



COMMUNITY CORRECTIONS FACILITIES AND PROGRAMS BUREAU FACILITY OPERATIONAL REQUIREMENT

Requirement:	PFB 6.2.402 BACKGROUND CHECKS	
Effective Date:	03/14/2018	Page 1 of 3
Revision Date(s):	07/02/2018; 01/07/2019; 10/19/2020; 08/11/2021; 07/14/2025	
Signature/Title:	/s/ Scott Eychner, Rehabilitation and Programs Chief	

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

I. PURPOSE

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

II. DEFINITIONS (see Glossary)

III. PROCESSES

A. GENERAL

1. The FPB and contractors will comply with all federal anti-discrimination laws in all employee selection processes.
2. FPB contractors may use the process for background checks pursuant to this requirement or a process established by the contractor in which background checks are paid for, conducted, and maintained by the contractor.
3. An offer of employment may be made contingent on a completed background check demonstrating eligibility for hire. Applicants may begin employment prior to completion of the background check but may not have unsupervised contact with offenders prior to completion of the background check and confirmation of eligibility for hire.
4. If requested by the contractor, the FPB will conduct criminal background checks on successful contractor applicants prior to the contractor hiring the applicant. In accordance with the *Prison Rape Elimination Act of 2003*, contractors will initiate background checks on current employees at least every 5 years to check for new convictions.
5. Employees must self-report subsequent criminal charges and convictions within 5 calendar days to their immediate supervisor. The self-reporting will be documented and forwarded to the appropriate FPB staff within 5 business days for review and determination of next steps, including continued eligibility for employment.
6. The FPB may further review a contractor employee's criminal background during their employment at any time for due cause.
7. An administrator or supervisor who has reason to believe a current employee may have been involved in criminal conduct will notify local law enforcement and FPB staff immediately.

B. DISCLOSURE OF CRIMINAL HISTORY

1. An applicant must disclose criminal history to the contractor during the hiring process.

2. Evidence of a conviction may not automatically disqualify an applicant or an employee from employment with a contractor.
 - a. If an individual has a criminal history, the following factors will be considered:
 - 1) the nature and gravity of the offense;
 - 2) the time period since the criminal offense and since completion of any resulting sentence; and
 - 3) the nature of the position held or sought.
3. Because restitution to victims is an important part of the Department's mission, additional consideration will be given when an applicant owes restitution. Payment of restitution may be required of the applicant as a condition of employment.
4. The FPB will not approve the hiring or continuing employment of an employee or subcontractor who has:
 - a. engaged in sexual harassment and/or abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
 - b. been convicted of engaging in or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or
 - c. been civilly or administratively adjudicated to have engaged in the activity described above.
5. Employees and subcontractors have a continuing affirmative duty to disclose any of the misconduct listed immediately above.

C. CRIMINAL BACKGROUND CHECKS AND EVALUATION OF CRIMINAL RECORD HISTORY

1. Criminal background checks will be conducted on successful applicants to an FPB contractor.
2. To initiate a background check conducted by the FPB, the contractor will:
 - a. ensure applicant reviews and signs *PFB 6.2.402 (A) Background Check Requirement for Employment*; and
 - b. either:
 - 1) provide *PFB 6.2.402 (B) Request for Background Check* to the applicant, who may take the form to a local law enforcement agency to provide fingerprints and request a background check (applicant or contractor is responsible for the costs associated with fingerprinting); or
 - 2) if there are extenuating circumstances beyond the contractor's control that hinder the taking of fingerprints or fingerprint submission to the Department of Justice, and the contractor has made reasonable attempts to resolve the issue, the contractor may ask FPB to conduct a background check based on the applicant's personal information and email a copy of the signed *PFB 6.2.402 (A) Background Check Requirement for Employment* to FPB staff at correquests@mt.gov to complete the background check.
3. After the background check is completed, FPB will review the results to determine if the applicant is eligible for hire and may request additional information from the applicant or the contractor.
4. FPB staff will notify the contractor's designee by email and provide the applicant's name and a statement indicating whether the applicant meets the eligibility criteria.
5. The applicant or contractor may request reconsideration of the decision if the applicant does not meet eligibility criteria.

D. CONFIDENTIALITY

1. Any and all information pertaining to an applicant's or employee's criminal record history is confidential communication. Access to this information is limited to those who have a

legitimate need to know and records will only be disseminated in conformity with relevant laws and Department policy. These records include:

- a. *PFB 6.2.402 (A) Background Check Requirement for Employment*;
 - b. analysis and decision regarding any convictions;
 - c. documentation of applicant not meeting criteria for hire; and
 - d. correspondence related to the background check.
2. Employee records will be securely maintained by the facility during the duration of employment and in accordance with the contract.

IV. CLOSING

Questions about this requirement should be directed to FPB staff.

V. FORMS

PFB 6.2.402 (A) Background Check Requirement for Employment

PFB 6.2.402 (B) Request for Background Check