



TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

COMMISSIONER
John J. Specia, Jr.

February 18, 2014

Dear Residential Contractors:

The Texas Department of Family and Protective Services (DFPS) is sending this reminder of the critical role background checks have in reducing the risk of harm to children in care and making contractors aware of the processes that DFPS will be implementing to ensure timely background checks for ongoing protection of children in care, and in support of federal and state requirements related to safety.

Certain background checks are required under federal law at 42 U.S.C. §671(a)(20) and Texas law at Chapter 42 of the Human Resources Code §42.056 of (as amended by S.B. 427, 83rd Legislature) and Title 40 of the Texas Administrative Code §§745.615 and 745.625. This includes FBI fingerprint checks for:

- The director, owner, and operator of the operation
- Current and prospective employees of the operation
- Each person at least 14 years of age in the home who:
 - Is counted in child-to-caregiver ratios in accordance with the relevant minimum standards;
 - Will reside in a prospective adoptive home if the adoption is through a child-placing agency;
 - Has unsupervised access to children in care at the operation; or
 - Resides in the operation
- Each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at an operation or prospective adoptive home while children are in care; and
- Each substitute employee, unless you confirm that the organization providing the substitute employee has completed a background check for the person through DFPS within the last 24 months.

As provided in Texas Administrative Code §745.625, you must submit a request for a person's background check every 24 months after you first submitted a request for the person's check. Per our agency's rules effective March 1, 2014, a recurring background check must be performed no later than two years *from the date* of the last submission for a background check.

During 2012, DFPS informed you that the Federal Children's Bureau of the Administration for Children and Families (ACF) completed a primary review of Title IV-E foster care eligibility. In response to non-compliances related to safety requirements, DFPS was required to develop a Program Improvement Plan (PIP) to strengthen compliance with background checks.

As part of its commitment to safety of children in care and to ensure federal funding necessary to providing services in the State, DFPS Residential Contracts began monitoring compliance with safety standards related to initial and subsequent 24-month background checks. In 2012, DFPS modified residential contract requirements in Section 26 E clarifying contractors could be required to reimburse DFPS for disallowed costs related any disallowance of Title IV-E funds for background checks that are not performed within timelines required by Minimum Standards and the Contract.

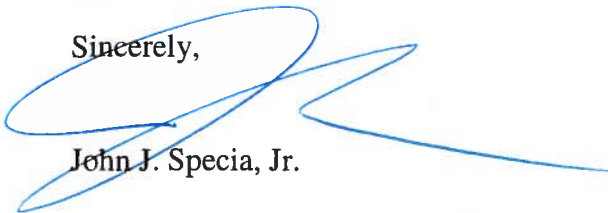
The results of contract monitoring for safety standards requirements in General Residential Operations and Child Placing Agencies informed DFPS that some providers continue to submit untimely background check requests. As a result, DFPS will redouble its monitoring efforts, and escalate both contract compliance monitoring and contract remedies for non-compliance.

Starting in March, 2014, DFPS Residential Contracts will initiate additional steps to promote compliance with all background check requirements through the pursuit of contract remedies, which may include implementation of a contract pay hold, suspension of placements, and in serious cases of significant noncompliance, contract suspension or termination. Residential Contracts will provide guidance to DFPS staff so that contract remedies are applied in a fair and uniform manner. The goals of these efforts are to immediately and significantly improve the state's compliance with safety standards, to reduce the risk of harm to children in care, and avoid a potential significant financial penalty when ACF returns to Texas in early 2015 to conduct a Secondary Foster Care Eligibility Review.

To help ensure timeliness of background check requests, many providers have found that an internal system to track the due dates for the 24 month checks have reduced the number of deficiencies received. Please contact your Contract or Licensing representative if you have questions regarding background checks or if you would like technical assistance in setting up a tracking system that works best for your operation.

Thank you for your commitment to reducing risk to children in care. We appreciate your efforts to improve compliance with background check requirements and provide added protections for some of our most vulnerable citizens.

Sincerely,



John J. Specia, Jr.

Commissioner, Texas Department of Family
and Protective Services



Lisa Black

Assistant Commissioner, Child Protective
Services