

Transcript: AmeriCorps State and National National Direct Grantee Training Call on the Interim Disallowance Guide

Date of Call: September 2, 2015.

Speakers:

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Jeremy, Operator [O]

Brian Cognato, Grants Management Specialist, Office of Grants Management, Corporation for National and Community Service (CNCS) [BC]

Jim Stone, Senior Program & Project Specialist, AmeriCorps State & National, CNCS [JS]

(0:00)

[O]: Welcome and thank you for standing by. At this time, all lines are in listen only mode for the duration of today's conference. This conference will feature a question-and-answer session. If you would like to ask a question, please press star-1. Today's conference is being recorded. If you have any objections, you may disconnect at this time. I will now turn the call over to our first speaker today, Mr. Brian Cognato. Sir, you may begin.

[BC]: Thank you very much, Jeremy. Hi, this is Brian with the Corporation for National and Community Service (CNCS). I'm a Grants Management Specialist in the Office of Grants Management, specializing on Criminal History Checks. I have with me here as well, Jim Stone from the AmeriCorps State and National program. Today we will be talking about the new Disallowance Guide that has just recently been released. First, a bit of a logistical point. I understand we have about 40 people on the call. We actually have a presentation right now, and I'm seeing far less than that in the presentation, so I just want to make sure that everyone on the call knows that there is a webinar or slide component to today's presentation that you could have accessed by clicking the Skype link in the email invitation that was sent to you. You should have received an email invitation to this call. In that invitation, there is a link that you can click that will bring you to our slides for today. [Editor's Note: These slides are available on the CHC Knowledge Network page at <http://www.nationalservice.gov/resources/criminal-history-check>. They are titled "AmeriCorps State and National - State Service Commissions Disallowance Guide Training PowerPoint, September 2, 2015."] They are not essential. Certainly we'll get you the main information no matter what, but they could be helpful because we'll walk through some examples and they will save you the time of writing some of the details to those examples. We will of course provide the slides after the fact and a recording of the session will be available as well.

One last recommendation: we will be talking today about the document that was just circulated, the Interim Disallowance Guide. If you are able to have that document handy, I strongly recommend it. We'll be returning to it frequently throughout our presentation, so it will be a very useful reference to have handy. [Editor's Note: This document is available at <http://www.nationalservice.gov/resources/criminal-history-check> as well. It is titled, "Interim Disallowance Guide for Staff and Grantees."]

With that we'll get started in just a couple minutes. I do want to just share a little bit about myself. I have had a chance to meet some of those on the line I'm sure at some of the regional conferences this summer, but I am sure there is many more that I have not yet met and I hope to meet you soon. I have

been at the Corporation for just about six months now. I come from the U.S. Agency for International Development, which is another federal agency that focuses on providing largely grants to organizations that strive to make the world a better place in other countries. Before that, I worked for a small nonprofit organization, doing, among other things, managing federal grants. While I am relatively new to this topic, I hope I can bring a fresh perspective to it, in terms of having been on the side of implementers and also coming in without as much institutional knowledge, giving me a chance to really start fresh. Our topic today is monitoring and particularly the enforcement of the criminal history checks. I know that's not everyone's favorite topic, but it is one that is critically important to motivate compliance, to demonstrate how seriously we take our statutory requirements for the criminal history checks, and because if we can do all that, it allows us to work to make the system easier for everyone and work for everyone. So we're going to try to all of those things today as we talk about enforcement.

I do want to add one note about questions. I realize this is a pretty short turnaround time. You may not have had much of an opportunity to really get into the document in-depth, but to the extent that you have questions, we really want to encourage you to ask those questions. This is a new document for us. We haven't implemented a system quite like this before and your questions are going to be essential to help us think through how it will be implemented. We know you have a unique perspective within your states as intermediaries of CNCS funds, so we're absolutely relying on your questions to bring out the points that might not be clear, to bring out the points where maybe some more information is required, so please do ask lots of questions. You can do that either when we have our designated times here on this call, or, if you've been able to join via Skype, you'll also see that there is a little window to type in questions there. Feel free to do that. We'll pick them up as best we can. Generally, I'll wait until a designated Q&A time to answer them, but we will try to pick them up, so go ahead and do that. And you can also of course just write them down and bring them to our attention later, working with your Program Officer. The door is never closed on questions for this topic. So thank you all for joining, we're going to dive into the material now.

(4:49)

First, we want to talk about our objectives for today, and we have six objectives today. We want to everyone on this call to be able to:

- Understand our approach to risk-based disallowance. "Risk-based disallowance" is the key word for the day and it will be the topic of the entire call, and it's what's described in the Interim Disallowance Guide.
- Take all required steps when they encounter a case of noncompliance
- Calculate disallowance, using our risk-based disallowance matrix. If any of you on the call have had a chance to look at this document, you will see that it does involve a new way of calculating disallowance, one that we hope is a good balance of our competing goals and also pretty simple to implement and pretty easy to implement consistently.
- Determine a final disallowance amount, taking into account a disallowance cap, self-reporting, and the appropriate use of professional judgement. There is a lot in the topic, and I like to highlight that there is a lot in that topic because it stresses how important it is to eventually take the time to really read this document that we'll be talking about today in-depth. This Interim Disallowance Guide is a fairly long document and it does get technical in places, but it is absolutely critical for everyone here to read it and understand it thoroughly. Just by the nature of the time that we have available here, we won't have an opportunity to talk about every single line of it, and that's where we're going to rely on you to read it on your own and still to find good questions and to ask us those good questions.
- Finally, we want to make sure everyone on this call is able to explain the system to subgrantees. We realize the role you play in stewarding our funds with your subgrantees and we realize the relationships

that you've built with them and we want to give you the information that you need to be able to maintain those relationships. We want to give you the information that you need to explain this in just as much as depth and with just as much confidence as we're explaining this to you. That's a very intentional goal and it's also a good reminder of why questions are so important. Please do think ahead to questions you might get and ask them here, so that way we can try to get you the information before you start to run into those questions out in the field.

Our agenda for today includes six topics:

- Why CNCS has moved to risk-based disallowance
- Ineligibility and Noncompliance. We'll spend some time differentiating between those two things.
- Expansions of Scope
- Mitigation Ratings
- Calculating Disallowance
- Implementation Details

We'll try to talk about all six of those things in these 90 minutes and we're going to start with "Why Risk-Based Disallowance?"

(7:35)

[I. Why Risk-Based Disallowance?]

As many of those on the call now, we had what's called an Assessment Period late in 2014 and that's where our story starts, with that Assessment Period, when CNCS asked all of its grantees to review all of their criminal history check files, and, if anything was out of compliance, to bring it into compliance, to document that, and to report it to CNCS. If a grantee did all of those things, there would be no cost disallowance for those mistakes, for the mistakes that they found in this Assessment Period. That happened in 2014, and then what that was followed by was an Enforcement Policy adopted here at CNCS in Spring of 2015 that said, "Ok, now that you have had this opportunity, now that all of our grantees have had this opportunity to review their criminal history check files, and bring them into compliance, it is time for strict, consistent enforcement." That's both because there was this opportunity earlier and also because there were some broader changes in the world of federal grants management generally, where there is a greater emphasis on accountability. We really wanted to set a standard of consistent accountability. We formally committed to that in this policy that stipulated that cost disallowance would be the standard penalty for CHC noncompliance. Many of you on this call will not regard that as new.

Many of you on this call will have known that cost disallowance was the enforcement mechanism used for CHC noncompliance in the past. In adopting this as policy, we have raised it to a new standard of accountability and consistently. But it left some details out. What it left out were the details of how that disallowance would work. Those of you who have run into some of these scenarios will know that disallowance is not always a straight-forward thing. You need to know what to disallow, you need to figure out what time period things will be disallowed for. There is a lot of how-to that goes into that, and we here at CNCS incorporated that kind of guidance into an Interim Disallowance Guide and what that Interim Disallowance Guide said basically is that disallowance would be a function of two things: compensation, or probably more appropriately termed the amount charged to a grant; and time.

Specifically, what it said is if there is CHC noncompliance, the way you find out what to disallow is to take an individual's start date - the date they started on the grant - and the date that they came into compliance, and then you disallow all associated costs for that period of time. Let's say an individual started January 1st, 2013, and they didn't come into compliance until January 1st 2014 - you are going to disallow all associated costs for that one-year period.

Now that led to some things in implementation pretty quickly. First of all, we realized that those calculations can be quite burdensome. It's simple enough when you're dealing with an exact year, but what if you're not dealing with a year? What if you're dealing with pro-rated pay periods? It's simple enough when you're dealing with staff who are receiving a regular salary, but what about when you're dealing with members that may be stipended, that may have different hours in different weeks? All of these complications can lead to some very, very difficult calculations. In addition, it can lead to some large amounts very quickly, and I know those on this call will not be surprised by that, but if there is a staff person that is out of compliance, those amounts can escalate very quickly. A staff person may be charging \$40,000 to a grant in a year, and if they're out of compliance for a year then you get \$40,000 - \$80,000 for two years - disallowed very quickly. And finally, it wasn't commensurate with actual risk. We know that our members are largely the ones that interact the most with vulnerable populations. However, the way the system was set up, your actual access to vulnerable populations did not reflect the disallowance, nor did the risk that an actual organization was putting those vulnerable populations in. Instead, what really determined the disallowance amount was what they were charging to the grant, which is generally larger for staff, a group that we know is generally having less frequent access to vulnerable populations. So in that sense, it was leading to some outcomes that we did not think we aligned with our goals.

(11:59)

That led to some things here at CNCS. It led us to rethink our approach. We wanted a system that was risk-based, and not cost-based -- I do see a question, "Will the PowerPoint be available as well?" Yes, it will be. Sorry, that question came through via Skype, I just want to answer it quickly, so that everyone is not diligently trying to take notes. Yes, the PowerPoint will be available after this call.

We also wanted a system that recognized that not all noncompliance is the same. Noncompliance is not binary. It does not make sense to have the same enforcement system for an organization that has not attempted to do anything as it does for an organization that actually has taken several important steps to protect the vulnerable populations that they work with, and has maybe just missed a detail along the way. Our old system did not allow for that kind of granularity. It was very black and white.

We wanted to decrease the burden of calculation because we know not only are all our staff here at CNCS doing this, but you in your commissions are doing this. We have other grantees, for example, Social Innovation Fund intermediaries, that are doing this. We wanted something that can be scalable and consistently implemented.

So we were looking for a system that better fit that goal, and finally we thought that these large disallowances ultimately undermined our goals, which are compliance and of course supporting national service. What you see if you have the Skype presentation open right now is a graph to the right of the slide on "Prospect Theory." [Editor's Note: This is on Slide 6 of the presentation available at <http://www.nationalservice.gov/resources/criminal-history-check>.] What this graph is trying to capture is that psychologically, research shows that relatively penalties can have big psychological effects. In

other words, a relatively small disallowance could do quite a bit to motivate compliance. That's what you see in that steep drop to in the S-curve right next to the axis. However, as those penalties get larger, you're actually getting diminishing returns in terms of psychological impact, and that's what you see where the S-curve flattens out as you go back towards the loss side of that graph. The idea there is that a \$5,000 disallowance, for example, have pretty significant psychological impact in terms of motivating compliance, but as you increase that amount from \$5,000 to \$50,000 or \$500,000, you're not getting a ten-fold or a hundred-fold increase in compliance. You're getting diminishing returns, and, in addition to that, you're starving our grantees of resources that they need to actually get into compliance to begin with, and that's not what we want. We want them to get into compliance and we want them to continue the vital work that they're providing to their communities. So we're looking for a system that balanced those things.

(14:41)

The result of that is what you see in this Disallowance Guide. The slide that you see on the screen right now is just a more PowerPoint-friendly version of what you will see on pg. 4 of your Disallowance Guide. [Editor's Note: This is Slide 7 of the presentation.] Again, if you haven't already gotten it available, I highly recommend having the Disallowance Guide handy. It was in the email that invited you to this meeting. You can also find it on our Knowledge Network page.

This chart is the key to this system. What it says is that CNCS will now use two variables and only two variables to determine what to disallow in the case of CHC noncompliance. Those variables are the steps an organization took to protect vulnerable populations, and that's what you see in those three rows to the left: "Substantial Mitigation," "Moderate Mitigation," and "Low Mitigation." As you see, if you have your Disallowance Guide handy, those three levels have very specific definitions and we'll talk about those definitions. I don't want to get into them right now. Right now, just tuck it away in your mind as different levels of safety. "Low Safety," "Moderate Safety," "High Safety." And the more that you do to protect vulnerable populations, the less your disallowance amount will be. The other variable is the extent to which noncompliance appears in your entire portfolio, and that's what you see in those two columns. There is a less than or equal to 50% column and a greater than 50% column. The idea that this is trying to get at is, "Is this a systemic issue, or an isolated issue?" and that the disallowance amount is greater if this is a systemic issue, which we have defined as appearing in over half of the portfolio.

So disallowance is not based on time now. It's not based on the amount you charged to your grant. It's just based on these two variables, the steps that you have taken to protect vulnerable populations, and the extent to which your portfolio is out of compliance generally. We're going to use an example to help us think through that.

(16:50)

Our example is Serve America. I just made that name up - apologies if it does echo the names of any actual organizations that you may know. It's intended just to be straw man for the sake of saying something other than Organization A, and we've got some details here. [Editor's Note: This is slide 8 of the presentation.] Don't pay attention to the chart on the right of the screen right now, and if you're not following along via Skype, we'll walk through what we see. First, we've got some data about a sample organization and if you are not on the Skype presentation, maybe you want to jot some of these facts down. Serve America, this organization, has 20 individuals in covered positions, including two staff people and 18 members. You are on a site visit and the first file that you review is that of a Program

Director, who is charging \$50,000 to the grant. Their start date on the grant is September 1st, 2013. This individual has no access, and the NSOPW was on-time, but they have a noncompliant vendor check, which we know is pretty common. Vendor checks are a frequent source of noncompliance with the NSCHCs. Upon further review, all files have the same issue. In other words, all 20 files look exactly the same as this particular file. We've just said that to make the math a little bit simpler.

So we have that constellation of facts. Let's look at how we would address that in the old system, which is what we see in the column to the left of the table on this slide. The first thing that you would do is identify the start and end date. We're assuming that we identified this noncompliance yesterday, so the start date was September 1st, 2013, and this individual came into compliance on September 1st, 2015. We've got our start and end dates. Now we need to calculate all the costs associated with that individual during that time. We stipulated that this individual was charging \$50,000 to the grant. They're out of compliance for two years, so \$50,000 times 2 is \$100,000. And then you would review additional files. We've already done that and said that they're all the same. Now, the compensation might not be the same, so you're not going to wind up with that \$100,000 figure, but we know that \$100,000 would be your minimum, just based on this one file, and then you're going to be disallowing more in addition to that based on the members. There's another important point that's not up here, which is that you would have disallowed member hours as well under this system. So you're disallowing member hours, which means that there are implications for the education award, there are lots of other implications in addition to just these dollars.

Now let's look at how that's different for the new system. For the new system, your first step is to identify the Mitigation Rating, to find that level based on the chart that you'll find on pg. 4 of the Disallowance Guide or that you'll see on the screen right now. You'll just have to take my word for it right now, but the situation I described would probably be a case of "Moderate Mitigation. We'll talk more about that a little bit later. So we've got our first variable. Next you review the entire portfolio and determine the extent of noncompliance. Well, here we've defined it as 100%. We've said, let's assume all these files have the same issue. That means you're going to go back to your matrix, and you're going to use the larger of the two numbers associated with "Moderate Mitigation," in this case, \$1,000. And you just multiply that by the total number of files you find in that category. \$1,000 x 20 is \$20,000. Now that's still a large amount, but this is an issue of systemic noncompliance. This is an organization that had a large problem throughout its entire portfolio. You can imagine how if this was just a one-off case, if just one file was done incorrectly, you're looking at a much smaller disallowance amount, just \$1,000. In addition, though it is \$20,000, that's still far less than the \$100,000+ that we would have wound up with under the old system, and in this system, you're not disallowing hours, you are only disallowing this set amount per file. This is a per-file disallowance amount.

(21:04)

We're going to talk about the difference between ineligibility and noncompliance right now, but before we do that, we want to pause and take some questions. We've just gone over a lot of information in a very short time. Because this is a very new system and because this is very different than what CNCS has been doing to-date, we want to pause and try to get some big-picture questions. We will talk about the mechanics of how you're supposed to do this in a lot of depth, we'll talk about mitigation ratings, we'll talk about how you get a sense of the overall portfolio, but right now, I want to pause to see if there are any big-picture questions about CNCS' motivations, about how this system affects you as Commissions, or about how these variables interact. Jeremy, if it's possible, could we start to take questions?

[O]: If you would like to ask a question, please press star-1 and record your name at the prompt. We ask that you record your name so that your question can be introduced. To withdraw your question, you may press star-2. One moment for the first question. The first question in queue is from Margie Hughes. Your line is open

[Margie]: Hi - I am looking through the guide, and when does this go into effect? Is it retroactive to when the Assessment was done, is it going forward to a certain date?

[BC]: That's a great question. Thanks very much for that. The policy itself when into effect August 20th. However, it should be applied retroactively. It should be applied to all noncompliance post-Assessment Period. Now, to the extent that maybe there's an action that has been fully completed, costs have been disallowed prior to this, I would bring that to your Program Officer's attention, but the intention is for this to apply to all post-Assessment noncompliance.

[Margie]: Thank you.

[BC]: Thank you.

[O]: There are no other questions in queue at this time.

[BC]: I do see two on Skype, the first one from Jaclyn Kolar. "Is CNCS considering applying this risk-based disallowance to all issues of noncompliance?" I am not aware of any plans to do that. I don't think that's the case. Certainly, Jim and I can't speak to what everyone is thinking at the Corporation, but to the extent we are aware, that's not the case. This is limited only to criminal history checks right now.

I see another question here from Mark Holtzappel. "Is the disallowance all federal? For members, what budget line? The stipend?" That's an interesting question. The idea behind the disallowance is that it's actually not tied to a particular budget line. Instead, it is just a baseline amount for each file. That's because it's not related to the costs that are being charged to the grant. So in that sense it's not tied to a budget line. We will talk about how it will interact with the federal amount a little later, but that's a separate topic.

[JS]: If, for example, a budget line item had member stipends and that was the line item that you were going to disallow, and let's say it was on the grantee side vs. federal, that wouldn't matter in this case. The amount would still be disallowed.

[BC]: Hopefully that answers our questions on Skype. Jeremy, do we have any additional questions queued up?

[O]: We do have one additional question. The next question is from Kat Keane. Your line is open.

[Kat]: This is Kat Keane from Volunteer Florida, the Florida Commission. Thanks so much for this webinar. It's very interesting. Very helpful. Just a quick question about NSOPW checks. We have a pretty comprehensive system at the Commission to review the three-part background check for every grantee member and staff every year. Every once in a while, there is still a day or so that is missed with an NSOPW check with a member or staff. How does that fall within the mitigation amount? I'm looking at the document and I'm not sure I see where something like that would be captured.

[BC]: I just want to make sure I understand the question. Is your question how the amount to which an NSOPW is late would affect this? In other words, is it different if it's late a day vs. two weeks? Is that the gist of the question?

[Kat]: Right, because previously we would just recapture costs, period. Whether it was a day, a week or a month, all those costs would be recaptured. What's the difference now, with the new scenario?

[BC]: Well the difference now is that time actually does not matter at all. Time has been removed from the equation. A late NSOPW is a late NSOPW. And while we recognize that this might mean in some circumstances, you are going to wind up with greater disallowance amounts, we don't expect that to be the case in most circumstances. And in addition what we're really trying to do is focus on risk. So for the purposes of this guide, a late NSOPW is late, regardless of how late it is. At that point, you know it's noncompliant and you'll take some other steps to move to the mitigation matrix. We'll talk about how having that in your file can reduce the disallowance amount. In other words, late is different from absent, but late is late. Particularly for the NSOPW, that's some that we here at CNCS will insist on because it is a free, instant, online search, so the NSOPW must be complete before the start of hours without exception. Does that answer your question?

[Kat]: Yeah, in some ways it does, thank you.

[BC]: Jeremy, are there any other question?

[O]: I'm currently showing no other questions at this time.

[BC]: Okay, great. That's also a good reminder to me to mention that during these 90 minutes we might not have a chance to talk very much about the requirements in general. We know that there are always questions about those, but to the extent that some of those questions come up, we may defer them to a later date to really focus on the Disallowance Guide.

We're going to now start walking through some specific pieces of this, to make sure that we all understand what is in here.

(27:37)

[II. Ineligibility and Noncompliance]

The first thing that we're going to talk about is the difference between ineligibility and noncompliance. This is on pg. 1 of the Disallowance Guide. This is likely just a reminder for many of those on the call. What we want to stress is that ineligibility has a very specific definition for the criminal history checks. Four categories of individuals and only four categories of individuals are ineligible when it comes to criminal history checks: those who are registered or required to be registered as sex offenders, those who have been convicted of murder, those who have refused to consent to the checks and those who have provided false statements in connection to the checks.

If you come across an ineligible individual while monitoring, the enforcement actions are very different than what's discussed in this document and what we'll be talking about for most of today. If you come across an ineligible individual, you must direct the grantee to immediately remove them from work or service, report it to CNCS immediately and the eventual enforcement action will be a full disallowance of

costs. And that's because these four categories of individuals are prohibited by law from working or serving in a CNCS program. The Serve America Act has specifically said these four categories of individuals cannot receive a salary, stipend, living allowance or education award from CNCS. That's the whole basis of our entire criminal history check system, and, as a result, these costs would be literally unallowable. These are unallowable costs and the enforcement action that goes with them would be a full disallowance.

That's different from what we've included in our central box here, if you're following along via Skype, which is noncompliance. [Editor's Note: Slide 9 of the presentation.] That's really what we're going to be talking about today, and that's failure to conduct the checks, failure to conduct them in a timely manner, failure to perform accompaniment when it is required, and failure to document that you have done any of this. It's also failure to do anything else that is included in our core CFR provisions, which are 45 CFR 2540.200-207. That's where the criminal history check requirements are set out, but what we see most often are missing checks, late checks, accompaniment that hasn't been documented and other kinds of insufficient documentation. That's where this guide comes into play. If you come across one of those examples, you're first going to take corrective action - first, direct the grantee to correct whatever the problem is - and then the appropriate enforcement action would be risk-based disallowance, the system that we're going to talk about today.

We should also distinguish that from another category of CHC issues, which we've called "poor practice." "Poor practice" isn't a formal term, it's not defined anywhere, what we're trying to capture is the kind of administrative errors that may result in cases of noncompliance, but is not noncompliance in and of itself. The classic example of this is poor policies and procedures. If you're on a monitoring visit and you come across a grantee that has policies and procedures that need updating, that need fixing, of course you're still going to take corrective action, but you would not disallow costs based on that. That's only a cause for corrective action. So there are these three categories and what we'll be talking about today is noncompliance, which is missing, late, or incorrectly completed checks. We'll do a couple examples to make sure we understand these.

(31:26)

Example #1 you will see if you are following along via Skype. [Editor's Note: Slide 10.] If you aren't, I will read it out. "An organization conducted no part of the CHC process on an individual. After initiating the required checks, it is discovered that one individual in a covered position had been convicted of murder many years ago. Is this ineligibility, noncompliance, or poor practice?"

Think about that for a second and if you're participating via Skype, go ahead and enter your answers. I'd love to see people's answers as to which category this falls in, based on what we just discussed. [Pause.] I see "Ineligibility" beginning to fill up the screen. That is correct. It also actually happens to be a case of noncompliance because the organization conducted no part of the checks. I see we had someone just say "all three." That is correct, you could really go deep in this. Of course the key concept that we're trying to highlight is ineligibility. And if that's the case, what would the appropriate enforcement action be? There are a couple of things you could say. We identified a couple of items that you need to do when you come across an ineligible individual. What are those? Again, if you're following along on Skype, go ahead and venture some answers in the chat box. [Pause.] Great. I'm seeing "Remove the member from work or service," "disallow costs." Please also report it to us at CNCS. An important detail is disallowing all costs. I also see someone reminding us that corrective action is always required. Yes,

corrective action is always required. They are absolutely right. The first action you need to take is get that grantee into compliance, and we'll talk about that a little later.

We're going to talk about Example 2 on the screen as well. "A search of the NSOPW was completed prior to the start of an individual's service. However, a registry was not reporting at that time, and the grantee did not fill the gap by re-running the search or going to the state registry. After instituting corrective action, it is confirmed that the individual is not registered as a sex offender. Is this ineligibility, noncompliance, or poor practice?" Let's go ahead and if we're on Skype, go ahead and venture our answers. I see noncompliance and poor practice filling up the screen. It's definitely noncompliance and it's also an example of poor practice. This file would be noncompliant, which means you would implement risk-based disallowance, which is what we're talking about today, and, of course, it's also poor practice. As we're seeing, noncompliance is often accompanied by poor practice. Poor practice is probably the #1 cause of noncompliance, but they are separate things. You can see poor practice without noncompliance, strictly speaking. We highlighted this intentionally because it is explicitly stated in the Disallowance Guide, that an NSOPW with state registries not reporting is noncompliance. This is the kind of question that has sometimes seemed to fall into a great area, as to whether it just required corrective action, or corrective action and cost disallowance. Now we've made it explicit - risk-based disallowance is required in those scenarios.

We're going to move on to a very important point about noncompliance, which is noncompliance in the Assessment Period. What the Disallowance Guide does - and it goes into depth about this on pg. 3 - it has some language specifically about the Assessment Period. What the Disallowance Guide says is that whether or not an organization has...that the way you take into account the Assessment Period is through one simple question: "Did the organization correct all missing or incomplete checks?" That is the key to compliance and noncompliance after the Assessment Period. In other words, if you are on a monitoring visit and you are reviewing files that have been serving since before the Assessment Period, what you are looking for are correct checks that have been corrected prior to December 2014. Prior to that Assessment Period close date, those checks need to have been corrected by that time. If they have been, that is a compliant file. If they haven't been, that is a noncompliant file. It's very simple. It doesn't matter if an organization went through, counted everything, reported it to you and you reported it to us. All that matters is whether those checks were corrected. We tried to boil down the Assessment period to one very simple question.

(37:27)

[III. Expansion of Scope]

The next item we're going to talk about is expansion of scope. Expansion of scope is talked about in-depth on pg. 2 of the Disallowance Guide. If you want to look at pg. 2, there's a lot of information here. If we go back for just a second to our matrix, we'll see that the matrix requires some knowledge about the organization's overall compliance. We've got these two columns: less than or equal to 50% or greater than 50%. So to use this matrix, we need to know how well is the organization doing generally? And the expansion of scope really tries to answer that question. It does it by saying that if you find two or more noncompliant files, you then need more information. You need to review all the rest of the files of that organization. We'll talk about some ways to complicate that in just a second, but the basic requirement is that after you find two or more noncompliant files, you must expand the scope of review. That's the term that we're using for review more files: expand the scope of review.

We've got several key points to note about how you actually do this. [Editor's Note: Slide 12.] First of all, what we're recommending as the standard, what your baseline is, all currently serving covered positions. So when you're expanding that scope of review, you find these two noncompliant files, you know you need to review more files - how many more? Your first thought is all currently serving covered positions.

However, in some cases, this Disallowance Guide lets you use your professional judgement to either expand or limit the scope of review in a way that's different than all currently serving covered positions. Let's think about when that might make sense. When might we expand the scope of review beyond all currently serving covered positions? Well, the purpose of this whole expansion of scope, the purpose of the matrix, is to try to base our disallowance on an accurate picture of the organization's overall compliance. So if we find an example where all currently serving covered positions is not an accurate representation of the organization's overall portfolio, then we might want to expand our scope of review a little further. A great example of this is a summer-only program, where during the summer you've got a couple staff people and some members. But you do your visit in October, and, just because of the timing, the only quote-unquote "currently serving covered positions" are those two staff members. Well, that's probably not a very accurate representation of their overall compliance. So in that case, you have a pretty good justification for expanding that scope of review beyond that baseline, beyond all currently serving covered positions, and reviewing those member files as well. When you do that, you should document your justification as to what you did that.

In some cases, it might also make sense to limit the scope of review. You might limit the scope of review when you have reason to believe that the noncompliance that you found is limited to a certain subset of the population. The classic example of this is if you are reviewing a site that has some staff and member files. The member files are all great. Everyone started on onboarding day, everyone went through the same process, they are 100% in compliance. But then you look at the staff files and you see a systematic error. Well in that case you've probably got a pretty good reason to assume the issue is really with their treatment of staff. In that case, it would make sense to limit the scope of review to staff only, and this document gives you the authority to do that, as long as you document your justification.

Now there is one case that is not a very good reason to limit the scope of review, and that is if there are just a lot of files. Let's say you are monitoring a program and there are 400 files. Well, that's a lot of files and we understand that you, yourself, as a Monitoring Official may not be able to review all of them, but that, in and of itself, is not a substantial reason to limit the scope of review. Instead, you'll use what you see here on the screen as the third bullet, under "Monitoring Officials may." You can direct the grantee to do that review for you. So you're still getting all that information, you're still getting an accurate picture of the portfolio as a whole, but you're sharing the labor with the grantee. One word of caution on this. It might not always make sense to do it in a clear, directive way. For example, if you have reason to believe that the grantee just isn't very strong in their understanding of the requirements, then it probably doesn't make sense to ask them to review 400 files. Instead, you might ask them to go review a sample, and then you check their work. That brings up a very important point that Jim just reminded me of, which is that if you use this and ask the grantee to do that review for you, you must verify results. That's just common sense. So you need to use some reasonable sampling methodology to verify the results they are reporting to you. So you have this lever there to help you with these cases of very large files. You also have reasons to expand or limit the expansion of scope, but, if you're going to direct the grantee to do it, make sure you verify the results that they report to you.

We're going to do a couple of examples here. [Editor's Note: Slide 13.] "You are on a monitoring visit to a program with 300 individuals in covered positions. The first two files you review are both noncompliant. What do you do next?" Well the first answer that comes to your mind is, of course, corrective action. Always that's your first step. The next step that you're going to do is, because you found two noncompliant files, an expansion of scope. You may choose to direct the grantee to do this because of this large number of files. Again, before you do that, you'll want to have some understanding of how well they can actually do it. You may ask them to do it in stages, and no matter what you're going to be verifying their work at the end.

Let's go to Example 2. "You are on a monitoring visit to a program with 100 individuals in covered positions, serving in groups of 20 at five different sites. You pull a sample of files from each site and review them site-by-site. You find that the first two files you review in Site 1 are out of compliance. What do you do next?" Well, again, your first step is corrective action, so you direct the grantee to correct those checks. You already have enough information to know that you'll need to do an expansion of scope in Site 1. You already know that you've got two or more noncompliant files in Site 1. What you don't know is Site 2, Site 3, Site 4, and Site 5. So you're probably going to move on to Site 2, and if you see that Site 2 is fine, you're probably going to move on to Site 3, and if you see Site 3 is fine, you're probably going to move on to Site 4, go all the way through. At that point, you probably know that you can limit the expansion of scope, if all of these other sites are compliant, to that first site. But you want to go through all of those sites first. If, however, you find that the issue is systematic, and is coming up in all of these sites, then you probably don't have a very good reason to limit the expansion of scope. You might be looking at a full expansion of scope to all currently serving covered positions. There's no information here that indicates we would go beyond all currently serving covered positions in this particular case.

This is one of the more complicated areas in this document, and it's one of the areas where Monitoring Officials - which is the term that we're using for our Program Officers, Grants Officers, the program officers at your organizations and others who are overseeing CNCS subawards - have some professional discretion, provided you have a reasonable basis for using it and that you document your decision.

(45:40)

[IV. Mitigation Ratings]

The next item we're going to talk about is mitigation ratings I do see some questions coming over Skype. We're going to hold those until our next questions section. Do feel free to put those in over Skype right now, while they're hot. We won't lose them, but we're going to just put them off right now, until we get to our next question and answer section. Right now we're going to talk about mitigation ratings and where we're going to start is with pg. 4 of our Disallowance Guide. We talked about these levels before, these three levels of mitigation: Low Mitigation, Moderate Mitigation and Substantial Mitigation. What we see in the bottom of pg. 4 is the definition of each one of these mitigation levels. Each one has a specific definition for individuals who have no access or episodic access to vulnerable populations and each one has a specific definition for individuals who have recurring access to vulnerable populations. In other words, they've got different standards. That makes sense, because we're trying to have a standard based on risk.

What these boxes say is what "counts" as mitigation. And it's important to note that mitigation is different from compliance. As you'll see when you read this document fully, there are some things that

count for mitigation that actually don't count for compliance. A great example of this is that some vendor checks are actually listed here as mitigation, but they may still be noncompliant. As we all know, a compliant vendor check would have to use the correct repositories in all of the states where these checks are run, all the timing requirements would have to be the same, and data would not be limited. If you don't see that, that file is still noncompliant. However, that noncompliant vendor check may still count as mitigation. It may still feed into this file receiving a higher mitigation rating, if it meets a couple of criteria. One is if it includes a nationwide search of state criminal history information and two is if it includes a nationwide sex offender check. There's more information about all of these, so please do read pgs. 5 and 6 of the Disallowance Guide, because that's where it spells out all of these things that can count as mitigation. You'll also notice that an NSOPW where state registries are down, which we just said is noncompliance, does count as mitigation. In other words, it does still count as something that makes the vulnerable populations that we are trying to protect safer. This system tries to recognize that.

However, the definitions that we here are very specific. In order to meet one of these ratings, a file needs to have a specific set of things. These are basically checklists. We're going to do an example to try to apply this to see how these ratings work. [Editor's Note: Slide 15.] "This file contains a completed, cleared FBI fingerprint-based check, which was completed prior to the start of work on the grant. However, it contains nothing else. This individual has recurring access to vulnerable populations. As the check was completed before the individual began work, however, he or she did not actually encounter any vulnerable populations until after the FBI check had cleared. What is the mitigation rating?" Ok, we're going to think through this together and we're going to apply the mitigation ratings together.

The first piece of information is that we have a file that contains a completed, cleared, FBI fingerprint-based check. Ok, great. That's good to know, and it looks like it was completed on time. It was completed prior to the start of work on the grant, so in that case it's actually completed before it needed to be, because the FBI check only needs to be initiated prior to the start of work. However, there's nothing else in the file. This individual has recurring access. That's very important information. And we also see that as the check was completed before the individual began work, he or she has not actually encountered any vulnerable populations until after the FBI check had cleared. The big upshot of that sentence is that accompaniment was not required. Accompaniment was required until the first of either your FBI check or your state checks clear. Well, here we're saying that an FBI check cleared before an individual even began working or serving, so accompaniment was not required.

Okay, now we're going to go to our matrix and our mitigation rating definitions on pg. 4 of the Disallowance Guide. The way I recommend doing this is always starting with the highest level. See if a file meets the highest level of mitigation, and, if it doesn't go down to the next one. So I'm looking at my mitigation ratings, and I'm going to use the right-column, because this individual has recurring access to vulnerable populations, and I see this individual would have to meet the requirements of 1, 2, and 3 to fall into this substantial mitigation category. Well, 1 is performed accompaniment is required. We just discussed that accompaniment is not required, so we met the requirements of #1. Let's go on to #2: Adjudicated a sex offender check before the individual began work or service. Well, if I read through this whole document, what I will see is that an FBI check actually counts as mitigation for the sex offender check, even if the NSOPW is missing. Because the FBI checks uses a similar process to search for registered sex offenders, it counts as mitigation. So actually in this case, because we have this completed, cleared FBI check, we satisfy the conditions of #2. Now we've just got one more, and that one more says "Initiated one of the following on time: a vendor check that included a nationwide search of state criminal history information OR a state of service or state of residence check OR an FBI fingerprint-based check." Basically we've got three options here to satisfy this last requirement. One of

them is our FBI check. So we have it there, and we have it in #2 as well. That's okay, we can have it in multiple places. So we've satisfied #1, because accompaniment was not required, we've satisfied #2 with our FBI fingerprint-based check, and we've satisfied #3, also with our FBI check. Therefore, this file has substantial mitigation. This means that you'll be working with that top row of disallowance amounts, above the mitigation ratings in your matrix, either \$250 or \$500 per file for this file. Then you'll be choosing between those two based on the noncompliance in the portfolio as a whole.

That's a fairly involved process. I do want to just take a moment to preview a job aid that we'll be making available. It's not quite cleared for use yet, but we do want to show it to our attendees. You should see some changes on the screen here, and the document that we want to talk about is this "CNCS Mitigation Rating Worksheet." [Editor's Note: This document is now available on the Knowledge Network at <http://www.nationalservice.gov/resources/criminal-history-check>.] It starts with some instructions. We won't spend time on that, but what it does, which is very useful, is it actually includes a checklist that you can use as you review a file, OR that a grantee can use, if you direct the grantee to review the file. [Editor's Note: Use the worksheet instructions for a thorough discussion of this tool.] It is not required. As we just discussed, you should be able to get to a mitigation rating without a tool like this. But it is a tool that we intend to make available to you, once we make it ready for primetime use by our grantees.

We've got one more example coming up, and we're just going to take a few minutes to think through this example. Have your Disallowance Guide ready. There's some information on the screen. I'll read it out for those who aren't on Skype. [Editor's Note: Slide 15.] "This file contains a vendor check. At first, it is not clear what the vendor check consists of. However, the grantee researches this question with the vendor and reports it contains both a search of nationwide criminal history information and a national sex offender registry check. It did not include checks of any designated state repositories. It was complete before the start of work. The file also contains a completed search of the NSOPW, completed on-time. This file contains nothing else. This individual has recurring access to vulnerable populations. What is the mitigation rating?" We're going to go on a mute here for a couple of minutes, and then we'll come back and talk about it. [Pause.]

(59:35)

Okay. So to take this example, what we're going to do, is we're going to start with our matrix and our mitigation ratings. We know that this file has recurring access, so it will be compared to the right column of our chart. We've got three requirements for Substantial Mitigation, because I recommend we always start at the top. "Was accompaniment performed if required?" Well, this example actually does not include any state checks and it does not include any FBI checks. Therefore, accompaniment would've been required for some period of time, but we are told it was not performed. So we already know this file is not going to meet the standard for Substantial Mitigation. As it turns out, there is an adjudicated sex offender check, which was included in the vendor check, and there was also an NSOPW. So you have two adjudicated sex offender checks. You'll notice that having two of a certain thing, as opposed to one of a certain thing doesn't help you. One adjudicated sex offender check is just as good as two adjudicated sex offender checks. And we also know that we have one of our third category, a nationwide search of state criminal history information. So we've got two of our three requirements. However, we don't have all three. So we move down the chart to Moderate Mitigation.

We see that Moderate Mitigation can be applied if we have an adjudicated sex offender check before an individual began work or started service. We do have that. We have an NSOPW that was completed on

time. We have an extra check as well, in the vendor check, but that's not really relevant. And we also know that we need one of these three things: a vendor check that included a nationwide search of state criminal history information; a state of service or state of residence check; or a fingerprint-based FBI check. As it turns out we do have one of those. We do have a vendor check that includes a nationwide search of state criminal history information. So we've satisfied option #1 under Moderate Mitigation. Therefore, this file has Moderate Mitigation. That means for the disallowance amount, you'd go back up to the top of pg. 4 and choose either \$500 or \$1,000 for this file, based on the overall compliance in the portfolio.

(61:53)

[V. Calculating Disallowance]

Now we're going to put all this together and talk about how you go from these ratings to an actual disallowance amount. We've tried to boil this down to a simple five-step process. [Editor's Note: Slide 16.]

Step 1: Calculate the percentage of noncompliance within your scope of review. Remember we have those two columns at the top of our chart. We need to know greater than or equal to 50%. So let's take a simple example. Let's say we've got ten files in our Scope of Review. Four are out of compliance. We need that percentage - four out of ten is 40%. So we go to our disallowance matrix and we see that we will be on the left column of the chart.

Step 2: Determine the appropriate per-individual disallowance for each category of mitigation. Well I didn't give us categories of mitigation, but let's say it's moderate mitigation. So we've got four noncompliant files with moderate mitigation, and we know, because we did Step 1, that it's in less than half the portfolio. Therefore, I look at my disallowance matrix on pg. 4, and I see moderate mitigation and less than 50% results in a per-file disallowance of \$500. With just those two pieces of information, I get a per-file disallowance of \$500. Note that you might find multiple types of mitigation in one review. So it could be two low mitigation files and two moderate mitigation files. If that's the case, you'll have two per-file disallowance amounts.

Step 3: Add it all together for what we're calling a "raw" disallowance. We'll use my simple example, our four noncompliant, moderate mitigation files. We used our matrix to find out that there is a \$500 per-file disallowance. \$500 times four is \$2,000. So I've got a raw disallowance of \$2,000.

And Step 4 is very new. Step 4 is described on pg. 7 of your Disallowance Guide. What this says is that if a grantee self-reports noncompliance, a Monitoring Official may reduce the disallowance amount by 50%. That is the expectation in most circumstances, that if the noncompliance is self-reported, you will reduce the disallowance amount by 50%. Now there is a specific definition of what counts as "self-reported" there. It's not good enough for this incentive, for an organization to quote-unquote "self-report" the day you show up for a monitoring visit. This has to be reported independently of any monitoring action. And you'll also see that there is specific documentation requirements of what you, as a Monitoring Official, should do when someone self-reports noncompliance to you. The idea is not that this will allow a grantee to get out of doing the checks, and get you to do them for them. The idea, however, is that if an organization is working to get into compliance, and they're monitoring their own issues, and they're putting themselves in a position to get into compliance, that's something that we want to encourage. That's why there's an incentive for this.

So, Step 4 of our process is assess if the case was self-reported. If so, you're going to reduce the disallowance amount by 50%. In our case, we had a raw disallowance of \$2,000. \$2,000 reduced by 50% would be \$1,000. [Editor's Note: Brian mistakenly said that he had a "raw" disallowance of \$4,000 in the original call, and thus used that figure subsequently. That error has been corrected in this transcript.]

Step 5 is also new: "Compare to the disallowance cap." On pg. 6 of the Disallowance Guide, you will see a heading that says "Disallowance Cap," and what this says is that as a general rule, CHC disallowance will be capped at 25% of the federal share. Now that's here at CNCS, 25% of the federal share. In your context, it would be 25% of your share, as Monitoring Officials. But that's the cap - that 25% cap. So let's pretend that our organization had a federal share of \$100,000. Well 25% of \$100,000 is \$25,000. That is far above what our disallowance was, which as \$1,000. Therefore, it's not relevant in this scenario. We're not going to implement the disallowance cap, but we could have if that ended up being lower than our calculated disallowance. Note that you only do this step after you review self-reporting.

There's another important piece to our disallowance cap, which is that the disallowance guide does have language that gives monitoring officials authority to go above the disallowance cap if it is warranted. Basically, if it does not support compliance. That's really trying to capture scenarios of gross noncompliance, where maybe a grantee is not being responsive, maybe a grantee is not doing the corrective action that you are requesting that they do, repeatedly. In those cases, monitoring officials do have recourse to go above the disallowance cap, but the expectation is that those will be very rare. In general, this is the five-step process.

So again let's do an example to make sure we understand this. [Editor's Note: Slide 17.] The scope of review included 50 files. All 50 of them were noncompliant, with 23 having low mitigation and 27 having moderate mitigation. The federal share was \$700,000. This was not self-reported. Calculate the disallowance.

Let's walk through our five steps. The scope of review included 50 files. All 50 were noncompliant. Step 1 is calculate the percentage of noncompliance. In this case, that's very easy - it's 100%. So we know that we're going to be applying the right-column of our disallowance matrix. Step 2 is identifying the per-file disallowance amount for each of our levels of mitigation. We've got 23 with low mitigation, and 27 with moderate mitigation. That means we're going to our disallowance matrix to see moderate mitigation for an instance with greater than 50% noncompliance is \$1,000 per-file. That's \$1,000 times 27, \$27,000. Then we also have 23 files with low mitigation, and that's \$1,500 per-file. Again, you find that by using your matrix - finding the low mitigation row and following across to the greater than 50% column - and you come up with \$1,500. So you're going to take \$1,500 and multiply it by 23. \$1,500 times 23 is about \$34,500. You add this to \$27,000 and you get \$61,500. So you're total raw disallowance would be \$61,500.

The next thing you're going to do is assess if the case was self-reported. This case was not self-reported. If it was, we would cut it in half. Then, finally, you're going to compare to the federal share. The federal share was \$700,000. 25% of \$700,000 is \$175,000. In this case, that's above our \$61,500. So we're going to be applying our raw disallowance. There's another example here. We're not going to have time to do that example together. But, when we share this PowerPoint, we will have answers there. I mentioned we also intend to share other job aids as well. We do actually intend to provide some exercises, more than just the ones we're doing here, with answers to help you work through these. Stay tuned for that. We'll let you know when those things are available. They're in the works right now and we hope to get

them out to soon. That way you can really practice and make sure you're putting this together. In the meantime, we will at least give you the answers to these exercises we see on the screen. [Editor's Note: These exercises are now available at <http://www.nationalservice.gov/resources/criminal-history-check> under the "Enforcement" heading.]

(69:59)

So we've talked about five of our six topics. We've talked about why we're doing risk-based disallowance, eligibility and noncompliance, mitigation ratings, the expansion of scope, calculating disallowance, and now we're going to talk about implementation. That's our last topic. One of these questions we've already picked up. We here at CNCS are implementing this approach immediately and we expect it to be implemented immediately across our portfolio. As I mentioned, it was effective as of the date in late August, but it is intended to be applied retroactively. Our expectation is that all prime grantees, including Commissions, will implement it as well. Certain areas will rely on your policies and procedures and state regulations. If you have read this document, you will know that it is pretty vague in some places. That's because it was written for a broad audience. It was written for our staff here at CNCS, as well as for Commission staff, as well as other groups, like Social Innovation Fund intermediaries. There's just too many audience for us to spell everything out. In some areas, for example, the issuance of monitoring feedback letters and payment request letters, you'll see that it really does rely on your own policies and procedures, so look out for those. Finally, this is still an interim document. It's titled that way intentionally. Feedback, questions and your continued use are crucial for us to refine this. We don't expect to make major changes. We do expect to refine it as early as 2016, the first couple months of 2016. We hope to put out a new version of this that clarifies some things, that maybe is clearer, that answers some of the questions that we are receiving now. Again, that underscores just how important it is that you continue to ask questions and apply this.

(71:46)

That's the end of our formal presentation. I think now we have some time for questions, so we'll take those. I think we'll actually start with the ones on Skype. The first question that I see on Skype...Actually, before we get into this, Jeremy, if we could invite our callers to queue up questions, and we'll start on Skype, and hopefully by the time we get through those questions, we can go to the phones.

[O]: Once again, if you would like to ask a question, please press star-1 and record your name clearly at the prompt so your question can be introduced. To withdraw your question, press star-2.

[BC]: Our first question comes from Volunteer Tennessee. "If you're monitoring an organization's files from a previous year, would the expanded scope include members who were serving in the period under review or members who are currently serving?" Jim's going to take this one.

[JS]: Yeah, basically the policy requires that you do currently serving members, but it does not limit you to including members or staff that served previously. So it really depends on the context of the program what you may need to do. In some cases, it's perfectly appropriate to look at previously served members or staff that may have departed.

[BC]: Great. Thank you, Jim. Our next question comes from Margie Hughes. Margie asks, "I have a monitoring visit, which I scheduled months ago. I used our current policy of random sampling to pick files to be reviewed. Do I now need to review all of the files per this direction?"

[JS]: Margie, no. You do not need to review all the files. You're not in a situation yet where you're expanding the scope. Our expectation of Commissions is that they would have some kind of sampling methodology. The sample size might be all possible covered individuals for a relatively small program, but we don't have a requirement like that. The expectation is that you set a sample size that's reasonable for detecting noncompliance. For State and National, we're using a sample size of at least 25 individuals, unless the sum total of all individuals is less than that. Ordinarily, we would be looking at least 25 staff and members. Auditors usually look at sample sizes of 45-50 or more as being a reasonable representation. We also are using different sampling methodologies in IPERA to detect noncompliance as well.

[BC]: Great, thanks Jim. I just want to add to that that everything we're talking about today is after you've found noncompliance. Nothing in this document changes anything about your general monitoring practices. To the extent that you're doing something that aligns with AmeriCorps State and National, you can continue doing what you have been doing in terms of your monitoring. What we're really talking about is enforcement - what happens after you find something wrong.

I see Debbie Futterman is asking if there is a suggested percentage of subgrantee files that a monitoring official should sample. We've kind of already discussed that. Jim, is there anything you want to add to what you've already said about the monitoring sampling?

[JS]: No, we don't have a particular percentage in mind. We have several sampling methodologies that we've looked into, which we've used to detect prohibited activities or other compliance issues, that we could also apply in criminal history monitoring, but in general our rule of thumb is 25 covered individuals.

[BC]: Great. Thanks. Our next question comes from Renee. "Will there be an appeals process for programs?"

There will be no appeals process. As I understand the mechanics of debt collection letters, they do lay out some different recourses available to grantees. I have to say that's not my area of expertise, but there is no formal appeals process available to programs. The intention is that this will be executed consistently.

[JS]: The only thing that I would say is that in the event of a natural disaster or some kind of event like that, where you go to conduct a monitoring visit and the building burned down with all their files in it, so there are no records that you could allow them to provide other evidence that they conducted the checks or something like that. That might be a basis of discussions.

[BC]: If you see a situation that is clearly extraordinary, that is clearly out of the ordinary, bring it to the attention of your Program Officer. Program Officers here at CNCS do have a certain amount of discretion for those kinds of scenarios. There are some mechanisms for those Program Officers to explore that, but in general the expectation is that there won't be appeals of standard monitoring findings. Jeremy, do we have any questions on the phone?

[O]: We currently have one question queued. Our first question is from Jaclyn Kolar. You're line is open.

[Jaclyn]: Hi Brian, this is Jaclyn from One Star Foundation in Texas. I had a couple questions for you. The first is for the Assessment Period. I know part of the requirements were that all checks were initiated before the period started. I'm wondering if, during monitoring visits, we come across checks that were not initiated before the Assessment Period, but they were corrected during the Assessment Period, if that counts as corrected? Do we care anymore about whether or not they were initiated before the Assessment Period?

[BC]: So for the Assessment Period, if they were initiated during the Assessment Period and we were talking about state or FBI checks, that would then be compliant, because the requirement for those checks is that they are initiated by a certain date. So if those checks were initiated during the period - and, again - I'm talking only about state and FBI checks - those would be compliant, even if they've taken a month or however long it takes for them to come back. They must have been initiated during that time period to be in compliance. Does that answer your question?

[Jaclyn]: Yes, thank you. Another question I had on the matrix. Under the Substantial Mitigation and recurring access to vulnerable populations, I just wanted to confirm the second bullet point under #3: a state of service or a state of residence check. So if a member requires both, they'll still fall into that category if they have either the state of service or the state of residence initiated on time. Is that right?

[BC]: Jaclyn, I think you touched on a good point there. So, first of all, for compliance, both are still required. So nothing's changed in terms of compliance. If you find that both aren't there, that would be a noncompliant check. In terms of mitigation, only one of those does count as mitigation.

[Jaclyn]: Ok. Only one is needed to count as mitigation.

[BC]: Only one is needed to capture that as mitigation, again, distinguished from compliance.

[Jaclyn]: OK, great. And then my last question is about other findings related to criminal history checks that may not be related specifically to any one of the components. I'm thinking in Texas, we have an ASP because we're not allowed to maintain the results of any checks. So part of our ASP is that the website and address of the repository needs to be listed. If there's some documentation pieces like that missing, how is that handled with this?

[BC]: That's a very good question. I'll be frank and tell you that it's hard to answer a categorical answer to that. We can think of lots of different scenarios and they could all be very drastically different. So you'll just have to excuse me if I say that I don't want to answer that question categorically. Instead, I'll have to say that we'll just resolve those questions as we come to them. Because there are many different things that could potentially file into that bucket that require corrective action only, so when we see those we'll just have to address them on a case-by-case basis.

[Jaclyn]: OK, thank you.

[BC]: No problem. Thank you.

Jeremy, are there any other questions on the line?

[O]: And we currently have one other question in queue. The next question is from Rowena Madden. Your line is open.

[Rowena]: Hi, Brian. How are you? Hi Jim. Two date-related questions. One is so we're saying that essentially this review and disallowancing applies starting the end of the Assessment Period, last December. Is that definitive?

[BC]: That's correct. If that seems odd, please bring it to the attention of your Program Officer, but, yes, that's correct.

[Rowena]: What was the thinking on that rather than applying it to this program year, since most of us are in the third year of a cycle, with Corps members ending? Was there any particular thought about doing it starting this fall?

[BC]: Well, this is a Corporation-wide approach. So not only AmeriCorps State and National, but AmeriCorps VISTA, Senior Corps, Social Innovation Fund, they're all using the same system, and it was developed and came out of a Corporation-wide approach. That's why we're doing this Corporation-wide implementation schedule. We realize it might not match up with every single program. In fact, it won't, because there are many different types of cycles, but it is a product of that broader process.

[Rowena]: OK. Then my second question is the date-related waiver for some of the states, like our state, where we don't have a repository that's willing to do that function for us. And we have a waiver through December 31st, 2015. What of our situation has now changed?

[BC]: Well, if you have the certification. If you're following that exemption - for those who might not be aware, there were some organizations that experienced a disruption in service of how they get FBI checks - if you fall into that category and you've been following everything we put out there, and your grantees have been as well, then you have nothing to worry about. You're not out of compliance. That exemption is still in effect until the end of the year. I have no information at this time that I can share to indicate if it will be extended or not, other than to say that if it needs to be extended, it will be. We'll still wait to see what happens between now and then. So that answers what you're doing generally. I didn't hear in that question a particular question to the Guide. Does that answer your question or was there something else you were looking for?

[Rowena]: That does answer our question. Thank you.

[BC]: Ok, great.

[O]: We do have one other question in queue. Caroline Cather, your line is open.

[Caroline]: Hi, yes. The question relates to the other steps that are required in the performance of background checks. I believe there is seven of them. For example, if a program fails to document that they did not review and consider the results of a check. That would fall under poor practice and corrective action would be required. It wouldn't trigger any disallowance. Is that correct?

[BC]: So again, that's a question I'm going to refrain from answering categorically. Because you can imagine that there are different versions of not reviewing the results. If you got an envelope and you just put it in a folder without even looking at it, that's one thing. It's a different thing if you've got all the checks there, you've followed all the steps correctly, and you're just missing a memo that says, "I considered all of this." So I'll refrain from answering that question directly and we'll take it on a case-by-

case basis. Certainly, small administrative errors that do not reflect the checks were conducted in a timely manner is the intention of that other bucket. Not everything requires cost disallowance, but I can't answer that categorically.

[Caroline]: Ok, thank you.

[BC]: I see one other question that has come through here over Skype from Robyn Harris. Does the temporary CNCS FBI certification replace anything on the matrix that says FBI check? The answer to that is no, it does not. The mitigation ratings are the mitigation ratings and they talk about what they talk about. There are multiple reasons for that, among them being that it's actually trying to capture real safety, what has been done. Also, certification does not really reflect any additional safeguards for vulnerable populations. We do realize that there may be some areas where that could move individuals from one category to another. The other things should remain consistent across individuals - the NSOPW, vendor checks which are often just a general organization practice, state checks - those should still all be in those files. This is also something we're going to look at over the first few months of implementation to see if this is having drastic effects. If we see this is a problem, that there have been some small subsets of individuals that have different sets of requirements that makes these mitigation ratings less relevant, we'll look at that. Right now, they should be applied consistently across all individuals, regardless of their requirements at that given time. Jeremy, are there any other questions?

[O]: I'm currently showing no questions in queue.

[BC]: Ok, great. I see that we are at the end of our time. It's 3:30. Thanks very much to everyone for joining us. We really do appreciate your engagement with this. Please do read the document in full. Please do come up with good questions to ask us, because we certainly need that. I just want to thank Jim Stone as well, for joining us here, and all of you for your continued hard work. We're going to drop off the line now. Thanks very much.

[O]: That concludes today's conference. All parties may now disconnect. Speakers, please stand by.