

Sub-award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors

Subgrantee/Applicant Agency Name:

Contact Email:

Project Director Name:

Authorized Official Name/Title:

Federal guidelines require the following condition be met prior to any person interacting with individuals under eighteen (18) years of age within the set of individuals described in the grant application/scope of work section of the awarded application. Further by signing this document, the applicant certifies and provides assurance the following condition and requirements will be met and documentation to establish evidence of compliance will be kept in the contract file and will be made available upon request.

Condition:

Determination of suitability required, in advance, for certain individuals who may interact with participating minors

1. Advance determination regarding suitability.

_____ will 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, based on current and appropriate information as

described in paragraph 3.E., and taking into account the factors and considerations described in paragraph 4.

2. Updates and reexaminations

A. At least every five years, _____ will update the searches described in paragraph 3.E.1. and 2., reexamine the covered individual's suitability determination in light of those search results, and, if appropriate, modify or withdraw that determination.

B. _____ will 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 _____ 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 _____. Such an individual might be an employee of _____, but also might be (for example) a consultant, contractor, employee of a contractor, trainee, volunteer, or teacher.

B. "Participating minor." All individuals under 18 years of age within the set of individuals described in the scope section of this condition as it appears in the application/contract are participating minors.

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. But "interaction" does not include--

(1) brief contact that is both unexpected by the recipient (or subrecipient) and unintentional on the part of the covered individual -- such as might occur when a postal carrier delivers mail to an administrative office.

(2) personally-accompanied contact -- that is, infrequent or occasional contact (for example, by someone who comes to make a presentation) in the presence of an accompanying adult, pursuant to written policies and procedures of the recipient (or 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." Whether paid for with federal funds from the award, "matching" funds included in the approved budget, or "program income" as defined by the (DOJ) Part 200 Uniform Requirements), activities include both--

- (1) activities carried out under the award by the recipient (or subrecipient); and
- (2) actions taken by an entity or individual pursuant to a procurement contract under the award or to a procurement contract under a subaward at any tier.

E. "Current and appropriate information"

In addition to information resulting from checks or screening required by applicable federal, state, tribal, or local law, and/or by _____ 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 this project.

(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 this application/contract, 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 contract as stated in the application.

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 current and appropriate information described in paragraph 3.E.

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 are among those that must be included in any subaward (at any tier) and must be monitored. They apply as of the date of acceptance of this funding opportunity, and throughout the remainder of the period of performance.

B. The subrecipient, _____ is to contact the Office of Juvenile Affairs Program Manager 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 in writing. Questions must be submitted to ojjdpgrants@oja.ok.gov with subject line Suitability Question and include the Subaward Name and Number.

C. Award funds may be obligated 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 recipient, 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.

_____(herein referred as Contractor) hereby Certifies to the Office of Juvenile Affairs as the awarding agency that the Contractor shall follow the federal funding conditions set forth by the Office of Justice Programs to determine the suitability of Individuals over eighteen to interact with participating minors.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above conditions and will maintain all documentation in the contract file and make it available for inspection upon request.

Signature of Authorized Official

Typed Name of Authorized Official

Title of Authorized Official

Date Signed