

The background features a stylized illustration of a pair of scales of justice. The scales are blue and green, with a central pillar and two pans hanging from a horizontal beam. The pans are filled with a dark blue liquid. The background is a light green gradient.

National Service Criminal History Checks

**Presented by:
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PRESENTATION AGENDA

WHO, WHAT, WHERE, WHEN, WHY

- **COVERED POSITION**
- **INELIGIBLE TO SERVE**
- **NSOPW for ALL COVERED POSITIONS**
- **CHECK FOR NO ACCESS TO VULNERABLE POPULATIONS**
- **CHECK FOR RECURRING ACCESS TO VULNERABLE POPULATIONS**
- **IMPLEMENTATION TIMELINE**
- **ADDITIONAL UPDATES**

NUTS AND BOLTS

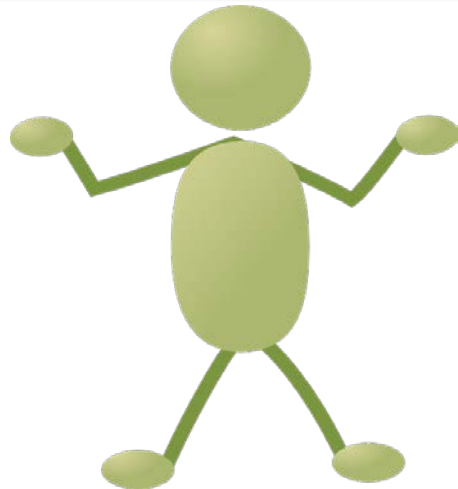
- **COMPLIANCE CHECKLIST**
- **ALTERNATE SEARCH PROCEDURE (ASP)**
- **FBI EXEMPTIONS**
- **ASSESSING VENDORS**
- **KNOWLEDGE NETWORK**

WHO'S WHO?

INDIVIDUAL IN A COVERED POSITION

An individual in a covered position may be paid wholly from federal share, wholly from matching dollars, or from a mixture of federal and non-federal funds.

The source of the funds has no impact on the status of the position as covered or not covered.

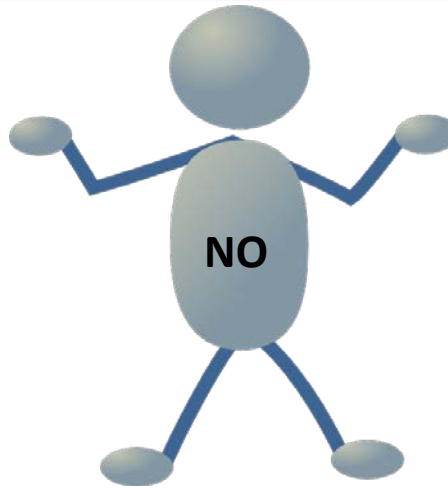


NO ACCESS

(OR EPISODIC ACCESS) TO A VULNERABLE POPULATION

Episodic access is access that is **not** a regular, scheduled, and anticipated component of an individual's position.

Components: NSOPW + [State(s) or FBI]

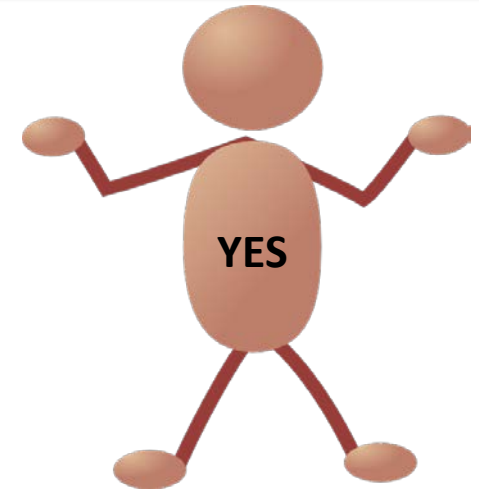


RECURRING ACCESS

TO A VULNERABLE POPULATION

The ability on more than one occasion to approach, observe, or communicate with, an individual, through physical proximity or other means, including but not limited to, electronic or telephonic communication.

Components: NSOPW + State(s) + FBI



INELIGIBLE TO SERVE OR WORK IN A COVERED POSITION



Anyone who **refuses** to undergo the Check is ineligible.

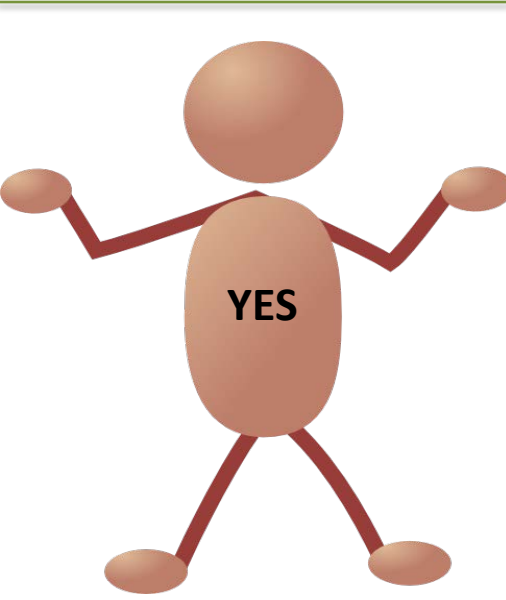
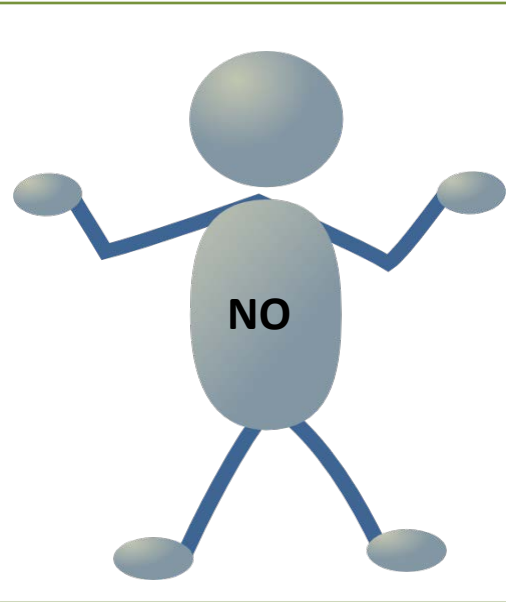
Anyone who makes a **false statement** in connection with a program's inquiry concerning their individual's criminal history is ineligible.

Anyone listed, or required to be listed, on a **sex offender** registry is ineligible.
(November 23, 2007)

Anyone convicted of **murder** as defined and described in 18 U.S.C. § 1111 is ineligible.*
(October 1, 2009)

**Although murder became an ineligibility offense in 2009, no one with this conviction can work present day even if they were hired prior to the effective date of the statute.*

NATIONAL SEX OFFENDER PUBLIC WEBSITE (NSOPW)



APPLIES TO ALL INDIVIDUALS IN A COVERED POSITION

NSOPW

WHAT

The requirement to conduct the **nationwide** US Department of Justice National Sex Offender Public Website Check (**NSOPW**) (www.NSOPW.gov) became effective with the November 23, 2007 regulations.

WHEN

This must be completed (conducted, cleared, documented with dated printout) **BEFORE** the start of service. Individuals in covered positions cannot begin counting hours until this check is cleared.

HOW

This is a name based check. This is public information. No fees are charged. Results of a nationwide NSOPW check is a dated screen print of the results of the search. You are required to perform the NSOPW check until all State registries are cleared. The result will indicate whether or not any individual State systems were inoperable during that search. If the check was less than complete, you must re-check the NSOPW to rule out the possibility that the applicant may be registered in the State(s) system(s) that was not connected to the NSOPW system when you performed the first check. You may supplement the first NSOPW check by checking the State registr(ies) that are down. You must document the adjudication and resolve all hits before the start of work or service. That result should be annotated to document who confirmed that any hits are not the same persons as the candidate you are checking. Individuals cannot begin serving under the grant until this check is completed.

NOTE

- You will need a government issued photo ID when adjudicating hits on a name.
- The fields to enter are *Last name* then *First name*. Make sure to enter them correctly.
- Do not limit the search by doing the Advanced search. Do not enter a zip code, state or other limiting criteria.
- NSOPW single-state checks are not compliant checks.

CHECK COMPONENTS FOR A COVERED POSITIONS WITH NO ACCESS

STATE REPOSITORY CHECK(S)

WHAT

This check requires that you check both the *State of residence* and the *State of service*. The *State of residence* is determined at the time of application.

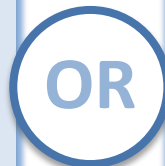
WHEN

These checks must be **initiated** no later than the start of service. Any service hours accrued prior to initiation are ineligible.

HOW

These checks must be obtained from the CNCS designated state repository:

<http://www.nationalservicerresources.org/files/table-of-designated-state-repositories-and-alternatives-05-07-12.pdf>



FBI CHECK

WHAT

The check requires that you obtain a fingerprint based FBI check. For those who started on or after April 21, 2011 these checks are required and cannot be substituted in lieu of State check(s) when an individual in a covered position has recurring access to vulnerable populations.

WHEN

Must be **initiated** no later than the start of service. Any service hours accrued prior to initiation are ineligible. Any service hours accrued prior to initiation are ineligible.

HOW

Programs must get their FBI check through the designated State repository.

In order to follow the Departmental Orders method you must have an ASP approved from CNCS.

<http://www.fbi.gov/about-us/cjis/background-checks/submitting-an-identification-record-request-to-the-fbi>

<http://www.fbi.gov/about-us/cjis/background-checks>



CHECK COMPONENTS FOR A COVERED POSITIONS WITH RECURRING ACCESS

RECURRING ACCESS TO VULNERABLE POPULATIONS

Children age 17 and under

Individual aged 60 and over

Individuals with Disabilities

STATE REPOSITORY CHECK(S)

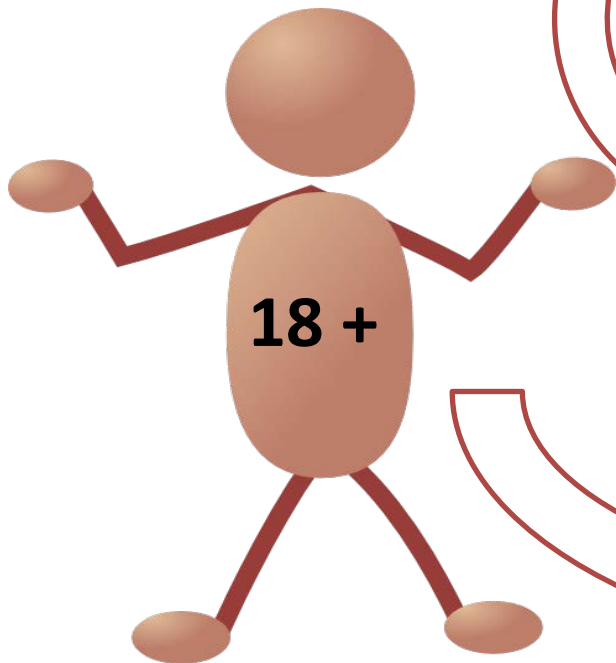
AND

ACCOMPANIMENT

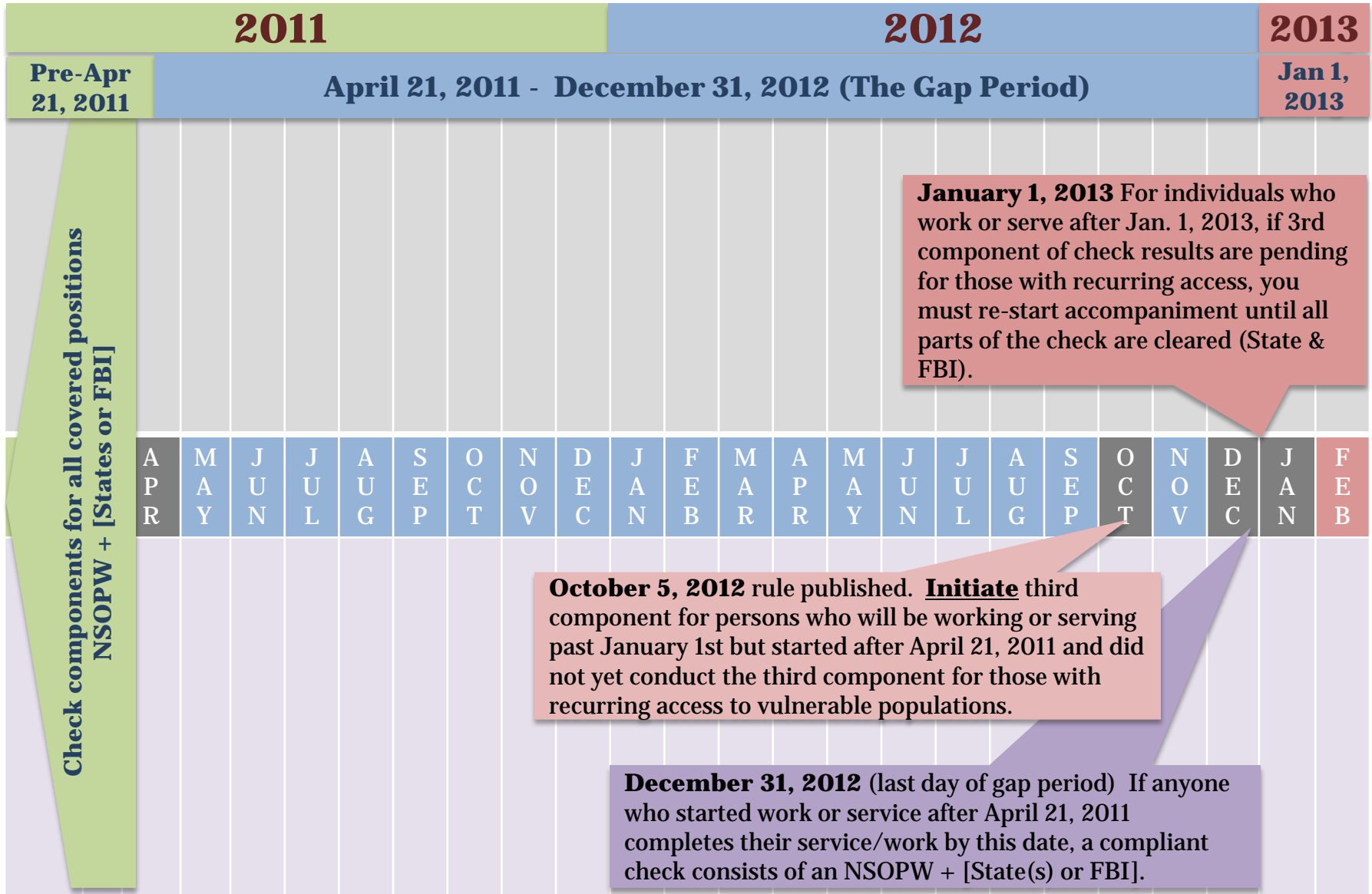
Accompaniment must be performed while checks are pending. An individual is accompanied when he or she is in the physical presence of a person cleared for access to a vulnerable population.

18 +

FBI CHECK



IMPLEMENTATION TIMELINE



IMPLEMENTATION TIMELINE

2011					2012										2013	
Pre-Apr 21, 2011		April 21, 2011 - December 31, 2012 (The Gap Period)													Jan 1, 2013	

All those who are currently serving and joined a national service program prior to October 2009 regulations have to self certify by January 1, 2013 that they were never convicted of murder.

Anyone found to registered or required to be registered on a sex offender registry or convicted of murder must be or murder offense must be removed from the grant immediately.

Anyone who changes positions after January 1st 2013 regardless of when they started work or service or what check they received must update their criminal history check according to the covered position in which they will be serving.

	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F
	P	A	U	U	U	E	C	O	E	A	E	A	P	A	U	U	U	E	C	O	E	A	E
	R	Y	N	L	G	P	T	V	C	N	B	R	R	Y	N	L	G	P	T	V	C	N	B

Anyone who started a consecutive term of service before January 1, 2013 may complete their term of service without supplementing their check if their first term of service began before April 21, 2011.

OTHER UPDATES

Service To
not Service
With

The National Service Criminal History Check requirements for individuals who have recurring access to vulnerable populations should be applied based on the individual providing service **to** vulnerable populations, not providing service **with** vulnerable populations. Grantees must make a reasoned and factually informed decision about whether an individual in a covered position is providing service to a vulnerable population. An individual in a covered position does not need the check under 45 C.F.R. § 2540.203(b) if the recurring access to a vulnerable population is limited to individuals who are, themselves, serving in covered positions.

For the purposes of national service criminal history checks, the break in service period has increased from 30 to 120 days. There is no break in service if the person comes back for a consecutive term within 120 days.

Break in
Service
120 days

FEDERAL COMPLIANCE CHECKLIST

Federal Compliance Requirements

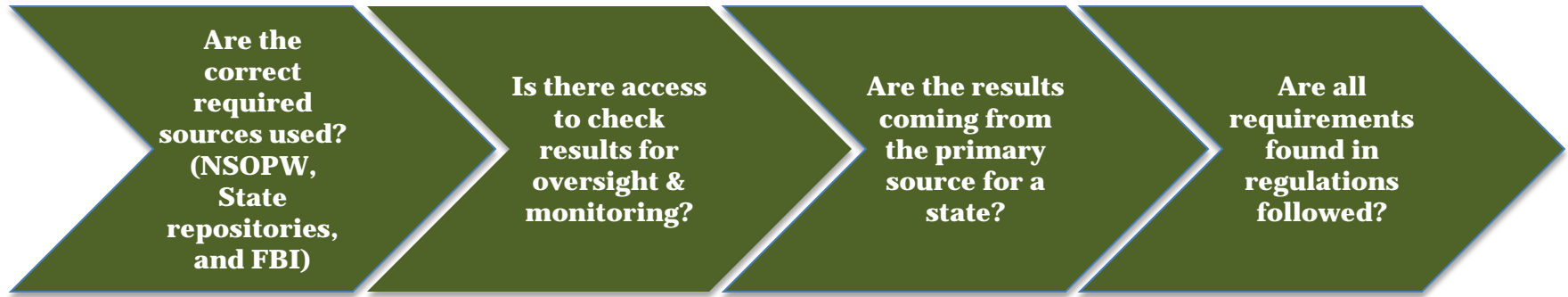
Complete NSOPR check before work begins	✓
Determine how and from where (sources) the checks must be obtained	✓
Verify identity with government photo identification	✓
Pay for the checks	✓
Perform accompaniment while checks are pending	✓
Maintain the results of the checks	✓
Provide opportunity for review of findings	✓
Keep information confidential	✓
Maintain Documentation (see below)	✓

Documentation: What You Must Create and Retain

- Document that you verified the individual's identity with a government-issued photo ID
- Document and obtain written authorization prior to initiating checks
- Document initiation of checks.
- Document that the individual understands selection is subject to Check results
- Document accompaniment while checks are pending and the individual has access to vulnerable populations.
- Document that you conducted the checks
- Document that you considered the results of the checks.
- Maintain the results of the Check components: NSOPW, State(s), FBI*

* To retain anything else in lieu of the actual results, such as a clearance letter from a school, requires approval of an ASP.

ALTERNATE SEARCH PROCEDURE (ASP)



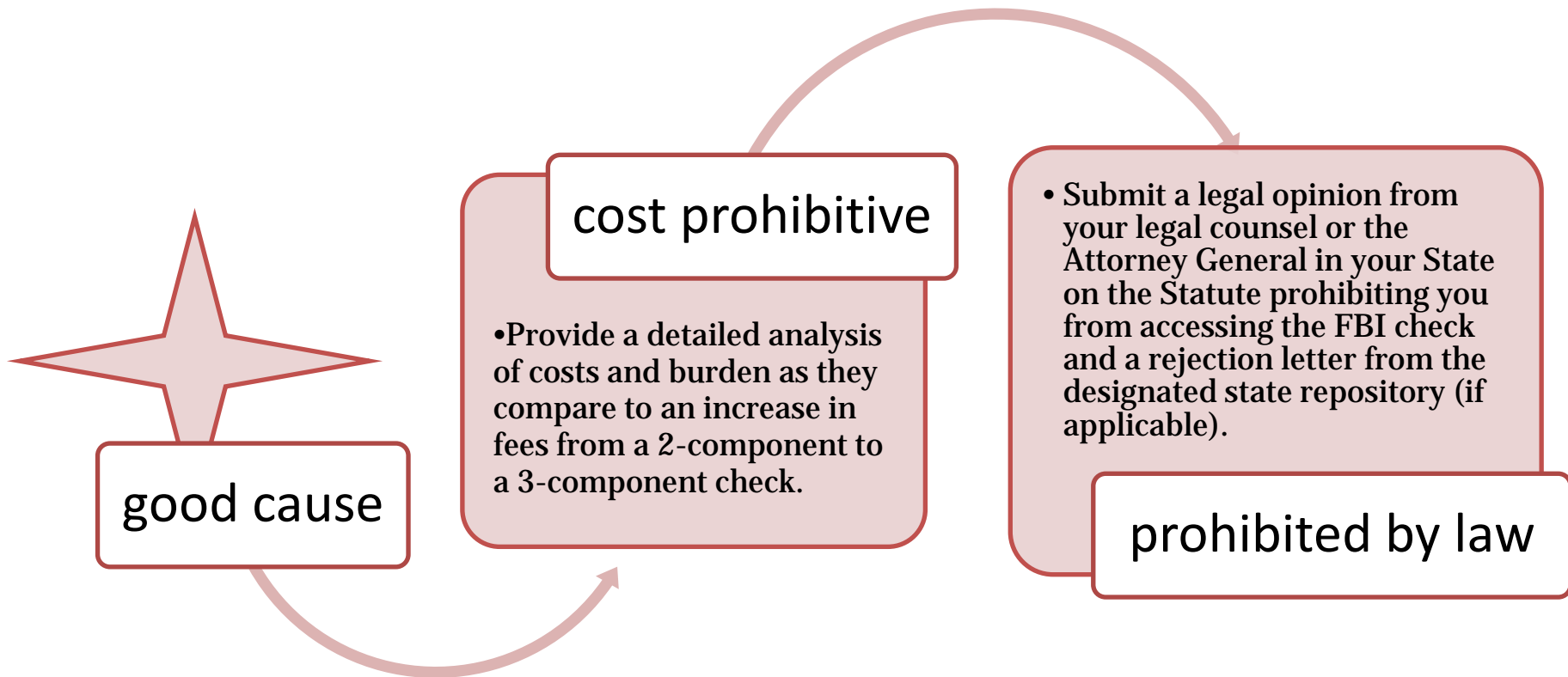
... if one or more “no” answers, then an ASP is **needed**.

What to Include in Your Request for an ASP:

- Identify the specific element(s) of the requirements that you would vary from.
- Describe the alternative process/system you plan to use to conduct a criminal history check.
- Provide a detailed description (if applicable) of the substantially equivalent source you propose using instead of the designated sources/alternates.
- If prohibited by state law, attach a copy of the statute or prohibition along with a legal analysis from either the Attorney General or legal counsel. Please submit where applicable a rejection letter from the CNCS designated repository.
- Perform accompaniment for those with recurring access to vulnerable populations while ASP decision is pending.

Requesting an ASP : Complete and submit the ASP submission form : <http://www.nationalserviceresources.org/files/asp-request-guidance-8-16-12.pdf>. Email your completed request to ASPRequests@cns.gov and copy your Program and Grants Officers.

FBI EXEMPTIONS



Perform **accompaniment** for those with recurring access to vulnerable populations while decision is pending.

Requesting an Exemption:

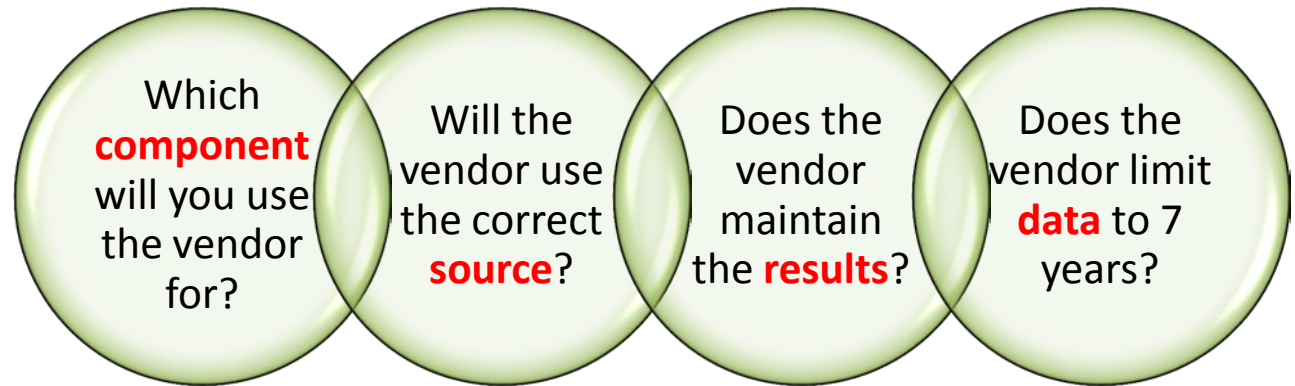
Exemptions must be submitted using the same procedure as ASP requests. Complete and submit the ASP submission form : <http://www.nationalserviceresources.org/files/asp-request-guidance-8-16-12.pdf>. Email your completed request to ASPRequests@cns.gov and copy your Program and Grants Officers.

ASSESSING VENDORS

VENDORS

Vendor products may address all or some of the components of the National Service Criminal History Check. **If the vendor's product deviates from the National Service Criminal History Check procedures, an ASP is required.**

Note: that Social Security searches, Credit reports, Motor Vehicle reports and other common vendor offerings are not relevant to the National Service Criminal History Check. Your organization may choose to purchase these options for other reasons. Subject to state and federal civil rights and nondiscrimination laws, your organization has the discretion to identify additional eligibility criteria based on other offenses.



DISCUSSION AND QUESTIONS



The Knowledge Network:

<http://nationalservicerresources.org/criminal-history>

Questions: CriminalHistoryCheckQuestions@cns.gov