



COMMUNITY CORRECTIONS FACILITIES AND PROGRAMS BUREAU FACILITY OPERATIONAL REQUIREMENT

Requirement:	FPB 6.2.402 BACKGROUND CHECKS
Effective Date:	03/14/2018 Page 1 of 3
Revision Date(s):	07/02/2018; 01/07/2019; 10/19/2020; 08/11/2021; 04/24/2026
Signature/Title:	/s/ Scott Eychner, Rehabilitative and Enterprise Division Chief

This facility operational requirement is referenced as *ACCD 1.3.402 Background Investigations* in Section 4.C.4. Facility Management; Staffing/Certification/Training; Background Staff Investigations, in the following contracts: Alternatives, Inc., Butte Prerelease, Gallatin County Reentry Program, Helena Prerelease, Passages, Elkhorn, Nexus, and START.

I. PURPOSE

The Community Corrections Facilities and Programs Bureau (FPB) is committed to protecting the safety of offenders, Department employees, and the employees and other individuals of contract facilities and providers; therefore, background checks are required for all prospective employees with contracted facilities and providers.

II. DEFINITIONS (see Glossary)

III. REQUIREMENTS

A. GENERAL REQUIREMENTS

1. The FPB and contract facilities and providers will comply with all federal anti-discrimination laws in all employee selection processes.
2. A FPB contract facility may use the process for background checks pursuant to this requirement or a process established by the facility whereby background checks are paid for, conducted, and maintained by the facility.
3. An offer of employment may be made contingent on a completed background check; however, the applicant's start date will be established after a final determination of eligibility has been made, or as agreed upon by the facility and FPB.
4. FPB will conduct criminal background checks on successful applicants to a contract facility or provider prior to the hiring of the applicant. Following the steps given below, facilities or providers will initiate background checks on current employees every 5 years in accordance with the Prison Rape Elimination Act of 2003 to check for new convictions.
5. Employees must self-report subsequent criminal charges and convictions within 5 calendar days to their immediate supervisor. The self-reporting will be documented and forwarded to the applicable FPB Contract Manager within 5 business days.
6. The FPB may further review a facility employee's criminal background during the person's employment at any time for due cause.
7. An administrator or supervisor who has reason to believe a current employee may have been involved in criminal conduct will notify local law enforcement and the Contract Manager immediately.

B. DISCLOSURE OF CRIMINAL HISTORY

1. Applicant must disclose the applicant's criminal history to the facility during the hiring process.
2. Evidence of a conviction may not automatically disqualify an applicant or an employee from employment with a facility or provider.
 - a. If an individual has a criminal history, the following factors will be considered: the nature and gravity of the offense; the time period since the completion of the sentence; and the nature of the job held or sought along with the relatedness of the conviction.
 - b. Applicants with offenses that include, but are not limited to, violent offenses, DUI, partner/family member assault (PFMA), and stalking, will warrant additional consideration by FPB on a case-by-case basis.
3. Because reparations to victims is an important part of the Department's mission, additional consideration will be given when an applicant owes restitution. Payment of restitution may be required of the applicant as a condition of employment.
4. The FPB will not approve the hiring or continuing employment of an employee or subcontractor who has:
 - a. engaged in sexual harassment and/or abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
 - b. been convicted of engaging in or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse;
 - c. been civilly or administratively adjudicated to have engaged in the activity described in b immediately above.
5. Employees have a continuing affirmative duty to disclose any of the misconduct listed in III.B.4 above.

C. CRIMINAL BACKGROUND CHECKS AND EVALUATION OF CRIMINAL RECORD HISTORY

1. Criminal background checks will be conducted on successful applicants to a FPB contract facility or provider.
2. To initiate a background check, the facility or provider will complete the following:
 - a. Applicant will review and sign *FPB 6.2.402 (A) Requirements for Employment*.
 - b. Applicant is provided *FPB 6.2.402 (B) Request for Background Check* and must take the form to the applicant's local law enforcement agency to provide fingerprints and request a background check by the Department of Justice (DOJ).
 - 1) Applicant or facility or provider is responsible for the costs associated with fingerprinting.
 - 2) If there are extenuating circumstances beyond the facility or provider's control that hinder the taking of fingerprints or fingerprint submission to DOJ, and the facility or provider has made reasonable attempts to resolve the issue, the facility or provider may ask the Contract Manager to complete a criminal history check based on the applicant's personal information.
 - c. Using a file transfer system to maintain confidentiality, a copy of signed *Requirements for Employment* is emailed to Contract Manager at [correquests\(at\)mt.gov](mailto:correquests(at)mt.gov). Contract Manager will initiate Department's process for obtaining completed background check.
3. Once DOJ completes the background check, FPB will review the results. If there is a verifiable conviction from the background check, it will be transmitted securely and swiftly, by fax or the secure file transfer service, to the Contract Manager to determine if an offer of employment can be made or not due to the conviction.
4. The Contract Manager will notify the facility's designee by email and indicate the applicant's name and a statement as to whether the referenced applicant does or does not meet the eligibility criteria.

5. The applicant or facility may request reconsideration of the decision if the applicant does not meet eligibility requirements.
 - a. The applicant may contact the facility and facility will staff the reconsideration request with the Contract Manager.
 - b. The facility may contact the Contract Manager to staff the reconsideration request.

D. CONFIDENTIALITY

1. Any and all information pertaining to an employee's or applicant's criminal record history is confidential communication. Access to this information is limited to those who have a legitimate need to know and will only be disseminated in conformity with relevant laws and Department policy. These records will include:
 - a. *FPB 6.2.402 (A) Requirements for Employment*;
 - b. analysis and decision regarding any convictions;
 - c. documentation of applicant not meeting criteria for hire; and
 - d. correspondence related to the background check.
2. Employee records will be securely maintained by the facility during the duration of employment and in accordance with the contract.

IV. CLOSING

Questions about this requirement should be directed to FPB staff.

V. REFERENCES

- A. *53-1-203, MCA*

VI. FORMS

- FPB 6.2.402 (A) Requirements for Employment*
FPB 6.2.402 (B) Request for Background Check