

Department of Health and Human Services

Centers for Medicare & Medicaid Services

Center for Medicaid and State Operations

Program for Background Checks

for

Employees with Direct Access to Individuals Who Require Long Term Care

Initial Announcement

OPDIV Number – CMS-04-004

CFDA No. 93.785

Applications must be received by: September 30, 2004

Letters of Intent are requested by: August 30, 2004

July 2004

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EXECUTIVE SUMMARY

The Centers for Medicare & Medicaid Services (CMS) is inviting proposals from states to be considered for inclusion in the legislatively mandated Background Check Program, which will include up to 10 states.

The pilot project will be used to evaluate the effectiveness of conducting background checks on prospective employees of long-term care facilities and providers who have direct access to patients. These facilities and providers include nursing homes, home health agencies, hospices, long-term care hospitals, intermediate facilities for the mentally retarded (ICFs/MR) and other entities that provide long-term care services.

The State Office of the Governor and/or the State Survey Agency may apply to participate in this pilot project. Additionally, this opportunity is open to any of the following agencies, provided the agency has an agreement with the State Survey Agency for the conduct of this pilot:

State Medicaid Agency	State Attorney General's Office
State Health Departments	State Identification Bureau (SIB)
State Social Services Block Grant Recipients	State Control Terminal Agency (CTA)

We strongly encourage state agencies to work collaboratively to develop one solicitation packet for an individual state. Only one program per state may be selected. If more than one application is received from any individual state, CMS reserves the right to select whichever application it believes will best meet the purpose of the pilot program.

An additional provision requires that at least one state must, in addition to conducting background checks on prospective employees, include abuse prevention training (including behavior training and interventions) for managers and employees of long-term care facilities and providers as part of the program conducted in that state. Additional funding will be provided to the state(s) selected for inclusion of an Abuse Prevention Training Program as part of the Background Check Program in that state.

Applications for inclusion in the pilot program are due on September 30, 2004. Grant awards will be made during October 2004. Grantees will be able to expend these funds through 2007.

For more details and news about events relevant to this opportunity, please periodically consult our website at: <http://www.cms.hhs.gov/medicaid/survey-cert/bcp.asp>. Answers to any questions we receive will be posted on the website.

Timetable

MILESTONE	DATE
Invitation to Apply sent to all eligible entities.	July 23, 2004
<p>Applicant's Teleconference</p> <p>Information regarding the time and call-in number for this open teleconference is available on the CMS Web site at: http://www.cms.hhs.gov/medicaid/survey-cert/bcp.asp. Pre-registration is recommended. CMS staff will be available for questions and answers on an ongoing basis.</p>	August 10, 2004
Notice of Intent to Apply Due to CMS	August 30, 2004
Applications Received from Interested States	Due Date* September 30, 2004
<p>Grant awards made – Successful applicants will receive a Notice of Grant Award (NGA) signed and dated by the CMS Grants Management Officer, Acquisition and Grants Group. The award letter and NGA will be sent through the U.S. Postal Service.</p>	November 2004
Project Period Start Date	November 2004
Program Implementation	December 2004

* Proposals that are late will not be considered for an award and will be returned without review to the applicant.

I. Funding Opportunity Description

1. Introduction

Section 307 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) (PL 108-173) directs the Secretary of Health and Human Services (HHS), in consultation with the Attorney General, to establish a program to identify efficient, effective, and economical procedures for long-term care facilities or providers to conduct background checks on prospective direct patient access employees. For the purposes of this program, a background check includes the checking of any available registries (e.g., nurse aid registry) and state and national criminal history records through a 10-fingerprint check. A copy of Section 307 of the MMA is included as Appendix 1.

The Centers for Medicare & Medicaid Services (CMS) is inviting proposals from states to be considered for inclusion in this Background Check Program, which may include up to 10 states. This program announcement provides states with information concerning application procedures, general policy considerations, eligibility requirements, and criteria to be used in reviewing applications and selecting states.

States may be interested in participating in this initiative for many reasons, such as:

- ❖ ***Protection Opportunities:*** Opportunity to provide additional protections against abuse and neglect for the state's elderly (and children or adults who have a disability) who reside in nursing homes or receive services from other agencies (such as assisted living facilities, home health agencies, etc.).
- ❖ ***Expansion of State Programs:*** Opportunity to expand state programs that offer protections to the state's residents, as evidenced by the many state programs that already offer protection exceeding the protections currently required under federal Medicare or Medicaid law.
- ❖ ***Affordable Demonstration:*** Opportunity, at no financial cost to the state, to test new methods of preventing abuse or neglect or misappropriation of funds.
- ❖ ***Affordable Research:*** The opportunity to participate in a research program, at no financial cost to the state, that will provide additional insight into methods that may best provide protections to the state's elderly and younger residents who depend on others for their daily ability to live, due to the presence of a long term illness or disability;

- ❖ ***Influence Federal Policy:*** Opportunity to influence, through participation, dialogue, and demonstrated results, the formation of future Federal policy designed to provide optimum services and support for the Nation's elderly and people who have a disability.

2. Purpose of the Program

The pilot program will provide specific insights to the Congress, CMS, and to the states regarding the characteristics of background check programs. These programs may show a reduction in the incidence of acts against long-term care residents by individuals with backgrounds that may include prior acts of abuse, neglect, misappropriation of property, or other act(s) identified by participating states. Additionally, it is our intent to determine the extent to which conducting such background checks leads to any unintended consequences, including a reduction in the available workforce for long-term care facilities or direct patient access positions.

One might view the purpose of the program as the testing of a series of hypotheses suggesting that a comprehensive system of background checks should be:

- (a) **Effective and Affordable:** A comprehensive system of background checks, for all long term care providers, for all types of direct access employees, can be:
 - (i) ***Quick:*** Quickly implemented by states within a 2-3 year period;
 - (ii) ***Effective:*** Effectively implemented by states to reduce the incidence of abuse, neglect, or misappropriation of resident funds;
 - (iii) ***Affordable:*** Affordable to states, providers, and/or prospective employees;
 - (iv) ***Targeted:*** Targeted to the problem and implemented without significant collateral damage to workforce recruitment, and without other significant, unintended, negative consequences.
- (b) **Knowledge Enhancing:** A multiple-state pilot can provide important:
 - (i) ***Insights:*** Insights into the most effective methods of identifying, and possible dissuading, individuals likely to abuse or neglect vulnerable individuals;
 - (ii) ***Comparatively Valuable:*** Information about the usefulness and feasibility of background check programs relative to alternate strategies for abuse prevention, such as increasing the investment in training and other abuse prevention techniques;
 - (iii) ***Technical Assistance:*** Information about what works well, and what does not work, to promote effective vetting of prospective employees;

- (iv) *Alternate techniques*, such as behavior training of managers or direct service employees that may be effective to limit or reduce the incidence of abuse or neglect.

Examples of specific questions that may be addressed by the research program are:

- Comparatively, which background check programs are the most efficient, effective, and economical?
- What are the costs of conducting such background checks (including start up and ongoing administrative costs)?
- What are the benefits and problems associated with requiring prospective employees and/or facilities or providers to bear the cost of the background check process?
- Should the costs of conducting such background checks be allocated between the Medicare and Medicaid programs?
- To what extent do conducting such background checks lead to any unintended consequences, including a reduction in available workforce for such facilities and provider?
- Can the forms used by participating states be used to develop, in consultation with the Attorney General, a model form for such background checks?
- How effective are background checks when conducted by employment agencies?
- What procedures and payment mechanisms should be used to implement a national criminal background check program for long term care facilities and providers?

3. Background

Millions of elderly and other vulnerable populations depend on the care of direct service workers to meet their basic care needs. Due to this high level of dependence on others for basic support, when these individuals are subject to abuse, it is especially traumatic. Background screening for individuals who have direct access to this vulnerable population is an important part in protecting their health and safety.

Congress has enacted a number of measures aimed to protect this vulnerable population, including the requirement that each state establishes a nurse aid registry and investigate any complaints of abuse, neglect and misappropriation of resident property by any employee of a nursing home.

A number of states has enacted laws or regulations that go well beyond the Federal requirement for maintenance of a nurse aid registry and require background checks on prospective employees in various settings who have direct access to patients. These state requirements vary widely in their approach to this

issue. For example, several states do not allow long term care providers to hire individuals with criminal convictions, while others specify that only certain crimes constitute a barrier to such employment. A number of states mandate fingerprint checks as part of the background investigation, and others require only a search for criminal histories using names or other identifiers such as social security numbers.¹

4. General Requirements of the Background Check Pilot Program

The general requirements to participate in the pilot program can be found in section 307 of the MMA (Appendix 1). Under the program, long-term care facilities or providers, prior to employing a direct patient access employee who is first hired on or after the commencement date of the pilot project in the State, shall conduct a background check on the employee. For the purposes of this program, a background check includes the checking of any available registries (e.g., the state Nurse Aid Registry) and state and national criminal history records using a 10-rolled fingerprint check. Section 307(g)(4) of the MMA defines *direct patient access employee* as “...any individual (other than volunteer) that has access to a patient or resident of a long-term care facility or provider through employment or a contract with such facility or provider...”

5. Additional Requirements for an Abuse Prevention Training Program

An additional provision of Section 307 requires that at least one state must, in addition to conducting background checks on prospective employees, include an abuse prevention training program (including behavior training and interventions) for managers and employees of long-term care facilities and providers as part of the background check program conducted in that state. Additional funding will be provided to the state(s) selected for inclusion of an Abuse Prevention Training Program as part of the Background Check Program in that state. Information regarding the application requirements for the optional Abuse Prevention Training Program can be found in Appendix 4.

Inclusion of a researchable sub-demonstration for prevention could increase the competitiveness of the state’s proposal, since Federal law under section 307 (c)(3)(ii)(III) specifies that CMS shall select at least one state that includes “patient abuse prevention training (including behavior training and interventions) for managers and employees of long term care facilities and providers...” (emphasis added). CMS will take this directive seriously in the selection of states. Note that we have structured the budget forms such that the additional costs of such a sub-demonstration are separately identified.

¹ Moskowitz, S. Golden Age in the Golden State: Contemporary Legal Developments in Elder Abuse and Neglect. Loyola of Los Angeles Law Review. Vol 36-589, 3/27/03

6. Specific Requirements to Complete the Application

The specific requirements that applicant states must meet are in accord with the legislative requirements. The general requirements of which are mentioned above in section I. 4 and can be found in their entirety in Appendix 3.

II. Award Information

1. Timing and Duration of Awards

States that are selected to participate in this pilot program will receive funding in the form of grant awards. Funding for this program shall become effective October 2004. Awards will be made to successful applicants during October 2004. The project period for this pilot program will be from the date the grant awards are made through September 2007. Grantees may expend funds throughout the entire project period.

2. Amount and Number of Grants to be Awarded

Grants will be awarded to no more than 10 states, and the size of the award amount will vary based on the specific funding needs of each state and how well they meet the selection criteria. Selected states can expect to receive between \$500,000 to \$5 million in grant award for the entire 3-year pilot period, beginning in October-November 2004 and lasting through 2007. The average grant award is expected to be approximately \$2 million with the anticipated aggregate amount of all grant awards will not exceed \$22 million. Additional funding of \$500,000 to \$1.5 million per state will be provided to the state(s) selected for inclusion of an Abuse Prevention Training Program as part of their overall Background Check Program.

CMS reserves the right to offer a funding level that is different from the level proposed by the state, or to specify conditions for such funding, and permit the state an opportunity to accept or reject such terms.

CMS also reserves the right to select alternate states, which may subsequently be offered funding in the event that any of the primary states elect not to accept participation or are determined by CMS as unable to proceed.

Because grants will be awarded through a competitive process, the size of each applicant's funding request should be carefully correlated with the value of their pilot to CMS. CMS will examine each budget proposal in relation to the value of the pilot project and compare that to the value of competing proposals.

III. Eligibility Information

1. Eligible Applicants

States may apply for funding under this grant opportunity. By “State” we refer to the definition provided under 45 CFR 92 as “any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a state exclusive of local governments.” By “territory or possession” we mean Guam, the U.S. Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

A State’s Office of the Governor or State Survey Agency (SA) may apply for funding under this grant opportunity. Additionally, certain other state agencies (e.g., the State Medicaid Agency, or the State Identification Bureau (SIB) or Control Terminal Agency (CTA)) may apply for funding under this grant opportunity provided they have an agreement with the State Survey Agency for the conduct of this demonstration. If the application is from an applicant that is not the Office of the Governor or the State Survey Agency, a letter of endorsement from the Governor or the State Survey Agency Director must accompany the application.

We strongly encourage state agencies to work collaboratively to develop one solicitation packet for an individual state. Only one program per state may be selected. If more than one application is received from any individual state, CMS reserves the right to select whichever application it believes will best meet the purpose of the pilot program.

2. Matching

There is no cost sharing, cost matching, or cost participation requirement associated with this pilot program.

IV. Application and Submission Information

1. Address to Request Application Package

Application packages will be mailed upon request. Applicants may request an application package by sending an email to BackgroundChecks@cms.hhs.gov, or by calling Judith Norris at 410-786-5130. Please be sure to include the name, mailing address, and phone number of a contact person for the agency requesting the application.

States may download this application at <http://www.cms.hhs.gov/medicaid/survey-cert/bcp.asp>. Although the application may be downloaded it must be submitted to the CMS Grant Officer in the manner described below in section IV.2, Content and Form of Application Submission.

2. Content and Form of Application Submission

Each application must include all contents described below, in the order indicated, and in conformance with the following specifications:

- White paper only unless inserting colored paper to differentiate between sections of the application.
- Colored ink may be used on the cover of the application. Black ink is required for all other pages of the application.
- Use 8.5 x 11” pages (on one side only) with 1” margins (top, bottom, sides). Paper sizes other than 8.5 x 11” will not be accepted.
- Font not smaller than 12-point and an average character density not greater than 14 characters per inch.
- Abstract may be single-spaced but no more than one page.
- Double-space (no more than 3 lines per vertical inch).
- Paginate all pages of the narrative.
- The Project Narrative portion of the application is limited to 40 pages*.

* The following items are not included in the Project Narrative portion of the application and, therefore, do not count toward the total page limit:

- Applicant’s Title Page and Cover Letter;
- Standard Forms from the Application Forms Kit;
- Letters of Agreement and Support;
- Project Abstract;
- Budget Narrative/Justification;
- Budget Forms; and
- Appendices.

(a) Required Contents of the Application

A complete proposal consists of the following materials organized in the sequence indicated. Please ensure that the project narrative is page-numbered. The sequence is:

- Applicant’s Title Page and Cover Letter;
- Standard Forms from the Application Forms Kit;
- A letter of endorsement from the Governor or State Survey Agency Director, etc;
- Project Abstract;
- Project Narrative;
- Budget Narrative/Justification;
- Budget Forms;
- Required Appendices; and
- Attachments (e.g., Letters of Agreement and Support)

1. Applicant’s Title Page and Cover Letter

A letter from the applicant identifying the Agency serving as the lead organization, indicating the title of the project, the principle contact person, amount of funding requested, and the names of all other state entities involved in the design and implementation of the project, and a point of contact for each. The letter should indicate that the submitting Agency has clear authority to oversee and coordinate the proposed activities and is capable of convening a suitable working group of all relevant partners.

2. Standard Forms from the Application Forms Kit

The following standard forms must be completed with an original signature and enclosed as part of the proposal:

- o **Grant Application Kit**
 - o SF 424: Application for Federal Assistance
 - o SF 424A: Budget Information
 - o SF 424B: Assurances – Non-Construction Programs
 - o SF LLL: Disclosure of Lobbying Activities
 - o Biographical Sketches
 - o Additional Assurances

You may obtain copies of these forms directly from the CMS Web site at:
<http://www.cms.hhs.gov/researchers/priorities/grants.asp>.

3. **Letters of Endorsement and Support**

If applicable, the grant application must include a letter of endorsement from the Governor or State Survey Agency Director.

We advise all applicants to include a limited number of additional letters of support from key stakeholders, as such letters give substantive support to the Agency's narrative application. These letters will not be counted toward the narrative's page limitation and should be included as attachments.

4. **Project Abstract**

The one-page abstract should serve as a succinct description of the proposed project and should include:

- The overall goals of the project;
- A description of how the grant will be used; and
- The total budget broken down as follows:
 - Total budget 2005 – 2007
 - Total Federal funds requested
 - Portion of the total that will be devoted to a reasonable prevention component, if any.

5. **Project Narrative**

The project narrative should provide a concise and complete description of the proposed project. It should contain the information necessary for the review panelists to fully understand the proposed project. It should address the components of a background check program, current infrastructure, use of grant funds, work products, and timeline and staffing.

The narrative of the application must not exceed 40 pages. See Appendix 3 for a detailed description of information that should be included in the project narrative. Please do not rely on Appendices to describe key details of your project. Appendices will not be used in the rating process, except for the proposal for an Abuse Prevention Training Program for which a state may elect to apply and which will be separately rated.

6. **Budget Narrative/ Justification and Resources**

Provide a detailed breakdown of the aggregate numbers for the budget recorded on Standard Form 424 (SF 424) "Application for Federal Assistance," including allocations for each major set of activities or proposed tasks. The proposed budget should distinguish the proportion of grant funding designated for each grant activity. The budget must clearly identify what funds will be administered directly by the lead agency and what will be

subcontracted to other partners. The designated lead agency is solely responsible for the fiscal management of the project.

All grantees will be required to attend one meeting or training conference per year in the Baltimore, Maryland area sponsored by CMS or its representative. Therefore, applicants' budgets must include funds for at least two persons to attend a CMS-sponsored meeting in the Baltimore, Maryland area following notification of grant award and each subsequent year, for the duration of the grant period.

7. **Budget Forms**

Please include the following as distinct line items on the budget forms that will accompany your proposal:

- Management staffing;
- Other staffing;
- Fees for checking of registries (if any);
- Cost for the collection of fingerprints;
- Fees for processing fingerprints (identify fees paid to the FBI separately from state fees);
- Fees paid to other agencies of services beyond those identified above, with an explanation;
- Information systems software;
- Information systems hardware;
- Abuse Prevention Training Program (optional) - In this budget line, assume that the rest of the state's application is funded. In other words, include here only those additional costs directly associated with the prevention program (e.g. do not assume the need for an additional program administrator, etc., unless you deem such cost to be necessary even if the rest of the state's program is funded).

Sample Budget Forms can be found in Appendix 7 of this solicitation.

8. **Required Appendices**

- Key Staff Qualifications: Include a brief biographical sketch or resume of key staff describing their qualifications.
- Visual Map or Diagram: Include a flow diagram or process map of the current background check process in use (if any), and a revised flow diagram that is illustrative of how the proposed Program will function. A sample Flow Diagram is found in Appendix 6.

- Project Work Plan/ Timeline: Include a project work plan and timeline. All of the project goals should be included in the work plan.
- Proposal for Abuse Prevention Training Program (OPTIONAL): Please describe any special sub-demonstration of prevention that you propose. Note that any such component will be ranked separately from the rest of your program. CMS may determine to fund your proposal with or without this optional component.

(b) Submitting the Application

What to Send

Applicants are required to submit:

1. An original application that includes the original signatures of approving officials;
2. One photocopy of the application;
3. A 3 ¼ inch floppy disk (high density disk(s) that holds at least 1.44 megabytes) or a CD containing a complete copy of the application. Please label the disk with the name of the state and title of the project; and

PLEASE,

Do Not

- Bind or staple applications
- Include side, top or bottom tabs
- Use Microsoft Word XP

Do

- Paper clip or rubber band your applications; or
- Place applications in a 3-ring binder; or
- Insert applications into large, unsealed envelopes with a label on the outside of the envelope that clearly indicates the name of the state and title of the project
- Insert a sheet of colored paper to differentiate the sections of the application. (Sheets of colored paper inserted into the application in lieu of tabs will not count toward the narrative's total page limit.)
- Use Microsoft Word® (non-XP format); or
- WordPerfect®; or
- Microsoft Excel®

All applications materials must be submitted by the due date. No materials will be accepted after the deadline.

Applications submitted by facsimile (fax) transmission will not be accepted.

Where to Send the Application

A signed, hard copy version of all application forms and related materials must be submitted to:

Background Check Pilot Program
Attn: Judith Norris
Centers for Medicare & Medicaid Services
OOM, AGG, Grants Management Staff
Mail Stop: C2-21-15
7500 Security Boulevard
Baltimore, MD 21244

Questions regarding application forms and related materials may be directed to:

Background Check Pilot Program
Attn: Judith Norris
Centers for Medicare & Medicaid Services
OOM, AGG, Grants Management Staff
Mail Stop: C2-21-15
7500 Security Boulevard
Baltimore, MD 21244
(410) 786-5130
Email: Jnorris1@cms.hhs.gov

3. Submission Dates and Times

All applications are due by the closing date listed in the “Timetable” section of this solicitation. Applications mailed through the U.S. Postal Services or a commercial delivery service will be considered “on time” if received by close of business on the closing date, or postmarked (first class mail) by the date specified and received within five business days. If express, certified, or registered mail is used, the applicant should obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailings. Applicants will not receive official notification that their application has been received on time from CMS.

4. Intergovernmental Review

This grant is not subject to Executive Order 12372 concerning “Intergovernmental Review of Federal Programs.”

5. Funding Restrictions

(a) Grant funds may be used for any of the following:

1. Costs of data collection and transmission, which may include up to 20% of the costs of dedicated computers, software, IT support, and data transmission costs.
2. Personnel costs, which may include project support staff and contracts for collaboration with staff working in the long term care industry and/or consultants with expertise in background investigation and tracking. Please note, the program must include a lead point of contact and program manager for the state, whose salary may or may not be paid through the use of grant funds.
3. Travel costs as they pertain to the administration and conduct of the grant. Examples of allowable travel costs may include costs associated with data collection and program implementation with rural providers or travel to annual meetings with CMS. Federal travel regulations and cost limits will govern reimbursement for travel expenditures.
4. Direct costs of conducting background checks (e.g., fees paid to law enforcement). Please note, however, states proposing to use the grant funding simply to cover the costs associated with an existing program (i.e., no added-value) rather than to improve or expand upon their program will be disadvantaged in the review and selection process.
5. Training costs for state agencies, providers and human resources personnel regarding the pilot program and its implementation. These costs must be specified with detail in the grant budget.
6. Indirect and overhead costs will be allowed at the state’s approved rate.

(b) Grant funds may not be used for any of the following:

1. To provide direct services to individuals except as explicitly permitted under the grant solicitation.
2. To match any other Federal funds.

3. To provide services, equipment, or supports that are already the legal responsibility of another party under Federal law (e.g., Nurse Aid Registry for the job categories currently required) or under any Federal civil rights laws. Such legal responsibilities include, but are not limited to, modifications of a workplace or other reasonable accommodations that are a specific obligation of the employer or other party.
4. To provide infrastructure for which Federal Medicaid matching funds are available at the 90/10 matching rate, such as certain information systems projects.

6. Other Submission Requirements

Applications must be submitted to the address listed above in section IV.2 (b) of this solicitation package.

Dun and Bradstreet Number

Beginning October 1, 2003, applicants are required to have a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the following Website: www.dunandbradstreet.com or call 1-866-705-5711. This number should be entered in the block with the applicant's name and address on the cover page of the application (Item 5 on the Form SF-424, Application for Federal Assistance), with the annotation "DUNS" followed by the DUNS number that identified the applicant. The name and address in the application should be exactly as given for the DUNS number.

V. Application Review Information

1. Criteria

We will use the following criteria to evaluate all applications for inclusion in the program.

The total score for the criteria below is 100 points.

(a) Background and Areas for Improvement or Expansion of Current Program (10 Points)

1. The application evidences a clear, comprehensive description of the current system in the state to conduct background screening for health care employees.

2. The application evidences the strengths and weaknesses of the current system, and identifies opportunities for improvement of the current system, explaining why such changes are important.

(b) Goals/Objectives (5 points)

1. The application evidences clear goals and objectives that relate in a meaningful way to the issues and opportunities identified above.
2. The application evidences goals and objectives that are reasonable and will be effective in accomplishing the purpose of the grant.

(c) Components & Methodology of the Background Check Program (35 points)

1. The application evidences the ability of the state to operationalize the required components of a comprehensive background checks program.
2. The application fully addresses each component of the background check program and represents a sufficiently substantive undertaking in terms of design and scope that it is likely, together with accepted applications of other states, to test the major hypotheses for this national program.
3. The application evidences effective uses of technology and other approaches that are effective in “low tech” environments.
4. The methodology and design of the state program is coherent and well-conceived.
5. The application includes methods by which the state will limit and/or counter-balance the extent to which a background checks system may interfere with recruitment or enlistment of the available workforce.

(d) Work Plan & Flowchart (5 points)

1. The application includes a work plan that documents: goals & objectives, reasonable benchmarks, milestones, timeframes, measurable outcomes and products; and identifies the responsible parties to accomplish the goals of the project. As a tool to assist applicants in developing their proposal and to facilitate our review panel process and future monitoring of pilot activities, we recommend that applicants use the Background Check Project Work Plan and Timeline (see Appendix 5) to formulate their Work Plan.

2. The application includes a work flow diagram or process map of the current background check process in use (if any), and a revised flow diagram that is illustrative of how the pilot program will function. A sample Flow Diagram can be found in Appendix 6.

(e) Key Personnel (5 points)

1. The application evidences that key project staff are qualified and possess the experience and skills necessary to design, implement and evaluate the program within the available timeframe.
2. The application evidences that there is a single point of contact for the project, and that that person will be available and dedicated to the effort for a minimum of 25% effort (0.25 FTE).
3. The application evidences that key project staff have direct professional experience with conducting or overseeing a background check program.

(f) Collaboration among State Agencies (10 Points)

The application evidences collaboration and coordination amongst state entities (e.g., State Survey Agency, state law enforcement agencies, single state Medicaid agency, etc.) that will be required for a successful program.

(g) Involvement of Providers and Stakeholders (5 Points)

1. The application should evidence the involvement of consumer and provider interest groups in the design and implementation of the pilot program.
2. Describes partnerships with public and private organizations that possess expertise in workforce issues pertaining to direct patient access workers in long-term care facilities or providers.
3. Promotes partnerships with public and private organizations that represent people of any age who receive long-term care services, or their families.

(h) Research and Evaluation (10 Points)

1. The application demonstrates methods of information gathering, analysis and ongoing evaluation that are feasible and responsive to the goals, objectives, and measurable outcomes of the proposed project. The application also demonstrates the extent to which the applicant is likely to gain timely insight into the types of technical assistance that have the most impact.

2. The design of the state’s pilot is “researchable” and likely to yield answers to the hypotheses and purposes of the national Background Check Pilot Program specified by Congress.
3. Incorporates feedback from the project into ongoing operations.

(i) Budget Narrative/ Justification and Resources (15 Points)

1. The application evidences a reasonable and detailed budget.
2. The application evidences budgeted costs that are reasonable in relation to the proposed objectives, design, and significance.
3. The application evidences that the budget follows the requirements stated in the program announcement and specifically does not use grant funds to supplant existing funds.
4. The budget demonstrates a logical interface between current resources and the anticipated grant funding.

2. Review and Selection Process

The review will be in two parts. Upon receipt in CMS, all applications will be screened to assure that the application is complete and that the state meets the basic eligibility requirements set forth in Section 307 of the MMA (Appendix 1). Those submitting incomplete applications will be notified that their applications were not considered in the competition and will be returned without further review.

We strongly encourage state agencies to work collaboratively to develop one solicitation packet for an individual state. Only one program per state may be selected. If more than one application is received from any individual state, CMS reserves the right to select whichever application it believes will best meet the purpose of the pilot program.

A panel of experts will conduct the second stage of the review. The panelists will review the applications to determine if the proposed Background Check programs meet the requirements of the solicitation. Panelists will score the applications based on the review criteria set forth above and the applications will then be ranked according to the numerical criteria.

Final award decisions will be made by the Director of the Center for Medicaid and State Operations after consideration of the comments and recommendations of the technical review panelists. Final award decisions may vary from the numerical ranking applications are given by the technical review panel to ensure that the pilot

program ensures geographic diversity; includes a variety of provider types and mechanisms for payment; and is able to adequately evaluate the key elements set forth in the statutory language and those hypotheses outlined in Section I.2 of this solicitation.

CMS reserves the right to offer a funding level that differs from the requested amount, and to negotiate with the applicant with regard to the appropriate scope and intensity of effort that would be appropriate and commensurate with the final funding level.

3. Anticipated Announcement and Award Dates

CMS anticipates selection of the participant states to occur in October 2004. Awards will be made to successful applicants during October 2004.

VI. Award Administration Information

1. Award Notices

Successful applicants will receive an official Notice of Grant Award (NGA), signed by the CMS Grants Officer, that will set forth the amount of the award and other pertinent information, along with a set of Terms and Conditions for fulfillment of the grant specifically applicable to the applicant. The NGA is a legal document issued to notify the grantee that an award has been made and that funds may be requested from the HHS payment system. This NGA will be sent through the U.S. Postal Service. The successful applicant will be required, within 30 days of receipt of the Notice of Grant Award, to sign and return a signature page included at the end of the Terms and Conditions that demonstrates agreement to accept the grant and its Terms and Conditions.

2. Administrative and National Policy Requirements

1. General Terms and Conditions for these grants are available for reference on our website at <http://www.cms.hhs.gov/medicaid/survey-cert/bcp.asp>. In addition to the General Terms and Conditions, applicants should be aware that they may be required to comply with Special Terms and Conditions that will apply specifically to a particular state's proposal. These terms and conditions are used to clarify particular grant activities and assure that grant funding is being used in a permissible manner. Because these terms and conditions are written specific to a particular grant, it is not possible to review them prior to application submission.
2. All Grantees receiving awards under these grant programs must meet the requirements of:
 - Title VI of the Civil Rights Act of 1964;

- Section 504 of the Rehabilitation Act of 1973;
- The Age Discrimination Act of 1975;
- Hill-Burton Community nondiscrimination provisions; and
- Title II, Subtitle A, of the Americans with Disabilities Act of 1990.

3. Reporting

As a condition for accepting funding under this grant program, states will be required to comply with the following reporting requirements:

- (a). Grantees must agree to fully cooperate with any Federal evaluation of the program and provide quarterly or semi-annually any financial reports in a form prescribed by CMS (including the SF-269a, Financial Status Report forms). These reports will be designed to outline how grant funds were used and to describe program progress, as well as barriers and measurable outcomes. CMS will provide a format for reporting.
- (b). Grantees must also agree to respond to requests that are necessary for the evaluation of the national “Background Check Program” grant efforts to satisfy the statutory requirements for the federal evaluation enumerated in Section 307 (e) of the MMA and provide data on key elements of their Background Check Program grant activities. This will include detailed information on the number of background checks requested by various providers, information gathered in the course of background checks, employment decisions made based on this information and their rationale, whether prospective employees challenged the results of adverse decisions and the outcomes of these challenges. It will also include cost accounting information of sufficient quality to allow reliable calculation of the costs of the various components of the background checks program.
- (c). Following the awarding of the grants, Grantees must submit an operational protocol. The operational protocol must describe in detail the policies and procedures that the state will follow during the pilot period. The operational protocol should detail the responsibilities of the providers included in the program, state government personnel and any additional responsible parties (e.g., contractors) involved in the program. Those who receive grant awards will be provided further detail as to the expected contents of the operational protocol prior to or during the first grantee meeting.

VII. Agency Contacts

For additional information regarding this grant opportunity, please contact:

Amber Wolfe
Centers for Medicare & Medicaid Services
Center for Medicaid and State Operations
SCG/DACS
Mail Stop: S2-12-25
7500 Security Boulevard
Baltimore, MD 21244-1850
410-786-6773
Fax: 410-786-0194
E-mail address: BackgroundChecks@cms.hhs.gov

Questions regarding application forms and related material should be directed to:

Judith Norris
Grants Management Specialist
Centers for Medicare & Medicaid Services
OOM, AGG, Grants Management Staff
7500 Security Boulevard
Baltimore, MD 21244
410-786-5130
E-mail: Jnorris1@cms.hhs.gov

**Appendix 1- Section 307, Medicare Prescription Drug, Improvement and
Modernization Act of 2003**

SEC. 307. PILOT PROGRAM FOR NATIONAL AND STATE BACKGROUND CHECKS ON DIRECT PATIENT ACCESS EMPLOYEES OF LONG-TERM CARE FACILITIES OR PROVIDERS.

(a) **AUTHORITY TO CONDUCT PROGRAM.**—The Secretary, in consultation with the Attorney General, shall establish a pilot program to identify efficient, effective, and economical procedures for long term care facilities or providers to conduct background checks on prospective direct patient access employees.

(b) **REQUIREMENTS.**—

(1) **IN GENERAL.**—Under the pilot program, a long-term care facility or provider in a participating State, prior to employing a direct patient access employee that is first hired on or after the commencement date of the pilot program in the State, shall conduct a background check on the employee in accordance with such procedures as the participating State shall establish.

(2) **PROCEDURES.**—

(A) **IN GENERAL.**—The procedures established by a participating State under paragraph (1) should be designed to—

(i) give a prospective direct access patient employee notice that the long-term care facility or provider is required to perform background checks with respect to new employees;

(ii) require, as a condition of employment, that the employee—

(I) provide a written statement disclosing any disqualifying information;

(II) provide a statement signed by the employee authorizing the facility to request national and State criminal history background checks;

(III) provide the facility with a rolled set of the employee's fingerprints; and

(IV) provide any other identification information the participating State may require;

(iii) require the facility or provider to check any available registries that would be likely to contain disqualifying information about a prospective employee of a long-term care facility or provider; and

(iv) permit the facility or provider to obtain State and national criminal history background checks on the prospective employee through a 10- fingerprint check that utilizes State criminal records and the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation.

(B) ELIMINATION OF UNNECESSARY CHECKS.— The procedures established by a participating State under paragraph (1) shall permit a long-term care facility or provider to terminate the background check at any stage at which the facility or provider obtains disqualifying information regarding a prospective direct patient access employee.

(3) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

(A) IN GENERAL.—A long-term care facility or provider may not knowingly employ any direct patient access employee who has any disqualifying information.

(B) PROVISIONAL EMPLOYMENT.—

(i) IN GENERAL.—Under the pilot program, a participating State may permit a long-term care facility or provider to provide for a provisional period of employment for a direct patient access employee pending completion of a background check, subject to such supervision during the employee's provisional period of employment as the participating State determines appropriate.

(ii) SPECIAL CONSIDERATION FOR CERTAIN FACILITIES AND PROVIDERS.—In determining what constitutes appropriate supervision of a provisional employee, a participating State shall take into account cost or other burdens that would be imposed on small rural long-term care facilities or providers, as well as the nature of care delivered by such facilities or providers that are home health agencies or providers of hospice care.

(4) USE OF INFORMATION; IMMUNITY FROM LIABILITY.—

(A) USE OF INFORMATION.—A participating State shall ensure that a long-term care facility or provider that obtains information about a direct patient access employee pursuant to a background check uses such information only for the purpose of determining the suitability of the employee for employment.

(B) IMMUNITY FROM LIABILITY.—A participating State shall ensure that a long-term care facility or provider that, in denying employment for an individual selected for hire as a direct patient access employee (including during any period of provisional employment), reasonably relies upon information obtained through a background check of the individual, shall not be liable in any action brought by the individual based on the employment determination resulting from the information.

(5) AGREEMENTS WITH EMPLOYMENT AGENCIES.—A participating State may establish procedures for facilitating the conduct of background checks on prospective direct patient access employees that are hired by a long-term care facility or provider through an employment agency (including a temporary employment agency).

(6) PENALTIES.—A participating State may impose such penalties as the State determines appropriate to enforce the requirements of the pilot program conducted in that State.

(c) PARTICIPATING STATES.—

(1) IN GENERAL.—The Secretary shall enter into agreements with not more than 10 States to conduct the pilot program under this section in such States.

(2) REQUIREMENTS FOR STATES.—An agreement entered into under paragraph (1) shall require that a participating State—

(A) be responsible for monitoring compliance with the requirements of the pilot program;

(B) have procedures by which a provisional employee or an employee may appeal or dispute the accuracy of the information obtained in a background check performed under the pilot program; and

(C) agree to—

(i) review the results of any State or national criminal history background checks conducted regarding a prospective direct patient access employee to determine whether the employee has any conviction for a relevant crime;

(ii) immediately report to the entity that requested the criminal history background checks the results of such review; and

(iii) in the case of an employee with a conviction for a relevant crime that is subject to reporting under section 1128E of the Social Security Act 11 (42 U.S.C. 1320a–7e), report the existence of such conviction to the database established under that section.

(3) APPLICATION AND SELECTION CRITERIA.—

(A) APPLICATION.—A State seeking to participate in the pilot program established under this section, shall submit an application to the Secretary containing such information and at such time as the Secretary may specify.

(B) SELECTION CRITERIA.—

(i) IN GENERAL.—In selecting States to participate in the pilot program, the Secretary shall establish criteria to ensure—

(I) geographic diversity;

(II) the inclusion of a variety of long-term care facilities or providers;

(III) the evaluation of a variety of payment mechanisms for covering the costs of conducting the background checks required under the pilot program; and

(IV) the evaluation of a variety of penalties (monetary and otherwise) used by participating States to enforce the requirements of the pilot program in such States.

(ii) ADDITIONAL CRITERIA.—The Secretary shall, to the greatest extent practicable, select States to participate in the pilot program in accordance with the following:

(I) At least one participating State should permit long-term care facilities or providers to provide for a provisional period of employment pending completion of a background check and at least one such State should not permit such a period of employment.

(II) At least one participating State should establish procedures under which employment agencies (including temporary employment agencies) may contact the State directly to

conduct background checks on prospective direct patient access employees.

(III) At least one participating State should include patient abuse prevention training (including behavior training and interventions) for managers and employees of long-term care facilities and providers as part of the pilot program conducted in that State.

(iii) INCLUSION OF STATES WITH EXISTING PROGRAMS.—Nothing in this section shall be construed as prohibiting any State which, as of the date of the enactment of this Act, has for conducting background checks on behalf of any entity described in subsection (g)(5) from being selected to participate in the pilot program conducted under this section.

(d) PAYMENTS.—Of the amounts made available under subsection (f) to conduct the pilot program under this section, the Secretary shall—

(1) make payments to participating States for the costs of conducting the pilot program in such States; and

(2) reserve up to 4 percent of such amounts to conduct the evaluation required under subsection (e).

(e) EVALUATION.—The Secretary, in consultation with the Attorney General, shall conduct by grant, contract, or inter- agency agreement an evaluation of the pilot program conducted under this section. Such evaluation shall—

(1) review the various procedures implemented by participating States for long-term care facilities or providers to conduct background checks of direct patient access employees and identify the most efficient, effective, and economical procedures for conducting such background checks;

(2) assess the costs of conducting such background checks (including start-up and administrative costs);

(3) consider the benefits and problems associated with requiring employees or facilities or providers to pay the costs of conducting such background checks;

(4) consider whether the costs of conducting such background checks should be allocated between the medicare and medicaid programs and if so, identify an equitable methodology for doing so;

(5) determine the extent to which conducting such background checks leads to any unintended consequences, including a reduction in the available workforce for such facilities or providers;

(6) review forms used by participating States in order to develop, in consultation with the Attorney General, a model form for such background checks;

(7) determine the effectiveness of background checks conducted by employment agencies; and

(8) recommend appropriate procedures and payment mechanisms for implementing a national criminal background check program for such facilities and providers.

(f) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out the pilot program under this section for the period of fiscal years 2004 through 2007, \$25,000,000.

(g) DEFINITIONS.—In this section:

(1) CONVICTION FOR A RELEVANT CRIME.—The term “conviction for a relevant crime” means any Federal or State criminal conviction for—

(A) any offense described in section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7); and

(B) such other types of offenses as a participating State may specify for purposes of conducting the pilot program in such State.

(2) DISQUALIFYING INFORMATION.—The term “disqualifying information” means a conviction for a relevant crime or a finding of patient or resident abuse.

(3) FINDING OF PATIENT OR RESIDENT ABUSE.—The term “finding of patient or resident abuse” means any substantiated finding by a State agency under section 1819(g)(1)(C) or 1919(g)(1)(C) of the Social Security Act (42 U.S.C. 1395i–3(g)(1)(C), 1396r(g)(1)(C)) or a Federal agency that a direct patient access employee has committed—

(A) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

(B) such other types of acts as a participating State may specify for purposes of conducting the pilot program in such State.

(4) DIRECT PATIENT ACCESS EMPLOYEE.—The term “direct patient access employee” means any individual (other than a volunteer) that has access to a patient or resident of a long-term care facility or provider through employment or through a contract with such facility or provider, as determined by a participating State for purposes of conducting the pilot program in such State.

(5) LONG-TERM CARE FACILITY OR PROVIDER.—

(A) IN GENERAL.—The term “long-term care facility or provider” means the following facilities or providers which receive payment for services under title XVIII or XIX of the Social Security Act:

(i) A skilled nursing facility (as defined in section 1819(a) of the Social Security Act) (42 U.S.C. 1395i–3(a)).

(ii) A nursing facility (as defined in section 1919(a) in such Act) (42 U.S.C. 1396r(a)).

(iii) A home health agency.

(iv) A provider of hospice care (as defined in section 1861(dd)(1) of such Act) (42 U.S.C. 1395x(dd)(1)).

(v) A long-term care hospital (as described in section 1886(d)(1)(B)(iv) of such Act) (42 U.S.C. 1395ww(d)(1)(B)(iv)).

(vi) A provider of personal care services.

(vii) A residential care provider that arranges for, or directly provides, long-term care services.

(viii) An intermediate care facility for the mentally retarded (as defined in section 1905(d) of such Act) (42 U.S.C. 1396d(d)).

(B) ADDITIONAL FACILITIES OR PROVIDERS.—

During the first year in which a pilot program under this section is conducted in a participating State, the State may expand the list of facilities or providers under subparagraph (A) (on a phased-in basis or otherwise) to include such other facilities or providers of long-term care services under such titles as the participating State determines appropriate.

(C) EXCEPTIONS.—Such term does not include—

(i) any facility or entity that provides, or is a provider of, services described in subparagraph (A) that are exclusively provided to an individual pursuant to a self-directed arrangement that meets such requirements as the participating State may establish in accordance with guidance from the Secretary; or

(ii) any such arrangement that is obtained by a patient or resident functioning as an employer.

(6) PARTICIPATING STATE.—The term “participating State” means a State with an agreement under subsection (c)(1).

Appendix 2 – Notice of Intent to Apply

Please complete and return (submission by facsimile preferred) by August 30, 2004, to:

Amber Wolfe
Centers for Medicare & Medicaid Services
CMSO/SCG/DACS, Mail Stop: S2-12-25
7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410-786-6773; Fax: 410-786-0194

1. Name of State:

2. Applicant agency:

3. Contact name and title:

4. Address:

5. Contact numbers: **Phone:** _____ **Fax:** _____
6. E-mail address: _____
7. Expected amount of request: \$ _____

Please submit any questions that you would like to have answered by CMS before you submit your formal grant application by e-mail to: Amber Wolfe, 410-786-6773, BackgroundChecks@cms.hhs.gov

* It is not mandatory for an applicant to submit a Notice of Intent to Apply; such submissions help us plan our review panels. Submission of a Notice of Intent to Apply does not bind the applicant to apply nor will it cause a proposal to be reviewed more favorably.

Appendix 3 - Project Narrative Requirements/ Components of a Background Check Program

Please address each of the following topics in your project narrative, in the sequence as outlined below. The project narrative should not exceed 40 pages. Please do not rely on Appendices to describe key details of your project, since they will not be used in the rating process.

A. Current System

1. **Description of Current System** - Describe the current system in your state to conduct background screening for healthcare employees. Include a description of the following:
 - (a) **Nurse Aide Registry:** Describe the process for checking backgrounds for the Nurse Aid Registry, and other registries maintained by the State or professional organizations (e.g., Board of Nursing);
 - (b) **Other Background Check Systems:** Describe other current (existing) state background check processes in place, include: type of check (e.g., name-based or fingerprint-based check), the types of providers (e.g., nursing homes, home health agencies, etc), the types of employees (e.g., nurses, housekeeping, etc); whether the checks are authorized or required, and if the program applies only to applicants, or if current employees are subject to background checks as well;
 - (c) **Management:** Identify the agency that has overall responsibility for managing the current background check system;
 - (d) **Pertinent Definitions:** Describe the definitions the state uses for “disqualifying information” (e.g. definition of abuse, definition of neglect, etc.);
 - (e) **Fee Schedule:** Describe the fee schedule (if any) used to charge providers or applicants for conducting the background screening (e.g. who is charged what amount, for what, and whether there is any system of reimbursing those who pay fees, such as reimbursing providers through the state’s rate-setting mechanisms or reimbursing applicants who are hired);
 - (f) **Authority:** Describe the state authority under which your current system operates. Include the legal or regulatory citations that indicate where the pertinent authority is codified in state law or regulation;
 - (g) **Evaluations and Research:** Provide citations and a description of any evaluations or research that have been conducted on the state’s background check systems;
 - (h) **Additional Information:** Include references and any established web address by which additional information may be obtained.

- 2. Issues and Opportunities** – Briefly describe the strengths and weaknesses of the current system, as relevant to this pilot project. Identify opportunities for improvement of the current system and why such changes are important in your state. Examples include expansion of scope (e.g. extension to additional providers), expansion of employee coverage (e.g. adding additional types of workers), improving intensity of checking mechanisms (e.g. adding FBI checks where only state checks are currently done), improving efficiency (e.g. streamlining the fingerprint capture process), improving worker access and convenience (e.g. adding fingerprinting sites, reducing stigma or inconvenience), improving compliance rates on the part of providers, etc.

B. Proposed Pilot Project for this Solicitation

- 1. Brief Synopsis** – Provide a brief synopsis of the proposed system, including the goals to be accomplished.
- 2. Provider Types** - Complete the “Provider Types” chart on the following page, with any additions desired, to describe the scope of your proposed program.

In the “Facility or Provider Type” column, the following definitions apply:

- HCBS or HCBS-W refers to the home- and community-based service (HCBS) waivers in Medicaid under sections 1915(c), 1915(d), 1115 or similar sections of the Social Security Act.
- “Assisted Living” refers to any definition adopted by a state under state law or regulation.

In the column for “Number of Providers Statewide,” estimate the number of distinct providers. For example, a national nursing home chain might have 10 distinct nursing facility providers in the state, and would be counted as 10 rather than 1. For home health agencies, count the number of employing agencies rather than the number of branch locations (e.g. a home health agency with five branches would count as one).

In the column for “Require - Yes/No” indicate the provider types for which participation in the background check program will be required. Certain provider types must be included in order for a state to have a chance to be selected for a grant under this solicitation. Such provider types are denoted by a “Yes” in the chart. States may choose the extent to which other provider types will be required. Please note, however:

- Section 307 (c)(3)(B)(ii) of the MMA requires us to ensure “the inclusion of a variety of long-term care facilities or providers.”
- The inclusion of more provider types will generally increase the chance of a state being selected, all other things being equal.

- We are permitting some state discretion in the selection of certain provider types because there may be a trade-off between (a) comprehensiveness of coverage and (b) other important factors such as speed of implementation, effectiveness of the checking systems, extent of provider education and compliance, time allowed for completion of checks, etc. Consequently, the extent of provider inclusion is weighted heavily in our scoring criteria, but so are other factors such as coherency and feasibility of the state’s program design.

In the column for “Phase In Plan Dates” please describe two dates: (a) the date particular provider types will begin to phase in the requirement and (b) the date all providers in the provider category will be required to comply fully with the background check system, not to be later than the end of the first quarter of calendar year 2006.

Provider Types Chart

	Facility or Provider Type	No. of Providers Statewide	Require Yes/ No	Phase-In Plan Dates		Explain
				Start Date	Completely In	
A. Group Living Environments	Skilled Nursing Facilities/Nursing Facilities		Yes			
	Long Term Care Hospitals, Swing Beds		Yes			
	ICFs/MRs		Yes			
	Psychiatric Hospitals					
	Hospices					
	Assisted Living Facilities					
	HCBS Group Homes Over 8 Beds*		Yes			
	HCBS Group Living - Other (Define)*					
	PACE *					
	Other Living Arrangements (Define)					
B. Community Programs	Home Health Agencies		Yes			
	Personal Care Agencies - Medicaid State Plan		Yes			
	Personal Care Agencies - HCBS-W or S. 1115					
	Treatment Foster Homes for Children					
	Case Management Agencies – Medicaid					

Day Programs – HCBS (e.g., adult day care facilities, etc)					
Other - HCBS Waiver Providers (specify)					
Other					

3. **Employment Agencies:** Describe the specific role (if any) that employment agencies (including temporary agencies) will have in your program. See Appendix 8 for the definition of employment agency.

4. **State Authority -** Describe whether additional state authority (via law or regulation) will be needed to (a) require the identified providers to participate in the proposed program (and thereby assure that all new individuals hired by those providers undergo background checks), (b) provide protection for applicants against misuse of background check information, as specified in section 307(b)(4)(A) of the MMA, and (c) protect providers against liability as specified in section 307(b)(4)(B) of the MMA.

If new authority is not required, please describe how existing authority is adequate to meet the requirements of section 307 of the MMA, and provide appropriate legal citations for such authority.

If additional authority will be required, please describe (a) the form you expect such authority to take (e.g. law or regulation), (b) the nature of the additional authority required (e.g. requiring provider participation, protecting applicants, protecting providers, etc.), (c) the strategy and timetable you expect for gaining such authority, and (d) the current status of preparation and planning for adoption of the additional authority you deem necessary.

Please note if the adoption of additional authority is necessary, the state must have that authority in place not later than the date the pilot project is fully implemented in that state, and all phase-in periods are complete.

5. **The Four Primary Processes –** Please describe in detail each of the four processes identified below that are associated with conducting background checks.
 - (a) **Collection of Fingerprints –** Section 307 (b)(2)(A)(iv) of the MMA specifies that an applicant’s state and national criminal history records must be obtained through a 10-fingerprint check that utilizes state criminal history records and the Integrated Automated Fingerprint Identification System (IAFIS) at the Federal Bureau of Investigation (FBI). Provide a description on how your proposed program will collect a prospective employee’s set of rolled fingerprints to be used to check State and Federal criminal records. Your description must address each of the following:

- (1) *Technology*: Describe the technology you will use to collect fingerprints (e.g., live scan or hard card mailed, hard card scanned, etc.).
- (2) *Collection Agencies*: Who will be authorized to collect the fingerprints?
- (3) *Locations*: Where will the collection of fingerprints occur? How many such sites are there? How far will applicants typically need to travel if the collection sites are not at the provider?
- (4) *Transmittal Methods*: How will the fingerprints be transmitted to the agency conducting the State criminal history check and the IAFIS at the FBI?

(b) **Records Check** – Provide a description of how your proposed program will complete the check of registries and State and National criminal histories. Your description must address each of the following:

- (1) *Databases Checked*: What registries and databases will be checked at the State level and how is this done?
- (2) *State Checking*: Describe the process for completing the State level criminal records check, include the agencies involved and responsibilities of each, time allocated, findings transmittal, etc.
- (3) *Checking with FBI*: Describe the process for completing the national criminal records check through the IAFIS.
- (4) *Checking Sequences*: In what sequence will the above checks be completed?
- (5) *Elimination of Unnecessary Checks*: The state must, in accordance with section 307(b)(1)(B), permit providers to terminate background checks at any stage based on disqualifying information. If the background check process is stopped once disqualifying information has been obtained, how will this be communicated to all involved entities?
- (6) *Costs and Fees*: What are the costs associated with each level of check (i.e., State registries, State criminal records, FBI national records)? What (if any) charges do you propose for job applicants or providers for (a) state checks, (b) FBI checks?

(c) **Fitness Determination** – Describe the process that will be used to make a determination as to whether a job applicant is qualified or disqualified according to the criteria identified by the state. Your description must address each of the following:

- (1) *Definition*: What definition of “disqualifying information” will be used in making a fitness determination (e.g. how do you define abuse, neglect, etc. if the federal definitions are not used, are there other categories of state-defined disqualification)? If “disqualifying

- information” is defined in statute or regulation, please include the citation as an appendix to your application.
- (2) *Agency*: Who is responsible for making the fitness determination (e.g. a state agency making the decision or the provider)?
 - (3) *Categories of State Communication*: If the fitness determination is made at the state level, please describe how the determination is made, and what, if any, criminal history information is passed on to the requesting provider. To illustrate, will it be a yes/no communication to providers (red light, green light), will providers have some discretion (e.g. red light, yellow light, green light), or will providers receive criminal history information to make their own fitness determinations?
 - (4) *Timeliness*: What is the length of time allowed for completion of the fitness determination? When does the time frame begin?
 - (5) *Missing Dispositions*: How will your program handle missing dispositions, and how will this factor into the fitness determination?
 - (6) *Provisional Employment*: Will your program allow for a period of provisional employment while the background check and fitness determinations are being completed? If yes, please explain:
 - ❖ Criteria for allowing provisional employment;
 - ❖ Limitations on how long a provisional employment period may last; and
 - ❖ Levels of supervision and conditions of employment, this may vary by provider type or category of employee;
 - ❖ Special considerations given to supervision requirements for small rural providers or home health agencies.

(d) Integrity

- (1) *Error Checks*: Describe the system you will use to ensure the validity of the background check results. Include both internal processes (passive, automatic process that do not require special effort by any actor) and those that are complaint driven (active process dependent on an internal or external actor noticing a problem and having the wherewithal to bring it to management’s attention).
- (2) *Appeals*: Please explain the process a prospective employee may use to appeal the results of a background check. Include the types of appeals allowed, the timeframe for filing appeals, time allowed for resolution once an appeal has been filed, how appeals are processed, and any relation to periods of provisional employment. An example is the process prescribed under federal law relative to nurse aides at 42 CFR 483.156 (c)(1)(iv)(A)-(D)
- (3) *Rehabilitation*: Explain if your program allows rehabilitation of individuals with previous convictions for disqualifying behaviors, and if yes, what criteria will be used to evaluate an individual’s

fitness for employment. What additional/special steps, if any, will be taken to prevent these individuals from relapsing?

- (4) *Compliance monitoring*: How will your state monitor compliance to ensure that all providers and facilities included in the program are conducting the background checks on prospective employees, as required?
- (5) *Enforcement and Feedback*: What penalties or enforcement actions will be used against facilities or providers that may be non-compliant? What mechanisms will be in place to facilitate feedback from providers?
- (6) *Unintended Negative Effects*: Describe the features of your program that are designed to prevent or limit negative, unintended results, such as impairment to the recruitment of prospective, qualified workers into long term care? Examples include making it easy to provide fingerprints, avoiding stigma, promoting the value of a positive finding on the background checks, avoiding costs to the applicant, etc.

6. **Education and Technical Assistance Plan** – Describe the method you will use to communicate the requirements of the proposed program to both the provider community and potential employees. Include methods to provide ongoing technical assistance to facilities and providers as necessary to ensure successful implementation of the program.
7. **Management** – Describe the program’s management and staffing plan, addressing staffing requirements for each component of the program. Include staff responsibilities and qualifications necessary to carry out those responsibilities. Provide, in an appendix to your application, an organizational chart showing the relationships amongst major actors in the system.
8. **Partnerships and Collaboration** – Describe how you will partner and collaborate with other state entities and stakeholders to ensure successful implementation of the proposed program
9. **Evaluation** – States that are selected for inclusion in this pilot program must agree to participate in the national evaluation of the demonstration. Participation includes your agreement to collect and transmit data as requested by HHS or its agents throughout the duration of the demonstration, including the types of information mentioned in Section VI, item 3 of this Announcement and other information that may be required to satisfy the statutory requirements for the federal evaluation enumerated in Section 307 (e) of the MMA. Additionally, please describe how the design of your program will assist HHS in answering the specific hypotheses as outlined in Section I.2. (“Purpose of the Program”).
10. **Systems Infrastructure** - Describe the types of equipment, information systems and additional infrastructure that will be necessary to implement the proposed

program. Please note that any equipment costs may not exceed 25% of the total budget.

Finance Narrative – Describe the method that will be used to pay for the variable costs of conducting the program (e.g., fees paid, by whom, to whom, what rate, and for what). Include a copy of your fee schedule, if applicable.

Notes: “Finance Narrative” should be enumerated like the other requirements. References to the “Abuse Prevention Training Program (Optional)” and “Budget Forms” included in the initial draft are omitted from this version.

Appendix 4 - Requirements for Inclusion of Abuse Prevention Training Program

An additional provision of Section 307 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 requires that at least one state, must, in addition to conducting background checks on prospective employees, include an abuse prevention training (including behavior training and interventions) for managers and employees of long term care facilities and providers as part of the background check program conducted in that state.

Inclusion of an Abuse Prevention Training Program may increase the competitiveness of your state's proposal. Please note that your proposal for an Abuse Prevention Training Program will be evaluated separately from the rest of your program.

CMS may determine to fund your proposal with or without the proposed Abuse Prevention Training Program. Note that we have structured the budget forms such that the additional costs of such a sub-demonstration are separately identified.

Please include your proposal for inclusion of an Abuse Prevention Training Program as an appendix to your application. The appendix describing your Abuse Prevention Training Program proposal should not exceed 8 pages in length.

A. Background

In developing a conceptual framework for an abuse prevention-training component, it is appropriate to first define "abuse" and "neglect." The Code of Federal Regulations (CFR), at 42 CFR 488.301, defines abuse as "the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish". In addition, 42 CFR 488.301 defines neglect as, "failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness."

The Administration on Aging and CMS define physical abuse as the willful infliction or use of physical force that may result in bodily injury, physical pain or injury. Examples of physical abuse include, but are not limited to, slapping, bruising, unlawful use of restraints, confinement, or corporal punishment.

A number of abuse prevention training programs have been developed by various organizations and partnerships and are being used in a variety of settings across the United States. A listing of abuse prevention and awareness programs can be viewed on the National Center on Elder Abuse (NCEA) website, <http://www.elderabusecenter.org>.

For the purposes of this grant program, a state may opt to select a curriculum model already in use, or to develop one of their own.

B. Program Description

Please include your optional proposal for inclusion of an Abuse Prevention Training Program as an appendix to your application. The appendix describing your Abuse Prevention Training Program proposal should not exceed 8 pages in length.

Please address each of the following topics in your proposal, in the sequence as outlined below:

1. **Brief synopsis** - Provide a brief synopsis of the proposed training program, including the goals to be accomplished.
2. **Key elements of Abuse Prevention Training** - Please describe in detail each of the key elements of an Abuse Prevention Training Program identified below:
 - a). **Curriculum model used** – Describe the details of the curriculum that will be used for the training program. Curriculum should include information designed specifically for managers and supervisors as well as direct access employees.
 - b). **Provider types** – Which provider types will be included in the abuse prevention-training program.
 - c). **Employee categories** – Which categories of employees will abuse prevention training be required for (e.g., nursing staff, management, housekeeping, etc).
 - d). **Education Credits** – To what extent, if any, will the proposed program permit individuals to earn continuing education credits (CEUs) for participation in the training?
 - e). **Frequency of training** – How often will the training be required?
 - f). **Delivery Method** – Describe the method that will be used to deliver the training (e.g., classroom training, satellite broadcast, self-paced tutorial, video production, etc).
 - g). **Trainers** – Who will be responsible for conducting the trainings? Will the program use a “train-the-trainer” concept or will all trainings be conducted by a central organization?
 - h). **Oversight** – How will your State monitor compliance to ensure that all providers and facilities included are participating in the training program as required?
 - i). **Measurable outcomes** – Describe the methods that will be used to evaluate the effectiveness of the training program (e.g., pre- and post-training testing).
3. **Management** -- Describe how the proposed training program will fit into the overall background check program’s management and staffing plan. Include staff responsibilities and qualifications necessary to carry out those responsibilities.

4. **Implementation Plan** – Describe the projected implementation timeline for the proposed training program. While the Abuse Prevention Training Program does not necessarily need to be implemented at the same time as the state’s Background Check Program is implemented, it must be fully implemented at a time during the pilot that will permit a comprehensive evaluation to occur. Therefore, we suggest states choosing to apply for this optional Abuse Prevention Training Program plan for implementation of the program as early as possible within the pilot project period, but not later than the beginning of year 2 (i.e., January 2006).
5. **Partnerships and Collaboration** - Describe how you will partner and collaborate with provider groups and other stakeholders to ensure successful implementation of the proposed training program.
6. **Evaluation** - Describe your proposed method for evaluating the effectiveness of the overall training program in terms of measurable outcomes.

Examples of measurable outcomes that may be considered in evaluating the effectiveness of the overall training program include:

- Increased staff awareness of actual and potential abuse;
 - Reduced incidents of abuse and neglect of patients by staff;
 - Reduced incidents of abuse of staff by patients;
 - Improved organizational culture, evidenced by better communication between administration and staff, improved employee morale, lower staff turnover, and improved quality of life and care for patients;
 - Number and types of deficiencies cited during Medicare survey(s) and/or complaint allegations of abuse received pre- and post- implementation of the program.
7. **Budget Narrative** - Provide a detailed breakdown of the numbers for the budget recorded as the separate line item “I” on the budget forms. Assume that the rest of the state's application is funded. In other words, include here only those additional costs directly associated with the prevention program (e.g. do not assume the need for an additional program administrator, etc., unless you deem such cost to be necessary even if the rest of the state’s program is funded).

C. Review Criteria

We will use the following criteria to evaluate all applications for inclusion of an Abuse Prevention Training Program.

The total score for the criteria below is 50 points.

(a) Goals/Objectives (5 points)

1. The application evidences clear goals and objectives for an Abuse Prevention Training Program.
2. The application evidences goals and objectives that are reasonable and will be effective in accomplishing the purpose of the grant.

(b) Involvement of Providers and Stakeholders (5 Points)

1. The application evidences the involvement of consumer stakeholders and interest groups (including both provider and professional organizations) in the design and implementation of the training program.
2. Describes partnerships with public and private organizations that possess expertise in abuse prevention training programs.

(c) Scope and Methodology (20 points)

1. The application evidences a detailed implementation plan for all the key elements of an abuse prevention-training program.
2. The application demonstrates a “life-long learning” approach to training, meaning training is conducted upon initial hire and periodically throughout the entire employment period.
3. The application evidences a proactive integrated approach to the prevention of abuse and neglect.
4. The application evidences specialized curriculum for managers and supervisors to be effective in their leadership roles.

(d) Evaluation & Measurable Outcomes (10 points)

1. The application identifies measurable goals and outcomes of the training program.
2. The application identifies methods of information gathering, analysis and ongoing evaluation that are feasible and responsive to the goals, objectives, and measurable outcomes of the proposed training program.
3. The application evidences systems and methods to be used to incorporate feedback from the training program into ongoing operations.

(e) Budget Narrative and Justification (10 points)

1. The application evidences a reasonable and detailed budget.
2. The application evidences budgeted costs that are reasonable in relation to the proposed objectives, design, and significance.
3. The budget demonstrates a logical interface between the abuse prevention training component and the anticipated overall background check program grant funding.

Appendix 5 – Sample Work Plan and Timeline

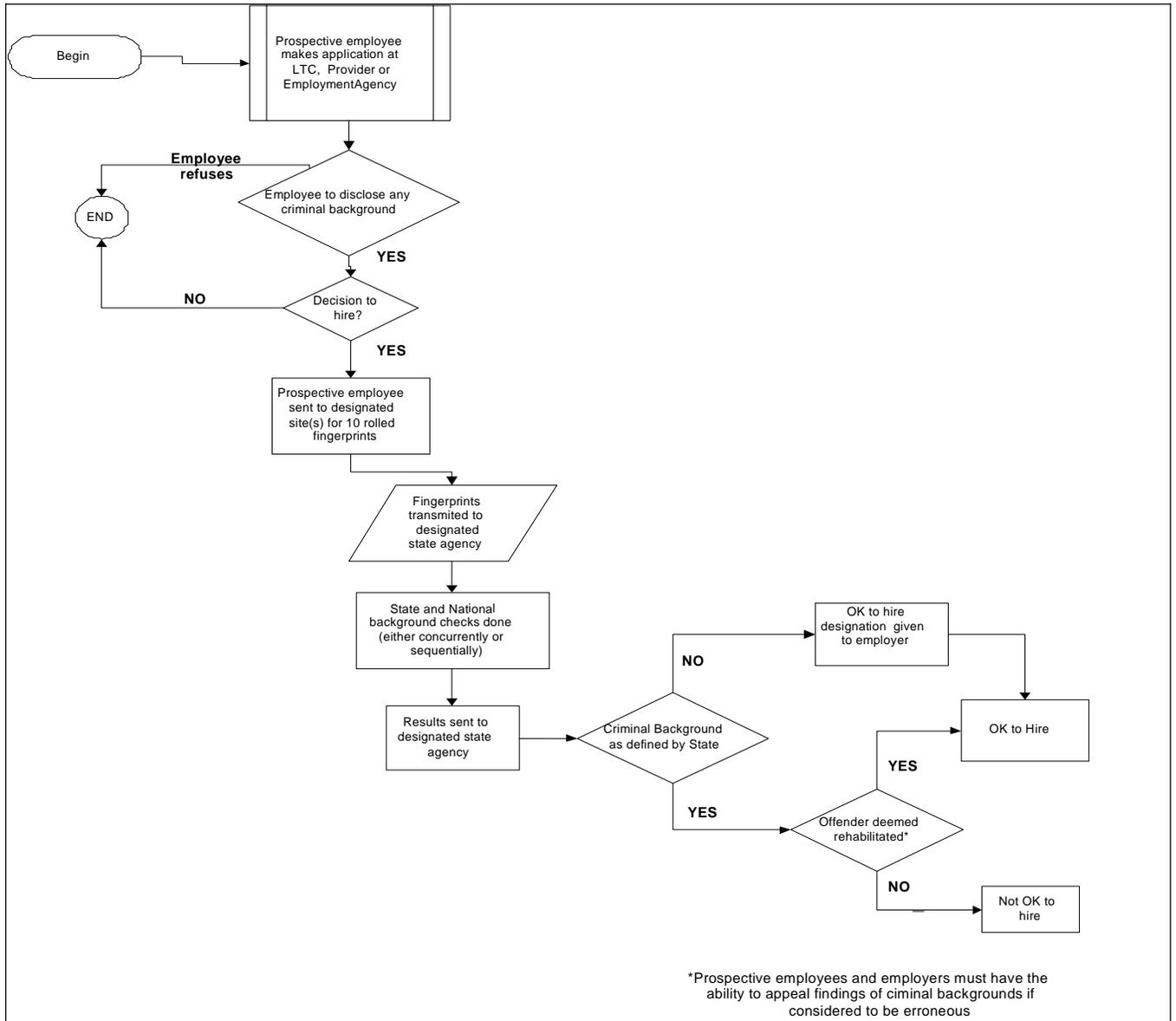
The grant application must include a project work plan and timeline. All of the project's goals must be included in the work plan. The completed work plan will not be counted towards the 40-page narrative limitation. The table headings are explained below to guide you in completing the work plan and timeline.

Table Headings

Goal(s):	What are the goals specific to your demonstration?
Activity:	What will you do to achieve the stated goal(s)? (There may be multiple activities for more than one goal.)
Specific Tasks:	What are the specific tasks that need to be accomplished for each activity?
Lead Person:	Who is responsible for making sure that the activity is completed (e.g., project director or subcontractor)? Identify the primary person by name, if possible, with responsibility for the specific activity.
Timeline:	What are the dates for starting and completing the activity? Please specify by quarters (e.g., 1 st Quarter, 2 nd – 5 th Quarter), the beginning and anticipated completion dates of the activity.
Measurable Outcome(s):	What specific measurable changes will be made?
Products:	What tangible products will be produced?

Appendix 6– Sample Flow Diagram

The RFP should provide applicants with a visual map or “flow diagram” of the minimum requirements of a successful state application. Figure 1 below provides a rough idea for such a flow diagram.



Appendix 7 – Sample Budget Forms

Budget Justification – Sample Format

Object Class Category	Federal Funds	Non-Federal Cash	Non-Federal In-Kind	TOTAL	Justification
Management Staffing					
Other Staffing					
Fringe Benefits					

Object Class Category	Federal Funds	Non-Federal Cash	Non-Federal In-Kind	TOTAL	Justification
Travel					
Collection of Fingerprints					
Fees for Checking Registries					

Object Class Category	Federal Funds	Non-Federal Cash	Non-Federal In-Kind	TOTAL	Justification
Fees for Checking of Fingerprints against State criminal records repository					
Fees for Checking of Fingerprints against FBI criminal records repository (if necessary)					
Fees paid to other Agencies beyond those identified above (e.g., to obtain missing dispositions or other necessary information)					

Object Class Category	Federal Funds	Non-Federal Cash	Non-Federal In-Kind	TOTAL	Justification
Information Systems Software					
Information Systems Hardware					
Supplies					

Object Class Category	Federal Funds	Non-Federal Cash	Non-Federal In-Kind	TOTAL	Justification
Other (please specify)					
Indirect Charges					
Abuse Prevention Training Programs (optional)					
TOTAL					

Appendix 8 - Definitions

Definitions used in this solicitation are:

Abuse Prevention Training Program means a program for direct patient access employees, and their managers, that addresses the issues that precipitate abusive behavior and provides preventive solutions for reducing incidents of abuse and neglect and for improving the quality of care for patients with long term illnesses or disabilities.

Any available registries means any state-based registries or databases, in addition to the state's nurse aide registry, that identify those who have been approved by state requirements to provide care to residents or patients in long-term care facilities or by providers of long-term care services. These registries may include, but are not limited to, those which list physicians, nurses, psychologists, and other professionals who are considered direct access employees. In addition, to the extent required by CMS, other national databases that should be checked include the Medicare Exclusion Database (MED), Fraud Investigation Database (FID), Healthcare Integrity and Protection Data Bank (HIPDB), or the National Practitioner Data Bank (NPDB), for those categories of employees that the database or registry focuses. (E.g., physicians may include a check of the NPDB, but that database is unlikely to contain disqualifying information for a CNA.)

Background Check means the process by which the state-appointed agency, the provider, or the employer conducts a legislatively-approved investigation (with written approval of a direct access employees' personally provided information) at the time of application for employment. For the purpose of this program, a background check includes the checking of any available registries (e.g., nurse aid registry) and State and national criminal history records through a 10-rolled fingerprint check.

Centers for Medicare and Medicaid Services (CMS) is the Federal agency that administers the Medicare program, and works in partnership with the states to administer Medicaid, the State Children's Health Insurance Program (SCHIP), and the health insurance portability standards. CMS is responsible for the administrative standards of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and quality standards in health care facilities through its survey and certification activity.

Conviction for a Relevant Crime means any Federal or State criminal conviction for any offense described in section 1128(a) of the Social Security Act (42 U.S.C. 1320a – 7); and such other types of offenses a participating State may specify for purposes of conducting the pilot program in that State.

Direct Patient Access Employee means any individual (other than a volunteer) that has access to a beneficiary of a long-term care facility or provider, through employment or through a contract with such facility or provider.

Disqualifying Information means a conviction for a relevant crime or a finding of patient or resident abuse.

Employment Agency means an organization that provides temporary, part-time, or permanent staff to a requesting facility or provider organization.

Fitness Determination means, in this context, a decision made by either the state appointed agency, the provider, or the employer to either offer a position of employment or to deny a position of employment, based on the information obtained

Livescan and Cardscan means automated devices for generating and transmitting digitized fingerprint images. Livescan devices capture fingerprint images directly from subjects' fingers, which are rolled onto glass scanning plates. Cardscan devices scan and digitize standard inked fingerprint cards and can transmit electronic images with related textual data to remote sites for printout or direct use.

National criminal history background check means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification, through its Integrated Automated Fingerprint Identification System (IAFIS) and the utilization of state criminal records or other methods of positive identification.

Nurse Aid Registry means a federally-mandated database that requires states to establish and maintain a registry which contains information on individuals who have successfully completed a nurse aide training and competency evaluation program in accordance with federal requirements and who have been found competent to function as a nurse aide.

Rehabilitation means the reestablishment of an individual's character following conviction of a crime as defined by state statute or regulation. Rehabilitation may be demonstrated by the passage of time and by examining an individual's activities and lifestyle.

Set of Fingerprints means a rolled impression of a prospective direct access employee's 10 fingertips.