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"Courteous Vigilance"

Determination of Suitability Required, In Advance, For Certain Individuals Who May Interact with Participating Minors

The VOCA subrecipient, subrecipient contractors, subcontractors and consultants providing services to minors must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

This certified assurance requires that subrecipients prepare *determinations of suitability* to interact with minors in advance of any individual being permitted to interact with minors as part of the VOCA-funded program. In order to aid the subrecipient programs in complying with this certified assurance, the DPS will provide a *Determination of Suitability to Interact with Minors* form that can be uploaded with each VOCA grant.

The details of this requirement are summarized below and are posted on the Office of Justice Programs website at: https://www.ojp.gov/funding/explore/interact-minors.

1. *Advance determination regarding suitability*. The subrecipient may not permit any covered individual to interact with any participating minor in the course of activities under the award, unless the recipient or subrecipient first has made a written determination of the suitability of that individual to interact with participating minors.

2. *Updates and reexaminations*. The subrecipient must, at least every five years, update the criminal background searches and reexamine the covered individual's suitability determination in light of those search results, and, if appropriate, modify or withdraw that determination. The subrecipient also must reexamine a covered individual's suitability determination upon learning of information that reasonably may suggest unsuitability and, if appropriate, modify or withdraw that determination.

3. *Definitions* – a) "Covered individual" means any individual (other than a participating minor, as defined in this condition, or a client of the subrecipient) who is expected, or reasonably likely, to interact with any participating minor (other than the individual's own minor children). A covered individual need not have any particular employment status or legal relationship with the subrecipient. Such an individual might be an employee of a subrecipient, but also might be (for example) a consultant, contractor, employee of a contractor, trainee, volunteer, or teacher. b) "Participating minor" means all individuals under 18 years of age receiving services under the VOCA-funded project. c) "Interaction" includes physical contact, oral and written communication, and the transmission of images and sound, and may be in person or by electronic (or similar) means. Interaction does not include brief, unexpected or unintentional contact and those contacts where there is another adult present, pursuant to written policies and procedures of the subrecipient, that are designed to ensure that –throughout the contact—an appropriate adult who has been determined to be suitable pursuant to this condition will closely and personally

accompany, and remain continuously within view and earshot of, the covered individual. d) "Activities under the award" mean activities carried out under the VOCA award, using VOCA funds, matching funds, or program income. Activities also include actions taken by an entity or individual pursuant to a procurement contract under the subaward at any tier. e) "Current and appropriate information" means, in addition to information resulting from checks or screening required by applicable federal, state, tribal, or local law, and/or by the subrecipient's own written policies and procedures, current and appropriate information includes the results of all required searches listed below, each of which must be completed no earlier than six months before the determination regarding suitability.

(1) Public sex offender and child abuse websites/registries. A search (by current name, and, if applicable, by previous name(s) or aliases), of the pertinent and reasonably- accessible federal, state, and (if applicable) local and tribal sex offender and child abuse websites/public registries, including-- (a) the Dru Sjodin National Sex Offender Public Website (www.nsopw.gov);
(b) the website/public registry for each state (and/or tribe, if applicable) in which the individual lives, works, or goes to school, or has lived, worked, or gone to school at any time during the past five years; and (c) the website/public registry for each state (and/or tribe, if applicable) in which the individual is expected to, or reasonably likely to, interact with a participating minor in the course of activities under the award.

(2) Criminal history registries and similar repositories of criminal history records. For each individual at least 18 years of age who is a covered individual under the VOCA subaward, a fingerprint search (or, if the subrecipient documents that a fingerprint search is not legally available, a name-based search, using current and, if applicable, previous names and aliases) -- encompassing at least the time period beginning five calendar years preceding the date of the search request -- of pertinent state (and, if applicable, local and tribal) criminal history registries or similar repositories, including-- (a) the criminal history registry for each state in which the individual lives, works, or goes to school, or has lived, worked, or gone to school at any time during the past five years; and (b) the criminal history registry for each state in which he or she is expected to, or reasonably likely to, interact with a participating minor in the course of activities under the award.

4. *Factors and considerations in determinations regarding suitability.* In addition to the factors and considerations that must or may be considered under applicable federal, state, tribal, or local law, and under the subrecipient's written policies and procedures, in making a determination regarding suitability, the subrecipient must consider the results of all required searches listed below, each of which must be completed no earlier than six months before the determination regarding suitability.

In particular (unless applicable law precludes it), with respect to either an initial determination of suitability or a subsequent reexamination, the subrecipient may not determine that a covered individual is suitable to interact with participating minors in the course of activities under the award if the covered individual—

A) Withholds consent to a criminal history search required by this condition;

B) Knowingly makes (or made) a false statement that affects, or is intended to affect, any search required by this condition;
C) Is listed as a registered sex offender on the Dru Sjodin National Sex Offender Public Website;
D) To the knowledge of the recipient (or subrecipient), has been convicted -- whether as a felony or misdemeanor -- under federal, state, tribal, or local law of any of the following crimes (or any substantially equivalent criminal offense, regardless of the specific words by which it may be identified in law):
    (1) sexual or physical abuse, neglect, or endangerment of an individual under the age of 18 at the time of the offense;
    (2) rape/sexual assault, including conspiracy to commit rape/sexual assault;
    (3) sexual exploitation, such as through child pornography or sex trafficking;
    (4) kidnapping;
    (5) voyeurism; or
E) Is determined by a federal, state, tribal, or local government agency not to be suitable.

5. *Administration; rule of construction.* a) The requirements of this condition will be monitored by DPS. These requirements apply as of the date of acceptance of the subaward, and throughout the remainder of the period of performance. b) The subrecipient is to contact DPS with any questions regarding the requirements of this condition and must not allow a covered individual to interact with a participating minor until such questions are answered. c) DPS may allow awarded funds to be used, in part, for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition, provided that such funds would not supplant non-federal funds that would otherwise be available for such costs. d) Nothing in this condition shall be understood to authorize or require any subrecipient at any tier, or any person or other entity, to violate any federal, state, tribal, or local law, including any applicable civil rights or nondiscrimination law.

6. *Written policies and procedures*. Subrecipients are required to prepare written policies and procedures pertaining to this certified assurance and provide those written policies and procedures to DPS. The procedures should identify the sources of information the subrecipient organization intends to use to support the determination of suitability to interact with minors (e.g. the National Sex Offender Registry).

7. *Advising Covered Individuals*. All employees, volunteers, contractors and consultants who are deemed to be a covered individual, should be properly advised of this new certified assurance and the need for a determination of suitability by the subrecipient organization. This may require subrecipient organizations to develop a form to be completed by covered individuals that would ask certain questions necessary to aid the subrecipient in making the determination of suitability. At a minimum, the notice should request names and aliases used by the covered person in the immediate 5 years prior to the request, and all cities and states the covered individual has lived, worked or gone to school in the 5 years prior to the request.

8. *Determination of suitability to interact with participating minors form.* This form will be provided by DPS and should be submitted to DPS annually. The form should list all covered

individuals deemed suitable to interact with participating minors, the date the covered individual(s) received the designation of suitability by the subrecipient organization, when the next review will be initiated, and the screening(s) to be performed. This determination must be made very five years for each covered individual. Those individuals deemed not suitable to provide services to minors should not be listed on the form and should not be permitted to interact with participating minors under the VOCA subaward.

I, Mike Goodman (printed name of authorizing official), certify that the Pinal County Attorney's Office (name of subrecipient organization) will comply with the Determination of Suitability to Interact With Participating Minors requirements as outlined above.

Signature of Authorizing Official

Date

Mike Goodman, Chairman

Title of Authorizing Official