North Dakota State Commission

National and Community Service

AmeriCorps State Procedural Guide for Directors

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Program Year 2017-2018

North Dakota Department of Commerce
Workforce Development
Bismarck, North Dakota

Policy 1-56-15

Introduction and Disclaimer

This AmeriCorps Procedural Guide includes material from the Code of Federal Regulations (CFR), the AmeriCorps State and National Grant Terms and Conditions, the AmeriCorps State and the North Dakota State Commission Policies. This material does not supersede any of the requirements established by the Corporation for National and Community Service's regulations; the terms, conditions, of an AmeriCorps grant or cooperative agreement; or the standard federal requirements applicable to all federal grants that may not have been amended or presented in this procedural guide. The intent of this procedural guide is to provide a centralized resource for North Dakota State Commission monitored AmeriCorps grant programs, and is not intended to substitute for the official guidance provided by the Corporation. Don't assume that every AmeriCorps program question, concern and/or issue can be answered in this procedural guide. This procedural guide will focus primarily on areas of fiscal, programmatic and member management. The North Dakota State Commission representatives will continue to receive requests for additional guidance and if necessary, will forward these requests to our assigned Corporation Program and Grants Officer for assistance.

Order of Precedence

Any inconsistency in the Grant Award shall be resolved by giving precedence in the following order (a) applicable Federal statutes, (b) applicable Federal regulations, (c) CNCS General Terms and Conditions, (d) CNCS Specific Terms and Conditions, (e) the Notice of Funding Opportunity, (f) the approved Grant Application including all assurances, certifications, attachments, and pre-award negotiations, and (g) the North Dakota State Commission policies.

Corporation for National and Community Service: AmeriCorps Related Resource Links:

Corporation for National and Community Service

State and National AmeriCorps **State and National AmeriCorps FAQs July 30, 2014**

Evaluation Resources for Programs

Managing AmeriCorps Grants **Criminal History Background Check Resources**

Knowledge Network Resources

Code of Federal Regulations (CFR) **Federal Register**

Government Wide Requirements for Drug Free Workplace (Replaces CFR 45 Part 2545)

2017-18 Terms and Conditions

AmeriCorps Funding Notice and Resources FY 2017-18

Office of Management and Budget (OMB Guidelines)

The North Dakota State Commission can be contacted at:

North Dakota Department of Commerce
1600 E. Century Avenue, Suite 2
Bismarck, ND 58202-2057

ND State Commission Resource Links: **North Dakota AmeriCorps**
North Dakota State Commission Policies

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History of the Corporation for National and Community Service CNCS History

In 1993, the Corporation for National and Community Service (CNCS) was established to connect Americans of all ages and backgrounds with opportunities to give back to their communities and their nation. It merged the work and staffs of two predecessor agencies, ACTION and the Commission on National and Community Service. At its inception, CNCS was directed to manage three main programs:

- The newly created Senior Corps, which incorporated the longstanding Foster Grandparents, RSVP (Retired and Senior Volunteer Program), and Senior Companions programs;
- The newly created AmeriCorps, which incorporated the longstanding VISTA, the new National Civilian Community Corps programs, and the full-time demonstration program that had been established under the 1990 Act; and
- Learn and Serve America, formerly known as Serve America.

Today, CNCS serves more than 5 million individuals of all ages and backgrounds helping meet local needs through a wide array of service opportunities. These include projects in six priority areas: disaster services, economic opportunity, education, environmental stewardship, healthy futures, and veterans and military families through CNCS's core programs--AmeriCorps, Senior Corps, and the Social Innovation Fund.

CNCS is part of our nation's history of commitment to building a culture of citizenship, service, and responsibility.

History of National and Community Service in North Dakota

The North Dakota State Commission on National & Community Service provides opportunities for North Dakotans to engage in service that addresses the state's and nation's educational, public safety, environmental, and other human needs. The Commission seeks to foster civic responsibility, strengthen the ties that bind us together as a people, and provide educational opportunity for those who make a substantial commitment to service. North Dakota State Commission

The focus of the commission includes:

- Development of a three-year comprehensive national and community service plan.
- Administration and monitoring of the AmeriCorps State formula grant program.
- Technical assistance to local nonprofit and faith-based organizations and other entities in planning programs, applying for funds, implementing and operating high-quality programs, with the purpose of expanding roles and increasing capacity.
- Program development assistance and training.
- Recruitment and placement of AmeriCorps members.
- Assist in the provision of health and child care benefits to program participants.
- Coordinate activities with other state agencies and volunteer service programs.
- Coordinate awareness and educational activities designed to aid nonprofits and faith-based organizations in acquiring volunteer and financial resources.

Governor's Executive Order: Governor Jack Dalrymple's Executive Order

North Dakota AmeriCorps Projects 2017-18 Events/Reporting Calendar

October FY17	**2**	New project year begins for 2017-18 funded projects
	16	Final periodic expense report (September PER) due to ND state commission from 2016-17 funded projects
	31	Final 2016-17 performance & evaluation report due to ND State Commission
November	**TBD**	Town hall presentations for the FY 2018-19 AmeriCorps competition (presentation locations to be determined)
	15	October PER due from projects to the ND State Commission
	30	New 2017-18 Grant Performance Measures due to the ND State Commission
December	**12**	**Due date for submitting a Notice of Intent to the ND State Commission to apply for a <u>Competitive</u> AmeriCorps State and National FY 2018-19 Grant**
	15	November PER due from projects to the ND State Commission
	13	2018-19 AmeriCorps Formula Application Guides available
January	**12**	**Due date for submitting a Notice of Intent to the ND State Commission to apply for a <u>Formula</u> AmeriCorps State and National FY 2018-19 Grant**
	10	**FY 2018-19 AmeriCorps <u>Competitive</u> Grant Applications are due to the North Dakota State Commission for submission review and ranking**
	15	December PER due from projects to the ND State Commission
	15	Martin Luther King Day of Service
	17	**Due date for the ND State Commission to submit FY 2018-19 AmeriCorps <u>Competitive</u> Grant Applications to the Corporation for National and Community Service**
	31	First quarter Performance & Evaluation Reports due to the ND State Commission
February	**14**	**FY 2018-19 AmeriCorps <u>Formula</u> Grant Applications are due to the North Dakota State Commissions on National and Community Service**
	15	January PER due from projects to the ND State Commission
March	**15**	February PER due from projects to the ND State Commission
April	**16**	March PER due from projects to the ND State Commission
	30	Second quarter Performance & Evaluation Report due to the ND State Commission
May	**TBD**	Program review and evaluation of projects
	15	April PER due from projects to the ND State Commission
June	**15**	May PER due from projects to the ND State Commission
July	**16**	June PER due from projects to the ND State Commission
	TBD	Fiscal review and evaluation of projects
	TBD	Mandatory AmeriCorps training for Directors and Coordinators
	31	Third quarter Performance & Evaluation Report due to the ND State Commission
August	**TBD**	Grant administration and writing workshop in Bismarck, ND
	15	July PER due from projects to the ND State Commission
September	**11**	9/11 Day of Service and Remembrance
	17	August PER due from projects to the ND State Commission
October FY18	**1**	New project year begins for 2018-19 funded projects
	15	Final periodic expense report (September PER) due to the ND state commission from 2017-18 funded projects
	31	2017-18 Final performance & evaluation report due to ND State Commission

CHRONOLOGICAL GUIDE FOR ESTABLISHING MEMBER ELIGIBILITY

STEP 1: The candidate must complete and submit a **signed and dated application** to the AmeriCorps Program. ***(The application date must precede steps 2 - 10)***

STEP 2: The candidate's application is reviewed and selected to be **interviewed.**

STEP 3: The successful candidate is informed that she/he has been selected to **participate**, however, orientation, training and service cannot begin until all eligibility criteria are reviewed and successfully met.

STEP 4: **Citizenship eligibility, age and photo identification is certified in writing** from the review of certified original primary citizenship documentation and government issued photo IDs by the AmeriCorps Program authorized representative. ***The State Commission requires that a copy of the citizenship documentation and government issued photo ID be made. (The reviewer's verification signature date must precede steps 5 – 10)***

STEP 5: Conduct a National Sex Offender Public Website (NSOPW) check to see if the candidate has a clear record. Document the results with a dated screenshot or dated screen print showing 'no hits found' results for all states and for hits found, signing each hit to document that it was reviewed and determined not to be the candidate. (see Criminal History Check Procedures Form)

STEP 6: The candidate reviews, signs and dates the **member agreement** and documents their awareness of the service terms/conditions of the AmeriCorps position and other notifications and restrictions. The candidate also provides certifications, elections and authorizations regarding high school attainment, publicity release, AmeriCorps pledge, health care and child care support elections, loan forbearance awareness and criminal history check authorization/consent. ***(The member's signature date must precede or be the same as the program representative)***

STEP 7: The member/applicant completes the **National Service Trust Enrollment Form** in the My AmeriCorps portal. The My AmeriCorps portal will verify citizenship through the Social Security Administration. In the event the My AmeriCorps portal cannot verify citizenship, the program must maintain copies of the original primary citizenship documentation used to determine U.S. citizenship

STEP 8: **Criminal History Check (CHC) Procedure: Written authorization from the candidate is required to conduct the CHCs. If your program policies/procedures require securing authorization prior to the completion of the member agreement (step 6), then the CHC procedure could be initiated right after step 5 and before step 6.** The AmeriCorps Program must document the date the CHC was initiated for each type of check conducted (shown below) and the date in which the cleared results were received. ***(The initiation of CHCs must precede the member/applicant's eligibility to begin service, orientation or training)***

- ✓ State criminal history background check for member/applicants living in North Dakota
- ✓ State criminal history background check(s) for member/applicants not residing in North Dakota and serving in North Dakota
- ✓ FBI fingerprint criminal history background check

STEP 9: While the **CHCs are pending** the member/applicant can begin orientation, training and service. During the CHC pending period, the **member/applicant must be accompanied** by an authorized representative who has a clear CHC, during direct service to vulnerable populations. Each accompaniment session must be documented (also signed by the person providing the accompaniment) on the member/applicant's timesheet.

STEP 10: Once the AmeriCorps programs receives **cleared CHC results** from all state(s) or the FBI, the member is **clear to serve without accompaniment.**

Table of Contents

(Note: Some Code of Federal Regulations (CFR) topics are not discussed directly in this procedural guide, but can be reviewed in their entirety at their electronic code of federal regulations web link source)

Section 1: North Dakota State Commission Procedural Guidance for Programs **Page**

A. Grant Award Conditions..... 10
B. Fund Management Developmental Procedures for AmeriCorps Program..... 10
C. Allowable Costs..... 15
D. Training and Orientation..... 15
E. Travel Costs..... 16
F. Procurement and Purchasing Procedures..... 16
G. Budget Provisions and Compliance..... 16
H. Match Requirements..... 17
I. Budget and Programmatic Changes..... 18
J. Project Fiscal Procedures Relating to Payments and Reimbursements..... 19
K. Monitoring..... 21
L. Project Evaluation..... 24
M. Documentation of Member Eligibility and Service..... 25
N. Project Performance Reporting..... 29
O. Audits..... 30
P. Record Retention and Destruction..... 31
Q. Codes of Conduct for Employees Engaged in the Award and/or Admin of a Grant..... 31
R. Grievance Procedures..... 32
S. Other..... 32
T. Close Out of Grant..... 32
U. Delegation of Authority to Program Management Staff (AmeriCorps)..... 32
V. Potential Problems to Avoid..... 33

Section 2: **CFR - General Provisions: AmeriCorps Subtitle C Programs –** definitions, purpose, service, capacity building, volunteers, fund raising, education, training collection of fees, staff fund raising and prohibited activities
CFR 2520 to 2520.65

ND State Commission Introductory Comments and Guidance..... 35
Code of Federal Regulations, Corporation Provisions, and ND Commission Inserts..... 36

Section 3: **CFR - Eligible AmeriCorps Subtitle C Program Applicants and Types of Grants Available for Award**

Eligible Grant Recipients/Matching Requirements..... Link
CFR 2521.5 to 2521.95

Section 4: **CFR - AmeriCorps Participants, Programs, and Applicants**

Subpart A: Minimum Requirements and Program Types..... Link
CFR 2522.10 to 2522.110

Subpart B: Participant Eligibility, Requirements, Enrollment and Benefits
ND State Commission Introductory Comments and Guidance..... 41
Code of Federal Regulations with Corporation Provisions and ND Commission Inserts.... 42
CFR 2522.200 to 2522.250

Subpart C: Application Requirements for AmeriCorps Grants/Education only Grants…….. Link
CFR 2522.300 to 2522.340

Subpart D: Selection of AmeriCorps Programs, Process/Factors & MSY calculation
ND State Commission Introductory Comments and Guidance…….. 52
Code of Federal Regulations with Corporation Provisions and ND Commission Inserts….. 53
CFR 2522.400 to 2522.485

Subpart E: Evaluation Requirements—Performance and Program Evaluations……. Link
CFR 2522.500 to 2522.820

Subpart F: Program Management Requirements for Grantees…….. Link
CFR 2522.900 to 2522.950

Section 5: CFR - Agreements with Other Federal Agencies for the Provision of AmeriCorps Program Assistance

Eligibility and Usage Relating to Grant Funds by other Federal Agencies…….. Link
CFR 2523.10 to 2523.120

Section 6: CFR - AmeriCorps Technical Assistance and Other Special Grants

Technical Assistance/Training and Guidelines for Other Special Grants…….. Link
CFR 2524.10 to 2524.50

Section 7: CFR - National Service Trust: Purpose and Definitions

What is the National Service Trust and Definitions of Terms…….. Link
CFR 2525.10 to 2525.20

Section 8 CFR - Education Awards – Eligibility, Amounts, Usage, Accrued Interest and transfers to others
CFR 2526.10 to 2526.70

ND State Commission Introductory Comments and Guidance…….. 56
Code of Federal Regulations with Corporation Provisions and ND Commission Inserts….. 57

Section 9: CFR - Purposes and Availability of Grants for Investments for Quality and Innovation Activities

What are the Purposes and Funding Priorities…….. Link
CFR 2531.10 to 2531.20

Section 10: CFR - Innovative and Special Demonstration Programs

Military Conversion, Special Demonstration and Other Innovative/Model Programs…….. Link
CFR 2532.10 to 2532.30

Section 11: CFR - Technical Assistance, Training and other Service Infrastructure Building Activities

Eligible Activities……Link
CFR 2533.10

Section 12: CFR - Special Activities

National Fellowships and Presidential Awards..... Link
CFR 2534.10 to 2534.20

Section 13: CFR - General Administrative Provisions

Subpart A: Requirements Concerning the Distribution & Use of Corporation Assistance..... Link
(Supplantation, Religious use, Political Activity, Contracts/Collectively Bargaining, Nonduplication, Nondisplacement restrictive guidance)
CFR 2540.100 to 2540.110

Subpart B: Requirements Directly Affecting the Selection and Treatment of Participants
(National Service Criminal History Check Guidance)
ND State Commission Introductory Comments and Guidance..... 62
Code of Federal Regulations with Corporation Provisions and ND Commission Inserts..... 63
CFR 2540.200 to 2540.230

Subpart C: Other Requirements for Recipients of Corporation Assistance..... Link
CFR 2540.300 to 2540.330

Subpart D: Suspension and Termination of Corporation Assistance..... Link
CFR 2540.400

Subpart E: Restriction on Use of National Service Insignia..... Link
CFR 2540.500 to 2540.560

Subpart F: False or Misleading Statements..... Link
CFR 2540.600 to 2540.670

Section 14: Title 2 of the Code of Federal Regulations, Subtitle A – Office of Management and Budget Guidance for Grants and Agreements

Part 1: About Title 2, CFR and Subtitle A..... Link
CFR 1.100 to 1.305

Chapter 1: OMB government wide guidance for grants and agreements
CFR 25.100 to 25.360 Universal identifier & system of award management..... Link
CFR 170.100 to 170.330 Reporting Sub-award & Executive Compensation Information..... Link
CFR 175.5 to 175.25 Award Term for Trafficking in Persons..... Link
CFR 176.10 to 176.210 Award Terms for Assistance Agreements That Include Funds Under the American Recovery and Reinvestment Act of 2009..... Link
CFR 180.5 to 180.1020 OMB guidelines to Agencies on Government Wide Debarment and Suspension (non-procurement)..... Link
CFR 182.5 to 182.670 Government Wide Requirements for Drug-Free Workplace..... Link
Chapter 2: Office of Management & Budget Guidance
CFR 200.0 to 200.521 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards..... Link

Chapter 22: Corporation for National and Community Service
CFR 2200.10 to 2200.437 Non Procurement Debarment and Suspension..... Link
CFR 2205.100 to 2205.414 Implementation of and Exemptions to 2 CFR..... Link

CFR 2245.10 to 2245.505 Requirements for Drug-Free Workplace (financial assistance) Link

Section 15: 2541 Reserved

Section 16: 2543 Reserved

Section 17: CFR - Solicitation and Acceptance of Donations

Purpose, What is the Authority, Who has the Authority, Accepting & Rejecting Property….Link
CFR 2544.100 to 2544.150

Section 18: CFR - Requirements and General Provisions for State Commissions and Alternative Administrative Entities

Purpose, State Commission is Establishment and Authority, Duties, Restrictions…….Link
CFR 2550.10 to 2550.110

Section 19: CFR - Program Fraud Civil Remedies Act Regulations

Overview, Procedures Pursuant to a Complaint and Post Procedures, Hearing Provisions, and Decisions and Appeals…….Link
CFR 2554.1 to 2554.52

Section 20: CFR - Nondiscrimination on the Basis of Sex in Education Programs of Activities Receiving Federal Financial Assistance

Subpart A: Introduction……..Link
CFR 2555.100 to 2555.140

Subpart B: Coverage……Link
CFR 2555.200 to 2555.235

Subpart C: Discrimination-Basis of Sex in Admissions/Recruitment Prohibited……. Link
CFR 2555.300 to 2555.310

Subpart D: Discrimination-Basis of Sex in Education Programs or Activities Prohibited……Link
CFR 2555.400 to 2555.455

Subpart E: Discrimination-Basis of Sex in Employment in Education Programs /Activities Prohibited……..Link
CFR 2555.500 to 2555.550

Subpart F: Procedures……..Link
CFR 2555.600 to 2555.605

Section 1: North Dakota State Commission Policies and Procedures

This procedural guide (State Commission policy 1-56-15) has been developed by the North Dakota State Commission (State Commission) to assist directors/administrators of awarded programs that are monitored by the State Commission in operating fiscally sound programs that are compliant with federal and state statutes, regulations, policies, and grant terms and conditions. Programs are subject to the terms and conditions of the grant and related State and Federal requirements. The State Commission is governed by the Corporation for National and Community Service's rules, regulations, notices, application guides and grant terms and conditions; the North Dakota Department of Commerce policies and procedures; the North Dakota Office of Management and Budget policies and procedures. Subsequently, each AmeriCorps state program is also responsible for ensuring that their program and sponsoring organization also maintains policies and procedures in agreement with guidance provided by the State Commission and the Corporation for National and Community Service.

A. GRANT AWARDING PROCESS AND CONDITIONS

In accordance with ND State Commission policy 1-01-03 (Request for Proposal), the State Commission will conduct an annual request for proposal competition. The State Commission's request for proposal competition will include a public notice process, application guide, peer review process, pre-award risk assessment process and subsequent award process. An agreement to accept an award means the program will comply with the ND Commission grant contract terms and conditions and procedural guide; AmeriCorps grant Terms and Conditions and all applicable federal statutes, regulations and cost principles. The awarded program further agrees to operate in accordance with the approved grant application and budget, supporting documents, and other representations made in support of the approved grant application.

Supplanting Prohibited

State Commission funds must be used to add to existing funds for program activities and not replace those funds that have been appropriated for the same purpose. Supplanting is strictly prohibited for all State Commission funds.

Fund Availability

These funds are subject to any applicable restrictions, limitations, or conditions enacted by the North Dakota Legislature and/or the United States Government, subsequent to execution of the grant award.

B. FUND MANAGEMENT BEST PRACTICES FOR AMERICORPS PROGRAMS

A sound financial management system is essential to operating a successful AmeriCorps program. A weak system jeopardizes control over federal resources and places a program at risk of having material findings during an audit. The following are ten best practices for fund management for AmeriCorps programs:

1. Know Your Regulatory Requirements
2. Document Your Policies and Procedures
3. Maintain Adequate Documentation to Support Expenditures
4. Manage Cash Effectively
5. Design an Efficient Accounting System
6. Maintain Effective Budgetary Controls
7. Document and Report Employee's and Member's Activities Accurately
8. Meet Matching Requirements and Document In-Kind Contributions Appropriately
9. Report Timely and Accurate Financial Information
10. Maintain Strong Internal Controls

#1 - Know Your Regulatory Requirements

Regulatory requirements provide the guidance and foundation for your financial management system. For AmeriCorps programs, the following requirements apply:

- **The National Community Service Act and AmeriCorps Grant Terms and Conditions,**
- **States, Indian Tribes, U.S. Territories and Local Governments**
  - CFR 2 Part 200
- **Nonprofit Organizations**
  - CFR 2 Part 200
- **Educational Institutions**
  - CFR 2 Part 200
- **State Requirements (terms of your Contract)**

#2 - Document Your Policies and Procedures

Documented policies and procedures are important because:

- They are the standards for the organization's operations
- They help in establishing a consistent method of processing and maintaining information that will subsequently be used in the accounting and verification of expenditures and performance
- They help new employees and substitutes administer the program in a compliant manner when appropriate personnel are absent

Program/organizations must ensure that policies and procedures are established and aligned with the signed grant award certifications and assurances. In addition to policies and procedures related to the grant award certifications and assurances, the following types of policies and procedures must also align with federal regulations and be established and applied when administering a Federal grant program:

- General financial and programmatic management policies, procedures, manual, or guidelines detailing fiscal processes and member application processes, eligibility documentation, criminal background history checks, accompaniment of members, and if applicable, compliance assessment of vendors providing criminal history check services
- Internal controls of grant funds, e.g. approval and documentation of expenses, separation of duties, delegation of authority, check issuance, cash receipts, cash management, bank reconciliation, travel, and payroll
- Procurement and purchasing procedures
- Property management for equipment purchased with Federal funds
- Time and effort distribution (timekeeping), including documentation of accompaniment
- Record retention and destruction
- Procedures to minimize the time elapsing between the transfer of Federal funds from the HHS Payment Management System to the Grantee
- Procedures for determining the reasonableness, allocability, and allowability of costs in accordance with the applicable cost principles and the terms and conditions of the award
- Codes of conduct for employees engaged in the award and administration of contracts including but not limited to vacation, sick leave, overtime, or holiday policies and performance evaluations
- Employee and program member grievance processes if non-existent at the sponsoring organization
- Cash receipts, disbursements, drawdowns and reimbursements
- Financial reporting and cost allocation plans
- Site management and monitoring
- Closeout of grant program

Additional Requirements for Non-Profit Organizations

- Conflict of interest policy
- Whistleblower policy
- Written process for determining compensation of the organization's CEO, Executive Director, or top management official; and other officers or key employees. The process must include: a review and approval by independent person, comparability data, and contemporaneous substantiation of the deliberation and decision
- Written policy or procedure for an organization that invests in, contributes assets to, or participates in a joint venture or similar arrangement with a taxable entity. It must ensure proper steps have been taken to safeguard the organization's exempt status with respect to such arrangements

#3 - Maintain Adequate Documentation to Support Expenditures

All expenditures must trace back to source documentation and should include descriptions that support why the transaction is allowable for AmeriCorps purposes. Design a filing system that groups grant activities and documents such as the:

- grant contract, amendments, original application and changes
- documents from any programs if you sub-grant
- expenses/vendors, consultant agreements, etc.
- general correspondence
- lease agreements
- monthly financial reports (budget to actual)
- general liability insurance policy
- in-kind contributions documentation
- other relevant financial document

Records must be maintained on all equipment in use by the program and should include at a minimum:

- description and funding source
- manufacturer serial number
- title holder's name and address (also affixed to the equipment item in plain sight)
- acquisition date, cost and current location and use status
- percentage of federal financial participation

Equipment and supplies must be handled in accordance with CFR 2, Subtitle A, 200.33 & .34

#4 - Manage Cash Effectively

The State Commission for National and Community Service issues AmeriCorps grants on a reimbursement basis except for the first month advance in which case programs must minimize the time that elapses between the receipt of funds and the disbursement of these funds.

The AmeriCorps funds from the Commission are federal funds, and as such, should be deposited into an interest-bearing account. Accounting systems should track interest earned on federal funds. Separate general ledger accounts for each grant you receive (federal, state, or private) should be maintained. Bank reconciliation and a schedule of bills to be paid should be prepared and maintained monthly.

Rule #5 - Design an Efficient Accounting System

An efficient accounting system separates accounts for each grant/award, maintains federal and non-federal matching funds separate from grant funds, and records in-kind contributions as both revenues and expenses. Accounting records should be complete with all AmeriCorps expenditures

and local match, entered in the general ledger system. Financial statements should reflect the receipt and use of cash and in-kind contributions. The general ledger should form the basis for the Electronic Periodic Expense Report (PER).

An effective accounting structure should facilitate easy transaction input and report generation. The structure should allow for the efficient transfer of information for reports from the accounting system into the Electronic Periodic Expense Report.

#6 - Maintain Effective Budgetary Controls

The budget is a central part of fiscal control, which, when compared to actual spending can provide important information about variances from the original spending plan. In other words, effective budgetary controls should allow for easy comparison of expenditures against the budget and provide for revisions as appropriate.

To produce useful budgetary information, follow these steps:

Step One: Design an effective accounting system
Step Two: Set up the budget control process
Step Three: Accumulate monthly expenditures
Step Four: Compare actual expenditures to budget
Step Five: Make appropriate revisions.

 # 7 - Document and Report Employees and Members Activities Accurately

All stipends or salaries/wages charged against the AmeriCorps grant (either the grant funds or the match funds) must be supported by signed time and attendance records. This requirement is twofold:

For AmeriCorps Members:

- Programs must document everything for AmeriCorps members in terms of each member's eligibility, enrollment, time logs, activities (separating direct service from training), etc. All time logs must be signed and dated by both the AmeriCorps member and his or her supervisor. The supervisor must be an individual, who is able, to account for the member's time and activities. Members cannot supervise other members. Members and Supervisors must sign each page of a timesheet report in accordance with OMB guidelines. **Programs may store member files electronically and use electronic signatures if the program can ensure the validity and integrity of the record and signature is maintained. (See AmeriCorps State and National Grant Terms and Conditions –Member Records and Confidentiality section for specific safe-keeping and security of record requirements)**
- **Special Note:** Authorized representatives, supervisors and/or professionals cleared to be in the physical presence of vulnerable populations and who are assigned to accompany AmeriCorps members during a pending criminal background history check, must also indicate on the timesheet by signature the periods in which the member was accompanied by them.

For Staff:

- In compliance with 2 CFR, Part 200, Subpart E, 200.430, any staff that is charged against the grant or the match for the grant, depending on your regulatory requirements, must keep monthly time and attendance records signed and dated by a supervisor. Detailed job descriptions should be on file for AmeriCorps staff. Exceptions to this include:

State, Local and Indian Tribal Government programs

- These programs must comply with 2 CFR, which provides the following guidance:
- an employee working on a single indirect cost activity such as accounting needs no further

- documentation beyond normal payroll procedures; an employee working solely on a single federal award or cost objective (in other words, 100% on the AmeriCorps grant) must keep a semi-annual certification stating that the employee worked solely on that grant for the period covered by the certification. The certification must be signed by the employee and his/her supervisor.
- an employee working on multiple activities across more than one federal award keep personnel activity reports reflecting after the fact distribution of the actual activity, keep a monthly report, and it must be signed by the employee.

Educational Institution programs

These programs must comply with 2 CFR, which abides by a principle of after-the-fact confirmation or determination, such as a signed annual statement with after-the-fact activity records.

#8 - Meet Matching Requirements and Document In-Kind Contributions Appropriately

All match contributions, both cash and in-kind, must be properly valued and clearly identifiable from the grantee's records, have adequate supporting documentation, and meet the criteria established in 2 CFR Part 200 Subpart D, 200.306

Programs must meet the proposed and approved match amount. AmeriCorps member support costs must be matched with non-federal cash, with, the exception of health care. This cash match must be met by each reporting period. Other operating costs (member training, staff costs, operating expenses, evaluation, and administration) may be matched with federal, state, or local cash, or with in-kind contributions. This match must be met by the end of the program year. **Note: If federal funds are the original source, and provided either directly to a program/grantee or indirectly through a pass-through agency and used as either a cash match and/or an in-kind service match, the program/grantee must have prior approval from the related federal agency prior to the submission of the AmeriCorps grant application.**

#9 - Report Timely and Accurate Financial Information

Financial reporting is done through the emails of the Electronic Periodic Expense Reports due monthly. Final ePERs are due 30 days after the close of the program year.

#10 - Maintain Strong Internal Controls

Maintaining strong internal controls protects organizational resources from waste, fraud, and inefficiency. When aligned with organizational policies and procedures, internal controls also promote compliance, performance and evaluative clarity. The following internal controls should be aligned with organizational policies and procedures:

- Adequate segregation of duties. The same employee should not authorize, purchase, sign the check and reconcile the statement in the accounting system.
- There should be a specific approval process for disbursing funds. This includes written policies on approving purchases or other disbursements, for instance, multiple signatures required for purchases over a certain amount and clear delineation of who can authorize/make purchases up to a certain amount.
- Maintain documented policies and procedures.
- Establish an adequate review process for financial reports and budgets.
- Maintain adequate cash management procedures, such as monthly bank reconciliations.
- Maintain the physical safety of assets by insuring and conducting a physical inventory a minimum of every two years.
- Establish and maintain a system for tracking time and activities of members and staff.
- Establish a system to follow-up on problems identified to ensure resolution.

C. Allowable costs

A cost is considered allowable under the grant if it is:

- Reasonable
- Within a budget category
- Supported by policies and procedures
- Complies with generally accepted accounting principles
- Complies with OMB cost principles
- Treated consistently with other costs incurred by the organization
- Documented

An allowable cost is allocable to the AmeriCorps grant if it is:

- Incurred specifically for the AmeriCorps program (direct program cost) or
- Benefits both the AmeriCorps program and other work, but can be distributed fairly between the grant and another funding source (this may be a direct program cost OR an administrative cost, depending on specific information related to the cost)
- Necessary to the overall administration of the program

Administrative (or indirect) costs mean general or centralized expenses of overall administration of an organization that receives Corporation funds and DOES NOT include specific program costs. Administrative costs must be consistent throughout the organization. If you can identify the cost specifically to the program, then it is a direct cost, not an administrative (indirect) cost.

Certain costs are unallowable. Unallowable costs include, but are not limited to:

- Bad Debts
- Losses on Other Contracts
- Contributions/Donations
- Entertainment
- Alcohol
- Fines and Penalties
- Defense of Fraud Proceedings
- Interest
- Lobbying/Legislative Costs
- Certain Advertising, Public Relations, and Organization Costs

See 2 CFR, Subtitle A - Cost Principles

Funds cannot be charged against the AmeriCorps budget for organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, or similar expenses. All budgeted funds for Member Support Costs are directly related to the number of AmeriCorps members the program proposed to enroll. If that threshold of members is not obtained, or if members leave the program early, these funds may not be used to pay for other costs. Also, once a member is suspended, terminated, or exited, they may not continue to receive a living allowance. Professional service costs are subject to the rules under 2 CFR – Subtitle A – Subpart E Cost Principles 200.459.

D. Training and Orientation

Programs at minimum are required to provide participants in the program with citizenship based training, skills, and knowledge necessary to perform the tasks required in their respective projects, including, if appropriate, specific training in a field and background information on the community, including why the service projects are needed. Training and orientation must present the theme of citizenship, and member development for a career after the AmeriCorps experience. Programs must document member attendance at training and orientation sessions by having the members sign and

date an attendance sheet. The attendance sheet must contain introductory information that identifies the presenter(s), agenda and the training or orientation that is being provided

E. Travel Costs

Programs are required to review their organization's travel policies and procedures to ensure they are in compliance with 2 CFR – Subtitle A – Subpart E 200.474 (Travel Costs)

F. Procurement and Purchasing Procedures

Programs are required to review their organization's procurement and purchasing policies and procedures to ensure they are in compliance with the standards explained under 2 CFR – Subtitle A – Subpart D 200.318 (General Procurement Standards)

G. Budget Provisions and Compliance—Updated/transferred from rescinded policies 1-23-06 and 1-33-08 and 1-37-09

Your proposed budget should be adequate to allow you to perform the tasks described in your narrative. A typical budget includes **Section 1** – Program Operating Costs, consisting of personnel, personnel fringe benefits, staff travel, member travel, equipment, supplies, consulting services, staff training, member training, evaluation and other operating costs; **Section II** – Member Costs, consisting of member living allowances and member support costs; and **Section III** – Administrative Costs, consisting of indirect costs in relation to the awarded grant. Your current AmeriCorps State and National Application guide will further detail the specific types of costs allowable under the various line item categories in each major section.

Due to the nature of the various types of proposed programs, budgets will also vary as to what the organization has specified in their budget. Programs may not claim expenses in areas that were not proposed in their approved application budget.

An important budget compliance item that programs must maintain is the cost per member service year (MSY). Your MSY cost was established by the total value of the member slot types you requested in your grant application divided into the total CNCS funds requested in your grant application. For FY2017-18 the ND State Commission's maximum allowable MSY cannot exceed $13,830. The MSY maximum amount can change depending on CNCS decision to increase the cost per MSY.

In addition to the general budget award provisions and compliance, the North Dakota State Commission provides the following additional funding and programmatic procedures:

1. **Submitting Funded Expansion Applications (formula funded programs only)**

a) Grant applications submitted from continuing programs may not exceed their previous year CNCS / federal grant award less any one year supplemental funding
b) Programs interested in expanding over their previous year's funding level must submit a separate expansion funding request using the State Commission supplied documents used for the primary application process. The expansion funding request must be submitted within the same due dates as the program's primary grant application
c) In the event an expansion request is awarded, the resulting MSY may not exceed the allowable maximum set by the ND State Commission for the current fiscal year
d) In the event the ND State Commission has residual grant funds remaining after the Formula Application and award process has been completed, awarded programs will be offered an opportunity to submit expansion applications.

2. AmeriCorps Projects and Disaster Response

In the event a community is struck by disaster where an AmeriCorps Program is located and the members want and/or are needed to provide relief services, the following procedures must be followed:

a) An AmeriCorps Program must submit a written request to the ND State Commission asking for permission to add a performance measure related to AmeriCorps members participating in disaster related relief services

b) In the formal request to the State Commission the AmeriCorps Project must address:
   1) The status of their currently approved performance measures and the potential impact that may or may not result by members devoting time to disaster relief services.
   2) All members that engage in disaster related relief services will be covered by the project's general liability insurance
   3) All members will be appropriately supervised by disaster response team personnel and will not be placed in unsafe and/or at risk environments

c) The AmeriCorps Program must receive written approval from the ND State Commission Program Officer before AmeriCorps members may engage in disaster related relief services

d) If approved, the ND State Commission will establish the guidelines and limitations relating to any disaster related direct relief services and the status of currently approved performance measures

H. Match Requirements—Updated/transferred from rescinded policies 1-06-04 and 1-16-06

Programs must provide and account for matching funds. All programs are required to raise some funds from the private sector, e.g. corporations, foundations, individuals, local businesses, and non-profit organizations. The match for Member Support Costs (excluding health insurance) must be in non-federal cash. Programs may provide matching funds for operating costs in cash or in-kind, and may use non-Corporation for National Service federal funds as match if permitted by the rules governing those federal funds. In the event a project is planning to use other federal funds as a match, the project must provide the ND State Commission a copy of the written approval from the federal agency to use their funds as match against the Corporation for National and Community Service funds prior to the funds being officially awarded.

Special Note: When receiving funds from governmental sources such as the state and/or city be aware of the possibility that the original source of those funds may have come from a federal agency, which means you will need approval from the related federal agency if using those funds as match.

See New Single Match Guidelines from 2008

Under the new AmeriCorps Rules, the overall Match Requirements will increase up to 50% over a 10-year period following the schedule in the table below.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10 and on
Minimum Overall Share	24%	24%	24%	26%	30%	34%	38%	42%	46%	50%

There are exceptions to the above schedule for programs in rural or economically distressed areas in which case a waiver can be filled out and submitted to the Corporation. If approved, these programs will follow an alternative match schedule. Programs that are approved for the alternative match schedule will still have to increase matching funds over a 10-year period following the table below.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10 and on
Minimum Overall Share	N/A	N/A	N/A	N/A	N/A	N/A	29%	31%	33%	35%

Programs must meet the full match proposed in the application budget. All match specified in the budget is part of the grant award, and is subject to all programmatic restrictions and audit requirements. Further, match in excess of the statutory requirements cannot be reduced by the program once the grant proposal is approved without Commission approval.

Matching funds must be accounted for in the general ledger. Many programs utilize in-kind match (a program's contribution of non-cash outlays of materials or resources to support a percentage of grant award activities). This may include non-cash outlays contributed by other public agencies and institutions, private organizations and individuals. Examples include donated office supplies, equipment, space, and professional services. In general, the value of in-kind contributions is determined by fair market value. If you are including supervisor hours as part of your program's matching, you must document and track supervisor hours properly. You may also use supervisor timesheets as documentation. You may NOT use member timesheets to document supervisor time.

1. **Projects must adhere to the following match procedures and requirements:**

a) Programs must be compliant with their approved budgeted match percentage at the end of each project quarter. Other non-quarter ending months may be within 10% of their approved budgeted match percentage. Excluding the final quarter, the State Commission has discretion to allow programs to be below their match requirement in one or more of the first three quarters, if the amount is minimal and the program has a consistent history of meeting their quarterly match requirement.
b) <u>Programs that submitted grant applications with budgeted matching percentages above the minimum matching percentage required by regulation, will be required to meet the higher voluntary budgeted match percentage within the same time constraints explained previously</u>
c) If a program is unable to meet their match requirement they must submit a written explanation and request a waiver with their Request for Reimbursement. If the waiver is not granted, the program must resubmit their Request for Reimbursement with a compliant expended match
d) Budgeted match percentage compliance must also be met during a no-cost contract extension period

2. **Consequences of failing to meet your budgeted match requirements can include, but are not limited to:**

a) Non-payment of Request for Reimbursement
b) Non-renewal of a subsequent grant award
c) If applicable, request for payment from the program for over reimbursement

I. Budget and Programmatic changes—<u>Updated/transferred from rescinded policy 1-26-06</u>
In general, budget adjustment requests must be made at least 60 days prior to the contract term end date, not to include any "no cost extension" term end date contract amendments.

1. **The program must obtain written approval of the ND State Commission on National and Community Service before making the following budget changes:**

a) Changes in the scope, objectives or goals of the program, whether or not they involve budgetary changes

b) Changes in (or absences of) the program director and other designated personnel
c) Changes in the level of member supervision
d) Changes in the member's service time slot
e) Sub-granting or contracting out any program activities (if not in grant)
f) Changes in the grant project period or member class start and end dates (if not specified in grant proposal)
g) Other costs requiring prior approval under the 2 CFR Part 200 cost principles
h) Reallocation of funds from Member Support Costs and Other Participant Support Costs line items
i) Purchases of equipment (if not in the grant budget) using grant funds in which the acquisition cost equals or exceeds the lesser of the capitalization level established by the non-profit organization, or $5000
j) Within the "Other member Costs" category, the program may not decrease funds budgeted for training and education without prior State Commission approval.

2. A program may reallocate funds within individual direct cost sections of the budget, not to exceed 10% of the section subtotal cumulatively during a project grant year without prior approval by the State Commission. The following exceptions require prior Written Approval from the State Commission:

a) All budget revisions in Member Living Allowances and Members Support Costs
b) All budget reductions in "Member Training and Education"
c) All budget revisions in administration and program support, Staff Salaries
d) All budget revisions in "Corporation Sponsored Meetings"
e) Specific costs requiring approval (in accordance with 2 CFR Subtitle A—Chapter II—Part 200—Subpart E--Cost Principles—200.407 Prior Written Approval
f) Purchases of equipment that equal or exceed $5000 or more, unless in approved application and budget - see Section 1, I, 1, i) relating to the explanation of an equipment cost that is equal to or exceeds the capitalization level of the organization.

Programs should allow 3 weeks for action on budget revisions requiring prior written approval. Program staff may be contacted to clarify information. Requests beyond the approval authority of the State Commission will be forwarded to the Grants Office at the Corporation for final approval. Allow an additional four weeks for response from the grants office.

Programs must submit a budget revision worksheet within **30 days** of any changes to the approved budget with a written narrative describing the changes.

Budget revisions must be in compliance with all grant guidelines and restrictions. Further guidance is available in the AmeriCorps Terms and Conditions. Contact the State Commission Program Officer for clarification of guidelines.

J. Project Fiscal Procedures Relating to Payments and Reimbursement Claims—Updated/transferred from rescinded policy 1-32-06

1. The following procedures and provisions for reimbursement claims must be followed:

a) Programs may not charge against the grant until a fully executed Contract (with all signatures from both the program and State Commission) has been issued.
b) Programs may submit claims for reimbursement of costs no more frequently than monthly or less frequently than quarterly, unless other submission schedules are approved by the North Dakota Department of Commerce, Office Manager. Programs using the monthly reimbursement process will be provided a schedule of due dates for the entire grant year in

the AmeriCorps Procedural Guide. Programs allowed to submit quarterly PERs will follow the scheduled monthly due date for the month after the quarter ends.

c) The State Commission reimburses for budgeted and approved expenditures already incurred, and under no circumstances will the State Commission reimburse programs for unauthorized or unallowable expenses.

d) Programs can expect to receive payments three weeks after receipt of the draw down request by the State Commission. Programs must project this timetable to avoid potential cash flow problems. Programs anticipating cash match or cash flow problems need to contact the State Commission as soon as possible.

e) New programs must complete a W-9 form and submit to the State Commission to be authorized on the state accounting system. Direct deposit is available by completing a direct deposit form accompanied by a deposit slip from your bank account.

f) To receive payments, the program must submit a Request for Draw form to the North Dakota Department of Commerce. (Incomplete or incorrect requests will not be processed)

g) Program reimbursements are made on a Cash Basis. The program must expend cash before claiming expenditures. The program must not request funds for expenses that have not been paid. Exceptions to this procedure, to accommodate programs who may experience a cash flow, will be approved by the State Commission Executive Director and the North Dakota Department of Commerce Office Manager. Exceptions will require that the program expenditures occur prior to or on the date that the electronic fund transfer is received in the programs account.

h) Programs must submit required programmatic reports and member forms, and must comply with requests for data or additional reports from the North Dakota Commission for National and Community Service and/or the Corporation for National Service. This may include, but is not limited to, an annual estimate of unexpended funds in order to gauge funds available for the following year, an annual estimate of expenses to set up accounts payable for the close of the state fiscal year, and specific data, reports, or studies commissioned by the North Dakota Commission for National and Community Service and/or the Corporation for National Service.

2. To receive payment, the Electronic Periodic Expense Reports (PER) must be reviewed by the State Commission Support Staff and approved. The State Commission Support Staff has the authority to inquire and make requests for additional explanation and/or support documentation before making a final approval. In the event of errors and/or questionable expenditures, the Commission Support Staff will request the program to review and correct the PER and re-submit. Also, please keep all documentation of any expenditures being charged to the Corporation and documentation of match received (cash and in-kind). These documents will be reviewed during the site visits and monitoring the program. It is recommended to submit with the PER supportive documentation.

a) The following procedures must be followed in completing the monthly reimbursement process:

1) Programs must submit their monthly or quarterly Periodic Electronic Reimbursement (PER) by e-mail. Programs must use the Electronic Periodic Expense Report Form, which serves as a tracking mechanism for the grant as the grantee draws funds from each budget line item. <u>The request for waiver to submit PERs on a quarterly basis must be received by the State Commission at the beginning of the grant contract year</u>
2) Programs must submit their PER form in accordance with the scheduled due dates
3) The submitted PER must come from the project's authorized representative

4) The program's authorized representative must be prepared to explain expenditures and provide additional documentation during the review and approval process by State Commission Support Staff

If for any reason you cannot submit any of these reports in a timely manner, please notify the State Commission office as soon as possible to avoid withheld payment on cash requests.

K. Monitoring—Updated/transferred from rescinded policies 1-04-04 and 1-14-05

Monitoring is a mandated function for all grants administered by the State Commission. Monitoring refers to oversight and review activities performed by the State Commission to ensure programs are in compliance with all applicable regulations, laws, and guidelines governing AmeriCorps programs in North Dakota. The goal of the monitoring process is to support programs and help them achieve their goals. The scheduling of monitoring periods and on-site visits will be in cooperation with times that are convenient, rather than intrusive, to the operating of programs.

Monitoring covers all areas of program operation including fiscal and programmatic areas, member supervision, performance objectives, etc. Monitoring is accomplished through regular communications with program staff via telephone, email, letters, desk audits, and site visits.

Performance monitoring is not optional on the part of the program. In accordance with both the AmeriCorps Terms and Conditions and the Contract between the North Dakota Commission and the program, the program shall permit the Commission, the Corporation for National & Community Service, or any other duly authorized agent or governmental agency, to monitor all activities conducted by the program pursuant to the grant. Further, audits or inspections of a program's records can be done at any time during the term of the Contract and for a period of three (3) years following the termination or close of the grant.

State Commission monitoring activities do not replace annual external audit responsibilities of programs, which includes submitting copies of audit reports to the State Commission for review.

1. **Monitoring is accomplished through the following two types of processes:**

a) **Compliance Reviews** involve system files, records and policy reviews to ensure that the program is meeting its legal responsibilities
b) **Site Visits** involve direct questioning and interviews with program staff, AmeriCorps members, program partners and other community stakeholders and provide the following opportunities:
   1) Gather information beyond written reports such as programmatic member and financial files
   2) Establish more insight as to the program's progress in meeting their goals
   3) Uncover unforeseen problems and offer solutions
   4) Develop a trusting rapport between the State Commission and program staff toward a common goal of successful performance and program continuance
   5) Hear and observe firsthand the successes and achievements

2. **Monitoring will include the following procedures:**

a) Site and compliance reviews will occur at least once annually and will be conducted at each program site,
b) Site reviews for programs that are identified as high risk, may occur more often at the discretion of the Commission Support Staff.
c) After a site and compliance review has been conducted, a program will receive a formal site review compliance report. Depending on the type of the findings, a program may receive an

explanation of findings that includes recommendations for improvement and/or required actions relating to compliance issues.

d) Additional site monitoring visits may be conducted in the event corrective action recommendations and/or requirements have not been completed or resolved within the required time

e) The State Commission conducts desk reviews monthly in conjunction with the Program Periodic Expense Reimbursement process. State Commission staff have the authority to request additional documentation in relation to expenditures, member enrollment and performance measure status

f) The State Commission will randomly select 10% or a minimum of six (6) member files, whichever is greater to review for compliance. The State Commission will use an AmeriCorps Site Visit Monitoring Tool to record the status of the compliance items checked.

3. Site Visit and Compliance Review Results

a) Non-State Commission Corrective Action

1) If the State Commission staff suspects discrimination, fraud, abuse, or criminal activity, a report will be immediately submitted to the Executive Director of the State Commission. The State Commission staff will suspend all site visit monitoring procedures pending an official review and instructions from the Executive Director. The Executive Director will make a determination of whether to proceed under the Part II, Section 4—Termination of Contract, Paragraph C of the State Commission's Contract; or the Code Federal Regulations, Part 2540—General Administrative Provisions, Subpart D—Suspension and Termination of Corporation Assistance, or Part 2554—Program Fraud Civil Remedies Act Regulations.

b) State Commission Findings

1) Within fifteen (15) working days after a monitoring visit is completed the Program Officer will prepare and submit a written site visit compliance report to the Program Director explaining the findings and recommended/required programmatic and/or fiscal corrective actions. A copy of the site visit compliance report will be forwarded to the Executive Director of the State Commission. In the event a site visit compliance report includes the recapture of grant funds from a program, subsequent periodic expense reimbursement requests will not be processed until the Program Director has provided a corrective action plan and the process to recapture grant funds has been negotiated.

2) Upon receiving the site visit compliance report from the Program Officer, the Program Director is required to submit a written corrective action plan within fifteen (15) working days to the State Commission. The corrective action plan must outline the steps that have been implemented to comply with the recommended/required programmatic and/or fiscal corrective actions stated in the site visit compliance report.

3) Upon receiving a corrective action plan from a Program Director, the Program Officer has ten (10) working days to provide the Program Director a final approval of the program's corrective action plan. In the event of a disagreement with the Program Officer's site visit compliance report, the Executive Director of the State Commission will be asked to render a final determination in regards to the Program Officer's recommended and/or required corrective actions, and the program's corrective action plan. Upon receiving the Executive Director's final determination, the program has the option to comply with the Executive Director's determination or file a notice of appeal as shown under Section 4, Appeals.

4. Appeals

a) Time to File an Appeal After the Final Determination: Programs that are recipients of AmeriCorps*State Formula funds may request an administrative hearing on a final determination, issued by the Workforce Development Division, concerning administrative findings and disallowed cost deriving from an audit process of a program recipient. Hearing requests must be mailed by Certified Mail – Return Receipt Requested, within twenty-one (21) days after receipt of the final determination letter by the program's administrative entity. The request must include a copy of the final determination and a statement specifying those sections of the final determination upon which a hearing is requested. The request shall be mailed to:

Commissioner
North Dakota Department of Commerce
1600 E. Century Avenue, Suite 2
P.O. Box 2057
Bismarck, North Dakota 58502-2057

Failure to request a hearing within twenty-one (21) days from receipt of the final determination shall result in termination of the program's right to appeal the final determination.

b) Rules of Procedure:

I. The Hearing Officer shall be an impartial individual. The North Dakota Department of Commerce will request the services of the Office of Administrative Hearings to conduct the hearings.

II. Scheduling the Hearing: The Office of Administrative Hearings will schedule the hearing. The notice shall be provided in writing and identify the date, time, and place of the hearing and the opportunity to present evidence.

III. Discovery: The parties shall engage in informal pre-hearing discovery for the purpose of exchanging relevant information, and avoiding delays or surprises. The Administrative Hearing Office shall have the discretion to resolve any pre-hearing discovery objections.

IV. Voluntary Withdrawal of Appeal: The appellant may voluntarily withdraw the appeal with written notice to the Office of Administrative Hearings.

V. Involuntary Withdrawal of Appeal: Upon notice to the appellant, the North Dakota Department of Commerce may submit a motion for involuntary withdrawal of appeal upon the appellant's failure to timely prosecute its appeal. The Hearing Officer shall rule upon such motion in a timely manner.

VI. Representation: Appellant may be represented, at its own expense and without use of federal or State funds, by counsel or, unless prohibited by law, by another representative.

VII. Witnesses and Evidence: Both parties will have the opportunity to present evidence and witnesses and to cross-examine witnesses at the hearing. Evidence and witnesses will be limited to only those issues specified in appellant's request for hearing.

VIII. General Procedures: Audit Resolution appeal hearings shall be conducted informally. Formal rules of evidence shall not apply.

IX. Written Decision: A written decision by the Administrative Hearings Officer will be submitted to the parties in a timely manner. The Hearing Officer's written decision

shall represent the North Dakota Department of Commerce's final action unless a timely appeal is filed.

c) The decision of the Administrative Hearings Officer shall be final unless within fifteen (15) work days after the receipt of the decision, a party appeals the decision to the Corporation for National and Community Service. Appeals of Administrative Officer determinations should be addressed to:

Director
Corporation for National & Community Service
AmeriCorps State and National Programs
1201 New York Ave., Rm. 9514
Washington, DC 20525

The Corporation's decision is final.

5. **Payment of Debts Receivable:** A debt becomes payable when a determination or decision establishing the debt becomes final.

6. **Methods of Payment:** All payments for debts shall be paid from non-Corporation for National & Community Service or other non-federal funds.

7. **Collection of Debts:** The Executive Director of the State Commission will be responsible for the collection of established debts and shall take prompt, appropriate, and aggressive action to recover the debt. Prompt and appropriate action will include the referral of the debt to the North Dakota Attorney General's Office or Private Collection Agency for collection.
When a debt has been determined as uncollectible, the Governor shall have the option of requesting a waiver of the state liability for the debt from the Corporation for National and Community Service.
The full amount of the disallowed costs collected shall be reprogrammed into the same program except where the collection involved funds for which the grant period has expired. In those cases, the amount collected will be remitted to the Corporation for National and Community Service.
Accounting for debts within the North Dakota Department of Commerce financial records will be the responsibility of the Administrative Division of the North Dakota Department of Commerce.

8. **Non-Compliance**
The Corporation for National Community Service has created an enforcement guide that outlines the process in which non-compliant findings are mitigated and assessed a fine. Review the following weblink: https://www.nationalservice.gov/CHCEnforcement

L. Project Evaluation—Updated/transferred from rescinded policy 1-18-06

In accordance with CFR 2522.100 (p), 2522.710 (a), and 2522.720 (a), the following processes will be used by the ND State Commission in conducting timely reviews of evaluative results submitted by State formula funded programs.

1. All formula funded programs will be required to follow a prescribed performance and evaluation process as a contractual agreement relating to the acceptance of a grant award.

2. The State Commission will prescribe an evaluation plan in the contractual grant award agreement in which internal performance and evaluative results will be submitted by programs on a monthly, quarterly and annual basis for review by the State Commission staff.

3. The State Commission will conduct both performance and evaluative on-site reviews in which AmeriCorps program staff and members (participants) will be interviewed regarding the impact of their service on the community and on them as individuals.

4. The State Commission will conduct on-site interviews of organizational hosts, cooperating entities and stakeholders to evaluate the effectiveness of services on the community and the impact on the community if these services were not available.

5. Formula funded programs are encouraged to conduct supplemental evaluative processes that can be provided to the State Commission. Some examples could include qualitative longitudinal studies and individual career outcomes of former AmeriCorps members (participants) and stakeholders.

See CFR 2522.800 for a list of evaluative areas to consider

M. Documentation of Staff and Member Eligibility and Service—Updated/transferred from rescinded policies 1-28-06, 1-41-12, 1-43-13, and 1-44-13

1. In accordance with the federal statutes, regulations, terms and conditions that govern the AmeriCorps Program, the State Commission requires all programs to properly document staff eligibility, member eligibility, work and service hours. The following guidance pertains primarily to AmeriCorps member applicants. Programs are responsible for ensuring that program staff who are in covered positions (fiscally included in the overall awarded budget) are also in compliance with AmeriCorps eligibility regulations. The following guidance also explains accompaniment requirements during the period in which staff or member criminal history background checks are still pending. **It is strongly recommended that programs carefully read and understand CFR Subpart B 2522.200 to 250 and Subpart B 2540.200 to 230.**

To aid in the documentation process, the State Commission requires programs to complete an eligibility/service member file checklist. The checklist will ensure that the staff person or AmeriCorps member is eligible to work or serve and has been made aware of all personnel related policies, restrictions and responsibilities.

a) The following member eligibility **chronological** procedural documentation stages are required **before** a staff person or **member can begin service:**
   1) Program member or staff application, completed, signed & dated preceding any other step. **(best practice to include in your program application a criminal history background check authorization statement)**
   2) U.S. citizenship eligibility primary documentation reviewed, copied and certified before the member agreement eGrants start date. **(See Section 4, Subpart B, 2522.200 in this guide)**
      a. If the AmeriCorps member U.S. citizenship verification in the egrants portal is returned/unverified, the program must secure and maintain copies of the appropriate primary citizenship documentation in the member file, and provide primary citizenship documentation to the State Commission from which a manual verification can be conducted to determine the member/applicant's citizenship status.
      b. Include in the citizenship eligibility documentation stage, the identity verification process in which the program is required to review a government issued photo ID of the applicant member to verify their identity. The State Commission requires programs to copy and maintain all government issued photo IDs provided by the applicant. The program is required to sign, date and write a note on the copy that it was reviewed. (Passports are the best form of primary documentation since it

certifies citizenship, identity and age) **(Note: Live birth certifications issued by hospitals are <u>unacceptable</u> as primary documentation)**

3) Copy of diploma, GED or statement attesting to possessing a HS diploma or in pursuit of a diploma or GED received and reviewed before start date
4) Member agreement reviewed, signed and dated by member and program representative on or before the eGrants start date; Include the following **<u>required</u>** and **<u>other recommended</u>** documentation, certification & awareness processes

   <u>Required</u>: Per 2017 AmeriCorps State and National Grants Terms and Conditions

   a. position description
   b. terms of service including start/end dates, minimum required service hours
   c. education award amount upon successful completion of required service hours
   d. standards of conduct
   e. member has reviewed list of prohibited activities (see 2017 Terms and Conditions for AmeriCorps State and National Grants)
   f. non-duplication and non-displacement rules
   g. fund raising restrictions
   h. drug free workplace act restrictions
   i. civil rights requirements, compliant procedures and beneficiary rights
   j. suspension and termination rules
   k. release from terms of services for personal and for cause
   l. grievance procedures
   m. other requirements established by the grant recipient

   <u>Other Recommended Documented/Awareness Certifications, Elections and Notifications (if applicable)</u> (best practice is to include the following recommended items in the program application or member agreement)

   n. members' signed statement attesting to a completion of a high school diploma and/or continued enrollment in high school to attain a diploma or GED (best practice is to include in program application)
   o. members' initialed election regarding publicity release (best practice is to include in program application)
   p. members' signed acknowledgement of reciting the AmeriCorps pledge (best practice is to include in member agreement and recite at the time of the signing of the member agreement)
   q. members' initialed elections regarding health and/or child care plan (best practice is to include in member agreement)
   r. members' signed consent to conduct state(s) and FBI criminal history checks (best practice is to include in the AmeriCorps Program Employment Application)
   s. reasonable accommodation policy
   t. loan forbearance awareness and application process
   u. summary of orientation and service training for AmeriCorps members (including citizenship and life after AmeriCorps
   v. performance and evaluation
   w. member service hour reporting
   x. accompaniment requirements and procedures
   y. incident and injury reporting
   z. safe work environment awareness
   aa. modification notification regarding agreement contents
   bb. days of service activities
   cc. workers compensation and unemployment insurance

dd. non-discrimination policy

5) Criminal History Check Procedure Verification Form; Includes the following secondary documentation stages and checks for **both a program staff applicant and member applicant (See Section 13, Subpart B, 2540.204 in this guide)**
   a. Written verification of the applicant's identity by a government issued photo identification **(best practice to include this step during the citizenship verification process)**
   b. Obtain written authorization from the member applicant to conduct the state(s) and FBI criminal history background checks (CHC). **Best practice is to include the CHC authorization step in the AmeriCorps program member application)**
   c. Document the applicant's understanding that selection is contingent on the results of the NSOPW and CHC **(for a member applicant, the best practice is to include this awareness in the program member application or member agreement depending on the sequence of your organization's application and CHC policies and procedures)**
   d. National Sex Offender Public Website (NSOPW) check is completed/with cleared results before the member applicant begins orientation, training and service or in the case of a program staff applicant, they begin work.
      1. **NSOPW record documentation requirements:**
      ✓ The State Commission requires programs to print the NSOPW results from this website and note next to each identified hit, whether the person identified is the member applicant. The printed copy is to be maintained in the member file.
      ✓ The State Commission also recommends programs to scan the printed paper copy of the reviewed / signed NSOPW results and create a backup electronic computer file copy for storage in a secure and retrievable computer file.
   e. Written documentation of State(s) & FBI Criminal background checks were initiated before the program staff applicant begins work, or in the case of member applicants, before beginning orientation, training or service:
      1. **Documentation of the initiated process:** In order that a CHC request be considered "initiated" the documentation must reveal that the CHC request is one step beyond receiving written authorization from the applicant to conduct the criminal history checks. Some examples of how to document "**Initiation"** of the CHC request are shown below:
      ✓ officially dated certified mail receipt showing that the CHC request has been mailed to the CHC government agency or provider. This documentation should also include the related copy of the signed/dated CHC request that includes the program staff applicant /member applicant name
      ✓ signed/dated invoice or receipt from the CHC provider that shows the program staff applicant/member applicant name and date the CHC request was received by the CHC provider (this will be necessary in instances where requests are hand delivered)
      ✓ copy of dated internet electronic confirmations of CHC requests made to a CHC provider that includes the program staff applicant / member applicant name and date the request was received
      ✓ In the case of a CHC vendor/provider that conducts group onsite services, a copy of an invoice/statement showing program staff applicant / member applicant name(s) and date(s) for which CHCs were initiated on site.
      2. **Documentation of the results** of the CHC (including date received)
      Some examples of how to document CHC **Results** are shown below:

- ✓ CHC program staff applicant / member applicant results that are provided electronically can be printed and date stamped by the grant program.
- ✓ If an electronic date has not been assigned (save the electronic CHC results in a secure computer file).
- ✓ To document constructive receipt for CHC results that are hand delivered or sent through postal/mail services, the CHC result should be date stamped and initialed by the program recipient (also, retain the post-marked envelope).

3. **Maintain written documentation of the results and that the results of the CHC were reviewed and used in the selection of the applicant**

f. Provide reasonable opportunity for the program staff applicant / member applicant to review and challenge the NSOPW and CHC results

g. Ensure that a staff or member for whom the state(s) or FBI CHC are still pending, is not permitted access to vulnerable populations unless permitted by organizational policy, which requires signed/dated documentation of accompaniment by an authorized program supervisor, previously cleared program representative and/or host site professional.

h. The State Commission will require projects to participate in desk reviews relating to the eligibility of newly selected AmeriCorps Members. The desk reviews will occur sometime soon after the start of the project year, and after the period in which the project has enrolled in eGrants the majority of their planned AmeriCorps Members. The State Commission will determine the size of the desk review sampling. The desk review will require projects to provide responses and related dates for the following chronological criminal history check eligibility criteria:

1. Date the government issued photo ID copy was made, signed, and dated that it was reviewed.
2. Date the NSOPW was conducted (all states) – printed copy from the NSOPW site made showing date conducted – all hits signed/dated as reviewed and cleared.
3. Date the AmeriCorps member signed/dated authorization to conduct Criminal History Checks (CHC). Date of authorization must precede the initiation of the CHC.
4. Initiation of the state(s) and FBI CHCs are supported by dated documentation. (initiation date must precede AmeriCorps Member orientation, service and training)
5. Dated documentation showing the receipt of CHC results from the all states and/or the FBI are on file. (CHC results date must precede unaccompanied AmeriCorps Member service)

6) **(Recommended) -** National Service Trust Enrollment Form signed and dated. ***(The member's signature date must precede or be the same as program representative, and both parties' signature dates must precede or be the same as the official member start date entered in eGrants)***

7) Loan Forbearance Request (entered online through the My AmeriCorps portal)

b) The following procedural documentation stages are required **during member service:**

1) Member monthly timesheets (each page) are properly signed and dated by the member in accordance with the organization's personnel policies, authorized supervisor and program director. Various allocations of services such as direct service, capacity building, fundraising and education/training must be shown on the timesheet. Any accompaniment periods must be properly identified and supported by signature and date of the authorized supervisor, previously cleared program representative and/or

host site professional who provided the accompaniment while criminal history background checks were in a pending status.

2) Member training dates, topics and identity of trainer (certified by signature)
3) Member days of service participation, including location and service description
4) Incident/injury reports submitted by the member
5) Mid-term and end of term member performance evaluations (certified by signature)
6) Documentation of compelling personal circumstances relating to member exit (if applicable)
7) Any changes of member slot statuses relating to suspensions, early exits and conversions
8) Member exit form, signed and dated by member and certifying official at the end of a member's service

c) The following administrative procedural documentation requirements relate to member service and must be determined before a member begins service:
   1) Program signed host-site agreements (if applicable)
   2) Program documentation of liability insurance coverage for all AmeriCorps members – including general and automobile, if applicable

N. Program Performance Reporting Procedures—Updated/transferred from rescinded policies 1-25-06, 1-29-06, 1-31-06, 1-35-08 and 1-36-08

1. **Performance Measures:** If requested by the Commission Staff, returning and new programs may be required to submit an amended performance measure(s) within 60 days of the start of their project year **(extensions will be granted if the State Commission is notified in advance)**. The Commission Staff will assist the program in re-working the performance measure(s) before the end of the first quarter. The following procedures are applicable:

a) If recommended by commission staff, re-work the application's performance measure wording and receive final approval from the Commission Staff
b) Complete the performance measure worksheet in the format provided by the commission staff
c) Develop a project performance measurement plan, explaining the measurement instrument(s) and how this instrument will measure data
d) Explain how data will be compiled and analyzed
e) The State Commission no longer requires programs to include a volunteer recruitment program performance objective or a member training/development performance objective. The State Commission, however, highly recommends that programs continue to promote and encourage AmeriCorps member to actively seek volunteers for various program community activities and projects. Programs are required to follow the regulations, terms and conditions in regards to volunteer recruitment initiatives and providing appropriate and effective training for AmeriCorps members

2. **New Program Status Reporting:** To aid new programs during the first quarter of their program startup, the State Commission requires all new programs to provide a monthly status update along with their monthly periodic expense reimbursement requests. (Depending on the progress of the program the State Commission Staff will notify the program if further monthly status updates are required during subsequent quarters). The monthly status updates will allow State Commission Staff to provide guidance that promotes successful program performance and prepares a new program in the submission of their first quarterly program progress report. The status update must include at least the following:

a) What did the program accomplish during the past month?
b) What does the program plan to accomplish in the next month?

c) What difficulties, problems or concerns does the program need to resolve currently and expect to encounter in the subsequent months?

3. **Performance Measure Achievement:** The State Commission will require all programs to meet or exceed all parts of the established "target" for each element of their approved performance measure(s). Those elements include outputs, intermediate outcomes and end outcomes. The parts to be measured will be found in the feedback statements that occur because of the Performance Measures and Plans policy.

   Feedback statements will include the parts that will establish what data the program will need to collect that will be tested to determine if the program met or exceeded the performance measure target(s).
   Parts are those indicators stated in the target that need to be measured.

4. **Project Performance Reporting:** The State Commission will require all programs to submit their progress reports using the documents developed by the staff for reporting purposes. Program performance reports can be submitted, via mail or e-mail, to the State Commission staff on a quarterly basis; 30 days after the end of each quarter. The final end of the grant year progress report is due within 30 days after the final date of the contract.

5. **Project Member Hour Reporting:** The State Commission will require all programs to submit member hours served to the State Commission staff on a quarterly basis. The State Commission staff will provide a progress reporting document to be completed by the programs. The Commission Staff will be able to monitor programs' progress towards filling the awarded slots and their members' progress towards completing enrolled hours. The reporting document are required to be submitted, via mail or e-mail, to the State Commission staff on the same due date as the programs' progress reports are due.

6. **Reporting Intervals:**

   1st Quarter: (October-December data)
   2nd Quarter: (January-March data)
   3rd Quarter: (April-June data)
   4th Quarter: (July-September data)

O. Audits (see the new uniform guidance under 2 CFR parts 200.500 through 200.512)

As you know, the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance, now consolidated in 2 CFR Parts 200 and 2205) apply to CNCS grants awarded in fiscal year 2015.

You should review the Uniform Guidance carefully. It is your responsibility as a recipient or subrecipient of Federal funds to understand and follow all requirements for your Federal award, including the laws and regulations that govern the award referenced in the Terms and Conditions of your grant award. Again, we recommend that you take advantage of existing training and reference materials available on the Uniform Guidance, such as those available here. In particular, the preamble to the Uniform Guidance provides a good overview of the changes.
After you have become familiar with the Uniform Guidance, your grants officer is your first resource for your CNCS-specific questions.
The following highlights some, but not all, of the important changes from past OMB Circulars. This list is not exhaustive and is not a substitute for reading and understanding the Uniform Guidance.
* §200.112. Conflict of Interest. Requires non-federal entities (recipients and subrecipients) to disclose, in writing, potential conflicts of interest. This has been added to Grant Terms and Conditions.

* §200.113. Mandatory Disclosures. Requires non-federal entities to disclose, in writing, any violations of criminal law. Non-federal entities should review this section to ensure they understand their reporting obligations.
* §200.303 Internal Controls. Requires non-federal entities to establish and maintain effective internal controls over the award and ensure that the non-federal entity is managing the award in compliance with applicable federal statutes, regulations, and the terms and conditions of the award.
* §§200.317-200.326. Contracts must be procured in accordance with the procurement requirements in 2 CFR Part 200. Alternatively, nonprofit organizations and institutions of higher education may continue to comply with the Procurement Standards in OMB Circular A-110 for one additional fiscal year beginning after December 26, 2014. Such election must be specified in the non-federal entity's documented policies and procedures.
* §200.331 Requirements for pass-through entities. Delineates the roles and responsibilities of those non-federal entities that further subaward federal funds.
* §200.414 Indirect Cost. Allows non-federal entities who have never had a negotiated indirect cost rate to utilize a de minimis indirect cost of 10% of Modified Total Direct Costs. Additionally, non-federal entities that do have an indirect cost rate may apply for a one-time extension of their current indirect cost rate for up to four years. Guidance on how to select and calculate the de minimis rate will be published via application instructions and eGrants account maintenance directives.
* §200.501. Audit Requirements. Raises the single audit threshold to $750,000; therefore, some non-federal entities that were required to conduct an A-133 audit in the past will no longer be required to do so. These non-federal entities will now be monitored under CNCS's standard operating procedures for organizations that fall below the threshold.

In addition to required or voluntary audits, AmeriCorps programs need to be aware that under the authority of the Inspector General Act of 1978 (IG Act), as amended, the Office of the Inspector General (OIG) for the Corporation for National Service may conduct audits and investigations related to AmeriCorps programs and operations. A primary purpose of these activities is to detect and deter fraud, waste, abuse, or mismanagement of government funds. Audits by the OIG may be conducted by OIG staff auditors (employees of the federal government) or by auditors of audit firms under contract to perform audits for the OIG. Auditors are authorized by the IG Act to have full access to any program records, reports, or other materials necessary to conduct an audit. All audits conducted by the OIG are conducted in accordance with generally accepted government auditing standards. Investigations by the OIG may be conducted by special agents (investigators) who are duly authorized federal law enforcement officers or by other administrative investigators who specialize in noncriminal matters. OIG investigators are authorized by the Act to have full access to any records, reports, or other materials necessary to investigate allegations of fraud or abuse concerning their respective agency's programs and operation. OIG investigators are also authorized to take statements under oath.

P. Record Retention and Destruction

Programs are required to review their organization's record retention/destruction policies and procedures to ensure they are in compliance with the guidelines explained under CFR 200.333 (Retention Requirements for Records)

Q. Codes of Conduct for Employees Engaged in the Awarding and/or Administration of Grants

Programs are required to review their organization's standards of conduct and conflict of interest policies and procedures to ensure they are in compliance with the guidelines explained under CFR 2540.310 (Establishing Standards of Conduct), 2 CFR –Subtitle A - 200.112 (Conflict of Interest) and 200.318 (c) (1) (General Procurement Standards)

R. Grievance Procedures

Programs are required to review their organization's grievance procedures to ensure they are in compliance with the guidelines explained under CFR 2540.230

S. Other—Updated/transferred from rescinded policy 1-39-10

AmeriCorps members enrolled in State Commission programs are required to participate in at least two national days of service events. The programs may select the service days and activities and/or pre-approve the service days and activities in case the members are required/allowed to independently participate in community service days and activities.

T. Close-out of Grant—Updated/transferred from rescinded policy 1-09-04 and 1-38-10

The State Commission closes grants as determined by federal guidelines and facilitates the closure of grant programs. The State Commission guidelines are listed below based upon Code of Federal Regulations 2 CFR - Subtitle A - 200.343

1. Closeout Guidelines

(a) The State Commission will close out grant awards when it determines that all applicable administrative actions and all required work of the grant have been completed.

(b) *Reports.* Within 60 days after the expiration or termination of the grant, the program must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the program, Federal agencies may extend this time frame. These may include but are not limited to:

(1) Final performance or progress report;
(2) Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (as applicable);
(3) Final request for payment (SF-270) (if applicable);
(4) Invention disclosure (if applicable);
(5) Federally-owned property report. In accordance with §2541.320(f), a program must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.

(c) *Cost adjustment.* The Federal agency will, within 90 days after receipt of reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.

(d) *Cash adjustments.* (1) The Federal agency will make prompt payment to the program for allowable reimbursable costs.

(2) The program must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

Later disallowances and adjustments

The closeout of a grant does not affect:

(a) The Federal agency's right to disallow costs and recover funds on the basis of a later audit or other review;
(b) The program's obligation to return any funds due as a result of later refunds, corrections, or other transactions;
(c) Records retention as required in 2 CFR – Subtitle A – Subpart D 200.333;
(d) Property management requirements in 2 CFR – Subtitle A – Subpart D 200.310 to .316; and
(e) Audit requirements in 2 CFR – Subtitle A – Subpart F 200.500 to .520

U. Delegation of Authority to Program Management Staff

(Review your North Dakota State Commission AmeriCorps Contract with Program Organization)

V. Potential Problems to Avoid

This Potential Problem List can be used to identify gaps or areas of improvement needed in financial systems.

Lack of Written Policies and Procedures

• Written policies and procedures are required by 2 CFR, Part 200, Subpart D.

Member Records

- Missing or improper criminal history background check documentation
- Did not conduct national sex offender public website check prior to the member starting service
- Criminal history background checks for the state and FBI were not initiated prior to the member starting their service
- Did not enter members in eGrants within the 30-day requirement
- Did not exit members in eGrants within the 30-day requirement
- Did not conduct a final member evaluation
- No timesheets or documentation of member hours
- Missing Member Eligibility Documentation (includes citizenship and criminal history background)
- No member agreements/contracts on file
- Member agreement does not include the minimum required rights and responsibility items as stated in the AmeriCorps State Grant Terms and Conditions
- Member agreement terms of service and signature date are not consistent with the start date in eGrants
- No supervisory signature and/or dates on timesheets
- No member signature and/or dates on service timesheets

Time cards/sheets

• No time cards or documentation for staff hours charged to the grant.
• Unsigned time cards for staff and members.
• No documentation on time card/sheet for members who were required to be physically accompanied while performing service to a vulnerable population
• Time cards are not signed timely either by the member and/or supervisor in accordance with organizational policy.
• No designation of time/allocation on staff member's time card.

a) Estimated time as opposed to actual time.
b) Allocation of time is based on budget and is not reflective of actual activity.
c) Time allocation is indicated at 100% even though staff member is an officer of the organization who performs other functions not solely related to the grant.

• Lack of activity reports for staff member(s) if time is charged to more than one grant.

Lack of Appropriate Documentation

• Expenditures

a) Original invoices are missing.
b) Receiving signature is missing.
c) Approval for the expenditure is not available.
d) Supervisor's authorization on invoice/check is missing.
e) Required documentation and invoices are not stamped or marked paid to reduce the risk of double payment.
f) Documentation is not maintained and accessible for purposes of management, CNCS review, or the required annual or semi-annual audits.

• Match

a) Match is not verifiable by program records.

b) ***Match documentation is missing the following information***: What was donated, signature of donor, amount donated, date of service, and how the donation was valued. (For example, if the donation was for a painter spending 5 hours painting a house and painters in the area get $20 per hour, the documentation should include the calculation of hours and the hourly rate.)

c) The program has not maintained adequate documentation of in-kind match. The program should not record an in-kind donation as match until it is satisfied that the documentation is sufficient.

d) The program is responsible for ensuring programs have adequate documentation on file.

- Grantee's Accounting Records

  a) Financial records don't identify costs by programmatic year, by budget line item, or don't differentiate between direct and indirect costs.

- Sub-grants

  a) No written agreements with program sub-grantees.

- Sub-grantees

  a) Lack of oversight of sub-grantees by program organization.

Section 2: CFR - General Provisions: AmeriCorps Subtitle C Programs

Contents

Page 35: ND State Commission Introductory Comments and Guidance
Page 36: Code of Federal Regulations with Corporation Provisions and ND Commission Inserts

ND State Commission Introductory Comments and Guidance:

The general provisions for the AmeriCorps Program focus on four primary areas:

- Purpose of the AmeriCorps program
- Allowable program services, member services, and capacity building activities
- Limitations of certain types of member services
- Prohibited member services

Member services are the basis of the AmeriCorps program. The evaluation of ND State Commission AmeriCorps formula programs includes AmeriCorps member retention and completion rates. This means that the recruitment, selection and management of members are very important to the success of a program and its future funding. The ND State Commission encourages AmeriCorps programs to create a strong retention based environment for their members. Some strategies to promote retention can include helping members develop professional goals such as confidence, problem solving, organizational competency, and a broad perspective of citizenship based community involvement. Regular interaction with members through program meetings, performance conferences, training, and career development presentations, will strengthen the mentoring concept between staff and members.

Direct Services (summarized)
Your approved grant application must specify the direct service activities (interventions) that your members are allowed to perform in order to advance the goals of your program. The interventions should relate directly to your performance measure(s).

Capacity Building Activities (summarized)
AmeriCorps members that are supported under your AmeriCorps project may perform capacity-building activities that advance your program goals. Your approved grant application should include a description of the capacity building activities and the amount of time that members will be devoting to an event/activity. The ND State Commission requires AmeriCorps members to participate in a minimum of two national service day events each project year.

Limitations of Certain Types of Member Service (summarized)
The ND State Commission requires programs to use timesheets that allocate a member's service hours to direct service, fund raising (limit 10%), education/training (limit 20%) and capacity building.

Prohibited Activities (summarized)
The project's member service agreements, service site agreements and site supervisor agreements must clearly outline the activities that are prohibited and which AmeriCorps members may not engage. The project's orientation and training sessions must clearly document that each member received instruction about the prohibited activities.

Code of Federal Regulations Applicable to Section 2

Part 2520—General Provisions: AmeriCorps Subtitle C Programs

§2520.5 What definitions apply to this part?
§2520.10 What is the purpose of the AmeriCorps subtitle C program described in parts 2520 through 2524 of this chapter?
§2520.20 What service activities may I support with my grant?
§2520.25 What direct service activities may AmeriCorps members perform?
§2520.30 What capacity-building activities may AmeriCorps members perform?
§2520.35 Must my program recruit or support volunteers?
§2520.40 Under what circumstances may AmeriCorps members in my program raise resources?
§2520.45 How much time may an AmeriCorps member spend fundraising?
§2520.50 How much time may AmeriCorps members in my program spend in education and training activities?
§2520.55 When may my organization collect fees for services provided by AmeriCorps members?
§2520.60 What government-wide requirements apply to staff fundraising under my AmeriCorps grant?
§2520.65 What activities are prohibited in AmeriCorps subtitle C programs?

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§2520.5 What definitions apply to this part? Review this link for more information.

§2520.10 What is the purpose of the AmeriCorps subtitle C program described in parts 2520 through 2524 of this chapter? Review this link for more information.

§2520.20 What service activities may I support with my grant? Review this link for more information.

§2520.25 What direct service activities may AmeriCorps members perform?
(a) The AmeriCorps members you support under your grant may perform direct service activities that will advance the goals of your program, that will result in a specific identifiable service or improvement that otherwise would not be provided, and that are included in, or consistent with, your Corporation-approved grant application.
(b) Your members' direct service activities must address local environmental, educational, public safety (including disaster preparedness and response), or other human needs.
(c) Direct service activities generally refer to activities that provide a direct, measurable benefit to an

CNCS AmeriCorps Terms and Conditions, Part V. A. relating to CFR 2520.25

1. Planning for the Term of Service. The grantee must develop member positions that provide for meaningful service activities and performance criteria that are appropriate to the skill level of members. The recipient is responsible for ensuring that the positions do not include or put the AmeriCorps member in a situation in which the member is at risk for engaging in any prohibited activity (see 45 CFR § 2520.65), activity that would violate the non-duplication and non-displacement requirements (see 45 CFR § 2540.100), or exceeding the limitations on allowable fundraising activity (see 45 CFR §§ 2520.40-.45). The recipient must accurately and completely describe the activities to be performed by each member in a position description. Position descriptions must be provided to CNCS upon request. The recipient must ensure that each member has sufficient opportunity to complete the required number of hours to qualify for an education award. In planning for the member's term of service, the recipient must account for holidays and other time off, and must provide each member with sufficient opportunity to make up missed hours.

individual, a group, or a community.
(d) Examples of the types of direct service activities AmeriCorps members may perform include, but are not limited to, the following:
(1) Tutoring children in reading;
(2) Helping to run an after-school program;
(3) Engaging in community clean-up projects;
(4) Providing health information to a vulnerable population;
(5) Teaching as part of a professional corps;
(6) Providing relief services to a community affected by a disaster; and
(7) Conducting a neighborhood watch program as part of a public safety effort.
[70 FR 39597, July 8, 2005]

§2520.30 What capacity-building activities may AmeriCorps members perform?
Capacity-building activities that AmeriCorps members perform should enhance the mission, strategy, skills, and culture, as well as systems, infrastructure, and human resources of an organization that is meeting unmet community needs. Capacity-building activities help an organization gain greater independence and sustainability.
(a) The AmeriCorps members you support under your grant may perform capacity-building activities that advance your program's goals **and that are included in, or consistent with, your Corporation-approved grant application.**
(b) Examples of capacity-building activities your members may perform include, but are not limited to, the following:
(1) Strengthening volunteer management and recruitment, including:
(i) Enlisting, training, or coordinating volunteers;
(ii) Helping an organization develop an effective volunteer management system;
(iii) Organizing service days and other events in the community to increase citizen engagement;
(iv) Promoting retention of volunteers by planning recognition events or providing ongoing support and follow-up to ensure that volunteers have a high-quality experience; and
(v) Assisting an organization in reaching out to individuals and communities of different backgrounds when encouraging volunteering to ensure that a breadth of experiences and expertise is represented in service activities.
(2) Conducting outreach and securing resources in support of service activities that meet specific needs in the community;
(3) Helping build the infrastructure of the sponsoring organization, including:
(i) Conducting research, mapping community assets, or gathering other information that will strengthen the sponsoring organization's ability to meet community needs;
(ii) Developing new programs or services in a sponsoring organization seeking to expand;
(iii) Developing organizational systems to improve efficiency and effectiveness;
(iv) Automating organizational operations to improve efficiency and effectiveness;
(v) Initiating or expanding revenue-generating operations directly in support of service activities; and
(vi) Supporting staff and board education.
(4) Developing collaborative relationships with other organizations working to achieve similar goals in the community, such as:

ND State Commission Clarification and Guidance relating to CFR 2520.30
An explanation of capacity-building activities should be included in your grant application supported with a detail of the activities that are planned and the amount of service time that will be devoted by each member.

State Commission Procedural Guidance Section 1, part S: requires AmeriCorps members to participate in a minimum of two national service day events each project year.

(i) Community organizations, including faith-based organizations;
(ii) Foundations;
(iii) Local government agencies;
(iv) Institutions of higher education; and
(v) Local education agencies or organizations.
[70 FR 39597, July 8, 2005]

§2520.35 Must my program recruit or support volunteers?

(a) Unless the Corporation or the State commission, as appropriate, approves otherwise, some component of your program that is supported through the grant awarded by the Corporation must involve recruiting or supporting volunteers.
(b) If you demonstrate that requiring your program to recruit or support volunteers would constitute a fundamental alteration to your program structure, the Corporation (or the State commission for formula programs) may waive the requirement in response to your written request for such a waiver in the grant application.
[70 FR 39597, July 8, 2005]

ND State Commission Clarification and Guidance relating to CFR 2520.35
The ND State Commission formula grant program application requires applicants to include in their grant application a performance measure for volunteer recruitment and AmeriCorps member development.

§2520.40 Under what circumstances may AmeriCorps members in my program raise resources?
Review this link for more information

§2520.45 How much time may an AmeriCorps member spend fundraising?
An AmeriCorps member may spend no more than **10 percent** of his or her originally agreed-upon term of service, as reflected in the member enrollment in the National Service Trust, performing fundraising activities, as described in §2520.40.
[70 FR 39597, July 8, 2005]

§2520.50 How much time may AmeriCorps members in my program spend in education and training activities?
(a) No more than **20 percent** of the aggregate of all AmeriCorps member service hours in your program, as reflected in the member enrollments in the National Service Trust, may be spent in education and training activities.
(b) Capacity-building activities and direct service activities do not count towards the

ND State Commission Procedural Guidance Section 1-M-1b: requires programs to use timesheets that show the various allocations of member service time reported by the AmeriCorps member. The major categories are direct services, capacity building activities, fundraising, and education/training. The timesheets must be properly signed and dated by the member in accordance with the organization's personnel policies, authorized supervisor and program director. Accompaniment periods must be properly identified and initialed on the member timesheet and verified by signature and date by the authorized person providing the accompaniment.

ND State Commission Procedural Guidance Section 1-N-5: requires programs to report member service hours to the State Commission on a quarterly basis. The reporting tool will be provided by the State Commission.

ND State Commission Clarification and Guidance
Each page of a timesheet report must be signed/dated by the member and supervisor in accordance with the 2 CFR – Subtitle A – Subpart E – Cost Principles 200.430 Principles.

20 percent cap on education and training activities. [70 FR 39597, July 8, 2005]

§2520.55 When may my organization collect fees for services provided by AmeriCorps members? Review this link for more information.

§2520.60 What government-wide requirements apply to staff fundraising under my AmeriCorps grant? Review this link for more information.

§2520.65 What activities are prohibited in AmeriCorps subtitle C programs?

(a) While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or the Corporation, staff and members may not engage in the following activities:

(1) Attempting to influence legislation;
(2) Organizing or engaging in protests, petitions, boycotts, or strikes;
(3) Assisting, promoting, or deterring union organizing;
(4) Impairing existing contracts for services or collective bargaining agreements;
(5) Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;
(6) Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;
(7) Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, **constructing or operating facilities** devoted to religious instruction or worship, **maintaining facilities** primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;
(8) Providing a direct benefit to—
(i) A business organized for profit;
(ii) A labor union;
(iii) A partisan political organization;
(iv) A nonprofit organization that fails to comply with the restrictions contained in section 501C(3) of the Internal Revenue Code of 1986 except that nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative;
(v) An organization engaged in the religious activities described in paragraph (g) of this section, unless Corporation assistance is not used to support those religious activities; and

CNCS AmeriCorps Terms and Conditions, Part V. C. relating to CFR 2520.65
3. Prohibited Activities. While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program or CNCS, staff and members may not engage in the following activities (see 45 CFR § 2520.65):

ND State Commission Clarification and Guidance
The ND State Commission recommends programs to include in the member timesheet a certification regarding the accuracy of the hours reported--a short statement in which the member's signature also attests to the fact that he/she did not engage in any prohibited activities.

State Commission Procedural Guidance Section 1-M-1-a)-3): Outlines the required items to be included in the member agreement of which a list of prohibited activities that they may not engage in directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed.

(9) Conducting a voter registration drive or using Corporation funds to conduct a voter registration drive;
(10) Providing abortion services or referrals for receipt of such services; and
(11) Such other activities as the Corporation may prohibit.
(b) Individuals may exercise their rights as private citizens and may participate in the activities listed above on their initiative, on non-AmeriCorps time, and using non-Corporation funds. Individuals should not wear the AmeriCorps logo while doing so.
[67 FR 45359, July 9, 2002. Redesignated at 70 FR 39597, July 8, 2005; 73 FR 53759, Sept. 17, 2008; 74 FR 46506, Sept. 10, 2009]

Section 4: CFR 2522.200 - Subpart B - Member Eligibility, Requirements, Enrollment and Benefits

Contents

Page 41: ND State Commission Introductory Comments and Guidance
Page 42: Code of Federal Regulations with Corporation Provisions and ND Commission Inserts

State Commission Introductory Comments and Guidance:

The majority of audit findings by the Corporation typically come from noncompliant member eligibility and expenditure documentation. Programs must carefully follow the regulations and provisions to ensure that each member is eligible to serve, and if applicable, receive a living allowance. Premature approval to serve and/or disbursed living allowances can result in serious financial repercussions, such as, the disallowance of service hours and disbursed living allowances occurring during periods in which a member's eligibility and expenditure were not supported by proper documentation.

The State Commission realizes the importance and urgency of member recruitment and initial interventions at the start of a project year; however, in the hierarchy of project regulatory guidance, failure to comply with proper eligibility/expenditure documentation rules can have a serious financial impact on the subsequent future of a project. In comparison, the unexpected failure to meet member recruitment goals, member service hours, volunteer development and project performance measures are issues that do impact a project's future and overall performance, but are viewed with varying levels of tolerance and opportunity for improvement, and are the supportive reasoning of the existence of performance measures.

Primary Eligibility Documentation (summarized)
Individuals who have been selected to become AmeriCorps members must meet all eligibility criteria before being hired, enrolled or being allowed to begin service or employment. The North Dakota State Commission's guidance in this area is stronger than the Corporation (CNCS). The North Dakota State Commission programs are required to conduct a certified review and obtain copies of all eligibility documentation gathered under CFR 2522.200 (a) through (e). To aid in this documentation process the ND State Commission provides to programs a "member file checklist" to ensure proper documentation.

Criminal History Background Checks (summarized)
The first compliance rule relating to criminal history background checks is applicants cannot be hired, enrolled or begin service or employment without first having cleared the National Sex Offender Public Website (NSOPW) check. The second compliance rule relating to criminal history background checks is the project must initiate a state history check and Federal Bureau of Investigation (FBI) fingerprint background check no later than the start of service or employment (*if the member is residing in a different state than he/she is working you must conduct checks in both states*). Hired members can begin serving once their NSOPR has cleared, and the state(s) and FBI checks are requested (pending). Additionally, **while criminal history checks from the state(s) or FBI are pending, the member** (*if in a covered position working with vulnerable populations*) **must be in physical presence (accompanied)** of an assigned authorized representative who has been previously cleared for such access to vulnerable populations. It is good practice to include in your welcome letter to new members, who they will be assigned to for accompaniment while their background checks are pending and the rules of accompaniment and documentation. **Accompaniment may cease once either the state(s) or FBI background checks have cleared.**

Code of Federal Regulations Applicable to Section 4

CFR 2522.200 - Subpart B—Participant Eligibility, Requirements, and Benefits

§2522.200 What are the eligibility requirements for an AmeriCorps participant?
§2522.205 To whom must I apply the National Service Criminal History Check eligibility criteria?
§2522.206 [Reserved]
§2522.207 How do I determine an individual's eligibility to serve in a covered position?
§2522.210 How are AmeriCorps participants recruited and selected?
§2522.220 What are the required terms of service for AmeriCorps participants?
§2522.230 Under what circumstances may an AmeriCorps participant be released from completing a term of service, and what are the consequences?
§2522.235 Is there a limit on the number of terms an individual may serve in an AmeriCorps State and National program?
§2522.240 What financial benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?
§2522.245 How are living allowances disbursed?
§2522.250 What other benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?

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§2522.200 What are the eligibility requirements for an AmeriCorps participant?

(**a**) ***Eligibility.*** An AmeriCorps participant must—
(1)(i) Be at least 17 years of age at the commencement of service; or
(ii) Be an out-of-school youth 16 years of age at the commencement of service participating in a program described in §2522.110(b)(3) or (g);
(2)(i) Have a high school diploma or its equivalent; or
(ii) Not have dropped out of elementary or secondary school to enroll as an AmeriCorps participant and must agree to obtain a high school diploma or its equivalent prior to using the education award; or
(iii) Obtain a waiver from the Corporation of the requirements in paragraphs (a)(2)(i) and (a)(2)(ii) of this section based on an independent evaluation secured by the program demonstrating that the individual is not capable of obtaining a high school diploma or its equivalent; or
(iv) Be enrolled in an institution of higher education on an ability to benefit basis and be considered eligible for funds under section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091);
(3) Be a citizen, national, or lawful

CNCS AmeriCorps Terms and Conditions, Part II. G. relating to CFR 2522.200
G. Member or participant means an individual:
a. Who has been selected by a recipient or sub-recipient to serve in an approved national service position;
b. Who is a U.S. citizen, U.S. National, or lawful permanent resident alien of the United States;
c. Who is at least 17 years of age at the commencement of service unless the member is out of school and enrolled in a full-time, year-round youth corps or full-time summer program as defined in the National and Community Service Act of 1990 (NCSA) (42 U.S.C. § 12572 (a)(3)(B)(x)), in which case he or she must be between the ages of 16 and 25, inclusive, and
d. Who has received a high school diploma or its equivalent, agrees to obtain a high school diploma or its equivalent (unless this requirement is waived based on an individual education assessment conducted by the program) and the individual did not drop out of an elementary or secondary school to enroll in the program, or is enrolled in an institution of higher education on an ability to benefit basis and is considered eligible for funds under 20 U.S.C. section 1091.

permanent resident alien of the United States;
(4) Satisfy the National Service Criminal History Check eligibility criteria pursuant to 45 CFR 2540.202.

(b) ***Written declaration regarding high school diploma sufficient for enrollment.*** For purposes of enrollment, if an individual provides a written declaration under penalty of law that he or she meets the requirements in paragraph (a) of this section relating to high school education, a program need not obtain additional documentation of that fact.

(c) ***Primary documentation of status as a U.S. citizen or national.*** The following are acceptable forms of certifying status as a U.S. citizen or national:
(1) A birth certificate showing that the individual was born in one of the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, or the Northern Mariana Islands;
(2) A United States passport;
(3) A report of birth abroad of a U.S. Citizen (FS-240) issued by the State Department;
(4) A certificate of birth-foreign service (FS 545) issued by the State Department;
(5) A certification of report of birth (DS-1350) issued by the State Department;
(6) A certificate of naturalization (Form N-550 or N-570) issued by the Immigration and Naturalization Service; or
(7) A certificate of citizenship (Form N-560 or N-561) issued by the Immigration and Naturalization Service.

ND State Commission Clarification and Guidance
It is recommended that programs have their members complete the National Service Trust Enrollment Form and maintain the completed, signed and dated form in the member's file. The ND State Commission requires programs to obtain and maintain a copy of the citizenship documentation gathered under CFR 2522.200 (c), (d) or (e). Additionally, the Member File Checklist will be used by the program reviewer to record and certify by signature and date, the title of the original citizenship document reviewed, the eligibility criterion satisfied, and any document identification number(s). Primary documentation must be obtained, copied, reviewed and certified prior to a member beginning service.
(Special Note: Live Birth Certifications provided by the hospital/medical facility are not acceptable as legal certified birth certificates).
The ND State Commission also recommends as best practice to insert a copy of the screen shot from the My AmeriCorps Portal verifying that the member's citizenship has been verified. This process will provide an early alert for programs regarding members who may have issues relating to their verification as citizens.

State Commission Policy 1-02-03 (3) reminds recipients and sub-recipients, when selecting AmeriCorps members, to be aware of the state and federal laws regarding a conflict of interest. 2 CFR – Subtitle A – Subpart B 200.112 requires organizations to establish written conflict of interest policies.

(d) ***Primary documentation of status as a lawful permanent resident alien of the United States.*** The following are acceptable forms of certifying status as a lawful permanent resident alien of the United States:
(1) Permanent Resident Card, INS Form I-551;
(2) Alien Registration Receipt Card, INS Form I-551;
(3) A passport indicating that the INS has approved it as temporary evidence of lawful admission for permanent residence; or
(4) A Departure Record (INS Form I-94) indicating that the INS has approved it as temporary evidence of lawful admission for permanent residence.

(e) ***Secondary documentation of citizenship or immigration status.*** If primary documentation is not available, the program must obtain written approval from the Corporation that other documentation is sufficient to demonstrate the individual's status as a U.S. citizen, U.S. national, or lawful permanent resident alien.
[64 FR 37413, July 12, 1999, as amended at 67 FR 45360, July 9, 2002; 77 FR 60931, Oct. 5, 2012]

§2522.205 To whom must I apply the National Service Criminal History Check eligibility criteria?
You must apply the National Service Criminal History Check eligibility criteria to individuals serving in covered positions. A covered position is a position in which the individual receives an education award or a Corporation grant-funded living allowance, stipend, or salary.
[77 FR 60931, Oct. 5, 2012]

§2522.206 [Reserved]

§2522.207 How do I determine an individual's eligibility to serve in a covered position?
To determine an individual's eligibility to serve in a covered position, you must follow the procedures in part 2540 of this chapter.
[77 FR 60932, Oct. 5, 2012]

§2522.210 How are AmeriCorps participants recruited and selected?
(a) ***Local recruitment and selection.*** In general, AmeriCorps participants will be selected locally by an approved AmeriCorps program, and the selection criteria will vary widely among the different programs. Nevertheless, AmeriCorps programs must select their participants in a fair and non-discriminatory manner which complies with part 2540 of this chapter. In selecting participants, programs must also comply with the recruitment and selection requirements specified in this section.
(b) ***National and State recruitment and selection.***
(1) The Corporation and each State Commission will establish a system to recruit individuals who desire to perform national service and to assist the placement of these individuals in approved AmeriCorps positions, which may include positions available under titles I and II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 *et seq.*). The national and state recruitment and placement system will be designed and operated according to Corporation guidelines.
(2) *Dissemination of information.* The Corporation and State Commissions will disseminate information regarding available approved AmeriCorps positions through cooperation with secondary schools, institutions of higher education, employment service offices, community-based organizations, State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*) and other State agencies that primarily serve qualified individuals with disabilities, and other appropriate entities, particularly those organizations that provide outreach to disadvantaged youths and youths who are qualified individuals with disabilities.
(c) ***National leadership pool*—**
(1) *Selection and training.* From among individuals recruited under paragraph (b) of this section or nominated by service programs, the Corporation may select individuals with significant leadership potential, as determined by the Corporation, to receive special training to enhance their leadership ability. The leadership training will be provided by the Corporation directly or through a grant, contract, or cooperative agreement as the Corporation determines.
(2) *Emphasis on certain individuals.* In selecting individuals to receive leadership training under this provision, the Corporation will make special efforts to select individuals who have served—
(i) In the Peace Corps;
(ii) As VISTA volunteers;
(iii) As participants in AmeriCorps programs receiving assistance under parts 2520 through 2524 of this chapter;
(iv) As participants in National Service Demonstration programs that received assistance from the Commission on National and Community Service; or
(v) As members of the Armed Forces of the United States and who were honorably discharged from such service.
(3) *Assignment.* At the request of a program that receives assistance, the Corporation may assign an individual who receives leadership training under paragraph (c)(1) of this section to work with the

program in a leadership position and carry out assignments not otherwise performed by regular participants. An individual assigned to a program will be considered to be a participant of the program.

§2522.220 What are the required terms of service for AmeriCorps participants?

(a) ***Term of Service.*** A term of service may be defined as:
(1) *Full-time service.* 1,700 hours of service during a period of not more than one year.
(2) *Part-time service.* 900 hours of service during a period of not more than two years.
(3) *Reduced part-time term of service.* The Corporation may reduce the number of hours required to be served in order to receive an educational award for certain part-time participants serving in approved AmeriCorps positions. In such cases, the educational award will be reduced in direct proportion to the reduction in required hours of service. These reductions may be made for summer programs, for categories of participants in certain approved AmeriCorps programs and on a case-by-case, individual basis as determined by the Corporation.
(4) *Summer programs.* A summer program, in which less than 1700 hours of service are performed, are part-time programs.
(b) ***Eligibility for subsequent term.*** A participant will only be eligible to serve a subsequent term of service if that individual has received a satisfactory performance review for any previous term of service in an approved AmeriCorps position, in accordance with the requirements of paragraph (d) of this section and §2526.15. Mere eligibility for a second or further term of service in no way guarantees a participant selection or placement.
(c) ***Participant evaluation.*** For the purposes of determining a participant's eligibility for an educational award as described in §2522.240(a) and eligibility to serve a second or additional term of service as described in paragraph (c) of this section, each AmeriCorps grantee is responsible for conducting a mid-term and end-of-term evaluation. A mid-term evaluation is not required for a participant who is released early from a term of service or in other circumstances as approved by the Corporation. The end-of-term evaluation should consist of:
(1) A determination of whether the participant:
(i) Successfully completed the required term of service described in paragraph (a) of this section, making the participant eligible for an educational award as described in §2522.240(a);
(ii) Was released from service for compelling personal circumstances, making the participant eligible for a pro-rated educational award as described in §2522.230(a)(2); or
(iii) Was released from service for cause, making the participant ineligible to receive an educational award for that term of service as described in §2522.230(b)(3); and
(2) A participant performance and conduct review to determine whether the participant's service was satisfactory, which will assess whether the participant:
(i) Has satisfactorily completed assignments, tasks, or projects, or, for those participants released from service early, whether the participant made a satisfactory effort to complete those assignments, tasks, or projects that the participant could reasonably have addressed in the time the participant served; and

CNCS AmeriCorps Terms and Conditions, Part V. E. relating to CFR 2522.220 (c)
5. Performance Reviews. The grantee must conduct and keep a record of at least a midterm and an end-of-term written evaluation of each member's performance for Full and Half-Time members and an end-of-term written evaluation for less than Half-time members. The end-of-term evaluation should address, at a minimum, the following factors:
a. Whether the member has completed the required number of hours;
b. Whether the member has satisfactorily completed assignments; and
c. Whether the member has met other performance criteria that were clearly communicated at the beginning of the term of service.

(ii) Has met any other criteria which had been clearly communicated both orally and in writing at the beginning of the term of service.

(d) ***Limitation.*** The Corporation may set a minimum or maximum percentage of hours of a full-time, part-time, or reduced term of service described in paragraphs (a)(1),(a)(2), and (a)(3) of this section that a participant may engage in training, education, or other similar approved activities

(e) ***Grievance procedure.*** Any AmeriCorps participant wishing to contest a program's ruling of unsatisfactory performance may file a grievance according to the procedures set forth in part 2540 of this chapter. If that grievance procedure or subsequent binding arbitration procedure finds that the participant did in fact satisfactorily complete a term of service, then that individual will be eligible to receive an educational award and/or be eligible to serve a second term of service.

(f) ***Extension of term for disaster purposes.*** If approved by the Corporation, a program may permit an AmeriCorps participant performing service directly related to disaster relief efforts to continue in a term of service for a period of up to 90 days beyond the period otherwise specified. A period of service performed by an AmeriCorps participant in an originally agreed-upon term of service and service performed under this paragraph shall constitute a single term of service for the purposes of §2526.50(a) of this chapter.

[59 FR 13796, Mar. 23, 1994, as amended at 73 FR 53759, Sept. 17, 2008; 74 FR 46506, Sept. 10, 2009; 75 FR 51410, Aug. 20, 2010]

§2522.230 Under what circumstances may an AmeriCorps participant be released from completing a term of service, and what are the consequences?

An AmeriCorps program may release a participant from completing a term of service for compelling personal circumstances, as determined by the program, or for cause.

(a) ***Release for compelling personal circumstances.***

(1) An AmeriCorps program may release a participant upon a determination by the program, consistent with the criteria listed in paragraphs (a)(6) and (a)(7) of this section, that the participant is unable to complete the term of service because of compelling personal circumstances, if the participant has otherwise performed satisfactorily and has completed at least fifteen percent of the agreed term of service.

(2) A participant who is released for compelling personal circumstances and who completes at least 15 percent of the required term of service is eligible for a pro-rated education award.

(3) The program must document the basis for any determination that compelling personal

CNCS AmeriCorps Terms and Conditions, Part VII. relating to CFR 2522.230 (a)

RELEASE FROM PARTICIPATION

Recipients may release members from participation for two reasons: (a) for compelling personal circumstances; and (b) for cause. See 45 CFR § 2522.230 for requirements. Whether the reason for the release amounts to circumstances beyond the member's control is determined by the recipient, consistent with the criteria listed in 45 CFR § 2522.230(a). Failure to follow the requirements set forth in regulation (e.g., releasing an individual for non-compelling personal circumstances, such as when the individual is leaving to go to school) is considered non-compliance with award requirements and may result in disallowed costs and other remedies for non-compliance. In addition to the regulations, the following applies:

No Automatic Disqualification if Released for Cause*:* A release for cause covers all circumstances in which a member does not successfully complete his/her term of service for reasons other than compelling personal circumstances. Therefore, it is possible for a member to receive a satisfactory performance review and be released for cause. For example, a member who is released for cause from a first term–e.g. the individual has decided to take a job offer–but who, otherwise, performed well, would not be disqualified from enrolling for a subsequent term as long as the individual received a satisfactory performance evaluation for the first period of service.

circumstances prevent a participant from completing a term of service.
(4) Compelling personal circumstances include:
(i) Those that are beyond the participant's control, such as, but not limited to:
(A) A participant's disability or serious illness;
(B) Disability, serious illness, or death of a participant's family member if this makes completing a term unreasonably difficult or impossible; or
(C) Conditions attributable to the program or otherwise unforeseeable and beyond the participant's control, such as a natural disaster, a strike, relocation of a spouse, or the nonrenewal or premature closing of a project or program, that make completing a term unreasonably difficult or impossible;
(ii) Those that the Corporation, has for public policy reasons, determined as such, including:
(A) Military service obligations;
(B) Acceptance by a participant of an opportunity to make the transition from welfare to work; or
(C) Acceptance of an employment opportunity by a participant serving in a program that includes in its approved objectives the promotion of employment among its participants.
(5) Compelling personal circumstances do not include leaving a program:
(i) To enroll in school;
(ii) To obtain employment, other than in moving from welfare to work or in leaving a program that includes in its approved objectives the promotion of employment among its participants; or
(iii) Because of dissatisfaction with the program.
(6) As an alternative to releasing a participant, an AmeriCorps*State/National program may, after determining that compelling personal circumstances exist, suspend the participant's term of service for up to two years (or longer if approve' by the Corporation based on extenuating circumstances) to allow the participant to complete service with the same or similar AmeriCorps program at a later time.
(b) ***Release for cause.***
(1) A release for cause encompasses any circumstances other than compelling personal circumstances that warrant an individual's release from completing a term of service.
(2) AmeriCorps programs must release for cause any participant who is convicted of a felony or the sale or distribution of a controlled substance during a term of service.
(3) A participant who is released for cause may not receive any portion of the AmeriCorps education award or any other payment from the National Service Trust.
(4) An individual who is released for cause must disclose that fact in any subsequent applications to participate in an AmeriCorps program. Failure to do so disqualifies the individual for an education award, regardless of whether the individual completes a term of service.
(5) An AmeriCorps*State/National participant released for cause may contest the program's decision by filing a grievance. Pending the resolution of a grievance procedure filed by an individual to contest a determination by a program to release the individual for cause, the individual's service is considered to be suspended. For this type of grievance, a program may not—while the grievance is pending or as part of its resolution—provide a participant with federally-funded benefits (including payments from the National Service Trust) beyond those attributable to service actually performed, without the program receiving written approval from the Corporation.
(6) An individual's eligibility for a subsequent term of service in AmeriCorps will not be affected by release for cause from a prior term of service so long as the individual received a satisfactory end-of-term performance review as described in §2522.220(c)(2) for the period served in the prior term.
(7) Except as provided in paragraph (e) of this section, a term of service from which an individual is released for cause counts as one of the terms of service described in §2522.235 for which an individual may receive the benefits described in §§2522.240 through 2522.250.
(c) ***Suspended service.***
(1) A program must suspend the service of an individual who faces an official charge of a violent felony (e.g., rape, homicide) or sale or distribution of a controlled substance.

(2) A program must suspend the service of an individual who is convicted of possession of a controlled substance.
(3) An individual may not receive a living allowance or other benefits, and may not accrue service hours, during a period of suspension under this provision.
(d) ***Reinstatement.***
(1) A program may reinstate an individual whose service was suspended under paragraph (c)(1) of this section if the individual is found not guilty or if the charge is dismissed.
(2) A program may reinstate an individual whose service was suspended under paragraph (c)(2) of this section only if the individual demonstrates the following:
(i) For an individual who has been convicted of a first offense of the possession of a controlled substance, the individual must have enrolled in a drug rehabilitation program;
(ii) For an individual who has been convicted for more than one offense of the possession of a controlled substance, the individual must have successfully completed a drug rehabilitation program.
(e) ***Release prior to serving 15 percent of a term of service.*** If a participant is released for reasons other than misconduct prior to completing 15 percent of a term of service, the term will not be considered one of the terms of service described in §2522.220(b) for which an individual may receive the benefits

§2522.235 Is there a limit on the number of terms an individual may serve in an AmeriCorps State and National program?

(a) ***General limitation.*** An individual may receive the benefits described in §2522.240 through §2522.250 for no more than four terms of service in an AmeriCorps State and National program, regardless of whether those terms were served on a full-, part-, or reduced part-time basis, consistent with the limitations in §2526.50.
(b) ***Early release.*** Except as provided in paragraph (c) of this section, a term of service from which an individual is released for compelling personal circumstances or for cause counts as one of the terms of service for which an individual may receive the benefits described in §2522.240 through §2522.250.
(c) ***Release prior to serving fifteen percent of a term.*** If a person is released for reasons other than misconduct prior to completing fifteen percent of a term of service, the term will not be considered one of the terms of service for which an individual may receive the benefits described in §§2522.240 through 2522.250.
[75 FR 51410, Aug. 20, 2010]

§2522.240 What financial benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?

(a) ***AmeriCorps education awards.*** An individual serving in an approved AmeriCorps State and National position may receive an education award from the National Service Trust upon successful completion of each of no more than four terms of service as defined in §2522.220, consistent with the limitations in §2526.50.
(b) ***Living allowances***—(1)*Amount.* Subject to the provisions of this part, any individual who participates on a full-time basis in an AmeriCorps program carried out using assistance provided pursuant to §2521.30 of this chapter, including an AmeriCorps program that receives educational awards only pursuant to §2521.30(c) of this chapter, will receive a living allowance in an amount equal to or greater than the average annual subsistence allowance provided to VISTA volunteers under §105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955). This requirement will not apply to any program that was in existence prior to September 21, 1993 (the date of the enactment of the National and Community Service Trust Act of 1993).

(2) *Maximum living allowance.* With the exception of a professional corps described in §2522.110(a)(3), the AmeriCorps living allowances may not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955). A professional corps AmeriCorps program may provide a stipend in excess of the maximum, subject to the following conditions: (i) Corporation assistance may not be used to pay for any portion of the allowance; and
(ii) The program must be operated directly by the applicant, selected on a competitive basis by submitting an application to the Corporation, and may not be included in a State's application for AmeriCorps program funds distributed by formula under §2521.30(a)(2) of this chapter.
(3) *Living allowances for part-time participants.* Programs may, but are not required to, provide living allowances to individuals participating on a part-time basis (or a reduced term of part-time service authorized under §2522.220(a)(3). Such living allowances should be prorated to the living allowance authorized in paragraph (b)(1) of this section and will comply with such restrictions therein. (4) *Waiver or reduction of living allowance for programs.* The Corporation may, at its discretion, waive or reduce the living allowance requirements if a program can demonstrate to the satisfaction of the Corporation that such requirements are inconsistent with the objectives of the program, and that participants will be able to meet the necessary and reasonable costs of living (including food, housing, and transportation) in the area in which the program is located.
(5) *Waiver or reduction of living allowance by participants.* A participant may waive all or part of the receipt of a living allowance. The participant may revoke this waiver at any time during the participant's term of service. If the participant revokes the living allowance waiver, the

CNCS AmeriCorps Terms and Conditions, Part VIII. A. relating to CFR 2522.240 (b) and CFR 2522.250
A. Living Allowance Distribution. A living allowance is not a wage. Recipients must not pay a living allowance on an hourly basis. Recipients should pay the living allowance in regular increments, such as weekly or bi-weekly, paying an increased increment only on the basis of increased living expenses such as food, housing, or transportation. Payments should not fluctuate based on the number of hours served in a particular time period, and must cease when the member's service ceases.
If a member serves all required hours and is permitted to conclude his or her term of service before the originally agreed upon end of term, the recipient may not provide a lump sum payment to the member. Similarly, if a member is selected after the program's start date, the recipient must provide regular living allowance payments from the member's start date and may not increase the member's living allowance incremental payment or provide a lump sum to make up any missed payments.
Education Award Program Fixed-Amount grants (EAPs) and Partnership Challenge awards may provide a living allowance or other in-service benefits to their members, but are not required to do so. Full-cost and other Fixed Amount recipients must provide a living allowance to their members.

CNCS AmeriCorps Terms and Conditions, Part VIII. B. relating to CFR 2522.240 (b) (5)
B. Waiving the Living Allowance. If a living allowance is paid, a member may waive all or part of the payment of a living allowance if he or she believes his or her public assistance may be lost or decreased because of the living allowance. Even if a member waives his or her right to receive the living allowance, it is possible—depending on the specific public assistance program rules—that the amount of the living allowance that the member is eligible to receive will be deemed available. A member who has waived the living allowance may revoke the waiver at any time and may begin receiving the living allowance going forward from the date the individual revoked the waiver. A member may not receive any portion of the living allowance for the period of time the living allowance was waived.

participant may begin receiving his or her living allowance prospective from the date of the revocation; a participant may not receive any portion of the living allowance that may have accrued during the waiver period.
(6) *Limitation on Federal share.* The Federal share, including Corporation and other Federal funds, of the total amount provided to an AmeriCorps participant for a living allowance is limited as follows:
(i) In no case may the Federal share exceed 85% of the minimum required living allowance enumerated in paragraph (b)(1) of this section.
(ii) For professional corps described in paragraph (b)(2)(i) of this section, Corporation and other Federal funds may be used to pay for no portion of the living allowance.

ND State Commission Clarification and Guidance
The matching requirements have been changed and the 85% rule no longer applies. The Corporation has created a new general matching requirement for the first three years.
http://www.nationalservice.gov/sites/default/files/upload/08_0227_single_match_faqs.pdf

(iii) If the minimum living allowance requirements has been waived or reduced pursuant to paragraph (b)(4) of this section and the amount of the living allowance provided to a participant has been reduced correspondingly—
(A) In general, the Federal share may not exceed 85% of the reduced living allowance; however,
(B) If a participant is serving in a program that provides room or board, the Corporation will consider on a case-by-case basis allowing the portion of that living allowance that may be paid using Corporation and other Federal funds to be between 85% and 100%.
(C) ***Financial benefits*** *for participants during an extended term of service for disaster purposes.* An AmeriCorps participant performing extended service under §2522.220(f) may continue to receive a living allowance under paragraph (b) and other benefits under §2522.250, but may not receive an additional AmeriCorps educational award under paragraph (a).
[59 FR 13796, Mar. 23, 1994, as amended at 71 FR 10611, Mar. 2, 2006; 73 FR 53760, Sept. 17, 2008; 74 FR 46506, Sept. 10, 2009; 75 FR 51410, Aug. 20, 2010]

§2522.245 How are living allowances disbursed?
A living allowance is not a wage and programs may not pay living allowances on an hourly basis. Programs must distribute the living allowance at regular intervals and in regular increments, and may increase living allowance payments only on the basis of increased living expenses such as food, housing, or transportation. Living allowance payments may only be made to a participant during the participant's term of service and must cease when the participant concludes the term of service. Programs may not provide a lump sum payment to a participant who completes the originally agreed-upon term of service in a shorter period of time.
[73 FR 53760, Sept. 17, 2008]

§2522.250 What other benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?
(a) ***Child Care.*** Grantees must provide child care through an eligible provider or a child care allowance in an amount determined by the Corporation to those full-time participants who need child care in order to participate.
(1) *Need.* A participant is considered to need child care in order to participate in the program if he or she:
(i) Is the parent or legal guardian of, or is acting in loco parentis for, a child under 13 who resides with the participant;

(ii) Has a family income that does not exceed 75 percent of the State's median income for a family of the same size;
(iii) At the time of acceptance into the program, is not currently receiving child care assistance from another source, including a parent or guardian, which would continue to be provided while the participant serves in the program; and
(iv) Certifies that he or she needs child care in order to participate in the program.
(2) *Provider eligibility.* Eligible child care providers are those who are eligible child care providers as defined in the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(5)).
(3) *Child care allowance.* The amount of the child-care allowance may not exceed the applicable payment rate to an eligible provider established by the State for child care funded under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(4)(A)).
(4) *Corporation share.* The Corporation will pay 100 percent of the child care allowance, or, if the program provides child care through an eligible provider, the actual cost of the care or the amount of the allowance, whichever is less.

(b) ***Health care.***
(1) Grantees must provide to all eligible participants who meet the requirements of paragraph (b)(2) of this section health care coverage that—
(i) Provides the minimum benefits determined by the Corporation;
(ii) Provides the alternative minimum benefits determined by the Corporation; or
(iii) Does not provide all of either the minimum or the alternative minimum benefits but that has a fair market value equal to or greater than the fair market value of a policy that provides the minimum benefits.
(2) *Participant eligibility.* A full-time participant is eligible for health care benefits if he or she is not otherwise covered by a health benefits package providing minimum benefits established by the Corporation at the time he or she is accepted into a program. If, as a result of participation, or if, during the term of service, a participant demonstrates loss of coverage through no deliberate act of his or her own, such as parental or spousal job loss or disqualification from Medicaid, the participant will be eligible for health care benefits.
(3) *Corporation share.* (i) Except as provided in paragraph (b)(3)(ii) of this section, the Corporation's share of the cost of health coverage may not exceed 85 percent.
(ii) The Corporation will pay no share of the cost of a policy that does not provide the minimum or alternative minimum benefits described in paragraphs (b)(1)(i) and (b)(1)(ii) of this section.
[59 FR 13796, Mar. 23, 1994, as amended at 70 FR 39600, July 8, 2005]

Section 4: CFR 2522.400 - Subpart D – Selection of AmeriCorps Programs/Factors & MSY calculations

Contents

Page 52: ND State Commission Introductory Comments and Guidance
Page 53: Code of Federal Regulations with Corporation Provisions and ND Commission Inserts

State Commission Introductory Comments and Guidance:

The North Dakota State Commission (State Commission) uses a grant competition and selection process similar to the Corporation for National and Community Service (CNCS). The complete grant application process includes a statewide notice of funding opportunity in conjunction with a public town hall awareness campaign. Interested organizations have the option of submitting competitive grant applications directly to CNCS for national competitive funds and/or to the State Commission for state formula funds. These application periods are different, with the national competitive process occurring prior to the State Commission formula funding competition. Both competitions require a "notice of intent to apply" period and a "grant application" period. CNCS provides a peer review process for grant applications that were received for the national competition and the State Commission provides the peer review process for grant applications received for the state formula funds competition. Competitive grant applicants that had planned to operate only in North Dakota and were not successful in the competition for national funds from CNCS have the option to be considered for the State Commission formula fund competition. In regards to the State Commission competition, formula fund grant applications submitted by the posted deadline, will be forwarded to an independent volunteer panel of peer reviewers who will read and score them. Once the peer reviewers have completed the scoring process, the State Commission's grants review committee will review the results from the Formula grant proposal competition and submit their recommendations to the whole State Commission for final approval of grant awarding.

State Commission Selection Criteria, Considerations and Priorities

The State Commission follows the same general CNCS selection criteria in regards to grant application scoring. The State Commission has the flexibility to include additional considerations and requirements in its formula funding awarding process. State Commission considerations and other priorities for funding will be included in the State Commission's notice of funding announcement and annual grant application guide. Currently, the State Commission requires formula fund grant applicants to include performance objectives that include volunteer recruitment and member development.

Code of Federal Regulations Applicable to Section 4
Subpart D—Selection of AmeriCorps Programs

§2522.400 What process does the Corporation use to select new grantees?
§2522.410 What is the role of the Corporation's Board of Directors in the selection process?
§2522.415 How does the grant selection process work?
§2522.420 What basic criteria does the Corporation use in making funding decisions?
§2522.440 What weight does the Corporation give to each category of the basic criteria?
§2522.450 What types of programs or program models may receive special consideration in the selection process?
§2522.455 How do I find out about additional priorities governing the selection process?
§2522.460 To what extent may the Corporation or a State commission consider priorities other than those stated in these regulations or the Notice of Funding Availability?
§2522.465 What information must a State commission submit on the relative strengths of applicants for State competitive funding?
§2522.470 What other factors or information may the Corporation consider in making final funding decisions?
§2522.475 To what extent must I use the Corporation's selection criteria and priorities when selecting formula programs or operating sites?
§2522.480 Can a State's application for formula funds be rejected?
§2522.485 How do I calculate my program's budgeted Corporation cost per member service year (MSY)?

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§2522.400 What process does the Corporation use to select new grantees?
Review this link for more information

§2522.410 What is the role of the Corporation's Board of Directors in the selection process?
Review this link for more information

§2522.415 How does the grant selection process work?
Review this link for more information

§2522.420 What basic criteria does the Corporation use in making funding decisions?
Review this link for more information

§2522.440 What weight does the Corporation give to each category of the basic criteria?
Review this link for more information

§2522.450 What types of programs or program models may receive special consideration in the selection process?
Following the scoring of proposals under §2522.440 of this part, the Corporation will seek to ensure that its portfolio of approved programs includes a meaningful representation of proposals that address one or more of the following priorities:
(a) ***Program models****:* (1) Programs operated by community organizations, including faith-based organizations, or programs that support the efforts of community organizations, including faith-based organizations, to solve local problems;
(2) Lower-cost professional corps programs, as defined in paragraph (a)(3) of §2522.110 of this chapter.
(b) ***Program activities****:* (1) Programs that serve or involve children and youth, including mentoring of disadvantaged youth and children of prisoners;
(2) Programs that address educational needs, including those that carry out literacy and tutoring activities generally, and those that focus on reading for children in the third grade or younger;

(3) Programs that focus on homeland security activities that support and promote public safety, public health, and preparedness for any emergency, natural or man-made (this includes programs that help to plan, equip, train, and practice the response capabilities of many different response units ready to mobilize without warning for any emergency);
(4) Programs that address issues relating to the environment;
(5) Programs that support independent living for seniors or individuals with disabilities;
(6) Programs that increase service and service-learning on higher education campuses in partnership with their surrounding communities;
(7) Programs that foster opportunities for Americans born in the post-World War II baby boom to serve and volunteer in their communities; and
(8) Programs that involve community-development by finding and using local resources, and the capacities, skills, and assets of lower-income people and their community, to rejuvenate their local economy, strengthen public and private investments in the community, and help rebuild civil society.
(c) ***Programs supporting distressed communities****:* Programs or projects that will be conducted in:
(1) A community designated as an empowerment zone or redevelopment area, targeted for special economic incentives, or otherwise identifiable as having high concentrations of low-income people;
(2) An area that is environmentally distressed, as demonstrated by Federal and State data;
(3) An area adversely affected by Federal actions related to managing Federal lands that result in significant regional job losses and economic dislocation;
(4) An area adversely affected by reductions in defense spending or the closure or realignment of military installation;
(5) An area that has an unemployment rate greater than the national average unemployment for the most recent 12 months for which State or Federal data are available;
(6) A rural community, as demonstrated by Federal and State data; or
(7) A severely economically distressed community, as demonstrated by Federal and State data.
(d) ***Other programs****:* Programs that meet any additional priorities as the Corporation determines and disseminates in advance of the selection process.
[70 FR 39600, July 8, 2005]

§2522.455 How do I find out about additional priorities governing the selection process?
Review this link for more information

§2522.460 To what extent may the Corporation or a State commission consider priorities other than those stated in these regulations or the Notice of Funding Availability?
Review this link for more information

§2522.465 What information must a State commission submit on the relative strengths of applicants for State competitive funding?
Review this link for more information

§2522.470 What other factors or information may the Corporation consider in making final funding decisions?
(a) The Corporation will seek to ensure that our portfolio of AmeriCorps programs is programmatically, demographically, and geographically diverse and includes innovative programs, and projects in rural, high poverty, and economically distressed areas.
(b) In applying the selection criteria under §§2522.420 through 2522.435, the Corporation may, with respect to a particular proposal, also consider one or more of the following for purposes of clarifying or verifying information in a proposal, including conducting due diligence to ensure an applicant's ability to manage Federal funds:
(1) For an applicant that has previously received a Corporation grant, any information or records the applicant submitted to the Corporation, or that the Corporation has in its system of records, in

connection with its previous grant (*e.g.* progress reports, site visit reports, financial status reports, audits, HHS Account Payment Data Reports, Federal Cash Transaction Reports, timeliness of past reporting, etc.);
(2) Program evaluations;
(3) Member-related information from the Corporation's systems;
(4) Other Corporation internal information, including information from the Office of Inspector General, administrative standards for State commissions, and reports on program training and technical assistance;
(5) IRS Tax Form 990;
(6) An applicant organization's annual report;
(7) Information relating to the applicant's financial management from Corporation records;
(8) Member satisfaction indicators;
(9) Publicly available information including:
(i) Socio-economic and demographic data, such as poverty rate, unemployment rate, labor force participation, and median household income;
(ii) Information on where an applicant and its activities fall on the U.S. Department of Agriculture's urban-rural continuum (Beale codes);
(iii) Information on the nonprofit and philanthropic community, such as charitable giving per capita;
(iv) Information from an applicant organization's website; and
(v) U.S. Department of Education data on Federal Work Study and Community Service; and
(10) Other information, following notice in the relevant Notice of Funding Availability, of the specific information and the Corporation's intention to be able to consider that information in the review process.
(c) Before approving a program grant to a State commission, the Corporation will consider a State commission's capacity to manage and monitor grants.
[70 FR 39600, July 8, 2005]

§2522.475 To what extent must I use the Corporation's selection criteria and priorities when selecting formula programs or operating sites?
You must ensure that the selection criteria you use include the following criteria:
(a) The quality of the national service program proposed to be carried out directly by the applicant or supported by a grant from the applicant.
(b) The innovative aspects of the national service program, and the feasibility of replicating the program.
(c) The sustainability of the national service program.
(d) The quality of the leadership of the national service program, the past performance of the program, and the extent to which the program builds on existing programs.
(e) The extent to which participants of the national service program are recruited from among residents of the communities in which projects are to be conducted, and the extent to which participants and community residents are involved in the design, leadership, and operation of the program.
(f) The extent to which projects would be conducted in one of the areas listed in §2522.450(c)(1) through (5) of this subpart.
(g) In the case of applicants other than States, the extent to which the application is consistent with the application of the State in which the projects would be conducted.
(h) Such other criteria as the Corporation considers to be appropriate, following appropriate notice.
[70 FR 39600, July 8, 2005]
§2522.480 Can a State's application for formula funds be rejected?
Review this link for more information

§2522.485 How do I calculate my program's budgeted Corporation cost per member service year (MSY)? Review this link for more information

Section 8: CFR – PART 2526—ELIGIBILITY FOR AN EDUCATION AWARD

Contents

Page 56: ND State Commission Introductory Comments and Guidance
Page 57: Code of Federal Regulations with Corporation Provisions and ND Commission Inserts

ND State Commission Introductory Comments and Guidance:

Eligibility for an education award upon satisfactory completion of a member term of service is an important benefit that completes the member development plan. The North Dakota State Commission (State Commission) specifically requires programs to have a performance objective that includes member development. Member development occurs at various times during the member's service experience such as during training, mentoring and actual member service. Most important for our AmeriCorps members is the opportunity to complete their formal education through the assistance of an education award. With a college education, AmeriCorps members can acquire leadership roles in our communities and promote the values that they acquired when they were an AmeriCorps member. Education is a fundamental form of personal development, that will enhance the mission and goals of the Corporation for National and Community Service and the State Commission can be possible.

Direct Services (summarized)
In order for your members to become eligible for an education award, they must satisfactorily complete their service. Your organization will be responsible for having service plans that are clear and allow the member to achieve the agreed upon service hours.

Strong Member Supervision and Management
Review your processes for determining member eligibility and member agreement completion. The most common issues that can prevent a member from receiving an education award typically occur when member service hours are disallowed because issues are discovered such as missing eligibility verification, improper timesheets and unallowable service time.

Capacity Building Activities (summarized)
AmeriCorps members that are supported under your AmeriCorps project may perform capacity-building activities that advance your program goals. Your approved grant application must include a description of the capacity building activities and the amount of time that members will be devoting to an event/activity. The ND State Commission requires AmeriCorps members to participate in a minimum of two national service day events each project year.

Limitations of Certain Types of Member Service (summarized)
The ND State Commission requires programs to use timesheets that allocate a member's service hours to direct service, fund raising (limit 10%), education/training (limit 20%) and capacity building.

Prohibited Activities (summarized)
The project's member service agreements, service site agreements and site supervisor agreements must clearly outline the activities that are prohibited and which AmeriCorps members may not engage. The project's orientation and training sessions must clearly document that each member received instruction about the prohibited activities.

Code of Federal Regulations Applicable to Section 8

PART 2526—ELIGIBILITY FOR AN EDUCATION AWARD

§2526.10 Who is eligible to receive an education award from the National Service Trust?
§2526.15 Upon what basis may an organization responsible for the supervision of a national service participant certify that the individual successfully completed a term of service?
§2526.20 Is an AmeriCorps participant who does not complete an originally-approved term of service eligible to receive a pro-rated education award?
§2526.25 Is a participant in an approved Summer of Service position or approved Silver Scholar position who does not complete an approved term of service eligible to receive a pro-rated education award?
§2526.30 How do convictions for the possession or sale of controlled substances affect an education award recipient's ability to use that award?
§2526.40 What is the time period during which an individual may use an education award?
§2526.50 Is there a limit on the total amount of education awards an individual may receive?
§2526.55 What is the impact of the aggregate value of education awards received on an individual's ability to serve in subsequent terms of service?
§2526.60 May an individual receive an education award and related interest benefits from the National Service Trust as well as other loan cancellation benefits for the same service?
§2526.70 What are the effects of an erroneous certification of successful completion of a term of service?

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§2526.10 Who is eligible to receive an education award from the National Service Trust?

(a) *General.* An individual is eligible to receive an education award from the National Service Trust if the organization responsible for the individual's supervision in a national service program certifies that the individual—

(1) Met the applicable eligibility requirements for the approved AmeriCorps position, approved Silver Scholar position, or approved Summer of Service position, as appropriate, in which the individual served;

(2) (i) For an AmeriCorps education award, successfully completed the required term of service in the approved national service position;

(ii) For a partial AmeriCorps education award, completed at least 15 percent of the originally-approved term of service, and performed satisfactorily prior to being granted a release for compelling personal circumstances consistent with §2522.230(a);

(iii) For a Summer of Service education award, successfully completed the required term of service in a Summer of Service position; or

(iv) For a Silver Scholar education award, successfully completed the required term of service in a Silver Scholar position; and

(3) Is a citizen, national, or lawful permanent resident alien of the United States.

(b) *High school diploma or equivalent.* To use an education award, an individual must—

(1) Have received a high school diploma or its equivalent; or

(2) Be enrolled at an institution of higher education on the basis of meeting the standard described in paragraph (1) or (2) of subsection (a) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) and meet the requirements of subsection of section 484; or

(3) Have received a waiver described in §2522.200(b) of this chapter.

(c) *Written declaration regarding high school diploma sufficient for disbursement.* For purposes of disbursing an education award, if an individual provides a written declaration under penalty of law that

he or she meets the requirements in paragraph (b) of this section relating to high school education, no additional documentation is needed.
(d) *Prohibition on duplicate benefits.* An individual who receives a post-service benefit in lieu of an education award may not receive an education award for the same term of service.
(e) *Penalties for false information.* Any individual who makes a materially false statement or representation in connection with the approval or disbursement of an education award or other payment from the National Service Trust may be liable for the recovery of funds and subject to civil and criminal sanctions.
[64 FR 37414, July 12, 1999, as amended at 67 FR 45361, July 9, 2002; 75 FR 51411, Aug. 20, 2010]

§2526.15 Upon what basis may an organization responsible for the supervision of a national service participant certify that the individual successfully completed a term of service?
(a) An organization responsible for the supervision of an individual serving in an AmeriCorps State and National position must determine whether an individual successfully completed a term of service based upon an end-of-term evaluation conducted pursuant to §2522.220(d).
(b) An organization responsible for the supervision of an individual serving in a program other than AmeriCorps State and National must determine whether an individual successfully completed a term of service based upon an end-of-term evaluation that examines whether the individual satisfies all of the following conditions:
(1) Completed the required number of service hours for the term of service;
(2) Satisfactorily performed on assignments, tasks, or projects; and
(3) Met any performance criteria as determined by the program and communicated to the member.
(c) A certification by the organization responsible for the supervision of an individual that the individual did or did not successfully complete a term of service will be deemed to incorporate an end-of-term evaluation.
[75 FR 51411, Aug. 20, 2010]

§2526.20 Is an AmeriCorps participant who does not complete an originally-approved term of service eligible to receive a pro-rated education award?
(a) *Compelling personal circumstances.* A participant in an approved AmeriCorps position who is released prior to completing an approved term of service for compelling personal circumstances in accordance with §2522.230(a) is eligible for a pro-rated education award if the participant—
(1) Performed satisfactorily prior to being granted a release for compelling personal circumstances; and
(2) Completed at least 15 percent of the originally-approved term of service.
(b) *Release for cause.* A participant who is released prior to completing an originally-approved term of service for cause is not eligible for any portion of an education award.
[64 FR 37415, July 12, 1999, as amended at 75 FR 51411, Aug. 20, 2010]

§2526.25 Is a participant in an approved Summer of Service position or approved Silver Scholar position who does not complete an approved term of service eligible to receive a pro-rated education award?
No. An individual released for any reason prior to completing an approved term of service in a Silver Scholar or Summer of Service position is not eligible to receive a pro-rated award.
[75 FR 51411, Aug. 20, 2010]

§2526.30 How do convictions for the possession or sale of controlled substances affect an education award recipient's ability to use that award?
(a) Except as provided in paragraph (b) of this section, a recipient of an education award who is convicted under pertinent Federal or State law of the possession or sale of a controlled substance is not

eligible to use his or her education award from the date of the conviction until the end of a specified time period, which is determined based on the type of conviction as follows:
(1) For conviction of the possession of a controlled substance, the ineligibility periods are—
(i) One year for a first conviction;
(ii) Two years for a second conviction; and
(iii) For a third or subsequent conviction, indefinitely, as determined by the Corporation according to the following factors—
(A) Type of controlled substance;
(B) Amount of controlled substance;
(C) Whether firearms or other dangerous weapons were involved in the offense;
(D) Nature and extent of any other criminal record;
(E) Nature and extent of any involvement in trafficking of controlled substances;
(F) Length of time between offenses;
(G) Employment history;
(H) Service to the community;
(I) Recommendations from community members and local officials, including experts in substance abuse and treatment; and
(J) Any other relevant aggravating or ameliorating circumstances.
(2) For conviction of the sale of a controlled substance, the ineligibility periods are—
(i) Two years for a first conviction; and
(ii) Two years plus such additional time as the Corporation determines as appropriate for second and subsequent convictions, based on the factors set forth in paragraphs (a)(1)(iii) (A) through (J) of this section.
(b) (1) If the Corporation determines that an individual who has had his or her eligibility to use the education award suspended pursuant to paragraph (a) of this section has successfully completed a legitimate drug rehabilitation program, or in the case of a first conviction that the individual has enrolled in a legitimate drug rehabilitation program, the individual's eligibility to use the education award will be restored.
(2) In order for the Corporation to determine that the requirements of paragraph (b)(1) of this section have been met—
(i) The drug rehabilitation program must be recognized as legitimate by appropriate Federal, State or local authorities; and
(ii) The individual's enrollment in or successful completion of the legitimate drug rehabilitation program must be certified by an appropriate official of that program.
[59 FR 30711, June 15, 1994. Redesignated at 64 FR 37415, July 12, 1999]

§2526.40 What is the time period during which an individual may use an education award?
(a) *General requirement.* Unless the Corporation approves an extension in accordance with the requirements of paragraph (b) of this section—
(1) An individual may use an AmeriCorps education award or a Silver Scholar education award within seven years of the date on which the individual successfully completed a term of service in an approved AmeriCorps or Silver Scholar position;
(2) An individual may use a Summer of Service education award within ten years of the date on which the individual successfully completed a term of service in an approved Summer of Service position;
(3) A designated individual who receives a transferred education award in accordance with §2530.10 may use the transferred education award within ten years of the date on which the individual who transferred the award successfully completed the term of service in an approved AmeriCorps or Silver Scholar position that is the basis of the award.

(b) *Extensions.* In order to receive an extension of the period of availability specified in paragraph (a) of this section for using an education award, an individual must apply to the Corporation for an extension prior to the end of that time period. The Corporation may grant an application for an extension under the following circumstances:
(1) If the Corporation determines that an individual was performing another term of service in an approved AmeriCorps, Summer of Service, or Silver Scholar position during the original period of availability, the Corporation may grant an extension for a time period that is equivalent to the time period during which the individual was performing the other term of service.
(2) If the Corporation determines that an individual was unavoidably prevented from using the education award during the original period of availability, the Corporation may grant an extension for a period of time that the Corporation deems appropriate. An individual who is ineligible to use an education award as a result of the individual's conviction of the possession or sale of a controlled substance is not considered to be unavoidably prevented from using the education award for the purposes of this paragraph. In the case of a transferred award, an individual who is unable to use an education award as a result of being too young to enroll in an institution of higher education or other training establishment is not considered to be unavoidably prevented from using the education award.
[75 FR 51411, Aug. 20, 2010]

§2526.50 Is there a limit on the total amount of education awards an individual may receive?
(a) *General Limitation.* No individual may receive more than an amount equal to the aggregate value of two full-time education awards.
(b) *Calculation of the value of an education award.* For the purposes of this section, the *value* of an education award is equal to the actual amount of the education award received divided by the amount of a full-time education award in the year the AmeriCorps or Silver Scholar position to which the award is attributed was approved. Each award received will be considered to have a value between 0 and 1. Although the *amount* of a full-time award as defined in §2527.10(a) may change, the *value* of a full-time award will always be equal to 1.
(c) *Calculation of aggregate value of awards received.* The aggregate value of awards received is equal to the sum of:
(1) The value of each education award received as a result of successful completion of an approved AmeriCorps position;
(2) The value of each partial education award received as a result of release from an approved AmeriCorps position for compelling personal circumstances;
(3) The value of each education award received as a result of successful completion of a term of service in an approved Silver Scholar position; and
(4) The value of any amount received as a transferred education award, except as provided in §2530.60(c).
(d) *Determination of Receipt of Award.* For purposes of determining the aggregate value of education awards, an award is considered to be received at the time it becomes available for an individual's use.
[75 FR 51411, Aug. 20, 2010]

§2526.55 What is the impact of the aggregate value of education awards received on an individual's ability to serve in subsequent terms of service?
The aggregate value of education awards an individual has received will not impact an individual's ability to serve in a subsequent term of service, but will impact the amount of the education award the individual may receive upon successful completion of that term of service. If the award amount offered for the term of service has a value that, when added to the aggregate value of awards previously received, would exceed 2, upon successful completion of the term of service, the individual will only

receive that portion of the award having a value for which the individual is eligible pursuant to §2527.10(g).
[75 FR 51412, Aug. 20, 2010]

§2526.60 May an individual receive an education award and related interest benefits from the National Service Trust as well as other loan cancellation benefits for the same service?

An individual may not receive an education award and related interest benefits from the National Service Trust for a term of service and have that same service credited toward repayment, discharge, or cancellation of other student loans, except an individual may credit the service toward the Public Service Loan Forgiveness Program, as provided under 34 CFR §685.219.
[75 FR 51412, Aug. 20, 2010]

§2526.70 What are the effects of an erroneous certification of successful completion of a term of service?

(a) If the Corporation determines that the certification made by a national service program under §2526.10(a)(2)(i), (2)(iii), or (2)(iv) is erroneous, the Corporation shall assess against the national service program a charge for the amount of any associated payment or potential payment from the National Service Trust, taking into consideration the full facts and circumstances surrounding the erroneous or incorrect certification.
(b) Nothing in this section shall prohibit the Corporation from taking any action authorized by law based upon any certification that is knowingly made in a false, materially misleading, or fraudulent manner.
[75 FR 51412, Aug. 20, 2010]

Section 13: CFR 2540 – Subpart B Requirements Directly Affecting the Selection and Treatment of Participants:

- **Criminal History Checks**
- **Alternative Search Procedures**
- **Anti-discrimination**
- **Family and Medical Leave Act**
- **Grievance Procedures**

Contents

Page 62: ND State Commission Introductory Comments and Guidance
Page 63: Code of Federal Regulations

ND State Commission Introductory Comments and Guidance:

In addition to the basic eligibility criteria, an applicant (member candidate) may become ineligible to serve in a covered position (a covered position is a position in which the AmeriCorps member can receive an education award and/or a living allowance) based upon subsequent adverse results of a criminal history check. Similar to participant eligibility criteria, the criminal history check process is also a very important procedural guide topic. Programs must carefully follow the regulations, terms and conditions to ensure that each member is eligible to serve, and if applicable, receive a living allowance. Premature approval to serve and/or disburse living allowances can have serious financial repercussions, which include the disallowance of service hours and disbursed living allowances, accumulated during periods in which a member's criminal history check was not properly conducted and/or completed. Additionally, while criminal history checks from the state or FBI are pending, the member must be in physical presence (accompanied) of an assigned authorized representative who has been previously cleared for such access to vulnerable populations.

The assigned authorized representative must sign the member's timesheet and/or timesheets on a regular basis and in accordance with the organization's payroll reporting process to certify that they were in physical presence during specific service times to vulnerable populations. Each session in which the member was accompanied must be identified on the timesheet(s).

It is good practice to make sure all of your primary eligibility documentation and criminal history checks are date stamped and are corroborated with a subsequent official project letter informing your members of their eligibility and official start date. A date stamp will verify the proper receipt of documentation in advance of a final determination of eligibility.

When selected members' state(s) and FBI criminal history checks are in a pending status and the member will be in a covered position serving vulnerable populations, it is recommended to also include in the official eligibility service letter, special accompaniment and physical presence requirements and instructions. A notice of official start dates and specific instructions regarding services and accompaniment requirements, will demonstrate to an auditor or site visitor that the project has strong internal controls regarding member service hours and accompaniment requirements. Official start dates and accompaniment instructions will also prevent unintentional service activity by an AmeriCorps member.

Code of Federal Regulations Applicable to Section 13

CFR 2540 - Subpart B—Requirements Directly Affecting the Selection and Treatment of Participants

§2540.200 What does "you" mean in this section?
§2540.201 To whom must I apply the National Service Criminal History Check eligibility criteria?
§2540.202 What eligibility criteria must I apply to a covered position in connection with the National Service Criminal History Check?
§2540.203 What search components of the National Service Criminal History Check must I satisfy to determine an individual's eligibility to serve in a covered position?
§2540.204 When must I conduct a National Service Criminal History Check on an individual in a covered position?
§2540.205 What procedures must I follow in conducting a National Service Criminal History Check for a covered position?
§2540.206 What documentation must I maintain regarding a National Service Criminal History Check for a covered position?
§2540.207 When may I follow an alternative search procedure or be excepted from a requirement in conducting a National Service Criminal History Check for a covered position?
§2540.208 Under what circumstances may participants be engaged?
§2540.210 What provisions exist to ensure that Corporation-supported programs do not discriminate in the selection of participants and staff?
§2540.215 What should a program participant, staff members, or beneficiary do if the individual believes he or she has been subject to illegal discrimination?
§2540.220 Under what circumstances and subject to what conditions are participants in Corporation-assisted programs eligible for family and medical leave?
§2540.230 What grievance procedures must recipients of Corporation assistance establish?

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§2540.200 What does "you" mean in this section?

As used in this section, "you" means a Corporation grantee or other entity subject to Corporation grant provisions. Unless the context otherwise requires, this includes, but is not limited to, recipients of federal financial assistance under grant programs defined in §2510.20 of this chapter as well as projects under the Senior Companion Program, the Foster Grandparent Program, and RSVP.
[77 FR 60932, Oct. 5, 2012]

§2540.201 To whom must I apply the National Service Criminal History Check eligibility criteria?

You must apply the National Service Criminal History Check eligibility criteria to individuals serving in covered positions. A covered position is a position in which the individual receives an education award or a Corporation grant-funded living allowance, stipend, or salary.
[77 FR 60932, Oct. 5, 2012]

§2540.202 What eligibility criteria must I apply to a covered position in connection with the National Service Criminal History Check?

In addition to the eligibility criteria you establish, an individual shall be ineligible to serve in a covered position if the individual—
(a) Refuses to consent to a criminal history check described in §2540.203 of this chapter;
(b) Makes a false statement in connection with a criminal history check described in §2540.203 of this chapter;

(c) Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or
(d) Has been convicted of murder, as defined in 18 U.S.C. 1111.
[77 FR 60932, Oct. 5, 2012]

§2540.203 What search components of the National Service Criminal History Check must I satisfy to determine an individual's eligibility to serve in a covered position?

(a) *Search procedure for individuals in covered positions who do not have recurring access to vulnerable populations.* Unless the Corporation approves an alternative search procedure under §2540.207 of this chapter, to determine an individual's eligibility to serve in a covered position, you must conduct and document a National Service Criminal History Check that consists of the following components:
(1) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW), and
(2) Either:
(i) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will be primarily serving or working *and* for the state in which the individual resides at the time of application; or
(ii) Submission of fingerprints through a state central record repository for a fingerprint-based Federal Bureau of Investigation (FBI) national criminal history background check.

ND State Commission Procedural Guidance Section 1-M.-1.-a)-4): requires programs to conduct a NSOPW check on prospective members prior to members starting their term of service. If the NSOPW check comes back clear (all states reporting), the prospective member can begin accompanied service provided the program initiates a criminal history background check with the appropriate state(s) and FBI on or before the day the member begins service.

(b) Search procedure for *individuals in covered positions who have recurring access to vulnerable populations.*
(1) This rule applies to individuals who:
(i) Begin working for, or who start service with, you on or after April 21, 2011;
(ii) Will be 18 years old or older at any time during their term of service; and
(iii) Serve in a covered position that will involve recurring access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities.
(2) Unless the Corporation approves an alternative search procedure or an exception under §2540.207 of this chapter, to determine the eligibility of an individual described in paragraph (b)(1) of this section you must conduct and document a National Service Criminal History Check that consists of the following components:
(i) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW);
(ii) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will be primarily serving or working *and* for the state in which the individual resides at the time of application; and
(iii) Submission of fingerprints through a state central record repository for a fingerprint-based FBI national criminal history background check.
[77 FR 60932, Oct. 5, 2012]

§2540.204 When must I conduct a National Service Criminal History Check on an individual in a covered position?

(a) *Timing of the National Service Criminal History Check Components.*

(1) You must conduct and review the results of the nationwide NSOPW check required under §2540.203 before an individual in a covered position begins work or starts service.
(2) You must initiate state registry or FBI criminal history checks required under §2540.203 before an individual in a covered position begins work or starts service. You may permit an individual in a covered position to begin work or start service pending the receipt of results from state registry or FBI criminal history checks as long as the individual is not permitted access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities, without being in the physical presence of an appropriate individual, as described in §2540.205(g) of this chapter.
(b) *Consecutive terms.* If an individual serves consecutive terms of service in a covered position and does not have a break in service that exceeds 120 days, then no additional National Service Criminal History Check is required, as long as the original check is a compliant check for the covered position in which the individual will be serving or working following the break in service. If your program or project is designed with breaks in service over 120 days, but less than 180 days between consecutive terms, you may request approval for a break in service of up to 180 days before a new National Service Criminal History Check is required. Your request must describe the overall program design, explain why the longer period is reasonable, and demonstrate that you have established adequate risk management controls for the extended break in service.
[77 FR 60932, Oct. 5, 2012]

§2540.205 What procedures must I follow in conducting a National Service Criminal History Check for a covered position?

You are responsible for following these procedures:
(a) Verify the individual's identity by examining the individual's government-issued photo identification card, such as a driver's license;
(b) Obtain prior, written authorization from the individual for the State registry check, for the FBI criminal history check, and for the appropriate sharing of the results of the checks within the program. Prior written authorization from the individual is not required to conduct the nationwide NSOPW check;
(c) Document the individual's understanding that selection into the program is contingent upon the organization's review of the individual's National Service Criminal History Check component results, if any;
(d) Ensure that screening practices comply with federal civil rights laws, including Titles VI and VII of the Civil Rights Act of 1964 (and the Corporation's implementing regulations under Title VI);
(e) Provide a reasonable opportunity for the individual to review and challenge the factual accuracy of a result before action is taken to exclude the individual from the position;
(f) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant; and
(g) Ensure that an individual, for whom the results of a required state or FBI criminal history registry check are pending, is not permitted to have access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities without being in the physical presence of:
(1) Your authorized representative who has previously been cleared for such access;
(2) A family member or legal guardian of the vulnerable individual; or
(3) An individual authorized, because of his or her profession, to have recurring access to the vulnerable individual, such as an education or medical professional.
(h) Unless specifically approved by the Corporation, you may not charge an individual for the cost of any component of a National Service Criminal History Check.
[77 FR 60932, Oct. 5, 2012]

§2540.206 What documentation must I maintain regarding a National Service Criminal History Check for a covered position?

You must:

(a) Document in writing that you verified the identity of the individual in a covered position by examining the individual's government-issued photo identification card, and that you conducted the required checks for the covered position; and

(b) Maintain the results, or a results summary issued by a State or Federal government body, of the NSOPW check and the other components of each National Service Criminal History Check, unless precluded from doing so by State or Federal law or regulation. You must also document in writing that an authorized grantee representative considered the results of the National Service Criminal History Check in selecting the individual.

[77 FR 60933, Oct. 5, 2012]

§2540.207 When may I follow an alternative search procedure or be excepted from a requirement in conducting a National Service Criminal History Check for a covered position?

(a) *Alternative search procedure.*

(1) If you submit a written request to the Corporation's Office of Grants Management, the Corporation will consider approving an alternative search procedure:

(i) If you demonstrate that you are prohibited or otherwise precluded under state law from complying with a Corporation requirement relating to the National Service Criminal History Check, or

(ii) If you can obtain substantially equivalent or better information through an alternative search procedure.

(2) The Office of Grants Management will review the alternative search procedure to ensure that it:

(i) Verifies the identity of the individual; and

(ii) Includes a search of an alternative criminal database that is sufficient to identify the existence or absence of criminal offenses.

(b) *Exceptions to Criminal History Check requirements for individuals with recurring access to vulnerable populations.*

(1) *Exception that does not require prior Corporation approval—Episodic Access.* (i) For the purposes of this section, an individual's access to a vulnerable population is considered to be episodic in nature if the service is not a regular, scheduled, and anticipated component of the individual's position description.

(ii) You are not required to conduct the fingerprint-based FBI criminal history check on individuals in covered positions with recurring access to vulnerable populations, as described in §2540.203 of this chapter, when the individual's access to a vulnerable population is episodic in nature or for a 1-day period.

(iii) No prior approval is required from the Corporation for you to apply this exception. You must make and document a determination that the individual's access to vulnerable populations is episodic, as defined by paragraphs (b)(1)(i) and (ii) of this section.

(2) *Exceptions that require prior approval of the Corporation.* You are not required to conduct the fingerprint-based FBI criminal history check on individuals in covered positions with recurring access to

CNCS National Criminal History Check Guidance:
When requesting an Alternative Search Procedure (ASP) in relation to a vendor that provides criminal background checks, the AmeriCorps program must make sure the vendor satisfies all of CFR 2540.207. Also, the AmeriCorps program must verify that their chosen vendor uses the repositories approved by the Corporation. See list of approved repositories. https://www.nationalservice.gov/StateCheckGuidance

vulnerable populations, as described in §2540.203 of this chapter, if you demonstrate and the Corporation determines in writing that:
(i) Complying with §2540.203(b)(2)(iii) of this chapter is cost-prohibitive;
(ii) You are not authorized, or are otherwise unable, under state or federal law, to access the national criminal history background check system of the FBI; or
(iii) That you are exempt from the requirement in §2540.203(b)(2)(iii) of this chapter for good cause.
[77 FR 60933, Oct. 5, 2012]

§2540.208 Under what circumstances may participants be engaged?
A State may not engage a participant to serve in any program that receives Corporation assistance unless and until amounts have been appropriated under section 501 of the Act (42 U.S.C. 12681) for the provision of AmeriCorps educational awards and for the payment of other necessary expenses and costs associated with such participant.
[59 FR 13808, Mar. 23, 1994. Redesignated at 72 FR 48582, Aug. 24, 2007]

§2540.210 What provisions exist to ensure that Corporation-supported programs do not discriminate in the selection of participants and staff?
(a) An individual with responsibility for the operation of a project that receives Corporation assistance must not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.
(b) Any Corporation assistance constitutes Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), and constitutes Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*).
(c) An individual with responsibility for the operation of a project that receives Corporation assistance may not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with Corporation funds. This provision does not apply to the employment (with Corporation assistance) of any staff member of a Corporation-supported project who was employed with the organization operating the project on the date the Corporation grant was awarded.
(d) Grantees must notify all program participants, staff, applicants, and beneficiaries of:
(1) Their rights under applicable federal nondiscrimination laws, including relevant provisions of the national service legislation and implementing regulations; and
(2) The procedure for filing a discrimination complaint with the Corporation's Office of Civil Rights and Inclusiveness.
[59 FR 13808, Mar. 23, 1994, as amended at 73 FR 53760, Sept. 17, 2008]

§2540.215 What should a program participant, staff members, or beneficiary do if the individual believes he or she has been subject to illegal discrimination?
A program participant, staff member, or beneficiary who believes that he or she has been subject to illegal discrimination should contact the Corporation's Office of Civil Rights and Inclusiveness, which offers an impartial discrimination complaint resolution process. Participation in a discrimination complaint resolution process is protected activity; a grantee is prohibited from retaliating against an individual for making a complaint or participating in any manner in an investigation, proceeding, or hearing.
[73 FR 53760, Sept. 17, 2008]

§2540.220 Under what circumstances and subject to what conditions are participants in Corporation-assisted programs eligible for family and medical leave?

(a) *Participants in State, local, or private nonprofits programs.* A participant in a State, local, or private nonprofit program receiving support from the Corporation is considered an eligible employee of the program's project sponsor under the Family and Medical Leave Act of 1993 (29 CFR part 825) if—

(1) The participant has served for at least 12 months and 1,250 hours during the year preceding the start of the leave; and

(2) The program's project sponsors engages in commerce or any industry or activity affecting commerce, and employs at least 50 employees for each working day during 20 or more calendar workweeks in the current or preceding calendar year.

(b) *Participants in Federal programs.* Participants in Federal programs operated by the Corporation or by another Federal agency will be considered Federal employees for the purposes of the Family and Medical Leave Act if the participants have completed 12 months of service and the project sponsor is an employing agency as defined in 5 U.S.C 6381 *et seq.;* such participants therefore will be eligible for the same family and medical leave benefits afforded to such Federal employees.

(c) *General terms and conditions.* Participants that qualify as eligible employees under paragraphs (a) or (b) of this section are entitled to take up to 12 weeks of unpaid leave during a 12-month period for any of the following reasons (in the cases of both paragraphs (c)(1) and (2) of this section the entitlement to leave expires 12 months after the birth or placement of such child):

(1) The birth of a child to a participant;

(2) The placement of a child with a participant for adoption or foster care;

(3) The serious illness of a participant's spouse, child or parent; or

(4) A participant's serious health condition that makes that participant unable to perform his or her essential service duties (a serious health condition is an illness or condition that requires either inpatient care or continuing treatment by a health care provider).

(d) *Intermittent leave or reduced service.* The program, serving as the project sponsor, may allow a participant to take intermittent leave or reduce his or her service hours due to the birth of or placement of a child for adoption or foster care. The participant may also take leave to care for a seriously ill immediate family member or may take leave due to his or her own serious illness whenever it is medically necessary.

(e) *Alternate placement.* If a participant requests intermittent leave or a reduced service hours due to a serious illness or a family member's sickness, and the need for leave is foreseeable based on planned medical treatment, the program, or project sponsor may temporarily transfer the participant to an alternative service position if the participant: (1) Is qualified for the position; and

(2) Receives the same benefits such as stipend or living allowance and the position better accommodates the participants recurring periods of leave.

(f) *Certification of cause.* A program, or project sponsor may require that the participant support a leave request with a certification from the health care provider of the participant or the participant's family member. If a program sponsor requests a certification, the participant must provide it in a timely manner.

(g) *Continuance of coverage.*

(1) If a State, local or private program provides for health insurance for the full-time participant, the sponsor must continue to provide comparable health coverage at the same level and conditions that coverage would have been provided for the duration of the participant's leave.

(2) If the Federal program provides health insurance coverage for the full-time participant, the sponsor must also continue to provide the same health care coverage for the duration of the participant's leave.

(h) *Failure to return.* If the participant fails to return to the program at the end of leave for any reason other than continuation, recurrence or onset of a serious health condition or other circumstances

beyond his or her control, the program may recover the premium that he or she paid during any period of unpaid leave.
(i) *Applicability to term of service.* Any absence, due to family and medical leave, will not be counted towards the participant's term of service.

§2540.230 What grievance procedures must recipients of Corporation assistance establish?
State and local applicants that receive assistance from the Corporation must establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance from the Corporation. A grievance procedure may include dispute resolution programs such as mediation, facilitation, assisted negotiation and neutral evaluation. If the grievance alleges fraud or criminal activity, it must immediately be brought to the attention of the Corporation's inspector general.
(a) *Alternative dispute resolution.*
(1) The aggrieved party may seek resolution through alternative means of dispute resolution such as mediation or facilitation. Dispute resolution proceedings must be initiated within 45 calendar days from the date of the alleged occurrence. At the initial session of the dispute resolution proceedings, the party must be advised in writing of his or her right to file a grievance and right to arbitration. If the matter is resolved, and a written agreement is reached, the party will agree to forego filing a grievance in the matter under consideration.
(2) If mediation, facilitation, or other dispute resolution processes are selected, the process must be aided by a neutral party who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the matter through a mutually achieved and acceptable written agreement. The neutral party may not compel a resolution. Proceedings before the neutral party must be informal, and the rules of evidence will not apply. With the exception of a written and agreed upon dispute resolution agreement, the proceeding must be confidential.
(b) *Grievance procedure for unresolved complaints.* If the matter is not resolved within 30 calendar days from the date the informal dispute resolution process began, the neutral party must again inform the aggrieving party of his or her right to file a formal grievance. In the event an aggrieving party files a grievance, the neutral may not participate in the formal complaint process. In addition, no communication or proceedings of the informal dispute resolution process may be referred to or introduced into evidence at the grievance and arbitration hearing. Any decision by the neutral party is advisory and is not binding unless both parties agree.
(c) *Time limitations.* Except for a grievance that alleges fraud or criminal activity, a grievance must be made no later than one year after the date of the alleged occurrence. If a hearing is held on a grievance, it must be conducted no later than 30 calendar days after the filing of such grievance. A decision on any such grievance must be made no later than 60 calendar days after the filing of the grievance.
(d) *Arbitration—*
(1) *Arbitrator—*
(i) *Joint selection by parties.* If there is an adverse decision against the party who filed the grievance, or 60 calendar days after the filing of a grievance no decision has been reached, the filing party may submit the grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.
(ii) *Appointment by Corporation.* If the parties cannot agree on an arbitrator within 15 calendar days after receiving a request from one of the grievance parties, the Corporations Chief Executive Officer will appoint an arbitrator from a list of qualified arbitrators.
(2) *Time Limits—*
(i) *Proceedings.* An arbitration proceeding must be held no later than 45 calendar days after the request for arbitration, or, if the arbitrator is appointed by the Chief Executive Officer, the proceeding must occur no later than 30 calendar days after the arbitrator's appointment.

(ii) *Decision.* A decision must be made by the arbitrator no later than 30 calendar days after the date the arbitration proceeding begins.
(3) *The cost.* The cost of the arbitration proceeding must be divided evenly between the parties to the arbitration. If, however, a participant, labor organization, or other interested individual prevails under a binding arbitration proceeding, the State or local applicant that is a party to the grievance must pay the total cost of the proceeding and the attorney's fees of the prevailing party.
(e) *Suspension of placement.* If a grievance is filed regarding a proposed placement of a participant in a program that receives assistance under this chapter, such placement must not be made unless the placement is consistent with the resolution of the grievance.
(f) *Remedies.* Remedies for a grievance filed under a procedure established by a recipient of Corporation assistance may include—
(1) Prohibition of a placement of a participant; and
(2) In grievance cases where there is a violation of nonduplication or nondisplacement requirements and the employer of the displaced employee is the recipient of Corporation assistance—
(i) Reinstatement of the employee to the position he or she held prior to the displacement;
(ii) Payment of lost wages and benefits;
(iii) Re-establishment of other relevant terms, conditions and privileges of employment; and
(iv) Any other equitable relief that is necessary to correct any violation of the nonduplication or nondisplacement requirements or to make the displaced employee whole.
(g) *Suspension or termination of assistance.* The Corporation may suspend or terminate payments for assistance under this chapter.
(h) *Effect of noncompliance with arbitration.* A suit to enforce arbitration awards may be brought in any Federal district court having jurisdiction over the parties without regard to the amount in controversy or the parties' citizenship.