

Policy 2.1.40

Background Check Policy

Contact: Human Resources Director

2.1.40.1 Purpose and Description

This policy establishes the criteria and requirements the agency uses to determine when and how to conduct background checks on external Candidates represented, non-represented, exempt, and WMS Candidates for vacancies in the agency. These criteria and requirements are necessary to strengthen confidence in WaTech/CTS' management of the State's infrastructure, to comply with federal requirements for safeguarding data, and to ensure the public and our customers' trust in our agency's custody of their protected information. As a result a Criminal History Record Information background check is part of the pre-employment screening processes used for select positions.

This policy applies to all Candidates under final consideration for appointment to positions identified in the Scope section of this Policy.

Washington Technology Solutions (WaTech) refers to the "consolidated technology services (CTS) agency" identified in RCW 43.105.

2.1.40.2 Definitions

"Candidate" means a person who is being considered for a position in WaTech/CTS. It also includes agency volunteers and student interns.

"Conviction record" means Criminal History Record Information relating to an incident which has led to a conviction or other disposition adverse to the subject.

"Criminal History Record Information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, including acquittals by reason of insanity, dismissals based on lack of competency, sentences, correctional supervision, and release.

The term includes information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

- (a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;
- (b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis;
- (c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during public judicial proceedings;

- (d) Records of traffic violations which are not punishable by a maximum term of imprisonment; more than ninety days;
- (e) Records of any traffic offense as maintained by the department of licensing for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses and pursuant to RCW [46.52.130](#);
- (f) Records of any aviation violations or offenses as maintained by the department of transportation for the purpose of regulating pilots or other aviation operators, and pursuant to RCW [47.68.330](#);
- (g) Announcements of executive clemency;
- (h) Intelligence, analytical, or investigative reports and files.

“Critical Infrastructure” means systems and assets, whether physical or virtual, vital to WaTech/CTS, its Customers, and the continuous operations of Washington state government, the incapacity or destruction of such systems and assets would have a debilitating impact on security, operations, health or safety, or any combination of those matters. Critical Infrastructure is likely housed in Restricted Areas.

“Direct Access” means having the authority to access systems managed by the FBI CJIS Division, whether by manual or automated methods, not requiring the assistance of or intervention by any other party or agency.

“Persistent Access” means access to all or part of a data package for any length of time when that access is more than *Transitory Access*.

“Regular Access” means unescorted physical access to Restricted Areas.

“Restricted Areas” means all areas inside the State Data Center perimeter, to include the utility building.

“Sensitive Information” means WaTech/CTS datasets identified to be data within the definition of Category 3 and 4 data as defined in the Security Standard promulgated by the Office of Chief Information Officer. WaTech/CTS shall determine and document specific Category 3 and 4 data deemed as *Sensitive Information*.

“Transitory Access” means access which is simply a conduit for the transfer of data, much like a telephone line or Internet provider, and access to the data is temporary if at all.

2.1.40.3 Positions Impacted

Background checks will be performed for Candidates in positions:

1. That handle, store, destroy, copy or otherwise account for cash, checks, warrants or other instruments of credit or payment during the course of assigned duties.
2. That have *Persistent Access to Sensitive Information*.
3. That requires *Regular Access to Restricted Areas*.
4. That have *Direct Access to unencrypted Criminal History Record Information*. These positions must undergo the background check type required by Criminal Justice Information Systems Security Rule and related federal regulations.

5. That have access, based on a justifiable need, to Federal Tax Information (FTI). FTI is defined as any tax return-derived information received from the IRS.
 6. That have access to *Critical Infrastructure*.
 7. That WaTech/CTS has deemed a background check is required in order to be compliant with law or regulation.
-

2.1.40.4 Policy

1. Notification that a background check is being conducted will be included on all agency initiated recruitment announcements. Job postings, vacancy announcements, recruitment materials, and the WaTech/CTS specific position description forms will include a statement about any requirement for successful initial or ongoing review of criminal history background information.
2. All Candidates will be notified prior to or during the interview and the Candidate's written authorization to perform the background check will be obtained. If the Candidate fails to provide a written authorization to perform the background check, the Candidate will be disqualified for employment consideration.
3. The Human Resources Director will complete a background check on external Candidates applying for represented and all non-represented positions prior to an appointment to a position identified as being in one or more of the categories identified in the Scope section.
4. WaTech/CTS will complete a background check:
 - a. When a WaTech/CTS employee moves from a position not included in the Position Impacted section to a position that is included in the Scope section.
 - b. When Candidate(s)/employees(s) are identified as finalists.
 - c. When a Candidate or an employee moves from a position that did not previously require a background check to a position included in the Positions Impacted section because of layoff, reallocation, transfer, promotion, demotion, elevation, reversion, or other reason.
 - d. On employees every five years, unless a background check is required at specified intervals by state, federal law, or regulation.
 - e. When WaTech/CTS has reason to believe that background information on a Candidate or employee has changed.
 - f. When WaTech/CTS deems a background check is necessary to comply with applicable laws or regulations.
5. The WaTech/CTS employee with delegated authority shall work with the Office of Legal Services to insure the vendor signs a contract requiring Vendor compliance with this Policy when the Vendor is performing work and has the same responsibilities or access as stated in the Positions Impacted section.
6. Background check findings will be used solely to determine the character, competence and suitability of a Candidate for a position and will be maintained in an administrative file separate from the personnel file.
7. The background check information will consist of Conviction Records as provided by the Washington State Patrol's WATCH system and/or the Washington State Patrol's CHRI, or the Federal Bureau of Investigation's National Crime Information system (NCIC). The information received from WSP may only be used as necessary for specific employment purposes.

- a. WaTech/CTS will perform a name and date of birth background search for its Candidates and employees unless a customer has a specific legal statute that requires a fingerprint search and WaTech/CTS concurs that the authority exists.
8. The documented finding(s) of a disqualifying offense from the background check may result in the denial of an appointment to a WaTech/CTS position. Documented finding(s) of a disqualifying offense from a background check occurring as part of a position's ongoing background check requirement may result in discipline, up to and including dismissal.
9. The Human Resource Director and the Appointing Authority will decide if the hiring manager is approved to proceed with a job offer; or, if there is a need to consider other Candidates.
10. Specific convictions and/or any other information relating to a conviction will not be revealed to the hiring manager. If a conviction(s) is reported on a final Candidate, the Human Resource Director will consult with the Appointing Authority. Together, they will determine whether or not the conviction has a connection to the job that would preclude the candidate from hire. The Human Resource Director, the Appointing Authority, and others deemed necessary to participate, will consider evidence that substantiates or mitigates the conviction(s).
11. When reviewing the results, WaTech/CTS must consider evidence that substantiates or mitigates convictions including, but not limited to:
 - a. The Candidate's background authorization form;
 - b. The Candidate's age at the time of conviction;
 - c. The nature and severity of the conviction;
 - d. The length of time since the conviction;
 - e. The nature and number of previous offenses;
 - f. The relationship between the nature of the conviction and the duties/responsibilities of the position;
 - g. WaTech/CTS's Customer's legal requirements relating to criminal arrest/conviction reports; and
 - h. Any other information that may mitigate the conviction.
12. Assessing the relationship of the Criminal History Record to the duties of the position may require risk management, involvement of the Chief Legal Services Officer and the Attorney General's office.
13. When an employer has received a Conviction Record pursuant to the statute, it must notify the subject of the record of such receipt within 30 days after the receipt of the record. WaTech/CTS will notify the Candidate of the availability of the record and make the record available for examination by the Candidate.
14. Reports will be maintained per the then current legal requirements.
15. Exceptions to this policy may be made if WaTech/CTS determines there is a requirement of federal law or regulation, as explained in WAC [162-12-150](#).
16. **Non-Represented employees** will report any court-imposed sanctions or conditions that affect their ability to perform assigned duties, to their Appointing Authority within twenty four hours or prior to their next scheduled work shift, whichever occurs first. Employees will report any arrests that affect their ability to perform assigned duties to their Appointing Authority within forty eight hours or prior to returning to work, whichever occurs first.

17. **Represented employees** will follow the reporting obligations stated in the then current Collective Bargaining Agreement.

References

- Background Investigation Notification and Consent (Exhibit A)

Procedure 2.1.40

Background Check Procedure

1. Notice of the requirement is given in the WaTech/CTS job announcement.
2. Applicant pool is determined.
3. HR obtains a Background Investigation Notification and Consent from Candidate.
 - a. Candidate/Employee will provide complete name, including other names used, date of birth and social security number. The form will be completed by the employee at the interview.
 - b. HR or hiring supervisor to verify the identity and signature of the Candidate.
 - c. WaTech/CTS may not revise or otherwise alter a completed and signed Consent form.
 - d. WaTech/CTS may not accept and process incomplete or unsigned authorization forms.
 - e. WaTech/CTS may not process a background check without a completed and signed authorization form filled on site.
4. HR will request a name/date of birth background check through the WATCH program online.
5. WATCH will return the following results:
 - a. A candidate list of records that match or closely match the search criteria used.
 - i. Conviction data only will be reviewed by HR per the WaTech/CTS Policy.
 - b. A NO RECORD or NO EXACT MATCH FOUND response which means there is no conviction record in the WSP database that match the search criteria used.
 - i. If the WATCH system indicates no criminal history, a copy is made and placed in the confidential files with the Application and other forms that may pertain to the particular Candidate. WaTech/CTS will provide the prospective Candidate a copy of the results at the Candidate's request. These records are considered by the state to be public employee records and therefore are cared for with the same procedures as paid employee records.
 - c. A possible DUPLICATE MATCH indicating that there may be two or more exact name and/or date of birth matches for the search criteria used.
 - i. WaTech/CTS will review the search for any apparent discrepancies. If a distinction cannot be made and there are no convictions for either individual, the search will be considered clear. If there are incidents, WaTech/CTS HR will ask WSP for assistance in determining the information pertinent to the Candidate. Failing this clarification, the employee will be contacted to gather previous addresses to assist in correct identification. If no distinction can be made and concerns are present, the employee will not be included for further consideration. The employee will be told the reason and encouraged to contact the courts for assistance in clarifying their criminal history.

6. Records retention:

- a. HR will retain and store background authorization forms, results and information according to the Washington Retention Committee Retention Schedule Series 106.

Effective date: May 1, 2015

Sunset Review: May 1 2019

Approved By:



Director

EXHIBIT A

BACKGROUND INVESTIGATION NOTIFICATION AND CONSENT

Due to the nature and security requirements of the sensitive information maintained by the Consolidated Technology Services (“WaTech/CTS”) employees, volunteers, applicants for and incumbents (“Candidate”) of these positions may be required to undergo one or more criminal background record investigation(s), which involves a review of conviction records.

Applicants to a position that requires a background check must be able to pass a Washington State Patrol (“WSP”) criminal background check subject to the WaTech/CTS Background Check Policy. Furthermore, employees must report arrests and convictions to their supervisor within forty eight hours.

An investigation into an Applicant’s Washington state conviction records is part of the pre-employment selection process. Submitting to a criminal background investigation does not constitute an offer of employment. An Applicant who declines to submit to an examination of conviction records will be removed from consideration for appointment.

I hereby consent / do not consent, to submit to a criminal background investigation and a review of conviction records.

Signature

Date

Name (Please Print)

cc: Personnel File
Recruitment File
