



Idaho State Police
Bureau of Criminal identification
Applicant Fingerprint Program User Agreement
National Child Protection Act of 1993, as amended



I. Parties to Agreement

This Agreement, entered into by the Idaho State Police (hereinafter referred to as ISP), an agency of the State of Idaho, and _____ (hereinafter referred to as User), located at _____

is intended to set forth the terms and conditions under which criminal history background checks authorized by the National Child Protection Act of 1993, as amended, (hereafter referred to as the NCPA), shall be conducted.

- A. ISP has established and maintains intrastate systems for the collection, compilation, and dissemination of state criminal history records and information in accordance with Idaho Title 67, Chapter 30, and, additionally, is authorized and does participate in similar multi-state and federal criminal history records;
- B. ISP and its user agencies are subject to and must comply with pertinent state and federal regulations relating to the receipt, use, and dissemination of records and record information derived from the systems of ISP and the United States Department of Justice (F.A.C., 28 C.F.R. Part 20);
- C. User is a public, private, for profit, or not-for-profit entity operating within the State of Idaho and is authorized to submit fingerprint cards and review resultant criminal history records as part of the screening process for its current and/or prospective employees and volunteers (which classes of persons shall be understood for purposes of this Agreement to include contractors and vendors who have or may have unsupervised access to the children, disabled, or elderly persons for whom User provides care), pursuant to the NCPA, and forms the legal basis for User's access to criminal history record information derived from the systems of the U.S. Department of Justice; and
- D. User is desirous of obtaining and ISP is required and willing to provide such services so long as proper reimbursement is made and all applicable federal and state laws, rules, and regulations are strictly complied with.

Now, therefore, in light of the foregoing representations and the promises, conditions, terms, and other valuable considerations more fully set forth hereinafter or incorporated by reference and made a part hereof, ISP and User agree as follows:

II. Service, Compliance, And Processing

A. ISP agrees to:

- 1. Assist User concerning the privacy and security requirements imposed by state and federal laws, and regulations; provide User with copies of all relevant laws, rules, and or regulations as well as updates as they occur;
- 2. Provide User with such state criminal history records and information as reported to, processed, and contained in its systems and legally available to the User; and

3. Act as an intermediary between User and the United States Department of Justice, securing for the use and benefit of User such federal and multi-state criminal history records or information as may be available to User under federal laws and regulations.

B. User agrees to:

1. Submit requests to ISP for criminal history background checks pursuant to this agreement only for User's current and prospective Idaho employees and volunteers, for whom User is not already required to obtain state and national criminal history background checks under any other state or federal statutory provision. User shall continue to comply with all other such statutory provisions for all applicable persons;
2. Determine whether the current or prospective employee or volunteer has been convicted of, or is under pending indictment for, a crime that bears upon his or her fitness to have access to or contact with children, the elderly, or individuals with disabilities;
3. Obtain a completed and signed Waiver Agreement and Statement form (provided by ISP) from every current or prospective employee and volunteer, for whom User submits a request for a criminal history background check to ISP. The signed Waiver Agreement and Statement allows the release of state and national criminal history record information to the qualified entity.
 - a. The Waiver Agreement and Statement must include the following:
 - i. the person's name, address, and date of birth that appear on a valid identification document (as defined at 18 U.S.C. section 1028);
 - ii. an indication of whether the person has or has not been convicted of a crime, and, if convicted, a description of the crime and the particulars of the conviction;
 - iii. a notification to the person that User may request a criminal history background check on the person as authorized by the NCPA;
 - iv. notification to the person of his or her rights as explained in paragraph 12 below; and
 - v. a notification to the person that, prior to the completion of the background check, User may choose to deny him or her unsupervised access to a person to whom User provides care.
 - vi. User shall retain the original of every Waiver Agreement and Statement for as long as the employee or volunteer is working, or for five years, whichever is longer, and provide ISP with a copy upon request;
4. Use only fingerprint cards provided by ISP specifically designed for use with requests for criminal history record checks under the NCPA; provide ISP with a properly completed and executed fingerprint card for each current or prospective employee and volunteer for whom User requests a criminal history record check pursuant to this agreement; and indicate either "NCPA/VCA VOLUNTEER" or "NCPA/VCA EMPLOYEE" in the "reason fingerprinted" block of each fingerprint card submitted. (VCA refers to Volunteers for Children Act);
5. Keep all records necessary to facilitate a security audit by ISP and to cooperate in such audits as ISP or other authorities may deem necessary. Examples of records that may be subject to audit are criminal history records; notification that an individual has no criminal history; internal policies and procedures articulating the provisions for physical security; records of all disseminations of criminal history information; and a current, executed User Agreement with ISP;
6. Pay for services provided by ISP and the Federal Bureau of Investigation (FBI), with the submission of fingerprint cards or;
7. If set up on a billing account with ISP for services requested pursuant to this agreement, reimburse ISP, in a timely fashion, upon proper presentation of billing for state services rendered and reimburse the FBI, in a timely fashion via ISP, upon proper presentation of billing for federal services rendered.

8. Ensure that the appropriate personnel know to keep the information obtained under this agreement in a secure place and to use it only for the screening as outlined in this agreement;
9. Promptly advise ISP of any violations of this agreement; and
10. Notify the current or prospective employee or volunteer of his or her right to obtain a copy of the criminal history records, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any such report, and to obtain a determination as to the validity of such challenge before a final determination regarding the person is made by the qualified entity reviewing the criminal history information. Information on these rights may be obtained by contacting ISP, regarding Idaho records, at ISP, Bureau of Criminal Identification, 700 S. Stratford Drive Ste. 120, Meridian Idaho, 83642, or by contacting the FBI, regarding federal/national records, at FBI, Criminal Justice Information Services Division, ATTN: SCU, MOD D-2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, (304) 625-3878. A qualified entity that is required by law to apply screening criteria, notwithstanding any right to contest or request an exemption from disqualification, shall apply such screening criteria to the state and national criminal history record information received from the department.

III. Privacy and Security

- A. User shall use criminal history record information acquired hereunder only to screen User's Idaho current and/or prospective employees and/or volunteers, and only for purpose(s) of employment and/or determination of suitability for access to children, elderly, or disabled persons, pursuant to the terms of the NCPA of 1993. If User is a governmental agency, such records may additionally be used in administrative hearings associated with one of the enumerated purposes;
- B. User shall not commingle criminal history records with other records, whether such other records are public or not;
- C. User shall not duplicate and/or disseminate criminal history records acquired hereunder for use outside of User entity except as authorized by state and federal law.
- D. User has been approved to receive criminal history record information pursuant to specific statutory authority and shall not use criminal history record information acquired pursuant to such approval for any other purpose;
- E. User shall not use or rely upon a criminal history record or information which is or is likely to be out-of-date and, in any event, if criminal activity is pertinent to and considered at the time of an employee or volunteer's service, a current computerized criminal history must be requested and relied upon;
- F. User may destroy criminal history records when they are no longer needed. The original Waiver Agreement and Statement form must be retained by User for as long as the employee or volunteer is working for User, or for five years, whichever is longer. Destruction must be accomplished in a way so that the information cannot be retrieved; for example, the records may be shredded;
- G. User shall keep criminal history records acquired hereunder in a secure file, safe, or other security device, such as locked file cabinet in an access-controlled area, and shall take such further steps as are necessary to ensure that the records are accessible only to those of its employees who have been trained in their proper use and handling and have a need to examine such records; and
- H. ****If Entity Is Subject To The Public Records Act**** - If User is subject to the Public Records Act, Idaho Title 9, Chapter 3, User shall, upon receipt of any request, pursuant to the public records law, for a processed fingerprint card or criminal history record, transmit the request, along with the involved fingerprint card and criminal history record, to the ISP, ATTN: Operations Officer. ISP will prepare copies of the involved documents, obliterating any

state or federal data, which is not available for dissemination under the Idaho public records law, and return all documents to the User for response to the requester. However, a processed card, or photocopy of same, may be provided to a law enforcement agency for fingerprint identification purposes, if so requested. User shall not release any criminal history information that is made exempt from public records disclosure by law. In particular, record information derived from the U.S. Department of Justice shall not be disseminated outside the User entity or used for a purpose other than that specified in the statute authorizing the request.

IV. Termination

Either ISP or User may suspend the performance of services under this agreement when, in the reasonable estimation of ISP or User, the other party has breached any material term of the agreement. Furthermore, upon ISP becoming aware of a violation of this agreement, which might jeopardize Idaho's access to federal criminal history information, ISP shall have the option of suspending services under this agreement, pending resolution of the problem. The violation of any material term of this agreement or of any substantive requirement or limitation imposed by the federal or state statutes, regulations, or rules referred to in this agreement shall be deemed a breach of a material term of the agreement.

Criminal history record information received from (ISP) shall be used only for the purpose stated in the request. National criminal history information received from the FBI is made confidential by federal law and regulation.

V. Miscellaneous

A. User agrees that

1. User is currently operating a lawful business or other entity within the State of Idaho, with a physical address in Idaho;
2. User is legally authorized to operate its business or other entity within the State of Idaho;
3. User has complied and will continue to comply with all requirements to properly operate its business or other entity within the State of Idaho; and
4. User shall promptly notify ISP upon any change to the above, including but not limited to name, address, and status as a business or other entity operating in Idaho.

B. This agreement supersedes any previous agreements concerning the NCPA of 1993.

C. This agreement may be amended by ISP as needed, to comply with state or federal laws or regulations, or administrative needs of ISP; and

D. This agreement is binding upon all User employees, agents, officers, representatives, volunteers, contractors, vendors, successors in interest, beneficiaries, subsidiaries, and assigns.

VI. Authority

In 1993, Congress passed the National Child Protection Act (NCPA) that authorized criminal history record checks for persons who work with children in either an employee or volunteer status. This Act was amended in 1994 to include elderly and disabled persons. The Idaho State Police (ISP), Bureau of Criminal Identification (BCI), has established a program pursuant to the NCPA to permit qualified entities to submit fingerprint cards on employees and volunteers to receive state and federal criminal history information, in order to promote a broader exchange of criminal history information for purposes of assisting entities that provide care, treatment, education, training, instruction, supervision or recreation to children, the elderly or individuals with disabilities.

The mission of this NCPA program is to protect: children (any unmarried person under 18 years of age, who has not been emancipated by order to the court); the elderly (a person who is 60 years of age or older); and individuals with disabilities (persons with a mental or physical impairment who require assistance to perform one or more daily living tasks).

The ISP BCI maintains the state's central repository of criminal history information. The repository is an automated database of records based on arrests reported to BCI from Idaho criminal justice agencies. As per Idaho Code, Section 67-3008, the bureau shall be the state's sole source of fingerprint submissions for criminal justice and applicant or licensing purposes to the Federal Bureau of Investigation.

Nothing in this memorandum alters the responsibilities or statutory authority of agencies of state or local governments.

VII. Restrictions On and Warranties Regarding Illegal Aliens

The parties concur that this MOU is subject to Idaho Executive Order 2006-40. The parties warrant that they do not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; that they takes steps to verify that they do not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and shall be cause for termination of this MOU. The parties also concur that this MOU is subject to Idaho Executive Order 2007-09, which prohibits Idaho State agencies from contracting with a vendor or service provider that performs services, or has a subcontractor perform services, at a site outside the United States. The parties must notify ISP in advance if, during the term of this MOU, they seek to shift services or work that it represented would be done inside the United States to outside the United States. Failure to obtain the consent of ISP for such shift constitutes a material breach of this MOU.

IN WITNESS HEREOF, the parties hereto have caused this agreement to be executed by the proper officers and officials.

NAME OF USER ENTITY _____

ENTITY HEAD _____
(PLEASE PRINT)

TITLE _____

ENTITY HEAD _____
(SIGNATURE)

DATE _____

IDAHO STATE POLICE (ISP)

BY _____

COLONEL KEDRICK R. WILLS, DIRECTOR

DATE _____