checks.

State laws may require vendors to limit the criminal history data they provide to their clients (generally, to seven or ten years), which is often far shorter than the period that the state repository or FBI retains criminal history data. This data is “time-limited.” *Time-limited data is not compliant, but still may be used as part of a mitigating vendor check under the Matrix.*

- An NSOPW check that is missing or incomplete is mitigated if the vendor includes a nationwide sex offender registry search.
- A state check that is missing or incomplete is mitigated by:
  - A vendor check that includes a nationwide search of state criminal information
  - A vendor check that includes the CNCS-designated repository in either the state of residence or the state of service (that is, includes one compliant state check when two were required).

### **C. Accompaniment**

If an individual is in a covered position and has recurring access to vulnerable populations, the individual must be accompanied while their State and/or FBI checks are pending whenever they are anticipated to be in contact with vulnerable populations. “Accompanied” means they’re in the physical presence of someone who meets the definition of “compliant accompanier” below. Once results clear (through either the state check(s) or the FBI check), accompaniment can cease. When the state of residence differs from the state of service, then both checks must be cleared to cease accompaniment. Accompaniment is not an alternative to late or noncompliant checks. Accompaniment must be documented as outlined below.

#### **Compliant Accompanier**

- An employee or representative of a placement site may provide accompaniment if that individual’s clearance was established under the placement site’s rules. For example, if an individual is going to serve in a nursing home, any staff not on a CNCS grant that the nursing home has cleared for access can accompany them.
- Parents and guardians of an individual who is a member of a vulnerable population may also provide accompaniment, as appropriate for the program design.
- If the individual who provides accompaniment is in a covered position on a CNCS grant, they must be cleared by the CNCS NSCHC requirements for access to vulnerable populations.
- Anyone who has cleared, and maintained a compliant NSCHC, regardless of whether or not that individual is in a covered position on a CNCS grant.

#### **Compliant Accompaniment Documentation**

Accompaniment must be documented contemporaneously. Documentation must include the time, date, and name of the accompanying individual. If accompaniment does not meet the criteria above, it is not compliant.

Recipients must have policies and procedures that clearly describe their accompaniment guidelines and the compliant procedures for documenting accompaniment.

#### **Conditions that Mitigate Noncompliant Accompaniment**

- If accompaniment is performed and not documented sufficiently and contemporaneously (as described above), it qualifies as mitigated accompaniment.
- If the accompaniment is not documented sufficiently and contemporaneously, but it is based on a program model where accompaniment is a standard process (for example, teachers in some school programs always accompany volunteers), it qualifies as mitigated accompaniment.

### **D. Murder self-certification**

There is no disallowance when a missing murder self-certification is the only required item missing from a file. Corrective action is required, including having the currently serving individual sign a murder self-certification letter. Having a completed murder self-certification letter does not factor into a non-compliant file’s mitigation rating. See Appendix B – Corrective Action

### **E. Alternative Search Procedures (ASPs)/Exemptions**

If the file is out of compliance with the terms of a pending or approved ASP/Exemption, the Monitoring Official should assess the mitigation for that position without regard to the terms of the ASP/Exemption.



### 3. DETERMINE THE DISALLOWANCE AMOUNT FOR EACH INDIVIDUAL

Use the Matrix below to determine the level of mitigation and associated disallowance per individual.

NSCHC MITIGATION MATRIX			
Disallowance for each individual for whom...		Self-Reporting	Standard Disallowance
		↓	↓
High Mitigation is present		\$250	\$500
Moderate Mitigation is present		\$500	\$1000
Low Mitigation is present		\$750	\$1500
MITIGATION RATING	NO ACCESS OR EPISODIC ACCESS TO VULNERABLE POPULATIONS	RECURRING ACCESS TO VULNERABLE POPULATIONS	
High Mitigation	<p>Program adjudicated a sex offender check before the individual began work or started service on the grant AND at least one of the following is <b><i>present, even if late:</i></b></p> <ul style="list-style-type: none"><li>Initiated a vendor check that included a <b>nationwide</b> search of state criminal history information; OR</li><li>Initiated the State of Service or State of Residence check through CNCS designated sources; OR</li><li>Initiated a fingerprint-based FBI check.</li></ul>	<p>Program met the requirements of 1, 2, and 3:</p> <p>1. Performed accompaniment (if required); AND</p> <p>2. Adjudicated a sex offender check <i>before</i> the individual began work or started service on the grant; AND</p> <p>3. <b><i>Initiated</i></b> one of the following <b><i>on time:</i></b></p> <ul style="list-style-type: none"><li>A vendor check that included a <b>nationwide</b> search of state criminal history information; OR</li><li>A State of Service or State of Residence check through CNCS designated sources; OR</li><li>A fingerprint-based FBI check.</li></ul>	
Moderate Mitigation	<p>Program adjudicated a sex offender check AND at least one of the following is <b><i>present, even if both are late:</i></b></p> <ul style="list-style-type: none"><li>Initiated a vendor check that included a <b>nationwide</b> search of state criminal history information; OR</li><li>Initiated the State of Service or State of Residence check through CNCS designated sources; OR</li><li>Initiated a fingerprint-based FBI check.</li></ul>	<p>Program met the requirements of 1 or 2:</p> <p>1. Performed accompaniment (if required) AND <b><i>initiated one of the following on time:</i></b></p> <ul style="list-style-type: none"><li>A vendor check that included a <b>nationwide</b> search of state criminal history information; OR</li><li>A State of Service or State of Residence check through CNCS designated sources; OR</li><li>A fingerprint-based FBI check.</li></ul> <p>2. Adjudicated a sex offender check before the individual began work or started service on the grant AND at least one of the following is <b><i>present, even if late:</i></b></p> <ul style="list-style-type: none"><li>A vendor check that included a <b>nationwide</b> search of state criminal history information; OR</li><li>A State of Service or State of Residence check through CNCS designated sources; OR</li><li>A fingerprint-based FBI check.</li></ul>	
Low Mitigation	Any other combination of factors that does not meet the requirements for Moderate Mitigation or High Mitigation.		
This Matrix does not preclude CNCS from implementing other remedies for noncompliance or taking other measures as authorized by law. CNCS may update this Matrix at any time. The disallowance amount is a remedy for noncompliance per 2 C.F.R. § 200.338.			



#### 4. CALCULATE THE TOTAL DISALLOWANCE

After assessing the mitigating factors under the Matrix for each individual instance of noncompliance, add the amount of each individual disallowance to determine the total disallowance. Before proceeding to debt collection, evaluate whether the following additional criteria apply:

**Disallowance cap:** As a general rule, CHC disallowance will be capped at 25% of the CNCS federal share of the award absent gross negligence or misconduct on the part of the recipient. In some cases, the Monitoring Official may believe that the disallowance cap results in a total disallowed amount that is too low to adequately aid enforcement and compel present and future compliance. For example, this may occur when the federal share is relatively small yet the calculated amount would exceed fifty percent of the federal share. In such cases, the Monitoring Official may choose to enforce the calculated total disallowance, even if it exceeds the 25% cap.

**Zero dollar grants:** Some grants are zero dollar awards and include no operating funds. For grants that have no operating funds, NSCHC noncompliance enforcement will be capped at 25% of the total value of the education awards associated with the awarded national service positions, if applicable. Refer to the Notice of Grant Award to ensure that it contains the necessary Special Condition to recover funds from the recipient.

**Failure to Correct Previously Identified Noncompliance:** If required corrective action was not taken when the noncompliance was first identified, a recipient will face disallowance a second time on those files that are still out of compliance plus the possibility of other enforcement remedies.

**Self-Reported Noncompliance:** See Section V, below.

**Important Note:** Do **not** disallow **hours** for NSCHC noncompliance. Eligible individuals who worked or served after undergoing a noncompliant NSCHC should still receive credit for all the hours they have worked or served, despite the enforcement of a disallowance on a noncompliant recipient. See Section II for disallowance for ineligible individuals.

#### V. SELF-REPORTING

Self-reporting means that a recipient reports its own noncompliance to a Monitoring Official before it receives a written notice of a future oversight or monitoring activity (e.g. IPERIA sampling, IG audit or investigation, site visit, desk review, etc.). Self-reporting is intended to incentivize identification of the noncompliance by the recipient. A prime recipient reporting to CNCS that it discovered noncompliance at its subrecipients is not considered self-reporting.

If a recipient contacts you in your role as a Monitoring Official to self-report noncompliance with the NSCHCs, you must take the following steps:

- 1) Immediately document that the recipient has self-reported noncompliance. You must include:
  - a. the date of notification,
  - b. the date the recipient discovered their noncompliance,
  - c. the nature of the noncompliance,
  - d. the scope of the noncompliance, to the extent it's known,
  - e. how the recipient identified the noncompliance, and
  - f. what corrective actions the recipient took, if any.
- 2) If the recipient hasn't already done so, direct it to:
  - a. expand the scope of its review per the guidance in Section III.
  - b. immediately take corrective action, as described in Appendix B.

- 3) Use the results of the expanded scope of review to calculate the disallowance, per Section III.
- 4) Use the self-reporting amounts in the Matrix to determine disallowance for each file. If the disallowance total is more than 25% of the federal share of the award, you may apply the disallowance cap in Section IV.

## VI. DISALLOWANCE AND PAYMENT PROCEDURES AND DOCUMENTATION

### 1. DISALLOWANCE DOCUMENTATION

You must send the grant recipient written notification promptly after you discover noncompliance in accordance with your standard monitoring procedures, even if you don't yet know the cost disallowance that will result from the noncompliance. Do not hold off notifying the recipient until you've calculated the total disallowance, a process that might require you to request additional information and review a substantial number of files, and could take some time to complete.

#### Review Documentation

For each individual file with NSCHC noncompliance, monitoring officials must:

1. contemporaneously document a written assessment of the deficiency,
2. assign and document the appropriate **mitigation ratings**, and
3. assess an **associated** disallowance amount.

A documented written assessment of the deficiency must include:

- **date** of notification of monitoring, date of monitoring or date of self-review, whichever is earlier,
- the **name** of the individual,
- **start date** of work/service on the grant,
- **level of access** to vulnerable populations,
- when checks (NSOPW, State of residence, State of service, FBI) were **initiated**,
- what other checks/conditions were **present and relied** on in determining the assigned **mitigation rating** (e.g., vendor checks),
- when results were **adjudicated**,
- whether **accompaniment** was performed,
- when **accompaniment ceased**, and
- which checks were **missing, incomplete** or **late**.

See Section III for guidance on expansion of scope.

#### Ineligible Individual Documentation

If the individual is **ineligible** to serve, you must document:

- the full name of the individual,
- the date they started on the grant,
- the date ineligibility was identified,
- the date they were removed from the grant,
- the number of hours charged to the grant,
- the assessment of checks conducted against which checks were required,
- the basis of ineligibility identified through the NSCHC (e.g. false statement, murder conviction, etc.), and
- the calculation of all associated grant costs from federal and match funds, as applicable.

Report the full name of the ineligible individual along with details of the occurrence to CNCS via email at [CHC@cns.gov](mailto:CHC@cns.gov), with a subject heading of: "Ineligible Individual Notification," copying your Program Officer and Grants Officer. Such reports must be made by prime and subrecipients.

See Section II for criteria used to confirm ineligibility.

## **2. PAYMENT REQUEST PROCESS**

Once the disallowance amount has been calculated, CNCS will issue a *Debt Notification Letter* to the prime recipient, regardless of whether the noncompliance was at the prime or subrecipient level. This letter will include information about the rights of the recipient and options available to pay the disallowance to CNCS. The letter will outline two payment options – payment in full or the procedure to setup alternative payment options. The Debt Collection Information attachment also identifies all rights and responsibilities the debtor may have in regard to the debt. The payment to CNCS must be from a non-federal funding source.

### Note to Prime Grant Recipients:

Disallowance for NSCHC noncompliance at the subrecipient level must be paid back to CNCS. Prime recipients cannot reallocate NSCHC disallowance. Prime recipients should oversee the subrecipient's application of this Guide in assessing the subrecipient's disallowance prior to submission to CNCS. Primes should submit the documentation of the monitoring findings to CNCS along with the total disallowance calculated.

CNCS will disallow costs from a prime recipient if its subrecipients are found to be out of compliance with the NSCHC requirements and the prime recipient has not correctly applied enforcement and/or has failed to identify noncompliance prior to CNCS's monitoring of the prime recipient. See Section IV for more guidance on disallowance for failure to correct previously identified noncompliance.

### When multiple grants are monitored:

In cases where a single entity has more than one open CNCS grant, the following steps should be applied to NSCHC non-compliance where a debt payment is due:

- Disallowance associated with a volunteer or staff member who is assigned to two or more CNCS open grants shall be assessed under the open grant awarded the highest dollar amount (to avoid double-counting within the risk-based calculation)
- Each CNCS open grant program will require a separate evaluation. Total grant award funds for each program (initial award reflected on the Notice of Grant Award in addition to all amendments, augmentations, reductions) will be used to arrive at the *Total Grant Amount (Federal Share Only)*.
- Refer to Section IV, Calculating Disallowance, for further details.

## APPENDIX A: PARTICIPATION IN THE 2014 ASSESSMENT PERIOD

*October 14, 2014, to December 5, 2014*

From October 14, 2014, to December 5, 2014, CNCS required an Assessment Period where recipients had a one-time opportunity to review their personnel files and come into *complete* NSCHC compliance without risk of financial penalty.

Individual files where recipients **corrected** instances of missing or incomplete checks during the Assessment Period **are not subject to cost disallowance** for any noncompliance occurring before December 6, 2014.

The 2014 Assessment Period cost disallowance moratorium does not apply to:

- Ineligible individuals
- Transactions tested under CNCS's 2014 Improper Payments Elimination and Recovery Improvement Act (IPERIA) activities. See Appendix C.
- Individual files that recipients reviewed during the assessment period, but where recipients did **not correct** noncompliance by completing all missing or incorrectly performed checks **are subject to disallowance**.

As discussed above, if a recipient corrected an individual's noncompliant criminal history check during the Assessment Period, that check is considered compliant.

If a recipient corrected one part of a file, but not another part – for example, if they conducted a NSOPW, but not an FBI check, even though one was required – that file is still noncompliant. The corrected checks are considered late when determining a mitigation rating and applying the Matrix.

Please see the Assessment Guidance at <http://www.nationalservice.gov/CHCAssessmentPeriod> for more information.

## APPENDIX B: TAKING CORRECTIVE ACTION

We use corrective actions to quickly bring a recipient into compliance pending a decision on final enforcement actions. You must document all required corrective actions and any follow up and have the recipient do the same.

This appendix first lists the conditions that require corrective action, then lists Required Corrective Actions A through C.

### CONDITIONS THAT REQUIRE CORRECTIVE ACTION

#### NSOPW CHECK

1. Late, Incomplete or Missing NSOPWs: If an NSOPW search was conducted late or is missing from a file, or is incomplete or inadequately documented, the recipient will be required to implement Corrective Action A.
2. Incorrect NSOPW: If a sex offender registry was checked, but was either not a NSOPW.gov check (e.g. a vendor sex offender check, school district sex offender check, or was limited in scope), the recipient will be required to implement Corrective Action A.

#### STATE CHECKS

1. Late, incomplete, or missing check: If state checks were conducted late, are missing from a file, or are incomplete (e.g. state of residence wasn't conducted), the recipient must take Corrective Action A.
2. Incorrect state check: If state checks were incorrectly conducted (e.g. were conducted through vendors that used sources not authorized by CNCS), the recipient must take Corrective Action A.
3. Incorrect assigned accompanier: If the program model requires accompaniment, the recipient must take Corrective Action B.
4. Accompaniment not performed: If the program model requires accompaniment, and accompaniment was not performed, the recipient must take Corrective Action B.
5. Accompaniment not documented: If the program model requires accompaniment, and accompaniment was correctly done but not adequately documented, the recipient must take Corrective Action B.

#### FBI CHECKS

1. Late or missing check: If the FBI check was conducted late or is missing from a file, the recipient must take Corrective Action A.
2. Incorrect FBI check: If FBI checks were incorrectly conducted (e.g. the recipient incorrectly assumed that a state repository included FBI results with the state check, or that a vendor national check was the same as an FBI check), the recipient must take Corrective Action A.
3. Incorrect assigned accompanier: If the program model requires accompaniment, the recipient must take Corrective Action B.
4. Accompaniment not performed: If the program model requires accompaniment, and accompaniment was not performed, the recipient must take Corrective Action B.

5. Accompaniment not documented: If the program model requires accompaniment, and accompaniment was correctly done but not adequately documented, the recipient must take Corrective Action B.

## **ALL OTHER STEPS IN THE NSCHC PROCESS**

For all other findings, the recipient must take Corrective Action C.

### **REQUIRED CORRECTIVE ACTIONS FOR RECIPIENTS**

#### **CORRECTIVE ACTION A – FOR LATE, MISSING, OR INCORRECT CHECKS**

##### Step 1: Immediately conduct any missing checks

- The recipient must conduct the missing or incorrectly-conducted components of the check and properly document the results.
- If appropriate, tell the recipient to submit an Alternative Search Protocol (ASP) or an Exemption Request.
- As the Monitoring Official, you have the discretion to request the documentation so that you can review it and follow up as needed.
- Checks that were completed late, but are otherwise compliant, don't need to be conducted again.

##### Step 2: Write detailed procedures.

You have the discretion to instruct the recipient to revise or clarify their policies and procedures, and to review those changes.

##### Step 3: Undergo training

- Appropriate recipient staff must take CNCS training on NSCHC requirements.
- Appropriate recipient staff must also take training on the recipient's NSCHC procedures (the revised procedure, if it has been changed per Step 2 above).
- The recipient must tell you when all training is complete.

#### **CORRECTIVE ACTION B – FOR FINDINGS THAT PROPER ACCOMPANIMENT DID NOT OCCUR**

##### Step 1: Conduct accompaniment if results are pending

- If you or the program learns of an instance of noncompliant accompaniment and checks are still pending, the recipient must immediately begin proper accompaniment.
- If appropriate, tell the recipient to submit an Alternative Search Protocol (ASP) or an Exemption request.
- You have the discretion to request the documentation for follow-up review.

##### Step 2: Write detailed procedures

- The recipient must write policies and procedures for accompaniment that detail who is eligible to be an accompanier, when accompaniment must be performed, when accompaniment may cease, and how they will document accompaniment.

- You have the discretion to instruct the recipient to revise or clarify their policies and procedures, and to review those changes.

#### Step 3: Undergo training

- Appropriate recipient staff must take CNCS training on NSCHC requirements.
- Appropriate recipient staff must also take training on the recipient's NSCHC policy (the revised policy, if it has been changed per Step 2 above).
- The recipient must tell you when all training is complete.

### **CORRECTIVE ACTION C – FOR ALL OTHER NSCHC NONCOMPLIANCE FINDINGS**

#### Step 1: Fulfill or correct the noncompliance

- As soon as you or the recipient discovers noncompliance with any other required step of the NSCHC, the recipient must correct the issue – either perform a missing step or correct what has been done incorrectly – and then document the corrections.
- If appropriate, you should tell the recipient to submit an Alternative Search Protocol (ASP) or an Exemption request.
- You have the discretion to request the documentation for follow-up review.

#### Step 2: Write detailed procedures.

You have the discretion to instruct the recipient to revise or clarify their policies and procedures, and to review those changes.

#### Step 3: Undergo training

- Appropriate recipient staff must take CNCS training on NSCHC requirements.
- Appropriate recipient staff must also take training on the recipient's NSCHC policy (the revised policy, if it has been changed per Step 2 above).
- The recipient must tell you when all training is complete.



## APPENDIX C: IPERIA RECOVERY FOR NSCHC FINDINGS

The Improper Payments Elimination and Recovery Improvement Act (IPERIA) testing process may identify instances of NSCHC noncompliance. CNCS monitoring is risk-based and IPERIA findings may increase the likelihood that CNCS conducts monitoring on a recipient with noncompliance revealed during IPERIA testing.

Grant recipients that used CNCS grant funds to make a payment (e.g. a living allowance) to an individual statutorily ineligible to serve under 42 U.S.C. § 12645g(c) made an **improper payment** under IPERIA by doing so. All costs associated with that **ineligible** individual's work or service are unallowable. See Section II of the Guide.

For instances of **noncompliance** discovered through IPERIA testing, in which an eligible individual received payment, but the recipient did not comply with the NSCHC requirements in conducting the checks, apply the Guide, mindful of the following:

**One transaction tested:** If a recipient had only one transaction tested under IPERIA, you would assess the disallowance for that one individual according to the Matrix. See Section III of the Guide for details on disallowance for one file. The Monitoring Official must advise the recipient to conduct a self-review of currently serving files and consider the benefits of taking corrective action and self-reporting (see Section V) before a Monitoring Official initiates a monitoring activity.

**Two or more transactions tested:** If a recipient had two or more transactions tested under IPERIA and the testing revealed two or more instances of NSCHC noncompliance, then you must expand the scope as directed in Section III.

**2014 Assessment participation:** If the tested IPERIA transaction involves an individual who was required to have a check prior to December 5, 2014 and the recipient fully corrected the noncompliance by conducting missing or incomplete checks during the assessment period (October 14, 2014 to December 5, 2014), do not disallow for the noncompliance identified through IPERIA testing (see Appendix A for more guidance). Note: The transactions tested under the 2014 IPERIA process are excluded from this moratorium on disallowance. The transactions tested under the 2014 IPERIA process will face disallowance, even if corrected during the Assessment.