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28 C.F.R. Part 20

BACKGROUND INVESTIGATIONS

I. INTRODUCTION

All offers of employment are conditioned on an individual successfully passing the city's background investigation. Additionally, this regulation applies to volunteers as outlined in the city's volunteer policy and regulation. All employees and volunteers are subject to background investigations at any time during the course of employment or service to the City of Boise.

A background investigation may include one or more of the following:

- A. Criminal History Check - At its discretion, the city may conduct a criminal history check on all applicants receiving a conditional job offer or volunteers regardless of age. This check provides information regarding such things as warrants, civil and criminal filings, and driving records.
- B. Fingerprint Check – The city may conduct a fingerprint check on applicants receiving a conditional job offer, and Tier II volunteers who are 18 years of age or older. This check provides information regarding state and national criminal history records.
- C. Polygraph Examination – Polygraph examinations are conducted for certain public safety positions assigned to the Boise Police Department.
- D. Miscellaneous Checks - For certain jobs additional or heightened background investigations are conducted. For example, security threat assessments are conducted on positions assigned to the airport. For jobs with access to Criminal Justice Information, the city is required to apply strict screening requirements. For jobs involving significant financial accountability, the city may request a consumer report for employment

purposes. This may include, but is not limited to, information regarding the applicant's credit worthiness, credit standing, and/or credit capacity. Positions designated safety-sensitive require a verified negative drug test. Additionally, based on the required education qualifications of a position, the city may request a verification of education.

II. APPROVAL OF BACKGROUND INVESTIGATIONS

Without approval from the Department Director or designee and Human Resources, applicants shall not begin work and volunteers shall not begin their volunteer service until after successfully passing all of the background investigations applicable to the position they will hold. Applicants that do not successfully pass these investigations are ineligible for hire or continued employment and the city's conditional offer of employment will be retracted.

The city may charge applicants for all or a portion of the cost of the background investigations based upon the salary grade of the position offered to the applicant. Volunteers are not charged for these investigations.

III. PROVIDING FALSE INFORMATION

The city retains sole discretion to determine whether to eliminate from consideration for employment or volunteer service any individual who provides false, misleading, or willfully deceptive information. Employees hired based on false information discovered after employment begins are subject to discipline, up to and including termination. Volunteers may be dismissed from service at any time.

IV. CURRENT EMPLOYEES AND VOLUNTEERS

All current employees transferring, promoting, moving from temporary to regular status, or being reassigned on a non-temporary basis into a safety-sensitive position will be required to undergo a criminal history check and/or fingerprinting at the time of the position change.

Additionally, if the transfer, promotion, move, or reassignment requires a polygraph, security threat assessment, CJIS access, credit check, drug test, or education verification, these miscellaneous background check requirements must be met before an employee can assume their new duties. At the discretion of the Department Director and Human Resources an employee can begin the new duties before the results of these various checks are received.

V. REHIRED EMPLOYEES AND RETURNING VOLUNTEERS

Former employees returning to work for the city after six months of separation from employment are subject to all applicable background checks. Please see the relevant city policy or regulation regarding other requirements.

Former employees returning to work in safety-sensitive positions must undergo a complete background check process after any period of separation or inactivity of four months.

The same rules apply to volunteers who are required to undergo these checks due to the type of volunteer service they provide.

VI. CRIMINAL RECORD REVIEW

Applicants, volunteers, or employees are not automatically disqualified from employment or volunteer service based on their criminal record. The city performs a targeted screen when an individual has a criminal record. The targeted screen involves the following considerations:

- A. The nature and gravity of the offense or conduct;
- B. The number of offenses and convictions;
- C. How much time has passed since the offense, conduct, and/or completion of the sentence; and
- D. The type of offense or conviction relative to the position being sought.

Because of the city's role and the importance of its reputation in the community, a detailed review is performed for individuals with felony convictions, and felony or misdemeanor convictions related to sexual misconduct, violence, or crimes against children or a vulnerable adult.

Prior to excluding an individual based on a criminal record, the city will give an individual the opportunity to share the following information:

- 1. Whether the individual was correctly identified in the criminal record and that the record is otherwise accurate;
- 2. The circumstances surrounding the offense or conduct;
- 3. The length and consistency of employment prior to and since the offense or conduct;
- 4. Their age at the time of conviction or release from incarceration;
- 5. Employment or character references and any other information regarding fitness for the specific position;
- 6. Rehabilitation efforts, such as education, treatment, payment of restitution, or any other factors that evidence rehabilitation

The city will also review the falsification or omission of information on the application form and other supplemental forms submitted.

The term "conviction" includes: a guilty plea; "no contest" or similar plea; plea agreement where probation or restitution was or was not required; a sealed record according to Section 19-2604, Idaho Code, or other equivalent state law or similar result; suspension; commutation; pre-trial diversion; withheld or deferred judgment; bail forfeiture; or guilty finding.

If an employee, applicant, or volunteer is identified as having a pending criminal action for a crime, the city may consider this as disqualifying.

The city retains sole discretion to disqualify anyone from employment or volunteer service.

VII. CRIMINAL JUSTICE INFORMATION SYSTEMS (CJIS) ACCESS

Individuals with access to criminal justice information and services (CJIS) are required to undergo and pass a fingerprint-based background check in accordance with the standards that the CJIS Division of the Federal Bureau of Investigation (FBI) sets, in addition to the city's background check requirements.

VIII. CRIMINAL CHARGE AGAINST CURRENT EMPLOYEE

In accordance with the city's Standards of Conduct, if a current employee is arrested and/or convicted of a crime, it is the employee's responsibility to notify their supervisor of the charge/offense as soon as possible. Failure to do so could result in disciplinary action, up to and including termination. The supervisor is subsequently responsible to notify Human Resources of the charge or offense. The city will review the criminal charges to determine if any city policies have been violated, or whether the charges reflect negatively on the employee's ability to perform his/her job or on the city as an employer.

In the event an employee with access to CJIS is arrested, access to CJIS shall be immediately revoked until such time it can be determined if access should be allowed.

IX. SECURITY IDENTIFICATION DISPLAY AREA

Individuals with access to a Security Identification Display Area (SIDA) at the city's airport are required to pass the standards that the Transportation Security Agency (TSA) sets in addition to the city's background check requirements. SIDA clearance is separate from the city's background investigation and criminal record review and does not constitute approval to begin work.